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STATE OF MISSOURI

PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Discovery Conference
March 19, 2013
Jefferson City, Missouri
Volume II

In The Matter Of Laclede Gas)
Company's Filing Of Revised)
Tariffs To Increase Its Annual) File No. GR-2013-0171
Revenues For Natural Gas)

KENNARD L. JONES, Presiding
SENIOR REGULATORY LAW JUDGE

REPORTED BY:
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A P P E A R A N C E S

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ALSO PRESENT:

Ms. Lisa Jenkins, Public Service Commission

1 (Starting time of hearing: 10:06 a.m.)

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

3 JUDGE JONES: We're on the record with the
4 Discovery Conference in Case No. GR-2013-0016.

5 First, we'll take entries of appearances beginning
6 with Staff.

7 MR. KEEVIL: Representing Staff of the Public
8 Service Commission, Jeff Keevil and Bob Berlin. Our
9 address is P.O. Box 360, Jefferson City, Missouri, 65102.

10 JUDGE JONES: And from the Office of the Public
11 Counsel?

12 MR. POSTON: Marc Poston for Office of the Public
13 Counsel and the Public.

14 JUDGE JONES: And Laclede Gas?

15 MR. ZUCKER: Rick Zucker, 720 Olive Street, St.
16 Louis, Missouri, 63101, here for Laclede Gas Company.

17 JUDGE JONES: Any other parties represented?

18 (No response.)

19 JUDGE JONES: Hearing none, okay.

20 This is the first Discovery Conference that I've
21 done, so I don't have a particular procedure, only one
22 that gets something accomplished, perhaps. Staff has made
23 a number of discovery requests. I didn't see in reviewing
24 that information and the materials, rather, that Laclede
25 objected to hardly any of it.

1 Is that true, Mr. Zucker?

2 MR. ZUCKER: Well, there's two sections of it.

3 JUDGE JONES: Okay.

4 MR. ZUCKER: One is about propane; and, there, we
5 did have very few objections. The only thing we --
6 mostly, what we did was we gave notice that we were going
7 to have some privileged documents. And, as Mr. Keevil's
8 pointed out, we need to provide him a privileged log. We
9 owe him one. I have told him I will get him one by
10 Thursday.

11 JUDGE JONES: But shouldn't that have happened,
12 like, almost two months ago?

13 MR. ZUCKER: Um, well, I don't think two months
14 ago is right.

15 JUDGE JONES: Mr. Keevil?

16 MR. KEEVIL: Well, that should have come whenever
17 they were due, and that was sent out on the 28th of
18 January.

19 JUDGE JONES: February?

20 MR. KEEVIL: So, add 20 days to that is when they
21 should have been provided. January 17th -- excuse me --
22 February 17th, apparently.

23 JUDGE JONES: And is this the first time, Mr.
24 Zucker, that you've told Mr. Keevil that you would provide
25 him with those privileged logs?

1 MR. ZUCKER: What do you mean?

2 JUDGE JONES: You just told him today?

3 MR. ZUCKER: No. I told him last week that I
4 would give it to him this Thursday. But I've told him --

5 MR. KEEVIL: Actually, that was in the context of
6 settlement conferences we had with other matters we had,
7 Judge, and I wasn't clear the Thursday date was the firm
8 date outside of the settlement itself. Because there were
9 other matters that Mr. Zucker offered to do, that he's
10 within his right, that he has now told me they won't do
11 because, you know, we did not go with their settlement
12 offer. So, I was not clear until just a moment ago that
13 that Thursday date for the DR -- or, excuse me -- the
14 privileged logs was still a firm date.

15 And, like he said, first time they offered that
16 was after we filed this (indicating), anyway.

17 JUDGE JONES: Right. Are you okay with getting it
18 Thursday?

19 MR. KEEVIL: Two days from now, the privileged
20 log, yeah, that's fine.

21 JUDGE JONES: Also, Mr. Zucker, still on this
22 point, I know that some promises were made for information
23 through communications before today that weren't kept.
24 Um, how do you think the Commission should respond if
25 those logs aren't provided Thursday?

1 MR. ZUCKER: Um --

2 JUDGE JONES: It's kind of like grading yourself.

3 MR. ZUCKER: Yeah. I don't know the answer. Um,
4 uh, I will provide them.

5 JUDGE JONES: Okay.

6 MR. ZUCKER: I'm still gathering the documents,
7 but I have enough to certainly -- I've made the format,
8 and I'm ready to fill them in.

9 JUDGE JONES: Okay. You say you're gathering the
10 documents?

11 MR. ZUCKER: Uh-huh.

12 JUDGE JONES: So, you do have more things to
13 gather?

14 MR. ZUCKER: I just have them to look at. I think
15 everything's gathered.

16 JUDGE JONES: Okay. That's the 21st. Okay. So,
17 that takes care of the privileged logs.

18 And what else did you have?

19 MR. ZUCKER: Um, under the propane, is we also owe
20 them -- uh, where are they -- some accounting entries and
21 journal entries. Oh, I see, No. 109, and we will get
22 those this week, also.

23 JUDGE JONES: Now, is this how this is going to
24 go, of saying that you'll get them whatever they want?
25 Because that kind of makes this meeting pointless to me.

1 MR. ZUCKER: Um, well, hard to tell.

2 JUDGE JONES: Okay.

3 MR. ZUCKER: If it goes that way --

4 JUDGE JONES: Now, what, specifically, are you
5 going to provide them with regard to propane? The sales
6 and costs or something?

7 MR. ZUCKER: Let's see. They said -- they
8 mentioned 109, some journal entries, and we do owe them
9 that.

10 JUDGE JONES: Do you know specifically what they
11 want?

12 MR. ZUCKER: Um, I think so.

13 JUDGE JONES: Well, maybe that should be clear so
14 we won't have to revisit the issue. I mean, this is
15 something that you can send over here via efis or courier
16 or whatever, not something they have to set up a time to
17 go look at?

18 MR. ZUCKER: No. No, no, no.

19 MR. KEEVIL: Judge, if we're -- I'm trying to find
20 on my thing I filed the other day, they objected to that
21 one, that one, that one -- I attached to the thing I filed
22 the other day a privileged log -- or, excuse me, not a
23 privileged log -- a DR log which actually, Mrs. Jenkins
24 has prepared.

25 JUDGE JONES: Is this it (indicating) right here?

1 MR. KEEVIL: It is. The first two pages of that
2 refer to these propane DRs that Mr. Zucker is referring
3 to. So, if you want to go through -- and the ones that we
4 have problems with are in red on the DR log here
5 (indicating).

6 So, if you want to, if Mr. Zucker's wanting to
7 address the propane DRs before the other DRs, that's fine.
8 We can go through the ones here (indicating) on the DR log
9 if you want to and figure out what -- because some of
10 them, I think there may be -- there may, I'm not saying
11 there is -- there may be a dispute between Laclede and
12 Staff whether or not Laclede has fully responded. And we,
13 obviously, think that there's some that they have not
14 responded to that they may believe they have.

15 JUDGE JONES: Okay. The first two pages?

16 MR. KEEVIL: The first two are the propane, and
17 the next six are the ones we'll get to in a moment.

18 The first one here, the 112, I think -- let me say
19 this in Mr. Zucker's defense, he may not even be aware of
20 this -- yesterday afternoon at between the hours of 2 and
21 2:30, we got a response, a 112C. Now, I don't know if
22 Staff has had a chance to review it for, you know,
23 adequacy, but we got something in response to 112C.

24 We got something in response to -- well, that's
25 the only one on the propane side, Judge. The other three

1 are all on the storage gas issue. So, that's the only one
2 pertinent.

3 JUDGE JONES: Now, what about 108 privileged log,
4 107 privileged log?

5 MR. ZUCKER: 107, actually, right?

6 MR. KEEVIL: 109 is the one that Mr. Zucker was
7 referring to, the journal entries, and we've never seen a
8 response to part C of 109. That's still -- that's still
9 the case. We still have not received that.

10 MR. ZUCKER: We will get them that.

11 JUDGE JONES: Thursday?

12 MR. ZUCKER: Yeah. That's not a problem, and it's
13 not voluminous.

14 JUDGE JONES: That's happening Thursday?

15 MR. ZUCKER: Friday.

16 JUDGE JONES: If you don't have it Friday, can you
17 have it Saturday?

18 MR. ZUCKER: Um, yes.

19 JUDGE JONES: Doesn't happen Saturday, can it
20 happen Sunday?

21 MR. ZUCKER: Well, I'm not sure what you're asking
22 now.

23 JUDGE JONES: I'm just saying, instead of pushing
24 it around to the next week --

25 MR. ZUCKER: Oh, no. No, no. We'll do it this

1 week.

2 JUDGE JONES: Okay.

3 MR. ZUCKER: This week.

4 JUDGE JONES: Okay. So, that's 109.

5 108, was there anything other than the privileged
6 log on 108?

7 MR. ZUCKER: We haven't -- my view is, if we
8 haven't given it to you, there isn't any.

9 MR. KEEVIL: Well, for example, 107, we got
10 partial something, apparently, on the 20th of February,
11 but no privileged log. So, I'm guessing that, just from
12 what this is, the privileged log looks like, it was --

13 MS. JENKINS: We haven't received anything on 108.

14 MR. KEEVIL: Right. Right.

15 JUDGE JONES: Just because you object on the basis
16 of privilege, right?

17 MR. ZUCKER: Yeah.

18 MR. KEEVIL: And he raised another thing --

19 MR. ZUCKER: Here's their question. Please
20 provide all documents the company relied on in making its
21 determination that propane-related services are non-
22 regulated or that any part of the propane facilities are
23 non-regulated.

24 So, basically, it's a legal question they're
25 asking, and what we relied on is our legal memoranda. So,

1 what I need to do is make a list of that, and I have
2 something by our in-house counsel, but there is stuff by
3 our outside counsel that I'm still looking for.

4 MR. KEEVIL: There could be, Judge, within that,
5 things that are not -- I mean, there could be
6 correspondence between the accountant and the President or
7 something that is not privileged.

8 And that brings me to another point on the three
9 that they raised the privilege, I think it was 108 --

10 JUDGE JONES: So, just a second. By your
11 response, it sounds like, generally, you're saying that is
12 privileged information with the exception of second
13 communications?

14 MR. KEEVIL: We haven't seen anything, Judge.
15 When I've seen the privileged log, I might be able to
16 answer that. I grant you, privileged information could
17 fall within that request, but --

18 JUDGE JONES: The question is, broadly, sounds
19 privileged to me. I'd make a legal determination that
20 that's what it sounds like.

21 MR. KEEVIL: I think the documents relied upon,
22 which, as I say, could be correspondence between, say,
23 like, for example, one of their accountants and their
24 President or one of their accountants and operation. It
25 involves a lot of operational issues.

1 JUDGE JONES: Okay.

2 MR. KEEVIL: So, it could pick up some privileged
3 information, I'll grant you, but I don't think it's
4 limited to privileged information. And the 101, 107, and
5 108 which were the three that they objected on the basis
6 of privilege, uh, they agreed, I believe, that documents
7 which weren't privileged but which still fell within the
8 request would be provided.

9 MR. ZUCKER: Sure.

10 MR. KEEVIL: I'm not sure. That's why on that 107
11 which where we received some things -- and even 108, we
12 haven't seen anything in response to 108. And I can't
13 believe everything there is privileged, but if it is, it
14 is when we see the privileged log.

15 But 107 and 101 is in addition to anything that
16 might be privileged that could fall within those -- if
17 there's not privileged stuff that also falls within there,
18 we expect to see that. I don't know that we have yet.

