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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
TRANSCRIPT OF PROCEEDINGS
Evidentiary Hearing
December 8, 2017
Jefferson City, Missouri
Volume 16

In the Matter of Laclede)
Gas Company's Request to) File No. GR-2017-0215
Increase Its Revenue for)
Gas Service)

In the Matter of Laclede)
Gas Company d/b/a Missouri)
Gas Energy's Request to) File No. GR-2017-0216
Increase Its Revenues for)
Gas Service)

NANCY DIPPELL, Presiding,
REGULATORY LAW JUDGE.

DANIEL Y HALL, Chairman,
WILLIAM KENNEY,
MAIDA J. COLEMAN,
COMMISSIONERS.

REPORTED BY:
KELLENE K. FEDDERSEN, CSR, RPR, CCR NO. 838
ALARIS LITIGATION SERVICES

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FOR: Staff of the Missouri Public
Service Commission.

1 (WHEREUPON, the hearing resumed at
2 8:44 a.m.)

3 JUDGE DIPPELL: Good morning. It's
4 December 8th, 2017, and we are continuing with the
5 Spire rate case hearings. Mr. Pendergast, you had
6 a preliminary matter you wanted to discuss?

7 MR. PENDERGAST: Yes. Thank you.
8 Yesterday we advised the Commission that we had
9 reached an agreement broadly on energy efficiency
10 issues and kind of went over what the terms of that
11 agreement are, and we are working on the
12 stipulation and agreement to formalize it.

13 I at the tail end of that discussion
14 said that there was still, from the company's
15 perspective, an open issue on whether or not there
16 should be some allowance in rates for the energy
17 efficiency program. I think we'd originally
18 proposed that approximately 3.8 million be included
19 in rates. We have since that time discussed it,
20 and the company is fine with pursuing the
21 traditional at least recent treatment of that and
22 simply deferring those amounts for future recovery
23 in a subsequent rate case.

24 So I just wanted to assure the
25 Commission that there is not an open item on that.

1 We are completely and finally resolved.

2 JUDGE DIPPELL: Thank you. Thank you
3 for that update.

4 Were there any other preliminary
5 issues before we begin with opening statements on
6 uncollectibles? Not seeing any, so we can begin.
7 And does Spire want to make an opening statement?

8 MR. ZUCKER: Yes, your Honor. May it
9 please the Commission?

10 The question here that we're trying
11 to answer is what is the proper level of
12 uncollectible expense. In the past two MGE rate
13 cases, the Staff has used a three-year average,
14 which is -- we consider that to be reasonable and a
15 fine idea.

16 What we did when we filed the case in
17 April, we used the three-year average of 2013, '14
18 and '15, and the reason we did that is because in
19 the fall of '15 we made a change to the way that
20 we -- in our policy of how we could uncollectibles
21 of when we do a writeoff. The change does not
22 change uncollectibles at all. It's invisible to
23 the customer. The customers still pay or not pay
24 when they -- when they would anyway regardless of
25 our change.

1 So all the change did was cause a
2 little less work for our accounting people and
3 improved customer service for our call center
4 people because there was a lot less noise on their
5 accounts, and I'll explain it.

6 For example, MGE used to do writeoffs
7 after 30 days. So someone -- let's say we turn off
8 their service in April, disconnect them. They
9 don't pay, and in May MGE would show that as a
10 writeoff, and so it would go into the writeoff
11 bucket, and that would also come up on the computer
12 screen when the -- when a rep called up the
13 computer screen.

14 Then in September, let's say, the
15 customer paid enough to get back on and we turned
16 them on. Well, when we turn them on, we move all
17 of their writeoff back into accounts receivable.
18 So, in effect, we reverse the writeoff, the net of
19 those two events being zero. The person was
20 written off and then written back on, in effect.

21 Under our new policy, we now wait a
22 year. Laclede was doing six months. MGE was doing
23 one month before writeoffs. Now we're going to put
24 them both on one year. So in that case when the
25 customer -- in what I just mentioned, the customer

1 is disconnected in April. We don't -- we do not do
2 the writeoff in May. We do not do the writeoff in
3 August. We do not do the writeoff in September.
4 The customer comes back on in September, and at
5 that point the customer is on.

6 So where in the -- under the old
7 system we would show -- we would have accounting
8 have to do the writeoff and the reverse of the
9 writeoff, now we don't have to do either in that
10 scenario, and it saves time for us and that saves
11 money. And it also is easier for the rep because
12 they don't see all this activity on the account and
13 have to figure out what's going on.

14 Okay. So -- but when we changed to
15 the one year, it took a little while for it to roll
16 through, so the writeoffs were a little different
17 for 2016, and now in 2017 they've kind of settled
18 down to the normal business.

19 We then updated our three-year
20 average to 2015, '16 and '17. We did the update by
21 going back to the changed year 2016 and, using the
22 data we had, we figured out what the number would
23 have been under the old policy, and that way the
24 new policy wouldn't have affected it. So in other
25 words, if we had never done the new policy, this

1 would have been the number under the old policy for
2 2015, '16 and '17. And that number came to, I
3 believe, for three years \$14.0 million, and that's
4 total for Laclede and MGE.

5 Staff has taken the position that
6 they can only use 2017. The 2017 number is
7 12.1 million. And the reason Staff thinks they can
8 only use 2017 is that Staff believes that this
9 policy change has actually caused a difference in
10 uncollectibles, and that's incorrect. The
11 uncollectibles are still the same as a net matter.
12 All that changed with the new policy is less
13 activity.

14 Now, our -- when we originally filed
15 '13, '14 and '15, that number came to 13 million.
16 When we updated it to '15, '16 and '17, it came to
17 14 million. And so those are the two numbers that
18 are in play. We agree to the update. Obviously it
19 turned out to be more money for us, but it is what
20 it is. If you look at a longer average, a
21 four-year average is 13.6 million. So you can see
22 where the numbers are falling here in the 13 to 14
23 range.

24 And one other thing. OPC took one
25 year of accrued writeoffs; in other words, an

1 estimate of writeoffs. No one ever does that.
2 It's not done. OPC's auditor knows better than to
3 do that. It turned out to be a low number because
4 the accrual that year happened to be low to make up
5 for one that was high the year before. So, I mean,
6 that's just a result-oriented pick, and the OPC
7 auditor knows better than that.

8 So in conclusion, we would ask for
9 uncollectible expense to be set at 14.0 million,
10 which is the three-year average of 2015, '16 and
11 '17.

12 JUDGE DIPPELL: Any questions for
13 Mr. Zucker?

14 CHAIRMAN HALL: Yeah. Good morning.

15 MR. ZUCKER: Good morning, Chairman.

16 CHAIRMAN HALL: What is the incentive
17 for the company to try to collect bad debt if it is
18 able to get it from all other customers in the next
19 rate case?

20 MR. ZUCKER: The company collects bad
21 debt because it is the right thing to do.

22 CHAIRMAN HALL: Yeah, but we hear --
23 we've heard a number of examples where the dollars
24 and profits, revenues are the thing that seems to
25 drive the company. So I'm wondering if -- why

1 that's not the same here.

2 MR. ZUCKER: I'm sorry. I'm not
3 following your question.

4 CHAIRMAN HALL: I'll let you finish
5 your answer. Your answer is you guys collect bad
6 debt because it's the right thing to do?

7 MR. ZUCKER: Right. We have -- we
8 have bad debt collection policies. We have
9 disconnection policies. We have people who do
10 that. We have outside people who do collection
11 work. And so we try to minimize the
12 uncollectibles, and when you minimize
13 uncollectibles, you increase -- you increase
14 profits. You increase revenues relative to costs.

15 CHAIRMAN HALL: Well, is the other
16 possible answer a regulatory lag, that we set
17 uncollectibles at either 12.1 million or 14 million
18 or whatever the number OPC is and then that's the
19 amount that you get per year until the next rate
20 case, and to the extent that your uncollectibles
21 are below that amount, that goes directly to
22 shareholders?

23 MR. ZUCKER: Well, the -- when
24 uncollectibles are minimized, the dollar that is
25 earned in between rate cases goes to shareholders,

1 and the next year when the rate case comes, it goes
2 to customers. So that same savings that
3 shareholders get customers then get.

4 CHAIRMAN HALL: I think you indicated
5 that the 14 million per year is the amount of -- is
6 a three-year average of uncollectibles for '15, '16
7 and '17; is that correct?

8 MR. ZUCKER: That is correct.

9 CHAIRMAN HALL: And I'm a little
10 confused. Is that under the prior system or under
11 the new system? By system I mean the not -- not
12 treating it -- not treating it as an uncollectible
13 for 12 months.

14 MR. ZUCKER: Okay. So that number is
15 what would have happened under the old policy, and
16 we can show that under the new policy the same
17 thing would have happened.

18 CHAIRMAN HALL: Okay. Thank you.

19 JUDGE DIPPELL: I believe that's all.
20 Thank you. Is there an opening from Staff?

21 MS. ASLIN: May it please the
22 Commission? I'll be very brief. Mr. Zucker
23 covered much of the issue here.

24 As you know, uncollectible expense is
25 the portion of revenue the company is unable to

1 collect from retail customers due to unpaid bills,
2 and that after a predetermined amount of time this
3 is written off. Some portion of that written-off
4 amount may be later collected, which would reduce
5 net writeoffs.

6 As Mr. Zucker stated, in September
7 2015 both Laclede and MGE made significant changes
8 to their writeoff policies, Laclede changing from
9 180 to 360 days from the final billing after
10 disconnection, and MGE from 30 to 360 days.

11 And while Staff historically looks at
12 at least the past five years of uncollectible
13 expense and net writeoffs to determine an
14 appropriate amount to include in uncollectible
15 expense, that is not an appropriate approach in
16 this case. Staff did look at over ten years' worth
17 of data, but due to the policy changes that
18 occurred, Staff determined the appropriate time
19 period to include in uncollectible expense is the
20 12 months ending June 30th, 2017. This is the most
21 current data available since the policy change, but
22 Staff did update this number for true-up for the 12
23 months ending September 30th, 2017.

24 Thank you.

25 JUDGE DIPPELL: Any questions?

1 CHAIRMAN HALL: Does Staff agree with
2 the company's calculation on the 14 million, that
3 that's the average for '15, '16 and '17 under the
4 old policy and the new policy?

5 MS. ASLIN: I think that's -- that
6 would be a good question for Amanda McMellen, but I
7 think that Staff was having trouble doing
8 calculations combining the old and new policy,
9 which is why we just used data under the new
10 policy.

11 CHAIRMAN HALL: Thank you.

12 JUDGE DIPPELL: Thank you very much.
13 Is there an opening from Public Counsel?

14 MR. WILLIAMS: Thank you, Judge. May
15 it please the Commission? My name is Hampton
16 Williams. I'm the Acting Public Counsel.

17 Very briefly, the issue before the
18 Commission today is to determine essentially the
19 time frame which were going to be used to actually
20 project what we anticipate uncollectibles to be in
21 the future. OPC theoretically stands with Staff in
22 that the change in the policy that the company
23 implemented in 2016 has changed how the company
24 collects these uncollectibles or at least books
25 these uncollectibles and, as a result, rely on the

1 12-month period after that period that the change
2 has been implemented is more representative of what
3 we anticipate uncollectibles to be moving forward.

4 A second question is a difference
5 between where OPC and Staff is drawing that
6 12-month period. Our witness Chuck Hyneman will be
7 testifying to using an accounting -- I should say
8 numbers reported through Account 904,
9 uncollectibles, which is designed -- pardon me --
10 defined by FASB to actually identify where the
11 company is booking or at least writing these
12 records for uncollectibles that are being accrued.

13 We believe that this is the most
14 accurate and most up-to-date information available,
15 but again, stand with Staff in that figures used
16 after the policy change would be more accurate as
17 far as a representation of uncollectibles
18 anticipated moving forward.

19 Thank you.

20 JUDGE DIPPELL: Any questions for
21 Mr. Williams?

22 CHAIRMAN HALL: I want to ask you the
23 same question I asked Mr. Zucker. If the company
24 is able to recover all of its uncollectibles
25 through rates, what is the incentive for the

1 company to actually attempt to recover that bad
2 debt from the customer who owes it?

3 MR. WILLIAMS: Well, you know, I
4 think that is a concern. Obviously from OPC's
5 position, and this is just a general policy that
6 we've always -- one of the issues we advocated was
7 that, you know, cost causers pay. To the extent
8 that you have a policy which would provide a
9 disincentive for the company to actually seek
10 collection from individuals who have incurred
11 expenses would -- and then ultimately have a policy
12 which would spread those losses off across the
13 other ratepayers, certainly would have, I believe,
14 a negative impact on ratepayers in total.

15 I think that if there were either
16 some splitting with respect to what either
17 shareholders or the company would have to pick up
18 would provide more of an incentive for the company
19 to actually recover its losses or recover its
20 uncollectibles.

21 CHAIRMAN HALL: Is there a specific
22 statutory provision that allows the company to
23 recover its bad debt, or is it just treated like
24 every other utility expense?

25 MR. WILLIAMS: To my knowledge, I am

1 unaware of a specific statutory authority which
2 would allow the company or at least directs the
3 company to collect bad debt, and from my
4 understanding, it is treated as an expense.

5 CHAIRMAN HALL: Do you think that it
6 would be legal for the Commission to require
7 sharing of uncollectibles?

8 MR. WILLIAMS: To the extent that we
9 are -- to the extent that it is treated as any
10 other expense, I think that if the Commission would
11 determine that, it is in -- I would say that the
12 Commission would be within its authority to
13 determine either a cost sharing of an expense if
14 you found it to again be just and reasonable.

15 If the policy were, I should say the
16 justification is that there is a concern that there
17 is -- that the company is not seeking collections
18 and a way to incent the company would be to provide
19 a sharing, I think that that would be within the
20 Commission's authority to do so, again, unless
21 there is a statutory prohibition against that,
22 which I'm unaware of at this time.

23 CHAIRMAN HALL: Thank you.

24 MR. WILLIAMS: Thank you.

25 JUDGE DIPPELL: Thank you. Is there

1 anything from Environmental Defense Fund on this
2 issue?

3 MS. KARAS: No opening statement,
4 your Honor.

5 JUDGE DIPPELL: I didn't miss any
6 other parties, did I? Okay. Then I think we're
7 ready to go ahead and begin with the first witness,
8 who is for Spire.

9 MR. ZUCKER: Spire calls Timothy W.
10 Krick to the stand.

11 (Witness sworn.)

12 JUDGE DIPPELL: Thank you.

13 TIMOTHY W. KRICK testified as follows:

14 DIRECT EXAMINATION BY MR. ZUCKER:

15 Q. Good morning, Mr. Krick.

16 A. Good morning.

17 Q. Can you state your name and spell it
18 for the court reporter?

19 A. Timothy Krick, K-r-i-c-k.

20 Q. Very good. And who are you employed
21 by?

22 A. I'm employed with Spire.

23 Q. And what is your title?

24 A. I'm Managing Director, Controller.

25 Q. And are you the same Timothy W. Krick

1 who caused testimony to be filed in this case,
2 direct testimony on April 11 and rebuttal testimony
3 on October 17th of this year?

4 A. Yes, I am.

5 Q. And do you have any changes to that
6 testimony?

7 A. I do not.

8 Q. Okay. So if I asked you all the
9 questions written in both of those testimonies
10 today, would your answers be the same?

11 A. Yes, sir.

12 Q. And are they true and correct to the
13 best of your knowledge and belief?

14 A. Yes, they are.

15 MR. ZUCKER: Okay. Mr. Krick is
16 scheduled to be a witness again next week on cost
17 allocation, so we can wait to enter his testimony
18 into evidence.

19 JUDGE DIPPELL: Did he also have
20 surrebuttal testimony or is that in the other
21 issue?

22 MR. ZUCKER: No. I think he just had
23 direct and rebuttal. Did we put surrebuttal on the
24 list?

25 JUDGE DIPPELL: I have it on my list.

1 MR. ZUCKER: I tender the witness for
2 cross. Thank you. Thank you, Mr. Krick.

3 JUDGE DIPPELL: And I do have his
4 direct marked as Exhibit 23 and his rebuttal marked
5 as Exhibit 24.

6 MR. ZUCKER: Yes. And I have
7 surrebuttal on my list also, so we can not use
8 No. 25. That was an error. Thank you.

9 JUDGE DIPPELL: Okay. All right,
10 then. is there cross-examination by Staff?

11 MS. ASLIN: Yes.

12 CROSS-EXAMINATION BY MS. ASLIN:

13 Q. Good morning, Mr. Krick.

14 A. Good morning.

15 Q. Do you have your rebuttal with you?

16 A. Yes.

17 Q. In the work papers attached to that
18 rebuttal, the amounts included for Laclede and MGE
19 uncollectible expense, those are based on what time
20 period?

21 A. They are based on the periods 2013 to
22 2017, fiscal year.

23 Q. So that's based on a three-year
24 average?

25 A. The work papers show a two-year,

1 three-year, four-year and five-year average.

2 Q. Okay. And what is the five-year
3 average for Laclede and MGE?

4 A. The five-year average is adjusted for
5 what the average would have been if the policy had
6 not been changed.

7 Q. And what is that amount?

8 A. For Laclede it is 8.3, and for MGE it
9 is 4.5.

10 Q. If I could get you to turn to page 9
11 of your rebuttal.

12 A. Okay.

13 Q. Starting at line 8, in response to
14 the question, did you consider any scenarios other
15 than a three-year average, you said that you
16 calculated averages for two, three, four and five
17 years and that, in your opinion, a five-year
18 average is the best predictor; is that correct?

