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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
TRANSCRIPT OF PROCEEDINGS
Hearing
December 5, 2006
Jefferson City, Missouri
Volume 9

In the Matter of Atmos Energy)
Corporation's Tariff Revision)
Designed to Consolidate Rates and)
Implement a General Rate Increase) Case No. GR-2006-0387
for Natural Gas Service in the)
Missouri Service Area of the)
Company)

NANCY M. DIPPELL, Presiding,
SENIOR REGULATORY LAW JUDGE.
STEVE GAW,
ROBERT M. CLAYTON,
COMMISSIONERS.

REPORTED BY:
KELLENE K. FEDDERSEN, CSR, RPR, CCR
MIDWEST LITIGATION SERVICES

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FOR: Staff of the Missouri Public
Service Commission.

1 P R O C E E D I N G S

2 JUDGE DIPPELL: We'll go ahead and go on
3 the record. Good afternoon. This is Case GR-2006-0387,
4 and this is December 5th in the afternoon. We're
5 reconvening the hearing. My name is Nancy Dippell. I'm
6 the Regulatory Law Judge. And we're going to begin with
7 just a couple of housekeeping things. We left pending an
8 objection to Exhibit 19. Mr. Poston, you wanted to make a
9 remark?

10 MR. POSTON: Yeah. We were going to
11 withdraw our objection to that exhibit being introduced in
12 evidence. We have some follow-up questions that we would
13 like to introduce on redirect of Ms. Meisenheimer. So I
14 understand there will be no objections to those, so we
15 withdraw our objection.

16 JUDGE DIPPELL: Then I will receive
17 Exhibit 19 into evidence.

18 (EXHIBIT NO. 19 WAS RECEIVED INTO
19 EVIDENCE.)

20 JUDGE DIPPELL: And I also received copies
21 of the complete Exhibit 139 from Staff counsel, and you
22 gave copies to the other counsel, is that correct,
23 Mr. Berlin?

24 MR. BERLIN: I did.

25 JUDGE DIPPELL: I'm not going to rule on

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1 that. I'm going to let you-all have a chance to look at
2 that, since it's rather lengthy, unless you know that you
3 don't have objections to it.

4 (No response.)

5 JUDGE DIPPELL: Okay. I'll give you-all a
6 chance to look at that in its entirety, and you can make
7 objections -- I'll set a time for that.

8 MR. POSTON: Judge, we also have the
9 Atlanta Gas Light exhibit webpages that Ms. Meisenheimer
10 talked about.

11 JUDGE DIPPELL: All right. That was marked
12 as Exhibit 141.

13 (EXHIBIT NO. 141 WAS MARKED FOR
14 IDENTIFICATION BY THE REPORTER.)

15 JUDGE DIPPELL: Has counsel had a chance to
16 look at this? Do you need more time?

17 (No response.)

18 JUDGE DIPPELL: Mr. Berlin, have you had a
19 chance to look at this?

20 MR. BERLIN: I have just glanced over it.

21 JUDGE DIPPELL: Okay. I'll give you more
22 time. We'll --

23 MR. POSTON: Judge, you said this is 141,
24 right?

25 JUDGE DIPPELL: Yes. It's as if it had a

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1 Staff number, but -- okay.

2 Okay. I said we were going to begin, we
3 were going to call Mr. Smith back up to the stand, and
4 finish with Commissioner questions. We're not going to
5 have any further Commissioner questions, but we did have
6 some recross, is that correct, based on yesterday's
7 Commission questions?

8 MR. BERLIN: That's correct.

9 JUDGE DIPPELL: Okay. So let's go ahead
10 and call Mr. Smith back up.

11 Mr. Smith, you were sworn in yesterday and
12 your exhibits have been admitted -- or you were sworn in
13 Thursday, I think?

14 THE WITNESS: Yes.

15 JUDGE DIPPELL: So you remain under oath in
16 this proceeding.

17 THE WITNESS: Okay.

18 JUDGE DIPPELL: All right. Is there
19 cross-examination based on questions from the Bench from
20 Staff?

21 MR. BERLIN: Yes, Judge. I have just a
22 couple questions.

23 GARY L. SMITH testified as follows:

24 RE-CROSS-EXAMINATION BY MR. BERLIN:

25 Q. Mr. Smith, are you familiar with the

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1 Atlanta Gas Light Company?

2 A. Yes, sir.

3 Q. Were you present during the line of
4 questionings -- questioning yesterday with regard to
5 Atlanta Gas Light?

6 A. Yes, I was.

7 Q. Are you aware or can you tell me what their
8 authorized rate of return is?

9 A. Yes, I can. Their authorized rate of
10 return is 10.9 percent.

11 MR. BERLIN: Staff has no further
12 questions.

13 JUDGE DIPPELL: Okay. Is there any further
14 cross-examination from Public Counsel?

15 MR. POSTON: No.

16 JUDGE DIPPELL: All right. Is there
17 redirect?

18 MR. FISCHER: Just a little bit.

19 REDIRECT EXAMINATION BY MR. FISCHER:

20 Q. Mr. Smith, Commissioner Clayton asked you,
21 I think, to compare the weather normalization adjustment
22 mechanism that Atmos originally had proposed in this case
23 to the Staff's proposed rate design. Would you elaborate
24 a little bit on your answer on that, compare the
25 differences?

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1 A. And I believe that's in regard to the
2 weather mitigating impact of either rate design?

3 Q. Yes, please.

4 A. Well, both, you know, the -- I guess
5 basically, you know, if you look at it, there is
6 weather -- there's pretty full weather mitigating
7 coverage under the delivery charge rate structure for the
8 residential class and for the small general service class.
9 And if you look at the original proposal by the company,
10 we proposed to do really two things in regard to weather
11 mitigation. One is a modest move of the base customer
12 charge, and secondly the weather normalization adjustment,
13 which I sponsored.

14 Actually, that weather normalization
15 adjustment was to apply to the residential and commercial
16 class. And so really for the two service types that are
17 subject to the delivery charge rate structure, I would
18 kind of view it as there's pretty full weather mitigating
19 effects of the delivery charge rate structure that would
20 have been basically the same under the proposal of the
21 company.

22 Q. I believe the Commissioner also asked you
23 about what percent of fixed costs were included in the
24 company's original customer service charge. Have you had
25 a chance to check the answer to that?

1 A. I did. As I suspected, that was in
2 Ms. Childers' testimony and that was in her prefiled
3 direct. And basically in her testimony on page 9,
4 line 25, she references a table, which is also adjoining
5 her testimony, which points out that really under the
6 proposed rate design by the company, we were going to
7 have 39 percent of our total revenue would be through the
8 customer charge.

9 Q. But am I correct that as a part of that
10 proposal, you also had the WNA?

11 A. That is correct, yes. Layered on top of
12 that for residential an and commercial, we have had WNA.

13 Q. And how would that affect the overall
14 weather mitigating impact of both combined proposals?

15 A. As I say, really for the residential and
16 the small general service, I look at both as being full
17 weather mitigating rate designs. For the other classes of
18 service, there isn't any weather protection for the
19 company or for the customer.

20 Q. I believe there were also some questions
21 regarding the limited number of companies that had the
22 fixed delivery charges. Do you recall those?

23 A. Yes, I do.

24 Q. Could you also indicate whether there are
25 other companies that have other weather mitigating

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1 adjustment mechanisms?

2 A. Yes, and I've not attempted to recount
3 those, but when you're looking at weather mitigating rate
4 designs, even just through the weather normalization
5 adjustment mechanism itself, for example, by last count
6 there are nearly 20 states that have such mechanisms
7 approved by one or more utilities in their service area.
8 And I believe that I counted nearly 40 utilities by my
9 last count that have weather normalization, weather
10 mitigating rate designs.

11 Q. Okay. And in the discussion with
12 Commissioner Clayton, while you were talking about the
13 Staff's rate design proposal, I think you also indicated
14 that the company chose to abandon its original weather
15 normalization adjustment proposal. Would you explain why
16 they did that, why you did that?

17 A. Well, we did that -- in my prefiled
18 testimony, I also talked a little bit about decoupling
19 mechanisms and the dilemma that is faced by utilities in
20 this environment that we're in. But really in this case
21 when the Staff proposed a delivery charge, Staff witness
22 Ross made some pretty compelling arguments for the
23 delivery charge rate structure.

24 The ones that really struck me, resonated
25 well with me was, for one, the rate design that she

1 proposed that the Staff was proposed was simple, it was
2 understandable by the customers and, unlike many other
3 decoupling mechanisms that are cropping up throughout the
4 US, it didn't have a correction factor component whereby
5 you go back in and calculate the dollars lost to
6 conservation and get a little bit -- those are much more
7 complicated and certainly, from the customer standpoint,
8 not as understandable.

9 And then finally, I think she made some
10 very good points that I had not seen raised in the way
11 that she did in her testimony which dealt with the cost to
12 provide service, and the examples that she used were
13 really small, low-use customers, say logs-only-type
14 customers, and that the cost really to serve them is no
15 different than a larger multi-appliance residence. And I
16 thought that was a good compelling argument.

17 So those were the primary reasons why we
18 were drawn to endorse their rate design.

19 MR. FISCHER: I believe that's all I have,
20 Judge. Thank you.

21 JUDGE DIPPELL: Thank you. Mr. Smith, I
22 believe that concludes your testimony, and you may -- this
23 is the last issue, right, for you, the only one for you?

24 THE WITNESS: I believe it is.

25 JUDGE DIPPELL: You may be excused.

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1 THE WITNESS: Thank you.

2 JUDGE DIPPELL: All right, then. I
3 believe we also concluded Ms. Ross' testimony on the
4 rate design issue, and we were going to go back and
5 complete Ms. Meisenheimer's testimony on rate design
6 with Commissioner questions. So if we could have
7 Ms. Meisenheimer to come back to the stand.

8 Ms. Meisenheimer, you've also been
9 previously sworn, and your exhibits have been previously
10 admitted, and I'll just remind you that you're still under
11 oath.

12 Commissioner Gaw, did you remember where
13 you left off?

14 BARBARA MEISENHEIMER testified as follows:

15 QUESTIONS BY COMMISSIONER GAW:

16 Q. It's a little off topic from where we were
17 yesterday, but let me -- you have testified, I believe, in
18 regard to this disconnection charge, and I'd like to ask a
19 few questions about that.

20 A. Okay.

21 Q. First of all, can you briefly describe the
22 proposal for the disconnection charge that I believe Staff
23 has and Atmos is in the same position, if I'm correct. If
24 I'm not correct, tell me.

25 A. And are you talking about the seasonal

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1 disconnect --

2 Q. I am.

3 A. -- aspect.

4 Okay. The -- the Staff proposes to have
5 customers that have been -- or that leave the system
6 voluntarily to repay, if you will -- or to pay, not to
7 repay, but to pay any lost delivery charge that the
8 customer might have avoided, so the Staff wants its
9 delivery charge and to, on a mandatory basis, allow the
10 company to recover that equivalent amount of revenue from
11 customers if they voluntarily leave the system and sign
12 back up.

13 Q. Now, how long would they have -- how long
14 would they have before that would not apply, if you know?

15 A. I'm going to -- I'm going to have to look
16 in Mike Ensrud's testimony. He specifically addressed
17 that, and I --

18 Q. I can --

19 A. I want to say a year, but I need to verify
20 that. He's not shaking his head, so yes, one year.

21 Q. Okay. So if they -- if they reconnect
22 after a year's period, then this penalty wouldn't apply?

23 A. Yes.

24 Q. But if they reconnect within the year
25 period, then it would apply?

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1 A. Yes.

2 Q. Now, what if they moved from one residence
3 to another and there was a time frame in between when they
4 weren't hooked up? Would they pay that -- would they pay
5 that additional amount during the time when they weren't
6 hooked up if they change residences but both times they
7 were being served by Atmos?

8 A. I'm sorry, I'm not sure of Mr. Ensrud, his
9 intention on that, and I think it's fair to let him
10 characterize his position on that.

11 Q. Okay.

12 A. In the event that he were to propose that a
13 customer moving from one location to another should have
14 to pay it, I don't think that would be appropriate, just
15 like I don't think it's really appropriate to force the
16 customer to pay for service when they don't use it.

17 Q. So Public Counsel opposes this position,
18 correct?

19 A. Yes.

20 Q. Now, have you ever seen this kind of a
21 proposal before, and if so, when?

22 A. I have not seen this type of proposal
23 coupled with a delivery charge that collects everything on
24 an equal basis from residential customers. And there are
25 companies and, in fact, this company in its -- in a number

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1 of its districts has a mechanism by which it can recoup a
2 portion of costs that is the customer charge for a number
3 of months if a customer disconnects. And I actually have
4 that detailed information in something I could root out,
5 if you need that level of detail.

6 Q. I'm not sure that I do, but would it tell
7 me how -- what's in existence now compares to this
8 proposal --

9 A. Well --

10 Q. -- in regard to the impact on a consumer?

11 A. Typically, traditionally, we have
12 determined a customer charge, and what's included in that
13 customer charge includes things like the cost of the meter
14 and the cost of the service line, those things which are
15 dedicated on the customer's premise to serving the
16 customer. And so in that case, where the company tradit--
17 or already has mechanisms in place to go back and collect
18 revenue that it did not collect because the customer was
19 not taking service, it would have, in theory, recovered
20 the cost of the service line and the meter and the other
21 dedicated at the premise revenue, if you will. The
22 Staff's proposed delivery charge, however, collects the
23 entirety of non-gas cost from residential customers. So a
24 customer that took no service at all in terms of volumes
25 would not only be forced to pay the cost of the meter and

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1 the service, but they would also be asked to pay toward
2 the other costs of the system, whether or not they took
3 volume one.

4 Q. Explain the distinction you're making, if
5 you would.

6 A. Well, I think that it makes a large
7 difference in terms of dollars that a customer would have
8 to pay if they -- let's say they disconnected for a month,
9 and certainly it's going to depend on what month it is,
10 but let's say there's a \$7 customer charge. The
11 customer's off for a month. They have to pay an
12 additional \$7 plus reconnection charges, things like that
13 to get back on the system.

14 In the case of the delivery charge and --
15 and I don't have the updated number. It varies by
16 district. Let's say that the Staff's proposed delivery
17 charge in an area is \$20. Then that means the customer
18 who's off for a month has to pay back \$20 instead of \$7.
19 Actually, I keep using the word pay back, but I don't mean
20 that. It's not a -- it's not that the customer owes it
21 from my perspective. It's instead that the company is
22 allowed to charge it to the customer.

23 Q. And what I was really asking is, do you
24 believe that that is unfair or inappropriate and, if so,
25 how?

1 A. I believe that it is unfair and
2 inappropriate. The -- the company lays service pipe and
3 obviously, you know, has a customer base. That customer
4 base varies. Some costs are not directly attributable to
5 a particular customer. Instead they're common costs that
6 must be allocated in some fashion, and typically the value
7 of service, the theory of value of service says there's a
8 value in both having access to and in actually utilizing
9 facilities.

10 So I think it's fair and appropriate that
11 both elements be recognized in designing rates, and that's
12 traditionally supported a customer charge and a volumetric
13 rate.

14 Q. And in this case the proposal is not for
15 that, but all of them to be in the one fixed charge. So
16 how is that -- how does that match up with what you just
17 said?

18 A. Well, it is not consistent with a
19 traditional mechanism which values of service to both
20 aspects, access to and use of, instead of --

21 Q. I'm sorry. Can you give me an example of
22 what you mean as a portion of what is access to and then
23 the other portion that you refer to? Can you give me an
24 example of what you're referring to?

25 A. Well, and please feel free to stop me if

1 I'm not headed in the --

2 Q. Obviously I am, but go ahead.

3 A. Certainly there are facilities on a premise
4 that are dedicated to that premise, and in my perspective
5 more than a particular customer, because there's the issue
6 of renters and whether the Staff is going to apply the
7 same policy to renters as non-renters. But the meter, the
8 service line, those are more obviously dedicated to a
9 premise and that's the piece that has traditionally been
10 collected in a customer charge. This company, some other
11 companies, but I don't believe all districts for all
12 companies have the ability to recoup that if the customer
13 chooses not to take service for some number of months.

14 Q. Okay. There's some other portion of the
15 charge that you think really isn't attached to the
16 premises, right?

17 A. Not -- not directly attributable to a
18 premise.

19 Q. And can you give me an example of something
20 that fits into that category?

21 A. Mains, measuring equipment also, you know,
22 traditionally we have assigned costs where expenses follow
23 plant. So the expenses associated with, say, for example,
24 mains would be allocated traditionally in the same
25 mechanism as the main plant would be. So in addition to

1 just the actual physical facilities, a lot of the expenses
2 including directly attributable expenses and then some cut
3 of the overhead costs also tend to be allocated in that
4 same fashion, and I might point out that the Staff, in
5 fact, in preparing their own cost studies used that
6 traditional method.

7 Q. And when you're using that method, the kind
8 of services that you're referring to, the mains and the
9 overhead, would that generally be more attributable to --
10 in the rates as to the volumetric portion?

11 A. Yes.

12 Q. All right. So Staff is in this -- in its
13 proposal, even though you've just testified that they --
14 that they used this in their analysis, they have ignored
15 that traditional way of allocating to some degree those
16 costs between a volumetric and a fixed charge?

17 A. Yes. There is a disconnect between their
18 cost studies and their cost methodology and their rate
19 design proposal.

20 Q. Who did their cost studies, do you know?

21 A. Tom Imhoff sponsored the cost studies. I
22 believe that Dan Beck also worked with developing some of
23 the allocators. Ms. Ross actually crunched some numbers
24 in term of the large customer usage patterns, and I think
25 there were other people. There were a couple of people, I

1 think, that worked on weather normalization. All of those
2 different aspects go into portions of developing the cost
3 study, but the cost study witness was Tom Imhoff.

4 Q. Okay. Was that cost study done before
5 Staff formulated its direct testimony on rate design?

6 A. It was filed with the rate design. I'm not
7 sure, you know, before -- all I know is what they said
8 when they filed, and the cost of service I saw at the same
9 that I saw this rate design proposal.

10 Q. If I were looking at -- well, let me ask
11 you this: In looking at the cost study that you're
12 referring to, did it infer a certain appropriate division
13 in rates between a volumetric and a fixed charge amount,
14 do you know?

15 A. Yes, I do know. I actually --

16 Q. Can you go into that a little bit for me?

17 A. I'd be happy to. Actually, as part of
18 our -- as part of our preliminary agreement in this case
19 with respect to the exchange of data, the Staff provided
20 to me their work papers, including their cost of service
21 studies. And typically I rely on a lot of the data
22 produced by Staff to do my own cost studies, and in fact,
23 as this case progressed, I ultimately agreed to use their
24 mains allocator.

25 But the Staff, just like our cost study, at

1 one step in their process they sort out what are the costs
2 of, say, for example, services, and what are the cost of
3 meters in total? What's the total dollar amount that's
4 going to be allocated to each customer class? And so you
5 are able to divide that by the number of customers in that
6 district, if you will -- the Staff used three, I used
7 seven -- and that would come up with the portion of those
8 costs that are going to be allocated if you did it on a
9 per customer basis, which the customer charge
10 traditionally is.

11 So the Staff actually did have in their
12 studies -- I think it's a historic thing. I don't know if
13 they're going to try and change that in the future or not,
14 but historically they've calculated that inside their cost
15 studies, and I believe they relied on it in testimony in
16 the past.

17 Now, I don't -- what I remember seeing
18 specifically are the plant-related accounts, and so, you
19 know, had identified as being related to a customer
20 portion. And I don't know if, you know, they intend to
21 change that going forward so it won't be -- so it won't
22 disagree with their rate design or not.

23 Q. If you were looking, again, at their cost
24 studies and their allocation, if the rate design had been
25 similar to that, would the current rate design in the

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1 division between that Atmos is using now, would it vary
2 far from those cost studies in regard to what should be in
3 volumetric and what should be in fixed charge, if you
4 recall?

5 A. Yes. Yes.

6 Q. In what way? Give me some --

7 A. Well --

8 Q. -- inclination.

9 A. The Staff's cost studies would pick up
10 certain elements of plant cost, primarily the meter and
11 the service, the cost of the service line at the premise,
12 and they would capture that in those costs which they
13 would later identify as being customer related and recover
14 through a customer charge.

15 In this case, it literally takes every type
16 of cost -- the rate design from a theoretical perspective
17 takes every type of cost and recovers it as part of a flat
18 fixed rate.

19 Q. That's the proposal that Staff has?

20 A. That's the proposal.

21 Q. Now, what I'm asking you at this point is,
22 does the cost study, if it were split along the lines that
23 you have traditionally seen Staff do it, would it -- would
24 it be close to the current, not the proposal, but the
25 current split that we have in Atmos, if you recall?

1 A. There were a number of districts.

2 Actually, I may have that information right here with me.

3 Q. Okay. Good.

4 A. The west central rate district which
5 includes Greeley and Butler, and this is -- this is a copy
6 of the Staff's cost study that I printed off. It was the
7 work papers that supported direct testimony.

8 Q. Okay. Is it marked as an exhibit, do you
9 know?

10 A. No. I have all three and would be happy to
11 make you copies if you would like them.

12 Q. Perhaps if we're going to get into too much
13 detail on the numbers, we would want to do that. I'll ask
14 the Judge how she would prefer to handle the record.

15 JUDGE DIPPELL: I can certainly mark that
16 as an exhibit or I'll -- you say there's three?

17 COMMISSIONER GAW: The main purpose at this
18 point, Judge, is in the event we're talking about numbers
19 off of a document, there be some identification of that
20 document in the record.

21 THE WITNESS: I'm looking at what I have
22 printed off as the second page, and if you decide you'd
23 like them, you know, I'll certainly be happy to number the
24 pages to correspond to this discussion. That's --

25 JUDGE DIPPELL: And this is, you said, the

1 cost studies from Staff?

2 THE WITNESS: Yes.

3 JUDGE DIPPELL: That was to support --

4 THE WITNESS: Their direct testimony. It
5 was filed -- it was the work papers from their direct
6 testimony. And they may have changed some numbers, you
7 know, along the way to agree with their accounting
8 schedules. Okay.

9 BY COMMISSIONER GAW:

10 Q. Now, is any of this HC, highly
11 confidential?

12 A. I don't believe that the -- that the
13 structure of the Staff's cost study could really be
14 considered highly confidential. I can talk generally
15 about that. There are specific numbers that are
16 allocated, like tens and hundreds of thousands of dollars
17 of, if you have any interest in those, but I think I can
18 shorten the answer.

19 Q. That would be good.

20 A. And what I tell you I don't think would be
21 highly confidential.

22 Q. Okay.

23 A. All right. The -- this is the Staff's cost
24 study, as I said, for the west central rate district,
25 keeping in mind the Staff did three consolidated areas.

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1 Even though their accounting Staff did seven revenue
2 requirements, the Staff combined and only did three class
3 cost of service studies.

4 All right. On the second page of this, the
5 Staff has identified -- and I did verify that these cells
6 actually pull from numbers and they're entered elsewhere
7 in their studies. They weren't just hard-coated leftover
8 things. There are some titles. One is total revenue to
9 collect from class, and then a subtitle of that, amount to
10 be collected in customer charge, and then identifies a
11 group of costs. One of them is direct service line cost.
12 Another is direct meter cost. Another is direct regulator
13 cost. And those three categories of cost actually have
14 numbers in them.

15 Then there's some other things below it,
16 and I don't really know whether because of the Staff's
17 rate design they're doing this part specifically
18 differently or not. I didn't go back and compare to like
19 their cost studies in the ANG case or anything, but they
20 have direct billing costs, direct meter reading costs and
21 direct customer service costs, all three have zero in
22 them.

23 Anyway, the next line says dollars to
24 collect in customer charge, and it comes up with a total
25 amount of dollars. They do a little gyration for

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1 transport customer adjustment. Come up with the remaining
2 dollars, divide by the number of bills, so that this gets
3 you a per bill customer charge, and so it's titled
4 customer charge from COS, which typically means cost of
5 service, in this case \$6.

6 Q. That would be the fixed charge or variable
7 charge?

8 A. And then they have customer charge rounded
9 to \$7.

10 Q. All right.

11 A. But I mean, I actually went in and looked
12 at these numbers, and it looked to me like the Staff did
13 not, in fact, actually just round each of these. Where
14 they were -- where they were different, one of them
15 actually should have rounded to 6 and instead it was hard
16 coated 7. So I think maybe the Staff might have been
17 considering -- I don't really know why they did it, but I
18 don't think the rounded number is actually correct for
19 each of the districts, just a qualification.

20 And similar, but the reason that I say that
21 is because the Staff did something similar for the other
22 two districts, and while it rounded to -- while in its
23 cell it calls rounded to, they put the same number. It's
24 not really the same if you actually do the rounding
25 mathematically. So while it appears that, you know, they

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1 round all to the same for each district, that's not really
2 the case if you were to actually do the calculation.
3 That's what I was trying to say.

4 Q. Okay.

5 A. Did you need anything more than that?

6 Q. What I'm asking you is, based on the cost
7 studies that you have there, can you -- is there a way to
8 derive what would be an appropriate split between
9 volumetric and fixed charges if you were using cost
10 studies as a guide?

11 A. Well, if the cost studies, the
12 customer-related portion of the cost studies, directly
13 assignable cost looks to be something more in the
14 neighborhood of 6 to \$7.

15 Q. Okay. And as you go through the other
16 districts, can you give me a number for them?

17 A. Yeah. What I was -- what I was trying to
18 say is I think they end up almost identical for the
19 districts, that piece of it, although that's not exactly
20 the case because the numbers aren't -- they're hard coated
21 in some cases.

22 Q. Thank you. I think that clarifies that
23 part for me.

24 A. Okay.

25 Q. So the other portion of whatever the

0533

1 charges would be would fall into a volumetric rate?

2 A. Yes.

3 Q. Yes.

4 A. Typically. And as I said, you know, the
5 Staff may or may -- they may or may not. If they were
6 proposing a traditional rate design, I'm not sure if they
7 would want to capture other things in that basket. I'm
8 sure that Tom Imhoff or Dan Beck, who's been doing these
9 cost studies for years, could tell you about that.

10 Q. Okay. Now, what are the current fixed
11 customer charges in those districts?

12 A. I have these on a worksheet, and I'm hoping
13 I actually have it with me today. They vary from -- I
14 mean, I can give you an idea without --

15 Q. Well, if you have a range, that would be
16 helpful.

17 A. I believe the range is from \$5 up to maybe
18 \$9.05.

19 Q. Okay. And Staff's proposal again is to go
20 to what fixed charge?

21 A. It varies by district, and I really do need
22 that sheet to be able to answer these questions well. I
23 calculated them based on the billing determinants that
24 have been agreed to in the case.

25 JUDGE DIPPELL: Ms. Meisenheimer, is that

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1 the same as what Ms. Childers had attached to her
2 surrebuttal at -- page 1 of 2 of her Schedule 2 of her
3 surrebuttal had the current -- currently effective rates,
4 including a customer charge, or is what you're talking
5 about different?

6 THE WITNESS: I do remember talking at this
7 hearing about what they were and confirming -- confirming
8 that I agreed with them, but for some reason I was
9 thinking that that was as compared to Ms. Ross' testimony.

10 I hid them right in the front. All right.
11 Here we go. Are you interested in what they would be on a
12 consolidated basis as the Staff's proposed or
13 unconsolidated?

14 BY COMMISSIONER GAW:

15 Q. Why don't you give me both?

16 A. Okay.

17 Q. I want the unconsolidated ones first.

18 A. Unconsolidated first. Kirksville 11.94;

19 Butler 18.67; SEMO 13.86; UCG 25.33; Palmyra 14.12;

20 Greeley 25.37; Neelyville 18.28.

21 On a consolidated basis, Kirksville 20.61;

22 Butler 19.43; SEMO 13.92; UCG 20.61; Palmyra 20.61,

23 Greeley 19.43, Neelyville 13.92. And those are based

24 on -- or the way I got the calculation is I took the

25 revenues that have been agreed to in this case by district

1 and divided by the customer bills that have been agreed to
2 in this case by district.

3 Q. Okay.

4 A. And then I combined where there was a
5 consolidated district as proposed by the Staff.

6 Q. Okay. I apologize for jumping around here,
7 but you filed testimony, I know, along with Mr. Trippensee
8 in regard to an appropriate ROE; is that correct?

9 A. Primarily I introduced Mr. Trippensee as
10 the witness on that issue. I did mention -- I did mention
11 that, you know, we believe it's appropriate that there be
12 some consideration, I think I said some things probably
13 about the Laclede stipulation, which I participated in, in
14 working on, and then I think I also mentioned something on
15 the North Dakota rate design where there was a different
16 revenue requirement offered.