19 JUDGE JONES: So, this issue is still alive then,
20 if it comes back that you all have a dispute about what is
21 and isn't privileged.

22 MR. KEEVIL: It could but, like I say, until we
23 see the privileged log, we won't be in a position to make
24 that call.

25 JUDGE JONES: Okay. So, that looks like it leaves

1 --

2 MR. KEEVIL: That gets you down to 102.

3 JUDGE JONES: -- 102.

4 MR. KEEVIL: Yeah. Part C. Is the -- is the
5 first part of that the same as C?

6 MS. JENKINS: Department C stacks explaining
7 minimum monthly and annual propane withdrawals maintaining
8 -- required to maintain functioning propane facilities.

9 MR. KEEVIL: Okay. That's a different, then --

10 JUDGE JONES: What did you just read from?

11 MS. JENKINS: DO 2, Part C, minimum monthly annual
12 propane withdrawals required to maintain required function
13 of the propane facilities.

14 MR. KEEVIL: What we've got there, Judge, was the
15 design day winter. We didn't -- which would be the cold
16 winter that it was designed for, and the request was for
17 monthly normals and, you know, additional weather beyond
18 just the design date.

19 JUDGE JONES: Do you understand what they want?

20 MR. ZUCKER: Yeah. Propane is -- is something
21 that we -- we have a cavern, and we have propane in the
22 cavern and we use it for peak. In other words, when it
23 gets real cold and we need something extra, um, than what
24 we've already bought, it's -- we use propane for that.
25 Because of the way the winters have gone for the last

1 several years, we've hardly ever used the propane.

2 And, so, we wouldn't use it anyway unless we need
3 it for the peaking service, and so what we show them every
4 year is what our plans are under a winter that would be
5 very cold and would require the use of it. Um, what
6 they're saying is, What is your use of it in a normal
7 winter. Our use of it is nothing. And, in fact, it's
8 been nothing for a long time, which is why we have said,
9 you know, maybe we shouldn't be charging the customer for
10 the cost of the cavern.

11 MS. JENKINS: Why don't you reply in our DR, "Our
12 normal plan doesn't include propane"? We don't have your
13 normal plan, so we don't know it doesn't include propane.

14 MR. ZUCKER: Basically, what we've done is not
15 given you anything in response to a question where we
16 don't have anything to give you. What you're saying --

17 MS. JENKINS: You should have.

18 JUDGE JONES: Don't talk over each other.

19 MR. ZUCKER: I think what you're asking me to do
20 is tell you, "We don't have anything."

21 MR. KEEVIL: Do you have any normal plan?

22 MR. ZUCKER: I don't think it includes propane. I
23 don't think we have anything to give for 102C. I will
24 make a note to ask my guy again on this, but he has told
25 me he doesn't have anything else.

1 JUDGE JONES: And how did you all want him to tell
2 you that he doesn't have anything, by email?

3 MR. KEEVIL: Well, I mean, the DR response saying,
4 We have no documents responsive to whatever, 102C, I guess
5 would be the way to go if there are truly no documents
6 responsive to 102C.

7 JUDGE JONES: So, I mean, what form do you want it
8 to be known?

9 MR. KEEVIL: We would like the DR responses in
10 efis to the extent it's possible to answer. Some of them,
11 you know, with attachments are too big to put in efis.

12 MR. ZUCKER: Yeah. The answer is no.

13 JUDGE JONES: So, it sounds like this is resolved
14 here to the point we don't have anything.

15 MR. KEEVIL: All right. 101 --

16 THE COURT: As part of the approvals list?

17 MR. KEEVIL: Well, that is part of the privileged
18 log, and maybe that is why we have no response. We did
19 receive a response to Part D of 101, but nothing to A, B,
20 C, or E. Oh, excuse me. The privileged, yeah, that's
21 right. The privileged objection to this was limited to A
22 and B, Parts A and B.

23 MR. ZUCKER: Again, in these cases, they want
24 documents explaining the treatment of our propane costs
25 and revenues, any -- what we anticipate is that those

1 documents are privileged. I mean, basically, it comes
2 down --

3 JUDGE JONES: Before you say -- A and B, it looks
4 like they're saying -- they're saying -- you're saying
5 it's privileged, but what about C and D? Whatever that
6 is. I don't know what C and D is.

7 MR. ZUCKER: Okay. C and --

8 JUDGE JONES: And D, for that matter.

9 MR. ZUCKER: C, in effect, they're looking for
10 information regarding replacement supply and capacity
11 costs. If we had anything, we would have given it to
12 them. E is not a question. It just says --

13 MR. KEEVIL: D. D.

14 MR. ZUCKER: D, did you say?

15 MR. KEEVIL: D.

16 MR. ZUCKER: I'm sorry.

17 MR. KEEVIL: D as in dog.

18 JUDGE JONES: D as in you don't have anything.

19 MR. KEEVIL: Or did they respond to D?

20 MR. ZUCKER: D should have been answered.

21 MR. KEEVIL: Yeah. E is the one if you have any
22 of the responses on spreadsheets or whatever.

23 MR. ZUCKER: Right. Right. And I've told you in
24 one of the letters you attached that, if we have it on a
25 spreadsheet, we will give it to you on a spreadsheet. So,

1 E is not actually a question, it's a formating issue. If
2 you have it in this form, give it to us.

3 JUDGE JONES: You don't have it is what you're
4 saying?

5 MR. ZUCKER: Right. We've given them what we
6 have. D, we gave them something; for C, we don't have
7 anything; and A and B, we'll give them the privileged.

8 MR. KEEVIL: You have no information? Information
9 on propane facilities are not available?

10 MR. ZUCKER: We haven't done a study on that.

11 MR. KEEVIL: Put that in the DR.

12 JUDGE JONES: Well, propane is when it's really
13 cold and you all need -- you're all working at peak. And
14 it sounds like they're asking what do you do if you don't
15 have that. Is that what you're asking?

16 MR. KEEVIL: Yeah. What would the supply and
17 capacity cause to be if you didn't have it?

18 MR. ZUCKER: Let me give you a little background
19 on it. Right now, we have a propane cavern.

20 JUDGE JONES: Right.

21 MR. ZUCKER: And we have propane that we buy. We
22 charge the customer for the propane cavern. The propane,
23 the customer pays for once it gets vaporized into gas and
24 then delivered to the customer. What we're saying is is
25 we don't want to charge the customer anymore for the

1 propane cavern. We'll use it for ourselves, and we'll try
2 to -- to have a propane business outside what we charge
3 the customers. And if our customers need any propane, we
4 will sell them out of the cavern without making them pay
5 for the cavern.

6 They're saying what is the information for
7 replacement supply capacity cost. I don't think we intend
8 to have any. We're still going to have the propane.

9 JUDGE JORDAN: What do you do if you ever -- so,
10 you all are selling -- you're trying to not waste your
11 resource by selling propane on the side. Is that
12 information that you're interested in, that revenue?

13 MR. KEEVIL: Uh-huh.

14 JUDGE JONES: Is that regulated?

15 MR. KEEVIL: It has been historically.

16 JUDGE JONES: By us?

17 MR. KEEVIL: By us, yeah. It has been
18 historically. In this case, Laclede has taken it upon
19 themselves to declare part of them -- I wasn't going to
20 get into this, but since Mr. Zucker took us down the road
21 -- Laclede has taken themselves upon this case to declare
22 a portion of the previously regulated propane cavern as
23 unregulated, so that they can do whatever they think they
24 want to do with that portion of the propane cavern. They
25 can take the propane that's in that part of the cavern and

1 sell it to Conoco if they want to.

2 JUDGE JORDAN: Now, should that transaction be
3 regulated?

4 MR. KEEVIL: If they're using regulated facilities
5 to do it, yeah, and that's part of this issue. They never
6 got authorization, they've never received any sort of
7 blessing that I'm aware much to just take part -- like I
8 said, this thing's been there since the '50s or '60s, I
9 think.

10 MR. ZUCKER: Early '70s.

11 MR. KEEVIL: '70s, I'm sorry. And it's been
12 regulated for all this time. Then along comes this rate
13 case and Laclede decides, Oh, wait a minute. Half of it,
14 or whatever percentage of it, that's not really regulated
15 so we're not going to count all that. So, they've
16 injected an issue here. So, I mean, we need to know what
17 they're doing with the cavern, what they've -- why
18 suddenly a formerly-regulated asset has become partially
19 deregulated in the minds of Laclede, how that should be
20 treated.

21 I mean, that's going to be an issue, probably, in
22 this case. How that should be treated. But we need to
23 know what the plans are for it and what's happened.

24 JUDGE JONES: Because your concern that they may
25 sell too much and not have a supply needed for these

1 rather than customers if there's a peak?

2 MR. KEEVIL: That could happen. I mean, there's
3 lots of things that's possible. That would certainly be
4 one of them. What sort of authority, if any, do they
5 need? We don't know exactly what they're doing with it,
6 the unregulated part of the cavern. Like I say,
7 unregulated, what they have declared to be unregulated,
8 which was previously regulated. It's in the rate base,
9 was paid for by -- 40 years by the ratepayers. They
10 decided all of a sudden that part of it's not regulated.
11 So --

12 JUDGE JONES: And you don't want to tell them what
13 all you're doing, what's going on?

14 MR. ZUCKER: No. We're willing to tell them that.
15 In fact, you know, what they want is they want our legal
16 work, and that's why we have the privilege. Other than
17 that, we haven't objected to, I don't think, anything, and
18 it's a good issue. I mean, it's a good legal issue to
19 fight over.

20 What we've said is we hardly ever give any propane
21 to our customers, so why should the customers pay for the
22 cavern. And we can take that cavern and maybe make
23 something of it for ourselves, but then that's going to be
24 our risk. Meanwhile, there is some amount of propane we
25 would like to reserve for the customers in case they need

1 it. Same question you asked.

2 So, we have declared some part -- you know, some
3 of the propane off limits to any kind of outside business.

4 JUDGE JONES: When you say declared --

5 MR. ZUCKER: Well, our plan is --

6 JUDGE JONES: -- that sounds like an accounting-
7 type thing going on. Is it?

8 MR. ZUCKER: No. No. I mean, our plan is to keep
9 some propane for the benefit of our customers, and other
10 propane that we have would be available for sale or lease,
11 or whatever we do with it.

12 JUDGE JONES: And have you told Staff what portion
13 is you're selling and what portion should remain?

14 MR. ZUCKER: Yeah.

15 JUDGE JONES: You have?

16 MR. ZUCKER: Sure. Yeah. This is not --

17 JUDGE JONES: So, I don't understand what the
18 issue is. I mean, as far as discovery is concerned --

19 MS. JENKINS: Customers need gas on cold days.

20 JUDGE JONES: Do you know who she is?

21 THE COURT REPORTER: No, I don't.

22 MS. JENKINS: Lisa Jenkins, Staff.

23 As they made this decision -- I mean, part of it
24 is they ought to, one, the whole regulated issue, is it a
25 regulated, is it -- is it an off-system sale like natural

1 gas? We need information to try to start figuring some of
2 that out. If they're saying they only need certain
3 amounts, which you've sent us reliability reports, are
4 they considered other options? You know, is it cost
5 effective -- if, for some reason, they decide to sell this
6 whole cavern to somebody else to operate, would it be more
7 cost effective for them to get gas for these peak days
8 from some other source rather than propane. What's the
9 cost to customers, one option, versus another versus
10 another.