19 A. That's correct.

20 Q. So why did you choose not to use a
21 five-year average in this case?

22 A. We looked at what Staff had used in
23 the two prior cases for MGE and it was three years,
24 so for consistency sake, I thought that was
25 appropriate, but...

1 Q. Okay. Thank you. And also on
2 page 9, lines 5 through 7 of your testimony, you
3 state, normalizing the data up through September
4 2017 resulted in a three-year average of
5 9.7 million for Laclede and 4.3 for MGE, correct?

6 A. Correct.

7 Q. And to normalize you included the
8 three-year average for the 12 months ended
9 September 30th, 2017, plus an estimated balance
10 based on customer balances that is scheduled
11 writeoff dates on or after October 1st of 2017?

12 A. Yes. I was able to go to the customer
13 level and define what customers would have been
14 written off under the old policy. So it is not an
15 estimate. It's a 100 percent fact.

16 Q. But aren't the customer balances on
17 your list that are scheduled for writeoff after
18 October 1st of 2017 under the new uncollectible
19 policy that began in September 2015?

20 A. They are, but our uncollectible
21 policy was purely a change in our subledger system
22 where say, for example, for Laclede we would have
23 written them off at 180 days. So under the new
24 policy it's 360 days. So I was easily able to go
25 to each customer, subtract six months --

1 Q. So are you basically trying to
2 convert the most recent data to be consistent with
3 the data from the old policy?

4 A. That's correct.

5 Q. And why would you choose to do that
6 if the old policy's no longer in place?

7 A. To provide the most relevant average.

8 Q. Did you consider any other factors
9 other than future customer writeoffs?

10 A. Not that I can think of.

11 Q. As an example, isn't it possible that
12 since the customers are given more time before
13 their account is written off under the new policy,
14 that more customers will pay before accounts are
15 written off, thus decreasing uncollectibles?

16 A. No, that's untrue, because our
17 uncollectible expense has always reflected net,
18 which includes recoveries. It includes --
19 recoveries include cash payments and balances that
20 they agree to repay over time and put on payment
21 plan. This is purely the gross writeoff out of our
22 accounts receivable system.

23 Q. But you did include in your average
24 future customer writeoffs through September 2018;
25 is that correct?

1 A. Ask the question again, please.

2 Q. You did include in your average
3 future customer writeoffs through September 2018,
4 correct?

5 A. Through September 2018?

6 Q. Yes, based on the -- based on --

7 A. So yes, under the new policy,
8 those -- partial of those, again, if some of those
9 writeoffs could have possibly --

10 Q. Right.

11 A. -- been written off under the old
12 policy six months earlier.

13 Q. But those future amounts aren't
14 really known and measurable, are they?

15 A. No. They are, because the customer's
16 been cut off. We know what their balance is.

17 Q. But it is possible that they could
18 still pay and not be written off?

19 A. It is, but under the old policy it
20 would have been written off. So that's why when
21 comparing to prior periods, it's apples to
22 apples. I'm 100 percent sure of that.

23 Q. And since these -- some of these
24 writeoffs, as you said, are through September 2018,
25 that would be outside of the test year update and

1 true-up period in this case, correct?

2 A. Correct.

3 MS. ASLIN: Thank you.

4 JUDGE DIPPELL: Is there
5 cross-examination by Public Counsel?

6 MR. WILLIAMS: Yes, your Honor.

7 CROSS-EXAMINATION BY MR. WILLIAMS:

8 Q. Good morning, Mr. Krick.

9 A. Good morning.

10 Q. Would you agree with -- actually,
11 could you please identify what account number the
12 uncollectibles are recorded in?

13 A. What portion of uncollectibles? Can
14 you please be more specific?

15 Q. Would you agree with me that the
16 company's -- that there is an account identified as
17 904?

18 A. Yes, there is a FERC Account 904.

19 Q. Could you describe to me what FERC
20 Account 904 is?

21 A. The company uses Account 904 to
22 expense bad debt, to build up uncollectible
23 allowances.

24 Q. Now, is that trued up throughout the
25 year or is that accruals?

1 A. It is accruals.

2 Q. Okay. Going to your direct
3 testimony, page 4, lines 10 through 12. You
4 testified, quote, the company made significant
5 changes to its writeoff policy for both LEC and
6 MGE. This change precludes a comparison of net
7 writeoff levels in 2016 to those experienced before
8 2016. Is my reading correct?

9 A. Hold on.

10 Q. It's page 4, lines 10 through 12.

11 A. Correct.

12 Q. On your direct, isn't it true that
13 the three-year average you used was to base your
14 proposal off of 2013, '14 and '15?

15 A. Yes, for --

16 Q. And then you've subsequently updated
17 that to 2015, '16 and '17; is that correct?

18 A. Correct.

19 Q. Thank you. In your direct testimony,
20 you mentioned the -- several policy issues related
21 to, I guess, contributing factors to
22 uncollectibles, including low-income energy
23 assistance funding on things like LIHEAP. Do you
24 recall that?

25 A. Yes.

1 Q. In your direct testimony on page 7,
2 lines 7 and 8, you identified that the budget
3 proposal from the federal level, this was as of the
4 date of filing direct, did not include funding for
5 LIHEAP for 2018. Is that an accurate statement of
6 your testimony?

7 A. The federal budget?

8 Q. Yes.

9 A. Yes.

10 Q. Since filing this testimony, are you
11 aware of whether or not the federal government has
12 authorized LIHEAP funding for 2018?

13 A. I'm unsure. I'm not aware.

14 MR. WILLIAMS: Your Honor, may I
15 approach?

16 JUDGE DIPPELL: Yes.

17 MR. WILLIAMS: I'd like to mark this
18 as an exhibit, pass it out to the parties. It is a
19 press release from the department.

20 JUDGE DIPPELL: I will mark it as
21 Exhibit 428.

22 (OPC EXHIBIT 428 WAS MARKED FOR
23 IDENTIFICATION BY THE REPORTER.)

24 MR. WILLIAMS: May I approach the
25 witness, please?

1 JUDGE DIPPELL: Yes.

2 BY MR. WILLIAMS:

3 Q. Mr. Krick, would you please read the
4 first line on the document, please, the first
5 sentence under the paragraph?

6 A. The Office of Community Services,
7 Division of Energy Assistance is issuing an initial
8 release of approximately 3.03 billion of federal
9 fiscal year 2018 regular block grant funding to
10 low-income home energy assistance programs.

11 Q. Thank you very much.

12 A. Okay.

13 MR. WILLIAMS: I have no further
14 questions.

15 JUDGE DIPPELL: Is there any
16 cross-examination by the Environmental Defense
17 Fund?

18 MS. KARAS: No questions, your Honor.

19 JUDGE DIPPELL: Chairman Hall, do you
20 have questions?

21 CHAIRMAN HALL: Yeah.

22 QUESTIONS BY CHAIRMAN HALL:

23 Q. Good morning.

24 A. Good morning.

25 Q. What was the -- what were the

1 uncollectibles for 2017, for the 12 months ending
2 June 30, 2017?

3 A. Give me a minute here. The
4 uncollectibles written off through this system for
5 Laclede were 7.9 million, approximately, and for
6 MGE 4.2 million.

7 Q. Staff's position is that we should
8 just look at the test year, correct?

9 A. Correct.

10 Q. And their numbers were normalized,
11 whereas these numbers that you just provided are
12 not normalized; is that correct?

13 A. I'm not sure I understand the
14 question in terms of normalized. How were their
15 numbers normalized?

16 Q. My understanding is that they were
17 normalized. I'm not exactly sure of the process
18 that they used. Maybe I can ask Staff that
19 question.

20 So fundamentally, the difference
21 between your position and Staff's position is that
22 Staff wants a three-year -- I'm sorry. You are
23 proposing a three-year average, whereas Staff is
24 looking at just 2017?

25 A. Correct. I believe an average

1 statistically is a much better predictor of future
2 writeoffs.

3 Q. Because it's your position that the
4 change in policy doesn't affect the actual amount
5 of uncollectibles?

6 A. That's absolutely correct. The
7 rebuttal schedule we're looking at corrected and
8 adjusted for those to provide an average that's
9 comparable to all those prior years. I'd also like
10 to note, sir, that the last two years were some of
11 the warmest years on record, so writeoffs would
12 artificially be a little bit lower than we would
13 expect.

14 Q. That was actually my next question,
15 if you had an explanation for why, why
16 uncollectibles were lower those two years.

17 A. Record warm weather, which resulted
18 in lower writeoffs.

19 CHAIRMAN HALL: Being. Thank you.

20 QUESTIONS BY COMMISSIONER KENNEY:

21 Q. Good morning.

22 A. Good morning.

23 Q. I had a question. You mentioned that
24 the five -- you would prefer a five-year average,
25 it would be more precise over a three-year average?

1 A. Yes, sir. I just -- statistically if
2 you're adding more data points, and we have had a
3 couple -- we have had two warm years, one very cold
4 year in those five years and two somewhat normal
5 years. So I feel that a five-year average is the
6 most appropriate.

7 **Q. Even though that five-year average is**
8 **1.2 million lower than the three-year average in**
9 **this case?**

10 A. Yes, sir. I believe that's the most
11 accurate approach.

12 **Q. So this isn't necessarily just a**
13 **money issue, it's what you feel is the proper way**
14 **to do it?**

15 A. Correct.

16 **Q. I appreciate that. I had one**
17 **question. I'm curious. Are utilities allowed to**
18 **report bad debt to credit agencies?**

19 A. I'm unsure.

20 **Q. Because there was a lot of talk --**
21 **the Chairman was talking about debt collection**
22 **during some of the openings. I was just curious if**
23 **they could, because what is your -- does Spire have**
24 **debt collectors, outside debt collectors?**

25 A. Yes. Internally we -- to a certain

1 extent we handle accounts, but we do procure the
2 services of third parties as well.

3 Q. So for uncollected debt, you will
4 hire -- like many companies, you'll hire an outside
5 source where they get a percentage of that?

6 A. Yes. Especially for the very aged
7 debt, yes, we do.

8 Q. Because it does stay on the books. I
9 mean, it does stay on the books for years and years
10 and years, but it is an uncollected debt from an
11 institution or an individual, correct?

12 A. Correct. Statutorily, I believe
13 seven years is --

14 Q. So if I have a company and one of my
15 accounts was never collected, that might show up
16 years later and I might get a phone call about that
17 uncollected debt, correct?

18 A. Correct. From an accounting
19 perspective, though, it wouldn't be --

20 Q. From an accounting perspective it's
21 written off?

22 A. Correct.

23 Q. But it still shows up?

24 A. There's a record in the system.

25 Q. I know it shows up because I had

1 gotten a call from MGE when I called in to get a
2 service and a debt that I had from six years
3 previously at a location was brought to my
4 attention.

5 A. Yes. I believe the statutory is
6 seven years where that data is required to be
7 maintained.

8 COMMISSIONER KENNEY: Okay. Thank
9 you.

10 JUDGE DIPPELL: Commissioner Coleman?

11 COMMISSIONER COLEMAN: No.

12 JUDGE DIPPELL: All right. Is there
13 any further cross-examination based on Commission
14 questions from Staff?

15 MS. ASLIN: Just one question.

16 RE-CROSS-EXAMINATION BY MS. ASLIN:

17 Q. Just a clarification based on an
18 answer you gave to Chairman Hall. Staff's position
19 is not that we look at the test year, it's that
20 they are -- we looked at actual net writeoffs for
21 the 12 months ending June 30th, 2017, correct?

22 A. Staff's position?

23 Q. Yes.

24 A. Correct.

25 MS. ASLIN: Thank you.

1 JUDGE DIPPELL: Public Counsel?

2 MR. WILLIAMS: Yes. Thank you. One
3 question.

4 RECROSS-EXAMINATION BY MR. WILLIAMS:

5 Q. Do you recall when Chairman Hall, you
6 had an exchange with him and mentioned that a
7 three-year period was unusually high or warm? Do
8 you recall that conversation?

9 A. Yes. That two of those years were
10 unusually warm, yes.

11 Q. Were there any references in your
12 filed testimony regarding temperature, to your
13 recollection?

14 A. No.

15 MR. WILLIAMS: Thank you.

16 JUDGE DIPPELL: Is there anything
17 from Environmental Defense Fund?

18 MS. KARAS: No questions, your Honor.

19 JUDGE DIPPELL: Is there redirect by
20 Spire?

21 MR. ZUCKER: Thank you, your Honor.

22 REDIRECT EXAMINATION BY MR. ZUCKER:

23 Q. Good morning again, Mr. Krick.

24 A. Good morning.

25 Q. So you have confirmed that the

1 **Staff's number is an actual writeoff number?**

2 A. Yes. It reflects the writeoffs that
3 we have transacted in our system based on our
4 policy, correct. Yes.

5 Q. **And it has then not been adjusted in**
6 **any way?**

7 A. No.

8 Q. **So when Chairman Hall asked has it**
9 **been normalized, would your answer be that it has**
10 **not been normalized?**

11 A. I don't understand how it was
12 normalized. I'm not clear.

13 Q. **Let's say we normalized for weather**
14 **and said in a warm winter we would expect**
15 **uncollectibles to be unusually low. In a cold**
16 **winter we would expect uncollectibles to be**
17 **unusually high. So we would maybe adjust numbers**
18 **for normal weather.**

19 A. In that respect, I don't believe
20 that -- no, there's no normalization.

21 Q. **And if you were to normalize the 2017**
22 **number that Staff filed, which way would you move**
23 **it?**

24 A. Up.

25 Q. **When you -- in your direct testimony,**

1 Mr. Hampton pointed out that you had said that, on
2 page 4, lines 10 to 12, that the change in policy
3 precludes a comparison of net writeoff levels. Do
4 you see that?

5 A. Yes.

6 Q. And did you use '13, '14 and '15?
7 Why did you use '13, '14 and '15 in your direct?

8 A. Felt like that was -- at the time of
9 the filing, we didn't have enough data to fully go
10 back and normalize all the changes, which as of the
11 end of '17 we did. So at the time of the filing,
12 I felt that was the most pragmatic simple approach
13 that would give us an average that was
14 representative of what we would expect to incur.

15 And based on my rebuttal testimony
16 and normalizing the averages for the change in the
17 policy, it proved that it was. It was very close.

18 Q. So six months later, when you wrote
19 rebuttal six months after direct, you were able to
20 figure a writeoff level for 2016?

21 A. I was able to go back and calculate
22 what the writeoffs would have been under the old
23 policy so the five-year average was accurate. I'm
24 very confident that it's a correct number.

25 Q. And when you determined 2016, did you

1 have -- because of the change, did you have to look
2 at a two-year period to get a two-year average?

3 A. Yes.

4 Q. And is that attached to your rebuttal
5 testimony?

6 A. Yes.

7 Q. Okay. So, for example, if I look at
8 Schedule TWK-R1, do you see that?

9 A. Yes.

10 Q. I'll tell you which page of that
11 schedule. The third page.

12 A. Is that for MGE?

13 Q. For MGE, yes.

14 A. Yes.

15 Q. And your 2016 number for writeoffs
16 came out to what?

17 A. Negative 4.2 million.

18 Q. Okay. And is that an unusual number?

19 A. Yes, it is unusual.

20 Q. And was that caused by the change in
21 policy?

22 A. It was directly caused by the change
23 in the policy.

24 Q. And then your 2017 writeoff number is
25 how much?

1 A. 4.2.

2 Q. Okay. And then it looks like you
3 did, just underneath the 4.2, an adjustment for the
4 change in the policy?

5 A. Correct.

6 Q. Can you explain that?

7 A. What I did was looked at all
8 customers in our system that we had not written
9 off. So this is purely a timing on the company's
10 basis in our internal systems. So, for example, a
11 customer now under the MGE historical policy,
12 customer now under the new policy we're writing off
13 in September or October of 2017.

14 Under the old MGE policy, for
15 simplicity sake, you would deduct 330 days. So
16 under the old policy that would have been written
17 off 330 days prior. So to normalize this data in
18 terms of for the averages, for the old policy, you
19 would have to pull that gross writeoff back into
20 these averages.

21 Q. Okay. So if I were to try to figure
22 a two-year average then for 2016 and 2017, would I
23 take your writeoff number for 2016 of negative
24 4.2 million?

25 A. Yes.

1 Q. Add the writeoff number for 2017 of
2 **positive 4.2 million?**

3 A. Yes.

4 Q. And then add your adjustment for
5 **change in policy?**

6 A. That's correct.

7 Q. And if I do all that, I'm going to
8 **maybe have some easy math because the '16 and '17**
9 **number almost exactly offset themselves. I'm going**
10 **to get about 8.2 million; is that correct?**

11 A. Yes. And I think that the averages
12 show that the way that I've normalized this data is
13 accurate. The 2016 relates to recoveries from
14 customers. So since we delayed the writeoffs from
15 MGE almost a year, obviously we didn't have gross
16 writeoffs running through this calculation, but we
17 did have recovery. So historically we would have
18 had both. So now we have those -- all those just
19 got delayed internally in our systems.

20 Q. And so if I look at that, the two
21 **numbers added up and get the 8.2 million, do I then**
22 **divide by two to get the two-year average?**

23 A. Yeah. You'd have to add '16, '17 and
24 the adjustment and divide by two.

25 Q. And that would come to the

1 4.1 million you have for the two-year average?

