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PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

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Jefferson City, Missouri
Volume 2

In the Matter of Laclede Gas Company's Verified Application for Authority to Issue and Sell First Mortgage Bonds, Unsecured Debt and Preferred Stock, in Connection with A Universal Shelf Registration Statement, to Issue Common Stock And Receive Capital Contributions, To Issue or Accept Private Placement Securities, and to Enter Into Capital Leases, all in a Total Amount Not to Exceed $600 Million	)	File No. GF-2009-0450

DANIEL JORDAN, Presiding,
REGULATORY LAW JUDGE

ROBERT M. CLAYTON III, Chairman,
JEFF DAVIS,
ROBERT S. KENNEY,
COMMISSIONERS.

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P R O C E E D I N G S

JUDGE JORDAN: Good morning, everyone. The Commission calls File No. GF-2009-0450. My name is Daniel Jordan. I'm the Regulatory Law Judge assigned to this case.

We'll begin with entries of appearance. Let's start with the applicant, Laclede Gas Company.

MR. PENDERGAST: Thank you, your Honor. Michael C. Pendergast appearing on behalf of Laclede Gas Company. My business address is 720 Olive Street, St. Louis, Missouri 63101.

JUDGE JORDAN: And for Staff.

MR. BERLIN: Thank you, Judge. Appearing on behalf of the Staff of the Missouri Public Service Commission, Robert S. Berlin at Post Office Box 360, Jefferson City, Missouri 65102.

JUDGE JORDAN: And for the Office of Public Counsel.

MS. BAKER: Thank you, your Honor. Christina Baker and Marc Poston, P.O. Box 2230, Jefferson City, Missouri 65102, appearing on behalf of the Office of the Public Counsel.

JUDGE JORDAN: Thank you. And I have one preliminary matter, and that's for the Office of Public Counsel. There is a motion to be excused from this hearing today. Do I take it that that motion is withdrawn?

MS. BAKER: It is. Thank you.

JUDGE JORDAN: Thank you. Is there anything else before we go to opening statements? I'm not hearing any. So we will follow the Order of opening statements as suggested by the parties. We'll begin with Laclede.

MR. PENDERGAST: Thank you, Judge. If it please the Commission?

We're here today to address the terms and conditions under which the company -- or the Commission should approve the financing authority sought by the company in this case. As this case has evolved over the past ten months, the company and Staff have been able to narrow or eliminate a number of the differences that separate them.

For example, both parties now agree the company should be authorized to issue common and preferred stock, enter into capital leases and issue long-term debt on both the public and a private basis in a total amount not to exceed 600 million, which is what the company originally requested. Both agree that the proceeds from such issuances should only be used to benefit Laclede's regulated operations. Both also agree that the authority should extend for a three-year period.

The differences that remain, however, are significant, not only to Laclede, but also to the ability and capacity of utilities to make good financing decisions for their customers and retain ready access to the capital markets in an environment where those markets as well as the financial resources needed to provide public utility services can change dramatically overnight.

The main dispute centers on what level of authority should be approved by the Commission for those financing vehicles that have debt-like characteristics, including long-term debt issuances, private placements, capital leases and preferred stock. Staff has recommended that all of these instruments, with the exception of certain capital leases, be limited to $100 million as an overall amount over the next three years.

For its part, Laclede believes that the Commission should continue the same financing conditions that currently govern the company's issuance of stock, bonds and other evidences of long-term indebtedness that have been in effect for a number of years. Specifically, we believe that the Commission should continue to require the total amount of long-term debt issued and outstanding at any given time not exceed the lesser of the value of Laclede's regulated rate base or an amount equal to

65 percent of Laclede's capital structure.

We also believe that the Commission should continue to require that Laclede conduct its financings in such a way as to maintain an investment grade credit rating. And in response to the concerns that have been raised by Staff in this proceeding, Laclede is also agreeable to having any preferred stock, capital leases or private placements it may issue and enter into over the three-year period counted towards these traditional limitations that the Commission has previously determined are reasonable and sufficient to protect ratepayer interests.

Now, why do we believe the Commission should continue its existing safeguards rather than adopt the new approach, new formula that's been proposed by Staff in this case? Well, first, when combined with the company's conservative stewardship of its financial resources, such conditions have proven to be completely effective in protecting ratepayers from any improvident financing activities.

During the period in which these conditions have been in effect, the company has managed to maintain an A credit rating, which is a pretty good rating for companies operating in Missouri, a capital structure that is comprised of less than 50 percent debt, and an overall level of long-term debt and preferred stock that's more than $270 million below the value of its regulated rate base. All of which raises the question, if it's not broken, why are we trying to fix it?

Second, such conditions afford the company the financing flexibility needed to obtain capital quickly and on favorable financing terms during periods of rapid change in the credit markets. And it's hard to overstate just how rapid those changes in the credit markets can be.

As Ms. Rawlings discussed in her testimony, in 2008 the company had the ability to issue $80 million in first mortgage bonds when it thought the time was right to do so. It did, and less than one month later interest rates on such bonds had soared by 250 basis points. If we had had to wait 30 days or so that the Staff says it can issue a recommendation on an expedited basis if it's really pressed, we would have had to have paid that higher rate and our customers would have had to pay millions of dollars in additional financing costs over the life of the issuance. We don't believe that's a good results for ratepayers.

Third and more importantly, financing flexibility afforded by the Commission's existing conditions provides the company with a greater ability to weather disruptions in the credit markets or external factors that can suddenly drive up the cash resources necessary to meet its public utility obligations, an attribute that's absolutely critical to ensuring safe and adequate service for utility customers.

As anybody that's looked at the natural gas markets over the last several years knows, those markets can change and change significantly. Gas prices can go from $15 down to $7, down to $5, and back up again in the course of literally less than a year. All of those have significant financial consequences on the company, not only in the price of the gas itself, but also in terms of what it means for any hedging program and margin calls that the company may face. And it's absolutely imperative that we have the flexibility to go ahead and respond to that.

I think it was a number of months ago when we were talking about hedging plans, the Staff indicated that while it supports multiple-year hedging programs, that some utilities may just not have the money to go ahead and do that.

I can tell you we don't have a recovery mechanism if you have margin calls associated with something that's two or three years out that allows us to recover that contemporaneously, and under Staff's financing approach in this case we won't have the financial resources to even finance that thing. And so if you believe that the utilities should be involved in those kind of programs, you have to give them the financial wherewithal to be involved in those programs.

Fourth, continuation of the Commission's existing conditions and flexibility they provide is far more consistent with the Commission's traditional practice of permitting utility management to make such decisions subject to subsequent prudence reviews.

In contrast, the new conditions recommended by Staff would require that the Commission effectively pre-approve every financing decision that involves the issuance of long-term debt for any reason other than to support a current estimate of future capital expenditures. In addition to being potentially unworkable and detrimental to the interests of Laclede's customers, such an approach fundamentally confuses the proper role of the question and utility management.

Finally, in contrast to the new conditions recommended by Staff, the Commission's existing conditions are consistent with the statutes and rules governing utility financings in that they recognize that payment of unreimbursed capital expenditures is a legitimate and statutorily authorized purpose for which long-term debt may be issued.

The Commission's existing conditions are also far more consistent with the real nature and magnitude of the Commission's long-term -- the company's long-term financing obligations in that they do not artificially exclude regulatory assets that, while non-capital in nature, must still be financed over an extended period of time.

In contrast, the formula used by Staff does not accommodate any of these objectives. By focusing exclusively on future capital expenditures, it makes no allowance for the fact that the company has tens of millions of dollars in regulatory assets that it has to finance over periods that can extend for 20 years or more. You can't finance that with short-term debt.

It also provides absolutely no allowance for using the proceeds of debt issuances to cover unreimbursed capital expenditures even though such purpose is explicitly permitted by statute and even though we know what the magnitude of those unreimbursed expenditures are from the time the company filed its application in this case more than nine months ago.

It also makes no allowance for the fact that the company may need additional cash resources above and beyond what it can obtain through short-term debt, as I said, to temporarily finance the cost of multiyear hedging programs, something that can develop into hundreds of millions of dollars of cost on the company between the time it has to start paying margin calls and the time it recovers that cost in rates.

Finally, it completely and needlessly eliminates the flexibility that the company has under the Commission's current safeguards to respond to changes in the marketplace on a timely basis.

For all of these reasons, we think there's absolutely no reason to depart from the existing conditions that have previously been approved by the Commission that are in effect and working today and that have proven their effectiveness over the years.

The other two issues relate to Staff's request that the company file copies of credit agency reports and that it provide information showing which specific capital expenditures have not been covered by prior issuances.

We're certainly willing to make copies of credit agency reports available to Staff at its request for review if and when the need arises and assuming that we have those credit agency reports. The reason we haven't agreed to go ahead and submit them and file them in EFIS is that those credit agency reports have copyright restrictions that say you're not supposed to go ahead and use those and distribute them without explicit permission from the agency itself.

You know, quite frankly, we think it makes a lot more sense for the Staff to go ahead and subscribe to those agency reports themselves, and that way they can go ahead and access them whenever they want, not only for Laclede, but for KCPL and AmerenUE and everyone else rather than have all the utilities try and go ahead and make those reports available and clutter up EFIS with them.

As far as filing information on what capital expenditures have not been covered by prior issuances, we can certainly say what capital expenditures we have made and how much long-term debt or equity we've issued. What one cannot do, and I think Mr. Marevangepo recognized as much in his deposition, is tie the proceeds from a particular issuance to a particular capital project.

So in summary, we urge the Commission to approve the company's requested authorization subject to the conditions discussed in Laclede's testimony and in its response to Staff's recommendation. By simply renewing the conditions that you previously approved to protect ratepayers, conditions that the Staff itself believed were sufficient to meet that objective just a few years ago, I think you will indeed be furthering that goal.

Thank you.

JUDGE JORDAN: Thank you. Moment, please. Staff, opening statement?

MR. BERLIN: Yes, Judge. Thank you. May it please the Commission?

You have heard Mr. Pendergast describe in some detail in his opening statement what this case is about in that Laclede Gas Company is seeking an authority for certain securities not to exceed a total amount of $600 million.

Now, $600 million is a large number. That is the amount of public utility assets that could be collateralized by Laclede in its financing.

Now, to put this in perspective, I'd like you to consider for one moment what this might look like on a relative basis had AmerenUE come here and applied for as much authority. If Ameren had applied, you would be considering an application for $6 billion on a rate base of approximately $8 billion.

So let's look at what Laclede is asking from this Commission. Here Laclede is seeking a total $600 million authority, and with that Laclede wants to be able to issue up to $325 million of long-term debt. Now, that's a number, that's a top number, and that comes from their Verified Application. The prehearing brief indicates that it is more like $275 million of long-term debt because they have proposed conditions whereby they would want to issue long-term debt in an amount that would be less than the value of Laclede's regulated rate base and an amount equal to 65 percent of Laclede's capital structure, whichever is less.

And so those conditions would limit Laclede's long-term borrowings to about $275 million roughly and possibly upwards of over 300 million, depending on how that percentage plays out.

Now, Staff has recommended, and based on the information that Laclede has provided to Staff on what it wants to do with this authority, that Laclede's long-term borrowings be limited to $100 million. $100 million is substantial and significant because it would fund all of Laclede's known capital expenditures over the next three years, considering funds from operations, and that would fund Laclede's capital expenditures for the period of the authority requested. And considering funds from operations, Laclede would not have to issue common equity. It would be able to cover all of its long-term capital needs through that debt issuance.

Now, if Laclede had made known to Staff

what it needs an additional $175 million above the $100 million that Staff has recommended, if they had made known to us what they needed that debt authority for, Staff would have supported it, but Laclede has supported only $100 million of long-term debt authority. Staff actually rounded up to get to the $100 million of debt authority.

Now, the touchstone to this case can be summed up in one key question. That question is, what do you need it for? And that is the question that Staff has asked throughout the process of this case, and this is the question that you must ask. Anyone that has a teenager at home knows this question. It cuts to the heart of the matter. What do you need it for is logical question. If a teenager says to you, I need $275, you might reply, what do you need it for?

Well, if your teenager says, I need 50 for school lunch account, 50 for the science field trip, and then you might follow up and say, well, tell me, what do you need the other $157 for. Well, I need it because I need -- I'm going to be going out with my friends and you never know what's going to happen. Things can happen. I might needs it. Might not. And I want to have it in case something happens.

Now, that's a bothersome question for a

parent, and I suggest to you that the inquiry has not ended there. $175 or $175 million of authority is a lot of walking around money. Likewise, an authority that collateralized the additional $175 million of utility assets and to do so with no known or identifiable needs is a bothersome proposition for utility regulators.

Again, the question is, what do you need it for? Now, that's been Staff's question throughout this case. Staff has asked Laclede to explain in detail why it needs that amount of long-term debt authority, and we've discussed this in numerous informal meetings with the company, and we have sought answers to that question in the discovery process. Most recently that process included not only the exchange of data requests, but it included witness depositions earlier this month.

Again, if Laclede had provided to Staff known and identified needs for this level of debt authority, debt that would be issued for specific reasonable public utility purposes, Staff would have recommended that authority. But Laclede has not, and that's why we're sitting here today in hearing.

Now, the applicable standard that you are to apply is governed under Section 393.200.1, and now the Commission has applied that statute in previous finance cases, and it has found that the money, the property or labor to be procured or paid for by the issuance of the indebtedness as the terms of the indebtedness are defined in an application is or will be reasonably required for the purposes specified in the application and that such purpose are not in whole or in part reasonable chargeable to operating expenses or to income.

I should point out to you that I've just stated or recited the standard that the Commission has recited in its orders deciding finance cases such as this, and the Commission has applied or recited that standard in its orders in Laclede's previous financing cases in 2007 and 2004.

However, the reality is that 393.200.1 is a bit more tortuous. The language was written at the turn of the century, and by that mean not this century but the century before last, and the wording has not changed at least since 1919. I think it's helpful to take a look at 393.200.1 for guidance on how this statute applies in this case. And if you'll bear with me, I'm going to show you a PowerPoint statute -- presentation rather that will take you through this rather tortuous standard.

Again, 393.200.1 is what we are to follow in the approval of issues of stocks, bonds and other forms of indebtedness. That's what the statute looks -- I'm not going to ask you to read it, but I will break it down for you and try to help enhance any meaning that you can extract from it.

The gas corporation can issue stocks, bonds, notes, other forms of indebtedness, when necessary for the acquisition of property, construction, completion, extension, improvement of its plant or system or for improvement or maintenance of its service or for discharge of its obligation or for the reimbursement of monies that were actually expended from income or any other monies in the treasury that were not secured or obtained from the issue of stocks, bonds and notes within five years next. I believe that means within the next five years.

Prior to filing the application for the required authorization for any of the aforesaid purposes that I just reviewed, except maintenance of service and except replacements in cases where the applicant shall have kept its accounts of such expenditures and in such a manner to enable the Commission to determine or ascertain the amount of money so expended and the purposes for which such expenditure was made, provided that there should have been secured from the Commission an order authorizing such issue and the amount thereof and stating the purposes to which the issuer proceeds are to be applied, and that in the opinion of the Commission, the money or property or labor to be procured or paid for by the issue of such stocks, bonds, notes, other forms of indebtedness is or has been reasonably required for the purposes specified in the order, and that except as otherwise permitted in the order in the case of bonds, notes, such purposes are not in whole or in part reasonably chargeable to operating expenses or to income.

So I think what you take from that is this question: What do you need the authority for? Now, I would like to, as a way of background, to kind of flesh this case out for you a little bit, just show you some slides from Laclede on how they represent the financial situation of Laclede Gas Company.

And this is -- these are slides taken from Laclede's presentation at the AGA, American Gas Association Financial Forum in May of 2009. Now, I'm not -- I'm presenting this to give you some background. These are not all of the slides, but some of them.

JUDGE JORDAN: Are you going to be putting these documents into evidence, Mr. Berlin?

MR. BERLIN: Yes, Judge. I have it. It's just part of my opening.

JUDGE JORDAN: Very good. Thank you.

MR. BERLIN: And you'll note that Mr. Mark Waltermire, a witness in this case, sponsored these slides. So he is here in this room today should you have any questions.

Laclede provided this information to the forum pursuant to the Securities Exchange Act of 1934 and the particular portion that requires them to disclose forward-looking statements within the meaning of the SEC Act.

Now, as an overview, you'll see that Laclede Gas Company is part of Laclede Group and some other companies. Laclede Group presents Laclede Gas Company as a strong utility platform, and that it was part of a -- the group that was part of a public utility holding company formed in 2001.

And in terms of execution, Laclede Group views the utility operations that they will focus on certain operational improvements and have stability of earnings, and, of course, part of that are certain non-utility components. I would say those non-utility components may or may not have any bearing on this, but they're there.

The strategic objectives show that Laclede wants to strengthen and to leverage the solid performance of the utility business and to maintain balance between the utility and the non-utility businesses.

Now, Laclede Group presents that it is assessing certain -- and evaluating certain natural gas storage assets. That's the group. Again, it may or it may not affect the gas company.

See if I can go back here. Okay. Thank you. A little technically challenged here. This is a slide that just addresses the cash flow, and I think it's good for background because it shows that Laclede is considering their operating cash flow from continuing operations, excluding working capital, and you can see it's a significant number. 2008, it was approximately $96 million.

Of course, they subtract from that the dividends that they paid to their shareholders, and then there's another number that they subtract from that, and that's capital expenditures from continuing operations to account for the capital expenditures. From that cash flow they subtract that. And you'll note in 2008, after they make those subtractions, there's a certain amount of free cash flow.

And then they represent a percentage of capital expenditures internally generated, which is I think just kind of indicia of how much they are able to cover their capital expenditures through their internally generated cash flow. And you'll note that in 2008 they had more funds available than they needed to cover their capital expenditures from continuing operations.

I think the takeaway here is that Laclede Gas Company represents a strong core gas distribution business and, of course, represents a stable earnings platform -- that's by Group's representation -- and there's a focus, of course, on internal improvements, and a focus on shareholder value, of course.

Now, that I wanted to offer to provide a little background on the financial situation of Laclede Gas Company and how Laclede Gas Company is related to Laclede Group and that there are these other components to the group.

Now, I would like to say that the big issue here is, I think, the debt limit. Staff proposes a total long-term debt limit to be issued and outstanding during a three-year period to be $100 million. Staff has based that recommendation based on an analysis of the projected financial statements provided by Laclede. And, in fact, when you consider that and their funds, internally generated funds, that is actually more than the total projected capital needs of Laclede.

And so Laclede provided support actually for projected capital of under $100 million. There's certain refinancing debt issuances that they're going to engage in, and there's capital expenditures that they had identified to Staff. And considering all that, the number came up to be just under $100 million, the Staff rounded that number up to $100 million based upon some representations that that level of debt authority might make the debt more marketable to the market and possibly, possibly less costly to ratepayers.

Now, Staff does not recommend and does not support authorizing Laclede Gas Company to issue long-term debt for financing of current or future short-debt debt that's used to finance unknown and unsupported short-term debt amounts because Staff is unable to determine the appropriateness of issuing long-term debt to refinance unknown short-term debt and short-term debt that has not yet been incurred.

Said another way, Staff must first see an identified need for long-term debt before it can render a recommendation to the Commission. The Commission cannot approve a debt authority based on speculation.

Now, moving on to preferred stock. If the preferred stock is to be issued in lieu of debt, we would apply that under the debt limit, but if the preferred stock is not, then it would not apply under that debt limit, and we are asking that the company provide the Commission with specific terms and conditions of preferred stock that it proposes to issue above the proposed debt limit.

With regard to an issue as to the information that Mr. Pendergast touched on, but information that should be considered appropriate for determining a reasonable amount of financing authority, Laclede should provide the Commission with projected financial statements that show the anticipated amount of such capital needs and the purposes for such needs and the timing of such needs. That's what Staff is looking for. And Laclede should file a plan with the anticipated type of security, amount of security and the timing of security issuances over the period of the requested authority.

Staff believes its position is fully consistent with the requirements of the statute, and for the amount of the authority that Staff recommends, Laclede has provided the support and projections for its capital needs that it has identified to Staff, and that is the $100 million limit in long-term debt.

And the Staff believes the company should be required in future finance cases to provide detailed evidence and information showing the amounts of long-term capital investment that have not been financed under previous financing authorities. With that, the company should provide the type of long-term security that it intends to issue and when it intends to issue them.

That requirement is fully consistent with

with the statute. We believe providing this information is a logical requirement of the company to track and account for investments it has already financed. It makes no sense for the Commission to grant an authority to finance that which had already been financed under a previous authority. I think this is just a sound business practice and is certainly contemplated as a requirement under the statute.

In regard to the issue of filing with the Commission any credit agency ratings reports that have been issued on the company with respect to debt issuances of Laclede Group, the Staff believes that this Commission should require Laclede to file those credit agency ratings reports.

The Commission ordered in the Kansas City Power & Light company and the Great Plains Energy to file credit agency ratings reports in Case EF-2010-0178. KCPL and Great Plains Energy are currently supplying these reports to the Commission in compliance with the Commission's order in that case.

I think it's important and indeed in the public interest to allow the Staff and the Commission the ability to monitor credit rating agency evaluations of the credit quality of Missouri's utilities.

Now, Laclede has raised a concern that you heard in Mr. Pendergast's opening that by not being granted the authority that it requests to issue debt beyond what it has supported, that it may not be able to respond to emergencies. And of concern is the length of this case and the length of just the regulatory process and lag.

Now, Staff would like to point out that the Commission has in the past moved quite rapidly in financing cases. In the Ameren financing case, EF-2008-0349, Ameren requested expedited treatment for its application so that it could respond to rapidly changing market conditions. Staff provided its Staff Recommendation in two weeks so the Commission could issue an order by Ameren's requested date, and the Commission did so.

So as in the Ameren case, should Laclede face a new need or an emergency need, the Staff can and will respond timely, but it needs to be known and reasonable and identified to the Staff.

The Staff witness in this case is Mr. Zephania Marevangepo, and he's a new employee, and he works under the supervision of David Murray. Mr. Marevangepo evaluated Laclede's application and the information that Laclede had provided to Staff, and Mr. Marevangepo, under the supervision of Mr. Murray, developed Staff's recommendation.

Now, this case is a bit interesting perhaps in a sense that very few gas financing cases ever come before the Commission, but the procedural schedule did not provide for a surrebuttal filing or surrebuttal witness, and Laclede has offered its senior vice president, Mr. Mark Waltermire. And it became apparent through the discovery process and through the deposition of Laclede's witnesses, and as even Mr. Pendergast has recited in his opening statement today, that there may be questions that involve the history of Laclede cases and certain higher level policy matters such as hedging and margin calls and matters that may be related the even other utility, perhaps electric utility financing cases that the Commission is familiar with.

And so recognizing that, Staff wants to address those questions that are raised by Mr. Pendergast and these higher level policy matters. Mr. Zephania Marevangepo is a new employee, and as such he does not have experience in higher policy matters such as hedging or margin calls or other policy issues and history of finance cases before the Commission. And so the Staff is offering to the Commission today Mr. David Murray should the Commission have questions that go down that vein.

And I would also add that, and though I

don't believe a discussion is needed, but if this Commission believes that it is, Mr. David Sommerer is also here and available to answer any questions should you have questions regarding the hedging policy that was raised by Mr. Pendergast.

That concludes my opening statement. Thank you.

JUDGE JORDAN: Thank you.

MR. PENDERGAST: Your Honor, if I could just briefly respond. I know that Mr. Berlin has indicated that other Staff witnesses are available here today to answer questions that the Commission might have, and I just want to raise a point of concern. We filed rebuttal testimony. We did it pursuant to the rules. We may have raised matters that were directly responsive to what was in Staff's testimony.

Staff said that we have raised some new issues. In fact, if you go back and look at the record, they weren't new at all. They were entirely consistent with information we'd provided to Staff.

But that notwithstanding, the Commission gave them additional time to conduct depositions, extended the hearing on the grounds that we need to go ahead and provide them with an opportunity to respond to anything, even if it's proper rebuttal, that they may not have been fully aware of. And now Staff's proposing to go ahead and put on potentially two new witnesses that we haven't had an opportunity to questions, we won't have an opportunity to depose.

JUDGE JORDAN: If you have an objection to the witnesses, let's take that up if they're offered.

MR. BERLIN: May I respond, Judge?

JUDGE JORDAN: Really briefly.

MR. BERLIN. Real briefly. We are not -- I am not proposing that Mr. Murray or even Mr. Sommerer be offered as new witnesses. I am merely informing the Commission that they are available to address the policy matters that go beyond the scope of the application in this case.

JUDGE JORDAN: I understand. Thank you.

Any opening statement from the Office of Public Counsel?

MS. BAKER: No opening. Thank you.

JUDGE JORDAN: Thank you very much. Now, I have some questions for purposes of clarification before we begin with the applicant's case in chief. Would the Commissioners be having any questions?

COMMISSIONER DAVIS: Ask your questions, and then maybe I'll. . .

JUDGE JORDAN: I'd like to start with

something that might be helpful. It might not come up at all. My question is for Mr. Berlin for Staff, and I want to start with the reading of the statute that you gave us, and I've been puzzling over this statute for hours and days, and it is challenging. It is challenging indeed.

My question, and I don't know in you have an answer, and I don't know if it's important, will be this, and that's the except language, except maintenance and except replacements. All right. Except for -- that's an exception from what? What is that an exception to? Do you have any thoughts on that, or is it important?

MR. BERLIN: Well, I think it goes to certain routine maintenance and replacements that are part of the daily business that are covered in its operations. In other words, it's not a -- something that would rise to -- activities that would rise to the level of having to go out and seek as, as the statute requires, any form of indebtedness beyond a 12-month period. So those are types of routine maintenance and replacements that are covered under the operating expenses and revenues of the company.

JUDGE JORDAN: Right. And this is an exception then to the five-year financing provisions? Is that the Legislature saying these should be 12-month matters or --

MR. BERLIN: Well, I would have to say I'm just rendering my interpretation of a fairly tortuously worded statute.

JUDGE JORDAN: That's all I'm asking for. I had another question about as to the amount that's at issue, and you mentioned something about preferred stocks. Do I understand the Staff's position correctly that if preferred stocks seems to resemble debt, then it should be counted towards the debt limit; is that correct?

MR. BERLIN: That is correct. And I'm given to understand that certain -- the way in which certain preferred stock issuances could be done may be done in a way that would resemble debt. And so I would have to defer to my expert witness on that, but if it resembles debt, then it would apply to the debt limit.

JUDGE JORDAN: And if it does not resemble debt --

MR. BERLIN: It would not apply to the debt limit.

JUDGE JORDAN: Okay. Also in regard to the amount, you referred to the purposes, specified purposes, and I understand Staff is suggesting a debt limit of $100 million because it believes the application supports that amount?

MR. BERLIN: Yes. That's a long-term debt limit.

JUDGE JORDAN: Staff's problem with the other $275 million requested is that the application and information supplied to Staff so far does not support that amount?

MR. BERLIN: That is correct. Actually, it would be an additional 175 or more million above that 100 million that Staff did recommend.

JUDGE JORDAN: Right.

MR. BERLIN: And as I indicated in my opening, the Verified Application indicates a possible long-term debt issuance of 325. I think, and I would get Mr. Pendergast's take on this, but I think it gets back down to about a $275 million long-term debt authority, which is what they're seeking when you consider that they're looking at establishing conditions that would limit it to the lesser of the value of Laclede's regulated rate base or 65 percent of its capital structure.