11 There isn't just one option or two options here.
12 There's lots of things they could be doing. But it's like
13 they don't want to tell us what they considered, even to
14 the benefit of the customers.

15 JUDGE JONES: Is that true, Mr. Zucker?

16 MR. ZUCKER: No. If we have something that
17 they've asked for, we would give it to them. If we don't
18 have it, then we didn't consider it.

19 JUDGE JONES: And are you saying then that --
20 well, 101 is not satisfied, you're saying, because it's
21 privileged.

22 MR. KEEVIL: 101C is privileged?

23 MR. ZUCKER: 101A and B.

24 MR. KEEVIL: Okay.

25 MR. ZUCKER: C, they're asking for information

1 regarding replacement supply and capacity costs. In other
2 words, if we had no more propane in our cavern for our
3 customers, we would then have to go out and arrange for
4 some kind of transportation to bring propane to St. Louis
5 so we could sell it to our customers. But we don't have
6 that information because we didn't consider that.

7 MR. KEEVIL: Well, they went from, like I said,
8 the full propane cavern -- not full -- well, entire
9 propane cavern that was regulated historically and now
10 they come up with some percentage of that propane cavern
11 which now they say is regulated but the rest of it is not
12 regulated, according to them. So, how does that -- I
13 mean, you've got to have some kind of plan to figure out
14 how you get down from a hundred percent cavern to 40
15 percent of cavern, or something like, you know, whatever
16 percent it is.

17 And, I mean, to say that they have no replacement
18 supply or capacity plans, I mean, they had to look at
19 something to figure out how, how they got down to the
20 percentage they got to.

21 JUDGE JONES: What I'm hearing from Mr. Zucker is
22 they don't have a plan for that because they're not going
23 to run out. They don't have -- this is what I'm thinking,
24 what if there's -- what is your alternative plan?

25 MR. KEEVIL: Uh-huh.

1 JUDGE JORDAN: Is that right? If you run out of
2 propane --

3 MS. JENKINS: It's part of it. The other part is
4 they went from a hundred to 50 to about -- I don't know
5 what it is now -- between 30 and 40 percent. What's next
6 time? Is it going to be 20, is it going to be 10, you
7 know. Are --

8 JUDGE JONES: Yeah.

9 MR. POSTON: What's the justification for the
10 percentages they're using?

11 JUDGE JONES: Sounds like warm winters is the
12 justification.

13 MS. JENKINS: Well, even so, is it legitimate to
14 say that propane's the only way of meeting that need. I
15 mean, if it keeps saying this stuff and it keeps saying
16 something's unregulated and they're going to keep all
17 that, then shouldn't they also be looking at what's the
18 best thing for the customers? Should they be using
19 propane at all or should they be looking at something
20 else?

21 JUDGE JONES: Well, so you're saying they should
22 have a plan, and Mr. Zucker's saying, "Well, we don't,
23 though." Is that what I'm hearing?

24 MR. ZUCKER: We're using less of our propane for
25 our customers, and so we don't need a plan to use less.

1 What Lisa's saying is she would like us to think about
2 different things.

3 JUDGE JONES: But this is about documents and
4 information.

5 MR. ZUCKER: Right.

6 JUDGE JONES: So, if they don't have a plan, well,
7 I mean, whether it's --

8 MR. KEEVIL: If they don't have a plan, if they
9 just want to say that, I mean, they can say that.

10 MR. POSTON: I thought I heard Mr. Zucker
11 reference a plan just five, ten minutes ago, talking about
12 your plan. Was that not a written plan, that was just a
13 verbal plan?

14 MR. ZUCKER: Um, no.

15 JUDGE JONES: I think it was hypothetical.

16 MR. ZUCKER: No. We've said we need less propane
17 for our customers, and we told Staff that. We told Staff
18 how much of the cavern that we need, and they know it.
19 So, there isn't anything -- and we agree that, you know,
20 this is an issue in the case. I know Staff disputes what
21 we've done with the propane cavern, and they need to get
22 the information that they need so they can make their
23 arguments. That doesn't make -- we can't give them things
24 that we don't have or haven't considered or wouldn't
25 consider.

1 MR. KEEVIL: Well, if that's true, I mean, that's
2 the answer to the data request.

3 JUDGE JONES: Yeah. Why don't you just tell them
4 that?

5 MR. ZUCKER: We could. I think what we do is we
6 say, "Here's all the information," and maybe what we
7 didn't say is --

8 JUDGE JONES: "Here's not the information."

9 MR. ZUCKER: -- "Here's not the information."
10 Okay. Now, this was 101?

11 MR. KEEVIL: 101.

12 JUDGE JONES: 101C.

13 MR. ZUCKER: We'll do the same thing as --

14 MR. KEEVIL: E isn't a question. Just, if you
15 have it in Excel, give us it in Excel.

16 JUDGE JONES: Okay.

17 MR. ZUCKER: And we told them that, if we did, we
18 would.

19 MR. KEEVIL: Then, A and B are the privileged
20 logs.

21 MR. ZUCKER: Right.

22 MS. JENKINS: I didn't get the date when you would
23 respond to 101 and 102.

24 MR. ZUCKER: By the end of this week. I gave
25 myself Friday on that.

1 JUDGE JONES: Oh, yeah. Friday. What's happening
2 Thursday, privileged logs?

3 MR. ZUCKER: Privileged logs, right, and to the
4 extent we have unanswered questions. Let's see, journal
5 entries, Friday, also.

6 MR. KEEVIL: Okay. 100, apparently the B and C
7 responses were incomplete.

8 JUDGE JONES: Propane facilities and inventory.
9 Is that along the same lines as what we've been
10 discussing?

11 MR. KEEVIL: B asked for description of any and
12 all services provided by any party or entity that used the
13 propane facilities or propane inventory. And what that
14 would include, since they now claim it to be unregulated,
15 who is using it. I mean, and what -- because it's -- like
16 I said a moment ago, historically, for years, this cavern
17 has been treated as regulated assets, been part of the
18 company's rate base, and so on and so on.

19 So, now this rate case comes along, they declare
20 it unregulated, a portion of it unregulated, and we need
21 to know what's going on with that portion they now claim
22 to be unregulated, because that could, obviously --
23 because it's not like you can put a divider in the cavern.
24 There's regulated propane and there's unregulated propane,
25 and it's all in this cavern all together. So, it could --

1 but who is using it and how and why and when?

2 MR. ZUCKER: We have all that information.

3 MS. JENKINS: 99 and 100 are -- sort of tie. You
4 gave us some volume information in 99 but, based on the
5 volumes, they gave us some of the price information in
6 100, but you didn't give us all the price information for
7 all the values in 99.

8 MR. ZUCKER: So, in 99, you're talking about
9 something going back to what year? Going back to the year
10 2000, right?

11 MS. JENKINS: That's what we agreed on.

12 MR. ZUCKER: I think that was the question.

13 MS. JENKINS: It may have been.

14 (REPORTER'S NOTE: At this point, an in-camera
15 session was held, which is contained in Highly Confidential
16 portion of the transcript.)

17

18

19

20 MR. ZUCKER: And, so, uh -- and all of the
21 information on this, Staff has had over the years and, in
22 fact, has used it to impute into our rates and lower our
23 rates. So, I think Staff's pretty aware of this. There
24 just isn't a lot of -- there wasn't sales of propane going
25 on. It was more of a, We'll provide you this propane,

1 they used it for some purpose, and then they're expected
2 to return it to us.

3 MS. JENKINS: And, in the last rate case, you did
4 say all but that one time was returned. When we looked at
5 the volume and data we got from you in this case, that's
6 not true. There were other instances where volumes
7 weren't returned, and so we assumed there were dollars
8 associated with that as well, and we don't necessarily
9 have all that information.

10 MR. ZUCKER: In what years are we talking about?

11 MS. JENKINS: Um, offhand, I mean, I'd have to go
12 through and look. But, um, in the year 2008, which I
13 think that's --

14 MR. ZUCKER: That's the one we knew, right.

15 MS. JENKINS: There's a discrepancy in 2004,
16 there's a discrepancy in 2003, there's a discrepancy in --
17 what year is this -- 2001, and there's a discrepancy in
18 2000.

19 JUDGE JONES: So, you have a matching problem?

20 MS. JENKINS: Yes, I do.

21 MR. ZUCKER: Okay. So, I will get her an answer
22 on this, and I will get it to her this week.

23 JUDGE JONES: I don't understand. Have you all
24 not been communicating, because if that's a problem, then
25 we're going to be dealing with these for the rest of the

1 rate case.

2 MR. KEEVIL: Judge, you've seen the letters back
3 and forth.

4 JUDGE JONES: Yeah. People can talk in each
5 other's face and not talk to each other. Seems like you
6 all are talking now, so I'm just trying to understand
7 what's going on.

8 MR. ZUCKER: And, I guess there's a lot going on
9 for everybody, and maybe we haven't been communicating as
10 well as we could have. But what she's saying is -- what
11 we're saying is -- and everyone understands -- we haven't
12 used the propane cavern much for the customer. So, now
13 we're saying, Let's take it out of regulation, the cavern
14 itself. The propane.

15 JUDGE JONES: The whole cavern?

16 MR. ZUCKER: The whole cavern.

17 JUDGE JONES: Oh.

18 MR. ZUCKER: Okay. So -- so, now, what -- and,
19 so, Lisa says, Okay, how do you intend to use that cavern,
20 but she asked how have you been using it since the year
21 2000. And my understanding was, other than very
22 occasional loans of propane that came back, not really
23 much action at all. Now she's saying, Well -- and we gave
24 her the information. Now she's saying, I looked at this
25 information and, going back several years, I'm seeing some

1 discrepancies.

2 So, it's kind of a minor clean-up issue on
3 something that doesn't really apply to what we're doing
4 today. But, you know, she wants the answer; we'll get it
5 for her.

6 JUDGE JONES: Now, you're giving yourself a busy
7 week.

8 MR. ZUCKER: You know, uh, I'm already wasting a
9 lot of people's time here. I don't know if I give myself
10 full credit for it, but let's get it done.

11 JUDGE JONES: Okay.

12 MR. ZUCKER: Might as well focus on this.

13 JUDGE JONES: So, it looks like you've got 100 and
14 99 squared away.

15 MR. KEEVIL: Look at scheduling of discovery
16 conference.

17 JUDGE JONES: Um, yeah, we did drive to St. Louis.
18 Not that I'm not -- let's see. It looks like --

19 MR. KEEVIL: Now you're switching over to the
20 other batch of DRs, Judge, the 99 through 112, the propane
21 DRs. The 67 through 80 are the underground storming or
22 UGS DRs.

23 JUDGE JONES: Storage for UGS?

24 MR. KEEVIL: Underground storage.

25 JUDGE JONES: Oh, underground storage.

1 MR. KEEVIL: A little background here might be
2 helpful for you. I know it was for me.

3 JUDGE JONES: Sure.

4 MR. KEEVIL: Laclede has this underground storage
5 field in North St. Louis County where they store natural
6 gas in the rock formation, the strata, basically down
7 there about 1500 feet deep, roughly.

8 JUDGE JONES: Is this like the opposite of
9 fragging?

10 MR. KEEVIL: Yeah. Basically, it sort of is. It
11 really is. They're putting gas into the rock and the rock
12 is porous enough -- it's limestone, I believe it says?

13 MR. ZUCKER: Some of it's limestone. There's all
14 different sandstone.

15 MR. KEEVIL: So, the gas will -- if they put it in
16 under pressure, they can inject it into this aquafer, this
17 rock thing; and, then, when they need it, they bring it
18 out.

