

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION

3
4 TRANSCRIPT OF PROCEEDINGS

5 True-Up Hearing

6
7 December 8, 2009
8 Jefferson City, Missouri
9 Volume 14

10 In the Matter of Missouri Gas)
11 Energy and its Tariff Filing)Case No. GR-2009-0355
12 to Implement a General Rate)
13 Increase for Natural Gas Service)

14 RONALD D. PRIDGIN, Presiding
15 SENIOR REGULATORY LAW JUDGE
16 ROBERT M. CLAYTON, Chairman,
17 JEFF DAVIS,
18 TERRY JARRETT

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

2 JUDGE PRIDGIN: All right. Good morning. We're
3 on the record. This is the true-up hearing for the MGE
4 rate case, No. GR-2009-0355. And if I could, I would like
5 to get oral entries of appearance from counsel, beginning
6 with MGE, please.

7 MR. COOPER: Dean Cooper, James Swearengen and
8 Todd Jacobs appearing for Missouri Gas Energy, a division
9 of Southern Union Company.

10 JUDGE PRIDGIN: Mr. Cooper, thank you. On
11 behalf of Staff, please.

12 MS. SHEMWELL: Good morning, and thank you,
13 Judge. Kevin Thompson, Lera Shemwell and Jennifer
14 Hernandez for the Staff of the Commission. Thank you.

15 JUDGE PRIDGIN: Ms. Shemwell, thank you. On behalf
16 of the Office of Public Counsel, please?

17 MR. POSTON: Thank you. Marc Poston appearing
18 for the Office of Public Counsel and the public.

19 JUDGE PRIDGIN: Mr. Poston, thank you.
20 I don't believe I see any other parties represented this
21 morning, but let me verify. Are there any other entries
22 of appearance counsel would like to make?

23 All right. Hearing none, I understand that the
24 parties want an opening for true-up. And then correct me
25 if I'm wrong, Counsel, I believe the first witness will be

1 Mr. Noack for MGE, and then we will go on to staff
2 witnesses, Mr. Foster, Mr. Oligschlaeger, Mr. Murray and
3 then OPC's witness, Mr. Robertson. But we may be either
4 recalling some witnesses or taking them somewhat out of
5 order depending on -- on schedules. Is that roughly
6 accurate?

7 MS. SHEMWELL: I would expect Mr. Noack would be
8 called right in back of Mr. Murray on ROE.

9 JUDGE PRIDGIN: All right. Thank you. And
10 witnesses will not be released or excused until permitted
11 by the Bench. Is there anything from counsel before we go
12 on to opening statements? All right, hearing none, MGE,
13 Mr. Cooper.

14 MR. COOPER: Thank you, your Honor.

15 OPENING STATEMENT

16 BY MR. COOPER:

17 MR. COOPER: MGE has raised two issues -- or two
18 basic issues in this case for the Commission's
19 consideration. One regards the prepaid pension asset.
20 The other regards depreciation. There's a depreciation
21 issue.

22 You'll recall from the record that the Order
23 establishing true-up indicates that rate base will be
24 trued up for a prepaid pension asset and pension tracker
25 assets. The partial Stipulation and Agreement in this

1 case also indicates that prepaid pensions are to be a part
2 of the true-up in this case in regard to rate base.

3 On the -- as to the depreciation issue, the
4 Order establishing true-up indicates that depreciation and
5 amortization expense will be trued up, and the partial
6 Stipulation and Agreement that's been filed with the
7 Commission indicates that depreciation expense will be a
8 part of true-up in this case.

9 Now, as to the prepaid pension asset issue,
10 there's really two sub-issues, and I think they can be
11 separated pretty cleanly between the two. One of those
12 issues is a timing issue. That is, where the
13 amortizations of the assets created in GR-2004-0209 and
14 GR-2006-02 -- 0422 should begin whether -- well, let me
15 back up -- whether the amortizations of the prepaid
16 pension assets created in those two cases should begin the
17 month after the true-up date in those cases or after the
18 effective date of the report and Order in each case.

19 The second prepaid pension asset issue is an
20 issue in regard to capitalization ratio, and that is
21 whether a capitalization ratio should be applied to the
22 prepaid pension asset created in this case. And I think
23 it's in one of the other cases as well, the GR-2006-0422
24 case, such as to reduce the rate base impact of that
25 prepaid pension asset.

1 The single depreciation as -- or depreciation
2 issue concerns whether the depreciation rate for Count
3 374.2 should be equal to the rate that the Commission has
4 -- has ordered in the past for that account or whether
5 that depreciation rate should be zero.

6 Lastly, MGE will have questions for the Staff
7 witness Murray in regard to his true-up testimony as it
8 relates to -- to capital structure. Thank you.

9 JUDGE PRIDGIN: Mr. Cooper, thank you. Any
10 opening on behalf of Staff? Ms. Shemwell?

11 MS. SHEMWELL: Thank you, Judge, and good
12 morning.

13 JUDGE PRIDGIN: Good morning.

14 OPENING STATEMENT

15 BY MS. SHEMWELL:

16 MS. SHEMWELL: In life, Judge, sometimes you get
17 a true-up -- a do-over and sometimes you don't. It's
18 simply too late for MGE after its voluntarily agreed to
19 the depreciation accounts and the depreciation rates and
20 the Stipulation and Agreement to get a second bite at the
21 apple.

22 MGE had several times to review the depreciation
23 rates which are attached as Schedule C to the Stipulation
24 and Agreement and to also review the items included in
25 depreciation in terms of the accounts. They now want more

1 money than their previous agreements permit.

2 Once you sign a name to your document with the
3 intent to be bound, you are bound. MGE should not have
4 signed the Stipulation if it didn't agree with the
5 depreciation schedule listed in Appendix C.

6 MGE had plenty of time to review the Stipulation
7 and Agreement, to change one of its rates to suggest
8 adding an account. It did not do so. It also accepted
9 the schedule in the waiver case, which is 2010-0030 --
10 GE-2010-0030, Appendix C, which also did not contain
11 Account 374.2, which is land rights.

12 The parties stippled in this case in a partial
13 Non-unanimous Stipulation Agreement -- actually, it was
14 Non-unanimous, but no party asked for a hearing. And
15 that's that.

16 Staff does not consider that any error was made,
17 nor does MGE suggest really that an error was made in the
18 Stipulation and Agreement. The fact that a particular
19 count was included in past cases does not in any way alter
20 the fact that MGE had a full opportunity to review the
21 Appendix C. In this case, did so, I presume, before they
22 signed and did not propose any changes or additions.

23 Staff did not agree to any blanket use of
24 depreciation rates or accounts from other cases as
25 demonstrated by the inclusion of Appendix C in the

1 Stipulation and Agreement.

2 In terms of the prepaid pension asset, Staff
3 believes that the stipulation on -- which all the parties
4 signed, the numbers in that assume Staff's methodology for
5 the prepaid pension asset and when amortization begins.

6 Again, if MGE had had a problem with that, it
7 should have raised it before it signed on to the
8 Stipulation and Agreement. Staff will show that its
9 approach is reasonable and justified. Thank you, Judge.

10 JUDGE PRIDGIN: Ms. Shemwell, thank you.
11 Mr. Poston?

12 MR. POSTON: Good morning.

13 JUDGE PRIDGIN: Good morning, Mr. Poston.

14 OPENING STATEMENT

15 BY MR. POSTON:

16 MR. POSTON: Public Counsel at this time is only
17 taking issue with one item of true-up. That's rate case
18 expense. We have not taken positions on the other issues
19 addressed by Staff and MGE, the pension assets and
20 depreciation. We -- we do intend to take positions on
21 these issues in our true-up brief. We wish to hold --
22 withhold a position until that time until we have heard
23 all of the evidence here today.

24 On our issue, we ask that you please read
25 Mr. Ted Robertson's true-up testimony, direct, and his

1 testimony from the main part of this case, his direct
2 rebuttal and surrebuttal, which also address the issue of
3 rate case expense.

4 We believe MGE has relied too heavily on
5 expensive outside experts, which, by my account, make up
6 nine of the seventeen witnesses. We believe in-house
7 employees could have handled part of that load.

8 We also question and oppose what has become a
9 common practice here, which is for consumers, ratepayers,
10 to pay all of the rate case expense. Shareholders benefit
11 from rate case expenses just as much, if not more. And --
12 and we believe shareholders should pay at least 50 percent
13 of those expenses.

14 Again, as I said, Mr. Ted Robertson is here, and
15 he's here to answer your questions on those issues. Thank
16 you.

17 JUDGE PRIDGIN: Mr. Poston, thank you. Anything
18 further from Counsel before Mr. Noack takes the stand?
19 Hearing nothing, Mr. Noack, if you'll come forward to be
20 sworn, please, sir.

21 MR. NOACK: I've been sworn.

22 JUDGE PRIDGIN: Mr. Noack, I believe all of
23 these witnesses have been sworn. I think, to be cautious,
24 I will re-swear witnesses. If you'll raise your right
25 hand to be sworn, please.

1 MICHAEL NOACK,
2 being first duly sworn to testify the truth, the whole
3 truth, and nothing but the truth, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. COOPER:

6 JUDGE PRIDGIN: Thank you, sir. Please have a
7 seat. Mr. Cooper, when you're ready, sir.

8 Q (By Mr. Cooper) Please state your name.

9 A Michael Noack, N-o-a-c-k.

10 Q By whom you employed, and in what capacity?

11 A I'm employed by Missouri Gas Energy as Director
12 of Regulatory Affairs.

13 Q Have you prepared for purposes of this case
14 true-up direct and rebuttal in question and answer form?

15 A I have.

16 Q Is it your understanding that that testimony has
17 been marked as Exhibits 107 and 108 for identification?

18 A That's my understanding.

19 Q Do you have any changes that need to be made to
20 either of those pieces of testimony at this time?

21 A No, I do not.

22 Q If I were to ask you the same questions today
23 that are -- appear in those two exhibits, would your
24 answers be the same?

25 A Yes, they would.

1 Q Would those answers be true and correct to the
2 best of your information, knowledge and belief?

3 A They would.

4 MR. COOPER: Your Honor, I would move for the
5 admission of Exhibits 107 and 108 and tender Mr. Noack for
6 cross-examination.

7 JUDGE PRIDGIN: Mr. Cooper, thank you. 107 and
8 108 have been offered. Any objections? Hearing none, 107
9 and 108 are admitted.

10 (Exhibit Nos. 107 and 108 were offered and
11 admitted into evidence.)

12 JUDGE PRIDGIN: And I don't know if counsel have
13 a preference on the order of cross-examination.

14 MS. SHEMWELL: I'll start. Thank you.

15 JUDGE PRIDGIN: Ms. Shemwell.

16 CROSS-EXAMINATION

17 BY MS. SHEMWELL:

18 Q Good morning, Mr. Noack.

19 A Good morning.

20 Q Your direct testimony on page 1, you indicate
21 that the purpose of -- I'm reading at page 911. "The
22 purpose of my testimony is to support the true-up
23 adjustments accompanying my testimony identified as
24 true-up schedules," all in caps, "MRN-1 through MRN-7,"
25 correct?

1 A That's correct.

2 Q In your direct testimony, I did not find the
3 words in the Q&A -- I did not find the words Account 374.2
4 dash land rights anywhere in your direct testimony.

5 A In the true-up direct testimony?

6 Q In the true-up direct testimony.

7 A All right. All right. I don't think I did say
8 that.

9 Q I'm handing you, if I may direct, Judge, the
10 Partial Stipulation and Agreement in this case. Unless
11 you have a copy with you, Mr. Noack.

12 A I do. May I -- can I -- can I say while I don't
13 have -- in the testimony itself, I don't mention 374.2.

14 Q Thank you, Mr. Noack. I think you've already
15 had --

16 A I do have it in my exhibits, in my schedules.

17 Q I asked in the Q&A, did you mention it anywhere?

18 A Well, the schedules are part of my testimony,
19 but, no, I don't have it in the Q&A.

20 Q You have a copy of the Stipulation and
21 Agreement?

22 A I do. I do not have a copy of the Appendices.

23 Q On page 5 --

24 A Page 5.

25 Q -- who signed for -- who signed -- who signed

1 that document for MGE?

2 A Dean Cooper.

3 Q Is it your belief that Mr. Cooper signed for MGE
4 after having reviewed the document?

5 A Yes.

6 Q And he signed with the intent to be bound -- for
7 MGE to be bound by the document?

8 A Yes.

9 Q I'm going to hand you a copy of the Appendix C.

10 MS. SHEMWELL: Judge, this is in the record, so
11 it should not need to be marked. I have copies for the
12 Commission.

13 JUDGE PRIDGIN: This is Appendix C of the
14 Partial Stipulation and Agreement?

15 MS. SHEMWELL: It is.

16 JUDGE PRIDGIN: Thank you.

17 MS. SHEMWELL: Do you want more than two?

18 JUDGE PRIDGIN: (Judge Pridgin nods head.)

19 Q (By Ms. Shemwell) Do you have that in front of
20 you, Mr. Noack?

21 A I do.

22 Q On the left side column, it says Account Number,
23 correct?

24 A It does.

25 Q And Account 374.2 does not appear on this

1 document, correct?

2 A No, it does not.

3 Q And the third line is depreciation rate, the
4 third column?

5 A The third column?

6 Q The third column is depreciation rate. And that
7 describes the particular rates for the particular account
8 numbers, correct?

9 A It does.

10 Q You reviewed this document before MGE signed the
11 Stipulation and Agreement?

12 A I saw this document. Yes.

13 Q Mr. Cooper reviewed this document?

14 A I'm sure he did.

15 Q Mr. Jacobs --

16 A Yes.

17 Q -- reviewed the document? Did anyone else at
18 MGE review the document?

19 A I don't know.

20 Q Did you at that time -- at the time of the
21 signing raise the issue that Appendix C did not contain
22 Account No. 374.2?