17 Q. Would you feel comfortable in answering
18 questions in regard to a reduction in ROE because of a
19 decreased amount of risk?

20 A. To the extent my expertise allows as an
21 economist, and, you know, to the extent I worked a little
22 bit in this area before. But as a general rule, you know,
23 if it gets very complicated, it would probably be better
24 to talk to Mr. Trippensee.

25 Q. Well, if it does, just let me know.

1 A. Okay.

2 Q. I'm interested just in general at this
3 point in the -- in the concept of risk to the company, and
4 whether or not moving to a fixed charge as opposed to a
5 fixed charge plus a volumetric charge increases, decreases
6 or leaves risk the same for the company.

7 A. When you allow the company a fixed recovery
8 and couple it with a mandatory recovery mechanism that
9 benefits the company, then you certainly reduce the
10 company's risk of not earning a level that will satisfy
11 investors.

12 Q. And if you -- just generally, how is that
13 risk lowered?

14 A. The company -- the company's revenue stream
15 is less dependent on the weather. Each year there is more
16 certainty that the company will achieve a certain level of
17 performance from the viewpoint of shareholders, and
18 therefore, it appears to be less risky investment.

19 Q. Generally, when -- is a company's risk of
20 importance in traditional ratemaking and making decisions
21 about what the appropriate return on equity should be?

22 A. Generally, yes. If you would like to go
23 more into it, this would be close to where I'll pass it
24 off.

25 Q. All right. And Public Counsel has proposed

1 a reduction in ROE if the Staff's proposal on rate design
2 is adopted; is that correct?

3 A. Yes.

4 Q. Now, do you know whether Staff proposed as
5 a part of its ROE recommendation that their resulting
6 recommendation included a reduction because of the
7 lowering of risk with the fixed rate? Do you know the
8 answer to that?

9 A. I believe the answer to that is no, and I
10 base that on a number of things. One of them is that
11 Ms. Ross agreed or admitted that she had not spoken to
12 Mr. Barnes prior to Mr. Barnes filing his testimony. It's
13 my recollection from prehearing -- discussions at the
14 prehearing conference that, in fact, the Staff had not
15 included a consideration of a reduction of rate of return.

16 Certainly that was an issue near and dear
17 to our hearts. We wanted to talk about that. We talked
18 about it at length in Laclede, and it -- as you know, the
19 Laclede stipulation specifically indicates that return was
20 considered in developing the stipulation in the case where
21 we gave them a rate to design which reduced their weather
22 risk, and we felt that was appropriate.

23 We believe it would be appropriate in this
24 case, as it would be in the future as well. In cases
25 where you reduce a company's weather risk, you know, I

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1 think it's reasonable and fair to customers to account for
2 it by a lower return.

3 Q. In some of the discussions in the
4 Prehearing Briefs, if I recall correctly, there was
5 some -- some discussion about an allegation or a question
6 of whether or not Atmos might actually be overearning. Is
7 that true, that there's some discussion of that? Do you
8 know?

9 A. I -- I know that that is an issue for us.
10 I actually spoke about it in my testimony and would be
11 able to address it.

12 Q. I'm interested in knowing, first of all,
13 does Public Counsel believe that currently Atmos is
14 overearning?

15 A. This is an area where we typically rely on
16 the Staff. We have a limited accounting staff of two
17 that's working on all the cases --

18 Q. All right.

19 A. -- in the state, and the Staff, the
20 Staff's, you know, witnesses filed testimony that was
21 supported in -- not just presented in direct, supported in
22 rebuttal, and also in surrebuttal that they believed the
23 company was earning by approximately 1.2 -- overearning by
24 1.2 million. So I assume that the Staff could support
25 their claims.

1 Q. Well, but Staff isn't taking a position in
2 this case, are they, that there should be a reduction in
3 revenues by that 1.2 million?

4 A. That's true. They're willing to go to
5 zero. I'm not entirely clear why.

6 Q. In other words, what you're saying is
7 they're willing to not advocate for a reduction in the
8 revenues of the company, even though they appear to have
9 filed testimony that suggests there is that overearning
10 occurring?

11 A. Yes.

12 Q. I assume that's not Public Counsel's
13 position?

14 A. No. I mean, we -- I'm not really our --
15 I'm not an accountant, and we have Russ Trippensee who
16 watches over that area for us and might be better able.

17 But, you know, to the extent that we review
18 and rely on the Staff's testimony in those areas, and I
19 think that there was one -- one issue maybe that
20 Mr. Trippensee still had a concern with with respect to
21 the Staff's revenue requirement, one or two, but as a rule
22 we supported the Staff's decision and were concerned that
23 they appeared to be leaving \$1.2 million on the table in
24 this case.

25 Q. There is that \$78,000 or something, though,

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1 that's being contributed for conservation efforts?

2 A. Well, that's another area where I don't
3 think that the details are concrete enough to ensure that
4 this is actually going to happen in any reasonable time
5 frame. There's not detail about who's going to run this
6 program. I'm not sure if the Staff is now proposing that
7 the company do it, contrary to the Staff's position in
8 past cases where local community action agencies handle
9 those type of programs.

10 I don't think there's enough detail for us
11 to feel confident that that will actually happen any time
12 soon to aid those -- you know, to provide weatherization
13 to those 30 homes.

14 Q. Now, so I think you've answered this
15 question. I don't want to belabor this. So you believe
16 there is a significant benefit to the company in going to
17 this rate design?

18 A. Absolutely. They like it better than what
19 they proposed themselves.

20 Q. What makes you say that?

21 A. They have abandoned their own position
22 proposing a weather normalization adjustment instead to
23 give up \$3.3 million that I assume they believe that they
24 needed in order to go to zero and get this rate design.

25 Q. Is it understandable that they would prefer

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1 this rate design, in your opinion, based upon your
2 experience, to the one they proposed initially? Is it
3 understandable that that would be more beneficial to the
4 company than the one the company actually proposed?

5 A. I think when you balance the support from
6 the Staff, together with the revenue stream that it
7 produces, against the past decision of this Commission not
8 to accept a weather normalization in another case, so when
9 you consider all of those factors, then yes.

10 Q. Now, I want you to tell me, because I've
11 heard testimony, the suggestion that this is going to
12 benefit those people that you represent, this rate design.
13 And I'd like to hear your view on whether -- what your --
14 your opinion on that position.

15 A. There are some customers that would benefit
16 under this rate design. High use customers are going to
17 get a bargain compared to what they've been paying. I
18 mean, I reviewed underlying data from a subset of
19 customers based on testimony or data that Anne Ross
20 requested from the company and found that, you know, the
21 usage might vary from 200 CCF annually up to, I believe
22 one of the levels I saw was 2700 CCF annually. So there's
23 a huge difference in some cases between the usage of
24 individual customers.

25 Those high use customers, they're going to

1 benefit because they won't pay as much. Low use customers
2 are going to be negatively impacted. They are going to
3 pay more, and that varies by district. There's also this
4 issue of or this -- the consolidation issue also creates
5 issues between how our customers in the current districts
6 are affected. Say, for example, Kirksville. When you
7 combine kirksville with other areas, is Kirksville -- or
8 is there the amount that they pay distorted from what it
9 was? Yes, it will be. So there are impacts both just on
10 low use customers within a district and there are impacts
11 across districts that are being proposed to be
12 consolidated.

13 Also, another problem that -- a serious
14 problem that I see with this rate design is the Staff
15 proposed it for the smallest small general service
16 customers, and I did an analysis, and it's in my
17 testimony, and I felt that I did that very conservatively,
18 and what it showed was that if you go from 2,000 CCF per
19 year, where you'll pay the residential delivery charge, to
20 2,001 CCF, you could pay substantially more.

21 It creates discontinuity in terms of the
22 rates, and I -- honestly, I do not feel that there is
23 substantial evidence the Staff has provided with any
24 numbers backing it that you should rely on to impose this
25 type of rate design in a case where you're not going to

1 give a company any increase.

2 Q. So overall, I assume that it's Public
3 Counsel's view that those that you represent are more
4 harmed -- there's a net harm to the group as a whole?

5 A. Yes, in this case, and also potentially in
6 the future, if the Staff continues to propose this type of
7 a rate design. I mean, where does it stop? Does it stop
8 at natural gas or do they then decide that they need to
9 introduce this into electric? Do they think it needs to
10 apply to generation facilities where the fixed -- where
11 the costs are primarily fixed?

12 I mean, I see this -- this proposal is bad
13 in this case. It is bad policy. I cannot recommend that
14 you would adopt this. I hope you won't. It would be even
15 worse to spread this type of policy, not just in this
16 state but then to other states that go, oh, let's go look
17 at what other states are doing. Here's Missouri, they've
18 got this rate design, and maybe we ought to look into it.

19 So this is not a model. There may be
20 models for us to adopt in Missouri, and Public Counsel has
21 proposed programs. We are willing to look at rate designs
22 that accomplish additional conservation in energy
23 efficiency. This is not the one. Send us to the table --
24 may I read you something that you guys said?

25 Q. Well, let me -- well, let me ask you what

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1 it is.

2 A. It's from the MGE case. It's what the
3 Commission said about the PAYS program that I'd proposed
4 in this case.

5 Q. MGE case, regarding?

6 A. It's in the Order.

7 Q. Regarding a question of a rate design that
8 was similar to the one that's proposed?

9 A. No. It discusses the customers -- or the
10 Commission's interest in the PAYS program.

11 Q. Why don't you just refer to it, and then we
12 can read it?

13 A. It -- essentially what I think it says is
14 that the Commission is interested in the PAYS program.
15 You're interested in conservation and efficiency. You,
16 however -- or the Commission, the majority of the
17 Commission felt that it was appropriate to look at that in
18 a broader -- to address it in maybe -- maybe a statewide
19 consideration.

20 But, I mean, those kind of things, if you
21 allow this type of rate design now, where you give a
22 company everything that it could ask for and more, without
23 reasonable concessions that benefit customers, it will --
24 it will never bring them to the table.

25 Q. Is implementing a move toward design,

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1 toward a fixed charge an opportunity for your office, for
2 conservation advocates and others to propose a more
3 comprehensive overall policy that perhaps results in a
4 more beneficial structure and conservation and efficiency
5 effort for consumers and overall for the interests of
6 saving energy in this state?

7 A. Yes, and in a manner that is responsible
8 towards the ratepayers that will fund those programs.

9 Q. And is the carrot that brings the company
10 to the table on those discussions, at least one of the
11 carrots, the very thing that Staff appears to be giving to
12 the company here, a fixed rate design?

13 A. Yes. As I said, I don't know that Public
14 Counsel would be willing to go to a fixed recovery because
15 I think that there are just -- I mean, I think from a
16 costing perspective, the methodology is not -- it's not
17 appropriate.

18 Q. I understand that's your position, but I'm
19 asking you whether or not this is a carrot that normally
20 would be available in those kind of discussions with all
21 of those interests that we were just lining up?

22 A. Sure. Yes.

23 Q. And the carrot is being fed in this case by
24 Staff without any real concessions from the company in
25 regard to an overarching overall efficiency and

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1 conservation effort, wouldn't you say?

2 A. Yes, I would.

3 Q. So if we're out of carrots, how do we get
4 this discussion to occur?

5 A. Well, I'm not sure that we will, and I'm
6 not sure that you're going to see the companies back for a
7 while. So, you know, you give them this rate design, even
8 though there's not support for it based on cost, even
9 though theoretically I don't think it's good. I don't
10 know what will bring them back to talk about conservation
11 programs.

12 COMMISSIONER GAW: That's all I have,
13 Judge. Thank you.

14 JUDGE DIPPELL: Thank you. Is there
15 further cross-examination based on questions from the
16 Bench from Atmos?

17 MR. FISCHER: Just briefly, your Honor.

18 RE-CROSS-EXAMINATION BY MR. FISCHER:

19 Q. Good afternoon, Ms. Meisenheimer.

20 A. Good afternoon.

21 Q. I've got a few questions based upon
22 questions received yesterday from Commissioners and maybe
23 a couple from today's discussion.

24 A. Okay.

25 Q. If you have a minute. Am I correct that

0547

1 you've not proposed any weatherization or energy
2 efficiency programs in your testimony in this case?

3 A. That's true, and I'd like to explain why.

4 Q. That's all right. You can do that on
5 redirect.

6 A. Okay.

7 Q. And no other witness for Public Counsel has
8 suggested that Atmos initiate any specific weatherization
9 or energy efficiency program in Public Counsel's prefiled
10 testimony; is that correct?

11 A. That's correct.

12 Q. Am I correct that you testified that in
13 your opinion there is no energy efficiency program that
14 would justify the adoption of Staff's proposed delivery
15 charge in your discussion with the Commissioner?

16 A. I don't doubt -- I don't doubt that I said
17 that, I don't disagree with it, but I don't specifically
18 remember saying it. The transcript will show whether I --
19 you know, that's exactly what I said or not. In terms of
20 agreeing with that general theme, yes, I agree.

21 Q. I think you indicated to the Commissioner
22 that even if they proposed energy efficiency plans, that
23 wouldn't have been enough to get the Public Counsel on
24 board the delivery charge proposal?

25 A. Not this proposal. There may be other

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1 proposals that would not be -- or that, you know, we might
2 ultimately agree to. This one is extreme.

3 Q. I understood your answer to Commissioner
4 Clayton, too, you indicated that even if the Commission
5 adopted the PAYS proposal in this case, which I don't
6 think anybody's proposed, but if they did, Public Counsel
7 would not be supporting Staff's delivery charge; is that
8 true?

9 A. That's true.

10 Q. Public Counsel is not supporting any
11 weather normalization mechanism in this case or any other
12 case; is that correct?

13 A. We settled with Laclede. We entered a
14 stipulation with Laclede.

15 Q. Was that a weather normalization adjustment
16 clause?

17 A. It was a weather mitigation rate design.
18 So, you know, if you're talking about did the mechanics
19 work exactly the same way, I would say no. Did the result
20 provide them less susceptibility to weather risk? Yes.

21 Q. Okay. But as far as a weather
22 normalization clause, you haven't expressed any support
23 for that concept in this case; is that correct?

24 A. That's correct.

25 Q. And is it also true that in the workshops

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1 related to SB 179, you haven't been a big supporter of
2 that concept either?

3 A. I didn't participate in those.

4 Q. Do you know if the Office of Public Counsel
5 has supported weather normalization clauses in the context
6 of those workshops?

7 A. I don't specifically know. I'd be
8 surprised if we had.

9 Q. Would you expect your position on weather
10 normalization adjustment clauses to change in the future,
11 your office's position?

12 A. I don't know what those things might look
13 like, and so I can't say -- I can't say unequivocally no
14 at this point.

15 Q. Has Public Counsel made any proposals in
16 this case that would reduce the impact of weather on
17 customers' bills?

18 A. No.

19 Q. And I believe you've indicated in your
20 rebuttal testimony at page 23 that you agree that Staff's
21 proposed delivery charge would reduce the effects of
22 weather on customers' bills. It's at line 15. Is that
23 right?

24 A. I'm going there.

25 Q. Okay.

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1 A. 23, line 15?

2 Q. Yes.

3 A. What I say is I agree that the delivery
4 charge will reduce the effect of weather on customers'
5 bills, but I disagree that mandatory imposition of such an
6 effect as would occur under the Staff's delivery charge
7 is -- delivery charge proposal is desirable.

8 Q. So you disagree with the policy, but you
9 don't disagree with the effect that the Staff's proposed
10 rate design would do. It would reduce the effect of
11 weather on customers' bills; is that right?

12 A. I -- I agree that it will reduce the effect
13 of weather on customers' bills. I don't think that's a
14 good thing.

15 Q. I understand. And has Public Counsel made
16 any proposals in this case that would reduce the impact of
17 weather on the volatility of the company's earnings?

18 A. No.

19 Q. And on that page 32 of your rebuttal,
20 lines 3 through 5, you indicate that the company's
21 original weather normalization adjustment proposal --

22 A. If I could get there and then hear the
23 question, it will help me so I won't have to --

24 Q. I'll try to slow down. I apologize. I was
25 referring to page 32.

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1 A. Yes.

2 Q. At your lines 3 through 5.

3 A. Okay.

4 Q. Is it true that you indicate that the
5 company's original weather normalization adjustment
6 proposal would create fluctuating rates? That was one of
7 your criticisms of it?

8 A. Effective rates, yes.

9 Q. Would you agree that the Staff's proposed
10 delivery charge would be a fixed rate and not a
11 fluctuating rate?

12 A. Well, I mean, here I was talking about
13 effective rates, which include volumetric-based rates.
14 The Staff's would have absolutely no volumetric-based
15 rates.

16 Q. So the answer is yes?

17 A. It would literally be a rate.

18 Q. So the answer to my question would be a
19 yes?

20 A. Well, I don't think it's apples to oranges,
21 or I don't think it's apples to apples. I think it's
22 apples to oranges.

23 Q. Okay. So are you disagreeing that the
24 Staff's proposed delivery charge would not be a
25 fluctuating rate? It's a fixed rate, that's by

1 definition, isn't it?

2 A. It is a single fixed rate.

3 Q. And then on page 13 of your surrebuttal
4 testimony, you state that, in my opinion, taking no action
5 in response to Senate Bill 179 in this case is preferable
6 to taking the wrong action. Is that right? Is that what
7 you said?

8 A. Yes.

9 Q. Isn't that a statement of Public Counsel's
10 bottom line position in this case, that you believe taking
11 no action to address the issue of weather mitigation on
12 customers' bills is the approach the Commission should
13 take in this case?

14 A. Yes, where the company is not underearning,
15 has agreed to a zero increase in revenue requirement, yes,
16 I think no change is an appropriate place to be.

17 Q. Public Counsel just doesn't believe that
18 the Commission should take any action which would address
19 the issue of weather mitigation on customers' bills; is
20 that correct?

21 A. That's overly broad. If you're asking me
22 in the context of this case under the conditions that I
23 just mentioned, then my answer would be yes. If you're
24 asking me in a broader sense, then no, that might not be
25 my answer.

1 Q. Is it correct that Public Counsel is
2 supporting basically the status quo or the existing rate
3 design in this case?

4 A. Yes. The one that was approved by the
5 Commission previously, yes.

6 Q. You had quite a discussion about the cost
7 of service studies in this case, and I'd ask you to turn
8 to your surrebuttal testimony, your surrebuttal Schedule
9 SUR-1?

10 A. Yes.

11 Q. This schedule shows the revised results of
12 the Public Counsel's cost of service study; is that
13 correct?

14 A. Yes.

15 Q. And the first page of that schedule related
16 to the Butler district shows that the residential class
17 would need to increase by 13.22 percent to equalize the
18 class rates under your cost of service study; is that
19 correct?

20 A. Yes, and I would like to qualify that.

21 Q. Well, your counsel can ask you about that.
22 Just looking through those briefly, your cost studies
23 would indicate Kirksville's residential rates would need
24 to go up by 17.616 percent to equalize rates of returns on
25 classes; is that true?

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1 A. Yes, with the same qualification.

2 Q. And Neelyville at 23.19?

3 A. Yes, with the same qualification.

4 Q. And Palmyra at 5.24?

5 A. Yes.

6 Q. And SEMO --

7 A. With the same.

8 Q. -- at 14.80?

9 A. Yes, with the same.

10 Q. And United Cities at 1.40; is that correct?

11 A. Yes, with the same qualification.

12 Q. In this case, isn't it true that Staff,
13 Public Counsel and the company have agreed there won't be
14 any -- won't be any class shifts to the residential class
15 even though your cost studies indicate that increases
16 might be appropriate; is that true?

17 A. Yes, as I will qualify on redirect
18 hopefully.

19 Q. Okay. And also you had a discussion with
20 Commissioner Gaw regarding whether the Staff's proposed
21 rate design would benefit customers that you're
22 representing. Do you remember that discussion?

23 A. I'm sorry. Can you repeat that?

24 Q. Yeah. Do you recall the discussion you had
25 with Commissioner Gaw regarding whether the Staff's

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1 proposed rate design would benefit customers that you
2 represent?

3 A. Yes.

4 Q. And I think you indicated that high use
5 customers are going to get a bargain, I think was the term
6 you used?

7 A. Yes.

8 Q. Does Public Counsel represent high use
9 residential customers in this case?

10 A. Sure.

11 Q. I believe you indicated that low use
12 customers would be negatively impacted; is that right?

13 A. Yes.

14 Q. And Public Counsel would represent low use
15 customers in this case; is that true?

16 A. Yes, that's true.

17 Q. And I'd like to refer you to Exhibit 19.

18 A. I don't know what exhibit --

19 Q. I'm sorry. It's that one about the LIHEAP
20 customers that we talked about just before we started
21 back.

22 A. Is it what you provided, what the company
23 has submitted?

24 Q. Yeah. And I'm going to ask you to take a
25 look at that and assume that the data is correct.

1 A. And I also need to verify which document it
2 is. I've now received two documents from the company, one
3 you sent to me in e-mail today.

4 Q. The first cover sheet. Let's look at the
5 one that we marked as Exhibit 19, and I can show you a
6 copy of that.

7 A. I'm sorry. I'm going to have to get you to
8 give me a copy.

9 Q. I sure will.

10 A. Thanks.

11 Q. Assuming that that data is correct, would
12 you agree with me that this indicates that LIHEAP
13 customers, those Low Income Housing Assistance Program
14 customers on annual bases in 2005 would actually be higher
15 than average usage levels in each of those districts?

16 A. If this were the relevant data and it were
17 correct, then yes, I would agree with.

18 Q. For example, the largest -- or in Butler,
19 which is the largest difference, there's 2.5 percent, and
20 the data -- we don't have to go through it, but those
21 customers you would represent as well, correct?

22 A. Yes.

23 Q. And so those high use customers would be
24 benefiting by the Staff's rate design; is that correct?

25 A. Yes. I mean, I don't dispute that there

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1 are customers that will not pay as much if the Staff's
2 rate design is approved.

3 Q. And you represent those customers as well?

4 A. Yes, Public Counsel represents those
5 customers.

6 Q. You were also asked some questions about
7 Atmos overearning. Is it correct that Public Counsel has
8 not filed a complaint in this case?

9 A. That's true.

10 MR. FISCHER: I believe that's all I have,
11 your Honor. Thank you very much.

12 JUDGE DIPPELL: Thank you. Is there
13 further cross-examination from Staff?

14 MR. BERLIN: Yes, Judge.

15 RE-CROSS-EXAMINATION BY MR. BERLIN:

16 Q. Ms. Meisenheimer, you were just asked some
17 questions, I believe, from Commissioner Gaw regarding
18 Staff's class cost of service study and the resulting
19 customer charges. Do you have your worksheets in front of
20 you?

21 A. I have copies of the Staff's cost studies
22 that I printed off, and I do have them with me.

23 Q. What value does the sheet say for -- the
24 sheet say for residential in the amount of customer
25 service?

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1 A. Which district, please?

2 Q. Southeast.

3 A. And I'm sorry, I need you to tell me again
4 which account.

5 Q. I'm looking at the worksheet and the amount
6 for customer service costs, meter reading costs, billing
7 costs.

8 A. As I believe I indicated to Commissioner
9 Gaw, those numbers are zero.

10 Q. Do you believe those numbers, those values
11 are actually truly zero?

12 A. In terms of the portion that the Staff
13 would normally allocate -- I mean, we're not saying that
14 there.

15 Q. Is it yes or --

16 A. No costs.

17 Q. You believe those numbers are truly zero?

18 A. They say zero on the document, yes.

19 Q. Do you believe that that could be an error
20 in that spreadsheet?

21 A. If the Staff made an error, I assume the
22 Staff would correct it.

23 Q. So would correcting that error likely
24 increase the resulting customer charge?

25 A. If you raise those, if you raise that

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1 number from zero to a positive value, yes, it would.

2 Q. Thank you. With regard to the
3 disconnection charge questions asked to you by
4 Commissioner Gaw earlier, you were asked about the impact
5 on a customer. Have you performed any studies as to what
6 impact that would be to disconnect seasonal disconnect
7 customers?

8 A. I'm not sure what type of study you might
9 be asking me about.

10 Q. Well, did you do any studies with regard to
11 customer impacts regarding seasonal disconnects?

12 A. In terms of, say, how many actual customers
13 that it might affect based on historic data, I mean,
14 Mr. Ensrud did an analysis, and I didn't provide any
15 rebuttal to his analysis, or maybe I'm thinking about
16 another one. Never mind. I'll take that answer back.

17 Q. Let me clarify the question. Did you do
18 any studies with regard to customer impacts, customer
19 impact on seasonal disconnects on all ratepayers? What is
20 the impact on ratepayers of the seasonal disconnects?

21 A. I did not perform a separate study on that.
22 It was taken into account when I did.

23 Q. Okay. Thank you.

24 A. I was trying to tell you that's where it
25 was included in the studies I did.

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1 MR. BERLIN: I'll let counsel cover that on
2 redirect.

3 MR. POSTON: Your Honor, wasn't that the
4 question?

5 JUDGE DIPPELL: He asked if she ever
6 performed any studies. She said no.

7 THE WITNESS: I --

8 BY MR. BERLIN:

9 Q. Now, would it be fair to say that the
10 customers who remain on the system pay for that customer
11 who opts off the system for some period of time?

12 A. I can't agree with that because I believe
13 it's a simplistic characterization. It's not accurate.

14 Q. Do the cost of distribution mains vary with
15 the amount of volume that flow through them?

16 A. Yes. Would you like me to explain? Maybe
17 it would help if you tell me whether you want to know
18 about short-run or long-run costs.

19 Q. Well, in answer to the question, you do --
20 is it correct to say that you do not believe that -- or
21 you do believe, if I heard you correctly, that the costs
22 related to distribution mains varies with the amount of
23 volume that flows through them?

24 A. In the long run, yes, I do.

25 Q. All right. Thank you. Are you aware that

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1 the companies, the comparable companies that Staff witness
2 Barnes used in his analysis on ROE have weather mitigating
3 rate designs?

4 A. I have -- I have very limited knowledge on
5 this. I mean, I did review some types or some companies
6 that may have been on his list. I should probably pass
7 this type of a question to Mr. Trippensee who specifically
8 addressed it. He would have been the witness. I don't
9 know if he's coming back or not.

10 Q. Were you here on Thursday when Staff
11 witness Rackers testified?

12 A. I was here for at least part of it, maybe
13 all of it. I can't recall.

14 Q. Can you recall the list of reasons that
15 Mr. Rackers gave with regard to not pursuing a complaint
16 case?

17 A. I remember some of them.

18 Q. Can you recall those?

19 A. As I said, I recall some. I don't know if
20 I recall all. If you could list them for me, I can verify
21 that I remember him talking about them.

22 Q. I believe yesterday Commissioner Gaw asked
23 you a question about the rate design technical conference.
24 Do you recall that that rate design technical conference,
25 was that held prior to the filing of testimony?

1 A. We've had many conversations. I can't
2 remember the names of each of the meeting that we have.
3 I'm sorry.

4 Q. If you can't recall, then --

5 A. I just -- I mean, if you're asking me
6 whether we met with the company before we filed testimony,
7 then that may be the case.

8 Q. Well, were you invited to the rate design
9 technical conference?

10 A. My difficulty is that you're calling it the
11 rate design technical conference, and I'm having
12 difficulty remembering which name with which meeting. I
13 feel confident that I was there. Does that help?

14 Q. Is your answer that you were invited to the
15 rate design technical conference?

16 A. I'm sure Public Counsel would have been
17 invited to that. I participated in some meetings. I
18 don't know that I participated in all. I was working on a
19 number of other cases at the time.

20 Q. In your opinion, what defines a low use
21 customer?

22 A. Well, generally when I was talking about
23 low use customers, I was talking customers that are below
24 a reasonable range at the average. There was specific
25 data that we looked at. And so often when I talked about

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1 low use customers in my testimony, I was talking about
2 specific categories of customers as defined in that data
3 set.

4 Q. Is your answer that -- and I'm not trying
5 to put words in your mouth, but what I think I heard was
6 that low use customers fall below the average use?

7 A. Well, it was a little more qualified than
8 that. I would say that it wouldn't need to be like just a
9 few below the average. It would have to be within a range
10 or beyond a range around the average.

11 Q. What range is that?

12 A. When I talked about low use customers in my
13 testimony, often I was specifically referring to data that
14 was grouped in some cases that went as low as 200 CCF per
15 year.

16 Q. What --

17 A. And I have it in schedules. I mean, I can
18 refer you to schedules.

19 Q. What does a low use customer typically use
20 gas for?

21 A. Well, I think there are a number of things
22 a low use customer could use gas for. Ms. Ross talked
23 about some things. They may also be someone who keeps a
24 thermostat just extremely low, barely --

25 Q. Would low use customers be ones that use

1 gas fireplaces?