19 JUDGE JONES: But it's self-contained, though,
20 right? It's not --

21 MR. ZUCKER: Almost.

22 JUDGE JONES: -- floating around in the rock, is
23 it?

24 MR. ZUCKER: Yeah. It's self-contained.

25 MR. KEEVIL: It's self-contained. It's floating

1 around wherever it wants to in the rock.

2 MR. ZUCKER: But the rock is like an umbrella.

3 MR. KEEVIL: Yeah.

4 MR. ZUCKER: So, it's shaped like this
5 (indicating), so the gas is always pushing up under the
6 umbrella.

7 JUDGE JONES: Is it naturally shaped like that?

8 MR. ZUCKER: Yes.

9 JUDGE JONES: How did you all find something like
10 that?

11 MR. ZUCKER: Somebody in the 1950's --

12 MR. KEEVIL: They said it was actually because
13 somebody else found it and then told Laclede. It was,
14 like, discovered. I think they said somebody was drilling
15 for water wells, or something, and they discovered that
16 the formation did this saddle or umbrella thing, and that
17 the type of rock was amenable to this compression storage-
18 type treatment.

19 JUDGE JONES: Okay.

20 MR. ZUCKER: Most of the people in this room were
21 out at our storage facility, I guess, last month.

22 JUDGE JONES: At this particular one?

23 MR. ZUCKER: Yes.

24 MR. KEEVIL: Yes.

25 MR. ZUCKER: And we gave them a presentation. So,

1 that's why he knows more about it than me now.

2 MR. KEEVIL: No, he was there.

3 MR. ZUCKER: I was there, too.

4 MR. KEEVIL: The reason I bring this up is the
5 propane cavern, which is the first thing we were talking
6 about, was actually -- and I didn't know this until we
7 went out there at the storage facility, same location --
8 but it is not really part of the storage facility because
9 it's a separate -- the cavern itself was manmade, was
10 excavated by man --

11 JUDGE JONES: Right.

12 MR. KEEVIL: -- only goes about 400 feet deep.
13 Whereas this aquafer that they store the gas in -- and,
14 again, the cavern is for propane, not for natural gas.

15 MR. ZUCKER: Yes.

16 MR. KEEVIL: Auquafer is, for natural gas, about
17 1500 feet deep. Even though they're at the same location,
18 you've got a propane cavern up here (indicating), and then
19 a thousand feet below that, roughly, you've got this
20 (indicating) underground storage field where the gas is.
21 Okay. So, even though we talk about them as separate
22 issues, you can look at them as related, or whatever,
23 because both are at that location but there are two
24 different facilities or structures at this location.

25 So, that's why I wanted to throw that out there.

1 JUDGE JONES: Okay.

2 MR. KEEVIL: As I said at the beginning of this,
3 it came to my attention this morning before I came down
4 here that, at 4:59 p.m. yesterday, Laclede filed a
5 response to DR No. 80. Okay. Now, again, I don't even
6 think Staff's had a chance to look at that.

7 MS. JENKINS: No.

8 MR. KEEVIL: So, whether it's complete or
9 incomplete or accurate or inaccurate, I don't know, but
10 that is one of the things we had received absolutely
11 nothing prior to. I think, if I remember, 80 was simply
12 filed, I glanced at it, just refers to a response to some
13 other DR that they responded to. But they did file
14 something, like I said, 4:59 yesterday on 80.

15 75, that's the next one we haven't received
16 anything on the underground storage, and still have not
17 received anything on 75. And the letters that I attached
18 to the, whatever, discovery concerns, one of those letters
19 shows some correspondence back and forth between Mr.
20 Zucker and myself. They initially objected to the
21 entirety of 67 to 80, said, We object on the grounds that
22 they're burdensome. No relevance objection. No any other
23 objection; just it was burdensome.

24 So, we talked back and forth, and then Mr. Zucker,
25 to his credit, updated the objection and said that, Okay,

1 here it is, letter dated February 7th from Mr. Zucker to
2 me, where he says, you know, which ones they will provide
3 responses to and then which ones that Staff needs to go up
4 to the storage field and review onsite.

5 And the reason I point this out is 75, which is
6 one of the ones we have received nothing, is contained in
7 that list that they said they would answer, along with the
8 whole several others there that they said they would
9 answer, which we have either received nothing or what we
10 believe to be incomplete responses.

11 MR. ZUCKER: Let me give you a little more
12 background on this issue and why we -- there's much more
13 objection to this, to the underground storage than to the
14 propane cavern.

15 JUDGE JONES: Okay. But you did say you would
16 give the information on 75?

17 MR. ZUCKER: Um, yeah. And I think what Mr.
18 Keevil has asked me for and I haven't given him yet,
19 because I thought we were going to come to a different
20 agreement, which we didn't --

21 JUDGE JONES: So, are you saying that you're
22 providing this information is somehow tied to a different
23 agreement?

24 MR. ZUCKER: Well, we were going to make an
25 agreement which would take these out of the rate case,

1 these questions.

2 MR. KEEVIL: When he says "we", he means Laclede,
3 your Honor. We never -- I mean, I can show you the
4 correspondence back and forth. There was no indication on
5 our part at any point about willing to accept --

6 JUDGE JONES: Settlement?

7 MR. KEEVIL: We are willing to talk. But not
8 about the pendency --

9 MR. ZUCKER: That's --

10 JUDGE JONES: I don't want to hear about that.
11 Don't tell me about settlement. I just want to be
12 involved in the final.

13 MR. ZUCKER: Okay. So, the answer is is that Mr.
14 Keevil wants a date by which we are going to give him
15 this, and I'm authorized to tell him we'll give him this
16 stuff we haven't given him yet on as much to 80. With
17 that said, we would answer by the end of this week, also.

18 JUDGE JONES: Okay. All right. Is that good? I
19 mean, I realize you're going to have to review it to see
20 if they did give you what you're looking for.

21 MR. KEEVIL: Right.

22 MS. JENKINS: Does that include that update we
23 sent to Gina that says, when you sent these files, these
24 kind of things were missing? We sent it to Mike Klein and
25 to Gina.

1 MR. ZUCKER: I'm not --

2 MS. JENKINS: Give me some more information on
3 this.

4 MR. KEEVIL: For example, 69 --

5 MS. JENKINS: This was what we attached, we sent
6 our client, Gina, in an email.

7 MR. ZUCKER: 69 --

8 MR. KEEVIL: The reason I pulled that, it refers
9 to 222.

10 MR. ZUCKER: That's what you remember talking
11 about?

12 MS. JENKINS: Yes.

13 MR. KEEVIL: Lisa, does my client's email begin a
14 responses to these, but did not include A, B, C, whatever,
15 or they -- one of them was sent to us in a format we can't
16 open, you know, stuff like that. And I think, like I
17 said, that she's never responded --

18 MR. ZUCKER: Was that 69? No. Two files.

19 MS. JENKINS: My main concern is that file that
20 you sent that we can't even open.

21 JUDGE JONES: Seems like I read something about --

22 MR. KEEVIL: It's in the thing. Yeah
23 (indicating).

24 MR. ZUCKER: All right.

25 MR. KEEVIL: But there were other things in that

1 email, right quick, but --

2 MR. ZUCKER: 69 says you want liability reports,
3 operating plans, and these are things which we typically
4 give you in ACA cases, right? That's what it says in
5 under -- on page 3 of 6. So, I assume, we've given you
6 these reliability reports for these years already.

7 MS. JENKINS: In the response, you did, and you
8 sent the work papers in a Lotus file.

9 MR. ZUCKER: And you can't open it?

10 MS. JENKINS: In the past, we could open it. So,
11 you all changed what we did with Lotus. We typically
12 don't have Lotus here, but we can't open. That's what the
13 email says. We can't even open these to print them. The
14 IT folks looked at it and said it can't be done.

15 MR. ZUCKER: Okay. Well, we will fix that for
16 you.

17 MR. KEEVIL: There were other DRs in addition to
18 69 in the email that she sent on February 2nd we still
19 haven't had response to.

20 MR. ZUCKER: Okay. We didn't send you a
21 unopenable file on purpose. Let me assure you of that.

22 MS. JENKINS: That's why I emailed Mike and Gina.

23 MR. ZUCKER: 69, send file that can be opened.
24 Okay.

25 MR. KEEVIL: Judge, I just want to make clear

1 that, when he says they're going to have responses by the
2 end of the week, I set out in my little thing I filed last
3 Thursday, as of last Thursday we had not received any
4 response to 67, which we still have not.

5 JUDGE JONES: So, before we move on, we're still
6 on -- got everything, 69 up to 80?

7 MR. KEEVIL: Okay. We went backwards. Actually,
8 he said they'd give us everything --

9 JUDGE JONES: Okay.

10 MR. KEEVIL: -- if you look at the --

11 JUDGE JONES: So, 67. I mean, you're saying to
12 Mr. Keevil, you said initially your concern was that this
13 information is too voluminous?

14 MR. ZUCKER: Right.

15 JUDGE JONES: Now you're saying you'll give it to
16 them Friday?

17 MR. ZUCKER: Well, we've had a lot of time to work
18 on it. And he has --

19 JUDGE JONES: Was the discovery time frame too
20 quick -- turnaround too quick?

21 MR. ZUCKER: And I said -- so, let me give you a
22 little background. This is about underground storage.
23 This is where we keep our storage gas, which is also we
24 use for peaking, but we -- we use it -- it acts as a
25 hedge. If gas is expensive, we can use the gas that we

1 keep under the ground. Um, we -- uh, the issue that came
2 up in the ACA case is that -- is that the storage field
3 loses some gas just like every storage field does.

4 So, we pay our own store -- we have storage
5 offsite, also, that we -- um, that we hire and we pay
6 them. There's a little fee in there for lost gas. So, we
7 have lost gas, but we never charge for it. But -- so,
8 after a couple of decades, um, in the last -- we had a
9 study done of the field, and the study showed that, um,
10 how much gas we had lost, and we showed the study to
11 Staff, and we told them we now wanted to recover this lost
12 gas -- recover for this lost gas.

13 JUDGE JONES: Spoilage, so to speak, seep away or
14 evaporate?

15 MR. ZUCKER: It doesn't evaporate, but it becomes
16 non-recoverable.

17 JUDGE JONES: Does it get in my drinking water?

18 MR. ZUCKER: It does not get in your drinking
19 water.

20 MR. KEEVIL: It might.

21 JUDGE JONES: Don't want to make that an issue.

22 MR. ZUCKER: Scratch that. So -- so, Staff -- in
23 the last rate case, Staff agreed with us on this lost gas
24 and, believe it or not, we recovered this in the rate
25 case, not in the PGA. So --

1 MR. KEEVIL: As they've done for years.

2 MR. ZUCKER: And we've done that for years.

3 Staff's exactly right. And I think the reason it is is
4 because the storage, the underground storage field
5 predates the PGA, and so there wasn't a PGA to put it in.
6 That's my guess.

7 MR. KEEVIL: I was going to say I'm not -- I don't
8 think that's necessarily correct. I think it's treated as
9 a depreciation. It's depreciated as similarly as the way
10 the field is depreciated, is my understanding. Now, don't
11 quote me on that. I'm not a depreciating expert.