2 A. Yes.

3 Q. And so the effect of the policy
4 change appears to be that you need to look at those
5 two years plus an adjustment to kind of normalize
6 the two years?

7 A. Yeah. Taking the two years plus the
8 adjustment is an accurate way of looking at it,
9 yes.

10 Q. And did you answer a question for
11 Mr. Williams that Account 904 is an accrual
12 account?

13 A. Yes. It's a bad debt expense, yes.

14 Q. Well, is it actual writeoffs or is it
15 accruals?

16 A. It relates to the accrued bad debt --
17 accrued estimated bad debt expense.

18 Q. So by accrual you mean an estimate?

19 A. Yes.

20 Q. Okay. And is it normal in
21 determining bad debt expense to use an estimate?

22 A. Yes. We recognize an estimate of bad
23 debt expense when we earn the revenue.

24 Q. Okay. But in terms of when you say
25 here was my bad debt expense for this year, would

1 **you use the accrued number?**

2 A. No, not for -- not for these
3 purposes, no.

4 **Q. What number would you use?**

5 A. The actual writeoffs that we have
6 recorded based on customer accounts being written
7 off net of any recoveries.

8 **Q. Okay. So if you were to use the**
9 **accrued number, the estimated number, you could**
10 **easily manipulate that by simply using a high**
11 **estimate; is that correct?**

12 A. Yes, and I believe that's why
13 historically accrued expense numbers are not used
14 in these proceedings.

15 **Q. Staff counsel asked you about a -- in**
16 **your rebuttal schedule, toward the back, it looks**
17 **at 2017 and 2018. Do you recall that?**

18 A. Yes, I do.

19 **Q. And what was the purpose of doing**
20 **that schedule?**

21 A. The purpose was to demonstrate what
22 writeoffs, the amount of the writeoffs that were
23 purely delayed due to timing of the change in our
24 policy that would have been -- in what period they
25 would have been written off under the old policy,

1 and this was provided, I believe, at a customer
2 level, and this is just a summary of that data at a
3 customer level.

4 Q. Okay. And does it show that over
5 time the old policy and the new policy come out the
6 same?

7 A. Absolutely.

8 Q. Mr. Williams showed you an exhibit in
9 which it looks like the federal government has
10 released approximately 3 billion for LIHEAP. Do
11 you recall that?

12 A. I do.

13 Q. And do you know whether that
14 3 billion is more or less than is usually released?

15 A. I have -- no, I have no idea.

16 Q. Would you know how much of that money
17 would come to Missouri?

18 A. No, I would not.

19 Q. Would you know whether the money that
20 would come to Missouri is more or less than the
21 usual amount?

22 A. No.

23 Q. In response to questions Mr. Hall --
24 or Commissioner -- Chairman Hall asked me, would
25 you say that contacting Commissioner Kenney for a

1 **six-year-old debt is pretty aggressive collection**
2 **policy?**

3 A. Yes, I believe that would be. That
4 was likely some old, aged debt that had been in the
5 hands of a collector, and they will go to any means
6 to collect something that statutorily they can.

7 Q. **Mr. Krick, do you know whether the**
8 **State Government has authorized UtiliCare funding?**

9 A. No. I'm the financial controller,
10 and I'm not well versed in those matters.

11 MR. ZUCKER: One moment, please. I
12 have no further questions, your Honor.

13 JUDGE DIPPELL: Thank you. Can I
14 ask, since Exhibit 428 has now been -- the witness
15 has talked about it from two different
16 perspectives, can we go ahead and get it offered?

17 MR. WILLIAMS: Yes, your Honor. I'd
18 offer Exhibit 428 into the record.

19 JUDGE DIPPELL: Would there be any
20 objection?

21 MR. ZUCKER: We're willing to --
22 we're willing to stipulate that the government
23 released 3.03 billion. So no objection.

24 JUDGE DIPPELL: Thank you. I'll go
25 ahead and receive that into evidence. That's the

1 press release from the Department of Health and
2 Human Services on October 20th, 2017.

3 (OPC EXHIBIT NO. 428 WAS RECEIVED
4 INTO EVIDENCE.)

5 JUDGE DIPPELL: All right.

6 Mr. Krick, thank you very much. You may step down.

7 THE WITNESS: Thank you.

8 JUDGE DIPPELL: I believe we're ready
9 for Staff's witness.

10 MS. ASLIN: Staff calls Amanda
11 McMellen.

12 (Witness sworn.)

13 JUDGE DIPPELL: Thank you.

14 AMANDA McMELLEN testified as follows:

15 DIRECT EXAMINATION BY MS. ASLIN:

16 **Q. Can you please state and spell your**
17 **name for the court reporter.**

18 A. It's Amanda McMellen,
19 M-c-M-e-l-l-e-n.

20 **Q. And how are you employed and in what**
21 **capacity?**

22 A. I'm employed by the Staff of the
23 Missouri Public Service Commission as a Utility
24 Regulatory Auditor.

25 **Q. And did you prepare or cause to be**

1 prepared direct testimony and also surrebuttal
2 testimony which is marked as Exhibit 253 in this
3 case?

4 A. Correct.

5 Q. Do you have any changes or
6 corrections to that testimony?

7 A. I do not.

8 Q. Are the answers contained in that
9 testimony true and correct to the best of your
10 knowledge and belief?

11 A. Yes, they are.

12 Q. If I were to ask you those same
13 questions today, would your answers be the same?

14 A. Yes, they would.

15 MS. ASLIN: I move for the admission
16 of Exhibit 253.

17 JUDGE DIPPELL: And that is, in fact,
18 only surrebuttal?

19 MS. ASLIN: Only her surrebuttal,
20 yes.

21 JUDGE DIPPELL: Is there any
22 objection to Exhibit 253?

23 (No response.)

24 JUDGE DIPPELL: Then I will admit
25 Exhibit 253.

1 (STAFF EXHIBIT 253 WAS RECEIVED INTO
2 EVIDENCE.)

3 MS. ASLIN: And I tender the witness
4 for cross.

5 JUDGE DIPPELL: Is there any
6 cross-examination by Public Counsel?

7 MR. WILLIAMS: Yes, your Honor.
8 Thank you.

9 CROSS-EXAMINATION BY MR. WILLIAMS:

10 Q. Good morning, Ms. McMellen.

11 A. Good morning.

12 Q. Going to your surrebuttal, page 3,
13 lines 4 through 8, you provided a response to the
14 question which was, did Staff perform any analysis
15 before deciding on using the balance of the 12
16 months ending in June of 20-- June 30th, 2017 for
17 uncollectible expenses?

18 Can you please explain what process
19 you went through in considering the uncollectible
20 expenses in arriving at your recommendation for
21 using the 12-month period?

22 A. Well, I did all the -- I looked at
23 the test year data for all the accounts, including
24 actual net writeoffs, and the net writeoffs I
25 looked at the balances for all ten years, ten-plus

1 years, going before and after the policy change.

2 Q. Looking at the information before and
3 after the policy change, what motivated you to
4 provide a recommendation for focusing on the
5 12 months after the policy change?

6 A. To me there was significant
7 differences from the old policy to the new policy
8 in matter of dollars. So we wanted to look at the
9 most current data available.

10 Q. And are you confident that the policy
11 changes that occurred in 2016, that the 12-month
12 period after that 2016 policy change is
13 representative of what will likely happen in the
14 future?

15 A. With the data we have available right
16 now. It's something that will have to be looked at
17 in the future.

18 Q. On your direct, you've -- your
19 recommendation June 30th of 2017, have you trued up
20 or looked at the information for the true-up period
21 at this point?

22 A. Yes, we've actually trued up through
23 the 12 months ending September 30th, 2017.

24 Q. Okay. What information are you
25 basing your recommendation on? Is it Account 904

1 or what other information are you using to --

2 A. It's the actual net writeoffs for the
3 12 months ending September 30th.

4 Q. And when is that information
5 reported, or what form is the actual net writeoff
6 reported?

7 A. It was information that was given to
8 me in a data request response.

9 Q. And when was that data request
10 response I guess provided to you?

11 A. It would have been -- in June 30th it
12 would have been provided with the true-up work
13 papers, and then for September 30th in the
14 true-up -- or the actual true-up through 9/30.

15 MR. WILLIAMS: Thank you very much.

16 THE WITNESS: You're welcome.

17 JUDGE DIPPELL: Is there
18 cross-examination from the Environmental Defense
19 Fund?

20 MS. KARAS: No questions.

21 JUDGE DIPPELL: Spire?

22 MR. ZUCKER: Yes, your Honor. Thank
23 you.

24 CROSS-EXAMINATION BY MR. ZUCKER:

25 Q. Good morning, Ms. McMellen.

1 A. Good morning.

2 Q. You just told Mr. Williams that you
3 use actual net writeoffs?

4 A. Correct.

5 Q. And you've done a number of rate
6 cases?

7 A. Yes, I have.

8 Q. And have you always used actual net
9 writeoffs?

10 A. As far as I'm aware, yes.

11 Q. Have you ever used accrued bad debt
12 or accrued uncollectible?

13 A. Not that I'm aware of.

14 Q. Are you aware of anyone else who's
15 used accrued numbers, other than Mr. Hyneman?

16 A. Not that I know of.

17 Q. And so you do not use Account 904?

18 A. No, we do not.

19 Q. Did you hear Mr. Krick's explanation
20 of why bad debt has not -- the policy does not
21 change the actual bad debt?

22 A. Yes, I heard his testimony.

23 Q. Do you understand it?

24 A. To a certain extent, yes. I don't
25 necessarily know that I agree, but...

1 **Q. Did you look at the testimony where**
2 **he -- his rebuttal testimony where he figured out**
3 **how to do 2016 and 2017?**

4 A. Yes, I looked at his analysis.

5 **Q. And what did you think of that?**

6 A. I think his analysis is actually a
7 little flawed in the fact that '16 was a change in
8 policy, and in '17 in his averages he also included
9 customers, writeoff customers in the future, and he
10 tried to convert the data to the old policy instead
11 of converting previous customers into the new
12 policy.

13 **Q. One moment, please. So you testified**
14 **that the amount you came to, which I believe is**
15 **12.1 million; is that true?**

16 A. Correct.

17 **Q. And you testified that that number**
18 **was a lot different than previous years?**

19 A. I believe it increased due to the
20 policy change, that we don't know for sure because
21 we don't have the data after the policy change to
22 know what really going forward the future would be.
23 That's why based on actual data since the policy
24 changed and used the 12 months ending.

25 **Q. So it's not that the amount was**

1 **different, it's more the policy change?**

2 A. I believe so, yes.

3 MR. ZUCKER: Okay. No further
4 questions. Thank you.

5 JUDGE DIPPELL: Thank you. Any
6 questions from the Bench?

7 QUESTIONS BY CHAIRMAN HALL:

8 Q. **Good morning.**

9 A. Good morning.

10 Q. **Do you believe that the policy change**
11 **will result in an actual reduction in bad debt?**

12 A. At this point, we don't know. We
13 don't really have the data going forward. That's
14 something we would look at. It's possible, though,
15 that it could go down.

16 Q. **Why do you think it might go down**
17 **solely as a function of the change in policy?**

18 A. Because customers are getting more
19 time to pay off those bad debts. Before
20 specifically for MGE, they only had 30 days. It
21 was written off after 30 days.

22 Q. **Customers would have more time to pay**
23 **off bad debt under the new policy?**

24 A. Uh-huh.

25 Q. **I thought that the company -- I**

1 thought that the evidence was that the company
2 would continue whatever practices it had to collect
3 bad debt and that this was just an accounting
4 process.

5 A. It's actually written off their books
6 in a longer period now. Instead of -- for MGE it
7 was 30 days. Now it's 360. It's actually written
8 off.

9 Q. But is it your understanding that
10 that change in policy actually changes their bad
11 debt collection practices, or do you know?

12 A. I don't know. I don't believe so,
13 though, but it would change the level of writeoffs
14 that they're experiencing they would have on their
15 books and actual net writeoffs.

16 Q. My understanding is that Mr. Krick
17 testified that the actual writeoffs for 2017 were
18 7.9 and 4.2 million. Is that your understanding as
19 well?

20 A. Correct. And that's a number I used
21 for my 9/30 true-up was the 7.9 and the 4.2.

22 Q. So then you normalized those numbers
23 to come to the 12.1 figure; is that correct?

24 A. No. We just used the actual net
25 writeoffs because the data's not available, and we

1 would look at the data going forward in the next
2 case since the change in policy. We looked at the
3 actual net writeoffs ending September 30th.

4 Q. I'm a little confused, or some people
5 might say I'm more than a little confused. But in
6 Staff's position statement on uncollectibles, it
7 says Staff determined this normalized level by
8 using the 12 months ending June 30, 2017, and
9 that's the 7.3 and the 3.5; is that correct?

10 A. Yes. That actually shouldn't say
11 normalized. It should be an appropriate level.
12 And the numbers in our position statement are
13 actually the 6/30 numbers, not 9/30. So it has
14 gone up since June 30th.

15 Q. You answered this question in
16 response to cross-examination from Mr. Zucker. I
17 don't know if I understand it. You don't believe
18 that a proper calculation between the 2015, 2016
19 and 2017 bad debt under the new policy and the old
20 policy equals the same number; is that correct?

21 A. With his analysis, no, I do not.

22 Q. Okay. Well, his analysis was that it
23 did result in the same number, I thought.

24 A. I'm not sure.

25 Q. I thought that you -- I thought you

1 criticized that calculation and you had a basis for
2 that criticism.

3 A. Yes, because he was saying that he
4 used the average for '15, '16 and '17, but then he
5 also included future net writeoffs or future
6 writeoffs on top of that average. It's more of a
7 hybrid average.

8 Q. So if you excluded the future
9 writeoffs and you just took the average for '15,
10 '16 and '17, what would it be?

11 A. For Laclede for three-year average,
12 it would be 8.2, and for a five-year it would be
13 7.4. And then for MGE, for a three-year average
14 would be 4.7, and a five-year average would be 1.9.

15 Q. And do you believe as a general rule,
16 when determining the proper amount of
17 uncollectibles to put into rates, that it is
18 preferable to use multiple years average?

19 A. It depends on the analysis after we
20 look at the data.

21 Q. Everything else held constant, as a
22 general rule, is it better to have multiple years
23 so as to get a more precise estimate going forward
24 for what uncollectibles will actually be?

25 A. To me, yes, it's more data points so

1 it's better to do that, if you have the comparable
2 data.

3 **Q. And is five better than three, as a**
4 **general rule?**

5 A. I would agree.

6 **Q. What -- do you perform this**
7 **calculation for other rate cases, other utilities?**

8 A. Yes. We do the same analysis for
9 every utility.

10 **Q. And what is Staff's usual practice?**

11 A. It depends on the analysis. I mean,
12 there has been -- even over the last three years,
13 there have been four cases that we've used a
14 one-year average or one-year -- 12 months ending
15 because you have a downward trend going -- trend
16 going up or down. That's when we would use a 12
17 month ending. We could also use a three-year or a
18 five-year average.

19 **Q. What were those cases where you used**
20 **just a one year?**

21 A. It would be ER-2014-0370, which is
22 KCP&L and GMO, and then ER-2016-0156, which is GMO
23 only, ER-2016-0179, which was Ameren, and
24 ER-2016-0285, which is most recent KCPL.

25 **Q. And could you tell me again what was**

1 the rationale, if there is a general rationale -- I
2 don't want you to go through each of those cases,
3 but is there a general rationale for why you'd
4 use -- well, I guess why Staff proposed a one year
5 and the Commission ultimately adopted that one
6 year?

7 A. I don't know. I think those cases
8 might have been settled, but that was our position
9 in those cases because I believe in all of those
10 cases there was a downward trend in uncollectibles.
11 So if there's a downward or upward trend, we
12 typically use the 12 months ending.

13 Q. Here, is there a trend in this case?

14 A. If there is no change in policy, then
15 I probably would have used an average because there
16 wasn't a trend going up or down. There was several
17 fluctuations between the years, even within the
18 10-plus years that I looked at.

19 Q. So the 8.2 and 4.7 figures that you
20 provided a moment ago, why -- why should we not
21 take those figures? That's a three-year average
22 under the new policy, isn't it?

23 A. No, it's not.

24 Q. Why is it not?

25 A. Because the last year is the only

1 year that's under the new policy, 2000-- well, '16
2 which was recovery from the new policy. '17 is a
3 completely new year with no effects from the
4 change, in my opinion. It would just be purely
5 under the new policy would be the 12 months ending
6 September. The previous two years would have been
7 under the old policy and then the year in between
8 the change.

9 **Q. What if we were to determine that the**
10 **change in policy has no effect on the company's**
11 **actual recovery of this bad debt, that it's merely**
12 **an accounting process, then would you -- then would**
13 **that change your opinion on the appropriateness of**
14 **taking the average of the three years?**

15 **A. It might. I would possibly look at**
16 **either a three or five-year average.**

17 **CHAIRMAN HALL: Okay. Thank you.**

18 **THE WITNESS: Thank you.**

19 **QUESTIONS BY COMMISSIONER KENNEY:**

20 **Q. Good morning.**

21 **A. Good morning.**

22 **Q. I thought I had this pretty well**
23 **down, and now I'm completely confused thanks to**
24 **Chairman Hall.**

25 **First off, I'll start with an easy**

1 question. Do you know if utilities can report --
2 if utility debt can be reported to credit rating
3 agencies?