JUDGE JORDAN: It seems to me, looking at what has been filed, is that that's most of the reason why we're here, most of the reason that Staff is resisting this application. Is that fair?

MR. BERLIN: I think that's -- that's basically the primary contested issue here.

JUDGE JORDAN: So that if Laclede brought you numbers, evidence, something that supported that extra amount, Staff wouldn't have nearly the problem that it does, would it?

MR. BERLIN: That is correct. Staff is not comfortable speculating.

JUDGE JORDAN: Okay. Fair enough. First, Laclede, any -- does that spark any response from Laclede?

MR. PENDERGAST: It does. First of all, you asked about replacements, and I think the way that our unreimbursed capital expenditures schedule treats that is we specifically exclude retirements, and that's a schedule that was attached to our application that basically quantifies what the last five years were of unreimbursed net property additions. And, you know, this is a schedule that we've been filing for years, probably decades, and it excludes retirements, and I think that exclusion of retirements is consistent with the statute.

And as far as whether the application submitted enough information to justify our request, that schedule alone, Schedule 3, showed 279 million of unreimbursed capital expenditures. Staff has had that since we filed the application. Staff chooses not to go ahead and provide any financing for it or not to go ahead and authorize debt to pay for those unreimbursed expenditures.

That's, you know, Staff's call if it wants to take that position, but I don't think Staff can say that we haven't provided information. We have provided information not only there but we've provided significant information to Staff on what our hedging costs are, what our margin calls are, how much in the way of financial exposure we have at a given point in time.

In connection with the multi-hedging program, I think at one time we'd accumulated somewhere in the neighborhood of $300 million in margin calls. Once again, because that's something that can't be forecast, because that's something that can't be known like a construction budget, the Staff chooses not to provide any financial resources for that or at least allow long-term debt to be used for it, but that doesn't mean it hasn't received the information. That doesn't mean that it hasn't been given data. It's just that under Staff's formulaic approach, they choose not to go ahead and recognize it.

So I really have to take strong issue with Staff's contention that we haven't provided any information. We've provided scenarios. The fact of the staff is, neither we nor Staff knows what gas prices are going to be one to two years from now. We don't know what the credit market's going to be one or two years from now. And to sit there and say unless you know with certainty what these things are going to be, we can't provide you any flexibility to respond to it, just seems to me to be a rather archaic approach.

JUDGE JORDAN: That's -- I think we're getting close to words that I can understand with my limited understanding of these issues.

First I'll ask you this. The except part, you talked about retirements. Is that what the except for maintenance, except for replacements, is that what that's about?

MR. PENDERGAST: Yeah. And I'm assuming that when we first developed that Schedule 3, you know, 20 or 30 years ago, that that's why retirements were excluded. I can't tell you that for sure, but it would be consistent with that.

JUDGE JORDAN: Now, when you say excluded, excluded from what?

MR. PENDERGAST: Excluded from what the level of our unreimbursed capital expenses are.

JUDGE JORDAN: Okay. And unreimbursed capital expenditures, does that describe the whole set of what you're wanting to finance and your purposes?

MR. PENDERGAST: No. That's just. That's just unreimbursed capital expenditures that have been made in the past. We also have capital expenditures that we're going to be making in the future over the next three years, and, you know, I think you have to look at both of those. Plus you have to look at the financial resources that a modern LDC with a hedging program needs to have at its disposal to pay for gas supplies and pay for hedging costs.

And when I say pay for it, I mean finance it. I mean, we're going to recover our hedging costs eventually through the PGA, but if you have a multiyear program, you may be having margin calls associated with two or three winters from now at the same time that you're having to buy physical supply for this winter. And in the intervening time while you have to carry that financial exposure, it's important that you have the ability to do that.

JUDGE JORDAN: Now, as for as these unreimbursed capital expenses, there was a reference in your prehearing brief that I found helpful. It referred to the language of the statute.

MR. PENDERGAST: Yes.

JUDGE JORDAN: And it talked about expenditures, expenditures from income or other monies from the treasury. Is that where you think these amounts go within the statute? Is that what those are?

MR. PENDERGAST: Yeah. I think they're

unreimbursed expenditures that we have made out of the income we've earned.

MR. BERLIN: Judge?

JUDGE JORDAN: Just a moment. So you will be presenting evidence today as to what those numbers are; is that correct?

MR. PENDERGAST: Well, actually, we filed it as a schedule to our application, Schedule 3.

JUDGE JORDAN: So you'll even have an exhibit to which we can refer?

MR. PENDERGAST: Right. And Mr. Waltermire has also referenced it in his testimony.

JUDGE JORDAN: Okay. Mr. Berlin, you had a comment?

MR. BERLIN: I was just going to say, Judge, that this idea of 275 -- $279 million unreimbursed expenditures I think is certainly an issue and we're going to be addressing that later.

JUDGE JORDAN: That sounds like most of what we're going to be discussing today. Anything from the Office of Public Counsel on this matter --

MS. BAKER: No.

JUDGE JORDAN: -- on these matters so far?

All right. Okay. Here's what I want to do as far as narrowing the issues further, making sure we're all talking about the same things. We've discussed the conditions that Staff proposes, and I think the most recent statement of that is in Staff's prehearing brief. Is that the latest articulation of that? That's on page 2 of Staff's prehearing brief.

MR. BERLIN: That would be correct, Judge.

JUDGE JORDAN: Okay. What I'd like to do is make sure we know which conditions are agreed and which ones are not, and I'd like to refer to this list to do so. Does that sound like a good idea to everyone?

MR. PENDERGAST: That's fine with us.

JUDGE JORDAN: Okay. Well, here's what I'll do, then. I'm not going to read the whole thing into the record. I'm just going to refer to this, and that is again on page 2 of Staff's prehearing brief, Staff's recommended 12 conditions. And really my question is going to be -- questions are going to be for Laclede and for the Office of Public Counsel since Staff already wants these conditions, but if staff has any changes to that, do let me know. Okay?

I'll give everybody a moment to find where we are. Just let me know when everyone's on the same page. All right. Is everyone on the same page then? Laclede?

MR. PENDERGAST: Yes.

JUDGE JORDAN: Staff?

MR. BERLIN: Yes, Judge.

JUDGE JORDAN: OPC ready?

MS. BAKER: Yes.

JUDGE JORDAN: Let's start with condition No. 1, how does Laclede feel about that?

MR. PENDERGAST: Your Honor, obviously this is the central issue in the case where Staff's proposed a $100 million limitation, and we believe that instead it ought to be the 65 percent value of regulated rate base. What I can do is refer you to Exhibit 2 of the response we filed to Staff's recommendation and an we have our proposed red-lined changes to what Staff had proposed here. So tie those two together and I think you've got what --

JUDGE JORDAN: What's that reference again, please?

MR. PENDERGAST: That is Exhibit 2 to Laclede Gas Company's Response to Staff Recommendation and Alternative Request for Extension of Current Financing Authority, and that should have been filed right around January 15th.

JUDGE JORDAN: Okay. Thank you. Anything from OPC on that?

MS. BAKER: No.

JUDGE JORDAN: No. 2, Laclede?

MR. PENDERGAST: Yeah. Basically, we've taken the position when it comes to preferred stock that, if we do issue it, it should be counted towards the debt limitation that we believe is appropriate. And as I see from Staff here, they're saying that we need to specify whether it's in lieu of debt. And I thought Staff was at, if you just included it under the 100 million, that was fine, and I'm not sure whether Staff is suggesting here that, if it's not in lieu of debt but it's really equity, you can go ahead and do it under the 500 million equity.

JUDGE JORDAN: Shall I take that as a no, then?

MR. PENDERGAST: Or an uncertain, yeah.

JUDGE JORDAN: No. 3.

MR. PENDERGAST: Yeah, I think that's fine.

JUDGE JORDAN: That's a yes. No. 4?

MR. PENDERGAST: Yes.

JUDGE JORDAN: OPC on 4 and 3?

MS. BAKER: I don't think we've taken a position on any of the issues in this case.

JUDGE JORDAN: So you anticipate that you will have no position on any of the conditions?

MS. BAKER: We'll put ours in the post hearing briefs.

JUDGE JORDAN: Thank you. Then we'll proceed. No. 4 was a yes, Laclede?

MR. PENDERGAST: Yes.

JUDGE JORDAN: No. 5?

MR. PENDERGAST: Yes, your Honor.

JUDGE JORDAN: Is a yes. No. 6?

MR. PENDERGAST: Yes.

JUDGE JORDAN: Is a yes. No. 7?

MR. PENDERGAST: Yes.

JUDGE JORDAN: No. 7 is a yes. No. 8?

MR. PENDERGAST: No, for the reasons I previously stated.

JUDGE JORDAN: Very good. No. 8 is a no. No. 9?

MR. PENDERGAST: Yes, that's fine, under our recommended conditions.

JUDGE JORDAN: Okay. No. 9 is a yes. No. 10?

MR. LACLEDE: Yes, that's fine.

JUDGE JORDAN: That's a yes. No. 11?

MR. PENDERGAST: I'd have to say no without additional clarification, and that may come up with Staff's witness.

JUDGE JORDAN: And No. 12?

MR. PENDERGAST: No.

JUDGE JORDAN: No. 12 is a no. Thank you for running through that with me.

MR. PENDERGAST: Sure.

JUDGE JORDAN: And that is -- that's all the questions I have right now. Questions from the Commissioners? I'm not seeing any, so --

COMMISSIONER KENNEY: Wait a minute. I just have a couple of questions, and it may be that some of this may be revealed by a witness at some other point.

The filing of the credit agency reports, Laclede objects that there's copyright issues involved. What's your response to that?

MR. BERLIN: Well, my response is that it's, first of all, their application case, and they should provide this information to the Commission.

Secondly, there is nothing preventing Laclede from contacting the credit rating agencies to seek permission to provide a copy of those reports to their regulatory authority, this Commission.

And third, I know that the Commission has done this in the KCPL and Great Plains Energy case that I just cited in my opening and that KCPL and Great Plains Energy are currently submitting those reports in compliance with the order approving that financing authority.

COMMISSIONER KENNEY: Was there any copyright objection by either of those two regulated utilities?

MR. BERLIN: I can't address that particular case, but my view is that the Fair Use Doctrine permits the company to provide a copy of the credit rating agency reports to a government regulatory authority.

COMMISSIONER KENNEY: And that seems like maybe a particular issue. I don't want to issue an order that's going to subject one of our regulated utilities to some type of liability for copyright violation. It's not an insignificant argument.

All right. Let me go back to the statute, 393.200, because it's -- it's not written as clearly as one might like. I want to make sure I'm understanding what I was supposed to take away from the PowerPoint, and maybe you might, if you want to indulge me, put it back up on the screen, that might be helpful. I want to be clear here --

MR. BERLIN: Certainly.

COMMISSIONER KENNEY: -- what 393.200.1 authorizes and what it doesn't authorize.

MR. BERLIN: Okay. Now, that is the statute in its entirety, and we can -- would you like to go through that in its entirety?

COMMISSIONER KENNEY: No. I want to go through yours.

MR. BERLIN: Okay.

COMMISSIONER KENNEY: Essentially the utility can issue stocks, bonds, notes or other evidence of indebtedness payable that appear to be more than 12 months. Right there that just says they're allowed to issue long-term debt, right? If we encapsulate that, before we get to the next clause, the utility may issue long-term debt?

MR. BERLIN: That is correct, but with Commission approval, of course.

COMMISSIONER KENNEY: Right. When it's necessary for, and then it lists the items for which it is necessary. Acquisition of property, correct? Construction, completion, extension, improvement of the plant or system, right?

MR. BERLIN: That's correct.

COMMISSIONER KENNEY: Or for the improvement or maintenance of the service or for the discharge or lawful refunding of its obligations. What's your interpretation of that clause, the discharge and lawful refunding of its obligations?

MR. BERLIN: As I understand it, in this case Laclede has applied to retire some bond obligations, I think in an amount of -- I don't think that number is HC, is it?

MR. PENDERGAST: No.

MR. BERLIN: -- $50 million. So that is how those funds in the authority would be used.

COMMISSIONER KENNEY: And they've set that forth in their application with enough specificity to satisfy Staff?

MR. BERLIN: Yes, they have.

COMMISSIONER KENNEY: All right. Or for the reimbursement of monies actually expended from income or from any other moneys in the treasury that are unsecured, not secured or obtained from issuing stock. What is your interpretation of that? For the reimbursement of monies actually expended from income. That's operating income, right?

MR. BERLIN: That's correct.

COMMISSIONER KENNEY: Is that right?

MR. PENDERGAST: Yes.

COMMISSIONER KENNEY: Or from any other monies in the treasury not secured or obtained from the issue of stocks, bonds, notes.

Okay. All right. Go to the next. I just want to make sure I'm clear on what I'm supposed to take away from this.

MR. BERLIN: I understand. This is a difficult statute.

COMMISSIONER KENNEY: Within five years next.

MR. BERLIN: Yes, and I think that's kind of important, because within five years next I believe us a forward-looking statement, taking it out five years.

COMMISSIONER KENNEY: Within five years next prior to the filing of an application with the Commission for the required authorization. Within five years next prior to the filing of application with the Commission for the required authorization.

MR. BERLIN: I believe that within five years next goes back to the purposes of issuing that indebtedness. So if you could look forward five years to a cap ex plan, capital expenditure plan, those purposes are identified.

MR. PENDERGAST: And maybe this is just the area where we have our biggest dispute. I think five years next prior to the filing absolutely means five historical years prior to the filing, not five future years. All I can tell you to substantiate that, other than what I think is the reasonable reading of the words next prior to the filing, is that the unreimbursed capital expenditures net additions schedule that we've been filing since man's memory, not running to the contrary, has always put that historical five years in, and I don't believe, you know, it's ever been questioned by Staff before.

And, in fact, you know, we generally put five years of historical in our other schedules and three years of projected. So I just don't think there's any other way of really construing it but that.

MR. BERLIN: Obviously I disagree. Within five years next is the next five years.

COMMISSIONER KENNEY: Within five years next of what? I mean, because that -- I think you can't just take the within five years next by itself.

MR. BERLIN: No, but there --

COMMISSIONER KENNEY: It's modifying some other -- I mean, it's referring to some other period. Within five years next. There's some starting point.

MR. BERLIN: And the starting point is the issuance. The purpose is for the issuances of the indebtedness.

COMMISSIONER KENNEY: The current issuance?

MR. BERLIN: That are being applied for.

COMMISSIONER KENNEY: All right. So you're saying it's five years from the point -- five years next following the point at which the application for authorization is issued, so five years from whenever this current application was issued?

MR. BERLIN: Yes.

COMMISSIONER KENNEY: And Laclede's position is that it's five years backwards?

MR. PENDERGAST: Yeah. And that's how we filed our schedules for the last couple decades.

COMMISSIONER KENNEY: Five years next prior.

MR. PENDERGAST: Right.

COMMISSIONER KENNEY: Nobody talks like that.

MR. PENDERGAST: Fortunately not anymore.

JUDGE JORDAN: No one ever really did, except in the statutes.

MR. BERLIN: See, I think that prior to the application means that you have to have this plan before you file your application. It's logical.

COMMISSIONER KENNEY: That's a significant point of difference between the Staff and Laclede.

MR. BERLIN: Well, if I could interject. Mr. Pendergast in response to Judge Jordan's questions talked about an exhibit about some large number of unreimbursed expenditures, and I think that's another point of disagreement that we have. So you may talk about what was done in the past. I can't address what was done in the past. I can only address what's being done in this case because I have not had to litigate a finance case before.

COMMISSIONER KENNEY: And the within five years next prior is referring to the time in which they can issue the indebtedness, right?

MR. BERLIN: Right.

COMMISSIONER KENNEY: For any of the aforesaid purposes except maintenance of service and except replacements in cases where the applicant shall have kept its accounts of such expenditures in such a manner as to enable the Commission to ascertain the amount of money so expended.

Is there any disagreement over the meaning of that clause? What's the exception from? For any of the aforesaid purposes except maintenance of service and except replacements. What do you guys think that means?

MR. BERLIN: Well, I would -- I would say, and I'm just --

COMMISSIONER KENNEY: It's referring to the purposes for which the indebtedness may be issued, with the exception of maintenance service and except replacements in cases where the applicant...

MR. BERLIN: Right. In today's world, I

believe an ISRS case where you approve an incremental revenue requirement for the company for certain infrastructure replacements kind of falls into that language.

COMMISSIONER KENNEY: That exception language?

MR. BERLIN: Yes.

COMMISSIONER KENNEY: Do you agree with that?

MR. PENDERGAST: Well, I think we've construed it in the past when we've filed that unreimbursed property addition schedule as considering that the retirements to be the same as replacements, and so we've excluded that. And I think at some point somebody thought that was a pretty reasonable interpretation. I guess I think it continues to be a pretty reasonable interpretation.

COMMISSIONER KENNEY: And does Staff continue to believe that it's a reasonable interpretation?

MR. BERLIN: No.

COMMISSIONER KENNEY: All right. So those exceptions are yet another sticking point in the definitions of what falls within those exceptions?

MR. BERLIN: If I could, just kind of try to clarify that. I think what we're looking here is for the gas company, what do need to have this debt authority for going forward? What are you going to do with it? What purposes are you going to use it for that would allow the company to collateralize that level of public utility assets? And if you can demonstrate that there's something that has been unreimbursed, then I think that it would cover that.

Now, I think that carried more meaning back at the turn of the century, the century before last, than it does today because most everything is reimbursed through financing and so forth already.

COMMISSIONER KENNEY: And let me get to this last part. And stating -- you have it italicized. And stating the purposes to which the issue or proceeds are to be applied. So the application is supposed to state the purposes to which the issuance proceeds thereof, the issuance proceeds of the stock issuance, the indebtedness, et cetera, are to be applied. That's forward looking, right?

MR. BERLIN: That is forward looking.

COMMISSIONER KENNEY: I mean, if we read the -- the entire paragraph in its entirety, does it contemplate that the utility is going to specify the purposes to which the monies will be applied going forward?

MR. PENDERGAST: I think it does, and I think our application did, and one of the things that our application said was one of the purposes was to reimburse monies actually expended from income. And that's, of course, what Schedule 3 is designed to go ahead and show.

And I, you know, I think at a 50,000 foot level, and I think the Commission addressed this in a case called Martigny Creek many years ago, is the requirement that you have -- only compensate for monies that have been expended from income for things like prior capital expenditures is a concern that we don't want utilities or others going out and issuing long-term debt to cover prior operating expenses.

I mean, under traditional retroactive ratemaking principles, when you come in, you get a rate amount, you may lose money on that rate amount. You may make money on that right amount. And I think the purpose of the statute as the Commission's previously interpreted it is to make sure you don't take out a big loan that you're going to go ahead and recover in rates later on to make up for the deficiency you had in rates in the past, and --

COMMISSIONER KENNEY: Which would be the purpose of this last portion of that paragraph, such purposes are not in whole or in part reasonably charged to --

MR. PENDERGAST: I think that's right, your Honor. And I think what the Commission's prior conditions have done, which is what we believe ought to go ahead and be continued, is it does say that do not go out and issue long-term debt in excess of what the value of your regulated rate base is.

And I think on a long-term running basis, that's designed to make sure that you're not using that money to go ahead and pay for operating expenses. You better have some assets there -- there's a little disagreement about whether they have to be physical or regulatory assets -- there to go ahead and show that you've been spending it on at that and not covering expenses that, you know, you took the risk of not recovering in your rates.

And I think the Commission's existing conditions are consistent with that. I don't think Staff's formulaic approach is.

COMMISSIONER KENNEY: And so just let me step back again. Staff's objections here are with the lack of specificity in the application with respect to how the money's going to be used and also with some specific manners in which they do intend to use it. Is it both?

MR. BERLIN: Staff's concern is that we

need to see an identified purpose for the authority that they are asking for, that is an identified and reasonable known purpose why they need the authority. And if we see that, we would recommend approval for that.

COMMISSIONER KENNEY: There's a lack of specificity in the application --

MR. BERLIN: Yes.

COMMISSIONER KENNEY: -- with respect to how they intend to apply the proceeds?

MR. BERLIN: That's correct. And they did provide us some information that allowed us to make our recommendation.

COMMISSIONER KENNEY: But not enough?

MR. BERLIN: Not enough for what they're asking for.

COMMISSIONER KENNEY: Okay. I think that's it. I think that's it.

JUDGE JORDAN: Commissioner Davis, any questions?

COMMISSIONER DAVIS: Okay. Mr. Berlin, here's my question. I'm looking here at 393.200.1, and I'm -- I'm working off of your prehearing brief. So talks about a gas corporation may issue stocks, bonds, notes or other evidences of indebtedness, blah, blah, blah, then goes on down to talk about for the improvement or maintenance of its service. And then you get down to the within the five years next, and then we talk about for any of the aforesaid purposes except maintenance of service. So -- and except replacements.

So how does the -- let's say Mr. Pendergast is buying gas and wanting to hedge gas out for multiple years because he thinks the price of gas is cheap right now and that he wants to go ahead and get locked in for multiple years. Are you saying that that's maintenance of service and doesn't qualify or -- and I'm just trying to figure out what does -- you've got -- we've got maintenance of service in the statute twice. Do you have any idea what that means?

MR. BERLIN: Well, I think that wording is rather broad to begin with. I mean, it provides a lot of room.

Now, you mentioned hedging. Hedging -- and I'm just going to discuss this based on my understanding, and I'm not the expert on this, but hedging -- hedges have certain maturities to them that the company enters into. And I think perhaps what happens when things go bad, maybe they hedged a certain position for certain maturity of the hedge, and then there's a margin call.

And so my understanding of this -- and again, I would defer to -- I'd have to defer probably to

Mr. Sommerer on this, but hedges are pretty much covered under short-term debt issuances by the company, and that short-term debt tends to be self liquidating. I'm not aware of any long-term debt issuances that have been used to cover hedges that has not been identified in this case.

So I'm only -- I'm only trying to -- I'm trying to answer your questions, but I can tell you that in the confines of this case, that type of purpose had not been identified to Staff.

COMMISSIONER DAVIS: All right. Getting back to the filing of the rating agency reports. Are you aware, do you know that Staff has a subscription to S&P Ratings Direct?

MR. BERLIN: I believe they get the copies. I can't address the subscription. I presume so.

COMMISSIONER DAVIS: If we have a subscription to S&P Ratings Direct, then we ought to be getting everything that's put out by S&P, theoretically, including anything that they put out on Laclede. You'd still have to go out and if you want to discover communications, you know, presentations that Mr. Pendergast or whoever makes to S&P, you know, communications that they have, you may still have to request that information.

Now, granted we don't have a -- to the best of my knowledge, we don't have a subscription to Moody's or to Fitch, which I guess now I'll turn to Mr. Pendergast. Obviously Laclede pays Moody's, Fitch, S&P to rate their bond issuances, whatever. So I guess my question is, I mean, do you guys have any problems when you're asking them to say, hey, can we turn over whatever reports you have to our regulators? I mean, I'm just trying to -- it doesn't seem like it should be a big sticking point.

MR. PENDERGAST: No. You're right. I don't think it should be a big sticking point, and, you know, that's something we'd certainly be willing to go ahead and ask. It just seemed to us that it made more sense, you know, for the Staff to go ahead and the Commission to go ahead and have a subscription to these particular services so they can access them whenever they want for all the utilities they want rather than have a bunch of different utilities constantly going to these rating agencies and saying, can I go ahead and provide a copy of this report?

We were also concerned about initially which reports Staff was talking about because not only do we make an issuance not only when they do a periodic review, but there's a lot of times they do industry reviews and other things that mention Laclede. And quite frankly, we didn't want to get in a situation where somebody issued something we may not even receive and we didn't file it in EFIS so we've not done what we were supposed to do.

I mean, we're willing to sit done and continue to talk with Staff above that. We did during the depositions, and, you know, certainly from an assessment funding standpoint, we'd certainly be supportive of that being an item that would be recovered from utilities because that seems to be the most efficient way to do it from our perspective.

COMMISSIONER DAVIS: I don't -- Mr. Pendergast, I'm just going to say -- maybe somebody can correct me on this -- I'm not aware that Moody's and Fitch offers the -- I'm familiar with S&P Ratings Direct. I'm not familiar with what Moody's and Fitch offers us to buy, but I'm sure if we called them up with our checkbook, I would assume that they --

MR. PENDERGAST: I bet they'd find a way.

COMMISSIONER DAVIS: All right. I think that's all the questions that I have right now. Thank you.

JUDGE JORDAN: Mr. Chairman, did you have any questions? I appreciate the parties --

COMMISSIONER KENNEY: May I?

JUDGE JORDAN: Please.

COMMISSIONER KENNEY: I'm sorry.

JUDGE JORDAN: Go ahead. Don't want to cut you off.

COMMISSIONER KENNEY: No. It's -- I don't understand this statute. I want to understand the exceptions clause. For any of the aforesaid purposes, all right, and then it says except maintenance of services, which is referred to in the preceding sentence. So do we read this together? Is it for any of the aforesaid purposes except maintenance of service and except replacements in cases where the applicant shall have kept...

Does the "in cases where the applicant shall have kept its accounts" apply to both the replacements and the maintenance of service? Do you understand the question I'm asking? Does it apply to both? So is it for the aforesaid purposes except maintenance of service and except replacements in cases where the applicant shall have kept its accounts and vouchers of such expenditures in such a manner as to enable the Commission to ascertain the amount of money so expended and the purposes for which such expenditure was made.

So is it saying that if those -- if the

maintenance of service and replacements are paid for out of some separate account that allows us to determine how that money was spent, is that what that means, or am I off base, or do you know?

MR. BERLIN: Let me offer an answer. I think we have to also put this in context of about 1900 when they wrote this and the way in which a business operated. We're looking at the issuance of long-term debt and evidences of indebtedness that would go beyond 12 months.

COMMISSIONER KENNEY: Sure.

MR. BERLIN: My belief -- and I would also encourage perhaps an accountant might render this, but my understanding is that the maintenance of service that we're talking about and replacements are basically day-to-day-type operating expenses. You wouldn't issue long-term debt to cover payroll expenses, for example. So I believe it's -- it applies or brings in all of the day-to-day goods and items that are used in running the business.

COMMISSIONER KENNEY: I mean, if this is not important to the determination of the case, just tell me to move on.

MR. PENDERGAST: Well, I -- I think having a good understanding of this rather poorly written statute would be good. It's just difficult to get there. I think, like I said, from our perspective, we've at least applied that to replacements because we have excluded retirements we identified.

And I guess, you know, the only other observation I'd make at more of a 50,000 foot level, I think the Staff is kind of looking at this as a limitation on debt. These purposes are ones that apply to stocks, apply to debt, apply to the whole ball of wax. So I don't understand how they can establish a limitation on debt unless they also established a limitation on everything else.

And as we have said, we all agree that we ought to have authority to do 600 million, and if you were to take a very narrow construction of what this allows and say it only allows 100 million, I don't know how you go ahead and say it allows another 500 million for equity.

COMMISSIONER KENNEY: So an understanding of the statute is critical to the determination.

MR. PENDERGAST: It's nice to know what the law says, yeah.

MR. BERLIN: I would just like to add, again, and I think to add some clarity to this, I think there's really two things that you really need to look for. One, what are the specific purposes and are they reasonable that Laclede has identified as to why they need this authority? And if you're satisfied that they have, then you can approve that level of authority.