12 MR. ZUCKER: It has a rate.

13 MR. KEEVIL: It has a depreciation rate, right?

14 MR. ZUCKER: Yeah.

15 MR. KEEVIL: When he says they don't recover it,
16 that's not entirely true. There has been a -- this count
17 for lost gas, it gets called something else, but non-
18 recoverable gas, unaccounted-for gas, whatever, that's
19 been there for 50 years. And the issue in the last case
20 was they had not updated that account for, like, 30 years.
21 So, it was sitting there, and they went -- is my
22 understanding is they receive a return on the account and
23 there's also depreciation expense associated with that
24 account, so there is also return of the account, too. But
25 they hadn't updated it, the balance in the account for,

1 like, roughly 30 years.

2 So, the last rate case -- which was a black box
3 settlement, so I'm not even prepared to say that there was
4 an agreement as to the exact amount because -- but what
5 happened was there was some update of the amount in that
6 account. And it was continued to be treated the way it
7 had been treated for the past 60 years. But, again, the
8 last settlement, to my understanding, was a black box
9 settlement, so I don't think there's anything we can point
10 to that says it was agreed that this should be this amount
11 and this amount and this amount. But -- so, that's the
12 way it was treated. It was treated similar to the manner
13 it had been the last 60 years.

14 Okay. After that, Laclede decides that they're
15 going to run it -- instead of using it in this account or
16 putting it to this account, every 30 years, they're going
17 to run it through the PGA annually. So, they started two
18 or three years ago running the lost gas through the PGA.
19 Now, that raises a host of other problems, one of which
20 is, when they return it through the PGA, it's an estimate.
21 They don't have a firm amount because, until they go back
22 and do this update thing, they don't know how much gas
23 they lost and how much they didn't lose during any given
24 period.

25 So, Staff has serious problems with them running

1 this through the PGA-ACA process, and our position, at
2 least now, is treat it like it's always been treated or in
3 the context of a general rate case. So, they have been
4 recovering it, they just haven't been recovering it
5 through the PGA-ACA the way they want to recover.

6 So, that's why I take it at issue when they
7 haven't been recovered. It's been recovering, been
8 recovering, on and up, which is not the way they want it.

9 MR. ZUCKER: Okay. So, Jeff's right in that we
10 moved it to the PGA starting in 2009 to try to recover it
11 on a more contemporary basis. Um, what he's -- what I
12 don't agree with is after -- in the last rate case, we
13 showed Staff our study that we'd hired out for that showed
14 how much gas we had lost, and Staff said okay, and we put
15 it in to rates. We put a specific number into rates in
16 2009 -- or through 2008 into 2010 rate case.

17 And, so -- and he's right, this PGA, we've been
18 saying, Okay, let's start recovering this, instead of 30
19 years at a time, a little at a time as we go along here.
20 And Staff didn't like that. Okay. So, now we come to the
21 rate case. We haven't asked for anything in the rate
22 case. We haven't asked for any of this lost gas to
23 recover in the rate case, we haven't asked to change
24 anything specific with the storage field, underground
25 storage, and then they ask us 10 pages' worth of questions

1 asking for information going back decades, although
2 they're willing to take it -- information just going back
3 to the year 2000, if it's easier for us. And, so, page
4 after page of detailed questions over an issue that's --
5 that we haven't raised.

6 Now, could they raise it because -- because there
7 is a rate case? They could raise something, certainly,
8 but I don't understand where they're going with all of
9 this and why -- why they want us to produce all this
10 information suddenly in the context of this rate case.
11 So, what we said is, Look. We will -- you know, we've all
12 agreed that through 2008 the field has lost this much.
13 So, we'll give you anything, you know, you need since
14 2008. We'll give you what you want from then.

15 But, if you want to go back into history and look
16 at all sorts of -- they want information on, like, what we
17 injected into the field and brought out of the field going
18 back years and years and years. We said, If you want to
19 see that, we objected to it, and then later we came back,
20 as Jeff said to my credit -- which maybe means I wasn't so
21 smart -- but, to my credit, we came back and said, Okay.
22 When you come in, you come and look at it onsite.

23 JUDGE JONES: Right. Keep talking.

24 MR. ZUCKER: Okay. We said, We're (sic) coming to
25 look at the storage field, and they said, Could we look at

1 it then? We said, Sounds like a good idea, and so they
2 did.

3 Um, the rest of it, we said we will answer it and,
4 on February 27th, I wrote a letter and said we should be
5 able to answer this in the next few weeks, and Jeff wants
6 to nail down a date. And, so, the next few weeks, if you
7 figure three weeks from the 27th would be the end of this
8 week.

9 JUDGE JONES: And when you say "answer", you mean
10 even with respect to everything going back to 2000?

11 MR. ZUCKER: No. The stuff that we said that we
12 would give them.

13 JUDGE JONES: Okay.

14 MR. ZUCKER: And we have given them -- we gave
15 them the study again, the 2009 study. Gave them the whole
16 thing again for them to keep, you know, on a highly
17 confidential basis. We sent them -- they wanted to see
18 all the documents that went into that study; in other
19 words, what the company we hired relied on in making that
20 study. We sent them an email with 400 documents on it.
21 And so, you know, we're trying to meet their needs here
22 even though there isn't really an issue in this case to --
23 for them to argue.

24 JUDGE JONES: I mean, if you believe that, why
25 didn't you just object on the grounds it won't lead to

1 discoverable evidence or relevance or admissible evidence?

2 MR. ZUCKER: Because they have an argument that
3 there is in the rate -- in our rates, there is lost gas,
4 even though we haven't asked for any more of it, and there
5 is the cavern -- or, not the cavern -- but the underground
6 storage field.

7 JUDGE JONES: Okay.

8 MR. ZUCKER: Even though we haven't really made a
9 change to that.

10 JUDGE JONES: I see.

11 MR. ZUCKER: And, so, there's some connection to
12 it. And, so, then, what it comes down to is what is --
13 and I wrote this in my letter of January 25th -- see if I
14 can find it here -- Under the circumstances, this
15 information is onerous and extremely broad both in scope
16 of documents and in time.

17 And, so, it's more of a circumstances argument.
18 You know, given the fact that there's nothing going on,
19 how much can they use this on the discovery. And I'm
20 willing to be abused to some extent here, but, you know,
21 in representing my client, we have to have some kind of
22 limit.

23 JUDGE JONES: Okay. So -- but now it sounds like
24 you're saying you'll give that to them by the end of the
25 week, also?

1 MR. ZUCKER: Yes.

2 JUDGE JONES: Okay.

3 MR. KEEVIL: Now, does that include -- I mean,
4 like I said, we've got no response at all to 67.

5 MR. ZUCKER: Let me respond to 67 right now on the
6 record.

7 MR. KEEVIL: No.

8 MR. ZUCKER: I'll give it to you, also, in
9 writing.

10 JUDGE JONES: It's in writing?

11 MR. ZUCKER: It's going to be in writing.

12 JUDGE JONES: Yeah.

13 MR. ZUCKER: In 67, you know, Lisa does a nice job
14 giving background on questions, and I find that to be
15 helpful. What she has said is several years ago you did a
16 study and you decided that the field had a certain value
17 to customers. And, so, now she's saying, Now give me
18 everything you have that you have that updates that study.
19 Well, the answer is we don't have anything because we
20 haven't updated the study, but we thought that Lisa's
21 suggestion was a good idea, so we are in the process of
22 doing it. We're going to update the study, and we will
23 give Staff all of the information, and I think we should
24 have that done within the next two weeks. So, this is not
25 something they've asked us -- the discovery answer is no,

1 we don't have anything.

2 JUDGE JONES: What goes into updating a study? I
3 mean, a study of this underground gas storage? Do you
4 have -- that sounds like a lot of work.

5 MR. ZUCKER: It actually, I guess, is not that
6 bad. I mean, it's some work, but here's what the study
7 consists of. And it's the same thing we just talked about
8 with propane, which is if we didn't have underground
9 storage for our customers, if they weren't paying for that
10 and we didn't have any, what would it cost us to now go
11 out and acquire the capacity necessary to bring extra gas
12 into St. Louis, um, for -- to match the equivalent -- to
13 match the loss of the gas for the underground storage.

14 JUDGE JONES: Hm. Did you hear what he said, Mr.
15 Keevil, what would it cost to compensate for loss of the
16 underground storage. Is that a fair characterization of
17 what you all are trying to figure out?

18 MR. KEEVIL: Of the cost benefit, yes.

19 JUDGE JONES: Well, that sounded like something
20 different.

21 MR. KEEVIL: No. That was -- 67 is the cost
22 benefit. There's also -- and I just want to make clear,
23 there is -- and I think Mr. Zucker mentioned a moment ago
24 -- there was a study that they did or that they had
25 conducted a couple years ago by a company called NITEK

1 (ph)?

2 MR. ZUCKER: Uh-huh.

3 MR. KEEVIL: Which they have now given us a copy
4 of the 2010 text. We have been told that there has been
5 an update to the NITEK study which Laclede has at least a
6 draft of which will be done soon, and we've got 68.

7 JUDGE JONES: This is one you're talking about?

8 MR. ZUCKER: No.

9 MR. KEEVIL: I wanted to make sure we weren't
10 talking in loggerheads here.

11 MR. ZUCKER: Right.

12 MR. KEEVIL: We've been told we will be given a
13 copy of this updated NITEK study soon, and we never --
14 like I say, kind of like the other ones, it's always
15 coming soon.

16 When can we expect to be getting a copy of the
17 updated NITEK study? And that is separate from this other
18 study you're saying you're going to give us in two weeks,
19 right?

20 MR. ZUCKER: Right.

21 MR. KEEVIL: Okay. So, we get the cost benefit in
22 two weeks; and when, then, do we get the updated NITEK
23 study?

24 JUDGE JONES: Is that -- is that a part of this
25 discovery dispute?

1 MR. KEEVIL: Yes. Well, yeah. It's -- for
2 example, 68.

3 JUDGE JONES: 68.

4 MR. ZUCKER: Okay.

5 MR. KEEVIL: Yeah.

6 MR. POSTON: And the background documents, that
7 study, is that for -- asking for all supporting documents?

8 MR. KEEVIL: The cost benefit that he was talking
9 about in 67 -- you may have lost me there, though.

10 MR. POSTON: You earlier talked about background
11 documents that you wanted, all documents --

12 MR. KEEVIL: That was the original -- that was
13 actually what he said, and that was in regard to the
14 documents that were for the original NITEK studies?

15 MR. ZUCKER: Uh-huh.

16 MR. KEEVIL: And we've also asked for the stuff
17 updated since then.

18 MR. ZUCKER: Uh-huh.

19 MR. KEEVIL: Including the input data and the
20 actual study itself.

21 MR. ZUCKER: Huh?

22 MR. KEEVIL: The updated study itself. And, like
23 I said, we've been told that there is a draft of that,
24 Laclede has a draft, but we haven't been told when we
25 could get a copy.

1 Or do we have the -- I don't think we have the
2 inputs for the update, the NITEK update, do we, Lisa?

3 MS. JENKINS: Not to my knowledge, no.

4 MR. ZUCKER: The NITEK updates?

5 MR. KEEVIL: The updates, yes.

6 MR. POSTON: The inputs.

7 MR. ZUCKER: Inputs. Okay. Well, I mean, the
8 answer -- from a discovery standpoint, the answer is,
9 Until we have a final study, we don't have it. So, the
10 answer is we don't have it, but we have an obligation to
11 update our answer once we get it. And, so, until we have
12 it, I don't know. I don't know the answer to that.

13 MR. KEEVIL: Okay. What about the inputs? That's
14 not dependent upon your receiving a final study. You
15 should be able to get us the inputs, the stuff that NITEK
16 was given to prepare their updates.

