1   STATE OF MISSOURI

2   PUBLIC SERVICE COMMISSION

3

4   TRANSCRIPT OF PROCEEDINGS

5

6   HEARING

7   February 5, 2018

8   Jefferson City, Missouri

9   Volume 23

10

11

   In The Matter Of Spire   )
12 Missouri, Inc.'s Request To) File No. GR-2017-0215
   Increase Its Revenues For Gas) File No. GR-2017-0216
13 Service   )

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16   NANCY DIPPELL, Presiding
                       SENIOR REGULATORY LAW JUDGE
17   DANIEL Y. HALL, Chairman
                 RYAN SILVEY, Commissioner
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21 REPORTED BY: Angie D. Threlkeld, CCR, CSR, RPR
                    Alaris Litigation Services
22   3432 W. Truman Boulevard, Suite 207
                    Jefferson City, MO 65109
23

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 1                    A P P E A R A N C E S

 2   For Staff of the Missouri Public Service Commission:

 3                       Ms. Whitney Payne
                         Mr. Mark Johnson
 4                       Public Service Commission
                         200 Madison Street
 5                       P.O. Box 360
                         Jefferson City, MO 65102-0360
 6                       (573) 751-8706

 7

 8   For Office of Public Counsel and the Public:

 9                       Ms. Lera Shemwell
                         Mr. Hampton Williams
10                       Office of Public Counsel
                         200 Madison Street, Suite 650
11                       Jefferson City, MO 65102
                         (573) 751-5565

12

13   For Spire Missouri, Inc.:

14                       Mr. Rick Zucker
                         Mr. Michael C. Pendergast
15                       Attorneys at Law
                         720 Olive Street, Suite 1524
16                       St. Louis, MO 63101
                         (314) 342-0533

17

     For MIEC:
18
                         Mr. Lewis Mills
19                       Attorney at Law
                         221 Bolivar, Suite 101
20                       Jefferson City, MO 65101
                         (573) 556-6627

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

 2              JUDGE DIPPELL:  Let's go on the record.

 3    Okay.  It's February 5th, 2018, and this is Case Numbers

 4    GR-2017-0215 and GR-2017-0216.  I'm Nancy Dippell, the

 5    regulatory law judge assigned to this case.  And we're

 6    here today for a hearing regarding the Tax Cuts and Jobs

 7    Act involvement in this proceeding.

 8              And I said previously, before I put on --

 9    took off the mute, that we don't have a court reporter

10    sitting in the room with us, but we're going to have the

11    transcript transcribed from this recording.

12              So first I would like to get entries of

13    appearance.  Can we start with the Company?

14              MR. ZUCKER:  Good morning, Your Honor.  Rick

15    Zucker and Michael C. Pendergast, here on behalf of the

16    Company.

17              JUDGE DIPPELL:  And staff.

18              MR. JOHNSON:  Thank you, Judge.  Mark Johnson

19    and Whitney Payne here on behalf of the staff of the

20    Missouri Public Service Commission.

21              JUDGE DIPPELL:  And Public Counsel.

22              MR. WILLIAMS:  Yes, Judge.  Hampton Williams

23    and Lera Shemwell for the Office of the Public Counsel.

24              JUDGE DIPPELL:  Anyone from Division of

25    Energy?  National Housing Trust?  Environmental Defense
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 1   Fund?  Midwest Energy Consumers?

 2              MIEC.

 3              MR. MILLS:  Thank you, Judge.  On behalf of

 4   the MIEC, my name is Lewis Mills.  My address is

 5   221 Bolivar Street, Jefferson City, Missouri 65101.

 6              JUDGE DIPPELL:  Consumers Council?

 7              MR. COFFMAN:  Appearing on behalf of the

 8   Consumers Council of Missouri, I'm John B. Coffman.

 9              JUDGE DIPPELL:  And I had a request to be

10   excused from Mr. Steinmeier on behalf of the City of

11   St. Joseph.

12              Anyone from Missouri Gas Pipeline?  KCPL?

13   The Unions?  Or -- Missouri School Board Association's

14   issues are finished.