The other part that you should look at is, well, what is unreimbursed? I mean, have you not received any kind of funding for this? Is this just sitting out there that you've got no financing, you're not recovering it in rates, you're not getting it through depreciation, you're not getting it through other sources?

If you think that there's something that has not been reimbursed and you believe that that's been properly and substantially identified and supported, then that would also permit an authority to be issued or fall under the authority or provide support for the authority that's being asked. But you will -- I think you're going to -- we're going to go into this a bit more on what is unreimbursed.

COMMISSIONER KENNEY: And I'll stop asking. You can issue this long-term debt for the improvement or maintenance of its, meaning the utility's service, and then later it says you can issue the debt for any of the aforesaid purposes except maintenance service. So you've got maintenance of service authorized in one portion and then it's excepted out in the second portion of the statute.

But I think unless you -- it must be referring to maintenance of service and replacements that are treated somehow differently than the other maintenance of service and replacements that are included in the financing that you're asking for.

MR. PENDERGAST: To make sense, I think that has to be true.

COMMISSIONER KENNEY: Maybe it will be clearer as we go along. Forgive me.

JUDGE JORDAN: There's nothing to forgive, Commissioner. Commissioner Davis.

COMMISSIONER DAVIS: Mr. Pendergast, I'm going to go back and ask the question to you that Mr. Berlin has been begging us to ask. Why do you need this extra money?

MR. PENDERGAST: Yeah. And first of all, you know, we have 270 million in -- 9 million in unreimbursed expenditures. We have 150 million in capital improvements that we're planning on making over the last three years. The 100 million that Staff says that we should get is after they take funds from operations except for dividends and apply it to those capital expenditures, but they don't indicate what the magnitude of those capital expenditures are.

And we think that we need to be in a

position if there are market movements. You know, at times back in the '80s you had short-term debt rates that were above long-term debt rates by 400, 500 basis points. We've seen 12 percent and 13 percent long-term debt obligations before even though they're at 6 and a half percent now.

If the market begins to change and it looks like it's a good time to lock in something like that, it's a good time to displace some short-term debt with long-term because maybe we're going to be inverted again, we think we ought to be able to go ahead and act on that without coming down and filing an application and saying, Staff, do you think this is a good idea?

And, you know, if that's the process you're going to follow, then let's just be honest about it. What it means is that for all intents and purposes Staff is going to be making the decision, because if you come in and you say the time is right to do it and Staff says, well, I don't think so, then you're going to have to have a hearing, you're going to have to have testimony filed, and you're going to be eight or nine months down the road and it's probably going to be a moot point.

You know, we were -- as I said before, we had $300 million in margin calls accumulated at one point in time, in addition to what we had to go ahead and pay for gas supplies. The financial resources to do that have to come from somewhere. Sometimes they can come from short-term debt but not always.

And I really think the problem we have is, we have short-term debt, which is up to a year, and then you have long-term debt, which has traditionally been 15 or 20 or 30 years. Well, you have these bridge financing needs that may be a two year or a three year or four year note that don't fit in to either one of these categories. And having the kind of flexibility that we're talking about gives us the opportunity to use that as well.

So, you know, there's a whole lot of things out there that could potentially affect your need for cash, could potentially affect whether it's time to go ahead and lock in, even though you don't need it for a capital project or a capital budget that's a year off, that we think we ought to have the flexibility to utilize.

And that's what the Commission's traditional standards have allowed us to do for the last three years, and we think we've done it responsibly. Maintained an A credit rating.

COMMISSIONER KENNEY: You've been using long-term debt to pay margin calls?

MR. PENDERGAST: No, we have not been using long-term debt. We were able to go ahead and use short-term debt to go ahead and do that, but we did issue $80 million. And, you know, when you say what are you using, you know, you have money from a lot of different sources, short-term debt, whatever you have by way of long-term debt. And anybody that tells you I can tell you exactly what you used this particular issuance for is kidding you.

But we did have the -- we did issue 80 million in long-term debt in 2008, and as I said, within a month after we did it, we thought it was the right time, that had gone up 250 basis points. And if we had to come down here and get approval, even if Staff did the expedited thing it did with Ameren, you're 20 or 30 days down the road and you've lost 250 basis points and you lost 4 or $5 million over the life of that issuance.

So, you know, you give us far more authority and give us far more flexibility when it comes to gas apply and the ability to go ahead and make hedging decisions and make purchasing decisions that have far greater financial consequences, or can, than this done. We just think similar authority like that you've recognized is appropriate in the past ought to be continued.

COMMISSIONER KENNEY: This is the last thing I'll say. I guess ultimately the -- whether we have the authority to do it or not depends and how we interpret the statute.

MR. PENDERGAST: Sure.

COMMISSIONER KENNEY: I'm not saying we have been, but if we've been misinterpreting the statute, that doesn't mean we should continue to misinterpret it.

MR. PENDERGAST: Yeah. My own view is that you haven't misinterpreted. I don't think the Commission misinterpreted it three years ago or ten years ago when it gave that --

COMMISSIONER KENNEY: I'm not sure anybody understands it. How do we know whether we misinterpreted it or not? I won't ask any more questions.

JUDGE JORDAN: Commissioner Davis, any more questions?

COMMISSIONER DAVIS: No mas.

JUDGE JORDAN: Mr. Chairman, anything?

CHAIRMAN CLAYTON: No.

JUDGE JORDAN: We're past the hour and a half mark, and I'm getting ready to break for everyone's comfort. I wanted to hone in on one of the conditions and requirements that Staff proposes. That is you're wanting to Laclede to set forth for each issuance the type of instrument it will issue and when it will do it, and you want to tie that to a particular project; is that correct?

MR. BERLIN: Well, we want to know what it's used for.

JUDGE JORDAN: So you're just talking about purposes such as are described in the statute?

MR. BERLIN: Yes.

JUDGE JORDAN: But you do want to know what type of instrument will be issued and when it will be issued. Now, are there particular words in the statute that you rely on for the -- I'm going to interrupt myself, and I see that Office of Public Counsel has a different representative here today. Will you enter your appearance?

MR. POSTON: Thank you. Marc Poston appearing for Office of the Public Counsel.

JUDGE JORDAN: Thank you. As far as the type and the time, are there words in the statute that you think support that?

MR. BERLIN: Could you repeat your question?

JUDGE JORDAN: I will repeat my question. As far as the type -- the requirement that Laclede tell you the type of instrument it's going to issue for each purpose and the time when it's going to make such issuance, do those requirements find support in the words of the statute? That's what I'll be looking for.

MR. BERLIN: Yes, and we recognize that things can change, but we need to have some idea of what the plan is to issue a certain form of indebtedness.

JUDGE JORDAN: Okay. Now, I appreciate counsel's patience in walking with the Commission through this very difficult, archaic and convoluted statute. It is a challenge indeed. It is a challenge.

But based on the discussion I've heard from the parties, I think there is not so much dispute -- there are some disputed facts, of course, but most of the facts I think are going to be as the characterization of certain amounts, and disputes as to whether they fit within the purposes described in the statute.

My challenge, of course, is to draft an order that specifies purposes and reasonably relates those purposes to the amounts that the Commission will authorize. That's the lynchpin of the statute. I understand there to be disputes especially as to the unreimbursed expenses from income or the monies in the treasury.

I think I understand that Staff has a problem not only with the timing, is it five years before, is it five years in the future, the parties are split on that, but also Staff seems to have a question as to -- or an issue, problem with the specificity of those descriptions, is that correct, or is it the case that if these descriptions were true and they were within the statute, they would be enough?

MR. BERLIN: Well, Staff wants to know an identified purpose, a reasonable purpose why this authority is needed, because what we are doing here is we are collateralizing. This authority permits them to collateralize a certain amount of the public utility's assets.

Now, we view this quite seriously. Staff has looked at this differently than it has in the past. Staff has learned the lessons of Aquila. We understand that when bad things happen on another side of the business, they can have an effect on the regulated utility.

So we are looking for a specified reasonable purpose that you would identify to us as to why you want the authority to collateralize the assets of the public utility.

JUDGE JORDAN: I'm getting to the descriptions that they've given you for the amounts that you're resisting, and I'm asking you from an accounting standpoint, aside from whether the statute allows them to be collateralized or not, are the descriptions sufficient for you to understand if they are? And if the answer is no, the answer is no.

MR. BERLIN: Well, Laclede has represented in its testimony that it needs to have market flexibility and agility and wants to be able to essentially have walking around authority that it could use and pull out at any time that it needs to. That is what we take issue with. We would recommend an authority if they told us what specific reason they needed that authority for.

JUDGE JORDAN: So the answer is no, you don't see in what they filed with you a description that tells you what this money is going to be used for?

MR. BERLIN: Right. We have processed all that they had provided us. There's been a lot of information that's come our way, but we have -- we have taken their information and made our recommendation based upon what they can support.

JUDGE JORDAN: Okay. Well, I am ready to give everyone a break and take an intermission, and may I suggest that parties use this time, part of this time to listen to what the Commission has said and what each other have said. Perhaps we can, understanding that there are some disputes of fact, but not many, arrange our presentations so as to eliminates an excessive amount of time on undisputed issues.

Okay. I will then take an intermission for ten minutes. Ten minutes from now we will come back.

(A BREAK WAS TAKEN.)

JUDGE JORDAN: We are back on the record. Is there anything before Laclede begins its case in chief?

MR. PENDERGAST: Your Honor, just a query. Would you prefer to have the application that we filed made an exhibit or, it's a verified application, simply take administrative notice of it?

JUDGE JORDAN: Well, we can take official notice of the content of our file and that the application is in there and that it is supported by an affidavit. Do you want it to be part of the -- do you want it to be part of the record in this hearing?

MR. PENDERGAST: Well, not necessarily. As long as we can reference it, and as far as I'm concerned, the same criteria can apply to Staff's recommendation that was filed just so that, you know, we all have an understanding that people can freely cite to it.

JUDGE JORDAN: You know, if you're going to be using it in testimony, in questioning witnesses, I think it would be more prudent for it to be included in the record on appeal, just in case anyone would ever appeal the decision of the Commission. I don't know why they would, but if they did, I think that would be the better way to do it. Let's have it in the record for those purposes.

MR. PENDERGAST: Do you need a copy of it? I will get that copy over lunchtime if that's okay.

JUDGE JORDAN: That's fine by me.

MR. PENDERGAST: Shall we call that Exhibit 1?

JUDGE JORDAN: Doesn't matter to me.

MR. PENDERGAST: That's fine with us.

JUDGE JORDAN: Is there anything else?

(No response.)

JUDGE JORDAN: Not hearing anything else, Laclede, you may begin your case in chief.

MR. PENDERGAST: Thank you, your Honor. We would call to the stand Lynn D. Rawlings. And, your Honor, I would request permission to mark her direct testimony as Exhibit 2.

(EXHIBIT NO. 2 WAS MARKED FOR IDENTIFICATION BY THE REPORTER.)

JUDGE JORDAN: Please raise your right hand.

(Witness sworn.)

MR. PENDERGAST: Thank you.

LYNN D. RAWLINGS testified as follows:

DIRECT EXAMINATION BY MR. PENDERGAST:

Q. Ms. Rawlings, would you please state your name and business address for the record.

A. Lynn Rawlings, 720 Olive Street, St. Louis, Missouri 63101.

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

A. I am the treasurer and assistant secretary of Laclede Gas Company.

Q. And are you the same Lynn Rawlings who's previously caused to be prefiled in these proceedings direct testimony which has been premarked as Exhibit 2?

A. Yes.

Q. And if I were to ask you the same questions today as appear in your direct testimony, would your answers be the same?

A. Yes.

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

A. Yes, they are.

MR. PENDERGAST: With that, I would tender Ms. Rawlings for cross-examination, your Honor, and request that Exhibit 2 be admitted into evidence.

JUDGE JORDAN: Any objection to Exhibit 2?

MR. BERLIN: No.

JUDGE JORDAN: Then the suggested order of cross-examination begins with Staff.

MR. BERLIN: Thank you, Judge.

CROSS-EXAMINATION BY MR. BERLIN:

Q. Good morning, Ms. Rawlings.

A. Good morning.

Q. If you would, please, can you restate your job title?

A. I'm treasurer and assistant secretary of Laclede Gas Company.

Q. And by whom are you employed?

A. Laclede Gas Company.

Q. And about how long?

A. Ten years.

Q. To whom do you report?

A. I report to Steven Rasche, our vice president of finance.

Q. And are you also the treasurer and assistant secretary of Laclede Group?

A. Yes.

Q. And do you hold the same titles and responsibilities for Laclede Energy Resources and Laclede Pipeline?

A. Yes.

Q. And in your roles with the Laclede companies, do you communicate with the credit rating agencies?

A. Yes, I do.
Q. And do you supply the credit rating agencies with information on Laclede companies?
A. Yes.
Q. And are you familiar with the Fitch Ratings Company?
A. Yes.
Q. And have you ever met with Fitch Ratings personnel?
A. Yes, we have.
MR. BERLIN: Your Honor, may I approach the witness?
JUDGE JORDAN: You may. Unless any party objects, that will be a standing ruling. You may approach witnesses.
MR. BERLIN: Sure. Your Honor, what I have just handed to the witness is the Fitch ratings for Laclede Group, Inc. and Laclede Gas Company dated January 15th, 2010, and this is a highly confidential exhibit, and I'd like to mark this -- what would it be, Exhibit No. 3.
(EXHIBIT NO. 3HC WAS MARKED FOR IDENTIFICATION BY THE REPORTER.)
MR. BERLIN: Judge, this is a highly confidential exhibit, and I have some questions on it, and

I would like to go in-camera.

JUDGE JORDAN: Any objection to going in-camera for our discussion on these matters?

(No response.)

JUDGE JORDAN: Okay. Then we will go in-camera.

MR. PENDERGAST: Bob, is this just a section of the report?

MR. BERLIN: Actually, the section is, I think it's the last paragraph on page 3.

(REPORTER'S NOTE: At this point, an in-camera session was held, which is contained in Volume 3, pages 96 through 100 of the transcript.)

JUDGE JORDAN: Okay.
MR. BERLIN: Thank you.
BY MR. BERLIN:
Q. Ms. Rawlings, did Mr. Marevangepo recommend that the Laclede Gas Company be limited to $100 million of long-term debt issuances?
A. Yes, he did.
Q. Ms. Rawlings, do you have a copy of your deposition with you?
A. Yes.
Q. If you would, please turn to page 29 and 30.
A. I'm sorry. I don't have 29 and 30 pages.
Q. I can give you a copy.
A. I mean, my testimony only goes --
Q. I'm sorry. I meant your deposition.
A. Oh, no. I'm sorry, I do not have a copy of that.
Q. I have it here. I'll give one to you.
A. Thank you.
Q. And you would agree that I just handed you a copy of your deposition?
A. Yes.
Q. Okay. If you would, please turn to page 29.

A. Yes.
Q. And read the question and answer series starting on page 29, line 20, through line 3 of page 30.
A. Question: Now, assuming that Laclede issued 100 million of long-term debt this summer, how long do you think it would be before Laclede would need to issue another 150 million in long-term debt?
Mr. Zucker: Objection. Calls for speculation.
Answer: It's hard to say. It's highly dependent on business conditions going forward. If we look at past history, it would likely be another couple of years.
Q. Now, recognizing that Mr. Zucker objected to the question because it calls for speculation, is that still your testimony?
A. Yes.
Q. Now, if in the next couple of years Laclede were to identify a specific need for another 100 or $150 million above what Staff has recommended in this case, Laclede could seek authority for that by filing another application with the Commission, couldn't it?
A. If we didn't get sufficient authority this time, yes, we would have to do that.
Q. Ms. Rawlings, I'm done with the deposition,

so I'll take that back. Thank you.

I think you said earlier that you had a copy of your direct testimony in front of you?

A. Yes.

Q. Okay. Please turn to page 8.

A. Okay.

Q. Now, I'm looking at it, and I'm going to read the sentence starting on line 4 that runs to line 9, and I'm going to quote. Quote, although Laclede has requested a larger authorization than would be required solely to finance its planned capital expenditures and scheduled debt repayments, the amount of the authorization is nevertheless warranted by the company's potential need to respond on a timely basis to financing requirements that cannot be forecasted at this time because the future market and other circumstances that may drive them are impossible to predict, close quote.

Is that a fair rendition of your testimony?

A. Yes, it is.

Q. And is that still your testimony today?

A. Yes, it is.

Q. So if the Commission were to accept Staff's recommendation of $100 million of long-term debt, would Laclede Gas Company still be able to provide safe and reliable gas service?

A. For a period of time, until we needed to issue debt again and would have to come back to the Commission to ask for additional authority, which we would only have to hope was granted in a timely manner.
Q. What percentage of Laclede's September 30th, 2009 total capitalization does a $600 million authority represent, roughly?
A. It's a substantial portion. Probably about three-quarters.
Q. About 75 percent of the total capitalization of some $791 million?
A. Yes.
Q. Is that about right?
A. Yes.
Q. Now, let's go back to the credit rating agencies for a minute. Do they assign the same credit rating to Laclede Group and Laclede Gas Company?
A. Some do and some don't.
Q. Does Fitch Ratings?
A. No, I don't believe so.
Q. So let's say any business activity of a subsidiary company or sister company that affects a credit rating of Laclede Group, that could also affect the credit rating of Laclede Gas?
A. They are interdependent.

Q. About how often does Laclede Gas issue long-term debt?

A. Historically it's been roughly every two years.

Q. And can you tell me, when was the last time that Laclede issued an intermediate term note that would run anywhere from 13 months to two years?

A. In my ten years with the company, we've never issued term debt shorter than 15 years, but I know that historically I can see historically in the company records that shorter debt was issued shorter than 15 years, but I'm not sure if there's -- how long ago it was that debt of that short a duration was issued.

Q. And am I correct in understanding that you want to be able to issue intermediate term notes as, say, another tool in your financial toolbox?

A. We would like to have that tool in our financial toolbox, just as we would like to have the capital leases and the preferred and the private placements along with the public issuance that we've done in the past because it's impossible to predict which financing tool would be the best solution at any point in time. Certain parts of the market are more liquid than others. From time to time it changes, and that's why we wanted to have the multiple -- multiple different types of securities at our disposal to use whatever was the best at a point in time.

Q. Okay. Thank you. But did you put that specifically in your application?

A. That we wanted to have flexibility in our financing authority? I think we did.

Q. No. I'm referring back to the issuance of intermediate term notes that would run, say, 13 months to two years.

A. I am sure that we had discussion with the Staff on that point. I can't remember at the moment if it was in my direct testimony or if it was somewhere else.

Q. Okay. When was the last time that Laclede Gas Company issued preferred stock?

A. I'm not sure when it was issued. We have had preferred stock issued, but I don't know when.

Q. Do you know if Laclede plans to issue preferred stock over the next three years?

A. We don't have a specific plan to do that at this point, but it remains a possibility.

Q. Have the credit rating agencies -- and I think you told me that you do meet with the credit rating agencies, correct?

A. Yes.

Q. Have those credit rating agencies that you've met with ever told you to not provide a copy of a report to the PSC or any state or federal regulatory agency?

A. I don't believe the subject has come up.

JUDGE JORDAN: Ms. Rawlings, can I get you to talk into the mic a little bit better?

THE WITNESS: And which is the mic?

JUDGE JORDAN: Can you find the microphone?

THE WITNESS: I'm not sure which --

JUDGE JORDAN: Well, I don't think we have a microphone down here anymore. I think your microphone is going to be one of these. So if you'll project a little more, that will be helpful. We're all pretty gentile and soft spoken around here. Need to be a little more direct.

BY MR. BERLIN:

Q. Ms. Rawlings, if I told you that Kansas City Power & Light and Great Plains Energy submit credit rating agency reports to the Commission, would that surprise you?

A. Well, you have mentioned that, and I have no reason to dispute that.

MR. BERLIN: Well, I have no further questions of Ms. Rawlings. Thank you, Ms. Rawlings, for your time.

JUDGE JORDAN: Redirect?

MR. PENDERGAST: Yes, just a couple.

JUDGE JORDAN: Hang on. I'm sorry. I want to clarify something first. OPC has not taken a position. Is OPC anticipating cross-examining any of the witnesses here today?

MR. POSTON: Not at this point, no.

JUDGE JORDAN: So OPC won't be offended if I skip over them in the order?

MR. POSTON: That's fine. I'll speak up if I have questions.

JUDGE JORDAN: That will do nicely. Thank you. Sorry to interrupt you, especially after I asked you to speak. Please go ahead.

REDIRECT EXAMINATION BY MR. PENDERGAST:

Q. Ms. Rawlings, do you know whether this was a draft report or a final report?

A. I believe by the date it's a final report.

Q. And Mr. Berlin asked you a number of questions about using internally generated funds to support our capital budget. And without asking you what specific assumptions went in to providing that information, just hypothetically, does the company have on file a $52 million rate case?

A. I believe it does.

Q. Okay. And will the ultimate result in that rate case have an impact on the amount of internally generated funds that are available to Laclede to finance its capital structure?
A. Absolutely.
Q. And do you have any idea what the ultimate award in that rate case is going to be?
A. No, I don't.
Q. But let's just say, for example, that it varied by 20 or $30 million. Over a three-year period at a variation of $30 million, what would that be worth?
A. A variation of $30 million per year?
Q. Yes.
A. Well, then that would be $90 million.
Q. And is that something that's within the company's control?
A. No. That's within the discretion of the Commission to award, to determine the outcome of the rate case.
Q. And if the Staff is supportive of the company's request, would that be helpful in generating the internal funds necessary to cover the company's capital budgets?
A. I'm sure it would be.
Q. Thank you. You were also asked about

issuances in the past by Mr. Berlin. Can you tell me in a given 36-month period of the same three-year authorization we're asking for, what's the most long-term debt the company has issued over that period of time?

A. We've looked at rolling three-year periods over the pass ten years or so and found that we have issued as much as $205 million within a three-year period, over $200 million on at least a couple of timeframes.

Q. So nearly twice what the Staff has recommended in this case?

A. Yes.

Q. And what's the largest issuance that the company has made on a single day?

A. The largest debt amount that we have issued on a single day has been 150 million.

Q. So approximately 50 million more than what the Staff has recommended for a three-year period in this case?

A. That's correct.

Q. And were those issuances some time ago?

A. The 150 million was in 2004.

Q. Do you have any opinion on whether or not the costs and other expenditures that would be covered by issuances back then would have gone up or gone down since that time?

A. If you're referring to the types of capital expenditures that that debt would have been funding, I would imagine that those costs have continued to rise over time.

Q. So if the company were to have some sort of replication of a need of that nature, you would expect it to be higher than 205 million?

A. It could be, yes.

Q. Okay. And do any of the assumptions associated with covering capital expenditures over the next three years in any way address unreimbursed expenditures that have previously been made by the company?

A. No. That was just a forward-looking assessment.

Q. And once again, is this just related to capital expenditures and not related to cash requirements the company might have for other reasons?

A. Staff's recommendation you mean?

Q. No. This Fitch.

A. Oh, Fitch. I'm sorry. Fitch is comparing -- let me see. I do have that still in front of me. Thank you. Fitch was comparing capital spending with internal cash flows, and that's not an uncommon thing for rating agencies to do. It's a measure of -- you know, it would be an indication that we wouldn't be forced to go to the market in an inopportune time, that we would be able to choose our timing in the market by using short-term debt to bridge us to the best time to issue long-term dent. It doesn't speak to how will we specifically use those funds. It's just comparing the amounts.

Q. So those funds could be used for purposes other than supporting your capital budget?

A. It doesn't draw an exact line between saying that funds from operations has to be used to fund capital spending. It's just saying that they are of an equivalent amount.

Q. Regardless of what other purposes the company might have for those internally generated funds?

A. Yes.

Q. You were asked about what specific plans Laclede has for various kinds of security issuances in the future. Do you recall that question?

A. Yes.

Q. Let me ask you this. Do you think it would be reasonable to determine, say, two years from now that Laclede is going to go ahead and issue equity versus a long-term debt instrument, perhaps first mortgage bonds versus a private placement, do you think it makes sense to make that determination two years in advance of when you do it?

A. I think that good management requires us always to be looking ahead at what might happen and to be prepared to take a range of actions depending on what actually does occur. But even if we were to speculate that we would be issuing debt of a certain amount at a certain point in time and, therefore, would want to also issue a certain amount of equity, that wouldn't be locking that plan into place. It would just be one scenario that could happen.

Q. Okay. And when you say not locking it in, are there times when it may be more favorable to issue equity than issue debt?

A. Times in the market? Well, for Laclede Gas Company, the only debt -- the only issue that it could issue would be to its parent company.

Q. Or to receive paid-in capital?

A. Or to receive paid-in capital from its parent company. There are certainly times in the market that are more or less favorable for different types of debt issuance, but because we want to maintain an investment grade or preferably our current A rating from the various agencies, we would want to keep a balance of our capital structure and choose to issue equity to balance long-term debt, if need be.

MR. PENDERGAST: Okay. Thank you. No further questions.

JUDGE JORDAN: I have a few questions.

QUESTIONS BY JUDGE JORDAN:

Q. Maybe you can help me out with this concept of flexibility because I'm hearing a couple of different things. I don't think they're the same. You made reference to, well, a couple of ideas. First, I understand that, well, Laclede is asking for a certain amount?

A. Correct.

Q. And that amount is 600 million?

A. That's correct.

Q. And I've heard it said in opening and in your testimony that part of the reason it wants more than $100 million in debt is to increase its flexibility. Do I understand correctly that the idea of flexibility is the ability to pick and choose which types of instruments to issue depending on market conditions?

A. That's part of it.

Q. Okay. Is there another part that you'd like me to know about?

A. Well, it's not just which instruments to issue, but how much to issue and when.

Q. How much, when and what type?

A. Yes.
Q. That's pretty much the components of flexibility?
A. I think so.
Q. Okay. Now, it sounds to me like the idea of flexibility is being used almost as a purpose; that is, we need X dollars for flexibility. Is that --
A. There's a --
Q. -- accurate?
A. -- certain part of that, yes. Mr. Berlin made the analogy in his opening remarks about you wouldn't give your teenager a large sum of money just because they said they wanted walking around money. Well, I certainly understand that being a parent of a teenager myself, but Laclede Gas Company isn't an unseasoned teenager. We're a 150-plus-year-old company that has a track record of very good management.
And we're not asking for cash. We're asking only for an authorization to issue securities should that become necessary. It would be like giving your teenager, if you want to extend that analogy, when they go off to college, giving them a credit card to have in case of emergencies. That doesn't necessarily mean they're going to use it.
But even that is not the best analogy. I

think a better one would be taking out a home equity line on your home. That doesn't mean that you're going to draw it all down, but it means that should you need to, it's already there in place.

Q. How much of the $600 million at issue in this application would you attribute to flexibility?

A. That's hard to say. We would only issue -- we said that we cannot issue by keeping with the other terms of the debt authorization and keeping within our regulated rate base and other restrictions, that we would not be able to issue more than approximately 275 million of debt at this point in time. And we would have to -- likely have to issue some equity to go along with that to maintain an appropriate capital structure.

Q. Okay. I understood the opening arguments to state that the difference between the $100 million which Staff does not dispute and the disputed amount, which you're saying -- I'll start that again.

Is Laclede asking to issue debt in the amount of 275 million; is that correct?

A. That's what we have illustrated.

Q. Now, 100 million of that Staff does not dispute. I want to focus on the $175 million it does. I understood from opening arguments that these would be represent -- start this again.