17 MR. ZUCKER: Okay. Let me look into that. I will
18 get you an answer on that at least by Friday. I don't
19 know the answer to that.

20 JUDGE JONES: So, you provided NITEK -- I see it's
21 all in caps. Is that an acronym or something?

22 MS. JENKINS: That's how they do it in their
23 reports.

24 JUDGE JONES: Okay. So, you provided NITEK with
25 some information, and they're supposed to put it all

1 together and make something?

2 MR. ZUCKER: They have models and stuff, right.

3 MR. KEEVIL: And, again, just for clarity
4 purposes, the cost benefit thing is separate from the
5 NITEK update. That's what you committed to get to us in
6 two weeks, right?

7 MR. ZUCKER: Yes.

8 MR. KEEVIL: All right.

9 MR. ZUCKER: Can I bring up one more thing?

10 JUDGE JONES: Sure.

11 MR. ZUCKER: You think -- some of the stuff I've
12 said herein today, I think maybe a lot of it is HC. I
13 know she's -- I don't know how these -- this is my first
14 one of these, also.

15 JUDGE JONES: You say a lot of it is HC?

16 MR. ZUCKER: Well, I don't know if a lot of it,
17 but --

18 MR. POSTING: Go through a draft of the transcript
19 and mark it out?

20 MR. ZUCKER: How do they usually do that with
21 these?

22 JUDGE JONES: Well, I would have told her
23 beforehand that we were going into some things that were
24 highly confidential and she probably would have noted it
25 and treated it accordingly in a transcript. Okay.

1 I would like Mr. Poston's suggestion. I'm
2 thinking you care about the HC more so than anyone else
3 here.

4 MR. ZUCKER: Of course.

5 JUDGE JONES: Okay. And I think that, if he
6 decided to call the whole thing HC, would anybody here
7 have a problem? I'm not saying that he will, I'm just
8 saying --

9 MR. POSTON: I don't have access to it, so I don't
10 have a problem.

11 MR. KEEVIL: That's fine.

12 MR. BERLIN: Judge, I would just like to point out
13 -- and you sort of alluded to it -- that Mr. Zucker's
14 responses are responses to DRs. But, in the Commission's
15 March 13th order, paragraph 5L, it states that any data
16 requests issued to or issued by Staff shall be submitted
17 in responded to Commission's electronic filing and
18 information system, to use efis as the tool to drive that.
19 Because, as I understand efis, all counsel on the
20 certified service list will get an email from efis stating
21 that a response has been received to certain DRs. So --

22 MR. POSTON: I don't receive anything.

23 JUDGE JONES: Maybe it's just staff. It's just
24 staff, yeah.

25 MR. BERLIN: Well, for the Staff's DRs. So, you

1 have the ability to go into efis. You're on the certified
2 service list.

3 MR. POSTON: I can see documents on it?

4 MR. BERLIN: You can go see the responses even
5 though they're HC, and that's a mechanism to protect that
6 information, as I understand from the IT folks here. So,
7 that's why, you know, parties wanted that provision in the
8 order.

9 MR. ZUCKER: So, that's good for efis answers, I
10 agree, Bob, but with regard to this transcript --

11 JUDGE JONES: Right.

12 MR. ZUCKER: -- I guess what the Judge is asking
13 is is it all right if we call the whole thing HC. Is that
14 an option?

15 MR. KEEVIL: Doesn't matter to me.

16 MR. POSTON: If we want something to be not HC at
17 a later date, we can bring it up.

18 JUDGE JONES: Well, that's a technical issue. I
19 don't know.

20 MS. KEEVIL: I was going to say let say they don't
21 get their responses by Friday and I turn around and file a
22 motion to compel them for sanctions and the part of the
23 transcript where he said he'd have responses to me by
24 Friday is highly confidential. That did seem a bit odd to
25 me.

1 JUDGE JONES: Well, I mean, I know the
2 Commissioners can read it. Just the general public can't
3 read it.

4 MR. KEEVIL: Well, that's true.

5 MR. POSTON: You question whether you wanted to
6 quote that into --

7 MR. KEEVIL: I would have to quote that into my
8 document.

9 JUDGE JONES: Well, I think we can say that's not
10 HC. But it may be marked that way anyway, but you can
11 certainly quote that, right? Now, it's always -- I mean,
12 the only other alternative is for Mr. Zucker to get an
13 advance copy of it, go through, mark what he thinks should
14 be HC and the reason. Real reason I ask if you care the
15 whole thing was HC was to give him the power to determine
16 what is. You do have a problem with any -- all of it
17 being HC, but you don't have a problem with edition?

18 MR. POSTON: Only issue Jeff phrased being able to
19 quote from it at a future date.

20 MR. KEEVIL: Rick knows this because they've run
21 into it, too. When you get to the point of using HC
22 material, it is more troublesome to use, because your
23 pleadings --

24 JUDGE JONES: Because it's called HC.

25 MR. KEEVIL: Right. Because then you have to file

1 two copies, file a public copy, redacted copy. The fact
2 he classifies highly confidential a problem, if you call
3 the whole stinking transcript confidential, there might be
4 portions of it that are clearly not confidential that I
5 would feel foolish having to go through the process to do
6 a redacted version to take out March 22nd, you know.

7 JUDGE JONES: Well, I mean, can you provide to him
8 an advanced copy of this before we get it into the
9 Commission? Let's go off the record on this.

10 (Whereupon, a discussion was held off the record.)

11 (Whereupon, the record resumed at 11:19 a.m.)

12 JUDGE JONES: We went off the record to discuss a
13 concern about highly confidential information being
14 redacted from the transcript, and now we are back on the
15 record.

16 Mr. Keevil.

17 MR. KEEVIL: Judge, I just want to clarify here
18 before we finish the proceedings that Mr. Zucker indicated
19 he would have responses to us by Friday for the ones that
20 we claimed we have not received responses. I'm just
21 trying to make sure there's an agreement as to what that
22 is, and, you know, I don't want to come to Friday and then
23 find out that Laclede didn't know we didn't consider
24 responses to certain ones.

25 JUDGE JONES: Let me say what I understand. I

1 understand that everything would be provided by Friday.
2 DR responses will be provided by Friday. Objections based
3 on privileged will be provided, initially by Thursday, but
4 Friday is what you're saying. Privileged log, is it
5 Thursday or Friday?

6 MR. ZUCKER: I said Thursday.

7 JUDGE JONES: So, privileged log is Thursday; DR,
8 responses to everything is Friday; and the only thing, a
9 report, which report was that two weeks out?

10 MR. KEEVIL: That was the cost benefit response to
11 67.

12 JUDGE JONES: On 67 is two weeks from now; and the
13 NITEK study, well, they don't have that.

14 MR. KEEVIL: But there were the inputs for the
15 updated, which they can make available.

16 JUDGE JONES: You can do that by Friday, also, the
17 inputs for the NITEK study?

18 MR. ZUCKER: Well, I said I would -- I don't know.
19 I said I would get them an answer on Friday on when --

20 JUDGE JONES: When you can get them to them?

21 MR. ZUCKER: Yeah.

22 JUDGE JONES: I mean, that leaves it open on when
23 he can get that to you.

24 Well, have those inputs been provided to NITEK
25 already? You don't know?

1 MR. ZUCKER: I don't know, but I assume they have.

2 MR. KEEVIL: There's a draft. Laclede's got a
3 draft of the study.

4 JUDGE JONES: So, the inputs are readily
5 available?

6 MR. ZUCKER: Well, I don't know how we have kept
7 them.

8 JUDGE JONES: I see. I see.

9 MR. KEEVIL: And 80, did we get response to 80?
10 75, no response to 75 at all?

11 MR. ZUCKER: 75 is on the Friday list.

12 MR. KEEVIL: Okay. Full responses to 68 to 70.
13 Any issue there regarding what is missing and what's not
14 missing from 68 to 70?

15 MR. ZUCKER: My printer didn't print color, but
16 what I remembered -- well, yeah, it did. It has a shading
17 to it.

18 MR. KEEVIL: 70D, G. I guess for 70, is that
19 right, D and G are the ones we need responses to? As well
20 as -- that also includes the updated NITEK.

21 MR. ZUCKER: We said 70B. C and D is what we
22 said.

23 MR. KEEVIL: Right. Apparently, we don't have a
24 -- D and G was supposed to be made available onsite but it
25 was not. Excuse me -- was for fiscal year 2012 only. We

1 need the '09 through '11 stuff for G. Granted, like I
2 said, that was supposed to be --

3 MR. ZUCKER: G you're talking about, this is
4 policies and procedures practices at the storage facility
5 going back to the year 2000.

6 MS. JENKINS: And, although you didn't say it in
7 that response, DR 76 has the sarboxy (ph) stuff. It's
8 only for 2000.

9 MR. KEEVIL: Well, they gave me for the stuff for
10 2012, right? For G?

11 MS. JENKINS: They gave it to us in a different
12 DR, but that doesn't answer the questions in here for the
13 other years. But I also say that read in DR 76 --

14 MR. KEEVIL: That's why --

15 MS. JENKINS: -- policies and procedures is what
16 it asks for, and I assume the sarboxy you gave us in 76
17 was part of your policies and procedures since that's what
18 it says?

19 MR. ZUCKER: Uh-huh.

20 MS. JENKINS: But it's only for a specific period
21 of time. So, your prior ones might be the same. I don't
22 know. Or they might be different, I don't know.

23 MR. ZUCKER: Okay. You're talking -- which one
24 are we talking about?

25 MR. KEEVIL: On G.

1 MR. ZUCKER: Okay. So, 70G is not in the list of
2 things that we would answer. That was supposed to be
3 available onsite.

4 MR. KEEVIL: Right. Was supposed to be, but was
5 not.

6 MR. ZUCKER: And is that the one -- there was one
7 thing we said we don't have, that that's somewhere else?

8 MS. JENKINS: No. That was withdrawals.

9 MR. KEEVIL: That was withdrawal information.

10 MR. ZUCKER: Okay. Okay. Well, then, whatever we
11 showed you onsite is what we --

12 MS. JENKINS: You didn't give this to us onsite.
13 I found it in -- another DR response sort of answers this
14 question except for it doesn't give all the information.

15 MR. ZUCKER: Only gives you a copy of that
16 procedure for --

17 MR. KEEVIL: Year --

18 MS. JENKINS: -- one year.

19 MR. ZUCKER: This is a procedure for --

20 MS. JENKINS: Your sarboxy for UGS and for your
21 propane, which is -- and if you read the whole document,
22 it's sort of like policies and procedures which would sort
23 of answer this question, except it's not complete because
24 it only pertains to that year.

25 JUDGE JONES: And you want information for 2009 to

1 2011. What if the policies and procedures haven't
2 changed? I guess you'd want him to affirm that.

3 MR. KEEVIL: Right.

4 JUDGE JONES: Okay.

5 MR. KEEVIL: And, apparently, there was no
6 response to 70D.

7 MR. ZUCKER: So, 70G is the sarboxy 2009 to '11.
8 Okay. 70D is on our list --

9 MR. KEEVIL: For Friday.

10 MR. ZUCKER: Yeah.

11 MR. KEEVIL: So, you've got 67, 75 on for Friday.

12 MR. ZUCKER: Uh-huh.

13 MR. KEEVIL: 68 through 70 on for Friday?

14 MR. ZUCKER: Not 6 -- 67.

15 MR. KEEVIL: I said 68 through 70.

16 MR. ZUCKER: 68, we have D, E, and G.

17 MR. KEEVIL: Right.

18 MS. JENKINS: Did we get to 73 yet?

19 MR. KEEVIL: No. On 68, apparently, we don't have
20 anything to E, and D looks incomplete. G, I don't know
21 why we didn't have G. Then, that's also the one that we
22 have the files in a format we can't open.