15              All right.  I'd like to begin this morning by

16   first seeing who you brought with you to possibly

17   testify.  And I'll start with the Company.

18              MR. ZUCKER:  Thank you, Your Honor.  We have

19   Steven P. Rasche, who is already a witness in this case.

20   He is the Company's chief financial officer.  And we also

21   have Timothy W. Krick, also a witness in this case who

22   filed the affidavit requested on January 24th.

23              JUDGE DIPPELL:  And from staff, who did you

24   plan to have?

25              MR. JOHNSON:  Thank you, Judge.  We have
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 1   today with us Mark Oligschlaeger and Lisa Ferguson.  Both

 2   have also provided testimony in this case.

 3                JUDGE DIPPELL:  And, Public Counsel, did you

 4   have anyone you were anticipating testifying today?

 5                MR. WILLIAMS:  Yes, Public Counsel has John

 6   Riley and Joint Witness Greg Meyer.

 7                JUDGE DIPPELL:  Okay.  And MIEC then, you

 8   have?

 9                MR. MILLS:  Greg Meyer.

10                JUDGE DIPPELL:  And did anyone else have

11   witnesses here today that they intended to put on?  Okay.

12   I don't see any.

13                All right.  So I had ordered a technical

14   settlement conference last week on Tuesday.  Would

15   somebody like to give me a report about if discussions

16   took place and if anything came from that?

17                MR. ZUCKER:  Yes, Your Honor.

18                JUDGE DIPPELL:  Mr. Zucker.

19                MR. ZUCKER:  Discussions did take place.  We

20   brought a number of people down to Jefferson City.  MIEC

21   was there with Mr. Meyer, staff was there, OPC was there.

22   I think the -- Mr. Linhares, the NHT attorney, was also

23   present.  We had a nice discussion, but nothing got

24   resolved.

25                JUDGE DIPPELL:  Okay.  And then just prior to
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1   this hearing there was a nonunanimous stipulation and

2   agreement filed. Would anyone like to speak to that

3   before openings?

4   Mr. Hampton.

5   MR. WILLIAMS: Yes, Your Honor.

6   JUDGE DIPPELL: Mr. Williams. Sorry.

7   MR. WILLIAMS: I think I would characterize

8   the result of the technical conference producing a

9   nonunanimous stipulation that had been circulated to

10   parties earlier. And what the nonunanimous stipulation

11   represents is an estimated number of what we believe is a

12   conservative estimate of the tax impacts and then also a

13   regulatory account which would address any additions or

14   reductions below that estimate account moving forward.

15   So this would allow, you know, an immediate realization

16   of the benefits to ratepayers, as well as a mechanism to

17   address any future impacts moving forward.

18   JUDGE DIPPELL: Okay. Is there anything that

19   staff wanted to add to that?

20   MR. JOHNSON: Not at this time.

21   JUDGE DIPPELL: Okay.

22   MR. JOHNSON: Thank you, Judge.

23   JUDGE DIPPELL: Okay. So the way that I -- I

24   sent out a notice saying the way I thought that the

25   hearing would proceed today was that we would do opening

1   statements. I would allow then direct testimony, instead

2   of just accepting the affidavits as testimony. You're

3   welcome to put those affidavits in as evidence -- or

4   offer them as evidence. And then we'll just proceed as

5   it -- as if it were an ordinary hearing.

6   Mr. Pendergast, you look like you have

7   something you want to ask?

8   MR. PENDERGAST: No, Your Honor. I simply

9   wanted to go ahead and get clarification. When will we

10   have an opportunity to object to this stipulation and

11   agreement? Will we have the customary seven days to do

12   that or will we need to object to it today?

13   JUDGE DIPPELL: If you believe you're able to

14   object to it today, that would be helpful.

15   MR. PENDERGAST: Well, from a preliminary

16   standpoint, there's no evidentiary foundation for the

17   numbers that have been presented in this stipulation and

18   agreement. I think the staff has been very clear that

19   the tax effects are not known and measurable at this

20   point; that there is not a basis for claiming that they

21   are. This stipulation and agreement simply assumes that

22   they are.