23 A Whether or not it was at this time, I'm not
24 sure. But on more than one occasion, I did tell
25 Mr. Oligschlaeger that there was a mistake in the

1 depreciation schedule in the Staff accounting exhibits,
2 that it had -- I thought it had just been left out
3 accidentally.

4 Q Did you raise it with Mr. Oligschlaeger at the
5 time of the filing of the Stipulation and Agreement?

6 A I can't remember if I did or not.

7 Q I'm going to hand you a copy of the Order
8 granting waiver in GE-2010-0030. Do you have that with
9 you, or do you need it?

10 A I have it back at my table. I don't have it --

11 Q I'll be happy to --

12 A I don't think I have -- I might. I do have it.

13 Q Okay.

14 A I do have it.

15 MS. SHEMWELL: Judge, this is part of the record
16 in that case, so we should not need to mark it as an
17 exhibit.

18 Q (By Ms. Shemwell) I believe in your testimony,
19 you act or refer to this as 0300, Mr. Noack, but we can
20 see on there it's actually GE-2010-0030, correct?

21 A Yes.

22 Q And this was the waiver case?

23 A That is correct.

24 Q Where MGE agreed that it would comply with the
25 conditions suggested by Staff to settle this case. Is

1 that a fair characterization?

2 A Yes.

3 Q And the Commission ordered at No. 2 that, "MGE
4 shall retain the current depreciation rates as listed in
5 Schedule 8 of Staff's recommendation." Have I read that
6 correctly?

7 A That's part of the -- the -- yes.

8 Q In paragraph 3, we agreed that MGE would be
9 allowed to add a new depreciation rate for transportation
10 sub-account, correct?

11 A That's correct.

12 Q Do you have -- I noticed that this is in your
13 testimony as well. But did you not attach Appendix A; is
14 that right? Or I'm sorry. Schedule 3?

15 A Schedule 3. I'm -- I'm sorry.

16 Q Schedule 3 was Staff's -- I'm sorry. Schedule
17 A. But you admit in your testimony that Schedule A -- you
18 admit in your rebuttal testimony that Schedule A does not
19 contain Account No. 374.2; is that correct?

20 A In my rebuttal testimony?

21 Q Yes. Your rebuttal testimony, your true-up
22 rebuttal.

23 A I don't know. We haven't talked about that yet.

24 Q Page 5, lines 4 through 7.

25 A Yes. That's what I say.

1 Q So that particular document -- document does not
2 have Account 374.2 Land Rights, nor does it have any --
3 consequently, nor does it have any rate for that account?

4 A No. But in the --

5 Q That's fine, Mr. Noack. Thank you.

6 A You asked me to read from -- there's more to
7 Item 2 than -- than just -- you asked me just a little bit
8 of -- of paragraph 2.

9 Q Yes.

10 A And there's more to that.

11 Q I'm sure that your counsel can --

12 A Okay.

13 Q -- bring that up later. Thank you.

14 A All right.

15 Q Would you look again at the Partial Stipulation
16 and Agreement signed in this case?

17 A I'm there.

18 Q I would like to make the point again that under
19 Account -- under the attached Appendix C under Account
20 Number, that gives the actual account numbers of -- to be
21 included in the case? That lists the account numbers that
22 were included with the Stipulation and Agreement in the
23 case?

24 A It includes the account numbers that were
25 included in the appendices as the -- part of the

1 Stipulation with the account numbers. It does not include
2 all of our authorized depreciation rates.

3 Q Authorized when?

4 A In Case 2006-0422.

5 Q I'd like to turn to that document, GR-2006-0422.

6 MS. SHEMWELL: And if I may approach the
7 witness? Judge, have I handed you a copy of that. Or do
8 you need a copy?

9 JUDGE PRIDGIN: I need a copy, I believe. I
10 don't think I have one.

11 Q (By Ms. Shemwell) I'm going to ask Mr. Noack to
12 read one of the paragraphs in the 0422 Stipulation and
13 Agreement, paragraph 3. Would you read that into the
14 record, please, sir?

15 MR. COOPER: What -- what document are we
16 looking at? Is this the Partial Stip.?

17 A Do I get the whole --

18 Q (By Ms. Shemwell) Partial Stip.

19 A May I have the -- the whole document? I believe
20 there's another document that -- that relates specifically
21 to depreciation in this -- in this case, and this is not
22 that particular stipulation.

23 Q This is not the stipulation in 0422?

24 A Well, there's another one that relates to the
25 depreciation, I believe.

1 Q Okay. Well, would you read paragraph 3 because
2 I believe the -- that paragraph is in every stipulation,
3 so I'm going to ask you to read that.

4 A Even though it doesn't relate to the
5 depreciation stipulation?

6 MS. SHEMWELL: Well, Judge --

7 A Sorry.

8 JUDGE PRIDGIN: I think she's just asking you to
9 read it, Mr. Noack.

10 A Okay.

11 COMMISSIONER DAVIS: Mr. Noack, can you do me a
12 favor?

13 A Yes, sir.

14 COMMISSIONER DAVIS: Can you answer the question
15 that is asked?

16 A Yes.

17 COMMISSIONER DAVIS: Thank you.

18 A "This Partial Unanimous Stipulation and
19 Agreement is being entered into solely for the purpose of
20 settling the identified issue in the case. None of the
21 signatories to this Partial Non-Unanimous Stipulation and
22 Agreement shall be deemed to have approved or acquiesced
23 in any rate-making or procedural principle, including,
24 without limitation, any method of cost determination or
25 cost allocation or revenue related methodology. And none

1 of the signatories shall be prejudiced or bound in any
2 manner by the terms of this Partial Non-unanimous
3 Stipulation and Agreement in this or any other proceeding
4 whether this Partial Non-unanimous Stipulation and
5 Agreement is approved or not, except as otherwise
6 expressly specified herein."

7 Q (By Ms. Shemwell) Thank you, Mr. Noack. Now,
8 I'm going to hand you the Staff's accounting schedules
9 filed with its direct testimony in this case on August
10 21st, 2009. Do you recognize that document?

11 A I do.

12 Q Can you turn to Accounting Schedule 5, page 1 of
13 2?

14 A I have it.

15 Q Does the Accounting Schedule 5 contain Staff's
16 recommended depreciation rates for Account 374.2?

17 A It shows zero percent.

18 Q So that was a yes?

19 A Yes.

20 Q We'll take that back, sir, if you're through
21 with it. Thank you. Did that put you on notice, sir,
22 that Staff was recommending zero?

23 A It didn't. That's at that time, and other
24 times --

25 Q Is your answer it did?

1 A It did.

2 Q It did. I'm handing you a copy of an e-mail and
3 an attachment from Staff witness, Mark Oligschlaeger. On
4 the top of this is an e-mail from Amanda McMillan, right?
5 Mark Oligschlaeger sent it to Tom Imhoff and Amanda
6 McMillan, but he has attached to that an e-mail which
7 sends -- or contains Staff's EMS run; is that correct?

8 A That's correct.

9 Q Do you recognize that?

10 A I do recognize this e-mail.

11 Q Is your name on the To line?

12 A It is.

13 Q And so you say you -- would you acknowledge that
14 you received this?

15 A Yes.

16 Q Okay. Are Staff's accounting schedules attached
17 as of October 19th, 2009? You may look through the
18 document.

19 A Oh, yes. Yes.

20 Q So they are attached?

21 A Uh-huh.

22 Q And does the attachment show Staff's recommended
23 revenue requirement for MGE as of October 9th, 2009?

24 A It does.

25 Q Are you able to turn to Accounting Schedule 2?

1 A Accounting Schedule 2. I'm there.

2 Q Okay. What is Staff's total rate base amount

3 shown at the bottom of that page?

4 A 619,181,554.

5 Q So that's \$619,181,554?

6 A Yes.

7 Q Looking at that schedule, what is the amount of

8 Staff's prepaid pension asset line item?

9 A 14,076,244.

10 Q And does the Staff's valuation of the prepaid

11 pension asset on this schedule reflect application of an

12 O&M factor to the balance?

13 A I believe it does. Yes.

14 Q And in giving this to you, would this valuation

15 reflect the Staff's position regarding the assumed

16 starting date for the amortization of MGE's prepaid

17 pension assets?

18 A Repeat that question one more time for me,

19 please.

20 Q My question is, does Staff's valuation of the

21 prepaid pension asset there reflect application of an O&M?

22 And you agreed that it did. Does that evaluation -- or

23 does this valuation reflect Staff's position regarding the

24 assumed starting point for amortization?

25 A I would assume it does.

1 Q Is that a yes?

2 A Yes.

3 Q Yes. Can you please turn to Accounting Schedule

4 6?

5 A I'm there.

6 Q Is the Accounting Schedule 6 the Staff's

7 computation of depreciation expense?

8 A No.

9 Q Is it -- is it contained on there?

10 A No, it's not.

11 Q I'm sorry. Accounting Schedule 5.

12 A It is -- that is, yes.

13 Q That has Staff's computation of depreciation

14 expense. On page 2 of 2 of that same accounting schedule,

15 what is the amount of total depreciation expense shown?

16 A 26,224,367.

17 Q On page 1 of Accounting Schedule 5, what is the

18 depreciation rate shown for Plant Account 374.2?

19 A Zero.

20 Q Thank you. I'll take that back unless you need

21 it. Thank you. Is this one done? Mr. Noack, I'm going

22 to hand you your direct testimony from Case No.

23 GR-2006-0422.

24 MS. SHEMWELL: If I may approach, Judge?

25 JUDGE PRIDGIN: You may.

1 Q (By Ms. Shemwell) I would like you to turn to
2 the page with --
3 MR. COOPER: Do you have another copy of that,
4 Lera?
5 Q (By Ms. Shemwell) -- the flags, Mr. Noack. Would
6 you do that, please? And is this schedule E5?
7 A It is.
8 Q And it's the prepaid pension asset for the
9 twelve months ending December 31st, 2005, correct?
10 A Yes.
11 Q And you show the balance on line one as of April
12 30th, '04, as \$7,975,181, correct?
13 A I do.
14 Q Page 2 is a monthly amortization of \$94,943,
15 right?
16 A Yes.
17 Q And then on line 3, you show the amortization
18 since GR-2004-0209, correct?
19 A I do.
20 Q As one eight -- 1 million, nine -- 898,853,
21 correct?
22 A That's correct.
23 Q And that represents the difference over 20
24 months, right? The monthly amortization of 94,000 times
25 20 months is the 1,898,853?

1 A I believe so.

2 Q Okay. Thank you. I'm now handing you your
3 updated test year direct testimony in GR-2006-0422. Would
4 you agree that this a copy of your updated test year
5 direct testimony in that case?

6 A Yes.

7 Q And would you turn to the schedule with the
8 Post-It flag, please?

9 A I'm there.

10 MR. COOPER: Are you still on the other one?

11 MR. OLIGSCHLAEGER: Oh, I'm sorry. You meant
12 me.

13 Q (By Ms. Shemwell) This is updated through June
14 30th, 2006, correct?

15 A Yes.

16 Q And it shows -- it is a prepaid pension,
17 correct?

18 A Yes.

19 Q It's your schedule for prepaid pension?

20 A Yes.

21 Q And the amortization that you show since
22 GR-2004-0209 is, again, based upon the monthly
23 amortization of 94,943, correct?

24 A Yes.

25 Q Just a second. And that is -- the amortization

1 since GR-2004-029 is 26 months worth of amortization; is
2 that correct?

3 A That looks correct. Yes.

4 MS. SHEMWELL: If I may, Judge.

5 JUDGE PRIDGIN: You may.

6 Q (By Ms. Shemwell) I'm handing you your rebuttal
7 testimony from GR-2006-0422, sir, and ask you to identify
8 that, in fact, is a copy of your testimony in that case.

9 A It is.

10 Q And would you again turn to the schedule that is
11 identified there with the Post-It note?

12 A Prepaid pension.

13 Q And this is the prepaid pension updated through
14 June 30th, 2006, correct?

15 A That is correct.

16 Q And that is from May 1, 2004, that it's updated,
17 is that correct, through June 30th, 2006?

18 A Yes.

19 Q Which is 26 months? Do you agree that that was
20 26 months?

21 A It's the same balance as it was before, yes.

22 Q What does that mean, it's the same balance as it
23 was before?

24 A Well, I mean, as in the last exhibit you showed
25 me. Yes.

1 MS. SHEMWELL: Judge, that's all I have for
2 Mr. Noack. Thank you.

3 JUDGE PRIDGIN: Ms. Shemwell, thank you.
4 Mr. Poston?

5 MR. POSTON: Thank you.

6 CROSS-EXAMINATION

7 BY MR. POSTON:

8 Q Good morning.

9 A Good morning.

10 Q Can you tell me how many employees MGE has?

11 A I can't give you an exact number, but it's
12 probably around 670.

13 Q How about Southern Union Company?

14 A I don't have any idea how many Southern Union
15 Company has.

16 Q Okay. The 670 you identified, those aren't
17 Southern Union employees, but they are specific to the MGE
18 operations division?

19 A Yes.

20 Q Okay. And would you agree that a number of
21 these have professional backgrounds in, say, finance? Do
22 you have employees with background in finance?

23 A I don't know what -- what everybody's degree is
24 in. I don't know if anyone has a degree in finance, no.

25 I don't know.

1 Q How about experience in finance working for MGE?

2 A None that -- that I'm aware of.

3 Q So there's not a single employee at MGE that has
4 any experience in finance?

5 A I don't know. I really don't.

6 Q Okay. How about depreciation?

7 A Depreciation? Besides the accounting of
8 depreciation, there's nobody that I'm aware of that -- at
9 MGE that could do a depreciation study with the
10 engineering requirements that are involved.