I understood from opening arguments, you may correct me if you think I'm wrong in my understanding, that the $175 million difference is comprised of unreimbursed expenses. Is that your understanding of this application?

A. My understanding of Staff's $100 million recommendation is that it is based on a prospective look at what we expect to incur in the way of capital expenditures.

Q. Right.

A. And part of our dispute here is that we believe that it is also appropriate to look to the past to previous capital expenditures that have not yet been reimbursed.

Q. Okay. And if --

A. Which would -- excuse me. But which would allow us to justify up to that 275 million total or possibly more.

Q. So if I looked at the schedule to which counsel referred in opening of unreimbursed expenses, will I find $175 million there or is there a little bit short with the difference being flexibility?

A. In the schedule of unreimbursed expenditures, you would find 279 million.

Q. Okay. And I'll ask this again, and I'm sorry to repeat a question, because I don't quite think I understand. Is there an amount in the application attributed, a dollar amount attributed to flexibility?

A. Not specifically.

JUDGE JORDAN: Okay. Thank you. Questions from the Commission?

COMMISSIONER KENNEY: Have we addressed the issue of capital leases versus operating leases? Is that still an issue? Is it still an issue?

MR. PENDERGAST: I think it might be.

JUDGE JORDAN: That's a maybe.

COMMISSIONER KENNEY: I don't know. Nobody talked about it in their opening, did you? Did I miss it? Let me ask a couple of questions about that, and then I'll come back to the other issues.

QUESTIONS BY COMMISSIONER KENNEY:

Q. Thanks for your time here today. My understanding of the issue of characterizing certain leases as capital leases versus operating leases has to do with the potential change that's being suggested or recommended by FASB?

A. That's part of it.

Q. That's only -- okay. That brings me to my next question. So in the absence of FASB changing these designations, Laclede still wants to characterize certain leases as operating leases; is that right?

A. If there is no change in the current Generally Accepted Accounting Principles, which currently make a distinction between operating and capital leases, if that continues unchanged, we would still nevertheless seek to have authority to issue capital leases, just as one more arrow in the quiver, one more potential financing tool that might be advantageous at a point in time.

Q. Now, and again, you have to indulge me and explain this to me in simple terms. What's the impact of characterizing something as a capital lease versus an operating lease? What do you get to do with that asset?

A. Well, essentially if a certain transaction meets the qualifications to be an operating lease currently, then those -- that lease expense is recorded as an expense in your income statement. The asset does not appear on your balance sheet. If it does not meet the operating lease requirements, it's characterized as a capital lease, which means that it's treated in essence as a secured borrowing. The assets appears on your balance sheet. So it is a leased liability, and then the interest portion of the lease payment is reflected in your income statement. And I'm sorry if that was too technical.

Q. What happens with the asset, does it get included in rate base?

A. It would.

Q. So it's a leased asset, but you get to include it in rate base, which would mean that you get to recover that value of it and then earn on it also?

A. I believe it would be included in the rate base, though I'm not an expert on rate base.

Q. Who would be better suited to answer that question?

A. Mr. Waltermire may be able to answer that for you later.

Q. What are the distinctions for GAAP purposes? Why do you -- what are the requirements to characterize something as an operating lease versus a capital lease?

A. There are four tests involved, and if a transaction meets any one of these four tests, it cannot be characterized as an operating lease and must be characterized as a capital lease. And one of those is that the transaction be for 75 percent or less of the asset's useful life. Second is that there be no bargain purchase agreement at the end of the term.

A third is that the present value of the lease payments, the required minimum lease payments over the term of the lease can be no more than 90 percent of the value of the assets. And there's a fourth one that I can't remember right at the moment, but those are the three most salient ones.

Q. And just to summarize, if it is an operating lease or capital lease rather, you get to include it on your balance sheet?

A. It is included. It's required to be included on the balance sheet, because the transaction is deemed to be in essence a secured borrowing.

Q. Okay. That helps. And then back to our characterizing the long-term debt, is there some portion of this long-term debt that is essentially being asked for -- I think you characterize it as a home equity line of credit. You want to have access to it but not necessarily use it in the event that you need to borrow --

A. Yes.

Q. -- on a very fast basis?

A. Yes.

Q. So then the question really becomes whether the statute allows that or not? Maybe that's not a question for you to answer.

A. Well, I am not an attorney.

Q. That's an unfair question.

COMMISSIONER KENNEY: I don't have any other questions.

JUDGE JORDAN: Commissioner Davis, any

questions?

COMMISSIONER DAVIS: No questions.

JUDGE JORDAN: Did my questions generate any more from Staff, anything new from Staff?

MR. BERLIN: No questions, Judge.

JUDGE JORDAN: And from the company?

MR. PENDERGAST: Just one question.

FURTHER REDIRECT EXAMINATION BY MR. PENDERGAST:

Q. On a capital lease, you actually own whatever the asset is that's subject to the lease?

A. I am not sure since we have not done any capital leases where the title to that asset resides.

Q. Or when it transfers?

A. Correct.

MR. PENDERGAST: Okay. Thank you.

JUDGE JORDAN: Thank you.

COMMISSIONER KENNEY: Or if it transfers?

THE WITNESS: Correct. I can't answer that question. Sorry.

JUDGE JORDAN: Thank you, Ms. Rawlings. May this witness be excused?

MR. PENDERGAST: Pardon me?

JUDGE JORDAN: May this witness be excused?

MR. PENDERGAST: As far as we're concerned, yes.

MR. BERLIN: Yes.

JUDGE JORDAN: Thank you. Next witness.

MR. PENDERGAST: Yes. Call Mark D. Waltermire.

(EXHIBIT NO. 4 WAS MARKED FOR IDENTIFICATION BY THE REPORTER.)

JUDGE JORDAN: Please raise your right hand.

(Witness sworn.)

JUDGE JORDAN: Thank you.

MARK WALTERMIRE testified as follows:

DIRECT EXAMINATION BY MR. PENDERGAST:

Q. Mr. Waltermire, would you please state your name and business address for the record.

A. My name is Mark D. Waltermire. My business address is 720 Olive Street, St. Louis, Missouri 63101

Q. And who you do you work for and in what capacity?

A. I work for Laclede Gas Company. I am the Senior Vice President and Chief Financial Officer.

Q. And are you the same Mark Waltermire who previously caused to be prefiled in this proceeding rebuttal testimony consisting of 13 pages that has now been premarked as Exhibit 4?

A. I am.

Q. If I were to ask you the same questions that appear in Exhibit 4 today, would your answers be the same?
A. They would be.
Q. And are those answers true and correct to the best of your knowledge and belief?
A. Yes, they are.
MR. PENDERGAST: With that, I would tender Mr. Waltermire for cross-examination, and request that Exhibit 4 be admitted into the record.
MR. BERLIN: No objection.
JUDGE JORDAN: Then Exhibit 4 is admitted.
(EXHIBIT NO. 4 WAS RECEIVED INTO EVIDENCE.)
MR. BERLIN: Thank you.
CROSS-EXAMINATION BY MR. BERLIN:
Q. Mr. Waltermire, if you would, please restate your job title.
A. I am Senior Vice President and Chief Financial Officer of Laclede Gas Company.
Q. And by whom are you employed?
A. I am employed by Laclede Gas Company.
Q. And about how long?
A. About 20 years.
Q. And to whom do you report?
A. I report to our Chief Executive Officer,

Doug Yeager.

Q. Could you please explain why you filed rebuttal testimony in this case?

A. Clearly this financing application has important ramifications to our company. Going forward we need to make sure that we have the adequate liquidity and resources available to support the business as we move forward. We operate in an ever-changing business environment and market conditions, as we experienced in the fall of 2008.

This application and the authorization that we get, not necessarily that we will use it, but the authorization and flexibility that we hope to obtain from it would allow us to continue to maneuver and have the ability to access the resources we need to manage the business.

Q. Okay. Thank you. What other Laclede entities are you an officer of and what is your title and role for each entity?

A. I am Chief Financial Officer of Laclede Group. I'm Vice President of all our other affiliates.

Q. And that includes Laclede Energy Resources?

A. It would.

Q. And Laclede Pipeline?

A. It would.

Q. Are you responsible for filing shelf authorizations with the SEC?

A. That would fall under -- as one of my responsibilities, yes.

Q. And are you responsible for the placement of long-term debt?

A. Ultimately, yes.

Q. And as the Chief Financial Officer, do you have fiduciary duties to the companies that you perform that role for?

A. Could you repeat the question?

Q. I'm sorry. Do you have fiduciary duties in your current position?

A. I believe I do have fiduciary duties and try to be a good steward of those -- in that execution.

Q. Now, with regard to your financing application that is the subject of this case, were you the lead in preparing the application?

A. I participated in developing the application, sure.

Q. But you were not the lead, or were you the lead?

A. I would take -- I was ultimately responsible for the application, yes.

Q. Who was the lead in preparing the actual application, though, if you didn't actually prepare it?

A. Well, I worked together with my finance team, including Ms. Rawlings who was up here before, certain of our other finance staff to pull the application together.

Q. Who on the finance staff prepared the actual application?

A. As far -- we all got together and determined what we were going to file for. As far as who actually typed it up and prepared it, if you define that as the lead, I don't know who actually typed up and prepared that application, but we did it as a group.

Q. So it was a group effort?

A. Yes.

Q. Thank you. Now, you are here today because you're seeking an authority from this Commission to issue long-term debt, and that would be in an amount of about $275 million. Am I right with that number, you want to be able to issue long-term debt in an amount of 275 million?

A. Could you repeat that one more time?

Q. Sure.

A. I want to make sure I got it right.

Q. Okay. Well, let me start a different approach. Now, it's true that Laclede is seeking an authority to issue long-term debt that would not exceed the lesser of the value of Laclede's regulated rate base or an amount equal to 65 percent of Laclede's capital structure; is that right?

A. I would -- my answer to that, we filed for $600 million in financing authority, which would encompass common stock, preferred stock, capital leases, long-term debt. I can't remember, but it was -- it was an umbrella application. Within that we proffered conditions that would limit us in the event we were to issue long-term debt to approximately that level of long-term debt.

So we have not filed an application to issue anything at this point in time. We filed for the authority and the ability to do it in the event we need it.

Q. I understand. Okay. So I think that that authority would include the ability to issue $275 million of long-term debt?

A. Up to that amount. And certainly as Ms. Rawlings indicated, we would do while taking in account our total cap structure to maintain a balance all the way around as to the different vehicles we were using.

Q. And the 65 percent number that I had mentioned earlier, that limit on Laclede's capital structure for long-term -- for debt, now, that number came

from Laclede's past restructuring case, didn't it?
A. I believe it came out of the order authorizing the formation of the Laclede Group, yes.
Q. Okay. And so with the authority that you're seeking here today, you would be permitted to collateralize the assets of the Laclede Gas Company, and that would be in an amount up to 600 million total; is that right?
A. Not -- I mean, collateralize in the sense of seek financing to support?
Q. Well, your authority would permit --
A. I mean, when you issue common stock, I'm not sure you're really collateralizing it by pledging. If we're talking collateral as pledge?
Q. Yes.
A. I don't think you pledge assets to back your common securities or anything like that.
Q. But if you were to issue a debt instrument of $275 million, a long-term debt instrument, you would -- if the Commission provided you an order with what you're requesting, you would be able to collateralize the assets of the gas company in that amount?
A. If we -- if we -- our past practice has been to do that when we do long-term debt. Generally we issue first mortgage bonds to support those lending

opportunities. Certainly I believe that long-term debt can encompass unsecured type financings, and indeed long-term debt by definition would include the interim type debt financings that you talked about as well. Anything over 12 months in duration by definition falls under long-term debt.

Q. But in order to go out into the market for that long-term debt, you have to be able to collateralize the assets of a utility?

A. If we're talking in terms of pledge assets, I don't know that you always to have pledge the assets. That has been your general practice to date, yes.

Q. And to recap, that -- the authority that you're seeking is important not just to Laclede Gas Company, but it's important to Laclede Group?

A. It's important to Laclede Group to the extent that we need a healthy utility to support, to be able to continue to operate sufficiently.

Q. Now, have you ever told the credit rating agencies that you want to issue long-term debt in an amount of $275 million over the next three years?

A. No.

Q. In your role as advice president and CFO of Laclede Gas, are you involved in decisions on how much dividends are paid out of the gas company to Laclede

Group?

A. I am involved in that decision, yes.

Q. Who else helps you make the decision on how much the gas company pays to Laclede Group in dividends?

A. Certainly the financial individual I referred to before help support that decision, and we compare ourselves to our peers as well.

Q. And can the amount of dividend payments flowing from the gas company to Group reduce the liquidity of the Gas Company?

A. Could you repeat that for me, please?

Q. Sure. Can the amount of dividend payments that flow from the gas company to Group reduce the liquidity of the gas company?

A. You know, that's a multifaceted question really. The dividends support certainly our return to shareholders. If we retain those dividends, we still have to come up and finance those opportunities with our shareholders. So retaining those could help support, but it depends on if we're in a net borrowing position at the time we have to go out. It would all just depend on the circumstances at that time.

Q. Well, if you were to make a -- you and the others that are involved in the decision were to make a decision to set a high level of dividend payments from

Laclede Gas Company to Laclede Group, wouldn't that remove some level of liquidity of the gas company?

A. Well, I think -- I think you could suggest that that would happen, but I think you have to look at our practice, and that is making a balance cap structure. Our history has been, to the extent we flow dividend up to the Group, we do continue to look at balancing the cap structure of the gas company, and indeed over the last nine years or so we've flowed over $110 million of equity back into the gas company to continue to support both the cap structure and the liquidity of the organization. So those decisions, again, it's a multifaceted decision on how we go about doing that.

Q. So can the liquidity needs of the gas company affect the need for debt financing?

A. One more time, please.

Q. Sure. Can the liquidity needs of the gas company affect the need for debt financing?

A. They could, potentially.

Q. Would it be true to say that the flow of dividend payments from the gas company is how cash from the gas company is transferred to the group?

A. I don't think that's fair to say that at all. I think what we look at over time is, when we make dividends, if we're looking at the group dividends, those decisions made on being able to support on a long-term basis the quality earnings, et cetera, and we look for that support.

Whatever we flow from Gas is paid to the shareholders through Group. It's the same dividend over time. And if you look at the payout ratios of the gas company today versus what they've been historically, I think you'll find they've been very similar, and we've been very conservative in the amount of the dividend we've paid out of the gas company and the rate that we've grown it over time.

Q. And in your officer role for Laclede Group, do you participate in decisions on how the Laclede Group spends its funds?

A. I do.

Q. And do you participate in decisions what investments the group will make?

A. Can you define the investments?

Q. Just any investment.

A. I mean, if we're talking broadly, yes, I would be involved in those decisions.

Q. Okay. And are you also involved in the decision on how the group will pay for whatever investment the group makes?

A. I would be, yes.

Q. And if the group -- if the group goes out and make investments, is it fair to say that you would need some funds from the gas company to do that?

A. I don't think that's fair at all. I think Laclede Group would have to go and evaluate how to finance from its own funds how to support those types of investments.

Q. Okay. But --

A. The gas company's been a net borrower from Group for a long time. We haven't had a history of lending funds out outside the gas company at all. In fact, like I said, we've been a net borrower.

Q. So you're talking about investments broadly?

A. We would not -- we would not be looking at the gas company to provide funds to invest in other activities of the group. As a matter of fact, I think that would be precluded by our, both our last financing authorization and from our formation of the order in the formation of the Group.

Q. Well, if you find an investment at the Group level that you the Group want to make, you would consider all sources of funds?

A. All sources of funds being defined as available to Group that could be used that weren't already precluded from being used, yes.

Q. And you would consider the amount of dividend payments to set for the Gas Company to pay to the Group, I mean, you might even raise the dividend payments from the Gas Company to the Group?

A. To support an investment?

Q. Yes.

A. Our practice has been that the dividends from the Gas Company to Group is what we pay to our shareholders. We don't retain any of it at the Group level.

Q. I'm not saying that you do this or did this. I'm just saying that you could.

A. I mean, that's a hypothetical. I mean, I guess you could, but again I would suggest and repeat that, to the extent we would take those kind of monies out of the Gas Company, we'd look to put it back and maintain an appropriate balance of our cap structure going forward.

Q. Let's consider for a moment that you have set the dividend payments paid by the Gas Company too high, and by too high I mean that you've extracted all the cash out of the Gas Company because the cash has left the Gas Company and now landed at the Group. Under that scenario, could you lose liquidity at the Gas Company?

MR. PENDERGAST: I'm going to object.

Assumes facts not in evidence. Calls for speculation.

JUDGE JORDAN: I will overrule that objection.

THE WITNESS: Will you repeat it again for me?

BY MR. BERLIN:

Q. Certainly. Let's consider for a moment that you have set a level of dividend payments paid by the Gas Company that's too high, and by too high I mean that you've extracted all the cash out of the gas company because that has left the Gas Company and that cash has now left the Gas Company and landed at Group. Now, under that scenario, could you lose liquidity at the Gas Company?

A. I would -- given that scenario, I would have to say I need know more about what would drive us to do something like that. I just -- I'm sitting here trying to fathom how we would even come to a conclusion like that much less that contemplated in the scenario.

Again, if that were to occur and the Gas Company's cap structure would change significantly and put its credit rating in jeopardy, we would take some kind of action and return that capital back to the Gas Company. I believe maybe a different way to say it, I think it's a reversible mistake.

Again, it just depends on the -- I understand you're giving me a scenario, but our focus is to maintain a strong healthy credit rating at the Gas Company. That kind of -- you know, our dividend policy and our dividend -- raising the dividend all contemplates that and how we maintain a strong and healthy organization.

Q. But on a general rule, pulling cash out of the Gas Company could affect liquidity, just on the general level?

A. Broadly speaking, yes. Sure.

Q. If you did lose liquidity, and that is to say you lost all your cash, it is likely that you would need to issue debt to fund Gas Company operations? I mean, that could happen?

A. Again, in that extreme scenario that you're putting forth, hypothetically, I -- it's difficult to -- again, you're building a scenario that is very difficult to address.

Q. Well, if the Gas Company had made a large dividend payment and was left with a low amount of cash, could you see ever having to go out and issue debt to help fund Gas Company operations?

A. Again, I would rely on what our history has been. If that were to occur, and the cash was available at Group, I'd flow it back down from Group to reinstate and provide liquidity that way. I just -- you know, the borrowing and the source, would I look to try to make sure I had the -- to keep the company liquid? Absolutely.

But I think the first thing I would do is to try to reinject capital into the organization, possibly issue equity and flow it down back into the Gas Company. It doesn't necessarily mean I'd issue debt. I can issue any one of the other vehicles that we talked about. It just depends on the cap structure.

Q. So one of your options is, I think you said, was that if the Gas Company had a liquidity crisis or was low on cash and needed funds, I think you just told me that one option you would look at is taking funds from the Group and flowing those funds back down to the Gas Company?

A. Which we've done before.

Q. That is one option?

A. Sure.

Q. But there's other options to put cash into the Gas Company, correct?

A. Well, that's part of the tool belt. That's part of the flexibility.

Q. Right. And short-term debt is --

A. To be able to say today what's going to happen in three years, neither one of us I think could do that.

Q. And short-term debt is a way to put cash into the Gas Company?

A. A way.

Q. In a way.

A. Not the only way.

Q. I understand. Is it possible to use long-term debt issuances to retire short-term debt?

A. Use long-term debt -- sure, depending on the nature of the short-term debt and how it was created and if you've been supporting construction activities or whatever may be there that is longer term assets of any kind, actually, I'm sure you could do it. Or if you refinance like we did the $40 million in debt that matured and you've been carrying that short-term debt, we certainly look to use long-term debt at some point in time to retire short-term debt.

Q. Okay. Now, I think you may have provided it to me in an earlier answer, but do the Gas Company dividends pay the dividends that the Group pays to its shareholders?

A. Yes.

Q. Now, of the amount of the dividends that the Group pays to its shareholders, roughly how much is

supplied by the Gas Company, about 100 percent or --
A. 100 percent.
Q. Okay.
A. Which is not unlike what we did before the formation of the Group.
Q. Well, what would happen to Laclede Gas Company's credit rating if it went out and issued 250 to $280 million in debt in the next year? Do you have a thought on that?
A. Well, again, that's a highly hypothetical question. I believe that as I would -- the process I would you go through is what the impact would be on our cap structure and what the possible outcomes would be with the rating agencies. If there looked to be a detriment, I would take other actions and look at other financing alternatives to minimize that detriment.
If I saw that we were going to have a deteriorating rating, I'd probably also look to reduce that and possibly look at equity to balance it out, to make sure we didn't damage the rating of the organization. But in a vacuum, it would probably cause us to be reviewed by the credit agencies and cause a deterioration of our rating.
Q. And I think you mentioned you could issue equity if you thought that there might be a negative

effect on your credit rating?

A. Sure. At the end of the day, we would follow very much the practice we follow at this point in time. We're always monitoring and watching.

Q. Now, from -- I'd like to shift gears a minute here and now take a look at Exhibit 3, pages 1 through 3 of Laclede's Verified Application. And I have some copies here.

(EXHIBIT NO. 5 WAS MARKED FOR IDENTIFICATION BY THE REPORTER.)

BY MR. BERLIN:

Q. Okay. Mr. Waltermire, you have a copy of Exhibit 3.

A. Correct.

Q. I call it Exhibit 3. I think we're going to premark it as -- it's Exhibit 3 to your application, isn't it?

A. That's correct.

Q. I think we've marked this as, are we at Exhibit No. 5?

JUDGE JORDAN: Yes.

MR. BERLIN: And, Judge, I think right now I'd just like to move this into evidence. It's part of the Verified Application, but --

MR. PENDERGAST: No objection. I'll be

doing the same.

JUDGE JORDAN: Then Exhibit 5 is admitted into the record.

(EXHIBIT NO. 5 WAS RECEIVED INTO EVIDENCE.)

BY MR. BERLIN:

Q. Mr. Waltermire, now, looking at this Exhibit 3 to the Verified Application, is it your position that Laclede Gas has $279 million of unreimbursed expenses?

A. It would be.

Q. Now, that's --

A. For the previous five years before the application, yes.

Q. Now, that's a big number, isn't it?

A. It is.

Q. Do you know if Exhibit 3 shows any common stock issuances and long-term debt issuances for the past five years?

A. It does not. I'm not sure it was required to be filed.

Q. Have you reflected this $279 million of what you believe are unreimbursed the expenditures on your balance sheets?

A. They are.

Q. And you were showing them as unreimbursed?

A. We don't -- if your question's do we have a line item on our balance sheet says unreimbursed expenses, no. The assets that are on these schedules are reflected in our balance sheets. You know, they are -- when you put your balance sheet together you're showing how you financed your assets. So these assets are on the balance sheet, and the methods for financing them are on the balance sheet was well.

Q. Do you show this $279 million of unreimbursed expenditures on any other financial statements?

A. Again, to the extent that our assets are reflected in our balance sheets, they would be included on there.

Q. Now, have you ever informed the credit rating agencies that you have $279 million of unreimbursed expenditures?

A. Not in so many words. I believe that in the financial community everybody understands that you procure assets to run your business, that you look for -- and that you have to finance those assets through the acquisition of equity, long-term debt and the other financing alternatives that we've talked about here today.

Q. Okay. But --

A. Financing doesn't necessarily mean you've been reimbursed. It's a method for supporting what you've expended.

Q. Have you ever told your shareholders that you have $279 million of unreimbursed expenditures?

A. No, for the same reasons.

Q. But that --

A. The financial community understands that you have to finance your balance sheet and how that happens.

Q. And that would be a material disclosure, wouldn't it, if you went to them and said you had $279 million of unreimbursed expenditures?

A. I believe we comply with all SEC rules and accounting rules for disclosing material, conditions of the company, and, in fact, I believe that to the extent that recovery of these assets would be impaired in some fashion that we couldn't get them reimbursed would be a material event that would have to be disclosed.

The fact they exist and how we financed them is perfectly clear from a materiality basis how that's been handled.

Q. So these $279 million of expenses have -- are reflected on your balance sheets?

A. The expenditures are reflected on the balance sheet.

Q. Now, in your Exhibit 3, you were showing net plant additions over the next -- over the period of April of '04, 2004, through March of 2009, right?
A. That would have been the five-year period prior, yes.
Q. Yes. You're looking at a five-year period?
A. Correct.
Q. Up to March of '09?
A. Correct.
Q. Is this $279 million part of your rate base?
A. It is.
Q. Don't you already have financing for this $279 million of net plant additions?
A. It is. We have financed it, but it has not been reimbursed through the ratemaking process. The way that happens is through recovery of depreciation.
Q. And is this $279 million already part of your capital structure?
A. The financing of these assets is part of our capital structure today.
Q. And you are earning a rate of return on your capital structure, correct?
A. We're earning a rate of return on our rate base based on our capital structure, yes.

Q. All right. Now, would you agree that the receipt of long-term capital reimburses the company's treasury?
A. The receipt of long-term capital? I believe that the long-term financing is not a reimbursement of the treasury.
Q. Long-term capital does reimburse the treasury for expenditures, doesn't it?
A. It's a form of reimbursements for cash that's been expended before it's been recovered through the regulatory process.
Q. Long-term capital supports your rate base, doesn't it?
A. It's a financing vehicle that supports rate base, correct.
Q. And long-term capital has already been issued, right?
A. Yes.
Q. Long-term capital is already reflected on the company's balance sheets?
A. It is reflected in our balance sheets.
Q. Are there any other ways to reimburse your treasury besides issuing long-term capital?
MR. PENDERGAST: I'm going to object to that. He assumes facts not in evidence. He said is there

any other way to reimburse your treasury, and I think Mr. Waltermire testified that he doesn't consider long-term debt to be reimbursement.

MR. BERLIN: Well, Mr. Waltermire has answered the way he wanted to answer. But my question is, are there other ways to reimburse your treasury besides issuing long-term debt, I think that's long-term capital. I think it's highly relevant here because they're coming and telling this Commission that they have $279 million of unreimbursed expenditures, and I think earlier, if we were to go to back into the record, Mr. Waltermire said that there's other ways to get that back like through depreciation. I just want to know what other ways there are.

JUDGE JORDAN: Understanding that, and this witness, and correct me if I'm wrong, you consider it long-term financing, not a reimbursement?

THE WITNESS: That is correct.

JUDGE JORDAN: Then I will overrule the objection.

MR. BERLIN: Pardon me?

JUDGE JORDAN: You may proceed. The objection is overruled.

BY MR. BERLIN:

Q. So what -- if you would, please, tell me what other ways there to reimburse your treasury for these expenses, expenditures?

A. Well, over time through the ratemaking process, that would be the sources for those funds to invested for the costs invested, for the dollars invested.

Q. Would you consider internally generated funds?

A. The internally generated funds wouldn't necessarily come from the ratemaking process.

Q. But those funds would flow into your treasury, right?

A. Yeah. Again, I disagree that long-term financing is a reimbursement of those costs.

Q. Well, my question --

A. Really my only source of funds would be through the ratemaking and revenue recovery process.

Q. But you do get internally generated funds, correct, from rates?

A. Yes, that I use to support these and other assets on the balance sheet that aren't capital. To the extent your internal funds don't support everything, that's why you have financing.

Q. Now, I want to kind of explore this question a little bit because I think we addressed this in your deposition. Do you happen to have a copy of your deposition in front of you?