23 MR. ZUCKER: That's 69.

24 MR. KEEVIL: Oh, I'm sorry. You're right. You're
25 right.

1 MR. ZUCKER: Okay. Well, if it's on the list of
2 things we said we would answer, then we will answer them
3 by this Friday.

4 MR. KEEVIL: Okay.

5 MR. POSTON: Shouldn't everything be answered in
6 some manner by Friday?

7 MR. ZUCKER: Well, there's some things we said
8 we're not going back in past the last NITEK update. We
9 gave them the NITEK update, we gave them all the inputs to
10 the NITEK update, we've giving them everything up to the
11 NITEK updates.

12 MR. POSTON: And Staff's all right for that?

13 MS. JENKINS: Now --

14 MR. POSTON: Our concern, we don't -- saying we
15 don't want to go back because we didn't think anything
16 beyond 2008 is relevant to this case, because it's
17 relevant if Staff thinks it's relevant. Everything's open
18 right now, as far as I'm concerned.

19 JUDGE JONES: Is Mr. Poston -- is he
20 characterizing a dispute accurately, that you're saying
21 things before 2008 is not relevant and Staff's saying it
22 is?

23 MR. ZUCKER: Well, we're saying that's already
24 been decided by -- in the lost gas by the last case.

25 JUDGE JONES: The last rate case?

1 MR. ZUCKER: The last rate case.

2 MR. POSTON: That was the last rate case. If
3 Staff wants to look at these things now -- it's a new rate
4 case -- wants to relook at that, I think it's all open.
5 There is no limit on what can be looked at in this case.

6 JUDGE JONES: Well, if it was decided in the last
7 rate case, that means information with regard to it was
8 provided in the last rate case. It wasn't?

9 MS. JENKINS: We sent a bunch of DRs in the last
10 rate case, and they never answered.

11 JUDGE JONES: Never decided it in the last rate
12 case?

13 MR. POSTON: They came to an agreement.

14 MR. KEEVIL: Black box --

15 MR. ZUCKER: There wasn't a black box agreement.
16 There was an old number in that account that --

17 MR. KEEVIL: Rick sent us a settlement or
18 Commission order that sets an amount.

19 MR. ZUCKER: All right. I have that.

20 MR. POSTON: Even if there is an order setting an
21 amount, it's a new rate case. It's all open. We don't
22 have to agree to that number that we agreed to in 2008.

23 JUDGE JONES: That's not the point I'm making.
24 The point I'm making is that, if you came to agreement
25 with regard to that information, or that number, then it

1 would seem Staff would have gotten information to support
2 their ability to agree. And, if that's the case, then
3 they're getting stuff that they've already gotten. That's
4 the problem that I'm trying to avoid.

5 MR. POSTON: I think they're not asking for things
6 they've already gotten.

7 MS. JENKINS: Can I clarify? In the discussions
8 with Jeff and Rick, there were some DRs that Rick objected
9 -- and Mike was on the call -- to going back to certain
10 time periods, and on certain of those DRs we said we
11 agree, okay, 2008 and forward. Not everything. But
12 that's on this log that Jeff copied in his filing on the
13 DR where we said 2008 and forward is okay. That's on this
14 log (indicating). So, if we didn't agree to it and we
15 asked for everything from 2000 and forward, then I guess
16 we expect that to be provided.

17 And, in fact, you all have provided some of that
18 in some of these DRs you responded, because you gave us a
19 thumb drive that had bookoo documents on it from back in
20 the '30s and '50s.

21 MR. ZUCKER: That were used -- that were all given
22 to the NITEK company and used by them in making that
23 study. You said that's what you wanted.

24 MS. JENKINS: And -- right. And we assume -- as
25 we're going through this, you also refer to a 1991 study

1 that we weren't even aware of, and going through some of
2 these documents we found this, the '91 study, so we're
3 still reviewing --

4 MR. KEEVIL: So, you don't know if you have what
5 you want?

6 MS. JENKINS: All I can gauge is what we asked for
7 in the DRs.

8 JUDGE JONES: Right.

9 MS. JENKINS: As we go through it, we need you to
10 send additional RAs or respond, Hey, you referred to
11 something that's missing --

12 MR. POSTON: I was just taking issue with the
13 notion that this was decided in the last rate case so we
14 don't have to provide the documents. That does not seem
15 like an objection that can be raised.

16 JUDGE JONES: Well, it hasn't been.

17 MR. POSTON: Well, a reason to just not provide a
18 document --

19 JUDGE JONES: But that's not what you're saying,
20 is it?

21 MR. ZUCKER: Um, well, in this case, with regard
22 to the non-recoverable gas --

23 JUDGE JONES: Okay.

24 MR. ZUCKER: -- that issue got decided up through
25 2008. And we showed them the study that we had done, a

1 new number was put into that account that, I guess, the
2 parties agreed to, and now is it there goal to relitigate
3 it by going back and asking for a bunch of older
4 documents? I don't want to spend my time looking that up.
5 We haven't asked for any new -- new money in the rate case
6 on this, on the non-recoverable gas. We haven't asked for
7 anything. If they want to --

8 MR. KEEVIL: Wait a minute.

9 MR. ZUCKER: -- add to the lost gas, I guess they
10 can do that, but we're not asking for it.

11 MR. KEEVIL: Just the fact that it's there, I
12 mean, like I said -- both in rate base and depreciated,
13 and I'm sure they included that -- I don't think they've
14 taken it out of their rate base. So, I mean, to the
15 extent that there's valuation issue, Mr. Poston is right.
16 It's a live issue. What should it be valued at? How much
17 is it? How much is it worth?

18 MR. POSTON: A document that they have that's not
19 privileged, they're eligible to solve it.

20 JUDGE JONES: We solved those issues.

21 MR. ZUCKER: Mr. Poston said he didn't even want
22 to come.

23 JUDGE JONES: Okay. So, you have -- you have --
24 you have documents pre-2008?

25 MS. JENKINS: Yes.

1 JUDGE JONES: You have them now, though, right?

2 Do you have some?

3 MS. JENKINS: I have some, yes. I don't know, as
4 like the withdrawal one that they didn't respond to at
5 all, I don't have that.

6 MR. KEEVIL: That's why I was trying to go through
7 these on the red ones here. The withdrawal is, what, 72,
8 73. It was supposed to be made on onsite, was not. Is
9 that right?

10 MS. JENKINS: Yeah. And there's also a withdrawal
11 on DR 80. But, yeah, 72 and 73 be provided onsite, and
12 the people onsite said they didn't to that. That was a
13 totally different location that did that.

14 MR. ZUCKER: Okay. That's 72. So, 72, I will get
15 you an answer to where that is, because I was under the
16 impression that, when you went there, everything was going
17 to be there.

18 MR. KEEVIL: Well, it was also that 68G, wasn't
19 it? Yeah. G was supposed to be onsite but was not.
20 Well, it was for that one year, but that was in a separate
21 DR so it wasn't onsite. She was able to find a response
22 for one year but in a separate DR response. But the 68G
23 stuff was not onsite, either.

24 MR. ZUCKER: It's not there? Was there --

25 JUDGE JONES: Is it somewhere else?

1 MR. ZUCKER: I can ask. I can ask.

2 MS. JENKINS: They said gas control. Is that --

3 JUDGE JONES: Try not to talk over each other.

4 MR. ZUCKER: On 68G or on 72?

5 MR. KEEVIL: I said 68, Rick. I should have said
6 70. 70G was the stuff that wasn't onsite, as well as the
7 72 stuff.

8 JUDGE JONES: So, is Staff frustrated that it'll
9 have to travel somewhere and look at things again? Is
10 that a practical issue?

11 MS. JENKINS: I don't mind traveling if it's going
12 to be there. When we put four people in a car, then turn
13 around for another visit, we think we're going to leave
14 there at 5 and we turn around at 4 because the information
15 isn't there to review. So, two hours up, two hours back.

16 MR. ZUCKER: Right. Well, I don't know what's
17 there, but that's what I can find out, is what is where.

18 JUDGE JONES: When can you let them know?

19 MR. ZUCKER: Friday.

20 MR. KEEVIL: And the 68 to 70 stuff, you're going
21 to have Friday, too? There's no question on what's
22 missing or what's not missing?

23 MR. ZUCKER: Well, I guess what I'll tell you is
24 if we provided what we have --

25 JUDGE JONES: And if you don't have it, you'll

1 state that you don't have it?

2 MR. ZUCKER: Right.

3 JUDGE JONES: Okay.

4 MR. POSTON: So, just to be clear to me, that this
5 stuff, the pre-2008 stuff that Rick was saying he didn't
6 think needed to be provided from 2000 beyond, is that
7 going to now be provided?

8 MR. ZUCKER: Well, what we said on the --
9 originally, we said we were objecting to the pre-2009
10 stuff. And then we said, Well, you know, what -- if you
11 guys want to spend your time looking at this old stuff,
12 you're welcome to do it. Come on out and we'll show it to
13 you.

14 MR. POSTON: So, you're saying you'll be available
15 onsite?

16 MR. ZUCKER: Right. And we thought we had done
17 that.

18 MR. POSTON: Right.

19 MR. ZUCKER: But what we found out was some of
20 stuff we thought was there were -- was somewhere else
21 because the person there said so. And, so, now, we'll, I
22 guess, chase -- we'll chase that down and see what and how
23 much is somewhere else.

24 MR. POSTON: Okay.

25 JUDGE JONES: I mean, I guess you got to be okay

1 with it, right?

2 MR. POSTON: To see.

3 JUDGE JONES: Uh, let's see. Why don't -- Mr.
4 Keevil, why don't you, instead of filing something, just
5 email me and all the parties on Monday -- or Tuesday if
6 you forget to do it Monday; you know, I just said Monday
7 because it's after Friday and relatively soon -- on your
8 satisfaction of your responses to all that that supposed
9 to happen by Friday.

10 MR. KEEVIL: Can we have at least until Tuesday,
11 Judge? Because --

12 MR. ZUCKER: You have to read it.

13 JUDGE JONES: Well, if -- if by Tuesday you
14 haven't been able to go through everything to your
15 satisfaction, just do it Wednesday.

16 MR. KEEVIL: Okay.

17 JUDGE JONES: I'm just saying I want to know as
18 soon as you know you've got what you're supposed to get,
19 that you're satisfied with his responses. When you're
20 satisfied with Friday's responses, let me know. How about
21 that?

22 MR. KEEVIL: Why I'm satisfied? Likelihood of
23 that?

24 JUDGE JONES: Hey, man, come on. You know, I'm
25 trying to stay positive on this.

1 MR. POSTON: It would help, too, if there was a
2 commitment from Laclede to respond within the time frame
3 they're supposed to respond to the DR. It sounds like 20
4 days went without a response.

5 JUDGE JONES: I'm glad you brought that up. I
6 asked you earlier and went off on something else on this
7 discovery time frame, and you started off to say that it's
8 too tight. Is it --

9 MR. ZUCKER: Well, with regard to the underground
10 storage ones, in our view, those were all objectionable.
11 Not all but, in general, objectionable. And, so, you know
12 -- and I wrote in the very first letter it would take us
13 months to answer all these questions and for what purpose,
14 because they're mad we put some lost gas in the PGA. So,
15 on that one, it wasn't a matter of it's taking us more
16 than 20 days to answer. I don't want to answer these. I
17 don't want to go back into history --

18 JUDGE JONES: So, why are you saying you're mad at
19 that?

20 MR. ZUCKER: Well, because I'm trying to be
21 cooperative. I didn't change my mind today. I changed my
22 mind on February 2nd. I said I'd give you some stuff and
23 get the other stuff.