11 Q Do you have engineers employed by MGE?

12 A We do have some engineers, yes.

13 Q And you mentioned accountants. How many
14 accountants would you say you have?

15 A Probably about ten, of which one -- I believe
16 only one is a CPA.

17 Q And when MGE decided to pursue another rate
18 case, did MGE send out an RFP to identify law firms that
19 -- that handled this case for MGE?

20 A No, we did not.

21 Q Can you explain how you came to hire Brydon,
22 Swearngen & England? Was it just because they had
23 represented MGE in the past, so you just kind of asked
24 them if they would do the filing again and represent MGE
25 again?

1 A Yes.

2 Q Did you discuss representation with any other
3 law firms or -- or attorneys before Brydon, Swearngen was
4 retained again?

5 A I did not, no.

6 Q Did anybody, to your knowledge?

7 A I don't believe so.

8 Q Now, Southern Union has a Legal Department; is
9 that correct?

10 A They do.

11 Q Do you know how large that Legal Department is,
12 how many attorneys?

13 A No, I do not.

14 Q How about MGE? How large is their Legal
15 Department?

16 A MGE has two attorneys, a paralegal and an
17 assistant.

18 Q And who are those two attorneys?

19 A Todd Jacobs and Michael Smith.

20 Q Okay. You didn't identify Mr. Hack, who is also
21 an attorney but he's just not part of the Legal
22 Department? He's --

23 A No. He's our Chief Operating Officer.

24 Q Mr. Jacobs, he's been present at -- throughout
25 the evidentiary hearing, hasn't -- isn't that correct?

1 A That's correct.

2 Q And I believe at the public hearings, Mr. Jacobs
3 attended those as well?

4 A He did.

5 Q And the deposition that was held down in Austin,
6 Texas, he attended that as well?

7 A I believe he did. Yes.

8 Q Now, if you could turn briefly to the last page
9 of your true-up direct testimony where you have True-up
10 Schedule MRN-7, that's the rate case expense schedule?

11 A Yes.

12 Q Now, this is the amount that you are claiming as
13 rate case expenses through September 30th, right?

14 A And with an estimate included in there through
15 -- through the end of the case.

16 Q Okay. What is the estimate amount?

17 A I believe it's \$90,000.

18 Q Okay. And what is that estimate? Could you
19 break that down for me?

20 A I believe I have that with me. Mr. Poston, I
21 have it back over here.

22 Q Okay.

23 A If I -- the estimate consists of approximately
24 \$72,500 in legal fees and \$17,500 in Black & Veatch fees
25 for Russ Finegold.

1 Q And can you explain why Mr. Finegold would still
2 be incurring expenses beyond September 30th?

3 A Yes. Because in -- we had a lot of work in
4 November dealing with rate design issues that -- that he
5 was a part of. I have put in an estimate for his
6 assistance with designing our final rates after an Order
7 is issued to make sure that we collect the proper amount,
8 not too much, not too low. And I have 20 hours built in
9 for that.

10 Q And that's what he makes off of 20 hours of
11 work?

12 A Well, that's part of it. His -- his hourly rate
13 is \$350 an hour.

14 Q So looking back at your Schedule MRN-7, the
15 true-up rate case expense, there's the 881,000 that's the
16 total amount?

17 A Yes.

18 Q okay. And so that includes the 90,000 estimate,
19 you're saying?

20 A Yes, it does.

21 Q And so of this 881,000 that's in addition to
22 what was agreed to -- this is in addition to what was
23 agreed to in the Partial Stipulation, correct?

24 A This was the total. It includes what was agreed
25 to in the Stipulation.

1 Q Okay. So the 217,147 is included in the 881?

2 A Yes.

3 Q Okay. And can you give me rough estimate as to
4 the total rate case expense, 881,000, how much of that is
5 for legal expenses?

6 A I don't have that schedule with me. I -- I
7 don't know.

8 Q Do you have any idea how much Brydon, Swearengen
9 has -- is charging MGE for -- for this case, what their
10 total bill will be?

11 A I have -- I don't have -- there is a -- a
12 breakdown of -- of all the expenses listed individually
13 that -- that I submitted to both Mr. Robertson and
14 Mr. Oligschlaeger, but I don't have it with me. And I
15 don't -- I can't remember what's on there.

16 Q Okay. So would you be able to identify what
17 percentage of that amount is for outside consultants?

18 A I could if I had the schedule.

19 Q But you don't have that schedule?

20 A I don't have that schedule with me, no.

21 Q Is that a schedule that's anywhere in the case,
22 or it's just something you had prepared on your own?

23 A It's a work paper to support the -- this true-up
24 schedule.

25 Q Okay. And do you know the terms of retaining

1 Brydon, Swearengen? Is it an hourly arrangement or just a
2 flat fee? How is that structured?

3 A I believe it's hourly.

4 Q Okay. And does it just depend on what you turn
5 in as work on it, or do you know what the hourly rate is?

6 A I don't. I don't know what the -- what each
7 hourly rate is.

8 MR. POSTON: I think that's all I have. Thank
9 you.

10 JUDGE PRIDGIN: Mr. Poston, thank you. Any
11 questions -- Bench questions? Commissioner Davis?

12 CROSS-EXAMINATION

13 BY COMMISSIONER DAVIS:

14 Q Okay. Mr. Noack, let me see if I've got this
15 straight here. You've got two issues with Staff. It's
16 the -- it's the prepaid pension issue and this property --
17 what do we call it? Property -- 374.2, that's property
18 rights, not necessarily property or --

19 A Land rights.

20 Q Okay. And on the -- on the plan -- on the
21 planned rights or whatever they are, Staff's not saying
22 it's a -- an illegitimate expense. They're just saying
23 you shouldn't have waited until the true-up hearing to try
24 to -- to try to sneak this in on them, that you should
25 have raised it in your -- in your case in chief. Is that

1 -- is that a --

2 A They're saying the asset land rights is not an
3 issue. They're saying that they told MGE early in the
4 case that they were recommending changing the depreciation
5 rate from the authorized rate of 2.09 to zero percent.

6 Q Okay. And is that anywhere in the direct
7 rebuttal, surrebuttal, or was that an issue in the
8 hearing? Because I'm just not remembering it at this
9 point. I'm going to need a little help here.

10 A No. It wasn't an issue. It's not really
11 addressed in anybody's testimony. It was -- it first was
12 made evident in the schedule attached to the Order in the
13 waiver case, I believe. It showed up in Staff's
14 accounting exhibits as a zero percent depreciation rate, a
15 change from -- from the authorized rate of 2.09. And then
16 it was also on the schedule -- it was left off of the --
17 the schedule to the Stipulation and Agreement, which
18 listed the depreciation rates.

19 Q Okay. So is it going to be in their -- in their
20 true-up direct accounting schedules and --

21 A It will. It will show up as --

22 Q And it's going to show up?

23 A -- zero percent depreciation rate on Schedule 5,
24 page 1.

25 Q Okay. Here I am.

1 A Land rights, 374 point --

2 Q Zero -- okay. So you're getting zero percent
3 depreciation rate -- it looks like you're getting --
4 getting zero percent depreciation rate on all these
5 intangible plants. That's all software and --

6 A Yes. That's -- that's amortization. That is
7 not at issue right now.

8 Q That's -- so that's being amortized. So -- and
9 so why did -- did they -- do you have a mental impression
10 as to why they decided to change that rate from 2.1
11 percent to zero?

12 A Initially, Commissioner, I thought it was a
13 mistake. And I told Mr. Oligschlaeger that I thought that
14 they had an error in their depreciation schedules.

15 Q Uh-huh.

16 A And he said, okay, he would go talk to the
17 people in depreciation about it.

18 Q Uh-huh.

19 A And I mentioned it to him a couple of other
20 times. And it was only around the time of the true-up
21 that he actually came back and said, Well, the
22 depreciation people said that it's an either/or -- some --
23 some companies have zero for that and other companies
24 might have a depreciation rate. We've put zero there.

25 Q Uh-huh. And you had 2.1 percent from 2006?

1 A We've always had 2.09 percent. Yes.

2 Q Okay.

3 A Yes.

4 Q Okay. So Staff has been consistent. They've
5 been a straight zero throughout the entire case and --

6 A They have, yes.

7 Q -- and it's just now in the -- in the -- in the
8 true-up that -- that you're responding to it?

9 A No. I've -- I've been consistent in all of my
10 schedules in the -- in what I've done in the case, I've
11 had 2.09 percent. It's been -- it's been a difference
12 that -- that Staff has been aware of all the way through.

13 Q Okay. Okay. But this is the first the
14 Commission has heard of it, correct?

15 A Yes, it is.

16 Q Okay. Can you think of any -- any public policy
17 reasons why the depreciation rate for the -- the land
18 rights should be zero?

19 A No.

20 Q No. Do you think Mr. Oligschlaeger is just
21 trying to cheat your company out of another \$45,000?

22 A I'm not going to -- no. I don't think he's
23 trying to cheat the company out. If -- if -- if the
24 Commission goes along with -- with Staff and says it
25 should be zero, you agreed to zero, we won't -- we won't

1 depreciate land rights on our books, and we will not have
2 that expense.

3 Q What are -- let's just go back and refresh my
4 recollection here. What are land rights, just so we're --
5 we're clear on that?

6 A I was really afraid you were going to ask me
7 that question because I can't tell you what exactly is
8 included in this -- this asset.

9 Q Okay.

10 A I don't know.

11 Q Maybe Mr. Oligschlaeger will know?

12 A Maybe he will.

13 Q Okay. Now, what about this prepaid pension
14 issue? Tell -- tell -- tell me how you think we got here
15 on this one.

16 A The -- the prepaid pension issue was -- was
17 something that was always going to be trued up. While I
18 didn't pay a lot of attention to what the -- what the
19 balance that Staff was using at the time, it was an issue
20 that -- that was going to be trued up, so I wasn't
21 concerned about it until the balance at September 30 and
22 what should be shown at that point in time.

23 It's just -- it's -- it's a balance sheet item.
24 It's -- it's what we have on our balance sheet is the
25 difference between what we have expended for pension costs

1 versus what has been included in rates. It's -- it's
2 covered directly in our Stipulation and Agreement.

3 Q Uh-huh.

4 A It's been a Stipulation and Agreement since the
5 '04 case without any reduction for capitalization.

6 Q Okay. So why can't you two agree on a start
7 time? It seems to be the issue.

8 A I -- I don't know. I really do not know on this
9 one because the Stipulation and Agreement actually says
10 that the amortization of the prepaid pension asset
11 established in this case is 2,828,673. And if you
12 multiply that by five, you have \$14 million prepaid
13 pension asset for this case to go along with the prepaid
14 pension asset from the last two cases. It is -- it's a
15 very simple number that can be arrived at.

16 Q Okay. Now, Mr. Noack, I'm going to go outside
17 here just for a second. You're the only MGE witness
18 today, correct?

19 A I am.

20 Q Okay. So has MGE's -- I'm sorry. Has Southern
21 Union's capital structure changed? Do you know what
22 Southern Union's capital structure is today, their actual
23 capital structure?

24 A It -- as of September, it is approximately 38
25 percent -- almost 39 percent common equity.

1 Q So has it not changed -- to the best of your
2 knowledge, it hasn't materially changed since the hearing?

3 A I don't believe so. No. Huh-uh. Not at all.

4 Q Okay. Okay.

5 A No.

6 COMMISSIONER DAVIS: Thank you, Mr. Noack.

7 CHAIRMAN CLAYTON: No questions, Judge.

8 JUDGE PRIDGIN: Mr. Chairman, thank you.

9 Recross, Ms. Shemwell?

10 RECROSS EXAMINATION

11 BY MS. SHEMWELL:

12 Q Mr. Noack, Staff never agreed with you that it
13 was a mistake on their part not to include account No.
14 374.2, did they?

15 A They never didn't agree with me either.

16 Q But the question was, did they ever say to you
17 it was a mistake? Did they ever indicate that to you?

18 A No. They said they would check on it.

19 Q You had Case No. GE-2010-0030 that was resolved
20 prior to the resolution of the rate case, right?

21 A Yes.

22 Q And in that was Schedule A, which the Commission
23 referred to in its Order, right?

24 A Yes.

25 Q Here's a copy of Schedule A.

1 JUDGE PRIDGIN: Here is Schedule A from this,
2 Judge.

3 Q (By Ms. Shemwell) You did not raise in this
4 case that 374.2 was not included in schedule A, right?

5 A No. No. The only -- the only place I raised it
6 was with Marc in the schedules.

7 Q The question was did you raise it?

8 A No. I didn't. No.

9 Q You also signed the Stipulation and Agreement
10 with the attached Appendix C, correct?

11 A Yes.

12 Q Mr. Noack, you indicated in response to
13 Commissioner Davis that some companies have Account 374.2
14 in their depreciation schedules and others do not. Have I
15 stated that reasonably?

16 A Yes.

17 Q What other companies have that included in their
18 depreciation schedules?

19 A I can't tell you -- I can't tell you that. That
20 is something Mr. Oligschlaeger told me, and that's what I
21 was repeating.

22 MS. SHEMWELL: Okay. That's all I have, Judge.
23 Thank you.

24 JUDGE PRIDGIN: Ms. Shemwell, thank you.

25 Mr. Poston?

1 MR. POSTON: Thank you.

2 RECROSS EXAMINATION

3 BY MR. POSTON:

4 Q You said in response to a question from
5 Commissioner Davis that you don't know what the land
6 rights are, you're not sure what that account is or what's
7 in it?