A. I do.

Q. You do?

A. I do.

Q. Could you please turn to page 60?

A. Yes.

Q. Okay. And if you would, could you please read lines 1 through 6 of your testimony on 60, the question and answer series.

A. Question: And is it your understanding that the statute to mean that common stock and long-term debt can be issued to reimburse the treasury?

Again -- Mr. Zucker: Again, ongoing objection to these questions calling for a legal conclusion.

Answer: I believe it would allow that.

Q. So are you changing your testimony?

A. I don't believe I'm changing my testimony. The question was, does it reimburse the treasury, which would mean my bank accounts. It is a form of reimbursing my bank accounts, but I have not -- it does not reimburse me for the expenditures for which I spent that cash in the first place. It's a form of financing. This is a financing authority.

Q. But has all long-term capital been issued to reimburse the treasury? Hasn't long-term capital been issued to reimburse the treasury for expenditures?

A. Long-term capital is used to allow us to invest in the assets in the balance sheet, yes.

Q. All right. Moving on. Just a minute, please. I'm going to get back to where I was.

Was it your -- I think we talked about this in an earlier question, but does reimbursement to the treasury occur by collecting depreciation?

A. The rates we receive would allow us to recover depreciation costs and provide cash into the treasury at that point in time, which would be a form of reimbursement of the expenditures.

Q. Now, you do receive reimbursement through ISRS cases that Laclede has filed, don't you?

A. We receive a return on the investments we make in between rate cases. So some level of return on -- return on those investment, I think some property taxes and some depreciation, yes, but only that.

MR. BERLIN: I'm going to hand out a document that summarizes Laclede Gas Company ISRS cases.

(EXHIBIT NO. 6 WAS MARKED FOR IDENTIFICATION BY THE REPORTER.)

MR. BERLIN: I think we're at Exhibit No. 6.

JUDGE JORDAN: We are.
BY MR. BERLIN:
Q. I just handed out a document to you, Mr. Waltermire, that summarizes the amount of approved incremental revenue requirements of Laclede since 2004. Would you -- after you've had a chance to look at this, would you agree that this shows 11 separate ISRS cases filed by Laclede in which the Commission authorized Laclede an incremental revenue requirement?
MR. PENDERGAST: I'm going to object. He's asking Mr. Waltermire to testify regarding a piece of paper that the Staff put together that Mr. Waltermire hasn't prepared. Asking Mr. Waltermire just to talk about what the information shows doesn't lay a proper foundation, and I think it's objectionable for the Staff to seek to introduce this information through a witness that hasn't prepared it.
JUDGE JORDAN: It hasn't been offered into evidence yet. So far you've asked -- please restate your question.
MR. BERLIN: Well, I was going to ask Mr. Waltermire if he would agree that the list on this document shows 11 separate ISRS cases filed by Laclede in which the Commission authorized Laclede an incremental revenue requirement. I'm not asking -- I recognize

Mr. Waltermire may not have been involved in those cases. Perhaps another way to do it is for the -- is to -- I provided this document as a guide and to simplify.

JUDGE JORDAN: Well, your question is does he recognize this list, correct?

MR. BERLIN: Do you recognize the cases that are on this list?

JUDGE JORDAN: I'm going to overrule the objection to that question. You may answer that question.

THE WITNESS: I am not intimately familiar with all the cases filed. To the extent they've been identified, I can't say I do recognize them.

BY MR. BERLIN:

Q. That's fair. But you would agree, then, that Laclede Gas Company has filed ISRS cases with this Commission on a fairly regular basis?

A. I would agree with that.

Q. Okay. And so if I -- if I told you that Laclede sought in its first ISRS case, GO-2004-0445, an incremental revenue requirement and that that was approved by the Commission of some $3.56 million, I mean, does that --

MR. PENDERGAST: I'm going to object again. The witness has already indicated that he's not familiar with these specific filings and specific amounts. I don't mind the general question about have we filed it, but having him try and testify to figures that he hasn't prepared, isn't familiar with is I don't think appropriate.

JUDGE JORDAN: I think we already have the answer to that. I'll sustain the objection.

MR. BERLIN: What I'd like to do, then, Judge, is to ask that the Commission take official notice of the ISRS cases that have been filed by Laclede Gas Company beginning with Case GO-2004-0445, that we take administrative notice of the ISRS cases that they have filed in the past for which this Commission has authorized an ISRS, incremental revenue requirement.

JUDGE JORDAN: Is there any objection to the Commission taking official notice of these cases?

MR. PENDERGAST: Your Honor, I don't know exactly what he means by taking official notice of the cases. Obviously if there are orders out there that approve ISRS's and talk about the specific amounts, the Commission can certainly take notice of its orders. If, in fact, you're saying take notice of all the filings that were made and that sort of thing, I would object to that.

JUDGE JORDAN: Okay. And why -- okay. Can you speak to that objection and tell me why we would not take official notice our records?

MR. PENDERGAST: Well, I'm just saying that just because somebody has a filed a Staff Recommendation or somebody has filed, you know, an application, I don't know what purpose he wants to go ahead and use it for, cite it for. I don't have an opportunity to question whoever may have gone ahead and filed it if I disagree with the characterization that's being given.

I think it's inappropriate to take official notice of those materials and use them as if they were evidence. An order on the other hand, I mean, that's the Commission saying I approve this and this amount, and I don't have a problem with that.

JUDGE JORDAN: So your objection is to the relevance and hearsay of anything in those files other than orders; is that correct?

MR. PENDERGAST: Correct.

MR. BERLIN: Judge, what I would like is for this Commission to take administrative notice of the orders that it has issued in these cases, the ISRS cases that Laclede has filed since 2004.

MR. PENDERGAST: I don't have an objection to that.

JUDGE JORDAN: Okay. Then the Commission will take official notice of those matters as you have described it, Mr. Berlin.

BY MR. BERLIN:

Q. All right, Mr. Waltermire. I'm not going to go into all of these cases, but from a general level, would you agree that the ISRS cases that this Commission has awarded an incremental revenue requirement to Laclede, that they provide reimbursement in rates to the company?

A. It would provide a form of reimbursement in between rate filings, yes.

Q. And, Mr. Waltermire, are you a certified public accountant?

A. Yes, sir.

Q. What is an unreimbursed expense from an accounting perspective?

A. I would -- I'll do it from my perspective if that's okay, but an unreimbursed expense, as I defined earlier, would be something that you've expended funds for for which you have not received those funds back from another party, in this case from the ratemaking process.

Q. If you issued $1 billion of debt today, would you have any unreimbursed expenses?

A. If I issued $1 billion of debt today?

Q. Right.

A. Again, I look to issuing debt as a form of financing something. So assuming I have a billion dollars of unreimbursed expenses, yeah, I'd say I still have

unreimbursed expenses I need to recover.
Q. So if you issued $1 billion of debt, you still believe you would have unreimbursed expenses?
A. Yes, hypothetically. I mean, your question's a hypothetical one. I would have to have a need for issuing that financing to support some kind of expenditure that I haven't got through other means.
Q. So how much debt have you issued over the past three years?
A. Off the top of my head, I know we've issued at least 80 million.
Q. If the Commission authorized you the $279 million in long-term debt, are you planning on recapitalizing the company by issuing debt and paying Laclede Group $279 million in dividends?
A. No. As I look at this, this schedule, this 279 million in the schedule that we filed to comply with the statute for a five-year look back for the amount of expenditures that haven't been reimbursed, that's a data point for setting an authorization. I don't think anywhere we said this is the amount we would be looking to spend in the future. I think it's part of coming up with the capacity and have you had unreimbursed expenses in the past by which it would be reasonable that you could do something like that, but it certainly is not something

I've ever characterized as imminent or characterized as we are going to do at this point in time. But it's about do you have capacity to do that.

Q. Okay. Mr. Waltermire, do you have a copy of your rebuttal testimony?

A. I do.

Q. If you would, please turn to page -- let's see, line 19.

A. I'm sorry. The page number?

Q. Let me refer to that. Well, I need to take you to line 19 where you address regulatory assets. I seem to have lost the page. So if you bear with me here.

A. Page 5?

Q. Thank you. Okay. Page 5, line 19. Thank you. You state that the company has regulatory assets that are associated with its pension plan, other post-retirement benefits or OPEBs, such as retiree medical costs, expenditures that are associated with the company's energy efficiency programs, costs that are incurred to comply with the Cold Weather Rule, and deferrals that are associated with safety improvements.

A. That's correct.

Q. Is that fair?

A. That's correct.

Q. Did you point out the financial impact of

those regulatory assets in your Verified Application?
A. We did not include any reference to that in our application. I don't recall that that was required as part of the filing.
Q. But you believe that Staff ignored the effects of those regulatory assets on the company, correct?
A. I believe they have not been fully considered in their recommendation in setting the $100 million long-term debt cap in the financing authority we requested.
Q. Would you agree that the regulatory assets account for a significant portion of the company's rate base?
A. They do.
Q. And agree would agree that long-term capital supports your rate base?
A. I would agree with that long-term capital finances the rate base.
Q. And would you agree that these regulatory assets that you agreed are part of your rate base are also part of your capital structure?
A. Could you repeat that for me, please?
Q. Sure. I think you just agreed that these regulatory assets are a significant portion of your rate

base?

A. I did.

Q. Okay. And that is also part of the company's capital structure?

A. The company's capital structure supports that. The purpose of my testimony was to address the Staff's formula, which identified only financing needs associated with capital expenditures only, and yet there are expenditures of a longer term nature outside of capital expenditures that need to be considered when looking from a financing standpoint.

Q. I think you also stated earlier that the financial impact of the regulatory assets were not part of your Verified Application?

A. No. Our Verified Application asked for financing authority to finance the operations of the company.

Q. Okay. But you didn't put a financial impact of those regulatory assets in the Verified Application?

A. Again -- well, we did not list them in the application as they were already being financed. We were using this as an example as to the limitations of Staff's formula going forward, not in hindsight.

Q. I'm going to shift gears a little bit here.

Mr. Waltermire, are you involved in preparing your Form 10K report that you submit to the SEC?

A. Yes, I am.

Q. And how are you involved?

A. I supervise -- I'm responsible for supervising its preparation, and ultimately I have to sign off on the certification.

Q. Now, I have a copy of Laclede's 10K here, but I am going to refer to one page, so I'd like to hand out the one page.

(EXHIBIT NO. 7 WAS MARKED FOR IDENTIFICATION BY THE REPORTER.)

BY MR. BERLIN:

Q. Okay. Mr. Waltermire, do you have the page that I handed before you?

A. I to.

Q. Okay. I have an entire copy of Laclede's 10K available if you'd like it, but does this look like it's page 11 of your 10K? Let me hand you -- I'll hand you a complete copy.

A. Yes, the page you gave to me was from the Laclede Group section of our 10K.

Q. All right. And do you see the line that says, it's about the fourth line down, as a holding company, Laclede Group depends on its operating subsidiaries to meet its financial obligations. Do you see that line?

A. I'm having trouble finding it. Yes.

Q. Would you agree that Laclede Group as a holding company depends on its operating subsidiaries to meet its financial obligations? Do you agree with the statement on the 10K?

A. I do.

Q. And isn't Laclede Gas Company, the Missouri regulated public utility, isn't that the primary subsidiary that the Group would rely on to meet the Group's financial obligations?

A. The finance -- Laclede Group has very little financial obligations. To the extent we rely on the Gas Company to provide that, dividend to shareholders is the biggest portion of that at this point in time.

Q. And so would it be helpful for the Group to have the Commission's authority to collateralize the assets of the Gas Company in case things were to go bad?

A. That's pretty hypothetical. Would it be helpful? You know, the way -- the Gas Company is a standalone company, has its own separate financial statement, certainly is subject to the regulatory authority of the Commission. We run it as a standalone business. It generates a return. We provide good service to our customers. We try to do that. We try to run it efficiently and effectively. In fact, we -- you know, we've agreed that we wouldn't use the Gas Company to support any other operations or affiliates under the Laclede Group, and we don't do that.

So I do not think we would look to give that kind of authority to the Group to collateralize the assets of the other affiliates, no. I don't think that necessarily is a good idea.

Q. Well, if things went really, really bad, would it be even more helpful to be authorized to collateralize the Gas Company's assets for an amount in excess of the stated needs of the Gas Company?

MR. PENDERGAST: I'm going to object. Calls for speculation. Assumes facts not in evidence.

JUDGE JORDAN: Well, here's my thought on that. We brought this witness here because of his expertise, knowledge and experience in accountancy and in particular with Laclede Gas Company and the Group. So I think we're relying on his opinions, and I think a hypothetical question is allowable, understanding that it's hypothetical.

MR. PENDERGAST: Thank you.

JUDGE JORDAN: I'll overrule that objection. You may answer if you're able to.

THE WITNESS: May I have the question repeated.

BY MR. BERLIN:

Q. Sure. In case things really went bad, really bad, would it be even more helpful to be authorized to collateralize the Gas Company's assets for an amount that is far in excess of the stated needs of the Gas Company?

A. I think one of the benefits of being a group is that we've formed each entity separately, and I don't know what your definition of bad would be, but if a particular entity had financial difficulties or problems, I think we could do what Intergy did when the hurricanes hit in Louisiana, in New Orleans in particular, and they declared bankruptcy at one of their affiliates and they didn't bankrupt the whole company, put the whole company into bankruptcy.

We're organized in a fashion that we have separate standalone subsidiaries that we could take those types of provisions if things got really bad, to protect the assets of the remainder of the Group affiliates and also of the Gas Company.

Q. Now, if things got really, really bad, would it also be helpful to the Group to be able to sweep cash out of Laclede Gas Company by setting unusually high dividend payments from the Gas Company to the Group?

A. Again, I don't know what your definition of bad is or why we would do that, but our policy do date, and I can only address the policy to date, is to flow those dividends through to our shareholders 100 percent.

MR. BERLIN: Okay. Judge, I would like to move to enter in page 11 of Laclede's 10K form. I could enter in the entire 10K, but --

MR. PENDERGAST: Your Honor, the only thing I would do, as we did with the earlier exhibit, just reserve the right to look through it and if we see something else that we think is complementary or put something into context, that we be allowed to submit that as well.

THE WITNESS: If I may, I don't know if I'm allowed on this, but to clarify that that's the Laclede Group page, not a Laclede Gas page.

MR. PENDERGAST: With that, as long as I can reserve that right, I'm fine.

JUDGE JORDAN: Any problem that reservation?

MR. BERLIN: Okay. If I understand, that would be to be able to refer the entire 10K, is that it?

MR. PENDERGAST: Or if I think there are other pages in the 10K that are relevant to whatever discussion we just had, I'd be able to put those as part of this as well.

MR. BERLIN: Yeah. I don't have a problem with that, as long as we all have access to the 10K.

JUDGE JORDAN: I'll tell you how that -- I envision that the supplements to the record taking the form of a motion to introduce these subject to objection. If they're not objected to, they simply come in. Have we marked this as Exhibit 7?

MR. BERLIN: I think this is Exhibit 6.

JUDGE JORDAN: 6 is the ISRS summary, which has not been admitted. And this will be, if we continue sequentially, this would be Exhibit 7 once that's marked and with the proviso we discussed.

MR. BERLIN: I think that -- I think that the document that I handed out was -- that we're not going to enter into evidence that we had discussed earlier was marked as Exhibit 6, and so if we don't enter --

JUDGE JORDAN: Let's just keep the ISRS schedule you'll marked as 6. Doesn't have to be admitted just because it's marked.

MR. BERLIN: All right.

JUDGE JORDAN: Are you planning to offer that into evidence for any purpose at all?

MR. BERLIN: No. I offered it as an aid to the Commission to understand the flow of a number of the ISRS cases. That's all.

JUDGE JORDAN: That's perfectly fine, but let's keep our record clear. Let's make page 11 of this SEC document relating to Laclede Group Exhibit 7. Let's mark it as Exhibit 7.

MR. BERLIN: Okay.

JUDGE JORDAN: And you've moved that it be admitted into evidence, and Laclede Company has --

MR. PENDERGAST: No objection.

JUDGE JORDAN: -- no objection. With the reservations noted, that will be entered into the record.

(EXHIBIT NO. 7 WAS RECEIVED INTO EVIDENCE.)

MR. BERLIN: That concludes my questions of Mr. Waltermire. Thank you, Mr. Waltermire, for your time.

JUDGE JORDAN: Okay. We are looking at about ten minutes to one. I think it's a pretty good time for a lunch break. When we resume, I'd like to do what I did with previous witness, go to redirect before questions from the Bench. I'm finding that helpful. Any problem with that, anyone?

(No response.)

JUDGE JORDAN: Okay. Let's have a lunch break. I don't take -- I don't usually take lunch breaks, so I don't really know what a lunch break ought to look like. I never take mine 'til the end of the day. Hour, hour and a half?

MR. PENDERGAST: Hour would be more than enough for us. And if it helps, unless the Commission has a significant amount of questions for Mr. Waltermire, I don't anticipate not being able to finish this afternoon given our one remaining witness.

JUDGE JORDAN: That's very helpful. We will break for lunch for one hour.

(A LUNCH BREAK WAS TAKEN.)

(EXHIBIT NO. 1 WAS MARKED FOR IDENTIFICATION BY THE REPORTER.)

JUDGE JORDAN: We're back on the record. While we were off the record, there was some discussion as to whether I had admitted formally Exhibits 1 and 2 into the record. I will admit those two documents into the record. There's no objection; is that correct?

(No response.)

JUDGE JORDAN: No objection. They are admitted.

(EXHIBIT NOS. 1 AND 2 WERE RECEIVED INTO EVIDENCE.)

JUDGE JORDAN: We were at the point of having concluded cross-examination of Mr. Waltermire, and we were about to go to redirect from the company.

MR. PENDERGAST: Thank you, your Honor.
REDIRECT EXAMINATION BY MR. PENDERGAST:
Q. Good afternoon, Mr. Waltermire.
A. Good afternoon.
Q. There was a lot of discussion between you and Mr. Berlin regarding what's a reimbursed or an unreimbursed expenditure. Do you recall those discussions?
A. I do.
Q. And maybe just to kind of simplify things a little bit, I'd like to ask you a question. Where did you just have lunch?
A. At one of the restaurants downtown.
Q. Okay. And let's say that you spent $10 on that. Okay? Are you with me?
A. Okay.
Q. And you put that on your expense account.
A. That's correct.
Q. And if you put it on your expense account, are you anticipating being reimbursed for it?
A. I am.
Q. Let's say you went back to Laclede and instead of somebody giving you a check for $10, they said they're going to go ahead and make a loan to you of $10 that you need to go ahead and pay back over, say, four

weeks and you have to pay them interest. Would you consider yourself as having been reimbursed for the $10 you spent on lunch?

A. I would not think that I would have been reimbursed until I actually got my $10 back in my pocket.

Q. Okay. Let's say you went back to Laclede and somebody told, you know, Mark, I really believe in you and your lunches and I'd like to make an investment in them, and they gave you $10 and then said, it's yours, but I expect to get it back over the next, say, month, you know, through some depreciation, and I'd like to go ahead and earn a little return on it. Would you consider yourself having been reimbursed for that $10 lunch expenditure you had?

A. I don't believe I would have been. I don't think so.

Q. Okay. Well, let's say -- is Laclede's rate base about 750 million?

A. It is.

Q. That's their net rate base?

A. Net rate base.

Q. And that includes accumulated depreciation being deducted?

A. It does.

Q. Okay. Do you think you've been reimbursed for that 750 million?

A. I do not.

Q. Okay. Let's say that --

JUDGE JORDAN: I'm sorry. I didn't hear you.

THE WITNESS: I do not.

BY MR. PENDERGAST:

Q. Let's say that you've got a $750 million rate base and you go out and you issue $100 million worth of bonds. Okay?

A. Okay.

Q. You get $100 million in proceeds in. And let's say Staff came in and said, oh, you got $100 million worth of bond proceeds in. I guess you've been reimbursed for $100 million of rate base and they say you've only got $650 million down. Do you know if that's how Staff would go ahead and approach that $100 million bond issuance?

A. I believe that's the way they would approach it.

Q. You're saying they would deduct it from the 750 or they would not?

A. I believe -- I believe Staff would look that I've been reimbursed for the 100 and perhaps not reimbursed for the remaining amount.

Q. You're saying under Staff's approach, but have you been reimbursed?

A. I have not been reimbursed, period.

Q. And under normal accounting approaches that Staff takes, do they deduct that 100 million off of your 750 million rate base or do they recognize the interest expense?

A. They recognize the interest expense.

Q. And the same thing would be true of an equity investment. If you received $100 million worth of equity proceeds, would that be deducted off of the rate base you're allowed to earn?

A. No.

Q. Okay. So when do you get reimbursed for that $750 million worth of rate base that you've invested in?

A. I get reimbursed through the -- obviously through the ratemaking process where I get return of, in this particular case, if it's a deferred asset of some sort, such as a pension, deferred regulatory assets, I get some level of recovery through the ratemaking revenue requirement when we establish that, as well as depreciation recovery on capital expenditures.

Q. And in your view, if you issue, say, $100 million in bonds, you eventually have to pay that back?

A. You would through the recovery process. As you got reimbursed, you would certainly look o retire that debt.
Q. You were also asked a number of questions about dividends. Do you recall those questions?
A. I do.
Q. Okay. And has Laclede materially changed its dividend policies since the Laclede Group was formed back in 2001?
A. No, it has not.
Q. Okay. Does Laclede Gas Company continue to dividend up amounts that Laclede Group in turn dividends out to shareholders?
A. Yes, it does.
Q. And does Laclede Group hang on to any of that money --
A. No.
Q. -- or does it dividend the full amount out?
A. No. We dividend 100 percent from Gas to Group.
Q. Okay. You were asked about, you know, potential changes to that particular dividend policy. Do you contemplate any changes to that dividend policy?
A. No, I do not.
Q. You also were asked a little bit about

loans, and do you recall the 10K, I think it was, materials that discussed that particular issue?

A. Yes.

Q. Okay. And I just want to ask you, does Laclede Gas Company make loans to any of its affiliates?

A. No, it does not.

Q. And has Laclede Gas Company provided the Staff with a mechanism for checking whether or not that's -- that is the case?

A. I believe we provided them all the information they've requested. They have access to our books and records to validate that. Our audited financials would certainly indicate if we've been making loans to any kind of affiliate. I believe we made everything available.

Q. Does that include access to the company's entire general ledger?

A. It does.

Q. Is that searchable?

A. It would be.

Q. Can it be searchable for any loans that have been made to any entity outside of Laclede Gas?

A. It should be -- it should be reflected in those records.

Q. And, in fact, has Laclede Gas been a net borrower from Laclede Group?

A. As I mentioned before, yes, and in particular in the fall of 2008, to the tune of $90 million.

Q. Okay. Laclede Gas was loaned how much?

A. $90 million.

Q. $90 million. And this is when the company had significant increases in gas prices and then declines and, as a result, significant margin calls?

A. That would be correct.

Q. Okay. And was that money generated primarily by Laclede Energy Resources?

A. A good source of it was that.

Q. Has Laclede Group also made -- Laclede Group made capital investments in Laclede in the form of paid-in capital?

A. It has. And later that year we invested $40 million into the capital -- into our equity. I guess that would have been in November, and actually over -- preceding that we -- we issue about $4 million a year, flow it down from Group for dividend reinvestment from shareholders, and I think probably three or four years before that we had a common stock issuance at Laclede Group for about $50 million, which we also flowed down to the gas company. As I mentioned before, we've invested

$110 million officer the last five, six years.

Q. I think you were asked some questions about the five-year schedule and the reimbursement, unreimbursed net additions schedule. Do you recall those?

A. I do.

Q. And your understanding is that at least under the statute and under the schedule, it talks about five years in the past; is that right?

A. That would be my understanding.

Q. To your knowledge, is that how Laclede has consistently presented the information that it believes is in compliance with that schedule and the rules?

A. It is my belief that we have complied with that. Over the years we've consistently provided schedules similar to that. I think other utilities even in the state conform to that type of methodology. Had we been asked -- you know, we provided three-year projection on capital expenditures. Had we followed the statute, taken the Staff's interpretation of the statute as a forward-looking period, we've only been asked for the three years. Nobody's ever come back to ask for two more years of forecasted capital expenditures or any kind of refinancing. So I believe we've been very consistent throughout.

Q. Let me ask you this: Are you aware of any instance in the past when the company's filed the schedule where the Staff has come in and said, I saw your five years worth of historical information, but where's the five years of prospective information?

A. I'm not sure anybody asked us to provide a five-year schedule in this case.

Q. Above the projected expenditures?

A. Above the projected.

Q. Okay. So you're not aware of that happening. And let's just assume that Staff's interpretation was correct and it's supposed to be five years of projected, notwithstanding the long practice of doing it on a historical basis. If you added two more years to the three years of projected expenditures, what impact would that have?

A. Certainly if we added two more years out into the future, we'd be taking -- and again, assuming we maintain our current capital spending levels, it would be another 60 million a year or so, so $120 million more in spending. And also the $80 million bond we issued in November -- or September of 2008 would be eligible for call in the amount of $80 million in September of 2013, I believe.

Q. So approximately another 200 million?

A. Another 200 million if we extended the schedule.

Q. You were asked some information about what the company included in its application, and I think it was in particular on the regulatory asset. Are those regulatory assets that you refer in your testimony on the company's balance sheet?

A. They were included in the balance sheet on the, I believe it was Exhibit 2 of the application.

Q. Okay.

A. We did lay those out.

Q. And that application was sent to the Staff; is that correct?

A. It was, yes.

Q. Okay.

A. And do you think that with that and the other information that the company has provided, that in your view it's given the Staff sufficient information to justify the amount that Laclede has requested be authorized?

A. I believe we provided all the information requested and it does support what we requested in this proceeding.

Q. Okay. And just to be more specific about that, the company has provided what its calculation is of unreimbursed property net additions, correct?

A. Yes, as Exhibit 3 to your application.
Q. And that's the $279 million?
A. That's the 279 million.
Q. And it's provide information of three years worth of capital expenditures; is that correct?
A. Yes, we have.
Q. And that's worth about how much?
A. Three years of capital expenditures was about $189 million.
Q. Okay. And did the company provide Staff with scenarios telling what under different circumstances with gas prices increasing or with margin calls taking place, what kind of cash requirements they might impose on the company?
A. I believe we provided a number of scenarios that address those situations.
Q. And in your view, do they support the need for flexibility that the company is requesting?
A. I believe they really -- they do support the need for having the flexibility to respond in a timely manner to changing market conditions. We never know what financing vehicles are available to us out into the future much less two, three years. We have to be at that point in time to be able to assess the cost of different vehicles, what markets are open to us, what tenor, how

long we would want to place those vehicles.

All those decisions necessarily with the kind of specificity we've been asked to provide have to be made at that point in time, and I -- that's why the financial flexibility is so important to us. November of 2008, if we hadn't had the ability to issue that $80 million at that point in time, we would have -- to support the refunding of the $40 million note that -- or bond that matured the prior year in November, in our ability to finance capital expenditures more or less up to that point in time, we would have had a tough time getting through that point in the year because of the fact of where gas costs were and the size of our borrowing need.

Q. On the one page out of the 10K that was provided to you, was that for Laclede Group or Laclede Gas?

A. That was for Laclede Group.

Q. And that talked about various risks that Laclede Group faces?

A. It's a partial listing of the risk, yes.

Q. And is there also another list that shows the various risks that Laclede Gas faces?

A. Certainly at the bottom of page 11 it starts to talk about the specific risks faced by Laclede Gas, and that would continue on to page 12, which also includes our access to liquidity and capital markets, the impact to changing gas prices, things of that nature.