2 A. They may also have alternative forms of
3 heat. They may have a wood stove that they run for, you
4 know, the majority of the time and I mean, I don't think
5 it's that simple to characterize.

6 Q. Did you do any studies on determining what
7 a low use customer is?

8 A. No, and I didn't dispute categories gen--

9 Q. Thank you. That answers my question. In
10 your mind, where does the PGA rate have to go before a
11 customer will conserve the use of gas solely based on PGA
12 rate?

13 A. Well, I mean, from an economic perspective,
14 generally there is some level of elasticity between price
15 and quantity, and therefore customers, you know, in theory
16 should respond to increases in price, so that as price
17 increases, it should become more and more important to
18 them to conserve. They should have more and more interest
19 in conservation.

20 Q. Can you give me a rate that triggers a
21 customer's incentive to conserve?

22 A. No.

23 Q. With regard to Staff's delivery charges,
24 there's still a risk that during the cold winter months
25 that customers will not be able to pay their bill?

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1 A. Sure.

2 Q. Would that risk fall under the subject of
3 uncollectible expense, uncollectibles?

4 A. If it went uncollected long enough, yes.

5 Q. And would not the cold weather be a cause
6 of uncollectibles?

7 A. Yes. Colder than normal weather especially
8 when coupled with higher gas cost, sure.

9 Q. Okay. I have -- I have here some questions
10 that go to some -- a line of questions from Commissioner
11 Gaw, I believe, yesterday regarding Staff's rate design
12 compounding effects and unfairness. And perhaps to follow
13 along, it might be easier to follow the actual pieces of
14 the exhibit that I have, Judge. So may I approach?

15 JUDGE DIPPELL: Yes. And this exhibit that
16 you're handing out is what you used in your opening?

17 MR. BERLIN: That's correct. It's also
18 part of Anne Ross' surrebuttal and rebuttal testimony.

19 JUDGE DIPPELL: I don't believe we
20 previously gave this specific document an exhibit number,
21 since it was part of the other exhibits, but I think just
22 to keep the record straight, it might be a good idea if we
23 did, so I'm going to go ahead and assign it Exhibit
24 No. 142.

25 (EXHIBIT NO. 142 WAS MARKED FOR

1 IDENTIFICATION BY THE REPORTER.)

2 BY MR. BERLIN:

3 Q. Ms. Ross, do you have that document that I
4 just handed out to you?

5 A. I'm Ms. Meisenheimer and I do have it.

6 Q. Ms. Meisenheimer, excuse me. In looking at
7 the front page of that, would you agree that the average
8 residential annual CCF usage for the northeast Missouri
9 service territory is 836 RCF?

10 A. I agree that that's what the number on the
11 thing says. If you'll give me a minute, I can verify that
12 I agree with the number. I assume you'd like me to do
13 that.

14 Q. Go ahead.

15 A. And this is for, yes, residential.

16 Q. Maybe to save time, would you agree
17 that the number, the average number is somewhere around
18 830 CCF?

19 A. I mean, I have them -- I have done that
20 calculation by district, and provided that, you know,
21 those numbers can be derived from the billing units we
22 agreed to in the case, then I wouldn't dispute them.

23 Q. Okay. Going to the next page is a graph or
24 a chart rather, and on top you'll note the northeast
25 Missouri service territory. Now, let's say, for example,

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1 that I'm a -- I'm a somewhat average but actually a
2 conserving gas user and I have a modest home in Hannibal,
3 and you also have a modest home, but you live in
4 Kirksville. Now, if I'm about 86 percent of the average
5 720 CCF in my gas purchases and you're also at 720 CCF but
6 you live in Kirksville, is it fair that the Hannibal
7 customer pays \$106 more a year than does the Kirksville
8 customer for provision of the same residential gas
9 service?

10 A. It may be, depending on the plant and other
11 facilities that have been put in place over time to serve
12 those customers.

13 Q. So you believe that the cost of Atmos today
14 to provide gas service to my home in Hannibal costs twice
15 as much as what Atmos pays to provide gas service to you
16 at your home in Kirksville; is that correct?

17 A. It may be, and if you have a copy of the
18 Staff accounting schedules for the Hannibal/Canton/Bowling
19 Green area versus the Kirksville area, maybe I can help
20 explain why, why those might be closer to the case.

21 Q. Do you believe that the costs associated
22 with that are related to the past operational realities of
23 the predecessor companies?

24 A. Yes. That doesn't mean they've changed for
25 this company --

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1 Q. Thank you.

2 A. -- that bought them.

3 Q. You answered the question. Is it Public
4 Counsel's position, then, that Hannibal, Canton and
5 Bowling Green customers should pay \$106 or almost double
6 what a Kirksville customer pays?

7 A. It might be appropriate, depending on the
8 facilities that are in place to serve them, the historic
9 cost and other considerations that have occurred over time
10 to result in the embedded cost.

11 MR. BERLIN: Staff has no further
12 questions.

13 JUDGE DIPPELL: Thank you. Is there
14 redirect?

15 MR. POSTON: Yes, thank you.

16 REDIRECT EXAMINATION BY MR. POSTON:

17 Q. Yesterday Mr. Berlin asked you questions
18 about your position regarding LIHEAP and low use
19 customers. Do you recall those? And he referred you, I
20 believe, to page 9 of your direct testimony.

21 A. Yes, or --

22 Q. Surrebuttal testimony. Do you recall which
23 testimony it was?

24 A. Let me find --

25 Q. Surrebuttal, page 9.

1 A. Okay.

2 Q. I believe the question he asked was whether
3 you still believe that the average LIHEAP customer use
4 compared to the average customer use were similar; is that
5 correct?

6 A. To be similar in every district, I believe
7 is what I said at line 14 of page 9 of my surrebuttal.

8 Q. Would you believe it would assist the
9 record if your supporting work papers that support that
10 statement were entered into this case?

11 A. I do, and I should -- I feel like it would
12 be fair for me to explain a little bit the development of
13 those calculations.

14 Q. Let me --

15 A. Okay.

16 MR. POSTON: May I approach, your Honor?

17 JUDGE DIPPELL: Yes. And this was the
18 other exhibit that you mentioned earlier, Mr. Poston?

19 MR. POSTON: One of two.

20 JUDGE DIPPELL: One of two. I will mark
21 this particular exhibit, I believe your next number, 205.

22 (EXHIBIT NO. 205 WAS MARKED FOR
23 IDENTIFICATION BY THE REPORTER.)

24 BY MR. POSTON:

25 Q. Do you have what's been marked as 205?

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1 A. Yes.

2 Q. Can you please identify this exhibit?

3 A. Yes. This is actually a copy of something
4 that I produced when I was first considering what to do in
5 terms of filing testimony in this case and it -- behind it
6 is included the data that I relied upon. The data is
7 provided in request to Data Request responses to the
8 Staff. Part of it was provided in response to Anne Ross,
9 who asked about the company -- about LIHEAP customers and
10 their winter usage, and the rest of it was the actual
11 billing data that's not normalized that was requested from
12 the company.

13 This is --this is the update that the
14 company provided. They had provided a previous set of
15 data, and then updated it through June of 2006. And what
16 the document or what the spreadsheet shows -- I didn't
17 actually use this in direct testimony, and that was
18 because I didn't find any substantial difference between
19 LIHEAP customers and the average customers, so I didn't
20 feel it was fair for me to be criticizing proposals based
21 on differences that I didn't really believe existed. So I
22 didn't use this.

23 However, I had done it, and later Ms. Ross
24 made some unsubstantiated claims about low-income
25 customers and impacts, and I made a simple statement, in

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1 response the Staff later has come back and wanted to make
2 an issue about what data I relied upon. I had actually
3 looked at data -- two sets of data. One of them dealt
4 with a small sample of customers. This data was actually
5 or was characterized in the data response, it was
6 responding to a Staff request that asked for the average
7 LIHEAP for each district.

8 In particular Ms. Ross asked for, for each
9 of Atmos' six rate districts, please provide the average
10 monthly usage and/or bill frequency analysis for all
11 customers receiving LIHEAP energy assistance grants in the
12 2004-2005 heating season, as well as the number of
13 customers receiving these grants during that time period.
14 Please provide the same information for customers
15 receiving LIHEAP EA in the 2005-2006 heating season.

16 So I had two years of heating season data.
17 I compared the period where I also had billing data from
18 the company, and so what you see at the top is for each
19 month, I went through and for each district calculated the
20 difference between the average bill -- these are not
21 normalized by the way -- and the LIHEAP usage, and if you
22 look over at the side, I mean, you can see that probably
23 the one that looks farthest apart is Greeley. The rest
24 look fairly close together.

25 I didn't believe that any of these were so

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1 far apart that they would be statistically significant in
2 terms of the difference. And that's what my statement was
3 based on, and why I didn't distinguish specifically
4 between LIHEAP customers and the average customers in
5 statements that I made.

6 JUDGE DIPPELL: Mr. Poston, I see that on
7 the back chart or papers attached it says highly
8 confidential. Should Exhibit 205 be marked as HC?

9 MR. POSTON: Yeah, I just noticed that
10 myself. I believe it should.

11 THE WITNESS: No.

12 MR. FISCHER: Judge, the company will waive
13 any concern about that.

14 JUDGE DIPPELL: Okay.

15 THE WITNESS: When I received it, it was
16 marked highly confidential in the file, and all I did was
17 print off the file so you could see the actual category.

18 BY MR. POSTON:

19 Q. And, Ms. Meisenheimer, you were in here
20 when -- well, of course, you were in here because
21 Mr. Fischer asked you to look at an Exhibit 19 regarding
22 LIHEAP data, fiscal year 2005; is that correct?

23 A. Yes.

24 Q. Have you seen any other data regarding the
25 calculation Atmos did when it came up with these numbers?

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1 A. Yes. We contacted the company this morning
2 when there was an attempt yesterday to introduce data that
3 I felt like we hadn't seen the support for. The company
4 provided to us this morning the background information
5 that they used, and I have seen -- I have reviewed that.
6 There appears to be -- I mean, the company relied on this
7 fiscal year 2005. In addition, what was contained in that
8 material that was provided to us was a two-year average
9 which, in fact, shows that for SEMO the average customer
10 use is lower than if you only looked at 2005. And it's
11 actually -- since SEMO constitutes the vast majority of
12 customers and also the vast majority of LIHEAP customers,
13 I think in total it has -- it heavily weights the results.
14 So...

15 Q. So would the impact of Staff's rate design
16 proposal have a much heavier impact on this SEMO area
17 because of this data?

18 A. I think it would more heavily affect SEMO
19 in terms of the -- at least for that period of time, that
20 two-year average period of time, LIHEAP -- there were
21 LIHEAP customers used less in SEMO than the average
22 customer.

23 MR. POSTON: Your Honor, I'd like to have
24 another exhibit marked.

25 JUDGE DIPPELL: Okay. That will be

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1 Exhibit 206.

2 (EXHIBIT NO. 206 WAS MARKED FOR

3 IDENTIFICATION BY THE REPORTER.)

4 BY MR. POSTON:

5 Q. Would you please identify Exhibit 206 for
6 me? Just briefly identify.

7 A. Okay. This is a copy of a worksheet that
8 was provided in response to our inquiries regarding the
9 backup support for the LIHEAP average use to average
10 customer use on a district basis that was introduced as
11 a -- or the company would like to introduce as an exhibit
12 in this case.

13 MR. POSTON: Your Honor, I move for the --
14 to have Exhibits 205 and 206 entered into the record.

15 JUDGE DIPPELL: Would there be any
16 objection to Exhibits 205 and 206?

17 MR. FISCHER: Judge, could I just ask a
18 question to clarify what the nature of the exhibit is?

19 JUDGE DIPPELL: Yes.

20 MR. FISCHER: Ms. Meisenheimer, is this
21 just a copy of what the company provided to you or did you
22 modify it in some way?

23 THE WITNESS: I did not modify it. This
24 is -- this is -- there might have been additional sheets
25 provided, but I did not modify this data in any way.

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1 MR. FISCHER: So this is just a copy?

2 THE WITNESS: This is what the company
3 provided as they provided it.

4 MR. FISCHER: I have no objection. No
5 objection, your Honor.

6 JUDGE DIPPELL: Seeing no objection, I'll
7 receive 205 and 206 into evidence.

8 MR. FISCHER: Judge, on 205 I also had a
9 question regarding whether we needed to object to that or
10 not. We did not see that. Could I ask just a question
11 about that as well?

12 JUDGE DIPPELL: Yes, I'm sorry.

13 MR. FISCHER: Before I waive an objection
14 on that, I think on the stand perhaps yesterday you
15 indicated that your study of the LIHEAP customers was
16 based on, I think you called it a small sample of
17 customers?

18 THE WITNESS: There were two parts to the
19 LIHEAP data. Did you want me to explain?

20 MR. FISCHER: I was going to ask, does this
21 represent this small sample that you were talking about?

22 THE WITNESS: No. This is an additional
23 element of the research that I did that I -- that I didn't
24 mention yesterday, but I did -- I did review the material
25 at the exact same time as I reviewed a sample of data. I

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1 received multiple data in the same data set.

2 MR. FISCHER: So 205 does not directly
3 support your statements in your testimony. It's something
4 in addition to what you were talking about in that
5 testimony?

6 THE WITNESS: It's attempted to clarify why
7 I said in my testimony that I felt that the usage was
8 approximately the same.

9 MR. FISCHER: Is 205 based on a larger
10 sample than the one you used earlier?

11 THE WITNESS: It's all the same data that I
12 reviewed at the very beginning when I was preparing
13 testimony. I've not reviewed additional data or anything.
14 It was just a clarification. I've looked at a ton of data
15 in this case.

16 MR. FISCHER: Okay. I was just curious. I
17 think you said it was based on a sample of five LIHEAP
18 customers in each of the districts, and I was just
19 asking -- really kind of trying to clarify whether 205 is
20 based upon that sample of five.

21 THE WITNESS: It came out of the same data
22 set. They were different sheets in the same data set, and
23 we were having discussion yesterday, my memory was not
24 entirely clear on this issue, and this is to clarify, this
25 is --

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1 MR. FISCHER: Okay. I understand.

2 THE WITNESS: -- what I relied on for my
3 testimony.

4 MR. FISCHER: Okay. But it is based on a
5 sample of five for each of the districts?

6 THE WITNESS: These are all based on, I
7 believe, all the LIHEAP customers by district. I misspoke
8 when I said that I had reviewed a sample. I had reviewed
9 samples of five customers. I had also reviewed this
10 (indicating).

11 MR. FISCHER: I have no objection, your
12 Honor.

13 JUDGE DIPPELL: All right. So both
14 Exhibits 205 and 206 are entered into evidence.

15 (EXHIBIT NOS. 205 AND 206 WAS RECEIVED INTO
16 EVIDENCE.)

17 BY MR. POSTON:

18 Q. Yesterday, I'm not sure of where the
19 question came from, but there was questions about customer
20 programs that promote energy efficiency that Public
21 Counsel's office has endorsed.

22 A. Yes.

23 Q. And there was discussion about the PAYS
24 program. Could you please explain a little more, what is
25 the PAYS program?

1 A. The PAYS program, it stands for Pay as You
2 Save. It's a program that provides a pool of money that
3 customers withdraw upon to implement efficiency measures
4 in their homes to defray the up-front costs. They then
5 repay the money they used over a period of time out of
6 a -- out of savings that are achieved on the bill due to
7 lower use.

8 Q. And why didn't Public Counsel propose that
9 in this case?

10 A. There are a couple of reasons. One of them
11 has to do with the decision of the Commission in the MGE
12 case, GR-2004-0209. The Commission expressed an interest
13 in the PAYS program, indicated that it believed that it
14 needed to be a broader discussion than in a particular
15 rate case. And so, you know, we would -- we would be
16 interested in participating in that, we believe it's a
17 good thing to do. I have not proposed this program in
18 additional rate cases since then, in part due to that
19 decision.

20 In addition, Public Counsel has limited
21 resources. We have been very focused on what we view as
22 an extreme rate design and responding to that. That has
23 taken a great deal of my time in preparing data to support
24 my statements, and so there is also an issue of we just
25 did not have the time to bring in, you know, to do the

1 type of substantial review across the country that I
2 believe is appropriate for us to be reviewing what other
3 alternatives are out there.

4 Q. Did any of the other parties ask Public
5 Counsel if we would consider conservation programs?

6 A. I don't remember that specific -- well, I
7 don't remember specific discussions about a particular
8 program until I saw the Staff in testimony, which I think
9 is a response to our testimony, criticizing the fact there
10 was none proposed.

11 We certainly would be open to discussing
12 conservation programs, and actually when I started out in
13 this case, what I proposed was that since you don't have
14 good cost data upon which to grant any changes in the rate
15 design, that you do a spinoff case and talk about rate
16 design based on gathering appropriate data and conducting
17 cost studies.

18 JUDGE DIPPELL: Ms. Meisenheimer, I'm going
19 to ask, you answered Mr. Poston's question, and --

20 THE WITNESS: And went on.

21 JUDGE DIPPELL: And kept going.

22 THE WITNESS: Sorry.

23 JUDGE DIPPELL: Let's just answer the
24 questions and let's keep things moving.

25 MR. POSTON: I wasn't going to object.

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1 JUDGE DIPPELL: I understand.

2 BY MR. POSTON:

3 Q. Today you were asked a question about
4 seasonal disconnects from Commissioner Gaw.

5 A. Yes.

6 Q. Is customer service a cost that you had not
7 tied to a specific premise?

8 A. I'm sorry. I don't understand the
9 question. I'm sorry.

10 Q. I'll move on. I believe Mr. Fischer asked
11 you questions about your surrebuttal schedules, and I
12 believe he started with SUR-1, and he highlighted under
13 Butler district the figure you have under residential, do
14 you see the 13.22 percent?

15 A. Yes, I do.

16 Q. Could you please explain further these
17 figures and why you've included this in your testimony?

18 A. Yes. I performed class cost of service
19 studies not because I felt that there was good data upon
20 which to base class cost of service studies, but instead
21 to attempt to do the best I could with the data that was
22 available. I -- the Staff prepared three studies. I felt
23 that it was important, given that the Staff accounting
24 department prepared different district costs for all seven
25 districts, they went in and actually looked at the

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1 historic cost, the embedded cost, came up with what they
2 believe the costs were, based on history, and I felt that
3 it was appropriate to look at a class cost of service
4 marrying that level of detail to see what potentially
5 could be the impacts, even within consolidated districts.

6 And I feel like I was very clear in my
7 direct testimony that I didn't feel that there was
8 appropriate data provided upon which to produce reliable
9 results that could be the basis for change. I also
10 pointed out in my rebuttal testimony where I believe that
11 Mr. Dan Beck raised a number of questions with the
12 underlying cost information.

13 So while certainly there are particular
14 numbers stated in here in terms of percent and changes,
15 and I believe that Mr. Fischer walked me through ones for
16 the Butler district, Kirksville, Neelyville, Palmyra, and
17 SEMO, and UCG also, I believe, I think that these
18 are -- they're something for us to look at, but I don't
19 really consider them to be as -- I don't consider the
20 Staff studies or the statewide work that the company did
21 to a limited degree, I don't believe that they're a
22 reasonable basis to change customer rates in this case.

23 Q. You were also asked a question, if you
24 performed studies on seasonal disconnects, and you said
25 no, but wanted to explain. What was your explanation?

1 A. I didn't produce a separate study on
2 seasonal disconnects. I did take into consideration
3 seasonal disconnects when I determined customer impacts
4 because I was working under the assumption -- I did a
5 schedule where I showed customer impacts of the different
6 rate designs, and one part of Staff's rate design proposal
7 is this coupling, the delivery charge mechanism where they
8 collect all non-gas costs in a single flat rate with the
9 policy of the customers pay even when they don't use
10 service for certain months.

11 So I actually -- when I calculated what the
12 cost a customer would pay would be, I actually included
13 the concept of that the customer would pay even if they
14 weren't taking service at that time. So to that extent,
15 seasonal disconnects were included in a portion of the
16 analysis I did for this case.

17 Q. And you were asked a question by Mr. Berlin
18 regarding to costs for distribution mains, and could you
19 please explain the short-run and long-run costs that you
20 identified?

21 A. Yes. Primarily what I was trying to point
22 out was that in the long run, companies design their
23 systems to meet anticipated load of existing customers and
24 future customers. Typically designing those systems
25 involved many considerations of cost and physical

1 characteristics of both the lay of the land and the
2 materials that are available to design a system with.

3 And so, in fact, a company might very well,
4 depending on what those are, their anticipated demand and
5 other costs and physical characteristics, they might very
6 well change the amount of capacity that they make
7 available throughout their system. And so customer use
8 might very well impact the long-run cost. So long-run
9 costs are not fixed, is what I was trying to point out.

10 Q. And Mr. Berlin asked you a question about
11 the cost among districts. I believe you had answered that
12 the embedded costs were different, and is there anywhere
13 in your testimony you can point me to, and the Commission
14 to support your statement?

15 A. Well, I think that there are a number of
16 things in my testimony and elsewhere in the documents in
17 this case. On page 11 of my testimony --

18 Q. Which testimony?

19 A. Page 11 of my surrebuttal testimony, I
20 include a table which does, in fact, show a difference in
21 the mains investment for Palmyra, UCG and Kirksville. I
22 took these numbers, these plant investments and these
23 distribution main reserve account levels. These are out
24 of the Staff's accounting data. And what I was trying to
25 show there is that the investment per customer might be

1 significantly different as a base, based on, you know,
2 maybe it was due to what the predecessor companies did.

3 That's fine. The predecessor companies are
4 not irrelevant if that plant is still in the ground. And
5 you might notice that the net distribution mains plant per
6 customer for Kirksville is less than half of what it is
7 for UCG. So --

8 Q. And is UCG, is that what -- what district?

9 A. Hannibal, Canton.

10 MR. POSTON: Thank you. That's all I have.

11 JUDGE DIPPELL: Thank you.

12 Ms. Meisenheimer, I believe that concludes your testimony
13 on the rate design portion.

14 THE WITNESS: Thanks.

15 JUDGE DIPPELL: Okay. We're going to take
16 a ten-minute break. When we come back, we're going to
17 switch gears. We're going to go back to return on equity
18 and those issues, we're going to have Commission
19 questions, and I think we'll start with Staff witness Matt
20 Barnes. So we can come back in ten minutes.

21 We're off the record.

22 (A BREAK WAS TAKEN.)

23 JUDGE DIPPELL: We're going to shift back
24 to Commissioner questions for Mr. Barnes, who was
25 previously sworn in, and I'll just remind you, Mr. Barnes,

1 that you're still under oath in this proceeding.

2 THE WITNESS: Okay.

3 JUDGE DIPPELL: And your exhibits have all
4 been entered. Commissioner Gaw, do you have questions for
5 Mr. Barnes on rate of return, return on equity, revenue
6 requirement?

7 MATT BARNES testified as follows:

8 QUESTIONS BY COMMISSIONER GAW:

9 Q. Mr. Barnes, let me ask you just a few
10 questions. Hopefully that will be it. Can you tell me
11 whether or not you believe that Staff's rate design
12 results in less risk to the company that and -- excuse
13 me -- that Staff's proposal for rate design for the
14 company results in less risk for the company than its
15 current rate design?

16 A. From the way I understand, all else being
17 equal, yes, it would reduce the risk.

18 Q. Okay. And your calculation of an ROE in
19 this case resulted in what? What was the result?

20 A. The return on equity piece?

21 Q. Yes.

22 A. 8.59 to 9.39 percent.

23 Q. All right. And how did you generally, just
24 very generally arrive at that?

25 A. I used a comparable company analysis, a

1 group of seven limited distribution companies that are
2 classified as LDC companies by Edward Jones, and that was
3 my first piece of my selection for those companies, and I
4 performed a DCF analysis on those group of companies and
5 used a capital asset pricing model to check the
6 reasonableness of my results.

7 Q. All right. And the results that you --
8 that you achieved, give me the two general areas of spread
9 on the ROE, on the CAPM and DCF.

10 A. The DCF after my proposed dividend yield
11 was 4.4 percent, which is a growth rate of 4.35 to 5.15
12 percent, to arrive at 8.59 to 9.39 percent for the DCF
13 model.

14 Q. Right.

15 A. And for the CAPM, using the geometric CAPM
16 cost of common equity, I arrived at 9.17 percent.

17 Q. Okay. So the CAPM, in your opinion,
18 verified that your range was not inappropriate --

19 A. Correct.

20 Q. -- in the DCF?

21 A. Correct.

22 Q. Now, of the companies that you examined,
23 how many of them had a rate design similar to the one that
24 Staff has proposed?

25 A. The seven out of eight had a weather

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1 mitigation rate design that specifically AGL Resources
2 has, my understanding, rate design that is similar to what
3 Staff is proposing.

4 Q. Okay. So what type of weather mitigation
5 clause did they have, the other companies?

6 A. Give me a second here. I'm going to go
7 through the Standard & Poors research reports that I
8 relied on and go through each company to tell you what
9 they have. And if it's okay, can I just read from these
10 reports what Standard & Poors says?

11 Q. That would be fine.

12 A. Each regulated -- this is for AGL
13 Resources. Each regulated utility benefits from some
14 combination of performance-based rate plans, weather
15 normalization mechanisms and purchased gas clause, each of
16 which causes regulated cash flows to be stable,
17 predictable and insensitive to commodity price
18 fluctuations. That was from the Standard & Poor's rating
19 director research report dated August 4th, 2006.

20 Q. And do you know, did you study what the
21 makeup of those rate designs were, other than what you
22 just read to me?

23 A. I did not.

24 Q. You don't know the details of how those
25 rate designs are put together; is that correct?

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1 A. No, I do not.

2 Q. Do you believe that there is a difference
3 in the ROE that should be awarded to a company if it does
4 have a rate design similar to the one that Staff proposed,
5 as compared to a company exactly the same except that the
6 rate design is similar to the one that the company now
7 has?

8 A. Should there be a difference in the ROE, is
9 that --

10 Q. Yes.

11 A. -- between what the company has proposed
12 compared to what they have now?

13 Q. Yes, all other things being equal.

14 A. All other things being equal, which in my
15 opinion does reduce the business risk, I would think that,
16 yes, a reduction would be needed, but it's very difficult
17 to quantify how much of a reduction.

18 Q. Okay. And you haven't done that
19 specifically; would that be correct?

20 A. Not specifically, but --

21 Q. But do you think you have some portion of
22 the risk adjustment factored in because of the group of
23 companies that you use?

24 A. That's correct.

25 Q. Okay. But you don't know the specifics of

0589

1 the rate design in order to tell me whether -- what the
2 details are in order that I could assess whether this is
3 an apples to apples comparison on rate design?

4 A. I do not, just based on these reports that
5 I have.

6 Q. Did you have anything to do with any
7 analysis of whether or not this company might be
8 overearning?

9 A. No, I did not.

10 Q. Okay. Who would be the ones that would
11 have done that?

12 A. I believe Steve Rackers would be the one to
13 ask.

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

16 JUDGE DIPPELL: Thank you. Commissioner
17 Clayton?

18 COMMISSIONER CLAYTON: Thank you, Judge.
19 Just a few.

20 QUESTIONS BY COMMISSIONER CLAYTON:

21 Q. Mr. Barnes, I want to be clear just on a
22 few things. Your surrebuttal testimony states that the
23 return on equity component is a range of 8.59 to 9.39; is
24 that correct?

25 A. That's correct.

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1 Q. Did that position change at all from your
2 either rebuttal or direct testimony?

3 A. No, it did not.

4 Q. So the ROE didn't change at all with the
5 rate design that the -- well, some of the parties
6 supposedly agree to?

7 A. No, it did not.

8 Q. It did not change?

9 A. No, it did not.

10 Q. Okay. Does that mean that you don't see
11 any difference in risk from an investor's point of view
12 with the original rate design proposed by the company and
13 the rate design that has now been proposed by the Staff?

14 A. It's possible that investors may perceive
15 that as being less risky. Again, that's hard to quantify,
16 I believe I've reflected that in my comparable group
17 analysis because seven out of eight companies has some
18 sort of weather mitigation rate design in place.

19 Q. Do any of your comparables have the
20 100 percent in the fixed delivery charge?

21 A. I don't know specifically.

22 Q. What -- do any of them have 80 percent of
23 their delivery costs in a fixed charge?

24 A. I do not know. I'd have to look -- I have
25 not looked at the specifics of each rate design for those

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1 companies.

2 Q. When you say weather normalization
3 component, what did you mean by that?

4 A. From the Standard & Poors research reports
5 that I have, they list -- they normally refer to it most
6 of the time as weather mechanism or weather normalization
7 clause that's in place.

8 Q. What does that mean, though? What is a
9 weather normalization clause?

10 A. It's my understanding that if, say, in the
11 wintertime is more warmer than normal, that it would be
12 less revenues that the companies receive.