4 A. I believe it can be.

5 Q. It can?

6 A. Yes, I believe so.

7 Q. Do you know if we have utilities that
8 do do that?

9 A. I'm not sure.

10 JUDGE DIPPELL: Excuse me. Is your
11 microphone working? Okay.

12 COMMISSIONER KENNEY: I'll talk into
13 it better.

14 BY COMMISSIONER KENNEY:

15 Q. On Mr. Krick's TWK-R1, on 2017 his
16 total from October to September was 7,859,892. Do
17 you see that?

18 A. Yes. For Laclede, Yes.

19 Q. Yes. And how come -- explain to me
20 the difference on Staff's position of 7.3 million
21 versus the 7.85 million.

22 A. As I stated earlier, the amount
23 that's in our position statement, the 7.3, is the
24 12 months ending June 30th. When we update, we
25 updated to the 7.9 --

1 Q. Okay.

2 A. -- through September 30th.

3 Q. So the same thing with MGE?

4 A. Correct.

5 Q. Okay. Now I understand.

6 A. The numbers they use in their
7 position statement were through September.

8 Q. All right. And when your -- I know
9 Staff Counsel was talking to Mr. Krick, I think,
10 about his two-year normalized average for the
11 change of policy when he -- it's in his TWK-R1,
12 when he showed 2017 under the old policy and then
13 showed 2018 under the new policy, and he showed
14 those numbers were identical. Do you have any
15 reason to doubt those numbers?

16 A. Well, I wasn't going through '18. He
17 added that on top of the average. For '16 and '17
18 it basically becomes a wash.

19 Q. Do you see the sheet I'm talking
20 about?

21 A. Yes, I do.

22 Q. Do you have any reason to doubt those
23 numbers?

24 A. No, I do not.

25 Q. And then one other question. On your

1 surrebuttal, when you -- on page 3, I know
2 Mr. Williams asked you something about this. When
3 you were talking about the uncollectibles and Staff
4 uses both cases depending on the results of the
5 analysis performed, What do you mean by that? What
6 number comes up?

7 A. Correct. It depends on if there's a
8 trend up or down or if there's fluctuation,
9 correct.

10 COMMISSIONER KENNEY: All right.

11 That's all. Thank you.

12 THE WITNESS: Thank you.

13 JUDGE DIPPELL: Thank you.

14 QUESTIONS BY JUDGE DIPPELL:

15 Q. I just have one question for you,
16 Ms. McMellen. There was some discussion, and
17 perhaps I should have asked Mr. Krick this, but he
18 stated in his testimony that the -- in the last two
19 MGE rate cases there had been a three-year average,
20 and that was GR-2014-0007 and GR-2009-0355. Do you
21 know if that was the most recent three years in
22 those cases or --

23 A. I would assume so. That's typically
24 what the Staff looks at is the most recent data
25 available.

1 JUDGE DIPPELL: Are there any further
2 cross-examination questions based on Commission and
3 my questions from Public Counsel?

4 MR. WILLIAMS: One question, your
5 Honor.

6 RECROSS-EXAMINATION BY MR. WILLIAMS:

7 Q. In the exchange that you had with
8 Chairman Hall, you mentioned that, you know, a
9 basis in the past for your recommendation of using
10 the most recent 12 months was due to either upward
11 or downward trends. In this case, in your
12 testimony, would you agree with me that you had
13 generally identified that the change in the program
14 was kind of the impetus behind your recommendation?

15 A. Correct.

16 MR. WILLIAMS: Thank you.

17 THE WITNESS: You're welcome.

18 JUDGE DIPPELL: Is there anything
19 further from Environmental Defense Fund?

20 MS. KARAS: No questions.

21 JUDGE DIPPELL: Spire?

22 MR. ZUCKER: Just a few, your Honor.

23 RECROSS-EXAMINATION BY MR. ZUCKER:

24 Q. Ms. McMellen, in those four electric
25 cases you identified, you said you used just the

1 **test year?**

2 A. No. I believe the Staff uses the
3 most updated 12 months.

4 **Q. Most updated 12 months?**

5 A. Yes.

6 **Q. Okay. And you used that because
7 there was a trend?**

8 A. Correct. That's my understating. I
9 didn't work those cases, but from what I've been
10 told, that was my understanding.

11 **Q. And did you know whether the trend in
12 those cases were down or up?**

13 A. I believe all of them were down.

14 **Q. And when you say that you see a
15 trend, are you just basing it on the numbers
16 themselves or do you look outside the numbers?**

17 A. It's basically just looking at the
18 amount of actual net writeoffs over that period of
19 time.

20 **Q. Okay. And were those three-year
21 averages that were -- that were -- which the trend
22 was identified in those electric cases?**

23 A. I'm not sure. I don't know.

24 **Q. Would three years be normal for the
25 Staff to do?**

1 A. Three-year average, it depends on the
2 actual how the numbers come out.

3 Q. Do you know if the winter of 2016-17
4 was warm?

5 A. I'm not sure compared to other years.

6 Q. So you don't normalize, you just use
7 the actual net writeoff number?

8 A. That's the numbers we look at,
9 correct.

10 MR. ZUCKER: Thank you. No further
11 questions.

12 JUDGE DIPPELL: Is there redirect
13 from Staff?

14 MS. ASLIN: Yes. Thank you.

15 REDIRECT EXAMINATION BY MS. ASLIN:

16 Q. Would the policy change in 2015 and
17 2016 affect the amount of writeoffs over time?

18 A. I believe so, yes.

19 Q. And how will the change in policy
20 affect that?

21 A. I mean, it could go up or down. I
22 would assume it would go down, but I'm not sure.
23 We'd have to do further analysis in the future.

24 Q. And why do you think that will affect
25 it, or why do you think the policy change will

1 **affect the numbers?**

2 A. Because the customers -- as I
3 mentioned earlier, customers are getting more time
4 to pay off those debts, so there's going to be less
5 that's going to be written off.

6 **Q. And do you believe Staff's**
7 **recommended level of bad debt is a reasonable and**
8 **normal level of expense going forward?**

9 A. I do.

10 **Q. And if a multiyear average for bad**
11 **debt is used in this case, would five years be**
12 **better than three years?**

13 A. In my opinion, it's different for
14 Laclede and MGE based on the numbers.

15 **Q. And then just one last question. You**
16 **were asked about Account 904. Can you just explain**
17 **what that is?**

18 A. It's the -- it's basically an accrual
19 account for bad debts, and especially with Laclede
20 and MGE, they true up to estimates and they don't
21 actually true up to actual net writeoffs.

22 **Q. Okay. Thank you.**

23 A. So it's just accrual.

24 JUDGE DIPPELL: All right. I believe
25 you are finished, Ms. McMellen, and that was your

1 only issue.

2 THE WITNESS: Correct.

3 JUDGE DIPPELL: You may be excused.

4 I think we're ready for Public Counsel's witness.

5 MR. WILLIAMS: Thank you, your Honor.

6 OPC would like to call to the stand Charles

7 Hyneman, CPA.

8 JUDGE DIPPELL: Mr. Hyneman, you were

9 previously on the stand, weren't you?

10 THE WITNESS: Yes. Still under oath.

11 JUDGE DIPPELL: So you are still

12 under oath for these purposes.

13 THE WITNESS: Thank you.

14 MR. WILLIAMS: I tender the witness

15 for cross.

16 JUDGE DIPPELL: Is there

17 cross-examination example by Staff?

18 MS. ASLIN: No questions.

19 JUDGE DIPPELL: Environmental Defense

20 Fund?

21 MS. KARAS: No questions.

22 JUDGE DIPPELL: Spire?

23 MR. ZUCKER: No questions, your

24 Honor. No questions, your Honor.

25 JUDGE DIPPELL: Thank you. Are there

1 questions from the Bench for Mr. Hyneman?

2 CHAIRMAN HALL: No questions. Thank
3 you.

4 COMMISSIONER KENNEY: No questions.
5 Thank you.

6 JUDGE DIPPELL: Well, then there's
7 nothing to redirect. Thank you, Mr. Hyneman.

8 All right, then. I believe that
9 concludes the uncollectibles issue. We can begin
10 credit card processing. Let's take a ten-minute
11 break and regroup.

12 Before we do that, I did have an
13 inquiry from Mr. Mills, and he was under the
14 impression there was some discussion of moving
15 surveillance to today. Is anyone familiar with
16 that?

17 (No response.)

18 JUDGE DIPPELL: All right. We can go
19 ahead then and go off the record. Come back at
20 10:15.

21 (A BREAK WAS TAKEN.)

22 JUDGE DIPPELL: We're back on the
23 record and we are ready to begin with opening
24 statements on the credit card processing fees
25 issue. Can we start with Spire? Go ahead when

1 you're ready, Mr. Zucker.

2 MR. ZUCKER: Thank you, Judge. It
3 has been brought to my attention that some comments
4 I made during the uncollectibles gave some offense
5 to someone that I'd said should have known better.
6 I did not mean to offend the person. I meant it as
7 a compliment because he's good at what he does and
8 that's why I thought that. So let me straighten
9 that out, that I didn't mean to give any offense.

10 Now I will launch into credit cards.
11 Okay. So Laclede still charges on the east side of
12 the state, people who use a credit card still pay a
13 credit card fee. So Laclede doesn't pay the credit
14 card company, the customer does. And we have -- to
15 our credit, we've negotiated a \$1.60 fee, which is
16 I know below Ameren's and probably other companies,
17 too, but the customers still pay that.

18 On the MGE side of the state, several
19 years ago they went to the process where expense is
20 built into rates and MGE bears the expense when
21 customers use the credit cards. It's our view that
22 this is a normal business practice. It's a
23 market-based practice to use a credit card and not
24 have to pay a separate fee for it, and we believe
25 that's how it should be done on the Laclede side of

1 the state to match the MGE side of the state.

2 The question then is, what should be
3 that level of expense? The Staff has said we will
4 provide you the same level of expense as if the
5 number of credit card transactions is the same as
6 it was in the past year. Our position is that once
7 you provide a service for free, in effect, then
8 more people are going to use it, and so more
9 funding should be put in rates. And then the
10 question comes down to how much.

11 Staff has pointed out that it's not
12 known and measurable to know how much, but what is
13 known and measurable is when MGE did it, their
14 credit card use went up by 78 percent the first
15 year. And Staff was good enough to point that out
16 in their testimony and note that there should be a
17 ramp-up period, and they show the ramp-up period
18 that MGE went through.

19 Coincidentally, at the same time in
20 surrebuttal testimony on November 21st, Laclede
21 came to the same conclusion independently, that
22 there should be a ramp-up period, and Laclede,
23 which had originally sought 1.5 million in credit
24 card fees, which would have been the amount that
25 they had received had they gone straight to where

1 MGE is today. Under the ramp-up theory Laclede has
2 reduced their request to about 1 point -- a little
3 over \$1 million basically.

4 Office of the Public Counsel has
5 taken the position that the customers shouldn't pay
6 for credit card fees, the person who uses the
7 credit card should pay for it. And for the reasons
8 I've just stated, we disagree with that.

9 I would point out that the -- NASUCA,
10 the national consumer advocate for utilities
11 organization, has recommended or has passed a
12 resolution in 2012 in which they recommended that
13 commissions approve the use of credit cards in fees
14 rather than have the individual pay for credit card
15 use, to have it just be in rates.

16 And I think that concludes my
17 comments.

18 JUDGE DIPPELL: Thank you. Would
19 there be any questions from the Commissioners.

20 CHAIRMAN HALL: No questions. Thank
21 you.

22 JUDGE DIPPELL: All right. Thank
23 you. Is there an opening by Public Counsel -- or
24 I'm sorry, Staff?

25 MS. PAYNE: Yes. Thank you. May it

1 please the Commission?

2 I think Mr. Zucker outlined the issue
3 very well. Laclede has asked in this case to
4 include its credit card processing fees in rates.
5 This action would permit customers to pay their
6 bills by credit or debit card without incurring a
7 fee at the time of payment.

8 MGE has been including these fees in
9 rates, as Mr. Zucker said, since 2010. And by
10 including these fees also for Laclede, that would
11 align Spire's two divisions. I know that's
12 something the company keeps saying they would like
13 to do in this case.

14 Now, OPC will tell you that this
15 practice is discriminatory and it's unfair to
16 customers. However, nothing in the statutes
17 actually prohibits costs from being socialized
18 which benefit all customers, and this does not
19 constitute discriminatory ratemaking.

20 In this instance, if the Commission
21 decides it's appropriate for Laclede to include
22 these fees, all customers would have the option to
23 now pay by credit or debit card without paying a
24 fee. To that end, Staff would recommend that the
25 Commission order Spire to include an annualized

1 amount of credit card fees in its rates calculated
2 using the Laclede actual transactions for the
3 12 months ending September 30th, 2017 and the
4 average transaction fee incurred by Missouri Gas
5 Energy.

6 Staff witness Jason Kunst will be
7 available to answer any questions. Do you have any
8 questions for me at this time?

9 JUDGE DIPPELL: Thank you. Now
10 Office of the Public Counsel.

11 MS. SHEMWELL: Good morning. May it
12 please the Commission? I'm Lera Shemwell
13 representing Public Counsel.

14 Public Counsel's position is that
15 credit card fees should not be socialized and, in
16 fact, not all customers have the option to use a
17 credit card. Our witness Amanda Conner has
18 identified a percentage of St. Louis customers who
19 are either unbanked or underbanked and probably do
20 not have credit cards, and those are the customers
21 who absolutely should not be paying for someone
22 else to use a credit card.

23 I would like to refer to Natelle
24 Dietrich's rebuttal testimony in which she said,
25 according to Staff counsel, Missouri law forbids

1 the preferential subsidization of certain
2 ratepayers at the expense of all other ratepayers.
3 Therefore, it would be unlawfully discriminatory
4 and preferential to require in this case all
5 customers to pay credit card fees. The last was my
6 addition. She was referring to weatherization
7 services. The statute does say at 393.130 that
8 discriminatory rates are unlawful and all unjust
9 and unreasonable rates are prohibited.

10 MGE has only about, according to
11 Mr. Kunst, about 14 percent, I believe, in his
12 chart, and that increased over the years from 4 to
13 14 percent. However, his chart did end in 2015.
14 It's our estimation that MGE has less than a third
15 of its customers using credit cards. And Laclede
16 is around 10 percent of customers, which is close
17 to the state average. Again, 10 percent of their
18 most vulnerable customers do not have access to
19 credit cards.

20 NASUCA cannot provide legal advice
21 regarding Missouri statutes and what would be
22 lawful in Missouri in terms of a rate that provided
23 an advantage to one group of customers and not to
24 others.

25 That's all I have. Thank you.

1 JUDGE DIPPELL: Any questions?

2 CHAIRMAN HALL: Yeah. Is OPC aware
3 of any relationship between ability to use a credit
4 card and the existence of bad debt?

5 MS. SHEMWELL: No.

6 CHAIRMAN HALL: Logically, is there a
7 relationship?

8 MS. SHEMWELL: There could be.

9 CHAIRMAN HALL: And if there is such
10 a relationship, does that not provide a reasonable
11 basis for discrimination? Because as you know, it
12 is not prohibited to discriminate between
13 ratepayers. There just can't be undue
14 discrimination. So if there's a reasonable basis
15 for it, doesn't that -- doesn't that make it legal?

16 MS. SHEMWELL: I would say if there
17 were a reasonable basis, but I also believe that if
18 Laclede sent out stamped envelopes for customers to
19 make their payments, that also helps. Anything
20 that helps the customer --

21 CHAIRMAN HALL: Would OPC be
22 supportive of including the cost of those stamped
23 envelopes to go into rates?

24 MS. SHEMWELL: If customers are going
25 to pay, all customers are going to pay to assist

1 other customers in paying their bills, then that
2 would be less discriminatory. This particular
3 credit card fee we believe is higher than a stamp,
4 and the customers who are not using it should not
5 pay. We believe it's undue I think is my answer to
6 you.

7 CHAIRMAN HALL: Thank you.

8 JUDGE DIPPELL: All right. We are
9 ready then for our first witness on this topic.
10 Begin with Spire.

11 MR. ZUCKER: Spire calls Michael
12 Noack.

13 (Witness sworn.)

14 MICHAEL NOACK testified as follows:

15 DIRECT EXAMINATION BY MR. ZUCKER:

16 Q. Good morning, Mr. Noack.

17 A. Good morning.

18 Q. Could you please spell your name for
19 the record.

20 A. Yes. It's Michael Noack, N-o-a-c-k.

21 Q. And who are you employed by?

22 A. I'm employed by Spire.

23 Q. And what is your role there?

24 A. I'm a Director of Regulatory Affairs.

25 Q. And are you the same Michael R. Noack

1 who filed direct testimony in this case on
2 April 11th and surrebuttal testimony on this
3 particular issue on November 21st?

4 A. Yes, I am.

5 Q. Okay. And did you also file along
6 with your direct testimony Schedule H17 pertaining
7 to credit cards?

8 A. Yes.

9 Q. And if I asked you the same questions
10 contained in your direct and surrebuttal testimony
11 today, would your answers be the same?

12 A. Yes, they would.

13 Q. Do you have any changes?

14 A. I do have a correction to my
15 surrebuttal schedule. It's Schedule MRN-S1. I had
16 a calculation error on there. I apologize. The
17 first number that needs to be changed is on line --
18 the second line 22. Under total payments, instead
19 of 1,505,458, the number should be 1,773,963. And
20 the next change on the last line number 22 would --
21 instead of 1,057,932, it should be 1,246,619.