8 A That's correct.

9 Q So you can't say whether land rights are
10 appropriate as a depreciation expense; isn't that true?

11 A No. But it was included in our last
12 depreciation study, and that was the rate that -- that our
13 study indicated.

14 Q And you also can't testify as to the
15 appropriateness of the two point whatever percent since
16 you don't understand what land rights are, correct?

17 A That's correct.

18 Q So you're just saying that it's been included
19 before, so it should be included again, right?

20 A It's an authorized rate, depreciation rate,
21 before this case, yes.

22 MR. POSTON: Okay. Thank you. That's all.

23 JUDGE PRIDGIN: Mr. Poston, thank you.

24 Redirect?

25 MR. COOPER: Yes, your Honor.

1 REDIRECT EXAMINATION

2 BY MR. COOPER:

3 Q Mr. Noack, do you still have the Partial
4 Stipulation and Agreement in front of you from this case?

5 A Yes.

6 Q Could you turn to -- let's see -- page 8 in that
7 agreement?

8 A I have it.

9 Q Okay. And do you see paragraph 19 at the bottom
10 of the page there?

11 A I do.

12 Q Can you read for us the first sentence of
13 paragraph 19? I think that's one that -- that was not
14 referenced earlier in your cross examination.

15 A "The conditions ordered by the Commission in
16 Case No. GE-2010-0030 shall also remain in effect as well
17 for purposes of this Stipulation and Agreement."

18 Q Okay. And -- and does that appear below the --
19 the title Depreciation?

20 A It does.

21 Q Now, do you have your true-up rebuttal testimony
22 there with you?

23 A I do. I do.

24 Q And can you turn to true-up rebuttal Schedule
25 MRN-2?

1 A I have it.

2 Q And what is that -- that schedule?

3 A It's the Order in Case GE-2010-0030. It's the
4 Order granting waiver.

5 Q And that would be the -- the case that was
6 referenced by the Partial Stipulation and Agreement?

7 A Yes.

8 Q Would you turn to the second page of that
9 schedule, please?

10 A I have it.

11 Q And paragraph 2, under "The Commission orders
12 that," could you read that for us?

13 A "Missouri Gas Energy, a Division of Southern
14 Union Company, shall retain the current depreciation rates
15 as listed in Schedule 8 of Staff's recommendation as
16 agreed upon in the Partial Non-unanimous Stipulation and
17 Agreement in Case No. GR-2006-0422.

18 Q And, again, the second part of that sentence
19 says "and as agreed upon?"

20 A Yes.

21 Q Can you turn to true-up rebuttal Schedule MRN-3
22 for me?

23 A I have it.

24 Q And what is that schedule?

25 A That's the Partial Non-unanimous Stip. and

1 Agreement in Case No. GR-2006-0422 concerning
2 depreciation.

3 Q And if you look to the bottom of that page, I
4 think it's paragraph 1-F, what is listed there?

5 A Item F, which says the depreciation rate for
6 land rights Account 374.2 shall be 2.09 percent.

7 Q In regard to the prepaid pension asset, Ms.
8 Shemwell took you through -- oh, I think it was three
9 filings from Case GR-2006-0422. Do you remember that?

10 A I do.

11 Q And do you have those before you?

12 A No, I do not.

13 MR. COOPER: Lera, do you still have those?

14 Q (By Mr. Cooper) Do you have in front -- do you
15 have in front of you now the three pieces of testimony
16 from GR-2006-0422 that you spoke to Ms. Shemwell about
17 earlier?

18 A I do.

19 Q For simplicity, let's look at the -- the direct
20 testimony piece. Do you have that in front of you?

21 A Yes.

22 Q Now, on that document, the first line of the --
23 of the table there reflects a balance as of 4/30/04; is
24 that correct?

25 A It does.

1 Q What is that -- that number that's reflected?

2 A That is the prepaid pension asset that was set
3 up in Case GR-2009-0209. 2004-0209, I believe is the
4 number.

5 Q Okay. I'm going to try to be ambitious here and
6 try to work with another document at the same time if we
7 can. Do you have -- still have your true-up rebuttal
8 there handy, Mr. Noack?

9 A I do.

10 Q And if you would turn to true-up rebuttal
11 schedule MRN-4?

12 A I have it.

13 Q And what is MRN-4?

14 A MRN-4 reflects the balances of the prepaid
15 pension asset at -- at various times.

16 Q And if we look on that -- that schedule, we can
17 see the -- the 7,975,181 that we just referenced from your
18 direct testimony in 2006-0422, correct?

19 A Yes.

20 Q And has that prepaid pension asset number from
21 GR-2004-0209 that's reflected there, has it been reduced
22 to capitalization ratio?

23 A No, it has not.

24 Q Okay. Going back to your direct testimony in
25 06-0422, the second line of that table says Monthly

1 Amortization. What is that?

2 A That is the amount of amortization of the
3 prepaid pension asset in the case of the 2004 asset, it
4 was over seven years or 84 months at a rate of \$94,000 per
5 month.

6 Q And so what is that number used for on a -- on a
7 monthly basis? How do you record that number?

8 A It -- it just -- on a monthly basis, we record
9 an expense of 94,943 on the -- on the books of MGE and
10 reduce the prepaid pension asset, the deferred asset, by
11 the same amount.

12 Q And if we were to multiply that number by
13 twelve, we'd get your annual amortization number, correct?

14 A That's correct.

15 Q Now, if we turned to your updated -- well, I
16 guess it's going to end up being your rebuttal testimony
17 from 06-0422. That contains a similar table, but it's
18 updated through June 30, 2006. Do you have that in front
19 of you?

20 A I do.

21 Q Now, I see that there is a -- a new line on that
22 table that says New Prepaid Asset. What does that
23 represent?

24 A I do not have -- what I have, Mr. Cooper, is two
25 of the same -- I'll give that one back. The new prepaid

1 asset is the asset that was set up in the 2006 rate case.

2 Q And what is that amount?

3 A \$4,016,500.

4 Q And does that link to your true-up rebuttal

5 schedule, MRN-4 as well?

6 A It does. It's line 3, Column D.

7 Q Under Case No. GR-2006-0422?

8 A Correct.

9 Q Has that prepaid pension asset been -- was it

10 reduced for a capitalization ratio?

11 A No, it was not.

12 Q Now, also looking at -- still on MRN-4 from your

13 rebuttal -- true-up rebuttal, there's a Column E. What's

14 represented in Column E?

15 A It's the -- it's the prepaid pension asset that

16 is being set up in this case, the difference between cash

17 fundings and the amount included in rates.

18 Q Now, on the Stipulation and Agreement, I think

19 during your cross-examination, you referenced an annual

20 amortization amount that's included in that Partial

21 Stipulation and Agreement, didn't you?

22 A Yes, I did.

23 Q Can you turn to that for me?

24 A I have it.

25 Q Okay. What paragraph is that?

1 A It's on page 9 of the Stipulation and Agreement,
2 paragraph 20.

3 Q And does that -- that paragraph then wraps on
4 over to page 10?

5 A It does.

6 Q And at the top of page 10, there's an A, P and
7 C. What are -- what are those numbers that are
8 represented there?

9 A A is the annual amortization of the prepaid
10 pension asset from the 2004-02-09 case. B, the 803,300 is
11 the annual amortization of the \$4 million pension asset
12 set up in the GR-2006-0422 case. And C is the annual
13 amortization recommended by Staff to be set up in -- in
14 this case.

15 Q As to the prepaid pension asset for
16 GR-2004-0209, how many years did you tell me that that was
17 to be amortized over?

18 A Seven.

19 Q If we were to take \$1,139,310 and multiply it by
20 seven, what number would we get?

21 A Approximately 7,975,181.

22 Q And similarly -- well, then line B is the -- the
23 prepaid pension asset for GR-2006-0422, correct?

24 A Yes.

25 Q How many years was that to be -- appreciated --

1 or amortized over?

2 A Five.

3 Q If we were to take \$803,300 and multiply it by
4 five, what -- what would we get?

5 A 4,016,500.

6 Q And then, similarly, the C, the amortization
7 amount for GR -- well, how many years is the prepaid
8 pension for GR-2009-03 55, this case, to be amortized
9 over?

10 A Five.

11 Q If we were to take that \$2.8 million dollars
12 number and multiply it by five, what would we get?

13 A 14,143,364, approximately.

14 Q Would any of those prepaid pension asset numbers
15 that we would get in that process have been reduced by
16 capitalization ratio?

17 A No.

18 Q Has prepaid pension asset, as it related to the
19 rate base always been a true-up item in this case?

20 A Yes, it has.

21 Q Are all three prepaid mention assets being
22 brought forward to September 30th of 2009?

23 A Yes.

24 Q Could you turn again to the Partial Stipulation
25 and Agreement in this case? And this would be, oh, pages

1 3 and 4 of that agreement that I want you to look at.

2 A I have them.

3 Q Paragraph 8 is Total Operating Expenses,
4 correct?

5 A That's correct.

6 Q If we turn to the next page to subparagraph B of
7 that paragraph 8, could you read just the first line of --
8 of D before we get to the little i of 2, 3 and 4?

9 A "The following items would be a part of the
10 true-up in this case in regard to total operating
11 expenses."

12 Q And would you read for me 3 little i?

13 A "Rate case expense to be updated through
14 September 30, 2009, and to include an estimate for the
15 remainder of the case."

16 Q Then in subparagraph C, do you see a reference
17 to rate case expense?

18 A I do.

19 Q What does that reference?

20 A "The rate case expense is included in the
21 stipulation is \$72,382, which reflects a three-year
22 amortization of a total amount of approximately 217,000."

23 MR. COOPER: That's all the questions I have,
24 your Honor.

25 JUDGE PRIDGIN: Mr. Cooper, thank you.

1 Mr. Noack, thank you very much, sir. You may step down.

2 Actually, he may come back to the stand on capital
3 structure; is that correct?

4 MR. COOPER: That's correct.

5 JUDGE PRIDGIN: All right. Thank you. I
6 believe Mr. Foster is the next witness.

7 MS. SHEMWELL: That's correct, Judge.

8 JUDGE PRIDGIN: All right. Mr. Foster, if
9 you'll come forward to be sworn, please, sir. Mr. Noack,
10 thank you.

11 MR. NOACK: Thank you.

12 JUDGE PRIDGIN: Mr. Foster, if you'll raise your
13 right hand to be sworn, please, sir.

14 KEITH FOSTER,
15 being first duly sworn to testify the truth, the whole
16 truth, and nothing but the truth, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. HERNANDEZ:

19 JUDGE PRIDGIN: Thank you, sir. Please have a
20 sheet -- seat. And Ms. Hernandez?

21 MS. HERNANDEZ: Good morning. May it please the
22 Commission.

23 JUDGE PRIDGIN: Ms. Hernandez.

24 Q (By Ms. Hernandez) Good morning, Mr. Foster.

25 A Good morning.

1 Q Please state your name and spell it for the
2 record.

3 A My name is Keith Foster, K-e-i-t-h, Foster,
4 F-o-s-t-e-r.

5 Q And where are you employed?

6 A With the -- I am a -- with the Auditing
7 Department of the Utility Services Division of the
8 Missouri Public Service Commission.

9 Q And are you appearing on behalf of the Staff of
10 the Missouri Public Service Commission today?

11 A Yes, I am.

12 Q Are you the same Keith Foster that prepared
13 portions of the cost of service report, prepared rebuttal
14 and surrebuttal previously admitted in this case and the
15 true-up rebuttal in this case?

16 A Yes, I am.

17 Q And do you have any changes to make to your
18 true-up rebuttal testimony?

19 A No, I do not.

20 Q And if I asked you the same questions, would
21 your testimony be the same today?

22 A Yes, it would.

23 Q Is your testimony true and accurate to the best
24 of your knowledge, information and belief?

25 A Yes, it is.

1 MS. HERNANDEZ: I'll move at this time to admit
2 Mr. Foster's true-up rebuttal marked previously as Exhibit
3 113.

4 JUDGE PRIDGIN: 113 has been offered. Any
5 objections? Hearing none, 113 is admitted.

6 (Exhibit No. 113 was offered and admitted into
7 evidence.)

8 MS. HERNANDEZ: I have no further questions, and
9 I'll tender this witness for cross.

10 JUDGE PRIDGIN: Ms. Hernandez, thank you.
11 Cross-examination for Mr. Foster. MGE?

12 MR. POSTON: I think probably Mr. Poston would
13 go first.

14 JUDGE PRIDGIN: That's fine with me.
15 Mr. Poston?

16 CROSS-EXAMINATION

17 BY MR. POSTON:

18 Q Good morning.

19 A Good morning.

20 Q I just had a question about your -- you
21 testified on rate case expense. And I believe on page 6
22 of your testimony, you disagree with Mr. Robertson's
23 true-up direct testimony; is that correct?

24 A You're talking about my true-up direct or my
25 true-up rebuttal testimony?

1 Q True-up rebuttal. Yes. I'm sorry.

2 A Okay. You said page 6?

3 Q Yes. And you're referencing the Stipulation,
4 the Partial Stipulation, where it says the rate case
5 expense to be updated through September 30th and to
6 include an estimate for the remainder of the case.

7 A That is correct.

8 Q Does it outline how that estimate is to be
9 calculated anywhere in the Partial Stipulation, to your
10 knowledge?

11 A Not to -- not to my knowledge.

12 Q So would you agree, then, that how that estimate
13 is calculated and what items to be included in that
14 estimate is something the parties do not agree on?