13 Q. I understand what the problem of weather
14 fluctuations would be, but how do the companies address
15 that in your comparables?

16 A. It's reflected in the company's price stock
17 or the price of the stock and the credit rating assigned
18 by Standard & Poors.

19 Q. How do they address that in rates to --
20 with the fluctuations in weather, weather normalization is
21 to make it more steady, I would assume, and avoid
22 fluctuations in usage. Is that a fair assessment? Do you
23 agree with what I just said?

24 A. I believe that would be a fair assessment,
25 yes, but I don't know the specifics of how that would --

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1 Q. In your comparables, do they use a
2 surcharge or do they just use a component built into the
3 revenue requirement, or is there another component in the
4 rate design or do you know?

5 A. I don't know.

6 Q. You don't know?

7 A. No.

8 Q. So your comparables only have -- it's your
9 testimony that the comparables only have some form of
10 weather normalization, but you don't know what kind of
11 weather normalization it is?

12 A. No, I do not. The only one I -- the only
13 company I do know of is AGL Resources, that they have a
14 rate design that's similar to what Staff is proposing.

15 Q. What company is that?

16 A. Atlanta Gas and Light.

17 Q. Oh, Atlanta Gas and Light.

18 A. Yeah. That's the only company I'm familiar
19 with that has --

20 Q. And what return on equity does Atlanta Gas
21 and Light have?

22 A. They've been authorized a 10.9 percent.

23 Q. 10.9?

24 A. Yes.

25 Q. Is it a comparable company to Atmos Gas?

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1 A. I believe it is, yes.

2 Q. How come you didn't suggest a 10.9 ROE?

3 A. That was just -- my analysis didn't come up
4 to that number. I base it on my group of comparable
5 companies, and my proposed growth rate range for the --
6 based on those companies applied to Atmos.

7 Q. Do you leave the 100 percent in fixed
8 costs, would you agree that it is the ultimate in weather
9 normalization? It's about as far as you can go in
10 mitigating fluctuations in usage due to weather?

11 A. From what I understand with some of the
12 rate designs that I have briefly looked at, I believe so.

13 Q. Okay. And by eliminating fluctuations in
14 weather, does that improve the risk profile of the
15 company? Does it make them less risky?

16 A. All else equal?

17 Q. Well, yes, all else being equal.

18 A. Yes.

19 Q. It does?

20 A. Yes. And let me restate my answer. I
21 can't say if it would reduce 100 percent, but it's pretty
22 close, I would think. I would think more than 80 or even
23 90, but I don't know about 100 percent.

24 Q. Why not 100 percent?

25 A. From what I have discussed with other

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1 members of Staff, Laclede has a -- Laclede Gas has a
2 weather normalization clause, I believe, and that they're
3 exposed to about 3 percent of weather, from what I
4 understand. So it's not completely eliminated, but it's
5 very close.

6 Q. But this goes farther. This doesn't have
7 any volumetric -- according to the Staff proposal, there
8 is no volumetric change in the price of the delivery cost
9 because it's 100 percent on a fixed charge that everybody
10 would pay. So how is it not 100 percent mitigated from
11 weather or removed from weather effects?

12 A. I don't have an answer for you. I don't
13 know.

14 Q. Don't know. Okay. What was the proposed
15 rate design at the time you suggested the 8.59 through
16 9.39, what rate design were you using or were you --

17 A. At the time, I -- at the time I filed
18 direct, I knew rate design was an issue, but I did not
19 know the details of what Staff was going to propose at
20 that time.

21 Q. So to you, does rate design matter? Does
22 the rate design matter for how you -- how you evaluated
23 return on equity?

24 A. I believe that it does, and with my
25 comparable group analysis, I believe that's already been

1 reflected in the comparable group stock price and credit
2 rating. So I felt that there was no need to make a
3 reduction, lower my recommended ROE.

4 Q. Well, I guess just before we talk about
5 changing it, maybe I jumped the gun too much. Before we
6 talk about any potential changes, but looking at the rate
7 design, let me ask the question this way: Did you look at
8 rate design when you developed your range of 8.59 through
9 9.39, rate design for Atmos in this case?

10 A. No, I did not.

11 Q. You did not. Does that mean that rate
12 design was not important in your evaluation of what the
13 ROE should be for Atmos?

14 A. I believe it is important. I just --

15 Q. But you didn't look at it?

16 A. At the time, I did not know the rate design
17 proposal was going to be this big of an issue until OPC
18 filed.

19 Q. But you didn't know what the rate design
20 was at all. It doesn't matter if it's at issue. You're
21 saying that rate design doesn't matter in your assessment
22 of return on equity, aren't you?

23 A. I believe that it does matter, but --

24 Q. But you didn't look at it?

25 A. Correct.

1 Q. With the Staff proposal on rate design,
2 do you understand -- how we've talked about it here, do
3 you understand how the rate design works, as Staff -- as
4 your colleagues have proposed?

5 A. I think I have a general understanding that
6 all the costs associated with delivering the gas is going
7 to be rolled into a fixed cost for the customer.

8 Q. And you have some knowledge of the rate
9 design of your comparable companies?

10 A. Just general, just if they have some sort
11 of weather mitigation rate design in place, that's all I
12 know. I don't know the specifics.

13 Q. Do the rating agencies look at rate design?
14 Do they look at rate design in determining how a company
15 is rated?

16 A. That's one of the risks that they look at,
17 yes.

18 Q. When they look at it, how deep into rate
19 design do they look? Do they look at it like, as you've
20 said, as just say, well, whether they have some weather
21 normalization factor built into rates, or do they look
22 deeper or do you know?

23 A. I don't know without talking to them.

24 Q. Okay. Would you agree with me that a rate
25 design that's based on fixed rates gives a greater

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1 assurance that the company will have revenues to meet
2 their authorized rate of return? Do you agree with that
3 statement?

4 A. I think they have a greater chance of
5 recovering those costs.

6 Q. Okay. And with a greater chance, does that
7 mean we should increase their authorized rate of return,
8 decrease their authorized rate of return or just leave it
9 the same?

10 A. I believe that it should be left the same,
11 based on my analysis.

12 Q. You think it should be -- so you believe
13 that they -- that if they have a greater opportunity to
14 earn their rate of return or meet their revenue
15 requirement, they have a greater opportunity to do that,
16 you do not believe there should be any reflection in their
17 authorized rate of return?

18 A. Their authorized rate of return, yes, I
19 believe that that would deem a lower amount of ROE. By
20 how much, I can't quantify that.

21 Q. Okay. So you believe it should be reduced,
22 but you don't know how much?

23 A. Correct.

24 Q. Okay. Why didn't you -- why didn't you
25 reduce -- why didn't you file in your testimony somewhere

1 suggesting a reduction in ROE based on that rate design in
2 line with what you've just said?

3 A. I believe it's already reflected in my
4 analysis, in my comparable group analysis, so there was no
5 need to make a further adjustment downward.

6 Q. How could it be reflected when you didn't
7 contemplate the rate design in the first place? How could
8 it be contemplated?

9 A. It's contemplated in the stock price of the
10 company and the credit rating of the company, of my
11 comparable companies.

12 Q. I'm not following. I'm not following. I'm
13 not following your analysis.

14 A. My comparable group analysis, seven out of
15 the eight companies have some sort of weather mitigation
16 rate design in place. And I don't know the specifics of
17 each of those rate designs. I believe that in my
18 comparable companies, each one of those, that risk is
19 reflected in the stock price of those companies, which is
20 part of the DCF model. It's also reflected in the
21 company's credit rating.

22 And I believe that if -- and I have not
23 discussed this with Standard & Poors, but if there is a
24 significant reduction in risk, that they would have a
25 higher credit rating, and the average of my credit rating

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1 for the group was A credit rating.

2 Q. So basically you look at their credit
3 rating?

4 A. Correct.

5 Q. You don't look at any other factors?

6 A. Correct. The credit rating, and that's
7 based on an aggregating. All the risk combined is
8 reflected in their credit rating, one of those being rate
9 design or weather mitigation rate designs that are in
10 place for the company.

11 Q. So to you, credit rating is the only factor
12 that should be reviewed in establishing an ROE?

13 A. On an aggregate level, yes.

14 COMMISSIONER CLAYTON: Okay. Thank you.

15 COMMISSIONER GAW: I was through, but now
16 I'm not.

17 JUDGE DIPPELL: Commissioner Gaw, you had
18 additional questions?

19 FURTHER QUESTIONS BY COMMISSIONER GAW:

20 Q. Is it your testimony, Mr. Barnes, that this
21 Commission should just defer to credit rating agencies in
22 determining what an ROE should be? Is that what your
23 testimony is?

24 A. No, I don't believe that the Commission
25 should set the return on equity based on my recommendation

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1 of my comparable group analysis.

2 Q. I thought you just testified that your
3 analysis was entirely based upon their credit rating?

4 A. Part of that and the DCF model that's based
5 on the stock price for each company in that DCF model.

6 Q. How did the credit rating agencies play
7 into your setting of the ROE in your recommendation here?

8 A. Based on each company's credit rating, I
9 believe that they reflect that risk in their credit
10 rating, and for what -- on my Schedule 19 I show the
11 credit rating for each company and also, the lower the
12 credit rating, riskier that company is; the higher the
13 credit rating, the less risky that they are.

14 Most of my companies are in the A range,
15 and if it has not been reflected, then they would be
16 deemed more risky. I believe that as Standard & Poor's
17 and other credit rating agencies that have reflected that,
18 that's -- that's one of the things that I looked at
19 besides running the DCF model and the CAPM model.

20 Q. But your testimony, your recommendation
21 here is entirely, as I understood it earlier, based upon
22 the running of the DCF model, correct?

23 A. Yes.

24 Q. That's your range, it matches exactly what
25 your calculation was under the DCF model, correct?

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1 A. Correct.

2 Q. And would it be accurate to say that the
3 way that the input comes in from the credit agencies is
4 because that's how you chose your comparable part?

5 A. No. I chose my comparables based on a
6 group selected by Edward Jones. That was what I started
7 with.

8 Q. And did you choose those comparables
9 intentionally looking for companies that had some weather
10 mitigation rate design?

11 A. That was not one of my criteria, no.

12 Q. How did it end up that you had seven of the
13 eight companies with that type of design, just purely by
14 accident?

15 A. Just by reading the Standard & Poors, what
16 the issue reports by Standard & Poor's, by reading those,
17 that's how I determined what -- if they had some type of
18 weather mitigation rate design in place.

19 Q. But that was after the fact, after you had
20 already chosen those companies?

21 A. That is true, yes.

22 Q. So my question is, is it not just by
23 accident, then, that you came up with these seven of eight
24 companies that just happened to have a weather mitigation
25 provision?

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1 A. Yes.

2 Q. Even though --

3 A. It's possible, yes.

4 Q. Even though -- well, is that not the case?

5 I'm trying to understand how you chose these companies,
6 and if you chose these companies because they had some
7 weather mitigation provision, that's fine. I just want to
8 know if that was the case.

9 A. That was not one of my criteria, no.

10 Q. So by accident, we have seven of the eight
11 here that have a weather mitigation provision?

12 A. It looks that way.

13 Q. Which you determined after the fact when
14 you found out that rate design was going to include
15 something that insulated the company from fluctuations in
16 weather, fluctuations in conservation, fluctuations from
17 anything that has to do with those kind of events?

18 A. After I filed direct testimony, that's when
19 I found out that these companies did have weather
20 mitigation rate designs.

21 Q. That's despite the fact that there -- at
22 least according to the survey we saw a while ago, only
23 four of the 27 states that responded, including Missouri,
24 that has a weather mitigation or has some sort of a rate
25 design provision that takes into account weather

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1 mitigation?

2 A. I'm not familiar with that study.

3 Q. That's all right. It was introduced
4 yesterday, so I understand if you weren't. And then after
5 you found out that rate design was one of the things that
6 you needed to take into account, you did nothing further
7 to determine what the type of weather mitigation
8 provisions were in those comparables, correct?

9 A. That's correct. I'd have to call each
10 state or the company to find out, and I have not done
11 that.

12 Q. And you have not done that. So we don't
13 know and the Commission cannot know based on your
14 testimony and your study how insulated the companies are
15 from fluctuations in weather, efforts of the customers to
16 conserve, other factors that may be a part of what sets
17 the risk of these companies?

18 A. That would be correct.

19 Q. If it turned out that the rate design in
20 this case was left as it is currently, would you then
21 suggest that this Commission should raise the ROE in this
22 case from your recommendation? That's not my last
23 question.

24 A. I would suggest that the Commission still
25 utilize my analysis that I have done here.

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1 Q. Okay. So in other words, you would not
2 recommend raising the recommendation; is that correct?

3 A. Correct.

4 Q. Explain that for me, please.

5 A. I will try. Again, I'm going to refer back
6 to my comparable company analysis. I believe all the risk
7 factors have already been contemplated in each company's
8 stock price and the credit rating. If something changes,
9 I'd probably have to just go back and look at it in more
10 detail. I can't give a definite answer how much it should
11 be raised or if it should really go up at all.

12 Q. What would you look at?

13 A. I would start with some other companies
14 that have a rate design like Atmos has and go back and
15 look at factors of those companies and determine if
16 they're comparable to use in performing an analysis based
17 on that.

18 Q. Would you -- that would have other
19 characteristics that were similar to Atmos as well?

20 A. Correct.

21 Q. And you'd have to go through and process
22 that, correct?

23 A. Correct.

24 Q. Would you also perhaps go back and look at
25 the comparables that you have utilized to see whether the

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1 weather mitigation provisions that they have are of enough
2 significance to warrant using a different set of
3 comparables?

4 A. I could do that, yes.

5 Q. Would that be appropriate?

6 A. If Atmos keeps the same rate design?

7 Q. Yes.

8 A. I think it would be one criteria to use,
9 yes.

10 COMMISSIONER GAW: Okay. Thank you.

11 JUDGE DIPPELL: Commissioner Clayton.

12 FURTHER QUESTIONS BY COMMISSIONER CLAYTON:

13 Q. Mr. Barnes, how -- what division of which
14 department are you in?

15 A. I'm in the financial analysis department.

16 Q. And that's under utility services?

17 A. That's correct.

18 Q. And how many Staff members are in the
19 financial services --

20 A. Just two.

21 Q. -- division?

22 You and who?

23 A. David Murray. And our supervisor, Ron
24 Bible, but he's out at the moment.

25 Q. He's out? Isn't he back from Iraq?

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1 A. He's been in an accident.

2 Q. Oh, sorry to hear that.

3 A. He's going to be out for a little bit. So
4 it's technically three people we have.

5 Q. Technically three. That's down because you
6 used to have at least one other in that department?

7 A. That's correct. At one time we had --
8 including the supervisor, we had four.

9 Q. You had four?

10 A. Yes.

11 Q. Mr. Kiebel, I think?

12 A. That's correct.

13 Q. What did you-all do when Mr. Bible was in
14 Iraq?

15 A. Bob Schallenberg was our supervisor. We
16 reported directly to him.

17 Q. Is he doing -- is he doing any of the
18 financial services work right now?

19 A. Yes, he is.

20 Q. He is. Okay. How many rate cases are you
21 working on right now where you're the ROE man or person?

22 A. This will be -- this is actually my second
23 one. I just filed testimony in the Algonquin Water case
24 that's currently pending. I just filed direct last
25 Thursday, I think.

0607

1 Q. So Algonquin, Atmos?

2 A. And Kansas City Power & Light.

3 Q. KCP&L. And then are you participating in
4 any other cases?

5 A. Just some small water and sewer cases.

6 Q. Like how many? Just some small water and
7 sewer, how many of those?

8 A. Approximately -- I don't know the exact
9 number. Probably five.

10 Q. Five small companies. Would you say
11 Mr. Murray's load is about the same?

12 A. Same as mine, my load?

13 Q. Yeah. Does he have three or four big cases
14 and --

15 A. Yes.

16 Q. -- a handful of small cases?

17 A. Yes.

18 Q. Okay. Is that -- well, who else is
19 handling the financial side of ROE analysis with Mr. Bible
20 out and just the two of you there now?

21 A. That's it.

22 Q. That's it. So just the two of you?

23 A. Yes.

24 Q. Who was the ROE witness in Empire,
25 Mr. Murray?

0608

1 A. Yes.

2 Q. And you did KCP&L, Atmos. Does Mr. Murray
3 have MGE?

4 A. Yes.

5 Q. Ameren?

6 A. That's being consulted out.

7 Q. Consulted out?

8 A. Yes.

9 Q. And Aquila?

10 A. That's also being consulted out.

11 Q. That's going to be consulted out. Am I
12 missing any?

13 A. I've heard Missouri-American's going to
14 file.

15 Q. They've been saying that for a long time.
16 Laclede just filed, but that's awfully early. Is the
17 workload more than what it has been in recent years?

18 A. Yes, it is.

19 Q. Can you give me a comparison of how the
20 workload compares?

21 A. Since I've been with the Commission, which
22 is going on a little over three years now, I would say
23 this is the busiest year that I've experienced since I've
24 been here.

25 Q. Okay. Do you-all feel like you're pretty

1 much pushed to the limit? I mean, would you have room to
2 take on another big case yourself or could Mr. Murray take
3 on another big case?

4 A. I think we're being pushed to the limit.
5 That's why we're consulting some of these out because it's
6 just so much of a workload.

7 Q. You've been with the Commission three
8 years; is that right?

9 A. Yes, sir, going on three and a half now.

10 Q. Three and a half. Me too. Three and a
11 half. When did you start?

12 A. June of 2003.

13 Q. Me too. No kidding. We ought to get a pin
14 together sometime.

15 A. We can do that.

16 COMMISSIONER CLAYTON: I don't have any
17 other questions. Thanks.

18 JUDGE DIPPELL: Okay. Is there
19 recross-examination based on questions from the Bench from
20 Atmos?

21 MR. FISCHER: Just briefly.

22 RECROSS-EXAMINATION BY MR. FISCHER:

23 Q. Mr. Barnes, did you have the occasion to
24 review the prepared surrebuttal testimony of the Atmos
25 witness on ROE, Don Murry, Exhibit No. 15?

0610

1 A. Yes.

2 Q. And do you recall that his surrebuttal
3 testimony did go through your comparable gas companies one
4 by one and discuss the revenue stabilization adjustments
5 that those companies had or other weather normalizing?

6 A. Yes, he did.

7 Q. And is it your understanding that these
8 were not just fixed charge rate structure, but they also
9 included either weather normalization adjustments or some
10 other revenue stabilization adjustment mechanisms?

11 A. Based on what he testified to, yes, that's
12 what I understand.

13 Q. And his analysis agreed with yours that
14 seven out of the eight companies that you had in your
15 comparables had some sort of weather mitigating or revenue
16 stabilization adjustment --

17 A. Yes.

18 Q. -- is that your memory?

19 Okay. And if I recall, the Staff filed a
20 range of ROEs in this case like you typically do; is that
21 right?

22 A. That's right.

23 Q. And that covers a variety of risks, all
24 kinds of risk that might be affecting companies; is that
25 right?

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1 A. Yes.

2 MR. FISCHER: Okay. That's all I have.

3 Thank you.

4 JUDGE DIPPELL: Thank you. Is there
5 further cross-examination from Public Counsel?

6 MR. POSTON: Yes, thank you.

7 RE-CROSS-EXAMINATION BY MR. POSTON:

8 Q. Mr. Barnes, on the seven out of eight
9 comparable companies, did you analyze those companies for
10 any other type of risk that they may have in addition to
11 weather?

12 A. Just their business risk, financial risk.
13 As far as specific details, it's reflected in their credit
14 ratings and capital structure.

15 Q. Did you look -- with the Atlanta Gas
16 and Light, did you consider the effect that a company
17 operating in a market in which the gas bills are
18 actually -- scratch that.

19 Did you consider the regulatory market that
20 AGL works in when you wrote your testimony?

21 A. The regulatory environment?

22 Q. Yes. Sorry. Thank you.

23 A. No, I did not.

24 Q. So is the company that works in an
25 environment that's different where gas marketers are used,

0612

1 is that something that should be considered?

2 A. I think it's considered on an aggregate
3 level, all the risks. That's one of them, I would think.

4 Q. And do you know if Atlanta Gas and Light
5 has exposure to manufactured gas plant cleanup costs?

6 A. I don't know.

7 Q. Can those type of cleanup costs represent a
8 major risk exposure for a company based on site-specific
9 information?

10 A. I don't know.

11 MR. POSTON: Your Honor, I don't know if I
12 offered Exhibit 141. It was the Atlanta Gas and Light
13 website that Ms. Meisenheimer testified to earlier. I
14 just don't remember if I offered that one.

15 JUDGE DIPPELL: It was sort of requested
16 during her Commission questions, so no, it wasn't
17 officially offered, but I'm --

18 MR. POSTON: Well, I would like to offer
19 that one based on Ms. Meisenheimer's earlier testimony.

20 JUDGE DIPPELL: Would there be any
21 objection to Exhibit 141? That was the Atlanta Gas and
22 Light website information. Have you-all had an
23 opportunity now to look at it, I hope?

24 MR. FISCHER: No objection from Atmos.

25 MR. THOMPSON: No objections.

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1 JUDGE DIPPELL: Thank you. Then I'll
2 accept Exhibit 141 into evidence.

3 (EXHIBIT NO. 141 WAS RECEIVED INTO
4 EVIDENCE.)

5 MR. POSTON: That's all I have. Thank you.

6 JUDGE DIPPELL: Is there redirect?

7 MR. THOMPSON: Why, yes, your Honor.

8 REDIRECT EXAMINATION BY MR. THOMPSON:

9 Q. You testified, Mr. Barnes, to both
10 Commissioner Gaw and Commissioner Clayton -- sorry, your
11 worship -- that you thought that the adoption of Staff's
12 rate design would result in less risk for Atmos, but that
13 you believed it was hard to quantify how much less; isn't
14 that correct?

15 A. Yes.

16 Q. Would you quantify it the way
17 Mr. Trippensee has?

18 A. I don't believe so.

19 Q. And with respect to your ROE
20 recommendation, Staff's current case is a no change in
21 revenue requirement; isn't that correct?

22 A. Yes.

23 Q. And that was a development that occurred
24 after you had submitted your original testimony, isn't it?

25 A. That's my understanding.

0614

1 Q. So Staff's present revenue requirement
2 recommendation, in fact, doesn't rely on your ROE
3 recommendation, does it?

4 A. I don't think so. I don't know what number
5 they would have used for their revenue requirement.

6 Q. Mr. Trippensee testified yesterday it would
7 equate to about 12.5. Do you disagree with that?

8 A. No, I don't.

9 MR. THOMPSON: No further questions.

10 JUDGE DIPPELL: Thank you. Mr. Barnes, I
11 believe that concludes your testimony. I believe you may
12 be excused. I'd like to -- next we'd like to have
13 Mr. Trippensee on the same issues.

14 Mr. Trippensee, again I'll remind you that
15 you were previously sworn. You remain under oath in this
16 proceeding.

17 THE WITNESS: I understand that.

18 JUDGE DIPPELL: Commissioner Gaw, do you
19 have questions for Mr. Trippensee on these issues?

20 COMMISSIONER GAW: Yes.

21 RUSSELL TRIPPENSEE testified as follows:

22 QUESTIONS BY COMMISSIONER GAW:

23 Q. Mr. Trippensee, let me start by asking you
24 about the ROE. Your recommendation in this case is for an
25 ROE of 7 percent; is that correct?

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1 A. I believe that is correct, yes, sir.

2 Q. Now, is that based upon the assumption that
3 a rate design were adopted similar to what Staff proposes?

4 A. That would be correct. It's if the Staff
5 rate design is rejected by this Commission consistent with
6 past Commission decisions, Public Counsel would support
7 the range filed by Staff witness Barnes.

8 Q. All right. Now, first of all, help me to
9 understand why you believed it was appropriate to discount
10 the ROE to 7 percent from that range that Staff witness
11 Barnes supports because of the rate design change.

12 A. The rate design change that the Staff
13 proposed in their direct testimony and has been accepted
14 by the company creates a virtual guarantee of a revenue
15 stream from the customer classes affected for this
16 company. A basic fundamental of risk that a company faces
17 is business risk, and a primary measure of business risk
18 is the variability of the revenue stream and thus the
19 variabilities of earnings on the company or the resulting
20 variability of earnings for that company.

21 If you suggest I will reduce that risk,
22 there should be -- if the ratepayer is required to
23 significantly reduce that risk, the ratepayer should also
24 then see a corresponding reduction in the cost that is
25 incorporated into the revenue requirement found

1 appropriate by this Commission.

2 Q. Is it your belief that the rate design
3 proposed by Staff represents a significant decrease in
4 that risk?

5 A. Yes, I do.

6 Q. And tell me why that is your belief.

7 A. That belief is based on the concept that
8 commodity -- changes in the usage by customers creates the
9 difference in revenue streams for the customer classes
10 involved. If you eliminate that commodity component, all
11 that is left in the mathematics of calculating their bills
12 is the number of customers.

13 Atmos has had a fairly stable, slightly
14 growing customer base over the last three years data
15 available to me in public record. There's no reason to
16 believe a significant decline in their customer base is
17 going to occur. Thus, their revenue stream is virtually
18 assured, and to the extent there's growth, it's actually
19 going to increase a little bit, which would benefit the
20 stockholder.

21 Q. Once the rates are set in the rate case,
22 then going forward the revenue stream would be based upon
23 the set number of customers that they had during the test
24 year, I assume?

25 A. The billing determinants the parties have

0617

1 agreed to, yes.

2 Q. And then going forward, then there could
3 actually be some increasing revenue stream because of
4 increasing customers, that's historically been what's
5 occurring?

6 A. That would be my expectation, yes, sir.

7 Q. And then you would have eliminated what you
8 consider the primary risk factor for the company?

9 A. With regard to their business risk and that
10 variability, yes. The rate design, as it's proposed, goes
11 well beyond what was contemplated in Senate Bill 179,
12 which discussed weather and conservation. This discusses
13 all variability.

14 Q. All right. Would you -- would you give me
15 some examples of some additional variability that would be
16 outside of what was contemplated by 179, if you can?

17 A. Variability as an example, general reading
18 I've done indicates that housing stock, new housing stock
19 is growing in size relative to average, what's in place.
20 I have no reason to believe Atmos' service area, as varied
21 as it is throughout the state, is not experiencing the
22 same thing. So even with -- even with good insulation,
23 with good -- with modern day Energy Star appliances, that
24 type of activity is going to increase the per use customer
25 usage on an average basis.

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1 Energy Star appliances, it may be a
2 semantical difference, but Public Counsel doesn't view the
3 purchase of a new appliance to replace one that is broken
4 as being conservation. If that type of appliance is the
5 only one available, that's all the customer can purchase.
6 So that would be -- it's not a conscious decision by the
7 customer, it's simply a replacement of what they had.
8 That would be a couple of examples.

9 Q. So how does that play into the
10 variabilities of the company? I'm not sure I follow.

11 A. Well, to the extent that that variability,
12 the risk is either way, up or down.

13 Q. Okay.

14 A. And assurance is what business risk is
15 associated with. If you can reduce the variability either
16 up or down, that reduces the risk from the investor
17 standpoint. If you are guaranteed a revenue stream, you
18 have a lower risk. I think Staff witness Ross talked
19 about variability up and down as a lose/lose. It's not
20 that at all.

21 Q. Okay. There's also in 179 the company
22 mechanism that provides for that weather moderation
23 provision or weather catchup provision and the
24 conservation provision that provides for additional
25 recovery. There's a lag time in 179, isn't there, in that

0619

1 recovery or --

2 A. Yes.

3 Q. -- payment out?

4 Does that also add or increase risk?

5 A. Elimination of lag would also reduce risk.

6 Cash flow is a major factor to rating agencies, to the
7 investor. I mean, you can have an income statement that
8 shows you're making a profit, but you can also be broke
9 cash-wise and be out of business if you're insolvent.

10 Q. This rate design that Staff is proposing
11 is -- it eliminates that lag time that would be in a
12 179-type provision, doesn't it?

13 A. Yes, it does. One of our other concerns
14 with 179 is all the parties are involved in that case or
15 will be involved. This is one of our smaller utilities,
16 and it's a -- without adequate data, I think
17 Ms. Meisenheimer addressed, to make this dramatic a
18 change, without looking at all the factors and how it
19 affects across the entire state, it's just not something
20 Public Counsel believes is a good policy for this
21 Commission or good procedure to develop policy for this
22 Commission.

23 Q. Okay. Now, you -- your discount here to
24 7 percent is somewhere around 1 and a half to over
25 2 percent discount, isn't it?