23   The stipulation and agreement simply assumes

24   that it's appropriate to go beyond the test year period

25   that the Office of Public Counsel and every other party

1 agreed should be used, the true-up period that is, that

2 the Commission approved; that we can simply shoot past

3 that and propose to go ahead and recognize in this case

4 items that are not known and measurable, that violate the

5 matching principle that everybody spent a lot of time

6 talking about during the hearing.

7   And, you know, quite frankly, with the market

8 reaction we've already had, the last thing we need is

9 another article like this that would seek to go ahead and

10 take millions and millions of dollars away from the

11 Company.

12   So we object. We think it's entirely

13 inappropriate and that it shouldn't even be considered by

14 the Commission.

15   JUDGE DIPPELL: All right. Well, our -- our

16 general rule is a nonunanimous stipulation and agreement,

17 if objected to, becomes basically the position statement

18 of those parties. So I would say that we have a

19 nonunanimous stipulation and agreement, it has been

20 objected to, and so we will have to go forward then with

21 putting on evidence with regard to those positions.

22   Are there any other preliminary matters that

23 we should address before we begin with opening

24 statements?

25   MR. COFFMAN: Your Honor.

1   JUDGE DIPPELL: Yes, Mr. Coffman.

2   MR. COFFMAN: I just thought I would -- I'm

3   not sure I need to make a motion right now. But I would

4   like to express Consumers Council's desire that as much

5   of this hearing that can be made public is made public.

6   I think there was some initial concern about investors

7   with the Spire affidavit, as I understand it, that may

8   no -- the justification for that may no longer exist, and

9   they may be able to state that in open record.

10   And if -- to the extent that other

11   confidentially-filed information from staff or other

12   parties is based on that, I would just hope that we be as

13   transparent as possible for this important public issue.

14   JUDGE DIPPELL: And Mr. Zucker.

15   MR. ZUCKER: I'd like to address that. When

16   we filed the affidavit on January 24th, there was

17   nonpublic information in it. We said in the affidavit

18   that we plan to make the information public on

19   January 31st with our first quarter of fiscal '18

20   financial statements. We have done that. At

21   Mr. Coffman's request, we looked over the affidavit, and

22   we don't have a problem with making it public.

23   JUDGE DIPPELL: So the confidential

24   designation of that document, as it's filed in EFIS right

25   now, could be changed to public?

1   MR. ZUCKER: Yes, if -- and we're going to

2   offer it again today. If that means --

3   JUDGE DIPPELL: Okay.

4   MR. ZUCKER: -- it will be another document,

5   we'll -- and that can be filed as public. But whatever

6   way you want to handle it.

7   JUDGE DIPPELL: Okay. Well, with that, then,

8   we will try to, as always, keep as much public as we can.

9   If there is some confidential information, then you all

10 are going to have to help police that. And if it comes

11 about before our court reporter shows up, I'll have to

12 figure out how we're going to -- the technical side of

13 recording it but not broadcasting it. So -- but we will

14 work that out, if needed.

15   Anything else before we begin with the

16 opening statements then?

17   All right. Let's go ahead. I had intended

18 to just follow the same order that we were doing at the

19 regular hearing in the true-up with regard to cross and

20 so forth. So I'm just going to begin with the Company

21 for the opening state-- first statement.

22 OPENING STATEMENT BY MR. PENDERGAST:

23   MR. PENDERGAST: Thank you, Your Honor, and

24 good morning. We are here today to address what action,

25 if any, the Commission should or even can take to

 1   recognize the impacts of the Tax Cut and Jobs Act of 2017

 2   in these cases which, for simplicity purposes, I'm just

 3   going to refer to as the tax law in my remarks.