22 Q. Okay. And do you have any other
23 changes?

24 A. No, I do not.

25 Q. And with those changes that you just

1 **made, if I asked you the same questions contained**
2 **in those testimonies, would your answers be the**
3 **same?**

4 A. They would.

5 **Q. And are they true and correct to the**
6 **best of your knowledge and belief?**

7 A. Yes, they are.

8 MR. ZUCKER: This witness will be
9 back again next week for more, so I will not offer
10 his testimony at this time.

11 JUDGE DIPPELL: Okay. Now, he does
12 have another --

13 MR. ZUCKER: He's got rebuttal
14 testimony.

15 JUDGE DIPPELL: -- item of testimony
16 or rebuttal testimony. Do you want to go ahead and
17 just run through the questions on that, if there's
18 any corrections, and that way we don't have to
19 worry about doing it a second time next week?

20 BY MR. ZUCKER:

21 **Q. Mr. Noack, did you file rebuttal**
22 **testimony in this case?**

23 A. Yes, I did.

24 **Q. And that was on October 17th?**

25 A. Yes.

1 Q. Did you file any other rebuttal
2 testimony?

3 A. No.

4 Q. And do you have any changes to that
5 testimony?

6 A. No, I do not.

7 Q. And if I asked you the same questions
8 written in that testimony, would your answers be
9 the same?

10 A. Yes.

11 Q. And are they true and correct to the
12 best of your knowledge and belief?

13 A. Yes.

14 MR. ZUCKER: I offer that into
15 evidence for your delayed reaction.

16 JUDGE DIPPELL: We'll take that next
17 week, but I just wanted to do that on the off
18 chance that you-all should settle that issue, that
19 we don't have to worry about it. So those are
20 marked as Exhibits 28 for the direct, 29 for the
21 rebuttal and 30 for the surrebuttal. Thank you.

22 MR. ZUCKER: I have that also, your
23 Honor. Tender the witness for cross.

24 JUDGE DIPPELL: Is there
25 cross-examination by Staff?

1 MS. PAYNE: No questions. Thank you.

2 JUDGE DIPPELL: Public Counsel?

3 MS. SHEMWELL: Thank you.

4 CROSS-EXAMINATION BY MS. SHEMWELL:

5 Q. Good morning, Mr. Noack.

6 A. Good morning.

7 Q. I hear this may be your last Laclede
8 rate case.

9 A. It might be my last any rate case, I
10 hope.

11 Q. It will definitely be my last Laclede
12 rate case.

13 You represent both Laclede and MGE on
14 the credit card issue, right? Your testimony
15 covered both?

16 A. Yes.

17 Q. For Laclede, did you propose any
18 adjustment to reduce Laclede's bad debt because
19 customers used credit cards?

20 A. No, I did not in this case.

21 Q. How about reduction of cash working
22 capital?

23 A. No.

24 Q. Did, in fact, use of credit cards in
25 MGE reduce bad debt?

1 A. In looking back over the five years
2 since we implemented it, it appears that bad debts
3 did decrease somewhat, but whether or not that was
4 directly related to the credit cards, we didn't do
5 a study.

6 MS. SHEMWELL: Thank you. That's all
7 I have.

8 JUDGE DIPPELL: Thank you. Is there
9 cross-examination by Environmental Defense Fund?

10 MS. KARAS: No questions, your Honor.

11 JUDGE DIPPELL: And is there any
12 questions from the Bench?

13 CHAIRMAN HALL: Just a few.

14 QUESTIONS BY CHAIRMAN HALL:

15 **Q. Good morning.**

16 A. Good morning.

17 **Q. Do you believe that allowing**
18 **customers to pay by credit card -- do you believe**
19 **that allowing customers to pay by credit card**
20 **constitutes good service?**

21 A. Yes, I do.

22 **Q. Why do you say that?**

23 A. Well, because, first of all, it's a
24 payment that we make available to them, but then if
25 we want them to actually use that payment, we

1 charge them for it. And we would rather -- I mean,
2 we'd really rather have them make that payment if
3 at all possible, to pay by credit card. We get the
4 cash quicker. Probably that debt goes to the
5 credit card company as opposed -- we wouldn't have
6 to deal with bad checks.

7 **Q. So is there some administrative**
8 **efficiency for the company to allow customers to**
9 **pay by credit card?**

10 A. Probably -- I think so. I mean, over
11 time there are more and more E-bills that are being
12 sent out, and with those E-bills they're able to
13 pay by credit card or by E-check and the like, and
14 we don't have to send bills in the mail.

15 **Q. Do you believe that there is some**
16 **relationship between offering credit card payment**
17 **options to customers and the amount of bad debt for**
18 **the company?**

19 A. As I answered Ms. Shemwell, I think
20 looking at the history at MGE, it took some time,
21 but it appears that bad debts were low -- have
22 lowered since we've taken in credit cards.

23 **Q. And what's the logic for drawing that**
24 **conclusion?**

25 A. Just looking at as the credit cards

1 ramped up and over time, I think it was the 2009
2 case we asked the Commission to allow us the cost
3 of 228,000 credit card payments at 3.50 per
4 payment. Going into the case, we were able to
5 negotiate a rate decreased from 4.75 that the
6 customers were paying to charging us 3.50 if we
7 would do it, and we did it. And it was part of a
8 settlement, but we started picking up that cost.

9 In looking -- and then the next year
10 that number ramped up probably maybe 10 to
11 15 percent. But by 2012 it was probably three
12 times the amount of payments that we were getting
13 in credit cards. And looking back at the bad
14 debts, they were going down. They were up in the
15 7, 8, 9 million dollar range, and they came down
16 some to in the 5, 6 million dollar range.

17 Now, again, we didn't -- we haven't
18 done a study that said, you know, the decline in
19 bad debt is solely due to credit card payments. I
20 mean, there were warm winters in there. So there's
21 a lot of different things that go into the bad
22 debt.

23 **Q. But do you believe that there is a --**
24 **math aside, that there is a logical reason why**
25 **offering credit card payment would decrease the**

1 **likelihood of uncollectibles?**

2 A. Probably because, especially if
3 someone's paying with, for example, a prepaid debit
4 card, that money's on the card, and if it gets paid
5 to us, we're going to get that money, where if they
6 pay by check, it could be a bad check and, you
7 know, it gets stopped and we don't get that money.
8 So yes, if it gets paid with a credit card, I
9 believe we'll get that money.

10 CHAIRMAN HALL: Thank you.

11 JUDGE DIPPELL: Are there any other
12 questions? All right. Is there further
13 cross-examination based on Commissioner Hall's
14 questions from Staff?

15 MS. PAYNE: No questions.

16 JUDGE DIPPELL: From Public Counsel?

17 MS. SHEMWELL: Thank you.

18 RE-CROSS-EXAMINATION BY MS. SHEMWELL:

19 Q. **I'm looking at Mr. Kunst's chart on**
20 **page 20. Are you familiar with that?**

21 A. Yes, I am.

22 Q. **And he was showing in 2012 the credit**
23 **card usage was 14 percent. Do you agree that I**
24 **have stated that correctly, it went from 4 percent**
25 **in 2008 to 14 percent in 2012?**

1 A. The number of credit card
2 transactions more than tripled, yes.

3 **Q. But it was -- the top number was**
4 **14 percent?**

5 A. Well, the top number --

6 **Q. The top number was 14 percent?**

7 A. -- reflects it's 14 percent of the
8 number of customers.

9 **Q. Yes. Thank you.**

10 A. Number of bills.

11 **Q. So since you've said there's**
12 **administrative efficiency, has Laclede proposed any**
13 **adjustment or has MGE proposed any adjustment for**
14 **administrative efficiency?**

15 A. No.

16 **Q. What about for E-filing, any**
17 **adjustment there?**

18 A. No.

19 **Q. Do all of your customers have access**
20 **to a computer where they can get their bills**
21 **electronically?**

22 A. I don't have any idea. I would
23 imagine probably not, but I don't know that.
24 Anybody -- even if they don't have a computer, they
25 can go to the library and get --

1 Q. If they're able to get to the
2 library?

3 A. That's true.

4 Q. Settlements specifically say that
5 parties aren't bound by the agreements and
6 stipulations because there's a lot of give and take
7 when stipulations are entered into and you may give
8 one issue to get another issue?

9 MS. PAYNE: I object. This has
10 nothing to do with what the Chairman asked about.

11 MS. SHEMWELL: But his response
12 involved settlement in a past case.

13 MS. PAYNE: I don't understand how an
14 issue that's not settled reflects -- is affected by
15 a settlement in a past case.

16 JUDGE DIPPELL: Ms. Shemwell, would
17 you repeat your question?

18 MS. SHEMWELL: I was asking him about
19 settlements in general. He mentioned that
20 settlements were -- that this issue was settled in
21 prior cases. And the point I'm trying to make is
22 that just because parties settled on an issue in a
23 settlement doesn't mean that they're bound.

24 JUDGE DIPPELL: What was your
25 question to him?

1 MS. SHEMWELL: I guess my question
2 is, might a party agree to an issue in a settlement
3 with which they would later disagree?

4 JUDGE DIPPELL: I'll allow it. Go
5 ahead. The witness may answer.

6 THE WITNESS: To my knowledge, any
7 settlement that I've been involved with, the next
8 case it was not disagreed to or retracted, no. So
9 the answer is no.

10 BY MS. SHEMWELL:

11 Q. That they are not bound?

12 A. That isn't the question, I think,
13 that you asked me.

14 Q. Okay. I'm --

15 MR. ZUCKER: Your Honor, we're
16 willing to stipulate that in a black box settlement
17 and the way we do settlements each party can have
18 their own version of what they're settling for and
19 each party can do something different in the next
20 case, if that helps.

21 MS. SHEMWELL: Thank you for
22 restating that, Mr. Zucker. Thank you very much.
23 Thank you, Mr. Noack.

24 JUDGE DIPPELL: Is there anything
25 from Environmental Defense Fund?

1 MS. KARAS: No questions.

2 JUDGE DIPPELL: Is there redirect by
3 Spire?

4 MR. ZUCKER: Yes, your Honor.

5 REDIRECT EXAMINATION BY MR. ZUCKER:

6 Q. You were -- Mr. Noack, you were asked
7 by Ms. Shemwell if MGE had made any adjustment to
8 their rates for administrative efficiency. Do you
9 recall that?

10 A. Yes.

11 Q. Okay. And MGE started their credit
12 card fee process about seven years ago; is that
13 right?

14 A. It began in 2010, correct.

15 Q. And so would those administrative
16 efficiencies already be captured in rates by
17 customers?

18 A. By now, yes, they would be.

19 Q. Commissioner Hall asked you about
20 whether credit card payments, allowing customers to
21 make credit card payments might lower
22 uncollectibles. Do you recall that?

23 A. Yes.

24 Q. If a customer was unable to come up
25 with the money to pay the bill but was able to

1 charge it on a charge card, in essence getting
2 credit to pay the bill, that might lower our
3 uncollectibles, might it not?

4 A. Yes.

5 MR. ZUCKER: That's all I have.

6 Thank you.

7 JUDGE DIPPELL: Thank you.

8 Mr. Noack, you may step down. Next witness is from
9 Staff.

10 (Witness sworn.)

11 JUDGE DIPPELL: Thank you. You may
12 ahead, Ms. Payne, when you're ready.

13 MS. PAYNE: Thank you.

14 JASON KUNST testified as follows:

15 DIRECT EXAMINATION BY MS. PAYNE:

16 Q. Would you please state and spell your
17 name for the court reporter.

18 A. It's Jason Kunst. It's K-u-n-s-t.

19 Q. And by whom are you employed and what
20 is your position?

21 A. I'm employed by the Missouri Public
22 Service Commission as a Utility Regulatory Auditor.

23 Q. And did you prepare or cause to be
24 prepared direct and surrebuttal testimony in this
25 proceeding?

1 A. Yes, I did.

2 Q. Do you have any corrections to make
3 to your testimony regarding credit card fees at
4 this time?

5 A. No, I do not.

6 Q. Thank you. And are the answers
7 contained in that testimony true and correct to the
8 best of your knowledge and belief?

9 A. They are.

10 Q. And if I were to ask you the same
11 questions today, would your answers be the same?

12 A. They would be.

13 MS. PAYNE: All right. Thank you.
14 Judge, this witness will be testifying again later
15 in this case, so I will wait to move for admission
16 of his testimony until that time.

17 JUDGE DIPPELL: All right.

18 MS. PAYNE: And with that, I tender
19 this witness for cross.

20 JUDGE DIPPELL: And I have his
21 surrebuttal marked as 250 confidential and 251 is
22 the public version.

23 MS. PAYNE: Correct.

24 JUDGE DIPPELL: And direct --

25 MS. PAYNE: Is part of the Cost of

1 Service Report, which is labeled as Exhibit 4 in
2 this matter.

3 JUDGE DIPPELL: Okay. 204.

4 MS. PAYNE: 204. I'm sorry.

5 JUDGE DIPPELL: I'll just caution the
6 witness that if we get into territory that is
7 confidential, I don't know if any of your testimony
8 on this particular part is confidential, but please
9 let us know. We can always go in-camera if we need
10 to.

11 THE WITNESS: Okay.

12 JUDGE DIPPELL: Is there any
13 cross-examination by Public Counsel?

14 MS. SHEMWELL: Thank you.

15 CROSS-EXAMINATION BY MS. SHEMWELL:

16 Q. Good morning, Mr. Kunst.

17 A. Good morning.

18 Q. On page 20 of your surrebuttal, at
19 line 15, you noted that the methodology proposed by
20 Mr. Noack does not take into account the reality of
21 the level of transactions that are actually
22 occurring and in turn would build in an
23 inappropriately high level of expense. Are you
24 there, sir?

25 A. Yeah, I'm there.

1 **Q. Has Laclede changed that? Has**
2 **Mr. Noack changed that?**

3 A. Yes. He changed his position in
4 surrebuttal to include a -- the base percentage or
5 the -- a ramp-up by an increased percentage each
6 year, and then he averaged out and came to a new
7 transaction level.

8 **Q. Is that methodology acceptable to**
9 **you?**

10 A. No. I think it doesn't take into
11 account any other factors that are going to occur
12 with that level. There's -- there could be an
13 impact, a CWC, an impact with uncollectibles, bad
14 debt, ACH fees. There could be other fees that are
15 paid by the company for other forms of payment that
16 might not -- or they're not re-- that are not
17 picked up in that. It's not match-- it violates
18 the matching principle. He doesn't include every
19 other revenue and expense when he goes out to that
20 level.

21 We think it's more practical to look
22 at the actual transactions that are happening at
23 the most recent information available.

24 **Q. Is it reasonable to propose an**
25 **adjustments for bad debt if credit card fee are**

1 covered -- if credit card fees are covered, would
2 it be reasonable to propose an adjustment to bad
3 debt if it reduced bad debt?

4 A. We don't know the impact of that.

5 Q. So you haven't quantified that?

6 A. No, there's no quantification of
7 that.

8 MS. SHEMWELL: Thank you. That's all
9 I have.

10 JUDGE DIPPELL: Is there anything
11 from Environmental Defense Fund?

12 MS. KARAS: No questions, your Honor.

13 JUDGE DIPPELL: Spire?

14 MR. ZUCKER: Thank you, your Honor.
15 Permission to approach? I have an exhibit.

16 JUDGE DIPPELL: You may.

17 MR. ZUCKER: Can I mark this exhibit?

18 JUDGE DIPPELL: Yes.

19 MR. ZUCKER: I guess we had 55 or 56.

20 JUDGE DIPPELL: 56 is the next.

21 (SPIRE EXHIBIT 56 WAS MARKED FOR
22 IDENTIFICATION BY THE REPORTER.)

23 CROSS-EXAMINATION BY MR. ZUCKER:

24 Q. How do you pronounce your last name?

25 A. Kunst.

1 Q. Okay. Mr. Kunst, can you tell me
2 what I just handed you?

3 A. You did not hand it to me.

4 Q. Can you guess what I'm about to hand
5 you?

6 (Laughter.)

7 Let me ask that question again. Can
8 you identify what I've just handed you?

9 A. It is a document from the National
10 Association of State Utility Consumer Advocates
11 urging utilities to eliminate convenience fees for
12 paying utility bills with debit and credit cards.

13 Q. And I think in the title there you
14 identified what it's about. Can you read from, on
15 the third page, the long paragraph in about the
16 middle of the page?

17 A. Be it further resolved that state
18 public utility commissions are urged to exercise
19 their jurisdiction as necessary and appropriate so
20 as to accomplish the public policy objective that
21 consumers be given an ability to make direct
22 payment of utility bills by debit or credit card
23 without unjustified convenience fees and are urged
24 in particular to include as part of their
25 ratemaking activities and as needed a comparative

1 review of the costs associated with processing
2 payments to utilities by debit or credit card and
3 the cost associated with processing payments to
4 utilities by other means, including traditional
5 check, and to provide and as needed such oversight
6 and direction as to the reasonableness of utility
7 payment accepted policies and practices as may be
8 necessary to advance the public policy objective
9 here stated.

10 **Q. Okay. And when was this resolution**
11 **approved?**

12 **A.** It was approved in November 13 of
13 2012.

14 **MR. ZUCKER:** I offer to enter this
15 into evidence.

16 **JUDGE DIPPELL:** Would there be any
17 objection to Exhibit No. 56?