0620

1 A. Compared to the Staff range --

2 Q. Yes.

3 A. -- that would be correct.

4 Q. And how did you come up with that amount of
5 reduction?

6 A. Business risk is the risk of the
7 variability. The company would still incur financial
8 risk, which is, as I believe I defined in my testimony,
9 the additional risk placed on the common stockholders as a
10 result of financial leverage. So they will still face
11 that. So I looked at the difference between the
12 completely risk free rate as identified by Mr. Barnes. I
13 believe his was approximately 5 percent. It's since
14 declined in more current Staff testimony to around 4.75.

15 I looked at the difference between risk
16 free rate and the debt cost of the company, which would be
17 the -- a risk that debt holders would -- risk premium that
18 debt holders would require and assign then the same risk
19 premium to stockholders for their financial leverage,
20 financial risk issues. I then rounded it up to 7 percent
21 just to be conservative for lack more of a reason than
22 that, just simply to be conservative, because I think as
23 Mr. Barnes testified, as I discussed this morning in
24 deposition, I have not seen anybody make a firm hard
25 calculation. I've not seen any discussion -- theoretical

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1 discussion of how to do it.

2 Public Counsel was trying to present this
3 Commission with something that was based on some hard data
4 and just not simply, as in the case of testimony that's
5 been filed in the MGE case by the company witness, just 25
6 basis points based on his opinion. We tried to look at
7 firm data.

8 Q. Okay. So your calculation at 7 percent,
9 you didn't give us a range here, right?

10 A. I didn't give you any flexibility. I'm
11 sure the Commission will take that flexibility if they
12 think it appropriate.

13 Q. If there was, would you -- did you make any
14 calculations that would have provided any flexibility in
15 that number?

16 A. I don't think I made any calculations that
17 would provide it. I would simply say that if you're
18 looking at a range, it would be somewhere between the
19 7 percent and the low end of Staff's filed testimony.

20 Q. Okay. Now, and that's what you meant when
21 you said you were being conservative with 7 percent?

22 A. Yes.

23 Q. Okay. Now, let me ask you this: You were
24 just here when Staff witness Barnes was testifying,
25 correct --

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1 A. Yes, I was.

2 Q. -- just before you?

3 And he testified to, if I remember
4 correctly, that seven of the eight companies that he
5 examined had some sort of weather mitigation provision
6 according to information he looked at. Did you hear him
7 testify to that generally?

8 A. Yes, I did.

9 Q. Do you know or have you looked at the rate
10 designs of those companies that are in his group of
11 comparables?

12 A. I looked at some of the rate designs.
13 Probably the one I've seen most is the Atlanta Gas. It is
14 a rate design that is somewhat similar to what Staff has
15 proposed here, but it is based on premise-specific
16 information and not average just all customers pay the
17 same. It looks at specific capacity demanded by that
18 premise before the rate is set. So in that regard, it is
19 definitely different.

20 Secondly, Atlanta Gas has marketers
21 involved in their process. They are truly a local
22 distribution company. They do not produce the gas for
23 their customers --

24 Q. I see.

25 A. -- so that is another major factor as -- as

0623

1 events over the last five years have shown us with
2 marketers.

3 Q. Do they have retail competition there?

4 A. Between the marketers, yes, they do, it's
5 my understanding. I also noticed on their website it
6 appears they have a manufactured gas cleanup fee, which
7 would indicate they have some exposure to manufactured gas
8 plants, which is a significant -- potentially significant
9 factor for the company as --

10 Q. Risk factor?

11 A. -- a definite high risk factor because you
12 have costs that are unknown, and you have federal
13 government and Super Fund involvement, and there are very
14 strict protocols for cleaning up those sites if, in fact,
15 they're identified and the company has found to be the
16 last deep pocket available to take care of those
17 obligations.

18 Q. Did you look at any of the other companies
19 in regard to rate design?

20 A. I did. There was some different -- I think
21 most of the companies involved had some clauses, unlike,
22 say, a Laclede-type weather mitigation rate design, they
23 had more clauses than a rate design.

24 Q. What does that mean, that they had clauses?
25 Explain that.

1 A. It would be a clause would be a charge that
2 would be a separate charge to the customer to catch up or
3 to refund revenue flows that differentiate, were different
4 than what was expected due to weather. I believe one of
5 them also did have a conservation clause included in that.

6 Q. Okay. So would you regard those clauses as
7 being less comprehensive than the one proposed by Staff in
8 this case?

9 A. The proposal in Staff's case eliminates all
10 variability.

11 Q. So in regard to comparing risk clauses that
12 you have described, all other things being equal to the
13 clause that is -- or to the rate design proposed by Staff
14 for Atmos, would you say the risk is lower for Atmos, all
15 other things being equal?

16 A. Yes.

17 Q. And so therefore, would you also say that
18 the ROE that should be recommended, all other things being
19 equal, in comparing Company A that has rate a clause like
20 you describe to Company A with a rate design like Staff
21 has proposed, that the ROE for the company when it has
22 Staff's design should be lower?

23 A. I believe the answer to that is yes, and
24 that's the underlying premise of Public Counsel's
25 testimony.

1 Q. Okay. And it sounds like, if I'm following
2 you, that from your analysis, you are building your
3 recommendation on ROE at least in part from a risk-free
4 environment up, rather than taking Staff's original
5 recommendation and working down, but I'm not sure if I'm
6 following that exactly.

7 A. The calculation itself is built that way
8 from risk free up to the extent Staff's testimony would
9 serve at the upper bounds if, in fact, you were looking at
10 a range. We tried to develop in this case a specific
11 number, and we worked it off of the risk-free rate.

12 Q. Now, are you familiar with the issue of the
13 company's -- the company at least at some point having
14 been alleged to be overearning?

15 A. Yes, I am.

16 Q. Would you mind giving me just a very quick
17 background of whether or not Staff at some point in time
18 offered testimony or suggested that indeed the company was
19 overearning?

20 A. I believe Staff's direct testimony asserted
21 that on a going-forward basis, if current rates were
22 maintained, that the company would overearn by
23 approximately 1.2 at the mid point of -- I believe it was
24 the midpoint. It might have been at the high end of
25 Mr. Barnes' recommendation on rate of return on equity.

1 Subsequent to that time, Staff made some
2 corrections and adjustments in their case, but I believe
3 Mr. Rackers testified last Thursday that those corrections
4 and adjustments did not materially change the 1.2 number,
5 negative number.

6 Q. In other words, they would still be
7 overearning using Staff's recommended ROE?

8 A. That would be correct. And I think
9 Mr. Rackers testified to the fact that Staff believes
10 those -- that number is still defensible and -- based on
11 the practices and the recommendations that Staff made in
12 their direct testimony.

13 Q. Do you agree with Staff in regard to those
14 questions?

15 A. Yes, I do.

16 Q. Does Public Counsel?

17 A. With one exception.

18 Q. All right. Go ahead.

19 A. That exception is an issue before this
20 Commission with regard to a negative amortization of the
21 depreciation reserve.

22 Q. And how does that impact the outcome?

23 A. That actually would raise the 1.2 or make
24 it a smaller decrease. It would move it \$591,000 closer
25 to zero. So that would make it 6 -- a little over

0627

1 600,000 negative.

2 Q. So --

3 A. On that issue. And then there's the rate
4 of return, which takes it back the other direction, if the
5 Staff rate design is accepted. If the Staff rate design
6 is not accepted, Public Counsel's recommendation, based on
7 the Staff work that they believe is defensible, is in the
8 neighborhood of 600 to 750,000 negative.

9 Q. All right.

10 A. I'd have to go back and look at exactly the
11 range created by Mr. Barnes' ROE recommended ranges.

12 Q. So, Mr. Trippensee, Public Counsel's
13 position is that Atmos is currently overearning but that
14 the amount of the overearning is impacted by the rate
15 design and by this negative amortization issue. Am I
16 following?

17 A. In general terms, yes, but I do like to
18 say, Commissioner, that since the rate case is a
19 forward-looking item, that they would overearn in the
20 future.

21 Q. Thank you for that correction. So that is
22 Public Counsel's position?

23 A. Right, because the Staff, this Commission
24 uses year-end rate base, things along that line. We're
25 not going back and looking at actual. Probably over

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1 95 percent of the revenue requirement has been adjusted in
2 one way or another from the test year.

3 COMMISSIONER GAW: I thought I had
4 something else, but I'm not seeing it right now, so thank
5 you.

6 JUDGE DIPPELL: Thank you. Commissioner
7 Clayton?

8 (No response.)

9 JUDGE DIPPELL: Is there further
10 cross-examination based on questions from the Bench, from
11 Atmos?

12 MR. FISCHER: Judge, we had extensive cross
13 earlier in the proceeding. I'm going to largely stand on
14 that, but I did have a couple things I just wanted to
15 clarify. It won't take very long.

16 RE-CROSS-EXAMINATION BY MR. FISCHER:

17 Q. Mr. Trippensee, is it your understanding
18 that Atlanta Gas is part of AGL resources, which is a
19 holding company?

20 A. That's my understanding.

21 Q. Are you also aware that they operate in a
22 number of states, Virginia, Tennessee, Florida and New
23 Jersey?

24 A. I did not look at the extent of their
25 service companies.

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1 Q. So you didn't study whether weather
2 mitigation occurs in all of those states?

3 A. No, I did not.

4 Q. And do you know if they have marketers in
5 all those states?

6 A. Since I didn't study those states, the
7 answer would be no.

8 Q. You also brought up manufactured gas plant
9 remediation. Are you aware that Atmos had an AAO case
10 pending in front of this Commission a few years ago
11 involving a similar plant in the Hannibal area?

12 A. Yes, I am.

13 Q. And are you also aware that Atmos serves
14 the New Orleans area?

15 A. That's not the Missouri jurisdiction.

16 Q. No, it's not. But would you agree with me
17 the company did face a significant weather risk last
18 summer that wouldn't be reflected in any kind of a
19 normalization clause there?

20 A. If they can find that manufactured gas
21 plant site after last summer, they may still have some
22 liability.

23 Q. That would be true if New Madrid's
24 earthquake goes off, too?

25 A. We may become part of Iowa and that would

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1 be true.

2 MR. FISCHER: Thanks a lot. That's all I
3 have.

4 JUDGE DIPPELL: Thank you. Is there
5 further cross-examination from Staff?

6 MR. THOMPSON: Yes, Judge. Thank you.

7 RE-CROSS-EXAMINATION BY MR. THOMPSON:

8 Q. Mr. Trippensee, during one of your answers
9 to Commissioner Gaw, you referred to Laclede-type weather
10 mitigation rate design. Do you recall that response?

11 A. I remember referring to it, yes.

12 Q. Would you be surprised if I told you that
13 when this Commission granted Laclede a weather mitigation
14 rate design, that its credit rating was downgraded?

15 A. Would I be surprised?

16 Q. Would you be surprised, sir?

17 A. Based on my conversation with Standard &
18 Poors, I would not be surprised at anything they do, since
19 they didn't know that Kansas City Power & Light built a
20 power plant.

21 MR. THOMPSON: Judge, could I get a yes or
22 no answer?

23 JUDGE DIPPELL: Mr. Trippensee, can you
24 answer Mr. Thompson's question. Would you be surprised --

25 THE WITNESS: I think I said I would not be

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1 surprised at anything at Standard & Poors, so, no, I would
2 not be surprised.

3 MR. THOMPSON: Thank you, Mr. Trippensee.
4 No further questions of this witness.

5 JUDGE DIPPELL: Thank you. I believe that
6 concludes Mr. Trippensee's -- oh, I'm sorry. Is there
7 redirect?

8 MR. POSTON: No, your Honor, thank you.

9 JUDGE DIPPELL: I believe that concludes
10 your testimony on this topic or these topics. Before you
11 step down, Mr. Trippensee, I'm going to see, would it be
12 possible, Mr. Dority, to get Dr. Murry on the phone at
13 this time or --

14 MR. DORITY: We can certainly try. I
15 didn't know if we would have any notice in the regard, but
16 he's supposed to be standing by.

17 JUDGE DIPPELL: We can take a break and try
18 to set that up, and then we'll move on from there.

19 COMMISSIONER CLAYTON: Judge, if that's
20 going to be a hardship on him, if he has to be tracked
21 down, it's not worth it, because I don't have that many
22 questions.

23 MR. FISCHER: I have a cell phone number
24 and that's how we track him down.

25 COMMISSIONER CLAYTON: If he's going to be

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1 somewhere where he -- that makes it difficult, I just --

2 MR. FISCHER: We're at the discretion of
3 the Commission on that.

4 COMMISSIONER CLAYTON: Jim, we know you
5 are. We appreciate that. But if you find he's at the
6 club or something like that, don't bother him, okay.

7 JUDGE DIPPELL: Let's take a ten-minute
8 break, see if Dr. Murry is available and I'll bring a
9 phone in here.

10 Thank you. You can go ahead and step down,
11 Mr. Trippensee.

12 Let's go off the record.

13 (A BREAK WAS TAKEN.)

14 JUDGE DIPPELL: Okay. Dr. Murry wasn't
15 available, so we're going to just keep going. We are
16 going to go to the other tariff issues and also pick up
17 some Commissioner questions on the miscellaneous charges
18 issues.

19 So Staff's witness Mr. Ensrud has come to
20 the stand, and he was previously sworn. So, Mr. Ensrud,
21 you may remain under oath. That's correct, you were
22 previously sworn?

23 THE WITNESS: Yes, I was.

24 JUDGE DIPPELL: Okay. You remain under
25 oath. So your exhibits have already been admitted. Was

0633

1 there cross-examination on the other tariffs issues from
2 Atmos?

3 MR. DORITY: No questions, your Honor.

4 JUDGE DIPPELL: From Public Counsel.?

5 MR. POSTON: Yes, just one. Thank you.

6 MICHAEL J. ENSRUD testified as follows:

7 CROSS-EXAMINATION BY MR. POSTON:

8 Q. I'm going to ask you a question about the
9 line extension policy.

10 A. All right.

11 Q. And in your direct testimony you say that
12 Atmos proposes to use a computer model to estimate the
13 cost of the main extension and the revenue that will be
14 derived; is that correct?

15 A. Which line? I address it in both
16 surrebuttal and direct, if I remember right.

17 Q. Well, actually, I can't find the line. I
18 might have given you the wrong page number. But is that
19 your testimony?

20 A. That's generally -- generally, yes, that
21 they use a scientific approach in that they use both a
22 computer model and in that they use traditional finance
23 principles to generate a rate.

24 Q. Okay. Will you please explain in detail
25 how that model works and what assumptions are made that go

1 into that model?

2 A. In its entirety, general discussion of what
3 it is is basically a model that determines cost. It bases
4 the price of a project to construct that project, meaning
5 building in such things as time, labor, duration of the
6 project and et cetera. So there were a number of factors
7 that were discussed as being included in the cost
8 component.

9 Once you've got a cost that is
10 representative of a specific project, the next step is you
11 would take the rate of return that the Commission granted
12 in the case, take that times the projected revenues. They
13 project out the revenues based upon the size of the house,
14 the type of the house and et cetera. And so you take the
15 return times the projected revenues. That's the offset to
16 the -- that specific project. That's how you determine
17 what the -- what the offset is for a project that would be
18 specific to you.

19 Q. So have you studied this model itself and
20 seen how it --

21 A. I was provided the model, but I've not done
22 a whole lot with it. Most of it was based upon
23 discussions with various company members as to how it
24 functions.

25 MR. POSTON: That's all I have. Thank you.

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1 JUDGE DIPPELL: Thank you. Are there
2 questions from the Bench, then, for Mr. Ensrud? And
3 Commissioner, this involves both the other tariff issues
4 and the miscellaneous issues.

5 COMMISSIONER GAW: Yes, I appreciate that,
6 Judge. Thank you.

7 QUESTIONS BY COMMISSIONER GAW:

8 Q. Mr. Ensrud, I want to go to the
9 connection/reconnection and transfer charges, and first of
10 all, can you tell me under Atmos' current tariffs what
11 the -- what those charges are?

12 A. For connection and transfer, there is no
13 charge today, for the cost of dispatching, someone calling
14 a dispatch board and then sending someone out to connect
15 it to. So those two, the current cost is zero.

16 Q. Okay.

17 A. In relation to the reconnection charge, I
18 believe I have a copy somewhere of their existing rates.
19 For reconnections today, the -- the normal business hour
20 would be for Areas P and U 40 bucks, for Areas P K and
21 S -- or B -- excuse -- B, K and S, \$30, and for Area G,
22 \$25.

23 Q. Okay. That's the --

24 A. That's normal business hour reconnection.
25 And I propose a \$24 rate.

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1 Q. Okay. So you're proposing \$24, and the
2 rates that you just read me are all above that? I'm
3 sorry. I was reading while you were talking.

4 A. All of the normal hours are higher than
5 what I propose. So my rates are lower than -- than the
6 existing rates for those. In relation to -- to the
7 outside business hour connections, reconnections outside
8 the traditional business hour, it would be -- I propose
9 50, and there is one for areas P and U that was a \$51
10 charge. So for that one it's going down, but for the
11 other areas, my \$50 is higher than the 40 or the 25.

12 Q. Okay.

13 A. The net impact of it all is \$29,000 less.
14 If you took the test year, priced out the test year, mine
15 would produce \$29,000 less on the reconnection rates.

16 Q. Now, that is without considering this
17 additional charge that you're proposing, correct, this
18 makeup of misdelivery charges?

19 A. That is true. That is just for the
20 dispatch service.

21 Q. Now, in regard to this so-called makeup
22 amount, first of all, give me an example of how that would
23 work.

24 A. If someone -- if someone were to go off the
25 system either by saying, it's summer, I don't need your

0637

1 service, thank you very much, or if they just simply don't
2 pay and go off in March, they come back on four months
3 later, whatever the delivery charge is, which ranges
4 between 15 and \$20 approximately, you would be charged for
5 the cost of sending a person out to reconnect you, and
6 they would make up all the fixed costs that occurred for
7 the period that you were out.

8 Q. Okay. So in addition to the connection
9 charge of \$24 or \$50, whichever it is, you would pay this
10 additional makeup charge, correct?

11 A. Correct.

12 Q. Now, that would be a charge that you would
13 pay if you were disconnected for anywhere up to a year?

14 A. Correct.

15 Q. And do we have this type of a reconnection
16 charge currently for another gas company in the state?

17 A. We have it in a certain form for Atmos for
18 Area S. Let me just read the connection. This language
19 is not exactly verbatim, but the content is pretty close
20 all the way through. I can read as many as you want, but
21 the flavor of one will get you there.

22 This schedule is a continuous service
23 schedule. If service is disconnected at the request of
24 the customer and thereafter restored at the same location
25 for the same occupant within 12 months, period. Following

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1 the date service was disconnected, a reconnection charge
2 will become due and payable when service is restored of
3 transportation service reconnection charges equal to the
4 monthly customer charge times the number of months or
5 fractions of months that service was disconnected.

6 Essentially the same principle. One of the
7 problems they have today is that they have a computer
8 problem where they have to flip between screens. For
9 administrative sake, I would accept where they simply take
10 the number of days that you were disconnected, which is on
11 one screen, divide by 30, and that would be the charge.
12 In all cases, that would generate -- you would pay at
13 least -- or you would pay no more than what you would
14 under counting up the charges that were missed.

15 Q. All right. Now, so is Atmos the only
16 company in that one geographic area, is that the only
17 company that has this type of provision in the state right
18 now?

19 A. For the counting of them, they are the only
20 ones.

21 Q. Okay. Now, in regard to -- and, of course,
22 this current provision that's in this one area of Atmos --

23 A. Well, it's actually in three areas.

24 Q. Three areas. Excuse me. Which three
25 areas?

0639

1 A. Area S, Area B and Area K.

2 Q. And this is with the customer charge which
3 is just the fixed charge and does not -- would not include
4 the volumetric component, correct?

5 A. That is -- that is absolutely correct.

6 Q. So the amount here, even in those areas,
7 would be going up significantly?

8 A. Right. There's also one other thing I want
9 to bring to your --

10 Q. Would it not, it would be going up
11 significantly?

12 A. It would go from -- yes.

13 Q. And then go ahead. I'm sorry. I'll let
14 you finish.

15 A. There's one other aspect that's a little
16 bit different. In discussing, you know, what they have
17 today, one of the problems is that a person has to
18 request, at the request of the customer.

19 Q. Yes. I was going to get to that.

20 A. Okay.

21 Q. So let me ask you that question. In the
22 proposal that you have, is this limited just to cases
23 where the customer has requested the disconnection?

24 A. No.

25 Q. So you would also require a customer who is

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1 disconnected for other reasons other than their choice to
2 have to pay this additional charge on reconnection as
3 though they had been receiving the service the entire
4 time?

5 A. If there's no change in cost on the short
6 run, that seems appropriate to me. That is a correct
7 understanding.

8 Q. I'm not asking for your analysis at this
9 point. Is that true, that they would be required to
10 pay --

11 A. Right.

12 Q. -- that amount as though they were
13 continuing to receive service for the entire time they
14 were disconnected?

15 A. I would eliminate the distinction between
16 people who request disconnection and those who are
17 disconnected by not --

18 Q. But the answer to my question first is yes,
19 correct?

20 A. Correct.

21 Q. Now, so would you say that the customers
22 that generally are disconnected have any demographic that
23 tends to be true in regard to their incomes? In other
24 words, are low-income customers potentially more likely to
25 be disconnected or do you know?

0641

1 A. My dealings would indicate that there
2 probably is some correlation of that, but there's also
3 a --

4 Q. There is a connection, correct?

5 A. There would be propensity for low-income
6 people probably to be disconnected more than high-income
7 people.

8 Q. Okay. Now, so --

9 A. Not a perfect match, but close.

10 Q. -- this provision then will have a
11 disproportionate impact on low-income customers, wouldn't
12 you agree?

13 A. More of them will pay, but given the
14 demographics of the Atmos territory, more of them would
15 benefit under the other plan, under my plan than exist
16 today. More would pay, there's no debate about that,
17 but --

18 Q. Okay.

19 A. But given the statistics of the components
20 of the numbers, you can calculate or back into about
21 30,000 customers qualify for low-income in the Atmos area.
22 About 10,000 engage in disconnect, summer disconnect or
23 disconnect. Therefore, you have 10,000 who benefit from
24 the practice, but 30,000 poor -- not poor -- low-income
25 who pay more than they otherwise would because of the

1 practice.

2 Q. Do you have that on paper somewhere?

3 A. I have Exhibit 19. I'll tell you how I got
4 into it. I have Exhibit 19, which dealt with the number
5 of LIHEAP customers that were available, which was 6,105.
6 Ms. Ross talked yesterday about that only one in five on
7 average take. If you take that figure times five, you
8 come up with 30,000 customers.

9 Q. Wait a minute. Hold on. What figure?

10 A. The 6,105, which is the cumulative number
11 of customers, if you run a tape --

12 Q. Cumulative number of customers who are
13 what?

14 A. Who are --

15 Q. Who are you talking about?

16 A. Who are users of LIHEAP.

17 Q. Is that the total number of LIHEAP
18 qualified customers --

19 A. No.

20 Q. -- or users?

21 A. That's the number of users.

22 Q. In the entire Atmos territory in Missouri?

23 A. That's the representation of --

24 Q. Do you know how many qualifiers for LIHEAP
25 there are in the entire territory?

0643

1 A. Because by what --

2 Q. Do you know the answer to that question?

3 A. Yes, you can calculate that.

4 Q. What is the entire number of customers that
5 are qualified for LIHEAP in that territory?

6 A. Using the factor that Ms. Ross had, it
7 comes out 30,000.

8 Q. 30,000. So there are 30,000, and only a
9 little over 6,000 are actually receiving the benefits to
10 which they are --

11 A. Right.

12 Q. -- otherwise entitled if it were not for
13 budgetary problems, correct?

14 A. That would be -- yes, that would be one of
15 the conclusions. But my point --

16 Q. So in other words, at this point in time,
17 those low-income consumers who may be disproportionately,
18 as you testified to, impacted by this additional fee
19 that's going to be tacked on to those who are
20 disconnected, they are in a position where they're going
21 to be, as I understand it, be subject to this additional
22 amount of money upon reconnection?

23 A. Only 30 -- well, yes, that would -- that in
24 itself was true.

25 Q. Okay. Now, does Staff believe that

0644

1 low-income consumers will pay for this out of some new
2 income sources that they may have as a result of this
3 policy if it's adopted?

4 A. No. My point --

5 Q. Does this give access to additional LIHEAP
6 dollars, for instance, to customers that may try to be
7 reconnected? Is that possible?

8 A. No, but it would reduce their rates.

9 Q. Well, Staff was proposing at one time that
10 rates be lowered in this case, were they not, Mr. Ensrud,
11 and now Staff is proposing that there is no lowering of
12 rates; isn't that correct?

13 A. That's my understanding.

14 Q. That would have lowered their rates as
15 well, wouldn't it?

16 A. Yes.

17 Q. Yes. And so it would have also lowered
18 their rates, would it not, or at least it wouldn't have
19 increased the rates of those who were trying to be
20 reconnected if you hadn't proposed, assuming the
21 Commission would adopt, this additional fee for
22 reconnection?

23 A. If they adopt the initial -- the additional
24 fee for reconnection, the hope would be or the desire,
25 results would be that less people would engage in summer

0645

1 disconnect, which transfers cost to those who remain on
2 the system year round.

3 Q. How much of a reduction in the rates that
4 Staff is proposing is reflected by this change? How many
5 dollars of reduction are in this rate case as a result of
6 this proposal by Staff?

7 A. None.

8 Q. Now, if I were an individual that -- I'm
9 seeking clarification here. If I'm an individual that
10 seeks disconnection because I want to move to another
11 place --

12 A. Right.

13 Q. -- in the same Atmos territory, am I
14 subject to this proposal from Staff?

15 A. No, you're not. It's only if you jump in
16 and out at the same location.

17 Q. Okay. So it's tied specifically to a
18 particular location, correct?

19 A. It is.

20 Q. Now, what if I move temporarily out of
21 my -- of this house and move back within a year, but I
22 have left the premises and come back, then what?

23 A. The charge would be applicable because the
24 same name would be being pulled back up on the screen as a
25 reconnection.

1 Q. What if I'm a renter, I move out, move to
2 another residence for a while, and then six months -- and
3 I establish service there, and then I move back, do I have
4 to pay?

5 A. In that odd occurrence, the way I
6 understand it, because the name would -- they do a search
7 of the new name compared to the old name, and I don't
8 know -- I don't believe there is a search for an
9 intermediate name, and it was within the 12 months, with
10 all those caveats, I think you would.

11 Q. Why should that individual have to pay?

12 A. Under those specific -- under those
13 specific odd circumstances, there is some inequity in the
14 plan.

15 Q. Of course, I could also move -- even though
16 the answer would be the same, I could move outside of the
17 Atmos territory and move back into the same residence and
18 have the same predicament, correct?

19 A. Right. If it's a mechanical process, that
20 would also generate.

21 Q. And that would be true even if I were a
22 renter in that house, not just that I own the house and
23 decided to disconnect, move and then come back, it would
24 also be true if I were a renter and terminated my rental
25 arrangement, went to another residence, and then moved

0647

1 back and entered into a new agreement, correct?

2 A. In that odd situation, that would be
3 correct, my understanding.

4 Q. Now, let me go to a different category for
5 a moment. I want to ask you -- on the same general topic,
6 though. I want to ask you about your level of knowledge
7 as to these districts and whether or not any of them have
8 any presence of propane. Do you know?

9 A. It's rural Missouri, so yeah, there are
10 probably -- there are probably propane dealerships who
11 are -- who are fairly available. I mean, I don't consider
12 any of the -- even Kirksville and stuff like that is not
13 major metro areas.

14 Q. So let's assume, then, that I have a house
15 and I have decided I've had enough of paying these natural
16 gas prices and I'm going to switch to propane. I'm off
17 for a few months, less than a year, and I decide I want to
18 go back. Your proposal, does it make me pay for all of
19 those charges that I would have incurred in the event that
20 I had stayed hooked up to the natural gas service and had
21 the propane service at the same time?

22 A. That would have been one of the many
23 charges, yes.

24 Q. So I would be paying both for this gas
25 connection and for my propane service, correct?

1 A. You would have paid all the costs
2 associated with the tank and converting all your --

3 Q. Isn't that correct, Mr. Ensrud, I would be
4 paying --

5 A. Yes, you'd pay an abundance of different
6 costs.

7 Q. I would be paying for those gas charges as
8 though I were hooked up if I wanted to go out and try the
9 propane tank, correct?

10 A. Yes.

11 Q. And, Mr. Ensrud, does this Commission
12 engage in interfering with competition between the natural
13 gas providers and propane as a matter of policy?