15 A I don't believe -- know that there was any
16 discussion on that matter.

17 MR. POSTON: Thank you. That's all.

18 JUDGE PRIDGIN: Mr. Poston, thank you. MGE?

19 MR. COOPER: Thank you you, your Honor.

20 CROSS-EXAMINATION

21 BY MR. COOPER:

22 Q Mr. Foster, just briefly on rate case expense, I
23 think you -- you indicate in your true-up rebuttal that --
24 that you go into greater detail in your -- your rebuttal
25 testimony in the base case, don't you?

1 A I'm sorry. Could you repeat the question?

2 Q You mean actually ask it so that you can
3 understand it?

4 A That would be nice.

5 Q The issue of rate case expense --

6 A Yes.

7 Q -- let's start there. And you address that in
8 your -- in your true-up rebuttal, correct?

9 A Yes, I do.

10 Q And I believe previously in this case you also
11 addressed it in your rebuttal testimony in the base case,
12 correct?

13 A I believe that is correct.

14 Q Did you do so in more detail in your rebuttal
15 testimony?

16 A Let me check. Yes. It appears that I did.

17 Q Now, I want to talk to you for a minute about
18 the prepaid pension asset that -- that we've been
19 discussing here this morning. And I believe your
20 testimony deals with what I've called the timing issue,
21 correct?

22 A That is correct.

23 Q And that is the issue of when the monthly
24 amortization or the one-twelfth of the annual amortization
25 should be, correct?

1 A Yes.

2 Q And would you agree with me that this is an
3 issue only once for each prepaid pension asset, that is,
4 for example, it's an issue for the GR-2004-0209 prepaid
5 pension asset in that April to October 2004 time frame?

6 A I'm not sure I understand the question.

7 Q Well, I guess what I'm trying to -- trying to
8 sort out is whether this timing aspect -- and let's just
9 focus on the GR-2004-029 prepaid pension assets. Does
10 this timing issue come up once, or does it come up
11 multiple times in the life of that asset?

12 A If the -- if it -- if it starts out in the first
13 case in which it appears and that is followed consistently
14 in subsequent cases, then no, it should not be different.
15 It should be only one time.

16 Q Once the amortization starts, it continues every
17 month until the prepaid pension asset has been
18 extinguished, correct?

19 A That is correct.

20 Q Now, let's focus on this case, GR-2009-0355 and
21 the pension -- prepaid pension asset to be created in this
22 case. Now, when -- when did the true-up period end in
23 this case?

24 A September 30th, 2009.

25 Q And when will MGE's new rates be effective as a

1 result of this rate case?

2 A I do not know the answer to that question.

3 Q But they're not in effect today, correct?

4 A That is correct.

5 Q So we're currently between the true-up date and
6 the date that new rates will become effective. Would you
7 agree with me?

8 A Yes.

9 Q Now, would you also agree with me that the rates
10 MGE is charging today are those that were established in
11 Case GR-2006-0422?

12 A Yes, I would.

13 Q And, again, the prepaid pension asset that will
14 be created as a result of this case is determined as of
15 September 30th, 2009, correct?

16 A No. The -- the answer was what is the end of
17 the true-up period. The end of the true-up period is
18 September 30th, 2009. I do not believe that is when the
19 prepaid asset was established -- balance was established
20 in this case.

21 Q Well, what date does the balance relate to?

22 A Let me check. The balance is through April of
23 2009.

24 Q And there's no update through the end of the
25 true-up period?

1 A For the -- for the current case and for the new
2 tracker.

3 Q Has any of the expense related to the
4 amortization of the GR-2009-0355 prepaid pension asset
5 been taken into account in the rates that MGE is charging
6 today?

7 A Are you asking about the current --

8 Q The current rate.

9 A The current rate. Does it include any
10 amortization for --

11 Q The GR-2009-0355 prepaid pension asset.

12 A No, it does not, as far as I know.

13 Q Now, as I understand your -- your approach to
14 the -- to the start of the amortization, however, you
15 would assume, wouldn't you, that MGE should start booking
16 the amortization related to the GR-2009-0355 prepaid
17 pension asset as of the end of the true-up date in this
18 case?

19 A We have no concern as to whether -- when the
20 company actually starts to book the amortization. But we
21 do believe that for rate-making purposes, the amortization
22 begins the month after the balance has been established.

23 Q Even though at that point in time, there's no
24 consideration in MGE's rates related to that -- to the
25 expense related to that amortization, correct?

1 A That is correct.

2 Q I believe when -- in your true-up rebuttal
3 testimony, you -- you answered a question as to whether
4 Staff has taken this approach consistently since
5 amortization of the prepaid pension assets began in the
6 MGE's 2004 rate case, correct?

7 A That is correct.

8 Q Is this a consistent approach that Staff has
9 applied to all companies?

10 A I cannot speak for other companies. I have only
11 worked on this case, on this issue.

12 Q Would it surprise you to find out that prepaid
13 pension asset amortization was started with the effective
14 date of the report and Order in KCPL's rate case
15 ER-2009-0089?

16 A I have no comment on that.

17 MR. COOPER: That's all the questions I have,
18 your Honor.

19 JUDGE PRIDGIN: Mr. Cooper, thank you. Do we
20 have any Bench questions? Commissioner Davis?

21 CROSS-EXAMINATION

22 BY COMMISSIONER DAVIS:

23 Q Mr. -- Mr. Foster, Mr. Cooper just asked you if
24 you would be surprised to learn that the start date was
25 the effective date of the report in the KCP&L case, and

1 your response was you had no comment?

2 A I don't -- I've only worked on this particular
3 case on this particular issue. I haven't seen how it has
4 been done for other -- on other -- other companies, other
5 utilities.

6 Q Okay. All right.

7 A So I just don't know. I guess the answer really
8 is I don't -- don't know.

9 Q I mean -- and who -- who is your -- I mean, who
10 is your supervisor or -- I mean, who is the --
11 Mr. Oligschlaeger, I guess, is the Case Manager. Did you
12 discuss it with him?

13 A Well, with all due respect, since I didn't know
14 about the KCPL case, I don't know that I could bring that
15 up with him. But what I do know, Commissioner Davis, is
16 that the approach that I have taken as to when the start
17 of the amortization is begins on the prepaid pension asset
18 is completely consistent with the way it was done in the
19 2006 case by both Staff and MGE.

20 COMMISSIONER DAVIS: Okay. All right. Thank
21 you, Mr. Foster.

22 MR. FOSTER: You're welcome.

23 JUDGE PRIDGIN: Commissioner Davis, thank you.
24 Commissioner Jarrett?

25 COMMISSIONER JARRETT: I have no questions.

1 Thanks.

2 JUDGE PRIDGIN: Okay. Thank you. Recross based
3 on Bench questions. Mr. Poston?

4 MR. POSTON: No questions.

5 JUDGE PRIDGIN: Mr. Cooper? None? Redirect?

6 MS. HERNANDEZ: I have just a few questions.

7 REDIRECT EXAMINATION

8 BY MS. HERNANDEZ:

9 Q Mr. Foster, why didn't you update the new 2009
10 rate case PPA through September '09?

11 A We -- consistent with the last case, once we've
12 established the balance as of the update period, we --
13 that is the balance that we stick with.

14 And, in fact, as I recall, with the -- with the
15 discussion with Mr. Noack that we were not to change the
16 date for that period, only -- we were also only -- the
17 only time that we would change the amortization is for the
18 prior prepaid pension assets. We bring those up to date.

19 Q All right. Thank you. And in terms of the
20 Commission making a decision, what would be the effect to
21 ratepayers if the Commission was not to follow the -- the
22 proposal made by Staff?

23 A The prepaid pension asset would be overstated,
24 and the rate base would actually be overstated, which
25 means that the ending -- end result of the rates that came

1 out of this case would be higher than they would be if
2 that was not taken into account.

3 MS. HERNANDEZ: All right. Thank you. That's
4 all I have.

5 JUDGE PRIDGIN: Ms. Hernandez, thank you.
6 Mr. Foster, thank you very much, sir. You can step down.

7 MS. SHEMWELL: Judge, may we excuse Mr. Foster?

8 JUDGE PRIDGIN: Hearing no objection, all right,
9 Mr. Foster, thank you. You are released. This looks to
10 be a pretty good time for a mid-morning break. And I
11 would show Mr. Oligschlaeger as the next witness; is that
12 correct?

13 MS. SHEMWELL: That's correct.

14 JUDGE PRIDGIN: All right. If there's nothing
15 further from counsel -- all right. Let's go off the
16 record. We will resume -- I've got 10:15 according to the
17 clock in the back of the room. We'll resume about 10:30.
18 We're off the record.

19 MS. SHEMWELL: Thank you, Judge.

20 (Break in proceedings.)

21 JUDGE PRIDGIN: Good morning. We're back on the
22 record. Mr. Foster just left the stand. And I understand
23 we're ready to go on to Mr. Oligschlaeger; is that
24 correct?

25 MS. SHEMWELL: That is correct.

1 JUDGE PRIDGIN: Anything further from counsel
2 before Mr. Oligschlaeger is sworn? All right. He's
3 coming forward. If you'll raise your right hand to be
4 sworn, please, sir.

5 MARK OLIGSCHLAEGER,
6 being first duly sworn to testify the truth, the whole
7 truth, and nothing but the truth, testified as follows:

8 DIRECT EXAMINATION

9 BY Ms. SHEMWELL:

10 JUDGE PRIDGIN: Thank you very much, sir.
11 Please have a seat -- seat. Ms. Shemwell, when you're
12 ready.

13 MS. SHEMWELL: Thank you, Judge.

14 Q (By Ms. Shemwell) Good morning, Mr.
15 Oligschlaeger.

16 A Good morning.

17 Q Would you spell your name for the Court, please?

18 A Certainly. My last name is
19 O-l-i-g-s-c-h-l-a-e-g-e-r.

20 Q And you spell Mark with a K, right?

21 A Yes, I do.

22 Q Mr. Oligschlaeger, did you file direct rebuttal
23 and surrebuttal in this particular rate case?

24 A Yes, I did.

25 Q And did you file true-up direct and true-up

1 rebuttal in this true-up portion of this case?

2 A I did.

3 Q Where do you work, Mr. Oligschlaeger?

4 A I work as a Regulatory Auditor 5 in the Auditing
5 Department, Utility Services Division of the Public
6 Service Commission.

7 Q For the testimony you prepared today, do you
8 have any corrections?

9 A I do not.

10 Q If I were to ask you the same questions today,
11 would your answers be substantially the same?

12 A Yes, they would.

13 Q Is your testimony true and correct to the best
14 of your knowledge and belief?

15 A It is.

16 MS. SHEMWELL: Judge, I will tender
17 Mr. Oligschlaeger for cross and offer his testimony into
18 evidence.

19 JUDGE PRIDGIN: And I have Mr. Oligschlaeger's
20 true-up direct labeled as 109 and his true-up rebuttal
21 labeled as 110. And those are being offered, Ms.
22 Shemwell?

23 MS. SHEMWELL: That is correct.

24 JUDGE PRIDGIN: All right. Thank you. 109 and
25 110 are offered. Any objection? Hearing none, 109 and

1 110 are admitted.

2 (Exhibit Nos. 109 and 110 were offered and
3 admitted into evidence.)

4 MS. SHEMWELL: Judge, I would like to ask that
5 the Commission also take official notice of the Orders in
6 GE-2010-0030, which I referred to, and the attachments
7 that it take notice of testimony already in the record in
8 GR-2006-0422, and, also, GR-2004-0209 was discussed
9 several times, that the Commission take notice, again,
10 only of testimony and Orders in that case.

11 JUDGE PRIDGIN: Any objections?

12 MR. COOPER: No, your Honor.

13 JUDGE PRIDGIN: Notice will be taken. Anything
14 else, Ms. Shemwell?

15 MS. SHEMWELL: That's all. Thank you, Judge.

16 JUDGE PRIDGIN: Are you through? Okay. I
17 believe Mr. Oligschlaeger is ready for cross-examination.
18 And I'm sorry. I don't recall in which order the parties
19 wanted to cross-examine.

20 MR. POSTON: I'll go first.

21 JUDGE PRIDGIN: Mr. Poston.

22 CROSS-EXAMINATION

23 BY MR. POSTON:

24 Q Good morning.

25 A Good morning.

1 Q You were here during Mr. Noack's testimony,
2 correct?

3 A This morning? Yes, I was.

4 Q Yes. And did you hear him answer a question
5 from Commissioner Davis where he couldn't explain what the
6 land rights account was, the 374.2?

7 A Yes, I did.

8 Q Okay. And are you familiar with that account?

9 A In a very general sense.

10 Q Okay. Could you just explain what -- what that
11 is?

12 A Land rights, I believe, are various costs
13 incurred by a utility in connection with reserving the
14 right to use the land for various utility purposes in the
15 future.

16 Q And would you agree with the testimony from
17 Mr. Noack that some utilities depreciate that and some do
18 not?

19 A Yes. In the past, MGE did have an authorized
20 depreciation rate for account 3742 -- point two, land
21 rights. I did a review of other major gas utilities and
22 their current authorized rates in the state. And no other
23 gas utility had an approved depreciation rate for this
24 account.

25 Q MGE was the only one?

1 A MGE was the only one.

2 Q Was the only one?

3 A Yes.

4 MR. POSTON: Okay. That's all. Thank you.

5 JUDGE PRIDGIN: Mr. Poston, thank you. MGE?
6 Mr. Cooper?

7 CROSS-EXAMINATION

8 BY MR. COOPER:

9 Q You would agree that MGE currently has a
10 depreciation rate for 374.2, wouldn't you?

11 A As established in Case No. 2006-0422, yes, I
12 would agree with that.

13 Q And that that rate is 2.09 percent?

14 A It was established as that rate in that case,
15 yes.

16 MR. COOPER: That's all the questions I have.

17 JUDGE PRIDGIN: Mr. Cooper, thank you. We'll
18 see if we have any Bench questions. Commissioner Jarrett?

19 COMMISSIONER JARRETT: I have no questions

20 JUDGE PRIDGIN: I have no questions. Redirect?
21 All right. Thank you. Mr. Oligschlaeger, thank you very
22 much, sir. Is Mr. Murray the next witness?