18 **MS. PAYNE:** Judge, I don't wish to
19 object at this time, but I would ask to reserve
20 some time to review the document before we accept
21 it. Would it be possible to take this up Monday
22 morning before we begin?

23 **JUDGE DIPPELL:** We can do that.

24 **MS. PAYNE:** Thank you.

25 **JUDGE DIPPELL:** Did you have further

1 questions?

2 MR. ZUCKER: Yes, I did. Thank you,
3 your Honor.

4 BY MR. ZUCKER:

5 Q. Do you have Mr. Noack's surrebuttal
6 testimony with you?

7 A. Yes, I do.

8 Q. So at the bottom of page 4, Mr. Noack
9 said that, upon further reflection, it's more
10 likely that there will be an increase over a period
11 of years. Is that a good summary of that?

12 A. Yes.

13 Q. Okay. And at the same time, you were
14 filing your surrebuttal testimony, correct?

15 A. That's correct.

16 Q. And on page 19 of that testimony you
17 said, Mr. Noack's method does not account for the
18 gradual ramp-up of the credit/debit card payments
19 over time. Did I state that correctly?

20 A. That's correct.

21 Q. So you and Mr. Noack came up with the
22 same idea at the same time; is that true?

23 A. I don't know when Mr. Noack came up
24 with it.

25 Q. Would you agree with me that great

1 minds think alike?

2 A. Potentially.

3 Q. And on the top of page 20 you have a
4 chart of how MGE's credit card -- the credit card
5 usage in MGE's territory, correct?

6 A. That's correct.

7 Q. And 2009 would be kind of the test
8 year, the year prior to the increase?

9 A. Yeah. That's correct. That's the
10 year before the implement -- before MGE took on the
11 credit card payments.

12 Q. Okay. And in 2010, the number
13 roughly doubled; is that correct?

14 A. That's correct.

15 Q. Now, you say on lines 4 and 5 on
16 page 20, you say in 2011 and 2012 the number of
17 customers using credit cards increased slightly.
18 And what did you mean by that?

19 A. It went up a small -- it was such a
20 small percentage. 2 percent is not a great
21 increase in the customer account that would --
22 that's using that methodology or, you know,
23 4 percent, 2 percent, it's not the increase that
24 Mr. Noack prepared in his direct testimony where it
25 would go from 10 percent to 30 percent.

1 Q. Okay. So you're saying it would ramp
2 up over a longer period of time?

3 A. That's correct.

4 Q. But it did in a period of three years
5 more than triple, though, would you agree with me?

6 A. I would agree.

7 Q. And in your estimation, the amount to
8 put in rates is based on the current usage; is that
9 correct?

10 A. Yes, the current as of 9/30/17, that
11 12 months.

12 Q. Would you say that there is going to
13 be an increase in credit cards once customers don't
14 have to pay for them?

15 A. It's possible it could increase.
16 However, with any other cost where there's an
17 increasing trend, Staff takes the most recent
18 information available, and Staff views this as no
19 different.

20 Q. Do you believe as a matter of
21 personal incentive that people will tend to use
22 more of a service when it's free than when it costs
23 money?

24 A. I think that would depend on the
25 service.

1 Q. How about credit card payments?

2 A. I don't know.

3 Q. Did you see the adjustment that
4 Mr. Noack made in introducing his testimony today?

5 A. Yes, I did.

6 Q. And do you agree with that
7 adjustment?

8 A. No, I do not.

9 Q. Well, do you agree with it
10 numerically?

11 A. I'd have to look at the -- I'd have
12 to go back and look at the calculation, but I
13 would -- I don't know without looking at the
14 calculation on a calculator or a spreadsheet.

15 MR. ZUCKER: Okay. I don't have any
16 more questions. Thank you.

17 JUDGE DIPPELL: Thank you. Any
18 questions from the Bench?

19 QUESTIONS BY CHAIRMAN HALL:

20 Q. Good morning?

21 A. Good morning.

22 Q. How would you characterize OPC's
23 position on this issue?

24 A. I think they're taking more of a
25 legal stand on it, and I'm not an attorney, so I

1 can't really address their position on it.

2 **Q. I'm not asking you to speculate on**
3 **the legitimacy of it. I'm just asking you to**
4 **describe the position.**

5 A. Their position is, I would suggest
6 that it's -- they're suggesting that it's a subsidy
7 for higher income ratepayers who want to pay with
8 credit or debit cards.

9 **Q. Well, my understanding of OPC's**
10 **position is that the ratepayer who causes the cost**
11 **should pay the cost. Is that in essence what OPC's**
12 **position is?**

13 A. I would say that's correct.

14 **Q. Are you aware of whether this**
15 **commission has ever taken that position in any rate**
16 **case?**

17 A. None that I'm aware of, or I don't
18 know.

19 **Q. Do you know if that position has ever**
20 **been presented to the Commission before?**

21 A. I don't know.

22 CHAIRMAN HALL: Okay. Thank you.

23 JUDGE DIPPELL: Any other

24 Commissioner questions?

25 All right. Is there any further

1 cross-examination based on Chairman Hall's
2 questions from Public Counsel?

3 MS. SHEMWELL: No, thank you.

4 JUDGE DIPPELL: Environmental Defense
5 Fund?

6 MS. KARAS: No questions.

7 JUDGE DIPPELL: Spire?

8 MR. ZUCKER: No questions.

9 JUDGE DIPPELL: Is there redirect by
10 Staff?

11 MS. PAYNE: Yes. Thank you.

12 REDIRECT EXAMINATION BY MS. PAYNE:

13 Q. Mr. Kunst, Chairman Hall asked you if
14 the Commission has taken a position similar to
15 OPC's in the past. Has the Commission approved
16 credit card fees in past cases?

17 A. I know they were stipulated to in the
18 MGE case. They approved that stipulation. And
19 KCPL got them in Case No. ER-2006-0314. They
20 proposed credit card fees, and reviewing that
21 testimony, I don't believe any party objected to
22 KCPL's treatment in that case.

23 Q. Thank you. Now, you were asked
24 about -- by Mr. Zucker about the projected costs
25 that credit card fees may incur in the future

1 should they be approved. Does Staff generally use
2 a known and measurable standard when calculating
3 its recommendations?

4 A. Yes, we do.

5 Q. Would you say that these future
6 credit card fees are known and measurable?

7 A. No, they would not be known and
8 measurable.

9 Q. Thank you. You were asked several
10 questions about your surrebuttal testimony,
11 specifically the chart that is featured on page 20.
12 Could you do me a favor and explain what exactly is
13 reflected in that chart?

14 A. Yes. That's the -- it is the by
15 year. It shows the gradual ramp up of the credit
16 fees by MGE, well, credit and debit card usage by
17 MGE customers. It's just residential customers.
18 There's no option for commercial and industrial
19 customers to pay at this time. My understanding is
20 it would raise the cost too much for the -- the
21 average transaction fee would go up. It's the
22 number of transactions, the -- it's the percentage
23 of customers who use that method of payment.

24 Q. Thank you. Are you familiar with the
25 National Association of State Consumer Advocates

1 article that Mr. Zucker handed you?

2 A. No. This is my first time seeing it.

3 Q. Okay. Thank you. And just to
4 clarify, you were asked about the relationship
5 between credit card fees and bad debt. Is Staff
6 proposing any adjustments to bad debt in this case
7 to account for credit card fees for MGE?

8 A. No, we're not.

9 Q. Do we anticipate making such
10 adjustments?

11 A. We'll have to look at it in a future
12 case to see the impact of credit card fees.

13 MS. PAYNE: Thank you. That's all I
14 have.

15 JUDGE DIPPELL: Thank you. I believe
16 that will be all for you for now, Mr. Kunst. You
17 may step down.

18 Next witness is from Public Counsel.

19 MS. SHEMWELL: Public Counsel calls
20 Amanda Conner.

21 (Witness sworn.)

22 AMANDA CONNER testified as follows:

23 DIRECT EXAMINATION BY MS. SHEMWELL:

24 Q. Mrs. Conner, please state your name
25 and spell your name for the court reporter.

1 A. Amanda C. Conner, C-o-n-n-e-r.

2 Q. Thank you. Where do you work?

3 A. Missouri Office of Public Counsel.

4 Q. What do you do for the Public
5 Counsel?

6 A. Public utility accountant.

7 Q. Have you prepared testimony in this
8 case?

9 A. Yes, I have.

10 Q. And that includes direct testimony,
11 which I have marked as Exhibit 402. Since we've
12 been looking at different numbers, I have not
13 marked rebuttal or surrebuttal.

14 JUDGE DIPPELL: I have rebuttal
15 marked as 409 and surrebuttal marked as 417.

16 MS. SHEMWELL: Thank you.

17 BY MS. SHEMWELL:

18 Q. Did you prepare this testimony?

19 A. Yes.

20 Q. Do you have any corrections to your
21 testimony?

22 A. Yes. I need to make corrections on
23 my surrebuttal testimony.

24 Q. And what's the first correction?

25 A. First correction is page 5, line 16.

1 Need to change 2016 annual report to company work
2 paper H17.

3 **Q. Annual report changes to?**

4 A. I'm sorry. What?

5 **Q. The phrase annual report changes to**
6 **what?**

7 A. Company work paper H17.

8 **Q. And your next?**

9 A. Page 5, line 16, change 511,814 to
10 447,033.

11 **Q. Others?**

12 A. Yeah. On that same page, page 5,
13 line 16, change 25 percent to 30 percent.

14 **Q. Do you have another one?**

15 A. Page line -- or I'm sorry. Page 5,
16 line 17, change 51,181 to 44,703.

17 **Q. Yes, ma'am.**

18 A. Page 5, line 19, change 65,057 to
19 60,175. Page 6, line 1, change 106,489 to 104,878.
20 And page 6, line 3, change 25 percent to
21 30 percent.

22 **Q. Is that the end of your corrections?**

23 A. Yes.

24 **Q. Any other corrections?**

25 A. No.

1 **Q. With those corrections, if I were to**
2 **ask you the same questions today, would your**
3 **answers be the same?**

4 A. Yes.

5 **Q. Is your testimony true and correct to**
6 **the best of your knowledge and belief?**

7 A. Yes.

8 MS. SHEMWELL: Judge, I tender the
9 witness for cross. Thank you.

10 JUDGE DIPPELL: Thank you. Is there
11 cross-examination from Staff?

12 MS. PAYNE: No questions. Thank you.

13 JUDGE DIPPELL: From Environmental
14 Defense Fund?

15 MS. KARAS: No questions.

16 JUDGE DIPPELL: From Spire?

17 MR. ZUCKER: Just a few, your Honor.

18 CROSS-EXAMINATION BY MR. ZUCKER:

19 **Q. Good morning, Ms. Conner.**

20 A. Good morning.

21 **Q. So your position in your rebuttal**
22 **testimony is that basically people should pay for**
23 **the fees they cause, correct?**

24 A. Correct.

25 **Q. And so if you are paying with a**

1 credit card, let's say Mr. A is paying with a
2 credit cart. Mr. A should pay the credit card fee?

3 A. That's correct.

4 Q. And Mr. B, he's writing a check and
5 putting it in the mail with a stamp. Mr. B should
6 pay for his own stamp?

7 A. That is correct.

8 Q. When we -- when MGE or Laclede sends
9 a bill to someone, do they not send an envelope
10 along with the bill?

11 A. I do not have the answer for that.

12 Q. Do you have gas service yourself?

13 A. No.

14 Q. All electric?

15 A. No. I have propane. I live in the
16 country.

17 Q. All right. If Laclede was sending an
18 envelope with the bill and that envelope would be
19 in rates, would you say that that's socialization?

20 A. I do not know.

21 Q. Why not?

22 MS. SHEMWELL: She's answered the
23 question.

24 THE WITNESS: I do not know.

25 MS. SHEMWELL: Asked and answered.

1 JUDGE DIPPELL: He asked why she
2 couldn't explain.

3 THE WITNESS: I don't have an answer.
4 I'm sorry. I don't know the answer to that.

5 MR. ZUCKER: Okay. I'll accept that.
6 BY MR. ZUCKER:

7 Q. When a customer -- let's take
8 customer C now. We'll call her Ms. C. Not
9 necessarily you. Customer C pays with electronic,
10 makes an electronic payment. Customer A is still
11 sending in the check in the envelope with the
12 stamp. Which of those two do you think is more
13 expensive to process?

14 A. I do not know the answer to that.

15 Q. You don't know if the manual
16 processing of a letter coming in the mail is
17 cheaper or more expensive than an electronic
18 payment?

19 A. I didn't look at that information, so
20 I do not know.

21 Q. What does it mean to be unbanked?

22 A. One moment. I pulled up from the
23 Federal Reserve Bank of St. Louis, and the word
24 unbanked is an umbrella term used to describe a
25 diverse group of individuals who do not use banks

1 or credit unions for their financial transactions.
2 There's several reasons for that, poor credit
3 history, outstanding issues from prior banking
4 relationships, lack of understanding of U.S.
5 banking systems, negative or prior experience with
6 banks, language barriers for immigrants and res--
7 immigrant residents, lack of appropriate
8 identification needed to open a banking account, or
9 living paycheck to paycheck due to limited and
10 unstable income.

11 **Q. Okay. And just without giving the**
12 **reasons, can you tell me the definition of**
13 **underbanked?**

14 A. That is consumers that may have a
15 checking or savings account but they also rely on
16 alternative financial services. That's the
17 definition.

18 **Q. Okay. And if someone is unbanked,**
19 **aren't they likely to pay their bills, such as**
20 **their gas bills, by buying a debit or credit card?**

21 MS. SHEMWELL: Calls for speculation.

22 MR. ZUCKER: I would like her to
23 speculate.

24 JUDGE DIPPELL: Could you rephrase
25 your question?

1 MR. ZUCKER: Yes.

2 BY MR. ZUCKER:

3 Q. Do you know how people who are
4 unbanked pay their -- would pay a utility bill?

5 A. There could be several ways to do
6 that. You could do a money order, a cashier's
7 check. You could buy -- I mean, if they wanted to
8 pay the fee, they could buy a debit card. Those
9 are usually a higher fee than doing a money order,
10 cashier's check or going through -- I know that you
11 guys have, like, you can go to -- I'm sorry. For
12 MGE they can go to Hy-Vee to make a payment. So
13 they may make it in cash. That would be my
14 speculation on the different ways that you would
15 pay.

16 Q. So if they were to buy a debit card,
17 you indicated that there's a fee for that?

18 A. There usually -- in a prepaid debit
19 card, there usually is a fee for that.

20 Q. Do you have any idea how much that
21 fee is?

22 A. No.

23 Q. Okay. So someone paying with a
24 prepaid debit card would pay a fee to get the debit
25 card, and then under the OPC's socialization they

1 would then also pay a fee to make the credit card
2 payment, is that correct, in that scenario I just
3 described?

4 A. In that scenario, that would be
5 correct.

6 Q. Did you get a copy of the NASUCA
7 resolution I handed out?

8 A. No.

9 Q. Are you familiar with this?

10 A. No.

11 Q. You have never seen it before?

12 A. No.

13 Q. Just jumping to a conclusion.

14 Assuming that what it means is that NASUCA urges
15 utility commissions to have utilities provide free
16 debit and credit card service --

17 MS. SHEMWELL: I'm going to object.
18 Asking Ms. Conner to assume something from a
19 document she has just seen at this moment is an
20 improper question.

21 MR. ZUCKER: Well, should I give her
22 a minute to read it?

23 MS. SHEMWELL: This is a document
24 with multiple pages. It may take her 15 minutes to
25 read it.

1 BY MR. ZUCKER:

2 Q. Okay. Let me short circuit that
3 then. Is OPC a member of NASUCA?

4 A. I do not know.

5 MR. ZUCKER: Okay. That's all the
6 questions I have. Thank you.

7 JUDGE DIPPELL: Thank you. Is there
8 questions from the Commissioners for Ms. Conner.

9 CHAIRMAN HALL: Briefly.

10 QUESTIONS BY CHAIRMAN HALL:

11 Q. Good morning.

12 A. Good morning.

13 Q. Are you aware of whether or not OPC
14 has ever taken this position in any prior rate
15 case?

16 A. I'm not.

17 Q. You are not?

18 A. I don't know if they have.

19 CHAIRMAN HALL: Okay. Thank you.

20 JUDGE DIPPELL: Any other questions?

21 Commissioner Coleman.

22 QUESTIONS BY COMMISSIONER COLEMAN:

23 Q. Good morning.

24 A. Good morning.

25 Q. Does your data happen to provide you

1 with information as far as where the St. Louis
2 metropolitan area's standing is or rating is as far
3 as being banked or unbanked or underbanked?

4 A. When I had started the analysis, the
5 unbanked and underbanked for St. Louis was I
6 believe 9.7 percent.

7 Q. That's for unbanked and underbanked?

8 A. Yes.

9 COMMISSIONER COLEMAN: Thank you.
10 Thank you, Judge.

11 QUESTIONS BY JUDGE DIPPELL:

12 Q. I just have one question for you,
13 Ms. Conner. Do you know -- you mentioned that MGE
14 has, like, pay stations or ability for them to pay,
15 customers to pay at Hy-Vee. Do you know if MGE has
16 to pay Hy-Vee a fee or staff those locations?

17 A. From looking at MGE's website, it
18 states that there may be a fee charged to the
19 customer at those pay locations.

20 Q. And do you know how those fees are
21 currently accounted for in rates or not?

22 A. I do not -- I don't think they're in
23 the rates, but -- because the customer pays for it,
24 but I'm not sure on that.