14 A. Probably not, but it should reflect costs.

15 Q. Mr. Ensrud, is it not true that by doing
16 this, if this Commission were to approve your proposal,
17 Staff's proposal in this case, we would be creating a very
18 significant disincentive for individuals who wish to
19 switch to propane because they would have to repay -- if
20 they decided they didn't like it, they would have to pay
21 for their service as though they continued to be hooked up
22 to the gas service; isn't that correct?

23 A. There would be abundance of --

24 Q. Isn't that --

25 A. Cost is a --

0649

1 Q. Isn't that correct? That's a yes or not.

2 Isn't that correct?

3 A. In that particular instance, yes.

4 Q. All right. Thank you.

5 A. But there would be a number of costs.

6 Q. Did Staff make a decision to in regard --
7 did it make its decision for this proposal taking into
8 account the fact that this is a -- has an impact, a
9 negative impact on a consumer's right to choose between
10 natural gas and propane service? Did that weigh in to the
11 Staff's decision in proposing this plan for reconnection?
12 Do you know?

13 A. Yeah, there was discussion about -- about
14 that this would be a deterrent to some things, but the
15 proper allocation of costs was an overriding concern.

16 Q. So in other words, the Staff has
17 consciously decided that it's appropriate to create
18 disincentives to switch away from natural gas service,
19 correct?

20 A. Some viewed it -- no. The discussion was
21 that there might be an incentive to convert to gas, to
22 propane or other or all-electric homes in that now I see
23 on my bill what used to be a \$7 bill is now a 15 or \$20
24 bill. I may have greater motivation to convert. That was
25 the most -- that was it. It wasn't that you lock in

0650

1 customers. It's that you may scare away people, that
2 existing customers may look at the -- go 15, 20 bucks, I'm
3 going to migrate to something else.

4 Q. So in order to counteract that, you
5 proposed -- Staff has proposed that it is more difficult,
6 then, to leave by adopting this --

7 A. No.

8 Q. -- this reconnection fee, correct?

9 A. We gave credence to that -- to that
10 argument, but the final justification was the inequitable
11 distribution of costs was an overriding factor and that
12 setting the proper pricing signal, if you drive people
13 off, that's part of the market.

14 Q. Did you consult with any of the propane
15 dealers in the state when you made this decision or this
16 recommendation --

17 A. No.

18 Q. -- analysis?

19 Did you give them any notice that you were
20 making this kind of a proposal in this case? Did you have
21 any discussion with them that you were going to do this
22 kind of proposal?

23 A. No.

24 Q. Do you believe the propane industry in this
25 state would be pleased with your recommendation?

0651

1 A. Yes, I think -- I think they'd be --

2 Q. You think they would be pleased?

3 A. I think they would look at this as a
4 potential --

5 Q. With this reconnection fee?

6 A. Yeah, because -- well, with the
7 reconnection fee. With the delivery charge, it would act
8 as a disincentive to propane or to a motivation to convert
9 to propane.

10 COMMISSIONER GAW: Thank you, sir. I think
11 that's all.

12 JUDGE DIPPELL: Okay. I don't believe
13 Commissioner Clayton had any questions for you,
14 Mr. Ensrud. So is there further cross-examination based
15 on questions from the Bench from Atmos?

16 MR. DORITY: Just a couple, your Honor.

17 RECROSS-EXAMINATION BY MR. DORITY:

18 Q. Mr. Ensrud, regarding your seasonal
19 disconnect customer analysis, would it be appropriate to
20 characterize the focus of your approach as dealing with
21 customers who interrupt service for an interim period of
22 time?

23 A. Correct.

24 Q. And is it your testimony that 1/10,
25 7,000 out of 70,000 Atmos customers disconnect for a month

0652

1 or more every year?

2 A. Right, and reconnect is my understanding.

3 JUDGE DIPPELL: Can I get you to speak into
4 the microphone?

5 THE WITNESS: And reconnect.

6 BY MR. DORITY:

7 Q. Mr. Ensrud, on pages 11 through 13 of your
8 surrebuttal testimony, you address some of the concerns
9 raised by OPC witness Meisenheimer concerning the
10 reconnection fee. Would that still be your testimony
11 today?

12 A. Yes, it would.

13 MR. DORITY: I believe that's all I have,
14 Judge. Thank you.

15 JUDGE DIPPELL: Thank you. Is there
16 further cross-examination from Public Counsel?

17 MR. POSTON: Yes. Thank you.

18 RE-CROSS-EXAMINATION BY MR. POSTON:

19 Q. Mr. Ensrud, would your proposal for
20 seasonal disconnects place greater strain on LIHEAP funds
21 in order to reconnect these customers?

22 A. Yes, there would be a -- there would be an
23 increase for those who engage in seasonal disconnect, but
24 eventually those who stay on the system would pay less, so
25 over time, over a long period of time, there could be

1 countervailing effects. But probably you are correct in
2 that the primary effect would be that it would draw LIHEAP
3 funds to a greater degree to those people.

4 Q. If a student living in Kirksville renting
5 an apartment leaves for the summer, comes back, would they
6 have to pay to catch up?

7 A. To the very same apartment, yes.

8 Q. How about an elderly resident that's in an
9 unfortunate accident and must be hospitalized for ten
10 months, family shuts off service?

11 A. To reconnect, there would -- that charge
12 would be -- would come into play for any of these.

13 Q. And all of the months that she was
14 hospitalized?

15 A. For the interim months, the charge would be
16 applicable.

17 Q. And how about a soldier that's deployed to
18 Iraq for 11 months, must disconnect, would the soldier
19 when he returns have to pay?

20 A. Be kind of cold on his family, but I guess
21 that's possible.

22 Q. If he has no family.

23 A. In those rare instances, it would come into
24 play.

25 Q. So your proposal for seasonal

0654

1 disconnections is not taking into account the reason why
2 people may have to disconnect?

3 A. Yes, it did, because most of them
4 probably -- the assumption is that most of them do it to
5 save money and come back on board at a later time, thereby
6 shifting costs to those who stay on the system year round.

7 Q. So that's just an assumption that doesn't
8 take into account these examples?

9 A. The specific examples, that's correct.

10 MR. POSTON: Thank you. That's all I have.

11 JUDGE DIPPELL: Is there redirect from
12 Staff?

13 MR. REED: Yes, thanks. I'll be brief,
14 though.

15 REDIRECT EXAMINATION BY MR. REED:

16 Q. Mr. Ensrud, how big a problem is it, the
17 seasonal disconnect problem?

18 A. One in ten Atmos customers engage in that
19 type of activity, so I see it as a fairly big problem.

20 Q. And what's the number? What's one in ten
21 mean?

22 A. 7,000 out of 70,000 are off the system for
23 a month or more each year.

24 Q. If a -- if a customer has to pay the
25 additional charges, the makeup charges, how's that worked

0655

1 out? Is it one large payment?

2 A. No. There were terms set forth. If it was
3 a forced disconnect, the additional rules would apply for
4 repayment. If someone had contacted and said, I would
5 like to leave for the summer, or the example where someone
6 closes their home for whatever reason for a while, under
7 most circumstances they would have up to three months. If
8 you were off for one month, you'd have a month to repay.
9 If it was two, it was two. If it was three, it was three.
10 After three, you had three months to repay the obligation.
11 So it could be distributed over time.

12 Q. So if you were off the system for 11
13 months, you would have how long to repay?

14 A. Three months.

15 Q. You would have three months?

16 A. Right. That's the maximum.

17 Q. Who pays -- when customers disconnect for
18 the summer, for instance, who pays the costs for that sort
19 of customer?

20 A. What happens is really -- it really isn't a
21 deferral of costs. The revenue stream is suppressed or
22 lowered, and so, therefore, you need to spread the cost
23 over lesser number of billing increments, and that
24 inflates the rate is what it really does.

25 Q. It inflates the rates for the rest of the

0656

1 customers?

2 A. It inflates the rates for the rest -- for
3 those who stay on year in and year out, that inflates the
4 rates for those.

5 Q. Is Staff in cahoots with the propane
6 industry on this proposal?

7 A. No. As I say -- as I say, the initial view
8 of this was that it was a windfall for the propane, not
9 that it was a detriment to them.

10 Q. Is LIHEAP granted according to need or to
11 income, do you know?

12 A. My understanding is an income based. It's
13 based upon housing, I believe, or something.

14 Q. What about the size of the bill, how does
15 that factor in?

16 A. I'm not sure.

17 Q. If Staff's reconnection charge is adopted
18 by the Commission, will the actual lower reconnection
19 charge be realized by the customers?

20 A. You're talking about the element for
21 dispatching a person and for having the person drive out
22 there, yes, it would be -- my rate is 24 -- 24 -- my
23 proposed rate is \$24.

24 Q. During questions from Commissioner Gaw you
25 were -- you had mentioned that you believe that more of

0657

1 the customers would benefit from this proposal that you've
2 offered. Why is that?

3 A. More of the low-income customers would
4 eventually benefit.

5 Q. Explain why.

6 A. All right. Because if you take -- if you
7 take the figure of 6,105 and you take what --

8 Q. What is 6,105?

9 A. That is the number -- that is the number of
10 Atmos customers receiving LIHEAP benefits. Take that
11 times five, which is what witness Ross said was the number
12 of people who -- that only one on five actually apply for
13 LIHEAP and get it compared to those that are eligible,
14 that's a typical figure. You end up with a figure of
15 30,000 out of the 70,000 customers who actually qualify
16 for LIHEAP, which to me translates to low-income.

17 If only 10,000 -- or if only 7,000 are
18 availing themselves of the savings from LIHEAP, you end up
19 with the low-income subsidizing the low-income in that
20 30,000 pay higher rates because the 7,000 engage in this
21 foisting of cost off on to other people.

22 MR. REED: Thank you.

23 JUDGE DIPPELL: Thank you. Thank you,
24 Mr. Ensrud. I believe that is all the questions for you,
25 and you may be excused.

1 Before we go to another witness, let me
2 just make sure we don't have -- I know we had some child
3 care issues and other conflicts yesterday. Is everyone
4 able to stay this evening?

5 We're going to keep going with the other
6 tariff issues, then. Was there cross-examination for
7 Ms. Meisenheimer on these issues? Staff?

8 MR. REED: No.

9 JUDGE DIPPELL: Will you have questions for
10 Ms. Meisenheimer on -- I think you asked questions about
11 the reconnection fee, Commissioner, already.

12 All right. If there's no questions, then,
13 for her, Commissioner Clayton didn't have any on those
14 issues.

15 MR. DORITY: Your Honor, if I might?

16 JUDGE DIPPELL: Yes.

17 MR. DORITY: Mr. Kerley was the Atmos
18 witness regarding the other tariff issues. I don't know
19 if just to keep the record straight, if you would like for
20 me to go ahead and offer his testimony at this point.

21 JUDGE DIPPELL: That will be fine.

22 MR. DORITY: I would offer the direct
23 testimony of Robert Kerley, which has been previously
24 marked as Exhibit No. 9NP and 9HC, into the record.

25 JUDGE DIPPELL: And would there be any

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1 objection to Exhibits 9NP and 9HC?

2 (No response.)

3 JUDGE DIPPELL: Hearing none, I will
4 receive those exhibits into evidence.

5 (EXHIBIT NOS. 9NP AND 9HC WERE RECEIVED
6 INTO EVIDENCE.)

7 MR. DORITY: Thank you, Judge.

8 JUDGE DIPPELL: We previously excused
9 Mr. Kerley as there were no questions for him.

10 All right, then. I think we can go back.
11 Commissioner Gaw, did you have any questions for -- on
12 depreciation for any of the witnesses?

13 JUDGE DIPPELL: I was going to defer to
14 Commissioner Clayton on that.

15 JUDGE DIPPELL: Commissioner Clayton told
16 me he only has questions related to the PGA consolidation
17 and the district consolidation. And did we have
18 Mr. Cagle? We haven't had Mr. Cagle here yet, or we
19 haven't introduced his testimony either.

20 MR. FISCHER: Judge, we could offer that
21 testimony. He didn't specifically address the negative
22 amortization issue. He was just available in the event
23 the Commissioners had any questions from the Atmos
24 perspective, and I don't think there were any at that
25 time. But he did have some testimony that we could offer

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1 on other issues.

2 JUDGE DIPPELL: All right. We haven't
3 previously offered that?

4 MR. FISCHER: No.

5 JUDGE DIPPELL: Okay. Let's go ahead at
6 this time then and take that up.

7 MR. FISCHER: That would be James Cagle's
8 direct testimony, Exhibit No. 11NP and 11HC. Would move
9 to have that offered at this time.

10 JUDGE DIPPELL: Would there be any
11 objections to Exhibit 11NP and HC in the record?

12 MR. REED: No.

13 JUDGE DIPPELL: Seeing none, then I will
14 receive those exhibits into the record.

15 (EXHIBIT NOS. 11NP AND 11HC WERE RECEIVED
16 INTO EVIDENCE.)

17 JUDGE DIPPELL: Okay. Then I believe since
18 there are no further Commission questions on depreciation,
19 that that will conclude Mr. Trippensee's testimony also,
20 and he may be excused.

21 COMMISSIONER CLAYTON: Wait. Just kidding.

22 JUDGE DIPPELL: Got me. Okay. Then let's
23 move on to the PGA consolidation. I know Mr. Imhoff is
24 anxiously waiting. We also have Ms. Childers available
25 for the company, and I believe you were on the stand

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1 previously, weren't you, Ms. Childers?

2 Commissioner Clayton, did you have
3 questions for Ms. Childers on the PGA consolidation?

4 COMMISSIONER CLAYTON: I think I've already
5 addressed those.

6 JUDGE DIPPELL: Then let's move on to
7 Mr. Imhoff. And Mr. Imhoff, we previously swore you in,
8 so you remain under oath in this proceeding. Your
9 exhibits have been previously admitted.

10 MR. DORITY: Your Honor, I'm sorry to
11 interrupt.

12 JUDGE DIPPELL: That's all right.

13 MR. DORITY: I just received a call from
14 Dr. Murry. He would be available should the Commissioners
15 desire to ask him any questions, and I just wanted to
16 alert you to that.

17 COMMISSIONER CLAYTON: Did you want to do
18 him now?

19 MR. DORITY: I can let him know the time
20 frame.

21 JUDGE DIPPELL: He's available immediately
22 or we can --

23 MR. DORITY: He can do it now, or if you
24 want to give me a time slot, I can try to check his
25 availability. We'll just work with you in whatever way we

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1 can.

2 COMMISSIONER CLAYTON: I'm at your
3 disposal. It doesn't -- if you want to do him now or --

4 JUDGE DIPPELL: Could you ask Mr. -- or
5 Dr. Murry to stand by until we finish with Mr. Imhoff and
6 then we'll -- hopefully that will be within the next 15,
7 20 minutes.

8 MR. DORITY: Sure.

9 JUDGE DIPPELL: Okay. Commissioner
10 Clayton, do you have questions for Mr. Imhoff on PGA
11 consolidation?

12 THOMAS M. IMHOFF testified as follows:

13 QUESTIONS BY COMMISSIONER CLAYTON:

14 Q. Mr. Imhoff, thank you for being patient
15 with us here. First of all, I want to make sure that I'm
16 asking you the right questions. There's been some
17 confusion on some witnesses in the past. Are you the
18 witness for both the PGA consolidation as well as district
19 consolidation?

20 A. No. I am only the witness for the PGA
21 consolidation.

22 Q. Okay. And then Ms. Ross would have been
23 the witness on that issue for Staff?

24 A. That is correct, on the margin rate
25 consolidation.

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1 Q. Okay.

2 JUDGE DIPPELL: And she is available to
3 return for Commission questions.

4 COMMISSIONER CLAYTON: I've had already my
5 shot at Ms. Ross. I don't want to cause her any more
6 grief.

7 BY COMMISSIONER CLAYTON:

8 Q. Mr. Imhoff, Staff's original proposal is
9 what is in supposed agreement between you and the company
10 right now; is that correct?

11 A. That is correct.

12 Q. And that proposal would be to reduce the
13 PGA filings of the, is it seven districts currently into
14 four districts; is that correct?

15 A. That is correct.

16 Q. If Atmos had not requested consolidation
17 into -- if they hadn't requested any consolidation for PGA
18 filings, can you tell me whether Staff would have made
19 this proposal of consolidation into four districts?

20 A. I don't really know whether or not we would
21 have.

22 Q. So it is possible that you and that Staff
23 made this proposal based in response to a different
24 consolidation proposal?

25 A. Basically, yes.

1 Q. Now, is it also possible that you-all could
2 have made this proposal even if they hadn't brought up
3 consolidation?

4 A. Yes.

5 Q. Well, let's address that scenario. In
6 Staff's opinion, or in your opinion, whichever -- I'm not
7 sure if there's any difference between Staff's opinion and
8 your opinion -- but are you testifying that consolidation
9 under the four PGA districts is preferable to maintaining
10 the seven districts right now?

11 A. Yes, I am.

12 Q. Why is that?

13 A. You have one company, and they are now
14 currently doing all the purchasing for all of the various
15 districts. One of the -- as part of their hedging
16 strategy, that they're purchasing blocks of gas for their
17 Missouri jurisdiction. I did combine the Butler/Greeley
18 districts into one because their primary source of gas
19 comes from the Mid Continent Basin.

20 And I also proposed that the
21 SEMO/Neelyville be combined because they do have similar
22 pipeline. I realize SEMO has three different pipe --
23 three to four different pipelines feeding it, but they do
24 have NGP&L, which is the pipeline that feeds the
25 Neelyville district, also feeds part of the SEMO district

0665

1 as well.

2 Q. Is it significant that different pipelines
3 are involved in each of these different districts? Is
4 that a significant factor?

5 A. That was one of the factors, yes. I also
6 look at the --

7 Q. I understand, but that's a significant
8 factor?

9 A. Yes.

10 Q. Okay. Is the price of gas, of the actual
11 commodity, does it vary from pipeline to pipeline?

12 A. There's not much difference in the price of
13 the transportation for each of the various districts, no.

14 Q. I don't think I said transportation. I
15 said the commodity, the actual natural gas coming through
16 the pipeline. Is there --

17 A. Oh, okay.

18 Q. Does the price of the gas --

19 A. I'm sorry.

20 Q. -- differ by pipeline?

21 A. You're kind of confusing me whenever you
22 say that the price is different by the pipeline.

23 Q. I don't want to confuse you, so --

24 A. When they purchase it -- when they purchase
25 it from the various gas supply basins, they do have a

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1 price there. When I look at the overall transportation
2 price itself, there's not that much difference in the
3 commodity part of the transportation.

4 Q. You're confusing me now.

5 A. Okay.

6 Q. So you've got to pay --

7 A. Well --

8 Q. Hang on. Hang on now. Mr. Imhoff, really,
9 I don't want to belabor this and I want to get through
10 this. So let me try to work us down a path here. For an
11 LDC to supply gas to its customers, it has to buy the
12 commodity from somewhere, correct?

13 A. Correct.

14 Q. All right. Then it's got to pay to
15 transport that commodity to its system. Would you agree
16 with that statement?

17 A. Yes.

18 Q. Now, that would be the transportation cost
19 for the service, correct?

20 A. Correct.

21 Q. Now, that's separate than the commodity
22 cost, actual buying the molecules of gas, correct? Are
23 they separate or are they the same?

24 A. Well, when you transport gas over the
25 interstate pipeline, you have a reservation charge, which

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1 is the fixed charge, but you also pay a certain rate on
2 the commodity piece. They do have a small volumetric
3 rate. That's what was kind of throwing me.

4 If you're talking about when they purchase
5 it from a gas supplier, I can -- since they're purchasing
6 it -- I'll take, for instance, Butler and Greeley. They
7 are purchasing their gas from the same supply basin, so
8 the rates are basically the same as far as the cost of the
9 commodity. Even though it's being transported over two
10 different pipelines, they're still pulling it over the
11 same -- they are purchasing it from the same supply basin.

12 Q. So one gets it from Panhandle Eastern, the
13 other one from Williams?

14 A. I believe it's Southern Star, yes.

15 Q. Yes, it's Southern Star?

16 A. Yes. I'm sorry. Southern Star.

17 Q. All right. Well I'll check on that. So is
18 gas that comes out of Panhandle Eastern Pipeline, does it
19 cost the same as gas that comes out of say the MRT line?

20 A. It depends on the supply. It depends on
21 where they are purchasing -- where they are purchasing the
22 supply of gas. Most likely it's not because most of the
23 gas that's flowing over the MRT Pipeline is coming down
24 from the Gulf.

25 Q. So you'd agree with me that the price is

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1 different of -- that gas costs different amounts of money
2 depending on where it comes from and which pipeline it is
3 in, correct? Would you agree with that statement?

4 A. I would agree that --

5 Q. Do you agree with the statement, yes or no?
6 I don't want any more explanations. Yes or no?

7 A. Yes.

8 Q. You agree or disagree?

9 A. Yes, they do have different prices.

10 Q. Okay. Now, explain to me how the
11 company -- how does the company hedge or make purchases of
12 gas when the supplies come from different places, when it
13 has supplies coming from the Gulf, from the Panhandle, and
14 I assume from the Rocky Mountains for a bit of -- I assume
15 ANR Pipeline comes out of the Rocky Mountains; is that
16 correct?

17 A. I don't really know for sure on that.

18 Q. You don't know. Okay. Well, tell me, how
19 does the company hedge, how does it do its purchasing for
20 gas that comes from different places over different
21 pipelines going into different regions?

22 A. Because when they purchase blocks of gas or
23 they're purchasing the various molecules through their
24 various hedges, they do a -- they do have a hedging
25 program. They do very --

1 Q. Do they have to have a separate hedging
2 program for each area?

3 A. No, they do not have a separate hedging
4 program. They have one overall hedging program.

5 Q. Okay. So are they buying the gas from the
6 same person for each of their districts, the same company,
7 the same companies potentially?

8 A. I don't know for a fact, but I would assume
9 that they purchase from different companies, but they are
10 purchasing as far -- as far as part of their portfolio,
11 they try to get the best deal they can from wherever.

12 Q. I would hope that they try to get the best
13 deal.

14 A. Yes.

15 Q. But don't they have to have a separate
16 hedging plan for each area? I mean, how do you hedge over
17 even four districts let alone seven districts? Don't you
18 have to have a separate hedging program for each area?

19 A. This company does not. They have one
20 overall hedging program strategy, and they purchase their
21 various blocks of gas for each individual district, but
22 they do have an overall --

23 Q. So an overall hedging plan, does that mean
24 that, you know, they --

25 A. Some of it also depends on their storage as

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1 well. Some -- some of their districts they have more
2 storage than others. So that is also a part of their
3 hedging strategy. So they can purchase the cheaper gas
4 during the summer and they can put it in storage.

5 Q. What I'm trying to understand, the reason
6 why I'm asking all these preliminary questions is that I
7 don't understand the entire PGA/ACA process, and I'm
8 trying to get a handle on why the PGA rates vary so much
9 from district to district. And since we're talking about
10 consolidating these districts and potentially causing an
11 11 percent increase in Palmyra and Kirksville, some of
12 these other places, I'm trying to get a handle on why
13 their prices are the way they are right now.

14 A. Okay.

15 Q. And looking at the commodity, I think
16 Ms. Childers said the other day that they are hedged at an
17 \$8.50 per million BTU price. And I'm trying to understand
18 how they could have an \$8.50 price for the commodity when
19 the gas comes from potentially three or four or more
20 pipelines. It comes from three pipelines in the south,
21 two pipelines in the west, and potentially two pipelines
22 in the northeast.

23 And what I'm trying to understand is, how
24 does a hedging strategy work with seven districts and with
25 four districts and why are the prices different? That's

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1 where I'm trying to go, and I'm not getting there. So can
2 you help me get there? Do you understand what I said?
3 Show me some acknowledgement.

4 A. I'm trying to --

5 Q. Did I confuse you?

6 A. -- sort it out?

7 Q. Did I confuse me?

8 A. Well, I'm a little confused. I can tell
9 you what the current cost of gas for each individual
10 district as they are today, the actual cost of the
11 commodity.

12 Q. So it's not accurate to say that they're
13 hedged at \$8.50 for each of their districts? That's
14 basically just an average or --

15 A. I believe that that was an overall average
16 from the company witness.

17 Q. That is a -- that is a misunderstanding on
18 my part. So that is helpful.

19 So basically there's going to be a
20 different commodity price for gas in each of these
21 districts, correct?

22 A. Yes.

23 Q. All right. And then in addition to that
24 commodity price, you've got the transportation costs?

25 A. Yes.

1 Q. All right. So you've got a PGA, I think,
2 currently right now in Kirksville of 68.6 cents per CCF,
3 which I believe is the lowest of all of the systems; would
4 you agree with that?

5 A. Yes, with the caveat that that is net of
6 their ACA factor.

7 Q. I understand. So they've got to probably
8 have a significant ACA there?

9 A. Yes.

10 Q. Can you tell me why Kirksville has such a
11 high ACA?

12 A. We've noticed with this particular company,
13 Atmos, it's like a pendulum swing. We go from a huge
14 overcollection one year to a huge under collection the
15 next year, and it's -- it's been something that we've been
16 trying to work with the utility as far as to try to work
17 out how they can either overestimate what their PGA rate
18 should be or grossly underestimate what their PGA would
19 be.

20 I'm -- I think that after this last session
21 with them, I believe we have that particular problem
22 worked out. I'm hoping that we shouldn't see very much
23 change in their ACA factors itself. Some of the -- now,
24 some of their ACA factor would be attributable to the
25 weather because if it is warmer than normal and they try

1 to hedge a certain percentage, if they don't sell those
2 volumes but they already purchased them, they will have an
3 undercollection of their gas costs itself.

4 But if you would like, I could tell you
5 what their -- what the respective current costs of gas are
6 for each of the districts.

7 Q. Will, let's ask that. The northeast -- the
8 northeastern district, the Hannibal, Canton, Bowling Green
9 and Palmyra district that Staff has proposed to be
10 consolidated, did I accurately describe the region?

11 A. No. They will not be consolidated.
12 Kirksville will still --

13 Q. Did I say Kirksville?

14 A. -- remain by itself. No, but --

15 Q. I said Hannibal, Canton, Bowling Green --

16 A. They're not changed by this either.

17 Q. -- Palmyra.

18 A. They're not changed by this either. They
19 currently have the same PGA rate. So --

20 Q. But they're not in the same district right
21 now, are they?

22 A. Yes, they are.

23 Q. They are?

24 A. Yes, they are.

25 Q. Is it not true that Missouri P is Palmyra

1 and Missouri U is Canton, Bowling Green?

2 A. This is -- yes, but if you look at their
3 PGA rates, they are the same. They were combined, oh,
4 gosh, it's probably been about seven or eight years ago.

5 Q. I thought there were -- I thought there
6 were seven PGA districts, correct?

7 A. The way that the tariffs are currently set
8 up -- I'm sorry. It's not as easy as saying yes or no. I
9 apologize for this.

10 Q. We notice that witnesses in this room have
11 difficulty saying yes or no, and it's not -- I don't want
12 to single out anybody, but there are a lot of witnesses
13 who have trouble saying yes or no, and everything always
14 has an explanation.

15 A. All right. Well, the way the Hannibal,
16 Canton, Bowling Green, Palmyra district is sets up, even
17 though they have the same rates, they still have to file
18 separate PG -- PGA rates because of the predecessor
19 companies that were --

20 Q. Because they're in a separate district,
21 correct? They're considered a separate PGA district,
22 right? No?

23 A. No. No. They -- they are classified as
24 the same PGA rate district. They --

25 Q. So you're saying that they're not --

1 A. Every time that Atmos files -- every time
2 that Atmos files their PGA rate for what's classified as
3 the United District, which is -- which is the Hannibal,
4 Canton, Bowling Green, Palmyra, it's the same PGA rate,
5 it's the same ACA factor. Although when the company files
6 it, due to predecessor companies, they have to file them
7 as separate PGA tariffs, but they still have the same PGA
8 rate and the same ACA factor.

9 Q. So there's no consolidation in northeast
10 Missouri, nothing's changing in northeast Missouri?

11 A. Correct.

12 Q. So who is changing then, because Kirksville
13 you're leaving alone?

14 A. Yes. I am combining Butler and Greeley
15 districts, and I am combining the SEMO with Neelyville.

16 Q. Okay. Well, if Palmyra and Hannibal and
17 all them are already included, why are Palmyra's rates
18 going up 11 percent and Hannibal's rates are going down
19 5 percent or whatever it is, if they're the same? Am I
20 wrong?

21 A. I don't believe that the PGA rate
22 percent -- I mean, you might be talking about the margin
23 rate, but not the PGA, because the PGAs are the same.