23 MS. SHEMWELL: He is. And I'm guessing they
24 expected Mr. Oligschlaeger to go a little longer, so --

25 MR. POSTON: Mr. Robertson?

1 JUDGE PRIDGIN: Do you want to take
2 Mr. Robertson?

3 MR. POSTON: Yeah. Out of order, but before
4 we --

5 JUDGE PRIDGIN: Certainly. Mr. Robertson. If
6 you'll raise your right hand to be sworn, sir.

7 TED ROBERTSON,
8 being first duly sworn to testify the truth, the whole
9 truth, and nothing but the truth, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. POSTON:

12 JUDGE PRIDGIN: Thank you, sir. Have a seat.
13 And Mr. Poston, when you're ready, sir.

14 Q (By Mr. Poston) Please state your name.

15 A Ted Robertson. T-e-d R-o-b-e-r-t-s-o-n.

16 Q And by who are you employed and in what
17 capacity?

18 A I'm a Regulatory Accountant 3 with the Missouri
19 Office of the Public Counsel.

20 Q Are you the same Ted Robertson that caused to be
21 prepared and filed direct true-up testimony that's been
22 marked as Exhibit 115?

23 A That's correct. Yes.

24 Q Do you have any corrections or changes to your
25 testimony?

1 A I do not.

2 Q If I asked you the same questions that appear in
3 that testimony today, would your answers be the same?

4 A They would.

5 MR. POSTON: Your Honor, I offer Exhibit 115
6 into the record and tender Mr. Robertson for
7 cross-examination.

8 JUDGE PRIDGIN: Mr. Poston, thank you. 115 is
9 offered. Any objections? Hearing none, 115 is admitted.

10 (Exhibit No. 115 was offered ad admitted into
11 evidence.)

12 JUDGE PRIDGIN: And any cross-examination for
13 Mr. Robertson? MGE or Staff?

14 MS. SHEMWELL: Staff has none. Thank you.

15 JUDGE PRIDGIN: MGE?

16 MR. COOPER: The company has none.

17 JUDGE PRIDGIN: All right. Thank you.

18 Commissioner Jarrett?

19 COMMISSIONER JARRETT: Good morning, Mr.
20 Robertson.

21 MR. ROBERTSON: Good morning, Commissioner.

22 COMMISSIONER JARRETT: I don't have any
23 questions. I just wanted to thank you for your very
24 succinct and brief testimony. Easy to read, and I
25 appreciate that.

1 MR. ROBERTSON: Yes, sir.

2 JUDGE PRIDGIN: And I have no questions. Thank
3 you. Just on the side of being cautious, any recross?
4 Redirect? All right. Mr. Robertson, thank you.

5 MR. POSTON: Judge, I did have one question
6 about his testimony.

7 JUDGE PRIDGIN: Yes, sir.

8 MR. POSTON: And I don't recall from the prior
9 -- part of hearing whether we had entered his prior
10 testimony into the record.

11 JUDGE PRIDGIN: Bear with me. I'll check my
12 list. I don't show it as being offered.

13 MR. POSTON: Okay.

14 MR. COOPER: I think it comes in if the Stip. is
15 approved, isn't it?

16 MR. POSTON: Yeah. That's my concern because
17 I'm going to want to rely on some of that for my arguments
18 for true-up, so I won't know necessarily if the Stip. is
19 approved or not beforehand. So I would move that those --
20 that testimony also be entered into the record.

21 JUDGE PRIDGIN: So if I understand correctly,
22 Mr. Poston, you're asking for -- and I have his direct as
23 81, his rebuttal as 82-NP and HC, his surrebuttal as 83.
24 You're offering all of that.

25 MR. POSTON: Yeah. Is --

1 MR. COOPER: I -- Marc, I think we're going to
2 -- well, we're going to need to object to that, and not
3 because I have any specific objection as to
4 Mr. Robertson's testimony, but because I think we have the
5 same issue as to any number of witnesses whose testimony
6 and various subjects that they -- they appear on apply to
7 the -- to the Stipulation and are contemplated to come
8 into the -- into the record as a part of that Stip. or if
9 that Stip. is approved.

10 If the Stip. is not approved, I think we would
11 want a hearing on those issues, and I think you'd probably
12 want a hearing on those issues as well as to our
13 witnesses. So I guess I -- we -- we would object, and we
14 don't believe that it's appropriate for it to be admitted
15 at this point in time.

16 MR. POSTON: And I would only be relying on it
17 for purposes of true-up, the true-up rate case expense
18 issue only is the limited purpose that I would want that
19 testimony into the record.

20 JUDGE PRIDGIN: Okay. With -- with that limited
21 offer, do you still have the same objection, Mr. Cooper?
22 Or --

23 MR. COOPER: Well, I think so. Unless we give
24 it a little more time and a little more conversation, I
25 guess, but I think sitting here at the table, I need to --

1 to maintain that objection.

2 JUDGE PRIDGIN: Let me give you that opportunity
3 for more time and more conversation. And I -- I'll just
4 show that they're offered, not admitted, and that I have
5 objections pending on 81, 82-NP and HC and 83.

6 MR. POSTON: Do you mind if I create the proper
7 foundation for those real quick, just -- for when we do
8 get to that discussion on it, I don't want that to be an
9 issue.

10 JUDGE PRIDGIN: That's fine. That's fine with
11 me.

12 MR. POSTON: What were those numbers? 81, 82 --

13 JUDGE PRIDGIN: I have 81, 82-NP and HC and 83.

14 MR. POSTON: Okay.

15 Q (By Mr. Poston) Mr. Robertson, are you the same
16 Ted Robertson that caused to be prepared and filed
17 Exhibits 81, 82-NP and HC and 83?

18 A Subject to a check on the numbers, correct, for
19 the exhibit numbers.

20 Q Okay. And do you have any corrections or
21 changes to that testimony?

22 A I do not.

23 MR. POSTON: Okay. Thank you, judge.

24 JUDGE PRIDGIN: All right. Thank you. And I --
25 I think I do actually have a quick question or two for --

1 for Mr. Robertson.

2 CROSS-EXAMINATION

3 BY JUDGE PRIDGIN:

4 Q And, Mr. Robertson, do you have your true-up
5 direct --

6 A Yes, sir, I do.

7 Q -- with you? Okay. Could you go to page 2 of
8 that, please?

9 A Okay.

10 Q All right. And I guess could you briefly
11 explain how you can -- how you reconcile your position on
12 -- on that page regarding disallowance of the estimated
13 additional costs, you know, with -- associated with this
14 representation with the Partial Stipulation and Agreement
15 in this case?

16 A Sure. It's very simple. And -- in our direct
17 and surrebuttal testimony, I discussed our reasons why we
18 thought certain rate case expenses should be disallowed.
19 Actually, certain regulatory Commission expenses and rate
20 case expense was a part of -- which was the -- the only
21 issue related to regulatory Commission expense in the
22 true-up that I'm concerned with.

23 But because of that, the estimated costs that
24 Mr. Noack has provided to us and Staff includes only
25 attorney and outside consultant costs. And since we had

1 taken the position in -- in my filed testimony to exclude
2 those types of costs, that's how I reconciled with what we
3 put in the Stipulation.

4 Those estimated costs, we did not believe,
5 should be included, and we don't believe they should be
6 included in the true-up. When we filed the Stipulation
7 for estimated costs, in my mind, I was only going to
8 consider costs related -- that the company itself incurred
9 specifically.

10 Q And so you're -- you're objecting -- is the
11 reason you're objecting because the costs are estimated?
12 Or are there other reasons?

13 A No. I'm -- essentially, because the -- the
14 costs that are being incurred by -- by the legal and
15 outside consultants.

16 Q In your opinion, are not prudent?

17 A That is correct. That's what I filed.

18 JUDGE PRIDGIN: All right. Thank you. All
19 right. I think that's all I have. I'm sorry.
20 Commissioner Jarrett, any -- any questions?

21 COMMISSIONER JARRETT: I have no questions.

22 JUDGE PRIDGIN: All right. And since I had
23 questions, let me see if we have any recross based on
24 Bench questions. Any recross?

25 MS. SHEMWELL: No.

1 JUDGE PRIDGIN: Redirect?

2 MR. POSTON: No questions.

3 JUDGE PRIDGIN: All right. All right.

4 Mr. Robertson, thank you very much. You can step down.

5 MR. THOMPSON: Judge, I'm going to have some
6 questions for Mr. Robertson in the cost of capital, so I
7 would request that he not be excused.

8 JUDGE PRIDGIN: Yes. He's not excused, and I
9 don't know how Counsel wants to proceed, if you want to go
10 ahead and have questions of cross or if you want
11 Mr. Murray on cost of capital.

12 MR. THOMPSON: Why don't we just go ahead and
13 take Mr. Robertson right now, which would speed things
14 along and save him the problem of getting down and coming
15 back up?

16 JUDGE PRIDGIN: Works for me. Mr. Thompson.

17 CROSS-EXAMINATION

18 BY MR. THOMPSON:

19 Q Mr. Robertson --

20 MR. COOPER: We go on, could I ask two things?
21 One, I think we'd asked that Mr. Robertson go ahead and
22 speak into the microphone. One of our potential witnesses
23 is having a hard time hearing.

24 And then, also, just for the Bench's
25 information, Mr. Swaengen is handling this issue, so we

1 are handing off the baton here.

2 JUDGE PRIDGIN: All right. Mr. Thompson.

3 Q (By Mr. Thompson) Mr. Robertson, as far as you
4 know, you're Public Counsel's only true-up witness?

5 A That is correct.

6 Q And you understand, do you not, that Public
7 Counsel has espoused capital structure for rate of return
8 in this case based on Southern Union's actual capital
9 structure?

10 A Public Counsel has?

11 Q That is correct.

12 A I'm sorry. I haven't followed that testimony.

13 Q You haven't followed that. Okay. Would you
14 have any reason to disagree with me if I told you that
15 that was the case?

16 A Subject to check, no.

17 Q Okay. And you didn't include any true-up of
18 capital structure information in your testimony for
19 true-up, did you?

20 A I did not.

21 MR. THOMPSON: Thank you. No further questions.

22 JUDGE PRIDGIN: All right. Thank you.

23 Commissioner Jarrett, any questions?

24 COMMISSIONER JARRETT: No questions.

25 JUDGE PRIDGIN: Cross based on re -- or

1 redirect?

2 MR. POSTON: I have nothing.

3 REXCROSS EXAMINATION

4 BY JUDGE PRIDGIN:

5 Q All right. Okay. Just one more quick question.

6 And I'm sorry, Mr. Robertson. If I can direct you back to
7 my questions earlier about the -- about the legal costs,
8 could you explain why -- if you know, can you explain why
9 the Partial Stipulation and Agreement that OPC entered
10 into wasn't drafted to specifically exclude the costs that
11 you're objecting to in your true-up?

12 A Would -- would you state that again?

13 Q I'll try. Is it your understanding that OPC
14 signed a Partial Stipulation and Agreement?

15 A They did.

16 Q If you know, can you explain why that Partial
17 Stipulation and Agreement wasn't drafted to exclude the
18 costs that are at issue in the true-up?

19 A I don't know that it -- it states whether to
20 exclude them or include them either way. And as far as
21 why it was drafted the way it is, I can't answer that
22 question.

23 JUDGE PRIDGIN: Okay. All right. Thank you.
24 I'm sorry. Bench questions based on my further questions?
25 Commissioner Jarrett? I'm sorry.

1 COMMISSIONER JARRETT: No questions.

2 JUDGE PRIDGIN: Recross? Redirect?

3 MR. POSTON: No.

4 JUDGE PRIDGIN: All right. All right.

5 Mr. Robertson, thank you.

6 MS. SHEMWELL: Judge, as we switch over, I'd

7 like to ask if Mr. Oligschlaeger may be dismissed.

8 JUDGE PRIDGIN: Any objections? All right. He

9 may be excused. Thank you.

10 MS. SHEMWELL: Excused. Thank you.

11 MR. POSTON: Can Mr. Robertson be excused?

12 JUDGE PRIDGIN: Objections to Mr. Robertson

13 being released?

14 MR. THOMPSON: Staff has no objection.

15 JUDGE PRIDGIN: All right. Hearing none,

16 Mr. Robertson, thank you. I understand we're on

17 Mr. Murray.

18 MR. SWEARENGEN: Mr. Noack is going to get back

19 on the stand. I think Mr. Noack was going to get back on

20 the stand.

21 JUDGE PRIDGIN: Okay. Let me clarify, Counsel.

22 I show Mr. Murray as being a witness that needs to take

23 the stand. And Mr. Noack, apparently, is also going to

24 come back. Does Counsel have a preference as to in which

25 order?

1 MR. THOMPSON: I prefer to take Mr. Noack first.

2 MR. SWEARENGEN: That's fine.

3 JUDGE PRIDGIN: All right. Mr. Noack,
4 congratulations. I did swear you in this morning. I do
5 remember. I won't do it again.

6 MR. NOACK: Okay.

7 JUDGE PRIDGIN: Anything from MGE counsel before
8 he stands cross? All right. And I don't know, Counsel,
9 if -- if, Mr. Poston, or, Mr. Thompson, if you have a
10 preference?