25 JUDGE DIPPELL: Okay. Thank you. Is

1 there any additional cross-examination based on
2 questions from the Bench from Staff?

3 MS. PAYNE: No, thank you.

4 JUDGE DIPPELL: From Environmental
5 Defense Fund?

6 MS. KARAS: No questions.

7 JUDGE DIPPELL: From Spire?

8 MR. ZUCKER: Just real quickly, your
9 Honor.

10 RE-CROSS-EXAMINATION BY MR. ZUCKER:

11 Q. Ms. Conner, do you know if people who
12 are on government assistance receive a prepaid
13 debit card as their assistance payment?

14 A. I do not know.

15 MR. ZUCKER: Thank you.

16 JUDGE DIPPELL: Is there redirect
17 from OPC?

18 MS. SHEMWELL: Just briefly.

19 REDIRECT EXAMINATION BY MS. SHEMWELL:

20 Q. Mrs. Conner, you say -- you said the
21 reasons people are unbanked. What are the reasons
22 they are underbanked?

23 A. Underbanked, the most common groups
24 of underbanked are usually household families that
25 are living paycheck to paycheck. Let me --

1 **Q. Take your time.**

2 A. Okay. It gives for a lot -- a lot of
3 it is ethnic, is more of an ethnical reasoning for
4 it. Like for underbanked that would use money
5 orders, non-bank cashing services, payday loan
6 institutions, rent to own agreements or pawn shops,
7 it states in here blacks, Hispanics and Native
8 Americans are most likely Americans to be
9 underbanked.

10 **Q. Thank you. Where did you get that**
11 **information?**

12 A. This came from the Federal Reserve
13 Bank of St. Louis website.

14 MS. SHEMWELL: Thank you.

15 JUDGE DIPPELL: All right. I believe
16 that's all for you at this time, Ms. Conner. You
17 may step down.

18 And I think that that concludes
19 credit card processing fees, and we will be ready
20 to begin off-system sales and capacity release
21 credit sharing mechanism.

22 MS. PAYNE: Judge, actually the
23 parties have reached an agreement in principle
24 regarding off-system sales and capacity release,
25 unless somebody wants to dispute that. So to our

1 knowledge, that issue does not need to be heard at
2 this time.

3 JUDGE DIPPELL: Okay. Did the
4 Commissioners need to hear anything more about that
5 at this time, or do you want a recap of that
6 settlement at some other time? Can you give us a
7 brief summary of your settlement?

8 MR. PENDERGAST: Thank you very much.
9 Under our current off-system sale tariffs, we have
10 a sharing grid where you go to a certain level and
11 you share at a certain percentage, and then you go
12 to a different level and the percentage increases,
13 and you go to a third level and the percentage
14 increases. And those levels are different for MGE
15 and they're different for Laclede.

16 And what we proposed in this case was
17 to go ahead and just kind of take what we had been
18 allowed to retain under that off-system sale
19 formula over the last three years and said let's
20 just kind of replicate what that retention
21 percentage has been and let's go to a single
22 percentage, and we -- of 25 percent for the company
23 and 75 percent for the customers.

24 And we had proposed to go ahead and
25 just have both LAC and MGE accumulate those and

1 then go ahead and split it. I think the Staff
2 proposed they would like to keep that all within
3 MGE or all within Laclede. Whatever you earned
4 with your assets, Laclede, you get to keep for your
5 customers, and whatever you earn with your assets,
6 MGE, you get to keep for your customers.

7 We were fine with that and we agreed
8 to that, and so ultimately what the settlement is,
9 let's just go to the single 25 percent and let's go
10 ahead and keep what you make within the operating
11 companies. And that's what we'll be reflecting in
12 the Stipulation & Agreement.

13 JUDGE DIPPELL: Did you have any
14 questions, Commissioners?

15 COMMISSIONER KENNEY: What about the
16 GSIP?

17 MR. PENDERGAST: We have also gone
18 ahead and reached an agreement on the GSIP, which
19 we will be including in the Stipulation &
20 Agreement. And essentially that agreement is that
21 we're not going to make any changes to the GSIP at
22 this point, with one exception. We're bringing the
23 sharing bands or the ones that determine when you
24 can share under the GSIP, they were pretty high
25 based on old gas prices, and what we were doing was

1 bringing it to a level that was more consistent
2 with current market conditions. So I think we'd be
3 able to share between 3 dollars and 6.50 and --

4 COMMISSIONER KENNEY: Was it 4 and
5 8.99?

6 MR. PENDERGAST: Yeah, I think so.
7 So we had refused that. We had proposed that it be
8 actually 2.50 and 6.50, but as a result of our
9 settlement negotiations we said, okay, how about 3
10 and 6.50? And really, outside of that, we as part
11 of the negotiated settlement agreed that we
12 wouldn't make any other changes to the GSIP. We
13 agreed that we would not go ahead and propose to
14 extend it to MGE at this time.

15 But at the same time we would have a
16 proceeding or a working group process after this
17 case is over so that we could go ahead and sit down
18 with all interested parties and talk about what
19 should we really do for the future when it comes to
20 this particular mechanism, is there a better way to
21 go ahead and incent utility performance when it
22 comes to both procurement of gas supply and
23 transportation. And I think you'll also see that
24 reflected in the agreement.

25 COMMISSIONER KENNEY: Probably be the

1 only time I can ask this question. Can someone
2 explain to me what a capacity release sharing
3 mechanism is?

4 MR. PENDERGAST: Yeah. I mean, under
5 the off-system sales capacity release sharing,
6 there's two main ways that you produce additional
7 revenue relating to transactions you're doing with
8 customers that aren't your on-system customers.
9 One is to go ahead and bundle capacity that is
10 temporarily unneeded to serve your customers with
11 gas supply that you have access to but you don't
12 need immediately to serve your customers, bundle
13 those together and sell them to a customer off your
14 system. And under those circumstances you can
15 produce net margins in excess of the transportation
16 capacity cost, which is really nominal since it's
17 not being used, and the -- pardon me.

18 Well, that's the off-system sales I
19 was explaining, and then we have the capacity
20 release portion, and the capacity release is simply
21 a release of capacity under FERC rules where
22 somebody says I want to go ahead and, you know,
23 take the capacity that you have over here on MRT or
24 some other place you don't temporarily need it, you
25 post those, and people will bid on it, and the

1 margin that comes from that is also shared with
2 customers.

3 COMMISSIONER KENNEY: So is that --
4 so what happens if the market spikes and then you
5 have to replace that capacity?

6 MR. PENDERGAST: Well, you know,
7 we're under an obligation to make sure that we're
8 only using that capacity or we're only making an
9 off-system sale that's bundled with capacity when
10 it is truly available, and that if it is necessary
11 to go ahead and serve our native load customers, we
12 will not go ahead and be making those sales.

13 COMMISSIONER KENNEY: Thank you.

14 MS. KARAS: Your Honor, I just had
15 one point to make without delving into any
16 confidential settlement negotiations. I do not
17 want the record to reflect that all parties agree
18 to the process around the GSIP that Mr. Pendergast
19 has just outlined. That's conversation that's
20 still in flux, and I don't want the record to
21 reflect that.

22 MR. PENDERGAST: Yeah. I would agree
23 wholeheartedly with what Ms. Karas has said.
24 Exactly how that process will be designed and
25 structured is still a matter of discussion.

1 JUDGE DIPPELL: All right. Anything
2 further from Commission that you need to hear?

3 CHAIRMAN HALL: No. Thank you.

4 JUDGE DIPPELL: All right. Thank
5 you, Mr. Pendergast. Are we still then ready to do
6 income tax this morning?

7 MS. PAYNE: Yes.

8 JUDGE DIPPELL: Shall we just
9 continue in hopes that we can get that wrapped up
10 even before a lunch break? All right. Then I
11 think we can go ahead and do opening statements
12 about income taxes. Does Spire have an opening on
13 this issue?

14 MR. PENDERGAST: Thank you very much.
15 I believe really all of the issues relating to
16 taxes have been resolved in this case with the
17 exception of one, and quite frankly, I'm not really
18 sure where we are on that, but we'll learn more as
19 we go through the witnesses.

20 And the one issue that still is
21 lingering out there has to do with accumulated
22 deferred taxes and what appropriate amount should
23 be recognized in this case as a rate base offset.

24 And I'm sure the Commission from
25 other cases is well aware of what accumulated

1 deferred taxes are. They're basically the
2 difference between a tax liability or payment that
3 the utility has made and what it is allowed to
4 report for GAAP purposes, and the convention under
5 normal ratemaking practice is to take that
6 difference, accumulate it and defer it, hence the
7 name, and then in a rate case that amount is used
8 to offset rate base.

9 And there have been different
10 arguments over the years. Sometimes utilities have
11 said, well, I'm not earning a return on whatever
12 investment I made and I'm not getting any
13 depreciation on it, so why should I have to give
14 the benefit of the deferred taxes? But by and
15 large people have agreed that's the process that
16 you're supposed to use.

17 In this case, you know, we had a
18 change in policy several years ago. Most of the
19 time deferred taxes relate to items that you're
20 capitalizing and how you report that, but we took
21 some of our facilities and we went ahead and began
22 expensing them. And we disclosed that this was an
23 aggressive approach to trying to temporarily reduce
24 your tax liability.

25 And one of the issues that came to

1 light is that because it was a relatively new
2 approach, the traditional system we were using was
3 basically looking at capital items and tax
4 differences on that, didn't really pick that up.
5 And I want to give credit to OPC and I want to give
6 credit to Mr. Hyneman. They continued to ask
7 questions about this. You know, we thought that we
8 had been doing it the right way, but given that
9 persistence, we went ahead and we looked at it and
10 we did kind of a forensic analysis of it, and our
11 tax people ultimately determined, you know, we
12 should have included more in it.

13 And as soon as we concluded that and
14 quantified it, we told the Staff and we told OPC,
15 and what that did was lead to an additional \$100
16 million offset to rate base, thereabouts, and a \$10
17 million reduction in revenue requirement.

18 I don't want you to think that that's
19 particularly unusual because taxes tend to move
20 around a lot. I think shortly after Staff filed
21 its direct case, we found that there was an error
22 or misapplication of taxes that was worth about
23 \$25 million, and that went against it. Once you
24 corrected it, it actually reduced our revenue
25 requirement by \$25 million. And we promptly told

1 the Staff that, you know, we think maybe your case
2 is a little, you know, over what it ought to be
3 because of this tax issue, and they went ahead and
4 corrected us and thanked us for bringing it to
5 their attention, and we were -- we felt it was the
6 right thing to do to make sure we brought this to
7 everybody's attention once we figured it out, and
8 that's exactly what we did.

9 Now, you know, being aggressive when
10 it comes to these tax policies, I think we have an
11 obligation to our customers to do that. When we do
12 that and take advantage of what the tax laws give
13 us, we can have -- produce significant benefits for
14 customers, and that's being reflected in this
15 \$100 million reduction in rate base in this
16 particular case and it's been reflected in other
17 cases where those rate base offsets are taken.

18 The one thing you have to be careful
19 about is not to be overly aggressive, and, you
20 know, the Staff has recognized the adjusted number
21 that we went ahead and gave them. I'm not sure
22 what extent Public Counsel is saying there should
23 still be more. But to the extent that you
24 reflected more than that, you'd be reflecting tax
25 benefits that we really haven't even received yet.

1 You would be, from our perspective, jeopardizing
2 our ability to use bonus depreciation and these
3 other tax benefits, and that's just a risk we don't
4 want to take. Be aggressive but don't be reckless
5 and don't go ahead and jeopardize your ability to
6 create these benefits in the future.

7 So we're going to have our witness
8 Chuck Kuper up here. He'll be happy to explain it
9 with a lot more clarity probably than I can or
10 have. But we believe that the number that Staff
11 has reflected in its current case is the right
12 number. Thank you.

13 JUDGE DIPPELL: Thank you. Are there
14 any questions for Mr. Pendergast? All right.
15 Thank you.

16 Is there an opening from Staff?

17 MS. MERS: Good morning, Judge. Good
18 morning, Commissioners. If it pleases the
19 Commission?

20 Today's issue of income taxes is a
21 little different than what is outlined in the list
22 of issues that was filed. So I apologize that
23 you'll be hearing argument that's not captured in
24 testimony. To help soften the blow, I'm of the
25 understanding that sub-issue A regarding the

1 appropriate income tax expense level is no longer
2 an active issue in this case. The only issue
3 remaining is the appropriate amount of accumulated
4 deferred income tax, or ADIT, to include for the
5 companies.

6 A little background. The reason
7 there's little testimony in the record regarding
8 ADIT is that it was not until November 30th that
9 the parties were alerted to a possible issue.
10 Staff and OPC received, from my understanding, a
11 little updated response to a data request regarding
12 reconciled accumulated deferred income taxes
13 between GAAP reporting and regulatory ratemaking
14 reporting.

15 The documentation of those
16 adjustments was, quite frankly, lacking and it took
17 Staff witness Lisa Ferguson several last-minute
18 meetings with the company to receive support and
19 verification for their updated adjustments. So
20 that's why you won't, unfortunately, be able to
21 turn to the filed testimony of these witnesses and
22 find concrete testimony regarding the uncertain tax
23 position aspect of this issue.

24 In an attempt to be helpful, I'll try
25 to briefly explain what ADIT is and what Staff's

1 position is at a high level, and Staff witness Lisa
2 Ferguson will be available later for more technical
3 questions you may have.

4 Deferred income taxes arise from
5 temporary differences between booked and tax
6 treatment of an item of income or expense. Under
7 well-established regulatory principles, deferred
8 taxes are treated as a reduction to rate base so
9 ratepayers do not pay a return on funds provided to
10 the company at no cost. And that way ratepayers
11 are given the benefit of what is in effect an
12 interest-free loan from the government to the
13 utility. In other words, the benefit that the
14 company receives from being able to keep money by
15 delaying payment to the government is passed along
16 to ratepayers.

17 As Staff understands it today, the
18 specific ADIT issues relate to deferred taxes
19 stemming from uncertain tax positions that are in
20 open tax years. In other words, it is possible
21 that the company may ultimately have to pay
22 additional tax on these uncertain tax positions if
23 the IRS at some point rules against the company's
24 current position.

25 At this time, a deduction was taken

1 for these items and those taxes have not been paid.
2 The IRS has the ability to audit the companies' tax
3 positions, which is why they're labeled open years.
4 Open years can still be challenged by the IRS,
5 which means the company could pay higher taxes if
6 the IRS does not agree with the deduction the
7 company has taken on items in its tax return.

8 Closed years are not able to be
9 challenged by the IRS as their review has been
10 finalized. Once a year has been closed and the IRS
11 has not challenged that position, the known and
12 measurable final amount is put into rates when the
13 next rate case occurs.

14 GAAP provides rules for recording the
15 effect of tax deferrals regarding uncertain tax
16 positions. Under the GAAP standard known as
17 FIN 48, the company is required to record as a
18 tax -- as deferred tax only the portion of tax
19 liability upon which the company expects to
20 prevail. The portion of that liability the company
21 ultimately expects to pay the government taxes,
22 including interest, is treated as a FIN 48
23 liability.

24 The company and Staff would exclude
25 this FIN 48 liability from ADIT. The Staff would

1 calculate an ADIT level using the Commission's
2 ordered regulatory asset and liability levels on
3 items such as pensions and OPEBs and without
4 including FIN 48 liability.

5 OPC proposes to keep the FIN 48
6 liability in ADIT. However, that is contrary to
7 prior Commission precedent that addressed this very
8 issue. In ER-2008-0318, it's an Ameren rate case,
9 Staff argued actually to keep the FIN 48 liability
10 in ADIT.

11 However, the Commission ruled against
12 Staff, ruling that the FIN 48 liability should be
13 excluded, finding that, quote, both ratepayers and
14 shareholders benefit when AmerenUE takes an
15 uncertain tax position with the IRS because saving
16 money on taxes benefits the company's bottom line
17 but also reduces the amount of expense ratepayers
18 must pay. At the hearing, Staff witnesses agreed
19 that AmerenUE should pursue such positions. The
20 best way to encourage AmerenUE to continue to take
21 uncertain tax positions is to treat the company
22 fairly in the regulatory process, end quote.

23 Staff in reviewing the evidence in
24 this case found no evidence, new circumstances or
25 compelling reason to deviate from the Commission's

1 decision on this issue.

2 I'm happy to answer any questions you
3 might have, and Lisa Ferguson will also be able to
4 answer any of the more technical questions you may
5 have.

6 JUDGE DIPPELL: Commissioner?

7 CHAIRMAN HALL: What was the year of
8 that Ameren rate case?

9 MS. MERS: It's ER-2008-0318.

10 CHAIRMAN HALL: And are you aware of
11 this issue having been litigated since that time?

12 MS. MERS: I'm not aware of any cases
13 that have contrary precedent.

14 CHAIRMAN HALL: Has Staff taken this
15 position in every rate case since that rate case,
16 as far as you're aware?

17 MS. MERS: As far as I'm aware, but
18 you might want to check with Lisa Ferguson to
19 confirm that.

20 CHAIRMAN HALL: Are you aware of any
21 other decisions by this Commission for any other
22 utility where we've taken a contrary position?

23 MS. MERS: I am not, but again, you
24 might want to check with Lisa Ferguson to see if
25 she can confirm that understand as well.