24 Q. I'm going to have to find my schedule.

25 A. I'm sorry, but...

1 Q. What schedules -- Ms. Childers, what
2 schedule were we on? Is that in your rebuttal testimony?

3 MS. CHILDERS: It was in the surrebuttal.

4 COMMISSIONER CLAYTON: Surrebuttal. I'm
5 looking at direct.

6 BY COMMISSIONER CLAYTON:

7 Q. Well, since Commissioner Gaw isn't here,
8 I'm going to blame him for losing that.

9 A. Excuse me, Commissioner. I'm looking at
10 this schedule, and that pertains to the margin rates, not
11 the PGA.

12 Q. So to make the statement that there are --
13 that there are six or seven PGA districts is not accurate?
14 There are not six -- is it six or is it seven? Maybe it's
15 just six.

16 A. It's just six, but when they file for the
17 Hannibal, Bowling Green and Palmyra, they still have to
18 file separate tariffs.

19 Q. Okay. So the Palmyra increase for
20 residential firm service, I'm looking at PJC surrebuttal,
21 page 2 of 2, it says, residential firm service, Missouri P
22 or Palmyra has increase of 8.8 percent, while in Missouri
23 U, which an Hannibal, Canton and Bowling Green, has a
24 reduction of 4.4 percent, that's based purely on the
25 delivery charge change, is what you're saying?

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1 A. That is correct.

2 Q. Okay. So in northeast Missouri there is no
3 consolidation?

4 A. That's correct.

5 Q. That is helpful. Now, what is the
6 commodity price of -- do you know what the commodity price
7 is in this north-- I don't even know how to call it, the
8 Palmyra/Hannibal consolidated PGA district?

9 A. I can tell you what the current -- I'm
10 sorry. I can tell you what the current cost of gas is for
11 the Hannibal/Canton area, which does not take into
12 consideration the ACA factor. This is what --

13 Q. Yeah. I just want the commodity price.

14 A. -- they currently have. Okay. It is
15 .93070 per CCF.

16 Q. .93070?

17 A. Per CCF.

18 Q. Kirksville?

19 A. Kirksville is .90290 per CCF.

20 Q. .9020?

21 A. No. It's .90290 per CCF for Kirksville.

22 Q. Okay. And then the Butler and Greeley are
23 being combined?

24 A. Yes.

25 Q. Now, are they the same right now?

0678

1 A. No. Butler's current cost of gas is
2 .87880. Greeley's current cost of gas is .84790.

3 Q. Okay. And then southeast?

4 A. Okay. SEMO is 1.01100 per CCF. Neelyville
5 is currently at 1.01240 per CCF.

6 Q. That makes sense. That makes sense.
7 Ms. Childers was on the stand, was it yesterday, last
8 week, I don't even know when it was, and we were talking
9 about this, and what I didn't understand was why the PGA
10 price, why the PGA in Butler and Neelyville, which gets
11 their gas presumably from the same place, very similar
12 pipelines, was higher than what Hannibal was or what
13 Palmyra, Canton, but it's not. The commodity price is
14 lower.

15 So all these differences in the PGA are
16 just basically messed-up ACA balances; is that correct?

17 A. That's correct.

18 Q. Now, does this -- well, whoever's being
19 consolidated, is anybody being consol-- Butler and --

20 A. Butler and Greeley.

21 Q. And Greeley. So B and G are being
22 combined?

23 A. That is correct.

24 Q. So will there be a Missouri P and U anymore
25 after this case? You're laughing. This is serious stuff.

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1 Or will it just be called P and U.

2 A. Hopefully it will just be called U, United,
3 which will have the Palmyra, Hannibal, Canton, Bowling
4 Green, which currently have the same rates anyway.

5 Q. Okay.

6 A. The unfortunate thing is that since they
7 were owned by different predecessor companies, in their
8 tariff book we have a PGA tariff language for each
9 individual one, which I would like to eliminate so we can
10 actually make the --

11 Q. Is it different?

12 A. No.

13 Q. Is the PGA language different?

14 A. No.

15 Q. Are the balances done differently?

16 A. No. They are all calculated out the same
17 way.

18 Q. Okay. Well, that makes -- logically
19 speaking, the commodity price matches up what the
20 conventional wisdom to me would be, that Kirksville would
21 pay -- well, that Butler and Greeley would pay the lower
22 rate because it had the gas that's less distance to travel
23 to get to Hannibal, and Kirksville gets its gas off that
24 ANR Pipeline, which is probably Rocky Mountain, which is
25 probably a little cheaper, and that SEMO and Neelyville

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1 have the most expensive gas because it comes from the
2 Gulf.

3 Now, those statements, are those accurate
4 statements, do you think? Did I accurately characterize
5 those prices?

6 A. The way the prices are set today, yes.

7 Q. Now, is the Staff making recommendations
8 for any other changes in the PGA/ACA process, aside from
9 consolidating Butler and Greeley and Neelyville?

10 A. Other than eliminating the repetitive PGA
11 tariff language for each individual section.

12 Q. So no, so basically they're just being
13 consolidated?

14 A. Correct.

15 Q. Butler and Greeley are similar. Who gets
16 the increase? Does that mean that Greeley gets a slight
17 increase by consolidating Butler and Greeley?

18 A. Yes, they will.

19 Q. Okay. And then who gets -- is SEMO and
20 Neelyville, are you consolidating anyone there or am I
21 making that up?

22 A. No, no. I am consolidating the SEMO and
23 Neelyville.

24 Q. Who gets the increase there?

25 A. Actually --

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1 Q. Looks pretty close?

2 A. Yeah. You're talking .0014 cents per CCF.

3 So it's -- you really can't calculate it.

4 Q. Okay.

5 A. I figure that if you had an individual
6 in -- actually, Neelyville would see a very slight
7 decrease, and the SEMO customers won't even realize it
8 because of the difference in size of the district.

9 Q. Are the PGA and ACA balances, are the
10 problems with overcollection and undercollection because
11 of the number of filings that Atmos does on an annual
12 basis?

13 A. I think that's part of it. I think they
14 wait -- it could be that they may wait too long to file if
15 they were in a large undercollection, or if they're in a
16 large overcollection, maybe they wait too long. I'm not
17 exactly sure. there could be a number of circumstances.

18 Q. Okay. We got to where I wanted to go. We
19 just took a different path than what I thought we were
20 going to take.

21 A. I'm sorry it took so long.

22 Q. No. That's quite all right. We've been
23 here a long time.

24 COMMISSIONER CLAYTON: Thank you, Tom.

25 THE WITNESS: Thank you.

1 JUDGE DIPPELL: Thank you. Commissioner
2 Gaw, you didn't have any questions?

3 COMMISSIONER GAW: I'll pass.

4 JUDGE DIPPELL: Is there further
5 cross-examination based on those from the Bench from
6 Atmos?

7 MR. FISCHER: Just briefly, your Honor.

8 RE-CROSS-EXAMINATION BY MR. FISCHER:

9 Q. Mr. Imhoff, would you agree that the cost
10 and benefits of Atmos' hedging program are allocated
11 throughout the company's service area in Missouri?

12 A. Yes, I would.

13 Q. And would you also agree that the Staff's
14 consolidation proposal is actually quite modest, what
15 you're really doing is moving the two smallest areas like
16 Rich Hill into Butler and Neelyville into the SEMO area?

17 A. I'd agree with that, yes.

18 Q. And Kirksville isn't being changed because
19 it's on ANR, where the Hannibal/Canton is still on
20 Panhandle Eastern? It's really a pipeline issue there, is
21 that the reason the Staff is keeping those separate?

22 A. That's the main reason, yes.

23 Q. And if I told you that ANR Pipeline
24 actually is served out of Mid Continent but might be
25 connected to the Rocky Mountain region, would that sound

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1 consistent with what your understanding might be?

2 A. Yes, it is.

3 MR. FISCHER: I think that's all I have.

4 Thank you.

5 JUDGE DIPPELL: Is there further
6 cross-examination from Public Counsel?

7 MR. POSTON: No questions.

8 JUDGE DIPPELL: Is there any redirect?

9 MR. REED: No, thank you.

10 JUDGE DIPPELL: All right, then.

11 Mr. Imhoff, I believe what conclude your testimony, and
12 you may be excused from this hearing.

13 Do you think it's still possible to get
14 Dr. Murry on the phone at this point?

15 MR. DORITY: Yes, ma'am.

16 JUDGE DIPPELL: Let's take a three-minute
17 break, long enough to set up the phone and get him on the
18 line. Go off the record.

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

20 JUDGE DIPPELL: Okay. We've returned to
21 the record. We have Dr. Murry on the telephone. And,
22 Dr. Murry, you were sworn in the other day in this
23 proceeding, and I'll just remind you that you remain under
24 oath.

25 THE WITNESS: I understand.

1 JUDGE DIPPELL: Thank you. Some of the
2 Commissioners have questions for you, and so I will turn
3 it over to Commissioner Gaw, do you have -- or did you
4 want Commissioner Clayton?

5 COMMISSIONER GAW: Pass to Commissioner.

6 JUDGE DIPPELL: Commissioner Clayton?

7 COMMISSIONER CLAYTON: Thank you, Judge.

8 DONALD MURRY, Ph.D., testified as follows:

9 QUESTIONS BY COMMISSIONER CLAYTON:

10 Q. Dr. Murry, thank you very much for being
11 available. This is Robert Clayton. I'm one of the
12 members of the Commission. Can you hear me?

13 A. Yes, I can.

14 Q. Hopefully we're not bothering you at too
15 exotic a location here today.

16 A. No. That's fine. I understand.

17 Q. Good. I wanted to ask you a handful of
18 questions that I tried to dictate to my staff upstairs
19 while I was out of town for the hearing, and I think it
20 was suggested that maybe it would better -- that I was
21 dictating too many questions and that maybe I ought to ask
22 them myself. So I appreciate you being available.

23 First of all, I just wanted to ask a few
24 basic questions. You're from Oklahoma, Dr. Murry?

25 A. Yes. I live in Oklahoma, and I also live

1 in Florida. I'm here at the Oklahoma City office,
2 University of Oklahoma.

3 Q. Okay. And do you consult strictly for
4 natural gas utilities or do you consult for all utilities?

5 A. I consult for natural gas utilities and
6 also some electric utilities, some cooperatives, and I
7 work for other groups as well --

8 Q. Okay.

9 A. -- over the time.

10 Q. Okay. It is my understanding -- well, let
11 me ask you this: Your analysis in this case suggested
12 what return on equity for Atmos Energy?

13 A. I recommended 12 percent as a -- actually,
14 I recommended a range of 11 and a half to 12 and a half,
15 but I recommended 12 percent as a recommended return.

16 Q. Okay. And were there any unique
17 characteristics for Atmos that caused you to make that
18 recommendation?

19 A. Yes, I'd say there were a number. Of
20 course, I applied the DCF and CAPM analyses. I looked at
21 returns of comparable companies, and the returns of
22 comparable companies were running in the 11 and a half
23 range. But Atmos has a very low equity ratio relative to
24 most gas distribution companies in today's market,
25 including comparable companies that I reviewed.

1 43 percent equity is really quite low, a lost cost total
2 cost of capital as well.

3 The return for Atmos has been relatively
4 low to the industry and to the comparable companies I
5 analyzed.

6 Q. When you say the return, you mean --

7 A. The return to common stock that they've
8 been earning recently. I think -- I think my schedule has
9 them at 9 percent currently, and the -- my Schedule 6, I
10 guess, has an estimated return of 8.5, and I think now
11 it's up to -- I think it's at 9 percent by my
12 recollection, but that's not in my schedule.

13 Q. Were there any unique causes for that
14 particular return that you identified in your analysis?

15 A. No, I guess I couldn't -- I couldn't
16 identify specifically. It might be a -- I mean, I would
17 be speculating to say that. I think it's possible it has
18 to do with the -- with the impact of bringing together the
19 two companies, the Texas company into the company. So
20 there may be some effects that are not necessarily
21 Missouri regulatory effects that have brought it down.

22 But the return in 2005 was 8 and a half
23 percent according to ValueLine. 2004 it was 7.6 percent.
24 So in the last several years Atmos has been relatively low
25 in the industry as far as returns are concerned.

1 Q. Would you agree that in part that was due
2 to weather fluctuations or do you think it's other factors
3 primarily?

4 A. I guess I have no reason to believe it was
5 due to weather. I can't say it was not.

6 Q. You just don't know. That's okay.

7 A. I really can't say that I know, but I have
8 no reason to believe it was weather.

9 Q. Are you aware of how many states -- excuse
10 me. I'm sorry, Doctor.

11 A. No. I'm sorry. I couldn't hear that.

12 Q. Are you aware of how many states Atmos
13 provides LDC natural gas service at this time?

14 A. I believe it's -- I believe it's 12, but
15 I'm not positive. It's in that general number.

16 Q. Did you do a comparison of the authorized
17 returns in the other 11 states in which Atmos has a
18 presence?

19 A. No, I didn't for this particular case.
20 I've been familiar in the past, but I don't -- I can't
21 recall exactly what the other returns are that have been
22 allowed in other states.

23 Q. Have you testified for Atmos in other
24 states, in other --

25 A. Yes, I have.

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1 Q. -- rate cases in other states?

2 A. Yes, I have.

3 Q. What were your recommendations for return
4 on equity in those other states for Atmos?

5 A. It's been in the general -- generally in
6 the same range. I think it's been in the 11 and a half,
7 11 and three-quarters, 12 percent range, depending on
8 circumstances in that particular state, often the capital
9 structure.

10 Q. How many -- and in how many states would
11 you have -- have you testified on behalf of Atmos, would
12 you say?

13 A. Well, over the years I've testified in a
14 number of states. I'm sure it's been close to six, eight
15 or more.

16 Q. Okay. And in those six to eight, would
17 you -- would you believe that your recommendations for ROE
18 have been in that 11 and a half to 12 and a half range?

19 A. Well, I think -- I would think that's been
20 consistent in the last -- in the last couple of cases, the
21 last few years, last two or three years, but I think going
22 back it's probably been lower than that because interest
23 rates have been moving up in the last two years, and I
24 don't recall specifically.

25 Q. So there was a time when you recommended a

1 lower ROE in one of Atmos' states?

2 A. I can't -- I can't say that for certain,
3 but I think that's probably true.

4 Q. Okay. So considering that you just in
5 recent years, if we focus on your recent testimony, that
6 your recommendations have been between 11 and a half and
7 12 and a half in the states where you've recently
8 testified, does that -- can I take from that the inference
9 that the specific characteristics of the system in each
10 state plays very little into the analysis of what the
11 return on equity ought to be in a given territory?

12 A. No, I don't think so. I think -- I think
13 there obviously is an overall risk to the company that
14 obviously using another word, I guess, spills from one
15 state to the other or would affect jurisdiction. I do --
16 I did testify recently in Texas, and I recommended
17 11.75 in Texas, and the difference there is the capital
18 structure in Missouri is a very low capital structure, and
19 that's why I think 12 percent's more appropriate.

20 Q. Okay.

21 A. But I think the characteristic of the state
22 definitely has a bearing, but there are characteristics of
23 the state -- of the company overall, such as its bond
24 rating, it does raise money on the national markets, of
25 course, and those risk factors affect the company wherever

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1 it is.

2 Q. Wherever it is. So you believe that
3 Missouri's a more risky state than Texas to do business?

4 A. I'm not referring to the business risk
5 particularly. I do think that the capital structure in
6 Missouri is very low, and so in that sense, I think one
7 has to take it into account in selecting allowed return.
8 There is that difference.

9 Q. Are there any other elements of risk that
10 would be greater in Missouri than in, say, Texas, other
11 than capital structure?

12 A. I don't know that I can identify any that I
13 think I'd uniquely relate to Missouri. I think in the
14 past the weather adjustment may have been a bigger issue
15 in Missouri, but I understand that's proposed in this --
16 in this case, and so that -- that may have been mitigated
17 because of the proposal in this case.

18 Q. Does the 12 percent recommendation that
19 you've made, does that take into consideration weather
20 volatility and problems with weather normalization in
21 Missouri?

22 A. I think -- I think it does. My view of the
23 of the weather normalization issue, as I pointed out in my
24 rebuttal, most gas distribution companies now have some
25 kind of a vehicle for dealing with that, but I'm not

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1 persuaded that variability is, in fact, a risk, because if
2 you look at most of the weather proposals, they have an
3 upside and a downside mitigating factor.

4 So on one hand it removes the risk of a
5 very cold winter from the ratepayers, but on the other
6 hand, of course, it removes the risk of a very warm winter
7 from the company and the stockholders. What that has done
8 essentially is collapsed the distribution of likely
9 possible outcomes going forward. It doesn't move the
10 expected value in the eyes of an investor.

11 And so just reducing the variability I
12 don't think is an important risk factor. I can't say some
13 people wouldn't consider it a factor they want to
14 consider. But if you think about it, unless it changes
15 the expected return to an investor, it probably doesn't
16 affect the investor's willingness to invest, if you will.
17 And so the -- so just collapsing that distribution itself
18 is not necessarily a reduction in risk.

19 I think it's probably -- I think it's
20 advantageous, but I think it's advantageous both to the
21 company as well as the stockholder -- or as well as the
22 ratepayer, and it probably means the company doesn't have
23 to spend so much money on short-term borrowing. It
24 probably reduces some of the operating issues the company
25 might have in maintaining a revenue stream and balancing

1 with its gas requirements.

2 So I think there's probably some benefits,
3 but those should flow through on a cost to the company as
4 well.

5 Q. Well, I appreciate that. I want to go back
6 to a statement where I thought you said that there was a
7 component of the 12 percent return on equity that took
8 into consideration weather normalization problems in
9 Missouri, and maybe I misheard you on that.

10 A. I said in the past. I felt like in the
11 past Missouri was a Commission -- or that Missouri had
12 more difficulty in flowing through fuel costs on the
13 electric side. That was in the literature. I look at
14 things that investors might be aware of, not trying to be
15 judgemental on my own, just saying that I know that was an
16 issue in some financial literature. And I think there's
17 been a question of the recovery of gas costs. I thought
18 that might be important in Missouri. I don't --

19 Q. I'm sorry, Dr. Murry. How does recovery of
20 fuel costs relate to the analysis of the ROE on Atmos?

21 A. It doesn't at all. No, it doesn't at all.
22 I just said that was a matter that was in financial
23 literature. It doesn't affect Atmos at all.

24 Q. Okay. I was just -- I wasn't sure how --
25 okay. So I think you also mentioned that an investor's

1 going to look at the amount of revenue that is coming in
2 to the company to ensure that there will be a sufficient
3 return to -- return on common stock. I'm not sure if I
4 heard that properly, but I thought I heard you say that
5 the revenues of the company were very important in
6 determining what a return on equity ought to be.

7 A. I'm not sure exactly what that question
8 pertains to. I don't remember exactly that sentence. But
9 yes, revenues, of course, are important to an investor.

10 Q. And we've talked a lot about weather, but
11 would you not agree that the rate design that's been
12 proposed by the Staff would completely remove weather as
13 any sort of risk factor for the shareholders in this case?

14 A. I'm not sure I'd say -- I'm not sure I'd
15 say completely.

16 Q. Well, tell me how weather would --

17 A. It certainly mitigates it, as I understand
18 the proposal.

19 Q. Tell me how weather would play any role on
20 the revenues of the company if this rate design is
21 adopted.

22 A. Well, it would affect the amount of sales.

23 Q. But if sales aren't dependent for the
24 company's delivery costs, then why would weather make a
25 difference?

1 A. I'm not sure that -- I'm not sure to the
2 extent it would, the way you used it, and I said I'm not
3 positive it removes all of it. It has a factor, of
4 course.

5 Q. Could you give me an example of where
6 weather would play a factor?

7 A. If it changes the sale, if it changes the
8 sales and the adjustment of the -- of the cost of gas, it
9 may affect the company's short-term borrowing and some of
10 its operating costs, and I don't know whether -- I can't
11 say that it does. I can't say that it doesn't. But the
12 volumetric piece fluctuates, as I understand the proposal,
13 and I haven't studied the proposal in great detail.

14 Q. Do you think the proposal is --

15 A. I understand there's a straight fixed
16 variable proposal.

17 Q. So there's no variable, there's no
18 volumetric pricing for the distribution costs; is that
19 your understanding of the rate design?

20 A. I just understood it was a straight fixed
21 variable rate design. That's all I understand.

22 Q. A straight fixed variable. I thought it
23 was a straight fixed delivery charge without any variable
24 component.

25 A. I think -- I think the delivery charge is

1 in the fixed component.

2 Q. 100 percent of it's in the fixed component,
3 correct?

4 A. That's my understanding, yes.

5 Q. Okay. So if 100 percent is in a fixed
6 charge, how does weather affect the revenues of the
7 company under this type of rate design?

8 A. If I understand the rate design correctly,
9 there is a change in the volumetric sales.

10 Q. I don't think that's correct.

11 A. Okay.

12 Q. Have you -- have you been given an
13 opportunity to review the rate design that's been
14 proposed?

15 A. I have not looked at the rate design in
16 detail, no.

17 Q. Okay. Would a rate design -- so you
18 haven't done any analysis on the effect of the rate design
19 on what -- what the impact would be on revenues and
20 correspondingly what the return on equity ought to be for
21 common equity?

22 A. I have not considered whether this rate
23 design would have an appreciable effect upon the -- upon
24 the cost of equity.

25 Q. I'm sorry. Would you repeat that for me?

1 A. I said I've not made a detailed analysis of
2 the effect of the rate design upon the cost of equity.

3 Q. So then if the Commission were to adopt
4 this rate design, then would you agree that it would be
5 inappropriate to adopt your recommendation for return on
6 equity because you haven't taken into consideration that
7 factor in the case?

8 A. No, I don't think I would go that far. I
9 pointed out in my testimony, I thought the total range
10 that's relevant was 11 and a half to 12 and a half, and I
11 would -- and I think that if the Commission should adopt
12 that, it certainly would be appropriate to go to the low
13 end of my range.

14 Q. So is there any rate design that -- any
15 rate design that would be available that would cause you
16 to reevaluate the overall range?

17 A. I would have to know the specific rate
18 design, I think.

19 Q. How about if the company were --

20 A. Excuse me. I looked at financial issues,
21 and such things as the coverage ratio is still very thin
22 given this capital structure, and I think those are -- I
23 think that's a more important issue than the rate design
24 issue is the amount of coverage for the interest.

25 Q. Is it an important factor when determining

1 a return on equity percentage to look at the stability of
2 the revenues and the lack of volatility of the revenues of
3 a company? Is that an important factor?

4 A. No. I've already -- that's in my direct
5 testimony, and I said that earlier. I don't think the
6 volatility of revenues is very important to investors. I
7 think the expected return is important to investors.

8 Q. Okay.

9 A. And let me give you an example. Let me say
10 it this way. If you have a stock that was -- you expected
11 it to trend upward but it was highly volatility, that
12 would probably be a stock that you prefer over stock that
13 was trending downward that was not volatile, let's say it
14 just went straight down and followed a trend line
15 perfectly. But the alternative would be a stock that's
16 going up, but it's volatile. You'd probably prefer the
17 stock going up that's volatile over the one going down.

18 So the reason, that tells you there's
19 something more to risk than volatility. That's my point.

20 Q. Okay. So it would be your testimony that
21 the -- that the rate design that's been proposed by the
22 Staff really isn't that important financially speaking?

23 A. I think it probably -- no. I think it
24 probably is, because the weather is being captured -- as I
25 understand, the weather variability is being captured in

1 the fixed portion, and I said that I think it would
2 probably justify going to the low end of my range or
3 making some consideration, but I don't think it's a major
4 consideration. 25 basis points, 50 basis points at the
5 most would be in the rate design.

6 Q. I know you're a financial witnesses, but
7 wouldn't this -- this type of rate design tend to shift
8 more risk to ratepayers than to shareholders? Would you
9 agree with that statement?

10 A. I don't -- I don't see how it does. I know
11 that's -- I know some people would contend that, and let
12 me explain. As an economist, I look -- I look at a
13 straight fixed variable rate, and I go back to when FERC,
14 I guess originally maybe even FBC, but FERC certainly
15 started looking to this sort of rate design. The
16 intention was treating it more as a market efficiency rate
17 design, a market efficient rate design as opposed to one
18 that would shift any kind of risk.

19 I don't see how it can shift risk to
20 ratepayers if the ratepayers are, in fact, benefiting
21 because they're no longer exposed to a very cold winter.
22 They are benefiting from that as well as -- they also
23 don't have -- they have less volatility in their payments
24 as well. So I think there are benefits on both sides.

25 Q. I didn't think volatility was important.

1 A. What's that?

2 Q. I didn't think volatility was important.

3 A. I don't think it's as important -- I'm
4 talking about to the investor. I don't think it's that
5 important to the investor. I think vol-- the point is,
6 there may be some investors who think it's important, but
7 I'm trying to tell you, risk is much more complicated than
8 that, and I don't think there's any question about that.
9 Decrease in volatility does not necessarily remove risk.

10 Q. So in your analysis of the company, if you
11 were looking at this company, it doesn't make any
12 difference in how we -- how we -- how we design the rate
13 structure or it matters very little, is that a correct --

14 A. I think -- no. I think the rate structure
15 is very important. Now I'm speaking as an economist
16 dealing with rates and the signals they send. Let me
17 speak to the concept of a straight fixed variable. The
18 way the economic literature speaks to it, and what I think
19 was why FERC started looking to it, you look to providing
20 the service of a customer even if they don't take any
21 service.

22 That supposedly rich couple leaves the
23 country and tours during the winter and they have no
24 consumption. They should still be charged for the
25 connection to their -- to their domicile, and they should

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1 pay for that fixed cost of making that connection. And
2 there's no -- and that's a very fair charge.

3 On the other hand, if a person uses a lot
4 of gas and spreads those costs over a long period of time,
5 they should pay for that volumetric service. You sort of
6 think of this -- you sort of think of this as two
7 different products, if you will, and they're being priced
8 separately.

9 And that's kind of an economic efficient
10 way to look at this kind of rate design, and I think -- I
11 think most economists look at it that way. You're
12 capturing the fixed costs in one component, and you're
13 capturing the variable costs pretty much in the other
14 component, and then the people make the right economic
15 decision because the signals are captured in those two
16 separate components.

17 And, you know, I've taught this in graduate
18 seminars on rate design, and I think as an economist
19 that's the way I would look at it. So I think the rate
20 design is very important, but to an investor, I don't
21 think it is as important as it probably should be from a
22 policy standpoint of rate design.

23 Q. When you make your recommendation for the
24 12 percent, are you wearing an economist's hat or are
25 you wearing a different hat?

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1 A. Well, I guess it's partially economist's
2 hat, but I think it's more a financial economics --

3 Q. So you basically --

4 A. -- than a micro-economist.

5 Q. Basically you've worn two hats in your
6 testimony here today?

7 A. Well, I'm trained as an economist and as an
8 area in finance, and I guess I merged the two.

9 Q. Do you get to charge twice for that?

10 A. No, I don't, unfortunately.

11 Q. You ought to look into that.

12 COMMISSIONER CLAYTON: Thank you,
13 Dr. Murry.

14 THE WITNESS: Sure.

15 JUDGE DIPPELL: Thank you, Dr. Murry. Is
16 there any additional cross-examination based on those
17 questions from the Staff?

18 MR. REED: I'm sorry. From Staff? Yes.

19 JUDGE DIPPELL: Yes.

20 RE-CROSS-EXAMINATION BY MR. REED:

21 Q. Dr. Murry, can you hear me?

22 A. Yes, I can.

23 Q. With the straight fixed variable rate
24 design, which part of the customer's bill is fixed?

25 A. Excuse me?

1 Q. Which part of the customer's bill is fixed
2 and which part is variable?

3 A. Well, traditionally the fixed portion is
4 based on capacity, the ability to -- the requirement to
5 serve. Let me put it that way. If you follow those --
6 the logic that I was presenting in treating it as a two
7 component charge, an economic efficient argument, the cost
8 associated with being able to serve and standing by to
9 serve would be the fixed portion, and the variable portion
10 would be the portion based on how much you use, and that
11 would be true for any utility.

12 Q. Are weather mitigating rate designs in
13 other states designed to collect the company's fixed
14 costs?

15 A. Have to look -- have to look at the
16 individual, individual rate designs. Are you referring to
17 weather? I want to make sure I'm following the question.

18 Q. I'm asking about the weather mitigating
19 rate designs in other states. Does that make sense?

20 A. Yes, I think it does. And let me say that
21 I can't say -- I think you know I've not made a study of
22 all other weather rate designs in all other states, but
23 I've looked at a number. I looked at some in relation to
24 this case, and I looked at others, and I can't cite
25 specifically any that have, but I can say with certainly

1 that the various weather mitigating rate designs are
2 very -- they vary over a wide range that I view, and they
3 seem to have a lot of different components and different
4 approaches.

5 Q. Dr. Murry, has it been your experience in
6 other states that an adjustment is made to ROE when a
7 weather mitigating rate design is put in place?