 4   As Mr. Zucker previously mentioned, we have

 5   Steve Rasche, Spire's executive vice president and

 6   general financial -- chief financial officer, as well as

 7   Tim Krick here today to testify and answer any questions.

 8   It's Mr. Rasche's intent to adopt Mr. Krick's affidavit;

 9   but if there are questions for him, Mr. Krick will

10   certainly be available to answer them.

11   I'd like to address the main issue before us

12   today in basically two parts. First, whether it is

13   permissible for the Commission to recognize these impacts

14   in these cases without the consent of the Company. And I

15   think this also goes to the nonunanimous stipulation and

16   agreement that we just saw today. And, second, whether

17   there is still a way to recognize them in this case in

18   one form or another with the Company's consent.

19   In terms of the first question, I think the

20   answer is a clear and unambiguous no. And I say that for

21   three reasons. First, the tax law was not signed into

22   law until December 22nd, or almost three months after the

23   September 30th, 2017 ending date of the true-up in this

24   period, and was not effective until January 1st.

25   As you know, the parties themselves,

 1   including the signatories to this nonunanimous

 2   stipulation and agreement, agreed upon and recommended a

 3   September 30th, 2017 cutoff date, saying in the process

 4   that their intent was, and I quote, to true up known and

 5   measurable revenue, rate base, and expense items through

 6   September 30th, 2017 in a manner that results in a

 7   reasonable matching among such items.

 8   That agreement of the parties, including the

 9   true-up recommendation, was subsequently approved by the

10   Commission on May 24th, 2017 in its order adopting

11   procedural schedule and delegating authority.

12   To my knowledge, no party has waived that

13   agreement. In fact, other parties have been fairly

14   insistent, at least up to this point, that the agreement

15   be strictly enforced by the Commission. In fact, the

16   staff was quite clear during the true-up hearing on the

17   AMR issue -- and I'm sure everybody recalls that -- that

18   recognizing any tax, plant, or other cost of service

19   elements that occurred after the September 30th, 2017

20   ending date for the true-up would violate long-standing

21   ratemaking practices and principles, including the

22   matching principle.

23   In fact, staff, I think, in response to a

24   question from Chairman Hall, even suggested that it might

25   be illegal to do so. And while I'm not suggesting that

 1   we would necessarily go that far, it certainly

 2   underscores the staff's commitment to that principle.

 3   Notably, in explaining how the matching

 4   principle works, the staff confirmed that it would permit

 5   the Company to retain any financial benefits from the

 6   very tax law we are talking about today because those

 7   impacts occurred after the true-up period.

 8   Second, even if the impacts from the tax law

 9   did not count -- or did not occur beyond the true-up

10   period, it would still be impermissible to recognize them

11   because they are not known and measurable at this time.

12   The requirement that an item be known and measurable

13   before it may be recognized in rates is, of course,

14   another ratemaking practice that has long been followed

15   by the Commission. And it too was explicitly mentioned

16   in the procedural requirements and orders governing the

17   case as a precondition for rate recognition.

18   When the parties made those recommendations,

19   they said we will only true up for known and measurable

20   items. Not unknown and unmeasurable items or estimates

21   or guesstimates, but known and measurable items. That

22   the impacts of the tax law do not satisfy this standard

23   was acknowledged by staff in its affidavit submitted on

24   January 24th. In that affidavit the staff listed a

25   variety of complex and interrelated factors that would

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 1    need to be considered to determine with any degree of

 2    accuracy what those tax impacts would be.

 3              After going through that exercise, the staff

 4    concluded, and I quote:  It is virtually impossible, with

 5    the lack of data and lack of complete knowledge of all of

 6    the possible changes to applicable deductions and

 7    credits, to determine ratemaking adjustments that would

 8    accurately reflect these changes on a comprehensive basis

 9    within the context of the LAC and MGE rate cases.

10              Staff goes on to propose in its affidavit

11    what we believe is an equally inaccurate and

12    impermissible method for determining these impacts and

13    tracking them through an AAO mechanism that would, in our

14    view, only capture a portion of these impacts.  But for

15    now it is clear that these impacts from the tax law do

16    not meet any reasonable definition of what it means to be

17    known and measurable.