24 JUDGE JONES: I guess this is outside the scope --
25 it's been quarter to 9 all morning.

1 I guess this is outside the scope of this
2 proceeding, but you all have an ongoing relationship. Why
3 can't information be free-flowing outside of a rate case?
4 I mean, like, it would help the discovery process
5 immensely, probably, if information was constantly being
6 exchanged or requested.

7 I mean, that's just something that just
8 came to mind. It will get back upstairs --

9 MR. KEEVIL: We get information from some
10 companies, Judge. There seems to be a problem between
11 Staff, we don't seem to get the information from Laclede
12 that we get from other companies. I'm not saying all
13 other companies. But, as far as the information exchange
14 goes, I'd say it's less between Staff and Laclede than a
15 lot of other -- Staff and a lot of other companies.

16 JUDGE JONES: As an attorney, though, you wouldn't
17 be involved in exchange of information outside of a case,
18 though, would you?

19 MR. KEEVIL: Not -- well, it would depend. It
20 would depend. Sometimes, it would; sometimes, it
21 wouldn't.

22 JUDGE JONES: That's just something to think
23 about. You see each other year and year after year after
24 year. Seems like you should know each other's dirty
25 drawers now.

1 MR. ZUCKER: Let me address Mr. Keevil's comment
2 real quickly. We work with Staff in a number of different
3 areas, and we work fine in most of them, the Safety Staff,
4 with the Consumer Services Staff, and other Staffs. And
5 we struggle some with the PAD group, Procurement Analysis.
6 I don't think we're the only utility that does.

7 JUDGE JONES: That's a personality I can't deal
8 with.

9 MR. KEEVIL: And the other thing, Judge, going
10 back to what Mr. Poston said about the 20 days, 30 days,
11 60 days, I mean, if you look at the Commission's rule on
12 discovery requests, it says that if a party has a problem
13 responding within the 20 days or whatever the time some
14 point at this time period change, and really interesting
15 to see how responses come, but if a party gets a data
16 request and is unable to respond within a period of the
17 time the data request, they're supposed to say when
18 they're able to respond.

19 Okay. Until Thursday after I had filed this
20 (indicating), Laclede would never give me -- you could
21 look through there (indicating). There's many many many
22 correspondence from me to Laclede that say, You keep
23 saying you're going to get us this stuff. Tell me when
24 you're going to get it to me. Tell me when you're going
25 to get it to me, and I kept getting things, The next

1 several weeks, the next few days, when we get around --
2 they didn't say, When we get around to it -- but I could
3 never never get a response, a firm date, as required by
4 that Commission rule on discovery request. Even to the
5 stuff that they agreed that they would respond to, they
6 would never never give me a date.

7 And when I finally did get a date last Thursday,
8 that was simply on the privileged logs. That wasn't any
9 responses. That was privileged response last Thursday,
10 and that was in context of settlement discussions he
11 mentioned. So, I mean, you know --

12 JUDGE JONES: Okay. Is there anything you want
13 the Commission to do about that or are you satisfied with
14 the result that you have today?

15 MR. KEEVIL: We'll see what we get from him. I
16 mean, what can the Commission do about --

17 JUDGE JONES: I can order Laclede -- and I will --
18 to provide all the responses consistent with what's in the
19 transcript. So, a violation of the order would ensue if
20 Laclede doesn't comply with his promises today by Friday
21 --

22 MR. POSTON: It's already been a violation of the
23 procedural schedule order.

24 JUDGE JONES: Well, that's true. Why I was asking
25 Mr. Keevil --

1 MR. POSTON: It's a procedural violation -- order
2 violation.

3 JUDGE JONES: -- asking Mr. Keevil --

4 MR. KEEVIL: I was asking what can you do? In a
5 discovery conference, what could we do?

6 JUDGE JONES: I've had this conversation with
7 people, and this is a remedy issue that, I mean, sanctions
8 are available in Circuit Court for violation of a
9 Commission order. But that could, in some way, affect
10 costs passed on to consumers. It's a mess of stuff, no
11 argument.

12 If you want to start striking testimony and things
13 like that, then, the Commission has a difficult time
14 reaching a true best interest analysis. So, I don't know.
15 I don't have to know today.

16 MR. POSTON: I guess we could file a complaint.

17 JUDGE JONES: You could file a complaint, or -- I
18 don't think you'd have to file a complaint. The reason I
19 say I don't know, because at this point -- well, you're
20 asking what can I do, and if there's something I can do,
21 do you want me to do it? Is that what you're saying, Mr.
22 Keevil?

23 MR. KEEVIL: Well, like you said, I certainly
24 don't want to go to the point of something that's going to
25 hoist a lot of additional cost on ratepayers here as a

1 result of what we're doing.

2 JUDGE JONES: I'm sure there's a way to separate
3 penalties for violations of Commission orders, but the
4 shareholder burden, not ratepayer --

5 MR. POSTON: Could the rate case be dismissed?

6 JUDGE JONES: Tariff could be flat-out dismissed.

7 MR. KEEVIL: Dismiss the --

8 MR. POSTON: Well, to reflect on the tariff, the
9 only problem with that is that you -- because they filed a
10 tariff, we have to give due process of the rejection of
11 the tariff, which means now we're back in the rate case
12 which is where we are. So, I'm just, you know --

13 MR. ZUCKER: Well, first of all, let me
14 strenuously object. We don't feel like we've -- Laclede
15 hasn't violated --

16 JUDGE JONES: This is a hypothetical conversation.

17 MR. ZUCKER: I'm hoping it's hypothetical.

18 JUDGE JONES: Well, actually, if Mr. Keevil says
19 the discovery schedule sets out -- discovery time line
20 sets out what's supposed to happen in a certain amount of
21 time, that's ordered by the Commission. If it has not
22 happened, that's a violation of a Commission order.

23 MR. ZUCKER: Right. But we -- we told him about
24 three weeks ago that we would have answers in a few weeks.
25 Now, he's right that we didn't give him a specific date,

1 but that was because we were -- as he said, we were in a
2 negotiation which would -- the result of which would have
3 been we would have answered these questions in a separate
4 venue sort of like you just discussed.

5 You know, giving free flow of information, just
6 not in the -- under the pressured time frames of a rate
7 case where there isn't really an issue --

8 JUDGE JONES: Okay.

9 MR. KEEVIL: Well, I would disagree with that
10 strenuously myself. You know, that's not true. As far as
11 the settlement discussions, we told them back when we
12 called them on January 30th, we didn't -- we didn't like
13 what they were proposing. They just keep proposing it.
14 Every time we bring up the fact we don't have responses,
15 they do bring it up. I give them that. They're
16 consistent.

17 But as far as telling me a few weeks, February 7th
18 was the first time I was told, We will need additional
19 time to respond to these questions. That was February
20 17th; March 19th, and they said a few weeks. Well, that
21 was several weeks later they said a few weeks. You know,
22 February 7th, We need additional time. Then, two weeks
23 after that, We need a few additional weeks. And last week
24 they said --

25 JUDGE JONES: Do you want the Commission to review

1 their responses, the time frames, and make a determination
2 of whether or not there's been a violation of the
3 Commissioner's order directing them to comply with the
4 discovery schedule?

5 MR. KEEVIL: Well, I would say this. The
6 discovery schedule itself didn't come out until after
7 these things were already in dispute. So, you'd have to
8 look at the Commission's rule -- I think just a general
9 rule on discovery if you're going to do that.

10 So, yeah, I don't know. I mean, again, I go back
11 to what can we do.

12 JUDGE JONES: I mean, if they have violated the
13 Commission's rule on discovery because the actual schedule
14 came out after this information started not flowing and
15 flowing, I suppose, um, then raise the issue. I mean,
16 that's, you know -- I don't think the Commission is going
17 to sui sponsive that they just violated discovery, though.

18 MR. KEEVIL: Uh-huh. We'd need to file something
19 additional, I assume.

20 JUDGE JONES: Yeah. I mean, it could be a motion
21 for something, motion for sanctions or something in this
22 case. I don't think it has to be outside of the rate
23 case. It might complicate the rate case, but it would
24 parallel the rate case to some degree under the same. But
25 that's something you have to think about.

1 MR. KEEVIL: Like I say, let's see what -- let's
2 see what we get Friday.

3 JUDGE JONES: Okay. And the only reason we're
4 bringing all this up, you all got more stuff to do --

5 MR. KEEVIL: Like I said --

6 JUDGE JONES: -- and the relationship has to --
7 you know, gather around the campfire or something, I don't
8 know. Drink cold beer. That always works. But your
9 relationship's going to have -- you're going to have to
10 facilitate discussion in discovery, and any disagreement
11 should only be legal and practical. Shouldn't have
12 anything do with personalities because somebody's upset
13 with somebody. Just get over it, for God's sake.

14 MR. KEEVIL: I agree.

15 JUDGE JONES: That's what I'm trying to get you
16 to. So, anything else from anybody?

17 MR. BERLIN: I'd like to say this. I don't see it
18 as a personality issue at all. We have a very cordial
19 relationship, all Staff, Counsel, and PAD group. That's
20 not a personality issue. This is an issue about providing
21 DR responses --

22 JUDGE JONES: Right.

23 MR. BERLIN: -- in a timely way consistent with
24 the Commission's rule. And, No. 2, to be consistent with
25 the order that established the procedural schedule in this

1 case that Commission issued on March 13th. And that's why
2 we're here, because we want timely responses from the
3 company. That's why we're here.

4 JUDGE JONES: That's why Staff is here. But Mr.
5 Zucker, I mean, he kind of hinted that there's a
6 Procurement and Analysis Department thing between Staff
7 and Laclede.

8 MR. ZUCKER: Well, I don't know that it's between
9 Staff and Laclede, but I think there's -- the Procurement
10 Analysis Department asks a lot of questions, so it's just
11 more difficult to respond on a timely basis.

12 JUDGE JONES: Why do you think they ask so many
13 questions?

14 MR. ZUCKER: They're good question askers. They
15 really are.

16 JUDGE JONES: Maybe I misperceived something.
17 Thank you, Mr. Berlin, for weighing in on that.

18 Anything else from anybody?

19 MR. ZUCKER: No. And I also -- I don't have a
20 personality issue -- and Laclede doesn't -- with anyone at
21 Staff or Public Counsel. So, we all want to get along,
22 and we understand they have a job to do and we want to
23 provide them the information they need to do it.

24 JUDGE JONES: Okay.

25 MR. ZUCKER: And sometimes there are disagreements

1 on what that information is.

2 JUDGE JONES: All right. Okay. Well, that being
3 said, let's go ahead and go off the record.

4 (Adjournment.)

5 (Whereupon, the record ended at 11:53 a.m.)

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C E R T I F I C A T E

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

I, Pamela S. Gentry, Certified Court Reporter with the firm of Midwest Litigation Services, do hereby certify that I was personally present at the proceedings had in the above-entitled cause at the time and place set forth in the caption sheet thereof; that I then and there took down in Stenotype the proceedings had; and that the foregoing is a full, true and correct transcript of such Stenotype notes so made at such time and place.

Given at my office in the City of Jefferson, County of Cole, State of Missouri.

Pamela S. Gentry, CCR #426

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