Q. Does it also talk about the impact of derivatives that the company uses to provide price protection?

A. Yes, it does.

Q. Okay. Now, are those all things that -- those risks that the company knows will happen today?

A. We know they exist. To what degree they would happen, we would have a great difficulty in trying to characterize that.

Q. So unlike a capital budget that you have reasonable assurance I'm going to spend 50 million next year and 50 million the year after that, as far as what gas prices are going to do, as far as what the economy is going to do, as far as all these risks that you list here, you really don't know what's going to happen, do you?

A. We really couldn't predict that with that kind of certainty.

Q. But the SEC nevertheless requires that you talk about them, nevertheless requires that you disclose them to Laclede's investors; is that correct?

A. They want the investors to know we face these kind of risks in certain circumstances that could exist and we would have to respond to them. Certainly in today's world we hear a lot about enterprise risk management and what are companies doing to manage their unforeseen risk and protect themselves and have the ability to respond to things that they could have never expected happening. It's almost worst case scenario planning.

And that's why, you know, when we make these applications and say we want -- we requested the financial flexibility and the ability to use these different tools, we're putting ourself in the position to be able to respond to those types of risks into the future. Hopefully we never have to do it, but we need to have the ability to respond in a timely fashion to make sure we keep the company healthy.

Q. And just to put a point on that, if instead of providing this wide assessment of risk, how Laclede was to file one of these filings that just simply said, you know, here's what I can tell you about the future and that's my capital budget, and I know I'm going to go ahead and spend probably 120 million over the next three years and that's really all you need to know, do you think that would pass muster with the SEC?

A. I certainly do not think that would pass muster.

Q. Okay. And there was some discussion about various analogies to kids and whether you give them money just to go out and blow. And I guess my question is, do you think it's appropriate to give a kid 20 or 30 bucks to put in his back pocket just in case his car breaks down or something like that happens?

A. I think it would be appropriate to do that if you want to take care of your kid. I've got young kids at home as well, and they've gone to college and we've made sure that they were able to get out of tough situations that we could have never projected, and we did it within reason.

Q. And there was some talk about a credit card for a kid that's going away to college. Do you recall that?

A. Yes.

Q. If you had a kid that was going away to college, he's been a good kid and he's gone ahead and he's paid his bills and he's gone ahead and maintained a good credit rating and he's never had a problem, would you feel concerned about giving him a credit card just in case he had an emergency or something unforeseen happen?

A. No, I wouldn't. I'd do that in a heartbeat. In fact, we did it with all three of our kids.

MR. PENDERGAST: Great. Thank you. No further questions.

JUDGE JORDAN: Thank you. I have some questions.

QUESTIONS BY JUDGE JORDAN:

Q. I appreciate your patience, both so far and for the questions I'm about to ask.

A. Certainly.

Q. My questions have to do with a few things that we've heard about so far, and I'd like to do what Mr. Pendergast did and discuss this issue with reimbursement. I think -- for clarification, I think I can summarize what you're saying about reimbursed expenses, and you can tell me if I'm right or wrong.

A. Okay.

Q. If a corporation spends money for something, they just spend it, maybe it's to pay the janitor, if they issue debt, they collect money by issuing bonds, for example, is this considered a reimbursed expense? Is that considered reimbursement to take that and use that to pay the janitor?

A. You've basically taken a loan to pay the janitor, correct?

Q. Right.

A. In that particular situation, you'd be taking out a loan to pay the janitor. So you still need to repay your loan. So I do not believe, the way I view it, that that would be a reimbursed expense at that point in time. You're just kind of borrowing money to do that.

Q. Okay. Suppose this corporation issues stock, common stock, takes the proceeds, pays the janitor bill with that. Is that expense reimbursed?

A. Again, it's a different flavor of financing, but the shareholder certainly expects a return. Again, there is a cost to that. So they are providing you the capital to support the business, so I would say again you probably have not been reimbursed as much as have been provided the financing mechanism by which to pay the janitor.

Q. Okay. One more scenario. If I bill my -- the people that I serve and collect money for that and use that to pay the janitor's bill, is that expense reimbursed?

A. In that case, I would say it would be, yes.

Q. All right. Staff asked you some questions, and they were being delicate about it. You've got to understand, a lot of what lawyers do is based on buses. That is, we know how things would be if we're dealing with you, but if you get hit by a bus tomorrow, we want to know if we're still protected.

The scenario that Staff was painting was, is it possible, if you and the rest of the leadership got hit by a bus tomorrow, for funds collected by Laclede Gas Company to get funneled to Laclede Group or some other related entity, is that possible in that scenario? If I understand your discussion, you can tell me whether I'm right or wrong here, it's unlikely given current leadership, but it is possible; is that correct?

A. It is possible, but I think we have put some safeguards in there for the bus event in the context of no more than 65 percent of our cap structure would be there, no more than our rate base. Those all act as governors on that opportunity. And we've also agreed that we would not make loans to affiliates, and, in fact, those are prohibited under the Commission's rules.

You would really have to have somebody replace me who's willing to not abide by those rules, and that would have to be -- if you had access to our records, you'd see if we did it.

Q. I think I understand. Thank you. Let's talk about that 65 percent. This is -- if I understand correctly, this is Laclede's suggested ceiling for debt, either 65 percent -- why don't you explain it?

A. Okay. The 65 percent was certainly -- the source of that is from our, when we formed the group, the holding company, that in that order it said that we could not have -- we could not go below 35 percent equity in the organization. So the flip side of that is, you can't have more than 65 percent debt. So that's the source of that.

Q. And 65 percent of whatever --

A. Your total capitalization of the organization is.

Q. Wasn't that number, is that the 750 million number that I heard a while ago?

A. The total capitalization was 750 -- I'm trying to recall from Mr. Berlin's. 750 million was our total capitalization.

Q. Okay. Do you happen to know off the top of your head what for Laclede Gas Company that 65 percent would be for your desired debt ceiling?

A. Off the top of my head, I don't know what that amount would be. I know that we would be limited right now by the rate base provision we also put in there. There's a belt and suspenders, if you will.

Q. Sure. And you're asking for the lesser; is that correct?

A. The lesser would apply.

Q. What number do you believe would be the debt ceiling under the lesser of those two?

A. I believe it would be around -- we calculated 275 million additional that would be issued that would trigger that.

Q. All right. And you just said additional $275 million in debt in addition to any debt that's outstanding now?

A. Correct.

Q. Okay. Thank you.

A. So it would be new issuance, not refunding.

Q. Right. Now, with regard to that, you've heard that some of this is disputed and some of it is not. If I add up the numbers dealing with capital assets and projected in the future that Staff is looking at and they come up with 90-some-odd million which they're willing to round up to 100 million, and if I take this Exhibit 3 to which you referred earlier, I get a bigger number than that, don't I?

A. Uh-huh.

Q. And in regard to this Exhibit 3, have you got that in front of you?

A. I believe I do. Yes, sir.

Q. Okay. On the first page, the very last line on the left column there, that refers to funded debt for a five-year period. I thought we were talking about three-year period in this application.

A. We have applied for authority for the next three years.

Q. Okay.

A. This was in response to what we believe the statute was asking was for a five-year historical period just prior to the filing. So this would be the unreimbursed for the five years prior to our application.

Q. Okay. And under your -- I know you're not a lawyer, but under your understanding of what you do, you take the five years before the filing of an application for authority for the unreimbursed expenses and you show those five years. For future authority, financing authority, however, you're only asking for three years; is that correct?

A. That is correct. And if I may, your Honor?

Q. Yes.

A. The 279 is not necessarily what we would look to issue. When you read the statute, I'm not sure it really says here's the formula for calculating an authorization. I think it's establishing in my mind that there would be an unreimbursed need that could support the authorization going forward, that we're not already paying for things and trying to ask for more authority over what we could have originally.

Q. Okay. Now, do I also understand, then, that these -- none of these things in this Exhibit 3, none of these have been financed through equity or debt; is that correct?

A. They have been financed through equity and debt, yes. They're financed. We're paying interest, you know, the cost -- it's a loan.

Q. Okay.

A. So back to the example we had earlier, these would be analogous to my lunch today, and I haven't been paid back for my $10 yet, but I have -- there's a loan I have to make. There's a loan been made to support that. So until such time as I get the money to pay off my loan, I would say that they have not been reimbursed.

Q. Okay. They haven't been reimbursed, but it sounds like at least some of them are secured or obtained from the issuance of a type of instrument that we're talking about?

A. They do secure those financing instruments, yes. That would be correct.

Q. Is there any breakout of which are and which aren't, which are secured and which are not secured?

A. Under our first mortgage indenture, all of our plant property and equipment go to secure our first mortgage bonds. So the answer to your question would be all of it would be collateralizing our debt issuances.

Q. Okay. Debt issuances already issued?

A. Currently and prospectively, it would be used to support. It would be like pledging the equity in your house, and maybe you have $300,000 equity in your house. I'm probably building a bad analogy here. But you pledge your equity in the house and you may only borrow $100,000 against it. So you've used $300,000 worth of collateral for $100,000 in loan.

So when we pledge the entirety of our plant property and equipment on the mortgage, it covers everything that's outstanding, and indeed would be more than what would be necessary to satisfy.

Q. Well, just a second. I'm going to review my notes.

A. Sure.

Q. Okay. In this Exhibit 3, which seems to pretty much summarize the disputed matters amongst the parties, I'm looking at some things that are -- will I be able to tell when I go and draft this decision, will I be able to tell the difference between which monies are for the refinancing of obligations, the discharge of obligations and which are just like operating expenses?

A. I'm not sure I fully understand your question.

Q. Well, I'll give you some background. I'll tell you where I'm coming from, and that's putting it into statutory context. Amongst the purposes for which you may have authority to finance are the discharge or lawful refunding of obligations?

A. Yes.

Q. And you can also have financing for the reimbursements of monies actually expended, but only if those monies actually expended are not secured or obtained from initial stocks, bonds, notes or other evidence of indebtedness of such corporation.

A. Okay.

Q. So in looking at this, you see, I have to -- as you know, Laclede has a burden of proof here. Laclede has to show that that's what these purposes are. When I draft my order, I have to specify the purposes for which this authority will go. I have to reasonably relates the expenses to those purposes. So that's what I'm trying to make sure of, that these things will tell me what I need to know in resolving this, this which is the major dispute between the parties. That's where I'm going with that. Do you think I'll be able to do that?

A. I believe that you have sufficient information to know what our future capital expenditures are. I believe you have the information available on what our future refunding requirements would be of debt, $50 million there. And I think you would have sufficient information through this schedule to say that we would have unreimbursed expenses that would support an authorization to come up with an appropriate level.

Q. I see on page 2, it looks like we're talking about things that are -- and correct me if I'm wrong. These look like things, like property, like plant and systems and stuff like that.

A. On this particular schedule, that would be correct.

Q. Okay. Now, do I understand that page 1 is sort of a summary and page 2 and 3 are breakouts?

A. It's a recap to get to the same place coming from a different direction on the last two pages.

Q. Okay. So this document has not only expenses and obligations, but it also has the plant and system stuff, correct?

A. That's correct.

Q. So this is not just expenses. This is also the capital stuff that Staff is agreeing with?

A. This would only have capital expenditures on it. Expenses -- an expenditure can be something you do from a balance sheet or the income statement. When it goes to the income statement, you call it an expense. An expenditure is just a payment of funds for an asset or a service or something like that. So unreimbursed expenditures, or in this case this is -- I'm parsing words here a little bit.

Q. Please do, because I need to pigeonhole these things carefully.

A. We want to be careful. The statute says we shouldn't be using it to finance the expenses in the income statement, and that is not what this schedule contains is any of those types of expenditures. This only represents our capital expenditures for plant, property and equipment.

Q. Please state that again as to what you think the statute says. Please start your sentence again.

A. I'm certainly no lawyer.

Q. I understand.

A. But I believe it -- I can't spot it verbatim here, but I believe the statute would not permit issuing these financing vehicles to pay for operating expenses in the income statement.

Q. Okay. That's your understanding?

A. That would be my understanding.

Q. As an accountant?

A. Yes.

Q. Looking at the statute?

A. Yes.

Q. And we do need to bring --

A. And we have not included those types of expenditures. Operating expenses are not part of this schedule.

Q. Okay.

COMMISSIONER KENNEY: I think that's probably the clearest part of the statute is that last sentence. I think that's part of that paragraph.

BY JUDGE JORDAN:

Q. Okay. You're referring to as to -- you're referring to, such purposes are not in whole or in part reasonably chargeable to operating expenses?

A. Correct.

Q. All right. I'm going to check my notes for a second here. Oh, another bit of clarification. I appreciate your patience with my questions. Am I to understand, then, that none of this $270 million on Exhibit 3, none of it has been -- my question is whether any of this has already been financed?

A. It is being financed currently.

Q. Okay. How much of it?

A. All of it would be. We are financing it.

Q. Okay.

A. But it's unreimbursed. The schedule is a representation of have I been reimbursed for it yet, so I can't --

Q. This is not quite what I thought it was. I appreciate you helping me out with this.

A. And, you know, you could further say -- Mr. Pendergast asked me a question about how much our rate base is, and I considered all of our rate base to be unreimbursed at this point in time, and this would be part of that, because it's all being -- it is being financed. It's just not -- we haven't been paid our $10 yet for the lunch we had. We've been financing it, but we haven't been paid it yet.

Q. Maybe the difficulty with the lunch analogy is that you can see what you've eaten as opposed to as asset, perhaps the plate on which it came, which might stick around for a lot longer.

A. Again, I think again, as I would try to interpret the statute, I would look at it as saying, do you have unreimbursed expenses on your -- available within the last five years that could -- that would say that you should have an ability to go out and support maybe -- I think it's directional to say that you may have used some of your funds from internal operations to support some of this, so you may be -- however you finance this thing, it's creating that capacity, that you have a capacity to go out and do something, not necessarily that it's a certainly.

It's not that we aren't financing it today, but if I need to redeploy some assets to take care of other things, I may need to finance it later. For instance, I finance short-term -- I use short-term debt to support my construction in process. Okay. We may carry that a while. I may get good operating cash flows for a while. It doesn't mean -- when I'm doing that, I'm using short-term debt to do that, which is not a part of this application. I may need to refund that in the future or recast that if I have a different need more short term in nature.

So this is kind of giving me -- I think it gives us an idea of how much we've been able to finance over a period of time that may be available through other tools and we may need to refinance and have some capacity.

Q. Okay.

A. One of the additional troubling things with the statute is it doesn't tell you exactly how to come up with the number. We're looking at an authorization which is a reasonable level to authorize.

JUDGE JORDAN: Right. I think that is all the questions that I have just now. Are there questions from the Commissioners?

QUESTIONS BY COMMISSIONER DAVIS:

Q. All right. Mr. Waltermire, so you're asking for financing authority for a combination of things that would be existing things that you've already bought, maybe financed with short-term debtor whatever, plus things that may occur in the coming years?

A. Correct. That is correct. Plus, if I may?

Q. Sure. Go ahead.

A. Plus have sufficient available unutilized authority to respond to things that may happen in the future that we just can't predict with the kind of certainty that some people like. If we have to -- if we get too closely tied down and can't respond to a changing market environment, credit markets, whatever it is, it would put us in a very difficult position to continue to run the business. Part of what they request is these --

Q. So you're just looking for flexibility?

A. That would be correct.

COMMISSIONER DAVIS: Judge, can we go in-camera for just a second?

JUDGE JORDAN: Yes, sir. We will go in-camera. I am now muting and turning my camera away in case there are any lip readers out there.

COMMISSIONER DAVIS: I don't think there's anyone in the room that's not entitled to be here.

(REPORTER'S NOTE: At this point, an in-camera session was held, which is contained in Volume 2, pages 198 through 199 of the transcript.)

JUDGE JORDAN: And we are no longer in-camera.

COMMISSIONER DAVIS: I'll defer to Commissioner Kenney now.

JUDGE JORDAN: Commissioner Kenney.

QUESTIONS BY COMMISSIONER KENNEY:

Q. I'm going to come back to that. I want to go back to the questions that I was asking earlier of Ms. Rawlings of the difference between capital leases and operating leases, and she thought you might have an answer to my question. You were in the room, right?

A. I was, yes.

Q. Do you remember what I asked?

A. I believe you asked what's the difference between an operating lease and a capital lease.

Q. Well, that and whether it's all included in rate base.

A. Correct. The best way I can characterize this is an operating lease is a rent. You're renting the use of something. That expenditure goes through our operating expenses in the income statement, and then through the ratemaking process we would get recovery for that as a cost of business.

Q. You'd recover the expense?

A. The expense of that rental.

Q. But the asset itself doesn't get included in rate base?
A. Because it -- I'll come back to that, if I may. The capital leases basically say you have -- you have -- they treat the same type of asset, but due to the structure of the lease that you're going to consume almost the entire life and value of that asset as if you owned it. Therefore, that's when they look at it as a financing vehicle. You put the value of that lease as a liability on your books and you put it as an asset because you own it.
You then have to depreciate it because you're consuming that asset over the life, which then goes into the income statement and becomes an expense that's recovered through the ratemaking process. So it does become part of the rate base.
Q. And the depreciation is --
A. It you would be -- you would recover that through depreciation.
Q. You get to earn on the asset?
A. In that particular case, you would be earning on that asset because the cost of that lease has a component -- well, there's a cost to that lease as a liability. It's a financing vehicle.
Q. The value of the asset gets put into rate

base and you're able to earn on the value?

A. Correct. I would also -- in the case of an operating lease, somebody else is earning on that and I'm paying that through my rental. Either way somebody's earning a return on that cost recovery.

Q. Somebody is, but Laclede isn't?

A. No. You're correct. We would not be.

Q. And so it's more than just an accounting difference. I mean, it's a treatment -- it's a difference in the treatment of the asset. It's a difference between whether Laclede gets to earn on that asset, correct?

A. I believe that would be correct.

Q. All right. And that is what Laclede wants to do regardless of whether GAAP principles have changed or not?

A. We would like that ability to do that. We are not -- we have not -- clearly we don't have the authority to do it today, and we would like to look at it as one of those tools we would have available when evaluating all costs to support acquiring assets.

Q. What's the advantage, is there -- other than what I just identified in terms of being able to put the assets into rate base and earn on it, what are the advantages to Laclede of being a capital lease versus an operating lease?

A. It may be possible to finance the acquisition and the costs for more than what we could do on our own, which would be better for the ratepayers from that perspective.
Q. So a capital lease financing arrangement would be less expensive than an operating lease?
A. That's one of the things you would look at as you entered into it.
Q. But it's not an automatic? It's not automatically the case?
A. No. It's similar to how you would go out and issue any kind of financing. Let's use long-term debt. You'd look to say what's the yield curve look like, where's the best cost, should you be at 15 years, should it be 30? Those have different cost features. It's part of the evaluation that you make when you enter in that kind of arrangement.
Q. So Financial Accounting Standards Board is going to eliminate the category or is proposing to eliminate the category of operating leases?
A. They have a project evaluating whether they're going to do it.
Q. What's the rationale behind doing that, if you know?
A. I believe that they would view that every

lease -- they're looking at it from the structure of getting the asset on the book more likely than not and looking at the financing arrangements, just to get those obligations on the books, in the balance sheet, reflected in the balance sheet that you have that asset available to you. That's one of the reasons I believe that they're looking at it.

Q. All right. Let me go back to the issuance of this, the primary sticking point of 393.200. The Exhibit 3 that we've been talking about, the 279,417,945, that is -- is that how much you're seeking authority to issue so that you can retire this amount? What's the significance of this particular figure?

A. I would tell you it's a schedule submitted to satisfy -- I think from my perspective to satisfy the statute and to establish at least there's an amount of money that has not been unreimbursed to provide some basis on which to provide authority to enter into future financing.

Q. Do you have to use the proceeds -- if we grant you the authority to issue additional stocks, bonds, notes or other evidence of indebtedness payable longer than 12 months, do you have to use it to retire this number? Some of this is debt, right, the 279,417,945?

A. No. This is all assets.

Q. I thought -- like first mortgage bonds, isn't 40 million of this debt?
A. And we retired -- yes. Correct. That reflects during that period of time we retired some debt.
Q. You retired $40 million worth of debt, is that what that indicates?
A. Yes. So it was previous authority that we exercised, but then we retired it, so it's freeing it up to be used again.
Q. Let me just ask a rudimentary basic question. What are you going to do with this money?
A. The authorization we're asking for does not mean we're going to issue. What we're requesting is the ability to maneuver in the marketplace when those arise.
Q. So there's no correlation between this Statement of Unreimbursed Property Additions and unreimbursed Money Expended from Income to Discharge Funded Debt at March 31, 2009 and the authority that you're requesting?
You submitted this just to satisfy the statute because it asked you to look back five years, but there's not necessarily a correlation between this figure and the amount of debt that you actually may or may not issue?
A. I don't believe there's a direct

correlation between the two. I think this supports rate base, you know, including it in rate base and getting recovery that way, but it -- we're not sitting and suggesting that we're going to issue $279 million.

Q. Just to retire these items or reimburse yourself for these items expended. Doesn't the statute require that the money that you issue, the stocks, bonds, whatever the proceeds are from whatever the indebtedness is, that there are some specific items that it's going to be directed toward, if you know? And the only reason I ask you to interpret these statutes is because you took a stab at it.

A. I know. I'm probably going to regret that.

Q. Right. Go ahead.

A. I think again the statute refers to unreimbursed expenditures from the treasury. That's why financing -- I think it's saying to the extent you haven't already issued to reimburse the treasury.

Q. It says reimbursement of monies actually expended from income. So that's one -- monies that you've already expanded that come from income, or any other monies that are in the treasury that are unsecured, not issued from stocks, bonds, notes.

A. Not issued.

Q. Other monies that are in the treasury.

A. Moneys from the treasury that are not already committed.
Q. But don't you have to have identifiable expenses or expenditures rather that it would be going to reimburse?
A. Which in the future we do see that happening, I mean, through our -- through the three-year information on our capital expenditure, the 50 million in debt that's going to be refundable. What we don't know with precision looking for the future for reasons why we would do this is what else could occur that would require us to need to go get additional financing.
Q. That's looking forward, but I'm talking about the five-year look back. Don't there have to be some identified already expended monies that this -- that this new indebtedness is going to retire or refund? Yes, no or I don't know.
A. I think it's difficult for me to interpret that element of the statute.
Q. Me too. It is. That's why I think this is --
A. Again, we're not looking to reimburse the past. The authorization applies to the future, and we're clearly -- our balance sheet is clearly balanced at this point in time between financing and the assets we have on

the books. It's as we go forward, what is that mix that we're going to have to keep in balance? Do we have sufficient ability to keep the balance of our capital structure, maintain our credit rating, et cetera?

Q. So if we granted this authority, logistically what would happen? would Laclede go -- I mean, would you go open a line of credit for $600 million?

A. No.

Q. It's in anticipation of --

A. No. You don't go open a line of credit. You're just giving us the ability to go out and issue It --

Q. At a future --

A. -- at a future time as needed.

Q. So it's like -- but it's analogous to having a home equity line of credit that you don't necessarily start drawing down?

A. Correct.

Q. It's just available money?

A. The ability to go out and procure those funds for future capital expenditures if necessary to refund the 50 million in debt and anything else that may occur, such as changes in the gas markets or whatever.

The key is not to get caught short on liquidity so that you get in a crisis where you really can't move. We've seen where companies fail because they don't have sufficient liquidity and flexibility to get out there and keep the cash coming in to run the business. And that's part of the authorization, we believe, with that flexibility to give as an ability to maneuver in an ever-changing marketplace.

Q. I guess the statute contemplates treating short-term debt and long-term debt differently.

A. It does.

Q. And presumably that's to protect the assets that are committed to providing --

A. To ratepayers.

Q. -- providing service to customers, to ratepayers.

If you need the ability to finance something on a dime, isn't that -- can't you avail yourself of short-term credit, short-term borrowing credit facilities?

A. In most cases, yes. But if we go back to the fall of 2008, because of the falling gas prices we had, we bought our inventories we had to buy to go in to the winter. Those gas costs were very high. We had hedging program with the margin calls. We'd had two years of construction or three years, I guess, of construction in process. We had retired the 40 million in debt from

November of 2007.

We were heavily utilizing our short-term borrowing. So to go out and get additional short-term, that's no simple feat and puts you in a whole different place as well. That's why we needed the flexibility to -- and we had the flexibility at that time to go issue 80 million in debt to make permanent the refinancing of the 40 million that we retired earlier plus pay for some of these capital expenditures that we'd been doing through short-term debt.

So there is a relationship. It's hard to say which dollar was used to do what, but there's -- and short-term debt is not an infinite place. Also during that timeframe the commercial paper markets which we used to go out to to get 45 or 60-day borrowing capacity shrunk to a day. So now you're borrowing every day. You're in and out of that market. And then that market started getting more costly than just drawing on the bank lines themselves.

So we were able to flip and borrow off our bank line. Again, the flexibility of the structure that we had in place to keep the company in business, to run the company and get through that time when we had the -- to kind of carry the cash flow for a while.

Q. I think I get it. I just -- I understand why Laclede's wanting to do what it wants to do. The question really is whether this statute allows that. I know you're -- that's a rhetorical question. I don't have any other questions.

A. But again, the concerns about long-term certainly are governed and limited by some of the things we put in place and have been living by in the past.

COMMISSIONER KENNEY: I got you. Thank you.

JUDGE JORDAN: You're done. Here's what I'd like to do right now before we go back to recross and redirect, if there are any questions generated by this colloquy, to go off the record and have a brief discussion, not related to fact, but something that may move us along in the presentation of evidence. So we will take a brief intermission so that I may have a discussion with the parties or the least with their counsel.

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

JUDGE JORDAN: We are back on the record. Thank you very much, everyone.

COMMISSIONER DAVIS: Mr. Waltermire, will you please restate for the record -- I just offered you the opportunity to say whatever you wanted to. We're going to give Mr. Zephania Marevangepo the same opportunity. So what did you want to say again that -- go ahead.

THE WITNESS: I was clarifying a point that the amount of the authorization that's been requested by us, $650 million, is not in dispute by either party, and that the real difference between the two parties is about the amount of the limiter on the issuance of long-term debt during the three-year period that we requested and whether that's an appropriate limiter to put in place.

COMMISSIONER DAVIS: Okay.

JUDGE JORDAN: Commissioner Kenney had some questions about records in the --

COMMISSIONER KENNEY: I'm good.

JUDGE JORDAN: Okay. Then we're ready for recross from Staff.

MR. BERLIN: Judge, I have no questions of Mr. Waltermire.

JUDGE JORDAN: Very good. And any redirect?

MR. PENDERGAST: Just very briefly.

FURTHER REDIRECT EXAMINATION BY MR. PENDERGAST:

Q. I know I said it, but me saying it isn't evidence. Just on the Schedule 3 of unreimbursed capital expenditures, as the name implies, that's only capital expenditures that the company has made; is that correct?

A. It is only the capital expenditures we have made. Reflects no other longer term assets we may have invested in, including the pension asset, the regulatory assets on the books.

Q. Okay. Great. And you were asked a question about what portion of those may have been financed, were not financed, and the company does in between permanent financings finance with short-term debt; is that correct?