18              And just to kind of put that in perspective,

19    you know, we always have the issue of property taxes in a

20    rate case.  And the general approach is not to recognize

21    any property taxes for plant that's placed in service

22    after the beginning of a year that may fall within a test

23    year or even an update period because, while we know what

24    the value of the plant is and we know what the general

25    assessments are, what the actual assessment will be may
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1   depend on a variety of factors that could slightly modify

2   what 40 years' or 30 years' worth of experience has shown

3   is going to go ahead and be the impact of those taxes.

4   So, you know, the actual taxes you pay may

5   vary by a couple percent, maybe 1 or 2; but that 1 or

6   2 percent variation, that's enough to go ahead and

7   suggest that it's not known and measurable and it can't

8   be recognized in rates.

9   I would suggest to you that the variation

10   associated with whatever estimate we might use for taxes

11   is going to vary by significantly more than what the

12   Commission relies on to say that property taxes after a

13   certain date cannot be recognized in rates.

14   Third, that conclusion is further underscored

15   by the fact that, while staff has put forward an estimate

16   of the tax law impact of 15 million, it has acknowledged

17   that the analysis underlying this estimate is incomplete.

18   Moreover, since the Company and the staff provided their

19   estimates, the discussions held by the Commission at its

20   agenda meeting last Wednesday suggest we may have to

21   significantly change the assumptions upon which those

22   estimates were based.

23   Specifically, we may -- or will, if the

24   Commission ultimately issues its decision consistent with

25   those discussions, factor in the impact from literally

1   tens of millions of dollars in write-offs that were

2   largely incurred to fund the retirement benefits of our

3   employees, incentivize our employees to create with the

4   help of our investors over $70 million in customer

5   savings in the past several years alone, and to support

6   the redevelopment of the St. Louis inner city region.

7   We will also have to go ahead and take into

8   account what impact it would have on our tax liability

9   from using a consolidated capital structure with an

10   equity component that is sharply lower than what we have

11   historically used and that the Commission has

12   historically approved for many years to set our rates in

13   Missouri.

14   And we will also have to take into account,

15   as we try and determine what the tax impacts are, the

16   elimination of approximately $120 million in investment

17   that we were contemplating associated with our storage

18   inventories that would have otherwise been included in

19   rates, if the Company were to have been treated like

20   every other gas utility in the state of Missouri.

21   As a result, it is simply not possible at

22   this time for us or anyone else for that matter to

23   calculate with precision, with a degree of precision this

24   Commission insists on before it will determine that an

25   item is known and measurable, what the impact of this tax

1   calculation will be.

2   Third, it's important to recognize that even

3   if the tax law impacts could be calculated with more

4   precision sufficient to bring it up to a known and

5   measurable standard, there is still no agreed-upon

6   method, nor is there any evidentiary basis for

7   determining how those impacts would be allocated between

8   and within customer classes.

9   The agreements that have previously been

10   submitted to the Commission relating to such cost of

11   service allocation and rate design issues were developed

12   and executed under an entirely different set of cost of

13   service assumptions, none of which included an adjustment

14   for the impacts of the tax law.

15   Accordingly, those agreements do not cover

16   how tax law impacts should be allocated, and the Company

17   believes there may be sound reasons to allocate them in a

18   different manner than the costs addressed by these

19   agreements.

20   For example, the Commission may want to take

21   into account that a greater proportion of such tax law

22   impacts should go to residential and small general

23   service customers, since other larger customers are

24   already receiving their own significant benefits from the

25   reduction in the corporate tax rate, and perhaps they

1   should be shifted more to those people who testified at

2   the low-income hearing about their inability to go ahead

3   and live on fixed incomes and make do with a rate

4   increase.

5   In any event, absent an agreement by all

6   parties, the Commission should take the time to consider

7   how to allocate those impacts and provide parties with an

8   evidentiary hearing to address this issue that has not

9   been addressed in this proceeding so far.