11 MR. POSTON: I have no questions, so --

12 JUDGE PRIDGIN: Okay. Mr. Thompson.

13 MR. THOMPSON: Thank you, your Honor.

14 CROSS-EXAMINATION OF MICHAEL NOACK

15 BY MR. THOMPSON:

16 Q Mr. Noack, I'll direct your attention to pages 5
17 and 6 of your true-up direct testimony.

18 A I have it.

19 Q And you address the issue of capital structure
20 in that portion of your testimony; isn't that correct?

21 A I do. Yes.

22 Q And at the close of that testimony, I'm looking
23 here at lines -- the sentence that begins on line 3 of
24 page 6 and runs -- finishes on line 6. You indicate --
25 well, why don't you just go ahead and read that sentence,

1 if you would?

2 A "However, if the Commission denies the company's
3 request for a hypothetical capital structure and decides
4 that some form of Southern Union Company's actual capital
5 structure should be used, then that capital structure
6 should reflect the capital structure balances and imbedded
7 costs as of September 30, 2009."

8 Q Thank you, Mr. Noack. But your true-up
9 testimony does not, in fact, include any figures
10 reflecting the capital structure balances and imbedded
11 costs for Southern Union Company as of September 30 of
12 2009, does it?

13 A No. We're still asking for hypothetical.

14 Q Okay. And I think you told Commissioner Davis
15 when you were on the stand earlier this morning that there
16 has been no material change in those numbers from the case
17 in chief; is that correct?

18 A That's correct.

19 MR. THOMPSON: Thank you. No further questions.

20 JUDGE PRIDGIN: Mr. Thompson, thank you.
21 Commissioner Jarrett?

22 COMMISSIONER JARRETT: I have no questions.
23 Thank you.

24 JUDGE PRIDGIN: Thank you. Redirect?

25 MR. SWEARENGEN: No redirect. Thank you.

1 JUDGE PRIDGIN: Mr. Swearengen, thank you.

2 Mr. Noack, thank you. Are we now ready for Mr. Murray?

3 MR. THOMPSON: We are now ready for David
4 Murray.

5 JUDGE PRIDGIN: Mr. Murray, if you'll come
6 forward to be sworn, please. Raise your right hand to be
7 sworn.

8 DAVID MURRAY,
9 being first duly sworn to testify the truth, the whole
10 truth, and nothing but the truth, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. THOMPSON:

13 JUDGE PRIDGIN: Thank you very much, sir, and
14 please have a seat. Mr. Thompson, when you're ready, sir.

15 MR. THOMPSON: Thank you, your Honor.

16 Q (By Mr. Thompson) Good morning, Mr. Murray.

17 A Good morning.

18 Q Mr. Murray, state your name. That may seem
19 redundant, but we lawyers like to do that.

20 A David Murray.

21 Q And how are you employed, sir?

22 A I am acting Utility Regulatory Manager in the
23 Financial Analysis Department for the Missouri Public
24 Service Commission.

25 Q And you are the same David Murray that

1 previously has filed testimony in this case and has stood
2 cross-examination and prepared a portion of Staff's cost
3 of service report?

4 A Yes, I am.

5 Q And you also prepared testimony for the true-up
6 portion of this case; is that correct?

7 A Yes.

8 Q And you caused to be prepared or did prepare
9 true-up direct testimony that has been marked as Exhibit
10 111 and true-up rebuttal testimony that has been marked
11 Exhibit 112?

12 A Yes.

13 Q Do you have any corrections or changes to those
14 pieces of testimony?

15 A No.

16 Q And at the time you prepared it, was that
17 testimony true and correct to the best of your knowledge
18 and belief?

19 A Yes.

20 Q And if I asked you the same questions today,
21 would your answers be the same?

22 A Yes.

23 MR. THOMPSON: At this time, I would move the
24 admission of Exhibits 111 and 112.

25 JUDGE PRIDGIN: 111 and 112 have been offered.

1 Any objections?

2 MR. SWEARENGEN: No objection.

3 JUDGE PRIDGIN: Hearing none, 111 and 112 are
4 admitted.

5 (Exhibit Nos. 111 and 112 were offered and
6 admitted into evidence.)

7 MR. THOMPSON: At this time, I will tender
8 Mr. Murray for cross-examination. Thank you, Judge.

9 JUDGE PRIDGIN: Mr. Thompson, thank you.
10 Cross-examination from MGE or Public Counsel?

11 MR. POSTON: No questions.

12 JUDGE PRIDGIN: Public Counsel has no questions.

13 MR. SWEARENGEN: I have a few questions.

14 JUDGE PRIDGIN: Mr. Swearengen, when you're
15 ready.

16 CROSS-EXAMINATION

17 BY MR. SWEARENGEN:

18 Q Good morning, Mr. Murray.

19 A Good morning.

20 Q How are you doing?

21 A Pretty good. Thank you. How are you doing?

22 Q Fine. Thank you. I'm looking at page 1 of your
23 true-up direct testimony down at the bottom where you
24 describe the purpose of that testimony. Do you see that
25 beginning on line 19?

1 A Yes.

2 Q And I take it that that's still the purpose of
3 your testimony as far as you're concerned?

4 A Yes.

5 Q And you're truing up the capital structure and
6 the imbedded costs of long-term debt and short-term debt;
7 is that true?

8 A Yes.

9 Q But you're not truing up your recommendation on
10 return on equity; is that true?

11 A No.

12 Q Okay. And you're doing all of this in response
13 to the Commission's September 15, 2009, Order that
14 established the true-up; is that right?

15 A Yes.

16 Q Thank you. Now, you testified previously in
17 this case with regard to cost of capital issues; is that
18 true?

19 A Yes.

20 Q In connection with that -- the Staff filed what
21 they call a Staff report cost of service with regard to
22 their initial filing in this case. Do you recall that?

23 A Yes.

24 Q And I -- am I correct in understanding that you
25 were the author of the cost of capital portion of that

1 Staff report?

2 A Yes.

3 Q Do you happen to have a copy of that with you
4 this morning on the witness stand?

5 A Yes. I have it.

6 Q Thank you. If you could turn to page 3 of that
7 document, please.

8 A Yes.

9 Q There on Line 4 is the statement, "True-ups are
10 not required for every rate proceeding and typically are
11 only ordered when the utility can demonstrate that they
12 expect to incur material changes to their revenue
13 requirement after the end of the order test year update
14 period but prior to the operation of law date in this
15 case." Do you see that statement?

16 A Yes, I do.

17 Q And further on down at the bottom, beginning on
18 line 26 of page 3 of that report, the Staff quotes
19 testimony from MGE witness Mike Noack as follows:
20 "Lastly, to the extent that the Commission uses a capital
21 structure based on the company's actual debt and equity,
22 (without conceding the appropriateness of such an
23 approach) because MGE expects the equity ratio to increase
24 during the true-up period resulting in a higher revenue
25 requirement, MGE would want that structure to reflect the

1 company's most current percentages." Do you see that?

2 A Yes.

3 Q And would you agree with me that the reference
4 in there to company would mean Southern Union Company?

5 A I -- I'd have to look at beginning of his
6 testimony to see if he -- if he meant to refer to MGE as a
7 company or Southern Union as a company.

8 Q Well, is it your understanding that Missouri Gas
9 Energy, as a stand-alone operating division of Southern
10 Union Company, issues its own debt or equity?

11 A It does not issue its own debt or equity. It's
12 an operating division.

13 Q And, therefore, for that statement to make any
14 sense. The word "company" would have to refer, then, to
15 Southern Union Company, would it not?

16 A If he did it logically, that would make sense.

17 Q Okay. Thank you. Remember when we had the
18 initial hearing in this case, there was a document that
19 was received into evidence? I believe it was Exhibit 98.
20 I'm going to hand a copy of that to you and pass out
21 copies and ask you a few questions about that.

22 MR. THOMPSON: Thank you.

23 MR. SWEARENGEN: You're welcome.

24 COMMISSIONER JARRETT: Thank you.

25 JUDGE PRIDGIN: Thank you.

1 MR. POSTON: Thanks.

2 Q (By Mr. Swearengen) Mr. Murray, do you recall
3 that document from the case in chief?

4 A I do.

5 Q Okay. And is it your understanding that -- that
6 this document sets out the positions of the Staff, the
7 company and the Office of Public Counsel with regard to
8 the cost of capital issues, at least at the time of the
9 hearing?

10 A Yes.

11 Q Okay. And once again, looking at this document,
12 am I correct in -- in saying that both Missouri Gas Energy
13 and -- and you and the Staff of the Commission are
14 recommending the use of a hypothetical capital structure
15 in this case for purposes of setting rates for Missouri
16 Gas Energy?

17 A Yes.

18 Q And would you agree with me that at least from
19 your perspective, the Staff would think that the
20 Commission for setting rates should view Missouri Gas
21 Energy as a stand-alone entity separate from its
22 relationship to Southern Union Company?

23 Let me ask -- let me ask you this question. You
24 seem to be struggling with that. Let me ask you this
25 question. For purposes of setting rates in this case, is

1 it your understanding that both the Staff and the company
2 think the Commission should impute a capital structure
3 that is more normal for a gas distribution company than
4 the capital structure of Southern Union Company?

5 A No.

6 Q You --

7 A Do you want me to explain?

8 Q Yeah. Go ahead.

9 A Okay. I -- the rationale for the use of a
10 hypothetical capital structure would be different between
11 myself and MGE's witness. It's not because I consider
12 this capital structure to be more normal for the national
13 gas distribution industry or what's appropriate for a
14 natural gas distribution industry.

15 I recommended hypothetical capital structure
16 because of activities of Southern Union that -- that cause
17 me concern as to -- the continued use of that capital
18 structure. So I think the company had its reason, and I
19 had my reason. And the end result is we both recommended
20 the hypothetical capital structure, which is an imputed
21 capital structure.

22 Q Okay. Thank you. And -- and the end result is
23 both you and the company get to essentially the same
24 place. I mean, I realize that your -- your ratios for the
25 various components differ somewhat, but -- but perhaps not

1 significantly. Would that be a fair statement?

2 A Yes. The -- the major difference is the company
3 does not include it from short-term debt, which the Staff
4 does. Otherwise, yeah, the -- I think Mr. Hanley used
5 nine comparable companies. Staff used seven of -- of
6 Hanley's nine. The seven that Staff used were within that
7 nine.

8 Q Now, let me ask you about that. First of all,
9 when you say capital structure, just to make sure the
10 record is clear on that, you're -- you're referring to how
11 an entity finances its business operations; is that
12 correct?

13 A Yes.

14 Q And -- and that could be done with debt or
15 equity or a combination of debt or equity, right?

16 A Yes.

17 Q And perhaps some other types of financing
18 instruments as well?

19 A Yes.

20 Q Okay. For example, if Missouri Gas Energy was
21 financed with 40 million of equity and 60 million of debt,
22 would you say that it had a 40 percent common equity
23 ratio?

24 A Yes.

25 Q Okay. Now, looking at Exhibit 98, your initial

1 position, as I understand it, with regard to capital
2 structure, at least at the time of the hearing is
3 reflected on there. For example, long-term debt was 4.47
4 short-term debt 8.47, and common equity of 51.06 percent,
5 correct?

6 A Correct.

7 Q And in -- if I understand your -- your true-up
8 testimony, those -- those percentages have been adjusted
9 somewhat. Or at least your recommended percentages have
10 been adjusted somewhat; is that true?

11 A Yes. Based on updated information that was
12 available. That's correct.

13 Q And so your long-term debt ratio now would be
14 42.07 percent; is that correct?

15 A That's correct.

16 Q And your short-term debt ratio has gone down a
17 little bit. It went from 8.47 to 7.44?

18 A That's correct.

19 Q And your common equity ratio went down a little
20 bit, too, from 51.06 to 50.49; is that true?

21 A That's correct.

22 Q Now, the -- the 51 -- excuse me. The 50.49
23 percent common equity ratio that you're now recommending
24 is still a little higher, is it not, than the 48 percent
25 common equity ratio that the company has recommended?

1 A Yes, it is.

2 Q Okay. And -- and given that -- that you're
3 advocating a hypothetical capital structure, would you
4 agree with me, then, that there's evidence in the record
5 at least of three possibilities?

6 Let's just talk about the common equity, for
7 example. The company is 48 percent, your initial 51.06
8 and your amended 50.49 percent.

9 A Yes.

10 Q And since you would be asking the Commission to
11 impose a hypothetical capital structure, would you agree
12 with me that something in that range would be appropriate?

13 I mean, I recognize your -- your recommendation
14 is 50.49. But would you agree with me that something in
15 that range would be appropriate?

16 A There's a range of reasonableness, but there's a
17 reason for a true-up as well. And that's, you know, when
18 -- when it's a matter of -- of what capital structure to
19 use and we've agreed to a true-up, then that capital
20 structure should be trued up.

21 Q Yeah. I understand.

22 A Okay.

23 Q You're not saying, though, that if the
24 Commission elects to pick a hypothetical capital structure
25 that they have to pick the one necessarily that you've

1 recommended? That's your -- that's your preference,
2 but --

3 A I think it should reflect the most recent
4 information available. And I provided that.

5 Q Okay. That's fair. Thank you. Now, did the
6 Commission's true-up order in this case tell you to
7 true-up the cost of long-term debt and short-term debt?

8 A I believe the -- the Commission's Order followed
9 -- and I don't have -- I've -- I've looked at it recently,
10 but I don't recall the direct wording.

11 But Staff had filed a -- its recommendation for
12 items to be trued up, and that included rate of return, to
13 include capital structure, imbedded costs.

14 Q Would you agree that -- that the -- that the
15 Order establishing true-up issues in this case on
16 September 15, 2009, approved the request for order
17 establishing true-up and that request said capital
18 structure, rate of return?

19 A I'd have to look at the Order. I'm speaking off
20 of memory here.

21 Q Let me --

22 A Yeah. I appreciate it if you would.

23 MR. SWEARENGEN: May I approach?

24 JUDGE PRIDGIN: You may.

25 MR. SWEARENGEN: I didn't ask last time. I

1 apologize.