A. That is correct.

Q. Okay. And that's not the kind of debt or instrument that's covered by the statute, to your knowledge?

A. It is not.

MR. PENDERGAST: Thank you very much.

JUDGE JORDAN: Okay. That has generated no questions from me. Anything more from the Bench? Commissioner Davis?

COMMISSIONER DAVIS: No mas.

JUDGE JORDAN: Commissioner Kenney?

COMMISSIONER KENNEY: No, thank you.

JUDGE JORDAN: Thank you, Mr. Waltermire. I take it this witness may be excused. He's probably not here under subpoena anyway. Any objection? Can he leave? Can he go home if he wants?

MR. BERLIN: I have nothing further for

Mr. Waltermire.

JUDGE JORDAN: Thank you. You can also stick around if you want.

THE WITNESS: I'll be here.

JUDGE JORDAN: It is 3:30. Can we go on? Do we want a break? How do the parties feel?

MR. BERLIN: Could we take a short break?

JUDGE JORDAN: We'll take a break. Will ten minutes do for you?

MR. BERLIN: I think so.

Judge JORDAN: Then we'll take a break, ten minutes from now. Thank you, everyone.

(A BREAK WAS TAKEN.)

(EXHIBIT NOS. 8, 9 AND 10 WERE MARKED FOR IDENTIFICATION BY THE REPORTER.)

JUDGE JORDAN: We are back on the record. Has Laclede concluded its case in chief?

MR. PENDERGAST: We have, your Honor.

JUDGE JORDAN: Staff, you may begin your case in chief.

MR. BERLIN: Thank you, Judge. The Staff calls Staff witness Zephania Marevangepo. Good afternoon, Mr. Marevangepo.

JUDGE JORDAN: Please raise your right hand.

(Witness sworn.)
JUDGE JORDAN: Please proceed.
ZEPHANIA MAREVANGEPO testified as follows:
DIRECT EXAMINATION BY MR. BERLIN:
Q. Mr. Marevangepo, would you please state your full name for the record.
A. Zephania Marevangepo, first name Z-e-p-h-a-n-i-a, last name M-a-r-e-v-a-n-g-e-p-o.
Q. And how are you employed?
A. Utility Regulatory Auditor with the Missouri Public Service Commission.
Q. And how long have you been employed with the Public Service Commission?
A. About one and a half years.
Q. Mr. Marevangepo, did you cause to be prepared in this case direct and rebuttal testimony, the direct versions HC and NP, and rebuttal testimony in a question and answer format that has been prefiled in this case?
A. Yes.
Q. And do you have any corrections that you want to make to your testimony at this time?
A. Yes. My first correction to my rebuttal testimony on page 5, on line No. 3, I guess that sentence in line No. 3, the company, all the way to the end of the

paragraph, I am going to erase that. I'm going to replace it with this statement: Otherwise, the Commission should not provide Laclede authority to issue preferred stock under this authority.

Q. Do you have any other corrections to make?

A. Yes.

MR. PENDERGAST: Could you tell me what that is again? I'm sorry.

THE WITNESS: On page 5.

MR. BERLIN: Rebuttal.

THE WITNESS: Rebuttal.

MR. PENDERGAST: Okay.

THE WITNESS: Line No. 3, the sentence, the company has not done so. So from that point to the end of the paragraph, I'm going to erase those two sentences, and I'm going to replace them with this sentence: Otherwise, the Commission should not provide Laclede authority to issue preferred stock under this authority.

BY MR. BERLIN:

Q. Do you have any other corrections to make?

A. Yes. Page 7 -- page 7, the rebuttal testimony, line 22, after application, the word application, I'm going to put the case, the AmerenUE case, Case No. EF-2008-0349.

And line 23, I'm going to make a correction to the date. It's April 23, 2008. And I'm going make a correction to the number of weeks in that same line 23. I have two weeks. It's supposed to be four weeks. So move two to four. Those are my corrections.

Q. And that is all your corrections?

A. Yes.

Q. Now, Mr. Marevangepo, if I were to ask you the same -- well, let me just say, are the questions and the answers that you provided in your direct and rebuttal testimony, recognizing that you just made certain corrections, are they true -- have you answered them to your best information, knowledge and belief?

A. Yes, I did.

Q. And if I were to ask you the same questions today, would the answers be the same?

A. Yes.

Q. Okay. Thank you, Mr. Marevangepo.

MR. BERLIN: I tender the witness for cross-examination.

JUDGE JORDAN: Cross-examination?

MR. PENDERGAST: Thank you, your Honor.

CROSS-EXAMINATION BY MR. PENDERGAST:

Q. Good afternoon, Mr. Marevangepo.

A. Good afternoon.

Q. I'd like to start by just asking you a couple of questions about your corrections. Can you just tell me with that correction what Staff's position is on preferred stock?

A. On preferred stock, if the preferred stock -- there are different types of preferred stock. So if preferred stock is issued in lieu of debt, it's going to count against the authorized debt, long-term debt. If it doesn't carry any characteristic of debt, then it's going to be treated as regular stock, common stock.

Q. So is Staff's position the company is, as far as Staff is concerned, authorized to issue preferred stock, and if that preferred stock has a debt-like characteristic, it will count toward the debt limit that's established by the Commission?

A. Yes.

Q. And is the company also authorized to issue preferred stock if it doesn't have debt-like characteristics and that won't count towards the debt limit?

A. That won't.

Q. And that's Staff's position?

A. (Witness nodded.)

Q. Let me ask you another clarifying question. We've had some discussion about capital leases, and you recall we had a deposition; is that correct?

A. Yes.

Q. Okay. And as I understood it at the time of the deposition, Staff was saying that if the company was required to reclassify operating leases as capital leases as a result of federal changes and accounting standards, that would not count against the debt limitation; is that correct?

A. Yes. That's correct.

Q. Okay. And then I also asked you, well, how about replacement leases or new leases? These leases expire and they need to be replaced by another capital lease. Does that count against the debt or not? And you, I thought, were going to think about it. I was just asking what your thoughts are.

A. It will count against the debt limit.

Q. Okay. So if the company has, say, $20 million worth of operating leases reclassified as capital leases, that would not count against the debt?

A. Sorry. Please repeat the question.

Q. Yeah. Say, for example, the company had $20 million worth of operating leases. There's a change in the federal law or the federal accounting standards and it has to be changed to capital leases. That $20 million in capital leases would not count against the 100 million?

A. It won't count against.

Q. Okay. But if during the three years, let's say part of those capital leases expired, you know, they're associated with a truck or vehicles or something like that, and we had to replace it, that would -- that replacement amount would count against the debt limit?

A. That would become new debt and would count against debt limit.

Q. In your view it would be new debt even though it's not increasing the overall amount of capital leases outstanding?

A. Sorry?

Q. Well, I'm just saying, if you've got $20 million worth of capital leases because you've had to reclassify it, now 5 million of those capital leases expire, and so you have to go ahead and replace those trucks and you come up with additional capital leases for 5 million, you still have $20 million in outstanding capital leases, but the $5 million you would count towards the debt limit; is that correct?

A. If it's new to count.

Q. Pardon?

A. If it's -- maybe can you restructure your question again a different way --

Q. Sure.

A. -- that will help.

Q. I think you said that if we issued -- or we had to reclassify $20 million in operating leases to capital leases because of a change in federal accounting standards, that would not count toward Staff's proposed $100 million debt limit, correct?

A. That will not count.

Q. So we can do that and nobody would say, okay, that's 20 million off of your 100 million, now you've only got 80 left, right?

A. That's correct.

Q. What I'm saying is, during the three-year period, if some of those capital leases that don't count towards the operating lease or don't count towards the debt limit were to expire, you know, we had to go ahead and get new trucks, say 5 million expired and we replaced it with 5 million in capital leases. We still have 20 million. We haven't increased the total volume of our capital leases, but that extra 5 million or that 5 million that replaces the 5 million that we already had in effect, that would count towards the debt limit?

A. The 5 million that expired and you're replacing it?

Q. Yes.

A. That would count against the debt limit.

Q. Okay. And can you tell me why you don't count the 20 million against it but then you count the 5 million in replacement against it? What's the rationale behind that?

A. Because this one, it's the same as first mortgage maturing and you replace it with another first mortgage bond. That's the same reasoning. When you replace it, when it matures and you replace it, that's new debt.

The operating lease that is expired and now you're entering into new capital lease, because we give you this accommodation here that these ones are already in the books, the operating leases, they're already on the books, and if the lease agreement expires, now you'd be working under this new capital lease provision, that any new capital lease will count against the debt limit.

Q. I guess what I'm trying to understand is, if Staff's okay with 100 million in debt and it's okay with $20 million in capital leases, if the company's simply replacing a portion of that with another tier of capital leases but the overall amount isn't going up, it's not increasing above 20 million, why would you go ahead and say the 20 doesn't count, but if it's a replacement one, then suddenly a portion of it does? I don't understand that.

A. You are moving from operating leases to capital leases, so that's why we decided to give a special treatment to the operating leases that were already recorded in the books. And if you want to enter into new capital lease, it will count against the debt limit, but we decided not to change the name of those operating leases that already recorded.

So for the purpose of uniformity here in that we are not going to see operating leases anymore, that's why we give those ones that existing debt treatment. But once they expire, everything that is going to come as a capital lease has to first meet new conditions for a new capital lease. So if this one, the operating lease expires, whatever you are going to enter into is going to be considered by Staff as new capital lease.

Q. Regardless of whether it's just replacing the capital leases that you say are okay?

A. You are getting into new contract, right? I know you are using the word replacing, but you're getting into new contract. Understand?

Q. Sure.

A. So it's a new contract. So maybe we should stop using the word replacing. You're getting into a new contract, and we're saying our position on new contracts is that it counts against debt limit.

Q. Okay. What is there about a new contract that should make it count against the limit but not an existing contract?

A. I don't understand your question.

Q. Well, you said because it's a new contract we're going to count it against the limit but not the old contracts. I'm just saying, what is it about a new contract that's still under the 20 million or at the 20 million that should have it in Staff's view count against the limit?

A. Okay. The point is, you have these operating leases already, and we are trying to get into -- into capital lease, right, so we are trying to change the name here, but then we had operating leases already on the books. So we decided just give them that special treatment, and whatever treatment the capital -- new capital leases are going to have is supposed to be uniform, too.

So these ones, once they expire, you are getting into new contract. So in the books, when you are recording the books, the time period is going to be different because that -- the debt structure when you look at the capital structure, it's not going to change, but that one if it had expired and you do not replace it, the debt structure is going to be reduced.

But you decided to enter into new contract, and this new contract is supposed to be -- to observe the new conditions of the new contracts that we just talked about, that it will count against the debt limit. But since these ones were already recorded, we decided to give those operating leases that special treatment.

Q. Okay. That special treatment until they expire and then the special treatment goes away?

A. Once they expire, it goes away.

Q. And then you have to go ahead and use your debt to go ahead and have the same level of capital leases that you're comfortable with in the first place or initially?

A. I don't see it's making a difference right now.

Q. Let me ask you this. If we have to reclassify 20 million and then 5 million of that expires --

A. Yes.

Q. -- then we still have to go ahead and call these capital leases and we have to do another 5 million, that 5 million, even though the overall amount's only 20, has to come off the 100 million; is that right?

A. It's just a self correction of terms here. So whether it was operating leases, an operating lease before, yeah, we understand it was an operating lease and we give you this special treatment of converting those operating leases to capital leases without counting against the debt limit. We approved that was something that was already on the books. So when these leases expire, we just expect them to now, instead of working under the new conditions of new capital lease, they've got to be replaced.

So we didn't want to go back and say, those operating leases that you want to change to capital leases, they -- they deserve this other, this new authorization because they're already counted. They have a debt value already on the books. So I don't see them needing any -- any authorization in this case. They already have a debt value on the books.

So once they expire, now we are saying if they still want to have that debt value in the books, they're now operating under the capital lease and they have to have -- to observe those conditions of the capital lease.

Q. Okay. Well, let's move on. Under the scenario you just described, you said that you were authorizing 100 million debt because that is a more marketable size of bond potentially; is that correct?

A. Yes.

Q. Okay. And if we have a scenario like we just discussed where we have to reclassify operating leases as capital leases, and then a portion of them expire and we have to issue or we decide to issue 5 million in capital leases, we wouldn't have 100 million capacity anymore to issue bonds, would we?

A. I don't think that question is relevant right now because we are using the 100 million. That did not include expiring leases. If we knew that leases were expiring within three years, I guess Staff was expecting you to provide that information, so I don't think it's necessary, it's relevant to say if they expire they're going to count against the 100. It would be 100 plus that information that you just provided that was going to increase that 100. So you are comparing two different things here.

Q. Well, okay. I appreciate your comment that it's two different things, but if you could answer my question. Okay? If we're going to go ahead and issue or we're going to convert capital leases or operating leases to capital leases, $20 million worth, and during the three-year period a portion of those expired, and we do those same capital leases, still 20 million but 5 million of it's new, your position is we would have to take that off the 100 million; is that correct?

A. It will not come out of the 100.
Q. It does not come out of the 100 million?
A. Yes.
Q. It does come out of the 100 million?
A. It will not come out of the 100 million in the sense that it won't be 100 million anymore. You'd have provided information for us to increase that 100. So I'm not saying it will not come out of the long-term debt. I'm having a problem with your number. Maybe if you say it will come out of the long-term debt, just using the words, it will come out of the long-term debt. But if you say 100, it's not the number 100. That number would change if you give us the information of the expiring leases because that -- that would determine what number we come up with.

So if you tell us today that you have expiring leases worth 50 million, here you're not going to be having 100. You'll be having 150. So today you'll be asking me, is that 5 million going to be coming out of the 150, not 100? So I'm having a problem with your number. If you want to use the 5 million, you should give me information to change this 100 to.
Q. I'm just trying to get a sense of what Staff's position is and what your recommendation is, and now what I hear, I think I hear you saying is that if we

enter into new capital leases and we simply advise Staff that we've entered into those new capital leases, those won't be counted towards the debt; is that correct?

JUDGE JORDAN: Or is it that you will raise the debt limit to accommodate?

THE WITNESS: To accommodate.

JUDGE JORDAN: Thank you.

THE WITNESS: So if you give us that information of which operating leases are expiring, which we are supposed to know beforehand, so if we have that information or if we had that information when we came up with our recommendation, would have included that amount.

BY MR. PENDERGAST:

Q. Let me ask you, how will that work? If we come in and we say, okay, fine, we've just done 30 million in capital leases, we advised the Staff, will the Staff say, okay, you've got 130 million now?

A. We are saying the time that you filed your application, if you had furnished the information or if you had told us that we have 50 million worth of operating leases expiring within one year and your condition is saying operating leases that expire and they have to be replaced count against the debt limit, then we could have just increased that 100 to 150 by that number.

But I wasn't able to identify that number anywhere in your books or in the information that you provided. Otherwise, I'd have been more than glad to use that information to increase the 100 number.

Q. Well, I'm talking about an eventuality that hasn't occurred yet, and that's a change in Federal Accounting Standards. And what I'm asking you is, if there is a change in Federal Accounting Standards or if the company simply issues or enters into capital leases, is the company permitted to do so outside the $100 million cap that the Staff has proposed or not?

A. Before -- you're saying before the federal change has taken place, the FASB?

Q. Let's take it both ways. Let's say after the federal changes take place.

A. Uh-huh. You decide to enter into new capital lease or you decide to change the --

Q. Let's say they're reclassifying.

A. They're reclassifying?

Q. Right.

A. Whether -- whether the rule has changed, if the rule changes, it's okay, you're now allowed to enter into capital leases, and if you're just reclassifying them and nothing's expiring at the time, it won't count against the debt limit. That's what we said in the beginning. If it is just a matter of reclassifying and without talking about any operating lease expiring, that won't count against the debt limit.

Our main issue here or the issue between us, the company and Staff, is that what happens to those ones that expire within the three years, the three-year period and they have to be replaced, and we are saying those ones if they have to be replaced, that amount will count against the debt limit because it's considered a new contract, a new capital lease.

Q. That's fine. That's all I'm trying to do is get clarification. If it's a new one, say 5 million of 20 million gets replaced because it's a new capital lease replacing an old capital lease, that would have to come off the 100 million?

A. Maybe let's not use 100 million. I'm not comfortable in the number because the 100 million if you keep on using is not accommodating that number that you're talking about. Maybe if you give me an example and you say operating leases are 50 million and they're going to expire, then let's add that number and work with 150. I'm not comfortable. I know it's a simple argument, but I'm not comfortable with the number.

If we decide to use 100 million, I'll be more than happy if you also just make a suggestion that let's say 50 million expires and they're going to be replaced by new contract and then work with 150. I'm not comfortable with 100.

Q. Well --

A. I'm just saying --

JUDGE JORDAN: I don't think we're getting anywhere with this line of questioning.

THE WITNESS: I'm just saying, give me an example. If we -- if we are going to say operating leases, they expire, let's estimate a number. Let's use a number, a guesstimation here. Let's say 50. So that when you go ahead with your statement, you tell me, okay, if operating leases expire and they have to be replaced by new capital leases, we have to give that amount from the 150 number. That's what I'm asking for from you. I don't know why it's difficult, but that's what I'm asking for, so then I can be comfortable with the number.

JUDGE JORDAN: Well, you only get to answer the question that he asks. Now, if you think there's a better illustration, I'd be happy to hear that, but I don't think that Mr. Pendergast has one off the top of his head right now. Maybe we should leave that for redirect or something.

This is not productive here. You're not answering his question. I know you're not comfortable with it. Maybe what you're saying is you can't answer it in a meaningful way using those quantities. Those quantities, the numbers that he's using, are they misleading in some way?

THE WITNESS: Yes, they are misleading. They can be misleading to some extent. That's why I'm not comfortable.

JUDGE JORDAN: I think I understand the point he's trying to make. He's trying to get to your treatment of capital leases as debt and how that will work if this rule change comes along.

Let's start with the $100 million debt ceiling. Okay? We have a $100 million debt ceiling. Let's say we also have operating leases in the amount of $36 million.

THE WITNESS: Yes.

JUDGE JORDAN: $36 million. Now, these operating leases in the amount of $36 million --

THE WITNESS: Yes.

JUDGE JORDAN: -- are not within the -- do not count against the $100 million debt limit that you propose; is that correct?

THE WITNESS: You're saying if they are just reclassifying?

JUDGE JORDAN: We haven't got there yet. We haven't reclassified them yet. We're saying we have the $100 million debt ceiling that you propose, right?

THE WITNESS: Yes.

JUDGE JORDAN: There are operating leases in the amount of $36 million.

THE WITNESS: Yes.

JUDGE JORDAN: They do not count against the $100 million; is that correct?

THE WITNESS: That is correct.

JUDGE JORDAN: Now the conversion comes along. We've got operating leases. Now suddenly we treat them with a wave of our federal magic wand as capital leases. You're saying you will still not count them against the $100 million debt limit; is that correct?

THE WITNESS: That's correct.

JUDGE JORDAN: Okay. Now, the operating leases that are now capital leases, they all expire.

THE WITNESS: Yes.

JUDGE JORDAN: We enter into new contracts for whatever those things were.

THE WITNESS: Yes.

JUDGE JORDAN: They will be capital leases?

THE WITNESS: Yes.

JUDGE JORDAN: Okay. Will those capital leases, those new contracts, will they count against the $100 million debt limit?

THE WITNESS: Yes, they will count against that.

JUDGE JORDAN: Okay. Now, do I also understand that you are suggesting that, if this happens, that Laclede can come to you and ask for a little bit more debt limit on that basis; is that correct?

THE WITNESS: Yes.

JUDGE JORDAN: Now, there was one other question as to why the different treatment between these later capital leases and the ones that they, quote, replaced, but I think I understand your answer to that question, so I'm not going to ask it again.

THE WITNESS: Thank you.

JUDGE JORDAN: Please, proceed.

MR. PENDERGAST: Thank you.

BY MR. PENDERGAST:

Q. I appreciate the simplification. The only thing I would ask is, when the judge said they could come and ask you to go ahead and increase the debt limit, I'd just like some explanation of how that would be accomplished. Would you just be able to say you're doing that on your own or would you have to make a recommendation to the Commission and we'd have to go ahead and have another order? How would that work?

A. If they're expiring?

Q. Yeah. Under the scenario he gave --
A. Yes.
Q. -- where they've expired, we now have new ones that are replacements for the expiring ones, you said just come to me and I'll raise the debt limit. I'm just asking, how do you envision that process working?
A. I understand it becomes -- right now, at this moment, it's a question that I have to defer to my boss unless you ask me for an opinion. But if I'm just giving you my opinion, looking at the situation, if the application has already been filed and if you need that extra treatment, special treatment, it's just a matter of filing a supplement to the application, to the application we filed, we just need so much more authority. So that would be supplemental application.
Q. So your understanding is you would file a supplemental application, Staff would issue a supplemental recommendation, and the Commission would issue a supplemental order; is that what you have in mind?
MR. BERLIN: Judge, I'm going to object. I think that Mr. Pendergast is asking the witness to make some legal conclusions here, and I think that our Commission rules provide an answer to his question.
MR. PENDERGAST: Well, your Honor, I'm just trying to figure out how the proposal works.

JUDGE JORDAN: I understand. Well, since you think that's a matter of law, maybe you could give us your refections on that, because I'm interested, too. Would this be another application for financing authority?

MR. BERLIN: Well, certainly during the process Laclede is free to supplement their application with additional information identifying new needs and requirements, and I -- I view that as the mechanism within the confines of this financing case how they might do that.

Now, that said, I'm not sure where he's going with it. If he's thinking down the road a year from now that there's a new requirement and an Order has already been issued in this case, then he would file a new application case.

JUDGE JORDAN: That answers my question. Okay.

MR. PENDERGAST: I will take that as Staff's position. Thank you.

BY MR. PENDERGAST:

Q. Let me ask you this. In your testimony, do you recall saying that you don't believe it would be prudent to give Laclede financing authority to fund events -- and I'm referring to your rebuttal, page 7 -- that cannot determine will happen? Does that sound familiar?

A. That's page 7?

Q. Yes.

A. Line?

Q. Line 8. Staff does not believe it is prudent to recommend that Laclede be given financing authority to issue debt to fund events that Laclede cannot determine will happen. Do you see that?

A. Yes, I do.

Q. Okay. And when you say you don't believe it's prudent to give Laclede financing authority to address events that it's not known will happen, are you taking about the kind of flexibility that the company has requested and that's been addressed by Mr. Waltermire and Ms. Rawlings?

A. That's what I was referring to, yes.

Q. Okay. And is it your understanding that's the flexibility that's currently provided under the safeguards that the Commission has previously approved, namely the 65 percent debt regulated value of rate base?

A. I understand those conditions, but those conditions were not my focal point. When I was making a recommendation, I was looking at projections, what the company is going to need the money for. So this statement is talking about that same segment of my recommendation.

I wanted to know what the company is planning on using the money for.

Q. No. I understand that. I'm not -- what I'm asking you is, when you say it wouldn't be prudent to give the company the kind of flexibility to address events that haven't happened, are you talking about the flexibility that Mr. Waltermire and Ms. Rawlings have talked about that they get under the Commission's existing conditions? Is that what you were talking about?

A. I think in your question you just said events that haven't happened?

Q. Yes.

A. I wasn't focused on events -- I was focusing on what the company -- if it's an event that hasn't happened, I was considering it, but I wanted to know what the event is going to be in the future. So if the event is going to be a capital project, I wanted to know the capital project, but I wasn't able to identify the event. It was -- the term was just general, like we don't know what's going to happen.

So that's what I was referring to here, that when I said, you know, the company's saying we don't know what's going to happen, it's because I was failing to identify the projects that the company's planning on taking at the time or in the future.

Q. Fair enough. And what I'm asking you is, did the company provide you with information showing the cash outlays it's had to make as a result of, for example, margin calls that it's had to pay in the recent past?

A. If you say statement with margin calls, yes, they provided information.

Q. And do you recall over a period of time like nine or ten months those margin calls had accumulated to about $300 million?

A. I don't recall, but I believe that's correct.

Q. Okay. And are those the kind of uncertain events that can't be known for the future that you're referring to, those kind of things that the company discusses?

A. It's an unknown event. I know I'm going to give my explanation, but I'm not an expert on margin calls, because when I was doing this application, I was just focusing on future needs that were identifiable. So I couldn't identify that need from the information that you gave me.

Q. You can't identify that need because you don't know that it's going to happen again, is that what you're saying?

A. Because my understanding is that margin calls are costs that are supposed to be self liquidating, and they're supposed to be recovered from customers through rates, PGA. And from the statement that she gave me, I couldn't see the margin calls that would not be recovered within a billing cycle.

Q. Did the company provide you information showing every outstanding derivative instrument it had?

A. Yes, they did.

Q. Did they provide you information showing what months in the future those derivative instruments were associated with?

A. I don't recall.

Q. You don't recall?

A. Yes.

Q. Okay. But you know that they provided you with information showing every derivative that they had; you just don't recall whether it specified the month it was associated with and how much exposure we had towards it; is that correct?

A. The information that you're talking about might have been provided. I do not recall. And the reason why is because when I made my recommendation, like I said, I was focusing on the future on the projected needs. I was focusing on the projected needs. So those historical numbers were not part of my recommendation.

Maybe a margin call expert can look into that and help you to understand what Staff looked at because I know I consulted some of the people in that area, but I realize that I was supposed to focus myself on projected needs, and that's what I decided to do. So I wasn't paying attention to historical cost.

Q. Okay. I'm just trying to clarify whether it was a case that the company didn't provide me information or, instead, the company provided me information but I was focused on something else and I didn't review that information or don't recall what that information said. Is it the latter?

A. The information of margin calls I looked at it, but I didn't not even consider the historical amounts. I was interested in knowing the amount that cannot be self liquidated within the billing cycle, because my understanding of those margin calls is that they self liquidate. I don't know if I'm correct. They're supposed to self liquidate.

Q. Let me ask you a question. If it's a three-year hedging program and you're buying hedging instruments for three years, how long does it take to liquidate?

A. I think that --

MR. BERLIN: Objection. I'm going to

object. I think that's irrelevant. I think he's already answered Mr. Pendergast's question, and the witness has already said, if you want to get into these esoteric discussions on hedging and margin calls, we have a witness here who can answer those questions.

MR. PENDERGAST: Well, your Honor, with all due respect, he's the witness. He's the person that they chose to go ahead and say what the company's financing needs are, what the resources are, and that's fine. If he wants to say I don't understand this component of the company's business but I made my financing recommendation, I will accept that. If that's his testimony that I don't know about that aspect of the company's business, that's fine. Is that your testimony?

JUDGE JORDAN: First let me rule on the objection. I'm going to overrule the objection. If your answer is I don't know or I don't understand, you can certainly say that.

THE WITNESS: Can you rephrase the question again?

BY MR. PENDERGAST:

Q. Sure. Is it your testimony that you don't really understand that aspect of the company's business relating to the use of financial instruments, margin calls, what the length of time is that the company's exposed, et cetera? Is that something that you're not comfortable with and you don't understand?

A. If you may allow me to tell you my understanding of margin calls, maybe that will help you asking the question.

JUDGE JORDAN: That's not an answer to the question.

THE WITNESS: I understand part of the margin calls.

BY MR. PENDERGAST:

Q. Okay. The if that's the case, I'd asked you earlier, did the company provide you with information that showed every one of its derivative instruments, what months they were associated with, what our exposure was for all those months?