10   Which leads me to the second part of my

11   response to the question, namely what the Company is

12   willing and, quite frankly, able to do to reflect these

13   tax impacts on a voluntary basis in this case. We said

14   in our initial response on this issue that we wanted to

15   work with the Commission and the parties to reflect at

16   least a portion of the potential impacts from the tax

17   law, even though they occurred after the true-up period

18   and even though they're not known and measurable. We

19   made that offer in the context at arriving at an overall

20   reasonable result in this case. Unfortunately, at least

21   from the Company's perspective, it does not appear that

22   such a resolution is happening at this point.

23   As Mr. Rasche will explain, from the time the

24   Commission began its deliberations last Wednesday until

25   the end of that day, the response from those who follow

1   us closely have an informed and realistic understanding

2   of the regulatory environment in Missouri and express

3   their assessment of how the Company is faring in that

4   environment with their investment dollars was painfully

5   clear. During those five-and-a-half hours Spire

6   experienced a loss of $125 million in its market

7   capitalization; and by the end of the week that loss was

8   over 200 million, even with a Friday upturn.

9   As we predicted might happen during these

10   proceedings, we have now been contacted by credit

11   agencies seeking information that could lead to a credit

12   or outlook downgrades. And Moody's has published a note

13   this morning outlining their concerns and the potential

14   for an adverse action.

15   Numerous other reports have also been issued

16   by those who follow the Company, raising serious concerns

17   about the regulatory climate in Missouri and the fairness

18   of the direction that the Commission appears to be taking

19   in these proceedings.

20   After the stellar and undisputed record of

21   achievement we have amassed in controlling costs and

22   improving customer service over the past seven-plus

23   years, this was undoubtedly not the kind of reasonable or

24   sustainable result that we were contemplating when we

25   expressed our desire to expedite the recognition of these

1   tax impacts.

2   Nevertheless, it would still be our

3   preference to begin passing the benefit of tax reform to

4   our customers as soon as next month. And as we have

5   previously stated, we stand ready to do so in the context

6   of a balanced and sustainable rate case outcome. We

7   believe and hope that this Commission shares in the

8   desire to do something constructive along those lines as

9   well.

10   From our perspective, the kind of outcome

11   that would make it feasible to incorporate a preliminary

12   estimate -- and I stress that it's just an estimate -- of

13   those tax effects in rates at this time would include the

14   following four elements, none of which entail any action

15   by the Commission that would fall outside the spectrum of

16   reasonable ratemaking practices and standards or the

17   record in this proceeding.

18   They include, one, recognizing the actual

19   capital structure used by Spire Missouri to provide

20   service to its customers, including an equity component

21   that is entirely consistent with the amount used by the

22   Company and approved by the Commission for the past

23   decade or more to set rates in Missouri, and it removes

24   the influence of financing activities of other

25   jurisdictions in our nonregulated businesses from

 1   Missouri customer rates.

 2   Two, allowing the Company to include its

 3   natural gas storage inventories in rate base at an

 4   overall cost of capital, just as every other gas utility

 5   regulated by the Commission is currently allowed to do,

 6   including MGE.

 7   Three, limiting the disallowance or

 8   earnings-based incentive to expense items. We certainly

 9   accept that that's where the Commission's coming from.

10   We understand it. May not agree with it. But don't

11   extend those to capital investments which the Company

12   made in good faith, which I don't believe the Commission

13   has ever disallowed, and which continue to be used to

14   serve customers today.

15   And, four, allowing the Company to at least

16   amortize over a ten-year period rather than write off in

17   its entirety the disputed portion of our prepaid pension

18   asset that arose from pension contributions that were

19   made prior to 1996 to support our largely union

20   workforce.

21   We have prepared a demonstrative exhibit

22   that shows the interplay between these outcomes and

23   recognizing the estimated tax effects that we've,

24   preliminarily at least, identified based on those

25   outcomes and those outcomes only.