1 CHAIRMAN HALL: Thank you.

2 JUDGE DIPPELL: Any other questions
3 by the Commissioners? Okay. Thank you. Public
4 Counsel?

5 MS. SHEMWELL: Good morning. May it
6 please the Commission?

7 It is true that Mr. Hyneman tracked
8 down this number after a lot of effort, and the
9 company has made an adjustment. We are still
10 questioning the issue of FIN 48, which is a
11 financial accounting rule.

12 The case that Staff mentioned, it was
13 an acceptance of a -- by the Commission of a
14 Stipulation & Agreement, and the Commission
15 approved a tracker in that case for FIN 48. It's
16 my understanding from Mr. Hyneman that not all
17 companies use this particular account, so it might
18 or might not have been an issue in other cases.
19 And that's all I have. Thank you.

20 JUDGE DIPPELL: Any questions for
21 Ms. Shemwell?

22 CHAIRMAN HALL: Do you agree that on
23 this issue A has been settled and the only issue is
24 B?

25 MS. SHEMWELL: That is correct. Yes,

1 we agree.

2 CHAIRMAN HALL: Thank you.

3 JUDGE DIPPELL: All right, then.

4 Anything from Environmental Defense Fund on this
5 issue?

6 MS. KARAS: Nothing, your Honor.

7 JUDGE DIPPELL: Then we can begin
8 with direct by the company.

9 MR. PENDERGAST: I'd call Chuck J.
10 Kuper to the stand.

11 (Witness sworn.)

12 CHUCK J. KUPER testified as follows:

13 DIRECT EXAMINATION BY MR. PENDERGAST:

14 Q. Good morning, Mr. Kuper.

15 A. Good morning.

16 Q. Are you the same Chuck J. Kuper who
17 has previously caused to be filed in this
18 proceeding direct testimony that has been marked as
19 Exhibit 35?

20 A. I'm not sure what exhibit number, but
21 I have had some testimony, yes.

22 Q. Will you take my word that it's
23 Exhibit 35?

24 A. Yes.

25 Q. Thank you. Do you have any changes

1 or corrections to make to your testimony?

2 A. Not to my testimony, no.

3 Q. Okay. And you will be available to
4 answer any questions about the ADIT issue should
5 anyone have any?

6 A. Yes.

7 Q. Okay. And can you just tell me, in
8 light of the adjustment that was made, what level
9 of accumulated deferred tax expense is the company
10 agreeing with Staff should be deducted from rate
11 base?

12 A. The ADIT to be a rate base offset is
13 343.8 million.

14 Q. Okay. Thank you. If I were to ask
15 you the same questions today that appear in your
16 direct testimony, would your answers be the same?

17 A. Yes.

18 Q. And are those answers true and
19 correct to the best of your knowledge and belief?

20 A. Yes.

21 MR. PENDERGAST: At this time I would
22 tender Mr. Kuper for cross-examination, and I'll
23 reserve asking for his testimony to be admitted
24 into the record.

25 JUDGE DIPPELL: All right. Does

1 Mr. Kuper have other issues?

2 MR. PENDERGAST: No, your Honor.

3 This is the only one. So I'm happy to offer his
4 testimony, all one page of it, into evidence at
5 this time.

6 JUDGE DIPPELL: Let's go ahead and do
7 that. Would there be any objection to Mr. Kuper's
8 direct testimony, Exhibit No. 35?

9 MS. MERS: No objections, your Honor.

10 JUDGE DIPPELL: All right, then.

11 Seeing none, I will admit that into evidence.

12 (SPIRE EXHIBIT 35 WAS RECEIVED INTO
13 EVIDENCE.)

14 JUDGE DIPPELL: Is there any
15 cross-examination from Staff?

16 MS. MERS: No cross. Thank you.

17 JUDGE DIPPELL: Public Counsel?

18 MS. SHEMWELL: Thank you.

19 CROSS-EXAMINATION BY MS. SHEMWELL:

20 Q. Mr. Kuper, do you recognize this
21 document? I know it's small.

22 A. Yes, I do.

23 Q. And can you state what it is?

24 A. This is the reconciliation of the
25 accumulated deferred income taxes between the GAAP

1 or the amount we recorded in our financial
2 statements for SEC purposes to the amount that is
3 included as a rate base offset.

4 **Q. Is this in the company's testimony**
5 **work papers?**

6 A. I'd have to defer to my attorneys to
7 see if it is in our testimony.

8 JUDGE DIPPELL: Mr. Kuper, you're
9 tall and that microphone is short, but if you can
10 get a little closer.

11 THE WITNESS: Lean into it. Okay.
12 Is that better?

13 JUDGE DIPPELL: Yes. Thank you.
14 Sorry.

15 THE WITNESS: That's okay.

16 MS. SHEMWELL: I understand this is
17 just a DR response. I'm going to withdraw any
18 questions.

19 JUDGE DIPPELL: All right.

20 MS. SHEMWELL: I don't have anything
21 further. Thank you.

22 JUDGE DIPPELL: All right. Nothing
23 further from Public Counsel. Is there anything
24 from Environmental Defense Fund?

25 MS. KARAS: No questions, your Honor.

1 JUDGE DIPPELL: Are there any
2 questions from the Bench?

3 COMMISSIONER KENNEY: None.

4 JUDGE DIPPELL: Is there any redirect
5 from Spire?

6 MR. PENDERGAST: No redirect, your
7 Honor.

8 JUDGE DIPPELL: Mr. Kuper, then that
9 concludes your testimony, and you may be excused.

10 THE WITNESS: Thank you.

11 JUDGE DIPPELL: Thank you. All
12 right, then. We'll go to Staff's witness.

13 MS. MERS: Your Honor, Staff calls
14 Lisa Ferguson to the stand.

15 (Witness sworn.)

16 LISA FERGUSON testified as follows:

17 DIRECT EXAMINATION BY MS. MERS:

18 Q. Ms. Ferguson, can you please state
19 and spell your full name for the record?

20 A. Lisa Ferguson, F-e-r-g-u-s-o-n.

21 Q. Where are you employed and in what
22 capacity?

23 A. I am employed by the Missouri Public
24 Service Commission as a Utility Regulatory Auditor.

25 Q. Are you the same Lisa Ferguson who

1 contributed to prepared -- or caused to be prepared
2 direct testimony known as the Class Cost of Service
3 Report, rebuttal and surrebuttal testimony that's
4 been marked as Exhibit 205, 215, 246 confidential,
5 247 public respectively?

6 A. Yes.

7 Q. Do you have anything that you would
8 wish to correct in your testimony?

9 A. No, I do not.

10 Q. If I asked you the same questions
11 today, would your answers be the same?

12 A. Yes.

13 Q. Is the information in those documents
14 true and correct to the best of your knowledge and
15 belief?

16 A. Yes.

17 MS. MERS: Your Honor, Ms. Ferguson
18 will be appearing again on another issue, so I'll
19 hold off on offering her testimony.

20 JUDGE DIPPELL: Thank you.

21 MS. MERS: With that, I tender the
22 witness for cross.

23 JUDGE DIPPELL: Is there any
24 cross-examination by Public Counsel?

25 MS. SHEMWELL: Very briefly. Thank

1 you.

2 CROSS-EXAMINATION BY MS. SHEMWELL:

3 Q. Good morning, Ms. Ferguson.

4 A. Good morning.

5 Q. I'm Lera Shemwell. I'd like to visit
6 about FIN 48. What does FIN 48, what does that
7 mean?

8 A. FIN 48 is actually a financial
9 regulation where a company, if they take a
10 deduction that they have an uncertain tax --
11 basically a tax deduction that they're uncertain
12 of, that they have to hold back a certain liability
13 of it just in case the IRS might challenge.

14 Q. Okay. So where do they hold back
15 that liability?

16 A. I don't know the exact account.

17 Q. Are you aware of the UE case that was
18 mentioned a minute ago?

19 A. Yes.

20 Q. And that, in fact, there was a
21 Stipulation & Agreement.

22 A. Well, I think there's a bit of
23 confusion because the ER-2008 case actually was
24 ordered by the Commission. There was a later case,
25 ER-2011, that was a stipulation.

1 **Q. And that set up a tracker for FIN 48;**
2 **is that correct?**

3 A. That's correct.

4 JUDGE DIPPELL: Ms. Ferguson, I'm
5 going to ask you also to get a little closer to the
6 microphone.

7 THE WITNESS: Sorry.

8 BY MS. SHEMWELL:

9 **Q. What is the amount of the difference**
10 **between Public Counsel's position and Staff's**
11 **position on FIN 48?**

12 A. I believe it's approximately
13 \$54 million in rate base dollars. That would be
14 equivalent to about 5 million in revenue
15 requirement.

16 **Q. And you are recommending that it not**
17 **be included in ADIT?**

18 A. That's correct.

19 MS. SHEMWELL: Thank you.

20 JUDGE DIPPELL: Is that all,
21 Ms. Shemwell?

22 MS. SHEMWELL: Yes.

23 JUDGE DIPPELL: Is there anything
24 from the Environmental Defense Fund?

25 MS. KARAS: No questions, your Honor.

1 JUDGE DIPPELL: Anything from Spire?

2 MR. PENDERGAST: Yes, your Honor.

3 CROSS-EXAMINATION BY MR. PENDERGAST:

4 Q. Good morning.

5 A. Good morning.

6 Q. Or almost afternoon. Can you just
7 tell me what the amount of accumulated deferred tax
8 is that the Staff is proposing be included in cost
9 of service in this case as an offset to rate base?

10 A. Currently the amount that Staff is
11 proposing is approximately 338.6 million.

12 Q. Okay. And we had a little bit of
13 discussion about this liability, and once the taxes
14 work themselves out, there's no longer a liability,
15 the tax years are closed, at that point do the
16 effects of those go into the deferred tax
17 calculation and will they be shared with ratepayers
18 in the future through reduction to rate base?

19 A. It will as long as the IRS doesn't
20 overturn the deduction.

21 Q. As long as hopefully that doesn't
22 happen. And can you give me a sense of, if you do
23 run afoul of the IRS, in addition to making a
24 potential adjustment on something of this nature,
25 if you're overly aggressive in trying to capture

1 these things for ratemaking purposes, is it
2 possible you could lose your ability to, say, take
3 bonus depreciation and that type of thing?

4 A. I don't know that for a fact, but I'm
5 sure it's a possibility.

6 Q. Okay. And once again, something like
7 bonus depreciation produces a significant amount of
8 benefit for customers from the standpoint it allows
9 you to go ahead and have larger offset to rate base
10 in rate cases; would you agree with that?

11 A. All else being equal, yes.

12 MR. PENDERGAST: Thank you. I have
13 no further questions.

14 JUDGE DIPPELL: Thank you. Do you
15 have any questions for this witness?

16 COMMISSIONER KENNEY: No.

17 JUDGE DIPPELL: Then is there any
18 redirect from Staff?

19 MS. MERS: No, thank you, your Honor.

20 JUDGE DIPPELL: All right. Thank
21 you, Ms. Ferguson. You may step down.

22 We're ready for Public Counsel's
23 witness.

24 MS. SHEMWELL: Public Counsel calls
25 Charles Hyneman to the stand. He has presented his

1 testimony earlier, so we will tender him for cross.
2 And we will not offer his testimony for admission
3 yet.

4 JUDGE DIPPELL: Thank you.

5 Mr. Hyneman, you were previously sworn.

6 Is there any cross-examination by
7 Staff?

8 MS. MERS: No, thank you.

9 JUDGE DIPPELL: Anything from the
10 Environmental Defense Fund?

11 MS. KARAS: No questions, your Honor.

12 JUDGE DIPPELL: Anything from Spire?

13 MR. PENDERGAST: Thank you, your
14 Honor.

15 CHARLES HYNEMAN testified as follows:

16 CROSS-EXAMINATION BY MR. PENDERGAST:

17 Q. Good morning, Mr. Hyneman.

18 A. Good morning, Mr. Pendergast.

19 Q. Mr. Hyneman, I just wanted to
20 reference your surrebuttal testimony, I believe it
21 was, where you discussed the ADIT issue. I think
22 it was on page 23. Do you have that?

23 A. I do somewhere. Sorry,
24 Mr. Pendergast. I'm not used to getting questions.

25 Q. Understood.

1 A. I'm sorry. Can you refer me to the
2 page, please?

3 Q. Yeah. I believe it starts on
4 page 23, line 8.

5 A. I'm there.

6 Q. Yeah. And I believe that you have
7 talked in your testimony -- actually, we go over to
8 page 25 -- about what has been reported to the SEC
9 in terms of various deferred tax amounts?

10 A. Yes.

11 Q. Okay. And obviously the deferred tax
12 amounts that were being reported to the SEC are
13 different from the ones that are being used for
14 regulatory purposes to establish an offset for rate
15 base. Would you agree with that, those numbers are
16 different?

17 A. That's what Laclede proposed, yes.

18 Q. Okay. And all I'm asking you is,
19 would there be various things -- and I know you've
20 been very diligent about trying to get a
21 reconciliation, but would there be various things
22 that you would report to the SEC that wouldn't
23 necessarily be used for regulatory purposes?

24 A. There could be, yes.

25 Q. Okay.

1 A. Yes.

2 Q. And do you know with respect to these
3 amounts, these FIN amounts, do you know if Laclede
4 also had carryover amounts associated with those?

5 A. People are using the term FIN 48
6 today, but the line item that Laclede provided
7 refers to basis difference open years. Now, is
8 that what Laclede is claiming is FIN 48? Do you
9 know?

10 Q. You're asking me?

11 A. I don't know. I'm assuming that's
12 the one that people are referring to as FIN 48, and
13 it could be a FIN 48. I just don't know if that's
14 the one.

15 Q. I think you're absolutely correct, it
16 could be that.

17 A. Okay. So I'm sorry. Could you
18 repeat the question?

19 Q. Yeah. Do you know whether, with
20 respect to those amounts, Laclede was actually
21 able, given what its tax situation was, to take a
22 current tax deduction associated with those?

23 A. I don't know.

24 Q. Okay. So you're not aware of whether
25 or not those amounts were that Laclede has carried

1 **over some of its tax amounts to future years?**

2 A. Some. What you do there is you would
3 record the deferred taxes, and you would offset it
4 by a net operating loss if that's the reason.

5 **Q. You would offset it by a net**
6 **operating loss?**

7 A. You would. It's a deferred tax
8 debit, that's right. And then that is reflected on
9 the work paper. I think it's about \$62 million of
10 a net operating loss --

11 **Q. Okay.**

12 A. -- that reduces your deferred taxes.

13 **Q. Okay. 62 million of net operating**
14 **losses, and that compares to this FIN number how?**

15 A. Well, the FIN 48 number is 54.3.

16 **Q. So it would be, just as a matter of**
17 **math, greater than that?**

18 A. Well, if the FIN -- I don't know what
19 the net operating loss applies it. I don't know if
20 it applies to the FIN 48. But if Laclede's taking
21 the position that the net operating loss debit,
22 deferred tax debit offsets the FIN 48 deferred tax
23 credit, then that is something that we could talk
24 about. I don't know if that's true.

25 **Q. Okay. I appreciate your openness to**

1 **that.**

2 MR. PENDERGAST: I think that's all I
3 have.

4 JUDGE DIPPELL: Okay. Are there any
5 questions from the Bench?

6 COMMISSIONER KENNEY: No, thank you.

7 COMMISSIONER COLEMAN: No.

8 JUDGE DIPPELL: Is there any redirect
9 from Public Counsel?

10 MS. SHEMWELL: Very briefly. Thank
11 you.

12 REDIRECT EXAMINATION BY MS. SHEMWELL:

13 **Q. Mr. Pendergast was asking you**
14 **something about lines 14 through 19 on page 25,**
15 **right?**

16 A. Yes.

17 **Q. And you said that it was Laclede's**
18 **position. What were you referring to?**

19 A. The question was that are the numbers
20 that they reflected for accumulated deferred income
21 taxes on their financial statements, is that
22 different from the numbers that Laclede put in this
23 case in rate base, as a reduction to rate base for
24 the accumulated deferred income taxes.

25 **Q. And you said that was Laclede's**

1 **position?**

2 A. Right.

3 **Q. Do you agree with that position?**

4 JUDGE DIPPELL: Let me ask both of
5 you to speak into your microphone.

6 THE WITNESS: I think there are some
7 accumulated deferred taxes that don't rely or don't
8 directly relate to utility operations. There are
9 some deferred taxes in the short term that are one
10 year a credit, next year a debit, and they would
11 typically be ignored for ratemaking considerations.
12 So those two scenarios usually allow exclusion of
13 those -- the financial statement deferred taxes
14 from the rate base deferred taxes. But that's not
15 the case with the FIN 48.

16 MS. SHEMWELL: Thank you,
17 Mr. Hyneman.

18 JUDGE DIPPELL: All right.
19 Mr. Hyneman, I believe that concludes your
20 testimony on that issue. You may step down.

21 And I believe that concludes all of
22 the issues we had teed up for today, which would
23 leave us with beginning capital structure and cost
24 of capital on Monday.

25 MS. SHEMWELL: That's correct.

1 JUDGE DIPPELL: Unless, of course,
2 you all want to stay and settle that. All right,
3 then. I will begin on Monday morning at 9 a.m. and
4 we will hit the ground running and begin with any
5 settlements that you-all came up with over the
6 weekend and then go into cost -- or capital
7 structure and cost of capital.

8 Is there any other matters before we
9 adjourn for the day? Seeing none, then we can be
10 adjourned. We can go off the record.

11 (WHEREUPON, the hearing was recessed
12 at 12:02 p.m.)

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