2 Q (By Mr. Swearngen) I'll hand you the request
3 and the Order. Have you looked at that, Mr. Murray?

4 A Yes, I have.

5 Q Now, would you -- my question is, that true-up
6 order doesn't tell you to true-up the costs of long-term
7 debt or short-term debt, does it?

8 A It says rate of return. That's implied.

9 Q Okay. You went ahead and trued up not only the
10 capital structure, the ratios, but also the costs for the
11 components of your hypothetical capital structure?

12 A The imbedded costs. That's correct.

13 Q Great. But you didn't update the cost of common
14 equity?

15 A No, I did not.

16 Q Okay. If you could look at your true-up direct
17 testimony, please, and turn to Schedule 2-4.

18 A Yes.

19 Q And is that the -- a schedule of background or
20 the basis for your calculation of the -- of your new
21 recommended long-term debt cost?

22 A Schedule 2-4?

23 Q Yes.

24 A All's I see is New Jersey Resources, Cost of
25 Debt. I --

1 Q What's the purpose of this schedule?

2 A It's to show the imbedded cost of debt to each
3 company in the comparable group.

4 Q Okay. So you're talking about long-term debt?

5 A Long-term debt. That's correct.

6 Q Okay. Thank you. Now, looking at that Schedule
7 2-4 involving New Jersey Resources, in the column headed
8 Effective Cost Rate, I see several issuances, apparently,
9 of first mortgage bonds that have an interest rate of 0.6.

10 A Yes.

11 Q Do you see those?

12 A Yes, I do.

13 Q And they're -- according to my count, five of
14 those shown on that document?

15 A I see six.

16 Q Six. Thank you. Is that 0.6 percent, is that
17 what that is intended to show?

18 A Yes.

19 Q Is that long-term interest rate of .6 percent
20 available in the market generally for a local gas
21 distribution company? Do you know?

22 A If -- if it's a variable rate, yes. If it's a
23 variable rate loan, which is what these are. Variable
24 rates are very low right now. That's why the cost of
25 short-term debt is very low right now.

1 Q Well, you're using this as a basis for long-term
2 debt calculation; is that correct?

3 A Well, these are long-term debt issuance with
4 variable rates.

5 Q All right. Thank you. Could you take a look at
6 page 4 of your true-up direct testimony?

7 A Yes.

8 Q And with regard to your new short-term debt
9 number, which I understand has gone from 1 percent to --
10 to .94 percent; is that correct?

11 A Yes.

12 Q And you discussed there on page 4 in part how
13 you calculated that new number?

14 A Yes.

15 Q Now, going back to your -- to the case in chief,
16 in your direct case, before your recommendation, your
17 initial recommendation, which was 1 percent, you used the
18 average cost of short-term debt for two companies, is that
19 correct, New Jersey Resources and Piedmont Natural Gas?

20 A Yes.

21 Q And you did that because precise data was not
22 available for all of your other proxy companies? I'm
23 talking about what you did initially.

24 A It was -- it was two-part. First, I -- yeah.
25 If I had data available for all of the companies, that

1 would have been the preferable method. But because I
2 didn't, then I looked at the -- the companies that had the
3 same credit rating as the average for the comparable
4 group. And then -- then in light of the fact, you know,
5 that it implies consistent risk with a comparable group, I
6 thought that was an appropriate proxy for the comparable
7 group.

8 Q Now, you've adjusted that number as indicated
9 from 1 percent to .94 percent. And that's not based,
10 however, on an updated cost of short-term debt for both of
11 those companies, is it?

12 A No, it's not.

13 Q You're down to just one company now, Piedmont;
14 is that right?

15 A Well, it's two -- for -- for -- I still included
16 two companies for purposes of -- of the cost of short-term
17 debt. But I did have to use -- I did have to use the June
18 30th data for New Jersey Resources.

19 Q And you're using the short-term debt of Piedmont
20 through July 31, 2009?

21 A Yes. They have a unique fiscal quarter.

22 Q And then later on, on page 4 of your true-up
23 direct testimony, down on line 21, towards the bottom of
24 the page, you say you have now discovered that AGL
25 Resources has a way to cost of short-term debt of .8

1 percent in a nine-month period sending September 30, 2009;
2 is that correct?

3 A Yes. I discovered that in the September 30th
4 '09 10Q. But I did not include that in the true-up
5 recommendation.

6 Q Could someone read your -- your true-up
7 testimony and -- and conclude that it is based on
8 information for only one of your proxy companies,
9 Piedmont, and that does not really represent what can be
10 described as peer set of data for making the short-term
11 debt recommendation in this case?

12 A No.

13 Q You don't think someone could read it and reach
14 that conclusion?

15 A Everybody has a right to their opinion. But
16 it's not based on one company. No.

17 Q And make sure going back that I understand how
18 you interpreted the true-up order. You've interpreted it
19 to require you to true-up capital structure, meaning the
20 ratios of debt to equity; is that right?

21 A Yes.

22 Q And cost of long-term debt and short-term debt;
23 isn't that correct?

24 A Yes.

25 Q But not to true-up return on equity?

1 A Yes.

2 Q And would you agree with me that return on
3 common equity is a component of ever overall rate of
4 return?

5 A It is.

6 Q Okay. Thank you. Now, take another look, if
7 you would, at Exhibit 98, please. Overall rate of return
8 at the time that you were recommending of the initial
9 hearing in this case was 7.33 percent; is that true?

10 A Yes.

11 Q And now it's been adjusted based on your true-up
12 testimony to 7.34 percent?

13 A Yes.

14 Q And so it's -- your recommendation has changed
15 only one-one-hundredth of a percent; is that fair?

16 A Yes. One basis point, as we like to say.

17 Q Do you know what the revenue requirement impact
18 is of -- of your true-up?

19 A Compared to the -- the test year update period,
20 the permanent indicator the regular case should be pretty
21 small. There would be an offset -- in answer to your
22 question, I don't know the exact number. But, obviously,
23 when common equity ratio goes down, you're going to have a
24 tax factor issue.

25 Cost of long-term debt is only three basis

1 points lower. Cost of short-term debt, even on the cost,
2 is slightly lower. The amount in the capital structure is
3 lower. But I would only know all that if I -- unless I
4 looked at the information that was most updated.

5 Q But you think the revenue requirement impact
6 would be pretty small, in your words?

7 A If you're comparing my recommendation in the --
8 in the general rate case to my recommendation at true-up,
9 yes.

10 MR. SWEARENGEN: Okay. Thank you. That's all I
11 have.

12 JUDGE PRIDGIN: Mr. Swearngen, thank you. Let
13 me see if we have any Bench questions. Commissioner
14 Jarrett?

15 COMMISSIONER JARRETT: Long time, no see,
16 Mr. Murray.

17 MR. MURRAY: How are you doing? Good morning.

18 COMMISSIONER JARRETT: Yeah. Glad to see you
19 this morning.

20 MR. MURRAY: Did we all go home and get some
21 sleep?

22 COMMISSIONER JARRETT: I don't have any
23 questions. Thank you.

24 MR. MURRAY: Thank you.

25 JUDGE PRIDGIN: Commissioner Jarrett, thank you.

1 Commissioner Davis?

2 COMMISSIONER DAVIS: I just have a couple.

3 CROSS-EXAMINATION

4 BY COMMISSIONER DAVIS:

5 Q Mr. Murray, if we go to your rebuttal testimony,
6 schedule 2-1 --

7 A True-up rebuttal or rebuttal?

8 Q I'm sorry. True-up rebuttal.

9 A Schedule -- you're true-up direct.

10 Q I'm sorry. True-up direct. I'm sorry. True-up
11 direct, schedule 2-1.

12 A Yes. I'm there.

13 Q Okay. Looking at the third column, Stated Costs
14 of Long-Term Debt. To get that 5.79 percent number, you
15 took an average of the averages, correct?

16 A Yes.

17 Q So if we took the totals from Column 1, the
18 amount outstanding in Column 2, the interest expense, we'd
19 get a different number, wouldn't we?

20 A That would be a weighted average. That gives
21 more weight to the bigger companies, yes.

22 Q All right. Okay. Do you know what the weighted
23 average is?

24 A No, I do not make that calculation. I think we
25 did in the -- in the general case, if I remember right.

1 Q Right. So if the weighted average were -- was 6
2 percent even, you'd have to reason to dispute that?

3 A I have no reason to -- to dispute that. It
4 would be just 421,197 divided by 7,000,025.

5 Q Right. And if that number were 6 percent, then
6 we'd add the ten basis points for issuance costs, and that
7 would give us 6.1 percent, correct?

8 A Yes. That's a simple matter of adding it up.

9 Q That would be 21 basis points more than your
10 recommendation, correct?

11 A Yes, it would.

12 COMMISSIONER DAVIS: Okay. No further
13 questions, Judge.

14 JUDGE PRIDGIN: Commissioner, thank you. Any
15 cross based on Bench questions?

16 MR. POSTON: No questions.

17 JUDGE PRIDGIN: Redirect?

18 MR. THOMPSON: Thank you, your Honor.

19 REDIRECT EXAMINATION

20 BY MR. THOMPSON:

21 Q Mr. Murray, you'll recall questions from
22 Mr. Swaengren as to the scope of the Commission's True-up
23 Order?

24 A Yes.

25 Q Can you tell me what the matching principle is?

1 A Matching principle is to -- you know, obviously,
2 when you're truing up expenses, you know, cost of service
3 issues, that if you're going to true those items up,
4 that's also important to true up items that support, you
5 know, the capital invested, which includes rate of return
6 regardless of whether you use a hypothetical or -- or an
7 actual, because although we -- we didn't true-up the cost
8 of equity -- I think that's mainly due to the fact that
9 that's not a mechanical calculation.

10 You know, hopefully, there's not many changes in
11 the -- the outstanding debt as far as whether or not
12 there's going to be any refinancings or what have you
13 that's -- the analysis is going to be pretty well the same
14 where -- with debt, you can have issues that are -- are
15 maturing and refinanced.

16 And then most importantly in this case, the cost
17 of short-term debt is something that's been a matter of
18 dispute as to what's appropriate. And I just think it's
19 prudent to -- to try to look at as much evidence as
20 possible.

21 What we have now is nine months of short-term
22 debt information. That gives the Commission some -- some
23 -- some confidence that this is not just a blip.

24 Q You were also asked a couple of questions by
25 Commissioner Davis. Do you recall?

1 A Yes.

2 Q And Commissioner Davis suggested to you an
3 alternative method for calculating the average cost of
4 long-term debt. Do you recall that?

5 A Yes.

6 Q Why did you not use that method in your
7 recommendation?

8 A Well, I find it interesting that many of the
9 rate of return witnesses for -- for companies are
10 constantly arguing for the small size risk premium. And
11 to the extent -- to the extent that that's -- that's their
12 argument, it -- if that's -- if that's a logic that people
13 think, you know, cause the cost of capital to be higher,
14 then it would make no sense to provide additional weight
15 to those higher capitalized companies.

16 So in order to get a -- you know, a
17 representative sample of, you know -- of an equal way to
18 -- you know, the large and the small companies, I just
19 believe a simple average is the most appropriate method to
20 -- to kind of minimize those concerns.

21 MR. THOMPSON: Thank you. No further questions.

22 JUDGE PRIDGIN: Mr. Thompson, thank you.
23 Anything further from the Bench?

24 MR. DAVIS: Let me go back and ask Mr. Murray
25 one more question.

1 JUDGE PRIDGIN: Certainly.

2 RECROSS EXAMINATION

3 BY COMMISSIONER DAVIS:

4 Q You didn't make a small size adjustment, did
5 you, Mr. Murray?

6 A No, I did not.

7 COMMISSIONER DAVIS: Okay. Thank you.

8 JUDGE PRIDGIN: All right. Thank you.

9 COMMISSIONER JARRETT: Nothing.

10 JUDGE PRIDGIN: Recross? Redirect?

11 MR. THOMPSON: None. Thank you.

12 JUDGE PRIDGIN: All right. Thank you. All
13 right. Mr. Murray, thank you very much.

14 MR. MURRAY: Thank you.

15 JUDGE PRIDGIN: All right. Thank you. If I'm
16 not mistaken, I -- I believe that's the last witness for
17 today. Does Counsel have something else, another witness
18 that I'm missing or anything else to bring to my
19 attention?

20 MR. THOMPSON: Staff has nothing, sir.

21 MR. COOPER: The company has no further
22 witnesses.

23 MR. POSTON: We have no witnesses. The one
24 issue on Mr. Robertson's testimony.

25 JUDGE PRIDGIN: Yes. All right. Anything

1 further from the Counsel? All right. Thank you very
2 much. That will conclude the true-up hearing. We are off
3 the record.

4 (The proceedings were concluded at 11:25 a.m. on
5 December 8, 2009.)

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1 REPORTER'S CERTIFICATE

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3 STATE OF MISSOURI)
)ss.
4 COUNTY OF OSAGE)

5

6 I, Monnie S. Mealy, Certified Shorthand Reporter,
7 Certified Court Reporter #0538, and Registered
8 Professional Reporter, and Notary Public, within and for
9 the State of Missouri, do hereby certify that I was
10 personally present at the {proceedings|exam} as set forth
11 in the caption sheet hereof; that I then and there took
12 down in stenotype the proceedings had at said time and was
13 thereafter transcribed by me, and is fully and accurately
14 set forth in the preceding pages.

15

16 IN WITNESS WHEREOF, I have hereunto set my hand and
17 seal on December 15, 2009.

18

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Monnie S. Mealy, CSR, CCR #0539
22 Registered Professional Reporter

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