1   Rick, you want to...

2   MR. MILLS: Judge, I'm not going to object to

3   the opening statement, because that's really not

4   appropriate. But I will object to any purported evidence

5   as to issues that are wholly unrelated to the effects of

6   the Tax Act and really amount to the Company's desire to

7   retry some of the issues that we've already tried and the

8   Commission's already discussed.

9   So I haven't seen the exhibit yet, but I'm

10   going to object to it if it -- if it talks about issues

11   such as pensions and -- and capital structure.

12   MR. PENDERGAST: Yeah, you want --

13   MS. PAYNE: Staff would join Mr. Mills to the

14   extent issues outside of the tax impact were agreed to be

15   discussed only if the parties agreed to it. And we would

16   just like to inform the Commission that the parties did

17   not agree to discuss anything beyond the tax impact.

18   MR. PENDERGAST: And that's exactly what

19   we're doing. We're discussing the tax impact. I think

20   we've clearly established that nothing can be done in

21   this case under Commission practice and precedent that's

22   long-standing, unless you have the consent of the

23   Company. And the Company would like to provide its

24   consent, and the Company believes it should have a right

25   to explain to the Commission under what circumstances the

1   Company would be willing to do that or would be even able

2   to do that. And that's what this demonstrative example

3   is designed to go ahead and show.

4   And the Commission can take it for what it's

5   worth. It's a demonstrative exhibit. You know, I'm not

6   offering it at this point into evidence. But I think the

7   Commission deserves to have an understanding of where we

8   are coming from on this tax issue and what, from our

9   perspective, needs to happen for us to go ahead and

10   recognize these tax effects in rates now.

11   JUDGE DIPPELL: And as it is only

12   demonstrative, it is not coming in as evidence for the

13   Commission to consider, just as Mr. Pendergast's opening

14   statement is not evidence for the Commission to consider.

15   So I'm going to mark this as Exhibit

16   Number 71. It is not being admitted. It is

17   demonstrative only.

18   And I didn't -- I don't think I said earlier,

19   but I intended to just continue the exhibit numbering

20   from where we left off at the true-up hearing. So 71 is

21   the next number for the Company.

22   MR. PENDERGAST: Thank you, Your Honor. As

23   shown on the demonstrative exhibit, working from the

24   revenue requirement number of 37.6 million that we have

25   estimated falls out from the Commission's preliminary

1   indications of how it may decide issues, it would take

2   approximately 11.9 million to treat Spire Missouri like

3   every other gas utility regulated by the Commission by

4   including its natural gas storage inventories in rates at

5   an overall cost of capital.

6   It seems like -- do we want to just keep on

7   going?

8   JUDGE DIPPELL: Why don't you just keep on

9   going, Mr. Pendergast, and then we'll --

10   MR. PENDERGAST: Okay. Thank you.

11   JUDGE DIPPELL: -- change up things here.

12   MR. PENDERGAST: It would take approximately

13   1.6 million to permit the Company to amortize over ten

14   years, without any return on such amounts, the disputed

15   pension asset amount that arose from the Company's

16   funding of pension plans prior to 1996, thereby avoiding

17   a write-off of such amounts.

18   Approximately 1.9 million to not eliminate

19   from rate base the capitalized portion of only the cash

20   incentive compensation for facilities that continue to

21   serve customers today and some of which was installed

22   more than 15 years ago.

23   And, finally, approximately 12.7 million to

24   recognize the actual capital structure that Spire

25   Missouri is using to serve its Missouri customers with,

1   as I said before, an equity component that is fully in

2   line with the one the Company has used and this

3   Commission has approved to set rates for the Company for

4   well over a decade.

5   As the exhibit shows, all but 8 million of

6   the cumulative $28 million cost of these adjustments

7   would be offset by the estimated tax law impact that the

8   Company is willing to reflect in rates now, assuming

9   these outcomes are achieved.

10   Perhaps, and most importantly, this approach

11   would result in customers still receiving an actual

12   reduction of 3.4 million from the rates and charges they

13   are currently paying.

14   In short, with these outcomes, the Company

15   would not object to including an allowance for the

16   impacts of the tax law based on its preliminary estimate.