JUDGE JORDAN: This sounds like a question we've already had.

MR. PENDERGAST: Yes, and I think he said he didn't focus on it.

JUDGE JORDAN: And I recall his answer. So ask another -- you may ask another question.

BY MR. PENDERGAST:

Q. Okay. Given that, did you -- in looking at that information that was provided by the company, did you make an assessment of how much of those margin calls or financial exposure is for a longer than one-year period?

A. I did not look at financial exposure.

Q. Okay. Fair enough. When you say you do not believe it's prudent to recommend that Laclede be given financing authority to issue debt to fund events that Laclede cannot determine will happen, are you saying that that's the kind of financing authority that Laclede is seeking under its proposal in this case?

A. To some extent, yes.

Q. Okay. So you believe it's -- you believe it's imprudent to grant Laclede the financing authority that it is seeking in this case with the conditions Laclede has proposed to observe?

A. Okay. Can you please restructure it in a different way? Maybe I might end up getting a different understanding.

JUDGE JORDAN: Did you not understand the question? Please repeat the question.

THE WITNESS: Please repeat the question.

BY MR. PENDERGAST:

Q. Is it your testimony that it would be imprudent to grant Laclede the financing authority it has proposed in this case under the conditions that Laclede has proposed to observe?

A. Under the conditions -- given the

condition, it's not imprudent.

Q. Okay. So in saying it would be imprudent to grant authority for unknown events, you're not suggesting that the authority that Laclede is seeking in this case with the conditions is an imprudent --

JUDGE JORDAN: That's the same question.

MR. PENDERGAST: Okay. That's fine. I think it's been answered.

BY MR. PENDERGAST:

Q. And this, of course, is also the same kind of conditions that Staff recommended a few years ago; is that correct?

A. Yes, it was recommended, but I wouldn't -- I didn't know -- I don't know the full effect of the cases from the past because some of the recommendations were retained based on the ratios that we looked at and based on discussions between Staff and Laclede, we recommend this amount. I don't know the discussions that went between the company. I cannot claim to know 100 percent everything.

Q. Okay. But when we discussed that in your deposition, we talked about the fact you had talked to Mr. Barnes, who was the Staff person assigned to Laclede's license financing; is that correct?

A. That's correct.

Q. And while you indicate in your deposition that you disagreed with his approach, you didn't think Mr. Barnes was imprudent for recommending the approach that was approved by the Commission in the last case with the conditions Laclede is proposing in this case; is that correct?

MR. BERLIN: Judge, I want to object to that question. It is irrelevant because it's about a past case. The past case is not at issue here. What is at issue here is the authority that they're seeking in this case.

MR. PENDERGAST: Well, your Honor, he's the one that introduced the concept of prudence. He's the one that said it would be imprudent to do something. I'm just trying to go ahead and flesh out what it is that he thinks it would be imprudent to do. He doesn't think our proposal is imprudent apparently, and I'm just trying to go ahead and flesh that out as to whether he thought Staff in recommending the approach we proposed in this case was imprudent.

JUDGE JORDAN: I'm going to overrule that objection because I understand this line of questioning to be what conditions make a prudent authorization, and simply a reference to -- the reference to an earlier case does not make it irrelevant to this case. It's just sort of a background. It is not going to control my recommended decision.

BY MR. PENDERGAST:

Q. So I'll repeat the question. During our deposition you also indicated that you did not believe Mr. Barnes was imprudent for recommending the kind of financing approach that the company has proposed continue in this case; is that correct?

A. I don't recall saying he was not imprudent. I recall saying I cannot issue, give an opinion. And I think I remember saying, based on what he looked at, if whatever he looked at was reasonable, then that makes it prudent to him. But in my case, I took a different approach, so I didn't take a different approach at the same time judging Mr. Barnes. But I'm saying if he looked at information he looked at and if everything was satisfactory, then according to him it was prudent.

Q. Okay. Let me ask it this way. You're not saying he was imprudent, you're not offering that opinion; is that correct?

A. Yeah. I'm not giving an opinion.

Q. Fair enough. We also had some discussions earlier today and during our deposition with respect to prudence and unforeseen or unknown events, and I think you agreed that it's probably a prudent thing to do for somebody who is working to build up a so-called rainy day fund of additional cash resources in case they should lose their job; is that correct?

A. That's correct.

Q. Do you think that's a prudent thing to do?

MR. BERLIN: Judge, I'm going to object to that. That's not relevant to this case.

JUDGE JORDAN: Well, we're getting into the world of analogy. We've been here an awful lot today.

MR. PENDERGAST: I'll try to make it really brief. I'm just saying Mr. Berlin introduced the concept himself. Now his witness is up here. I could have questioned Mr. Berlin about it, I suppose, but, you know, I can't do that. So I'll be very brief. I've got two or three questions here.

JUDGE JORDAN: Let me make this suggestion. Rather than deal through analogy, ask him about this case. Instead of analogizing to a rainy day fund or a credit card for a college kid, let's just talk about this case. Maybe that will be a little quicker.

MR. PENDERGAST: Well, I think we've already established that he said our proposal is not an imprudent one, so I'll leave it at that and I'll leave off analogies.

BY MR. PENDERGAST:

Q. Okay. We talked a little bit about regulatory assets during your deposition as well; is that correct?
A. That's correct.
Q. Okay. And you indicated that you didn't know enough about how those regulatory assets were created or how they operated really to offer an opinion on how they should be financed?
A. At the time, yes.
Q. And you indicated that you weren't sure how long a period of time over which those regulatory assets are recovered; is that correct?
A. At the time, yes.
Q. And I asked you at the time to assume for me that some of them may be recovered over 15 or 20 years, whether you thought it was appropriate to use short-term debt to finance something like that, and I think you indicated that you didn't think it would necessarily be appropriate to use short-term debt; is that correct?
A. At the time that was my understanding, yes.
Q. Okay. And under your proposal, you don't make any allowances for regulatory assets; is that correct?
A. That's correct.
Q. Okay. And, in fact, under your proposal,

the only thing you make an allowance for is future capital expenditures; is that correct?
A. No, that's not correct.
Q. Well, future capital expenditures and repayment of expiring debt; is that correct?
A. That's correct.
Q. Okay. And just so the Commission understands how your proposal works, when you do your proposal and come up with your 100 million, you look at what the company's projected capital expenditures are, correct?
A. That's correct.
Q. What debt it has to repay; is that correct?
A. That's correct.
Q. Okay. And then whatever amount you come up with there, you apply all funds from operations to that except for the amounts paid out as dividends to reduce the level that you recommend be authorized for long-term debt; is that correct?
A. That's correct.
Q. So your assumption is that every dime the company makes from operations ought to go ahead and be used for supporting its capital expenditures, correct?
A. Yes. That's correct.
Q. Shouldn't be used to paying down short-term

debt, it shouldn't be used for other operating purposes?
A. That's not correct.
Q. Pardon?
A. That's not correct. That part is not correct. The part where you said it's not supposed to be used to pay short-term debt and those other operations, that part is not correct. That's not the reason why I used it in the formula.
Q. Well, let's say this. You used those and assigned them all to supporting future capital expenditures and paying down long-term debt; is that correct?
A. That's correct.
Q. Okay. Under those circumstances, what funds from operations are left over to pay for anything else?
A. Zero.
Q. Zero. Okay. And when you calculate your amount, you didn't give any consideration to unreimbursed expenditures; is that correct?
A. That's correct.
Q. You didn't consult the statute we've been talking about today, 393.200?
A. I talked to legal.
Q. When did you do that, when you were

formulating your recommendation?

JUDGE JORDAN: Let's not get into attorney/client matters.

MR. PENDERGAST: No, and I'm not asking him to reveal what the attorney said to him. I'm just asking him whether he consulted for that opinion before or after he filed his recommendation.

JUDGE JORDAN: I'm uncomfortable with that. I think I'm required to keep privileged matters out of the record.

BY MR. PENDERGAST:

Q. Okay. Let me ask this. You didn't take that the quantifications the company has offered under that statute into account in formulating your recommendation; is that correct?

A. That's correct.

JUDGE JORDAN: Delivery of this envelope signifies that the hearing is continuing past five o'clock. Okay. I can be here as long as the parties want me to be here. I can be here all night long. Does anyone have --

COMMISSIONER DAVIS: I'm sorry, but is this some bizarre ex parte communication. I'm obviously joking.

JUDGE JORDAN: It's not from any party. It is from my employee. So I'd like, if I may interrupt at this point, have an idea of what the parties would like to do after five o'clock. I can stay here.

MR. PENDERGAST: I think we can finish up. I don't have probably more than another 15, 20 minutes of --

COMMISSIONER DAVIS: Get on with it, Mr. Pendergast.

(Laughter.)

MR. BERLIN: Judge, I would agree with Mr. Pendergast, I think we can finish this this evening, today.

JUDGE JORDAN: You haven't heard my questions yet. I'm just kidding. Okay. That's fine by me. I'm flexile. Let's just take a break now for our reporter.

(A BREAK WAS TAKEN.)

JUDGE JORDAN: We're back on the record.

MR. PENDERGAST: Thank you.

BY MR. PENDERGAST:

Q. Mr. Marevangepo, do you recall us discussing during the deposition whether there was any textbook you could point to or authoritative source that described the Staff's formula for determining what kind of long-term debt utilities should be authorized to issue, and do you recall answering that you weren't aware of any particular authoritative text or source for that?

A. That's correct.

Q. You also mentioned in your direct testimony, we had a discussion about this at the deposition, about you being concerned about the impact of the company's financing proposal on the cost to the ratepayer. Do you recall that?

A. Yes, I do.

Q. Okay. And just to be clear, we'll try and make this short, under the Staff's approach, the company would be free over the next three years to issue approximately $100 million in debt and $500 million in equity; is that correct?

A. That's correct.

Q. And as we discussed during the deposition, for Laclede at least, today debt costs about 6 and a half percent; is that right?

A. That's about right.

Q. And the cost of equity might be somewhere between 9 and 10 percent?

A. That's about right.

Q. And are you aware when you issue debt, do you get to go ahead and deduct the interest after tax?

A. (Witness nodded.)

Q. Is that a yes?
A. That's correct.
Q. And my only question is, to the extent that the cost to the consumer is a concern, the Staff believes it's addressing that concern by authorizing Laclede to issue 100 million at 6 and a half percent and 500 million at 9 to 10 percent; is that correct?
A. That's not correct. That's not correct.
Q. It's not correct that you don't think you're addressing the cost issue with that, cost to the consumer?
A. In the context of this, the finance case, that's not correct. In the context of the finance case, that's not correct. My recommendation wasn't sending that message, that the company can issue stock that I know is around 9 percent.
Q. Well, just to be clear, though, the Staff is recommending that the company be authorized to issue up to $500 million of common equity that has a cost depending on, you know, what return you want to establish in a rate case, 9 to the utility may propose 10.5, 11 percent; is that correct?
A. That's not correct.
Q. Okay. Equity doesn't have that kind of cost?

A. I'm talking about the authorization. You said are we authorizing the company to issue common stock that I know is around 9 percent right now for 500. I'm saying that's not correct. The recommendation is recommending $100 million debt cap, and if there's any other need for identifiable long-term debt, the company can always bring that need forward to the --

JUDGE JORDAN: That's not the question that he asked, but I think he doesn't need to ask the question because it's already been --

MR. PENDERGAST: That's fine. I think the point's already been established.

JUDGE JORDAN: I think so.

BY MR. PENDERGAST:

Q. Now, I just wanted to ask, you talked about the Ameren case as an example in your testimony of the Staff being able to turn things around quickly in case one of these unknowable events occurs; is that correct?

A. That's correct.

Q. Okay. And I think you corrected your testimony to say that it took four weeks instead of two; is that correct?

A. That's correct.

Q. And then how long did it take after that for the Commission to issue its recommendation?

A. I don't recall.

Q. Okay. I think you had 20 days in originally. I don't know that you corrected that. Was it something different than 20 days?

A. I don't recall if it's a correction.

Q. If you didn't do it for four weeks, the Commission didn't approve it in 20 days, right?

A. That makes sense.

Q. But you don't know what it was?

A. I don't recall.

Q. Okay. And can you tell me, did Ameren approach you about a higher amount before it filed for the 350?

MR. BERLIN: I have to object to that question. That's not relevant to this proceeding.

MR. PENDERGAST: Well, I think it's relevant from the standpoint that we've expressed a concern about the market being able to move in very short periods of time. The Staff has said, no problem, we can go ahead and get a recommendation done.

What I'm just trying to find out is, is the recommendation or the filing that Ameren made, was it the one that they started with or was it the one they made after Staff potentially told them that their original amount wasn't going to work?

MR. BERLIN: Judge, if I could just interject. The Staff person that handled that Ameren case is sitting next -- the supervisor of that is aware of that case. I'm not sure that's really within Mr. Marevangepo's expertise, ability to answer on past history of a case.

JUDGE JORDAN: You know what we're really talking about here are things that are on file at the Commission.

MR. PENDERGAST: Yeah. And if he doesn't know, that's fine. I'm just trying to --

JUDGE JORDAN: The reason I mention that, do you need to ask this witness those things?

MR. PENDERGAST: Well, I'm pretty sure that, as he said, they filed for 350. What I'm trying to find out, was that something that the Staff had said, after they wanted more, that Staff would be willing to go along, as opposed to that's what Ameren wanted all along. I'm just trying to go and find out --

JUDGE JORDAN: Aren't we talking about something that's in the official files, the records of the Commission?

MR. PENDERGAST: Well, it would be if Ameren actually filed for that amount. What I'm tying to find out is did Ameren talk to the Staff before they filed and say, we'd really like this, and Staff said no.

JUDGE JORDAN: Do you have any knowledge of those conversations?

THE WITNESS: I do not have any knowledge of those.

MR. PENDERGAST: That's fine. That answers the question for me.

BY MR. PENDERGAST:

Q. And so they filed for 350, took four weeks, and as you're aware, from the example Ms. Rawlings gave, bond prices can move by 250 basis points in that period of time; is that correct?

A. That's correct.

Q. And let's say that the company does come in and says, we've got an emergency. We think that long-term rates are going to be increasing significantly soon, or they say, we think short-term rates are going to go above long-term rates and it's time to pay down some short-term debt and lock something in. Are you suggesting that under those circumstances Staff would be able to respond in two weeks or four weeks with a recommendation on that?

A. It depends. It has never been done before. I cannot say yes or no. It depends.

Q. Okay. And do you have any opinion of, if the Staff disagreed with the company's decision or desire to do that particular financing and made a recommendation that the Commission not approve it, would we have to have a hearing like we've had in this case, or do you know?

A. I don't know what would happen at that time.

MR. BERLIN: I want to just interject an objection. I think he's moving more towards a legal question.

JUDGE JORDAN: Well, it was his idea, so I think we can ask some questions to prove his understanding of that. So I'll overrule that objection. And certainly his testimony is not going to bind our decisions as to what procedures will apply in any case.

Please proceed.

BY MR. PENDERGAST:

Q. Is it your contemplation there would be a hearing and testimony under those circumstances?

A. No. I wouldn't expect this setup to happen again.

Q. You don't expect what to happen again?

A. To have the hearing and the filing of testimony again. I would expect supplemental application.

Q. You don't expect there to be any more disagreements between the company and the Staff?

JUDGE JORDAN: No. His answer is he doesn't expect a trial to occur. From this answer and from his previous answer, that's what I believe.

BY MR. PENDERGAST:

Q. You think if the company comes in in a situation like that, the market's moving, you don't believe that there would be any --

JUDGE JORDAN: That sounds like the same question.

MR. PENDERGAST: Well, I'm just trying to clarify whether or not he believes under those circumstances the Staff would agree with the company. I mean, when you say there's not going to be any dispute or there's not going to be any hearings, is that because the Staff's going to agree with the company?

JUDGE JORDAN: His previous response -- your earlier question was, what if we disagree?

MR. PENDERGAST: Right.

JUDGE JORDAN: He said, I don't know. You asked, will there be a trial? He said, no, I don't think so.

MR. PENDERGAST: Well, I'm tempted to go ahead and ask how it gets resolved under those circumstances, then, if we have a disagreement.

JUDGE JORDAN: I don't think that would be helpful.

MR. PENDERGAST: I will labor not to do

that.

JUDGE JORDAN: We're entering into the rhetorical questions at that stage.

BY MR. PENDERGAST:

Q. Let me ask you this just for background because I don't think it's apparent in the testimony. During the deposition we discussed your background and qualifications, and I think you indicated that prior to joining the Commission you had no finance-related experience, work experience; is that correct?

A. That's correct.

Q. You worked at ABB and basically built transformers; is that correct?

A. That's correct.

Q. Okay. And so prior to joining the Commission, you had academic instruction on finance matters, but that was the extent of your financing exposure; is that correct?

A. That's not correct.

Q. Okay. You had financing experience where else, other than school?

A. Maybe if you define -- by financing experience, which financing experience are you referring to?

Q. Well, let me ask you this: I asked you in a work capacity if you had ever issued or been a part of a team that issued securities, correct?

A. That's correct.

Q. And you have not had that experience; is that right?

A. That's correct.

Q. I asked whether you had ever supervised or managed a financing portfolio; is that correct?

A. That's correct.

Q. And you indicated that you had not?

A. That's correct.

Q. I asked if you had ever gone ahead and prepared a budget, financial budget. You indicated you had not?

A. That's correct.

Q. Okay. So is there other financing experience you have had that you didn't talk about in the deposition?

A. Before I came, that's -- what you said, that's correct.

Q. Okay. And I meant before you joined the Commission.

A. I understand.

Q. Since you joined the Commission, you've been involved in, I think you said, two cases?

A. Yes. That's correct.
Q. In which you didn't file recommendations, but you submitted input or you had input; is that correct?
A. That's correct.
Q. Okay. And this is the first case that you've actually submitted a recommendation in; is that right?
A. That's not correct.
Q. Okay.
A. I mentioned there were two cases that I provided input, and there's one case that I provided recommendation, and that was the KCPL case.
Q. Okay. The KCPL case you provided recommendation, and that was on the loan they had with the city?
A. Yes. That's correct.
Q. Right. And the city wanted it secured and you said okay?
A. That's correct.
Q. Other than that, no recommendations besides this one?
A. Financing, yes. That's correct.
MR. PENDERGAST: Just a moment, your Honor. Thank you, Mr. Marevangepo. I appreciate it.
JUDGE JORDAN: Redirect?

MR. BERLIN: Yes, Judge. Thank you.
REDIRECT EXAMINATION BY MR. BERLIN:
Q. Mr. Marevangepo, you recall that Mr. Pendergast had asked you some questions about the conversion of operating leases to capital leases? Do you recall his questions?
A. That's correct. Yes, I do.
Q. In the application that you reviewed, did Laclede identify an amount that would need to be converted if that accounting change occurred?
A. I didn't -- they did not provide.
Q. In the application that you reviewed, did Laclede provide you an amount of new capital leases that they intended or would intend to enter into?
A. They did not.
Q. Mr. Pendergast had asked you some questions regarding margin calls. Do you recall those questions?
A. Yes, I do.
Q. And if you could, could you tell me, what is your understanding of the status of Laclede's hedging program that caused the need for margin calls?
A. Okay. I understand their hedging program ends in 2011. So from my understanding, that's why I wasn't comfortable with those two-year hedging programs going out when I know that their program ends in 2011.

Q. Okay. In their application, in the company's application, did Laclede identify any amount of long-term capital that they wanted to put towards margin calls?

A. No, they did not.

Q. And Mr. Pendergast had asked you some questions regarding the authority and the conditions. Just to clarify, you are recommending the conditions propounded by the Staff in this case; is that correct?

A. That's correct.

Q. You're not recommending Laclede's conditions?

A. That's correct.

Q. Now, Mr. Pendergast had asked some questions on regulatory assets. Do you recall those questions?

A. Yes, I do.

Q. Did the company identify any amount of long-term financing needs specifically for regulatory assets?

A. No, they did not.

Q. Mr. Pendergast asked you some questions that related to your consideration of funds from operations. Do you recall those questions?

A. Yes, I do.

Q. And in the application, did the company identify an amount of their funds from operations that they would need for any specific purpose?

A. No, they did not.

Q. Now, you may recall when Mr. Pendergast asked you if you were aware of any textbook or authoritative sources that supports the formula that you used in your recommendation. Do you recall those questions?

A. Yes, I do.

Q. Are you aware of any information other than textbooks that use that formula?

A. Other sources, yes, I do.

Q. And what would those sources be?

MR. PENDERGAST: I'm going to object.

THE WITNESS: It's a collection of sources.

JUDGE JORDAN: Hang on a second. What is your objection?

MR. PENDERGAST: Based on the vagueness of the question. He said what other sources use that formula without specifying for what purpose, and I don't want it to be a misleading, somebody uses it for something totally unrelated to financing authority and have him say they do and then have it cited as authority for the purpose in this proceeding.

JUDGE JORDAN: Can you restate your question?

BY MR. BERLIN:

Q. Okay. Mr. Marevangepo, are you aware of any other sources for information that you use that formula to project free cash flow?

A. Yes, I do.

Q. And what are they?

A. The credit rating companies, the information that they report, I used it as one source. The presentations that Laclede gives whenever they do their meetings, I used it as a source, too, to come up with that amount.

JUDGE JORDAN: Overruled.

MR. BERLIN: Okay. One moment, Judge, please.

JUDGE JORDAN: Sure.

BY MR. BERLIN:

Q. Mr. Marevangepo, do you recall the questions that Mr. Pendergast asked you that related to cost of debt issuances and the cost of equity?

A. Yes.

Q. Do you recall those questions?

A. Yes, I do.

Q. Did the company identify to you in its application anything that would raise that cost concern that should be considered in its application to you?

A. Did they identify?

Q. Yes. Did they raise that concern or identify that as a concern in their application?

A. They did not.

Q. Mr. Marevangepo, Mr. Pendergast had asked you about the AmerenUE case that you cited in your testimony. Do you recall his questions on that?

A. Yes, I do.

Q. Did the Commission issue its Order in that case, that is the case where AmerenUE came in for an emergency financing application to meet a certain requirement, did the Commission issue its Order by the date that AmerenUE had requested?

A. Yes, they did.

Q. And you may recall that Mr. Pendergast asked you some questions about certain emergency applications. Is it helpful if the company when they file an emergency application identifies a specific need?

A. Yes.

Q. And if the company identifies a specific need in support of their emergency financing application, does that help you speed up a Staff recommendation?

A. Yes, that would.

Q. And then finally, I think, Mr. Pendergast asked you certain background questions and I think related to your recommendation. Mr. Marevangepo, in developing your recommendation in this case, as a fairly new employee, did you ever consult with your supervisor, Mr. Murray?

A. Yes, I did.

Q. And did he review your work?

A. Yes, he did.

MR. BERLIN: Okay. Thank you, Mr. Marevangepo.

Judge, I have no further questions.

JUDGE JORDAN: Thank you.

QUESTIONS BY JUDGE JORDAN:

Q. I've got a question for you, and I'm going to try to keep my inquiry brief. It's something that's been bothering me. Maybe you can help my out with it.

Do I understand that the idea of the $100 million debt limit is based on the purposes set forth in the application and those purposes reasonably support that amount; is that correct?

A. That's correct.

Q. Okay. Why does that apply only to debt? Why not also to equity?

A. Because for the purposes of the finance case, we were just asking the company to provide information that support the amount of long-term term that they wanted to issue, and the reason why we're here today is because of that same reason. They are not fighting for equity. They are fighting for an extension in long-term debt.

Q. I'm just wondering why the different standard. In other words, it's because they asked for a certain amount. You said, well, what purposes are you going to use your debt for; is that correct?

A. That's correct.

Q. And they gave you these purposes. You didn't ask about the equity?

A. That's correct.

JUDGE JORDAN: That's all I have. Does the company have any further recross that would generate redirect, possibly more questions from the Bench?

MR. PENDERGAST: Based on your questions?

JUDGE JORDAN: Yes.

MR. PENDERGAST: No, no questions.

JUDGE JORDAN: Did you have anything based on my question?

MR. BERLIN: No, Judge.

JUDGE JORDAN: Okay. Then that's it for this witness, is it not? Okay. And does that conclude the Staff's case in chief, then?

MR. BERLIN: Yes, it does, Judge.

JUDGE JORDAN: Very good. Thank very much. You are excused, released from any subpoena that anybody has for this witness. You can stay around if you like, go home if you like.

Well, okay then. I think the next thing for us to discuss is post hearing briefs, and here's what I want to do on the record. I want to tell you what I have in mind. I would find most helpful post hearing briefs that are in the form or at least include proposed findings of fact and conclusions of law.

Also, I don't really like reading the same thing twice, so I have a feeling that certain facts will be subject to an agreement by the parties. That is, they can generate a stipulation certainly of very basic facts. So I'd like the parties to include that in the briefing as part of the briefing. Anything that you can agree that will not require further decision by the Commission will be really helpful.

Beyond that, I will ask the parties to get together and file a proposed briefing schedule. I don't think we need to do that on the record right here and now. I'll ask you to file something jointly. When do you think you could file a joint proposed post hearing briefing schedule?

MR. PENDERGAST: I don't see any reason why we couldn't have it here by Thursday.

JUDGE JORDAN: Does that sound reasonable to Staff?

MR. BERLIN: Sure.

JUDGE JORDAN: Okay. All right. Well, I don't have anything else. Are there any other matters that we need to take care of before we go off the record? I can't think of any.

MR. BERLIN: Judge, I would like to add one exhibit, and that was these presentation slides that I made in my opening statement for reference, and I -- I'm just going to go out and say that I did pull some slides from the American Gas Association presentation that Laclede had made in May of '09. I'm certainly okay if we put all those slides in if Mr. Pendergast wants to do that. I just picked some out that I thought were germane to background.

MR. PENDERGAST: If we can just reserve the same procedure on that that we did for the other documents where selected excerpts were provided, I'd appreciate it.

JUDGE JORDAN: Understood. I will add that to my list. We'll need an exhibit number for that. I take it there is no -- other than that reservation, you have no objection to the admission of these into the record, Mr. Pendergast?

MR. PENDERGAST: No objection.

JUDGE JORDAN: Okay. Thank you very much. Anything else before we go off the record and adjourn this hearing? Anything from the applicant?

MR. PENDERGAST: Nothing further, your Honor. The only thing I'd say is we will go ahead and file that request for a change in the effective date hopefully on a joint basis sometime in the next day or two.

JUDGE JORDAN: I'll be looking forward to making that decision. And you'll be filing a joint proposed briefing schedule by Thursday?

MR. PENDERGAST: Right.

JUDGE JORDAN: Anything from Staff?

MR. BERLIN: Nothing, Judge.

MR. POSTON: With that, then, we are adjourned and we are off the record.

WHEREUPON, the hearing of this case was concluded.

(EXHIBIT NO. 11 WAS MARKED AND RECEIVED INTO EVIDENCE.)

I N D E X

EXHIBITS INDEX

C E R T I F I C A T E

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

I, Kellene K. Feddersen, Certified Shorthand Reporter with the firm of Midwest Litigation Services, do hereby certify that I was personally present at the proceedings had in the above-entitled cause at the time and place set forth in the caption sheet thereof; that I then and there took down in Stenotype the proceedings had; and that the foregoing is a full, true and correct transcript of such Stenotype notes so made at such time and place.

Given at my office in the City of Jefferson, County of Cole, State of Missouri.

____
Kellene K. Feddersen, RPR, CSR, CCR