8 A. I can't cite a specific example, but I
9 think the answer is undoubtedly yes, in some states.

10 MR. REED: That's all I have.

11 JUDGE DIPPELL: Thank you. Is there
12 anything further from Public Counsel?

13 MR. POSTON: No questions.

14 JUDGE DIPPELL: Is there any redirect?

15 REDIRECT EXAMINATION BY MR. FISCHER:

16 Q. Dr. Murry, this is Jim Fischer representing
17 Atmos. I just wanted to clarify, when you were talking
18 about the capital structure varying from state to state,
19 is it true that Atmos uses a consolidated capital
20 structure and what you were talking about was the capital
21 structure that might exist depending on a specific test
22 year involved in a case?

23 A. It might be based on different test years,
24 yes, and different circumstances of the company. For
25 example, the recent acquisition in Texas reduced equity

1 ratio a great deal, which is the one being used in this
2 case. So a capital structure in a prior period of time or
3 one that did not recognize the debt that was used for that
4 acquisition, capital structure would be quite different,
5 even though it was the capital structure of the company as
6 a whole.

7 Q. And I believe you mentioned that many
8 companies have some sort of weather mitigation measure.
9 Did you look at some of those in your surrebuttal
10 testimony?

11 A. Yes, I did. I spelled those out in my
12 surrebuttal testimony.

13 Q. Okay. I believe you looked at seven out of
14 eight of those that the Staff had in their comparables, is
15 that right, that had a weather mitigation measure of some
16 sort or a revenue stabilization measure?

17 A. That is correct. Of the eight companies
18 that were in the Staff witness', Mr. Barnes' testimony,
19 seven had some weather mitigation --

20 Q. And if I understood what you --

21 A. -- component.

22 Q. If I understood what you were saying in
23 answer to Commissioner Clayton, you view volatility, the
24 risk of weather as greater to the consumer than it really
25 is to the investor; is that right?

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1 A. That the volatility affects the consumer
2 more than the investor?

3 Q. Yes.

4 A. Yes, I think -- I think it doesn't affect
5 greatly because it doesn't change the expected returns.
6 It reduces the volatility, but it doesn't increase the --
7 or decrease the expected returns. It increases the range.

8 Q. That would be because cold weather means
9 higher bills if more costs are recovered in the volumetric
10 charges; is that what you're saying?

11 A. That's correct.

12 MR. FISCHER: I think that's all I have.
13 Thank you.

14 JUDGE DIPPELL: Thank you. Thank you
15 again, Dr. Murry, for being available.

16 COMMISSIONER CLAYTON: Can I ask a
17 question?

18 JUDGE DIPPELL: Oh, I'm sorry.

19 COMMISSIONER CLAYTON: I hate to do this.

20 JUDGE DIPPELL: Commissioner Clayton wants
21 to ask one more.

22 FURTHER QUESTIONS BY COMMISSIONER CLAYTON:

23 Q. Dr. Murry, just on that last question, I
24 understand the concern about fluctuations of volatility
25 for a customer, but also the problem with the return on

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1 common stock that you suggested was a problem for Atmos,
2 that could also be blamed on warm winters, could it not?

3 A. Of course it could.

4 Q. So that would be added risk to the company
5 that an investor would consider; would you agree with
6 that?

7 A. Of course investors would consider it,
8 sure.

9 Q. So warmer weather and fluctuations in
10 weather from that standpoint are greater risk for an
11 investment; you'd agree with that statement?

12 A. A series of warm winters is a risk to
13 investors, a series of winters that would be very warm
14 back to back or something, so anomalous winter is a risk
15 to the investor.

16 COMMISSIONER CLAYTON: Thank you.

17 JUDGE DIPPELL: Thank you. Is there any
18 additional cross-examination based on the Commissioner's
19 last question?

20 MR. REED: No.

21 MR. POSTON: No.

22 JUDGE DIPPELL: Any redirect?

23 MR. FISCHER: No, your Honor.

24 JUDGE DIPPELL: Thank you. Thank you,

25 Dr. Murry, again for being available, and you may be

1 excused.

2 THE WITNESS: Thank you very much.

3 JUDGE DIPPELL: We'll sign off. Thank you.

4 Okay. Commissioner Clayton has a few
5 questions related to customer service issues, and so we're
6 going to ask Ms. Kremer to come forward even though she
7 didn't -- wasn't scheduled to be a witness. Have her come
8 forward, and then we'll wrap up the remaining issues.
9 There were no additional questions on the other issues,
10 but I want to make sure we got all the parties' questions,
11 and so we'll run through those things after we finish with
12 Ms. Kremer, and then I think we'll be able to conclude.

13 (Witness sworn.)

14 JUDGE DIPPELL: Thank you. Let's see. I
15 don't believe we've had Ms. Kremer's testimony, prefiled
16 testimony put in the record yet, have we?

17 COMMISSIONER CLAYTON: So if I wouldn't
18 have called Ms. Kremer, you-all wouldn't have put her
19 testimony in the record?

20 MR. REED: We'd have caught it at some
21 point.

22 JUDGE DIPPELL: That's part of what we're
23 going to do after we finish with her. Go ahead, Mr. Reed.

24 MR. REED: What number is it, Judge,
25 because I don't have the chart?

0708

1 JUDGE DIPPELL: It's No. 122, 123HC, 124
2 and 125.

3 LISA A. KREMER testified as follows:

4 DIRECT EXAMINATION BY MR. REED:

5 Q. Ms. Kremer, are you the same person who
6 caused to be recorded or documented the testimony and
7 exhibits No. 122, 123, 124 and 125?

8 A. Yes.

9 Q. Do you have any changes or corrections to
10 that?

11 A. I do, a couple of small changes. In my
12 direct testimony, on page 19, line 7, FY should just be
13 calendar year instead of fiscal year. And then in our
14 supplemental report, this is in the HC portion of that
15 report, page 6, but I think I can make this correction
16 without needing to go in-camera. But it's the second
17 sentence there, the word a should be at.

18 Q. Any others?

19 A. No, sir.

20 MR. REED: At this time, Judge, I'd move
21 for admission of Exhibit 122 through 125.

22 JUDGE DIPPELL: Thank you. Would there be
23 any objections to those exhibits?

24 (No response.)

25 JUDGE DIPPELL: Seeing none, then I will

0709

1 receive Exhibits 122, 123HC, 124 and 125 into the record.

2 (EXHIBIT NOS. 122, 123HC, 124 AND 125 WERE
3 RECEIVED INTO EVIDENCE.)

4 JUDGE DIPPELL: And I'm going to skip any
5 cross-examination and go straight to the Commissioner's
6 questions, and then you'll -- if you have any
7 cross-examination, you can add that at that point.
8 Commissioner Clayton.

9 COMMISSIONER CLAYTON: Thank you, Judge.

10 QUESTIONS BY COMMISSIONER CLAYTON:

11 Q. Ms. Kremer, thank you for being patient
12 here today, sticking around. I know the hour's late, so
13 I'll be brief.

14 You filed testimony relating to customer
15 service performance; is that correct?

16 A. That's correct.

17 Q. Okay. And you found some deficiencies in
18 customer performance associated with this company; is that
19 correct?

20 A. Yes, sir.

21 Q. Could you just briefly summarize those
22 deficiencies?

23 A. Primarily in the area of call center
24 performance. Back in GM-2000-312, when Atmos purchased
25 the Associated Natural Gas properties, we as a condition

0710

1 to that merger set out some customer service measures for
2 their call center with respect to abandoned call rate and
3 average speed of answer, and we've been monitoring the
4 company. The company has been providing us quarterly
5 reports, like many utilities do.

6 And in 2004 and 2005 we noted some
7 deviation from those metrics where the company was not
8 quite meeting what they had indicated that they would. So
9 we've been trying to send some inquiries to Atmos. Over
10 the course of the last couple of years, performance would
11 improve and then dip down again, and we just felt that it
12 was incumbent upon us to go ahead and file testimony in
13 this case, indicate this to the Commission.

14 We've asked for monthly reporting from
15 Atmos instead of quarterly, with will give us an
16 opportunity to monitor a little more carefully. We've
17 asked them to formalize a disaster recovery plan because
18 they've indicated that that's part of the reason that
19 their performance declined. Metarie, Louisiana was hit by
20 Hurricanes Katrina and Rita. They also indicated that the
21 higher natural gas prices had increased call volumes
22 coming into the center, and so they couldn't meet those
23 metrics.

24 We think the monthly reporting will help,
25 them formalizing their disaster recovery plan, and then we

0711

1 have a commitment from Atmos that they fully expect to be
2 in compliance with the metrics in 2006. We've seen an
3 increase in staffing to their call center, which is a good
4 indication to us.

5 So I think we're on -- I think we're on
6 track, but we just wanted to send -- really I guess to put
7 the Commission on notice that we've been concerned and
8 also with the company.

9 Q. Now, when you found those performance
10 metrics, did you do any study of the consumer complaints
11 that have come through the consumer services department?

12 A. Yes, sir, we did.

13 Q. Is that where -- now, is that in addition,
14 complaints or problems in addition to what you've already
15 testified about or are they one and the same?

16 A. Let me recall what we actually did here.
17 We did a couple of things because we had gotten an order
18 from the Commission probably a couple of months ago that
19 identified three questions that the Commission wanted us
20 to ask, and part of those questions I think included
21 looking back at customer complaints for a period of
22 approximately two and a half years, which we did.

23 We also, when we filed our direct
24 testimony, we did look through customer complaints, I
25 think it was 2005 going forward, just to see were any

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1 customers complaining about call center performance.

2 And what we did was actually read through
3 all of the documentation on each of those complaints. And
4 we did find a few, and then we also sat in and listened to
5 the local public hearings in Kirksville and in Sikeston,
6 and we heard some remarks on call center performance.

7 So I hope that answers your question, but
8 yes, we know that some customers have expressed concern
9 about getting through to the call center.

10 Q. Did you find any other problems or patterns
11 aside from people just upset with the price of gas?

12 A. Well, yes, we did. I think there -- there
13 were several concerns identified with customers not
14 seeming to understand how the company's budget bill
15 program worked. And so in rebuttal testimony we kind of
16 presented that information, and Atmos has committed again
17 on that, we actually have a Nonunanimous Stipulation &
18 Agreement with Atmos, and we've asked them to do some
19 things with respect to budget bill education of their
20 customers, also better training for their call center reps
21 to understand how Missouri's budget bill program works,
22 and they've again committed to doing these things.

23 Q. Okay. Also filed in this case there was a
24 J.D. Power survey. Did you have a chance to review that?
25 I thought I filed it.

0713

1 A. Commissioner Clayton, I'm not sure if I
2 looked at that or not in this case, I have seen those
3 surveys. I'm just not sure if I've looked at that. That
4 was filed in this case, the Atmos case?

5 Q. I thought I had filed it. I wanted to get
6 it -- I wanted to get it in the record, because I didn't
7 want to surprise anyone. basically it just had a
8 general -- it had a generating of natural gas companies on
9 customer service or at least on customer opinions.

10 A. Okay.

11 Q. And Atmos rated underneath the average, and
12 I wanted, I guess, your -- and since you didn't look at
13 it, you can't do this, but I wanted your opinion on what
14 something like that would mean in customer service
15 performance analysis.

16 A. And forgive me. I vaguely remember seeing,
17 but I'm not sure if that's something that I got from Atmos
18 in the context of a data request response. I may have
19 that in my -- may I have just a moment and let me look
20 through?

21 Q. If you don't have it, don't worry about it.
22 I've got one more witness I've got to talk to.

23 A. Okay. All right. I didn't find it in my
24 data requests.

25 Q. Didn't find it?

0715

1 surveys in the past. I don't know if they're currently
2 doing that or not. But I know that in 2001, I believe in
3 2000 they were doing customer surveys.

4 Q. Well, Ms. Kremer, are you -- will your
5 involvement with customer service performance end with
6 Atmos at the conclusion of this case?

7 A. Do you mean just that --

8 Q. Is there any monitoring going forward?
9 Will you be working with the company to ensure --

10 A. Yes.

11 Q. -- that they follow through with their
12 commitments?

13 A. Yes, sir. In fact, right now the last -- I
14 guess the last six years or so, we've had quarterly
15 reporting from Atmos. So we've been able to monitor them
16 I would say fairly carefully. And attached somewhere --
17 well, let's see if that was in my direct testimony. I
18 believe it was. You will see some mention of a number of
19 inquiries going back and forth to them over the course of
20 a couple of years asking them, you know, what are the
21 reasons for the decline in performance, what are you doing
22 about it, their responses about increased staffing and so
23 on.

24 And the monthly reporting will just let us
25 do that a little more carefully. It will give us a

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1 quicker response time. When we see a decline in
2 performance, we can send some inquiries at a quicker rate
3 than they we currently can quarterly.

4 So absolutely, we'll be monitoring them.
5 We also plan to verify that the things that they've
6 committed to do in the Stipulation & Agreement they do.
7 In probably three to six months we'll be asking them. If
8 we haven't received their disaster recovery plan, we'd
9 like to get a copy of that. We'd like to know what
10 improvements they're making to their call center, you
11 know, getting back to the disaster recovery plan, the call
12 scripting, you know, what are customer reps instructed to
13 tell customers when there's a period of heavy call volume.

14 Q. So the answer to the question is no, your
15 involvement will not end, you'll have ongoing --

16 A. You're right.

17 Q. -- ongoing discussions and oversight for
18 the future?

19 A. Yes, sir, you're right.

20 COMMISSIONER CLAYTON: Judge, I don't have
21 any other questions. Ms. Kremer, thank you very much for
22 being here tonight.

23 THE WITNESS: You're welcome.

24 JUDGE DIPPELL: Thank you. Would there be
25 any questions for Ms. Kremer from Atmos?

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1 MR. FISCHER: Just a couple.

2 CROSS-EXAMINATION BY MR. FISCHER:

3 Q. Ms. Kremer, the company has accepted your
4 recommendations in this case; is that right?

5 A. That's correct.

6 Q. And those are embodied in the Partial
7 Nonunanimous Stipulation & Agreement that we filed earlier
8 in the case?

9 A. That's correct.

10 Q. Okay. Let's see. I think Public Counsel,
11 Staff and the company are all parties to that. Is that
12 your understanding?

13 A. Yes, sir.

14 Q. And in the response that you filed related
15 to customer complaints at the Public Service Commission,
16 if I look at service quality, it looks like you had no
17 service quality complaints in 2006 and four in 2005 --
18 this would be on page 1 of your Staff response -- and
19 eight in 2004?

20 A. That's correct.

21 Q. Okay. Does it surprise you that a company
22 that suffered through a couple hurricanes would have more
23 call volume than others?

24 A. It doesn't surprise me, Mr. Fischer.
25 Again, I make the point, as I attempted to do in direct,

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1 that it wasn't just -- I think we were noticing a decline
2 in performance even prior to the hurricanes. So the
3 company indicated the higher natural gas prices as being
4 one reason for that. The addition of Mississippi Valley
5 Gas into the system increased the call volume.

6 So certainly those hurricanes, we can
7 understand that, and the higher natural gas prices, but
8 we -- what we're saying now, barring any unforeseen
9 natural disasters, performance should improve on a
10 going-forward basis.

11 Q. And Atmos is committed to that?

12 A. That's right.

13 MR. FISCHER: Thank you very much.

14 JUDGE DIPPELL: Thank you. Is there
15 anything from Office of Public Counsel?

16 MR. POSTON: No, thank you.

17 JUDGE DIPPELL: Staff?

18 MR. REED: No.

19 JUDGE DIPPELL: Thank you, Ms. Kremer. And
20 I believe Commissioner Clayton had some questions on the
21 same topic for Ms. Childers.

22 COMMISSIONER CLAYTON: Could I just ask her
23 from back there? Is that all right? I think she's sworn
24 in.

25 JUDGE DIPPELL: That's fine.

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1 COMMISSIONER CLAYTON: Don't you have a mic
2 back there. There's no need to come up. Mr. Fischer, you
3 don't want to have too good of cross on this subject, all
4 right? You're doing an awfully good job there.

5 PATRICIA J. CHILDERS testified as follows:

6 QUESTIONS BY COMMISSIONER CLAYTON:

7 Q. Ms. Childers, I think you were the first
8 witness I talked to at the beginning of this case, and
9 presumably you're going to be the last, I think, also,
10 mercifully so.

11 A. Yes, sir.

12 Q. You've seen the filings that I had made in
13 this case relating to customer service?

14 A. Yes, sir, I have.

15 Q. And you've also been to Hannibal and you
16 saw where no one -- one person showed up to testify?

17 A. Yes. I was at all those local meetings.

18 Q. Knocked the wind out of my big customer
19 service stuff because no one showed up in Hannibal, right?

20 A. That's correct.

21 Q. But I did file some things that suggested
22 that there were problems in customer service. I've also
23 heard suggestions that there are problems because of calls
24 going to a call center versus a local number being
25 available, and I know that there are economics of -- that

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1 just don't make it feasible to have a local number.

2 What I wanted to ask you is, is Atmos
3 willing to take steps to try to cure whatever deficiencies
4 that may be out there even if they may not be so great
5 to -- that have been suggested by others?

6 A. Yes. For example, reporting the metrics
7 monthly and notifying the Staff when we have higher call
8 volumes, staffing levels. Ms. Kremer has never been shy
9 about calling the company when she's seen the metrics
10 decline, and we welcome her inquiries and will continue to
11 try to improve our customer service, yes.

12 Q. What is your response to that survey that
13 was filed? Have you ever seen that before?

14 A. I have. We -- I'm hooking at the -- I
15 don't know that the page is numbered, but where we appear
16 low in the customer satisfaction study on the south
17 region, we compare favorably when you look at us in
18 comparison to the other Missouri LDCs.

19 Q. I think all Missouri LDCs were below the
20 average, I think.

21 A. Yes, I'm familiar with it.

22 Q. Do you believe that suggests a problem or
23 do you believe that you-all just should have saved your
24 money and not gotten in the survey?

25 A. I think these results can always be

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1 beneficial. You can certainly see where the trends are,
2 and I think what we can do is we can inquire about some of
3 the other companies that seem to perform better than us.
4 So we like to participate in these surveys. It's
5 sometimes very telling.

6 Q. Well, the only thing I will say is that the
7 problems that I've heard both in this case and in a prior
8 life and before the case seem to be problems with lack of
9 communication being made between the call center employees
10 and the people who call in or perhaps a lack of
11 understanding or unwillingness to understand the problem.
12 Utility bills always seem to hit home very close for
13 certain folks.

14 Some of the problems that I've seen should
15 have been handled and perhaps they could have just been
16 handled better and they never would have gone beyond where
17 they were. I'm sympathetic to the concerns in Metairie.
18 My roommate in college is from Metairie and lived in
19 Houston for six months after the hurricane. So I'm well
20 aware of the problems that they had down there.

21 A. We can always do a better job, and
22 certainly we can provide the customer more information and
23 committed to do so on our budget billing process, and we
24 can do better scripting for our call center reps as well.

25 COMMISSIONER CLAYTON: I appreciate that,

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1 and I appreciate your comments here this evening. And
2 mercifully, I have no other questions.

3 THE WITNESS: Thank you.

4 JUDGE DIPPELL: Would there be anything
5 from Staff on this topic for Ms. Childers?

6 MR. REED: No.

7 JUDGE DIPPELL: Office of Public Counsel?

8 MR. POSTON: No.

9 JUDGE DIPPELL: Atmos, any redirect?

10 MR. FISCHER: No, thank you.

11 JUDGE DIPPELL: All right. Commissioner
12 Clayton, I believe, indicated he didn't have any other
13 questions on the other topics. So let me just run through
14 a couple things and make sure what we have and haven't
15 covered. I can't recall if myself or Commissioner Appling
16 asked questions of Ms. Meisenheimer on rate of return or
17 return on equity and if I gave adequate opportunity for
18 recross-examination and redirect. Does anybody know that
19 they have anything that I missed on that?

20 MR. DORITY: No, Judge.

21 JUDGE DIPPELL: Okay. I will assume that I
22 just didn't check it off my list.

23 We did not actually get Ms. Childers on the
24 stand with regard to the PGA consolidation. Was there any
25 cross-examination for her on that topic? I attempted to

1 ask her some questions, I think, out of turn. Okay.

2 There's no cross-examination on that topic.

3 The same with Ms. Meisenheimer. Well, I
4 think she was cross-examined on that. Was there adequate
5 opportunity on district consolidation for recross and
6 redirect? Did that get covered?

7 MR. DORITY: Yes, Judge, from our
8 standpoint.

9 JUDGE DIPPELL: Okay.

10 MR. POSTON: We're okay.

11 JUDGE DIPPELL: Just wanted to make sure.
12 It got a little confusing. I wanted to make sure.

13 Okay. So I have that we covered, then, all
14 of the topics and recovered all of the topics. Is there
15 any issue or any witness that anyone feels that they
16 failed to get an adequate opportunity to question?

17 (No response.)

18 JUDGE DIPPELL: Seeing none, then let's
19 move to the exhibits that we haven't yet introduced.
20 Atmos?

21 MR. DORITY: Your Honor, we would
22 understand that the testimony of Atmos witness Gary Smith,
23 which comprise Exhibits 2, 3 and 4, have been offered and
24 received. The testimony of Patricia Childers, being
25 Exhibits 5NP, 5HC, 6 and 7 have been offered and received.

1 JUDGE DIPPELL: Yes.

2 MR. DORITY: The direct testimony of Robert
3 Kerley, Exhibits 9NP and 9HC, offered and received. The
4 direct testimony of Michael Ellis, Exhibit No. 10, was
5 offered and received. The direct testimony of James
6 Cagle, Exhibits 11NP and HC, was offered and received.
7 And the direct and surrebuttal testimony of Donald Murry,
8 Exhibits 14 and 15, were offered and received.

9 At this time Atmos would offer the direct
10 testimony of John Paris, Exhibit No. 1; the direct
11 testimony of Laurie Sherwood, Exhibit No. 8; the direct
12 testimony of Thomas H. Petersen, Exhibit No. 12; the
13 direct testimony of Daniel Meziere, Exhibit No. 13; the
14 direct testimony of Donald Roff, Exhibit No. 16; the
15 direct testimony of Ronald Edelstein, Exhibit No. 17; and
16 the direct testimony of Rebecca Buchanan, Exhibit No. 18.
17 And it's my understanding that Exhibit No. 19, the LIHEAP
18 schedule that Mr. Smith offered -- I'm sorry -- sponsored
19 has been offered and received. I believe that's all of
20 the exhibits that I'm showing for Atmos.

21 JUDGE DIPPELL: That is the same that I
22 have. Would there be any objection to those exhibits that
23 have just been offered?

24 MR REED: No objection.

25 JUDGE DIPPELL: No objection.

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1 MR. POSTON: No objection.

2 JUDGE DIPPELL: Seeing none, then I will
3 receive those exhibits into evidence.

4 (EXHIBIT NOS. 1, 8, 12, 13, 16, 17 AND 18
5 WERE WAS RECEIVED INTO EVIDENCE.)

6 JUDGE DIPPELL: Then Staff, do you have
7 additional -- I have that your exhibits 100 through 125
8 have been admitted, and that we still have not admitted
9 126 and 127HC, which are the testimony of Dan Beck, 127,
10 which is also Dan Beck, 129 through 136, which are -- is
11 it Began, Began, Gray, Hagemeyer, Hanneken, Lock, Meyer,
12 Warren and Wells. Are you offering those at this time?

13 MR. REED: I would, Judge, move for
14 admission of all those exhibits you just mentioned.

15 JUDGE DIPPELL: Would there be any
16 objection be Exhibits 126 though 136?

17 MR. POSTON: I didn't hear you mention --
18 did you mention 128, Daniel Beck?

19 JUDGE DIPPELL: Yes.

20 MR. POSTON: Okay. No objections.

21 JUDGE DIPPELL: Seeing no objections, I
22 will receive those into evidence.

23 (EXHIBIT NOS. 126 THROUGH 136 WERE RECEIVED
24 INTO EVIDENCE.)

25 JUDGE DIPPELL: And we also -- I believe we

1 got all of Office of Public Counsel's exhibits in, with
2 the exception that when Ms. Meisenheimer was testifying
3 and she had the work papers of Staff, I would like to mark
4 those as -- give them an exhibit number so that because
5 they were referred to, I don't necessarily -- I'm not
6 asking you to offer them. Just I would like, though, to
7 get copies of them and mark them as an exhibit number just
8 so that the record is complete.

9 MS. MEISENHEIMER: I have it. I can run
10 copies now if that would be convenient.

11 JUDGE DIPPELL: You can provide them later.
12 What I will do is reserve an exhibit No. 143. That wasn't
13 offered, but I'm just -- I'll let you-all decide what to
14 do about that.

15 MR. POSTON: Your Honor, I'll go ahead and
16 offer that exhibit.

17 JUDGE DIPPELL: Okay. I'm going to -- I'm
18 going to have you -- I'm going to allow you to take a
19 chance to review it when we actually get the copies and
20 make any objections later on that. So I will note that
21 it's been offered, and I will set a time for objections to
22 that and also to the large study that was Exhibit 139.

23 MR. DORITY: Your Honor, what was the
24 exhibit on the work papers?

25 JUDGE DIPPELL: The work papers I'm going

1 to mark as Exhibit No. 143.

2 MR. DORITY: Thank you.

3 MR. REED: And, Judge, I think there's
4 another exhibit we may want to put into that category.
5 Yesterday I think Commissioner Clayton had asked some
6 questions of Ms. Ross about information from other states,
7 which we have available now, and so I would need an
8 exhibit number for that and would move for admission of
9 the exhibit. I can distribute that to the parties, and
10 then if an objection is --

11 JUDGE DIPPELL: Let's do that. I'll mark
12 that as Exhibit No. 144.

13 MR. REED: How many copies do I need for
14 the Bench?

15 JUDGE DIPPELL: You need six for the Bench
16 and one for the court reporter. And I'll just call that
17 the response of Ms. Ross to questions from the Bench.

18 (EXHIBIT NO. 144 WAS MARKED FOR
19 IDENTIFICATION BY THE REPORTER.)

20 JUDGE DIPPELL: I will set a time for
21 responses to all of those exhibits.

22 JUDGE REED: And, Judge, I think there's
23 additional information coming that will be part of Exhibit
24 No. 144, which we'll distribute as soon as we can.

25 JUDGE DIPPELL: Okay. So this is Part 1 of

1 144. Part 2, still to come.

2 Okay. The other exhibits that haven't been
3 entered into the record, I actually excused Mr. Fulton
4 with Noranda before he had an opportunity to offer his
5 exhibits.

6 MR. FISCHER: Judge, on behalf of my friend
7 Mr. Fulton, I would move for the admission of his exhibit.

8 JUDGE DIPPELL: Would there be any
9 objection to Exhibits 400, 401 and 402?

10 (No response.)

11 JUDGE DIPPELL: Seeing none, I'll receive
12 those into the evidence.

13 (EXHIBIT NOS. 400, 401 AND 402 WERE
14 RECEIVED INTO EVIDENCE.)

15 JUDGE DIPPELL: All right. The other thing
16 that we -- that I want to get cleared up on the record is
17 I have reserved dates for a true-up hearing, but it's my
18 understanding that the parties do not believe that a
19 true-up is necessary in this case; is that correct?

20 MR. FISCHER: Yes.

21 JUDGE DIPPELL: Okay.

22 MR. REED: That's right.

23 JUDGE DIPPELL: That's what Mr. Berlin told
24 me the other day. All right, then. I will cancel that
25 reserved hearing dates for the first week in January, I

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1 believe. We'll also need to set a briefing schedule, but
2 I'm not going to do that here tonight. It will probably
3 be just a standard one-round briefs.

4 MR. POSTON: Judge, I believe you'd ordered
5 a 30-page limit. Is that still in play?

6 JUDGE DIPPELL: I did order a 30-page page
7 limit. If anyone believes that they need more than 30
8 pages, they're welcome to ask permission to file a larger
9 Brief. I assure you that I will be fairly lenient in
10 those requests.

11 MR. FISCHER: Judge, I had on my calendar
12 that that date had already been set. I might be wrong
13 about that. January 12th, does that --

14 JUDGE DIPPELL: For the Briefs?

15 MR. FISCHER: For the Briefs, yeah.

16 JUDGE DIPPELL: Excellent. Then I won't
17 have to do that. I'm just making sure I got everything.
18 That is everything on my list that I believe we still
19 needed to accomplish. Does anyone have anything further
20 this evening?

21 (No response.)

22 JUDGE DIPPELL: Seeing nothing further, I
23 believe that conclude the hearing and we are adjourned.
24 Thank you.

25 WHEREUPON, the hearing of this case was

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1 concluded.

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15 *Late-filed exhibit.

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