17   I should note, and as Mr. Rasche will be

18   happy to explain in further detail, the Company's

19   preliminary estimate of these tax law impacts are indeed

20   preliminary in nature and strictly tied to achievement of

21   the specific outcomes I have just identified. Different

22   outcomes will produce different tax impact estimates,

23   none of which will be known and measurable at this time.

24   Our estimate also does not include other

25   potential adverse impacts from the tax law that would

1   have the effect of reducing any savings that might be

2   achieved under the law. These would include, among

3   others, lower cash flow. Nevertheless, in an effort to

4   resolve this issue in these cases, we are willing to take

5   on the risk of absorbing these adverse tax effects until

6   our next rate case.

7   I would simply conclude by noting that if the

8   Commission adopts this approach, the tax law, in fact,

9   can be a tool for mitigating what would be, at least in

10   our opinion and the opinion of our investing public, a

11   very counterproductive impact of a Commission order,

12   while still providing customers with a $3.4 million

13   decrease from existing rates.

14   This would also allow us to extend our record

15   currently at nearly eight years of no increases to

16   distribution rates rather than for safety-related and

17   public-improvement investments under ISRS. That is a

18   remarkable result for our customers, particularly in view

19   of what has for many, many years been an inclining-cost

20   company, and we think it should be a source of pride for

21   a state that has been our home for over 160 years. It is

22   also a reasonable result for our employees and, we hope,

23   an acceptable result for our investment -- investors,

24   both who have contributed much to making this record of

25   achievement possible.

```
 1               Thank you.

 2               JUDGE DIPPELL:  Thank you, Mr. Pendergast.

 3               Let's go off the record just briefly.

 4               (Off the record.)

 5               JUDGE DIPPELL:  Okay.  Let's go back on the

 6     record.

 7     QUESTIONS BY CHAIR HALL:

 8          Q.     Good morning.

 9          A.     Good morning.

10          Q.     What is the Company's view of the deferral

11     mechanism proposed by staff in its reply affidavit?

12          A.     I think our view would be it's a start.  But

13     from our perspective, we think that there are adjustments

14     that should probably be made to how you would track

15     various items, what you would track.

16               And, you know, quite frankly, from our

17     perspective, as we know, one of the great things about

18     the regulatory process here in Missouri is we provide

19     parties with a lot of due process.  They have an

20     opportunity to ask discovery.  They have an opportunity

21     to go ahead and submit direct, rebuttal, and surrebuttal

22     testimony.  And we, quite frankly, think before anything

23     of that nature is entertained, some modicum of those

24     procedural protections ought to be afforded, just as they

25     were on basically every other litigated issue in this
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1   case. And it would not be appropriate to adopt that

2   particular proposal without the opportunity to go through

3   that process.

4   **Q.   Substantively, though, the -- your only**

5   **concern is staff's failure to take into account those**

6   **offsets for property taxes; is that correct?**

7   A.   It's the offset for property taxes. It is

8   what my people understand the other impacts that the tax

9   law will have that are also not being taken into account.

10   **Q.   Well, wouldn't those other impacts be taken**

11   **into account through the deferral mechanism proposed by**

12   **staff?**

13   A.   I'm not sure that they would. Quite frankly,

14   I'm not sure exactly how staff's mechanism works. I

15   haven't had an opportunity to sit down and talk to

16   Mr. Oligschlaeger about it. We haven't had an

17   opportunity to ask any data requests regarding it. And

18   like other AAOs, including those that are proposed in

19   rate cases, we think that opportunity ought to be

20   provided before the Commission adopts something.

21   **Q.   So if the Commission did intend to adopt some**

22   **type of AAO, what kind of process would you recommend?**

23   A.   I think you already have an open docket

24   involving other utilities, some of which have rate cases,

25   some of which don't, where I think staff is contemplating

 1   what kind of approach it wants to take.

 2   But at a minimum, I would think that you

 3   would have a proposal made; you would have an opportunity

 4   for parties to go ahead and conduct some form of

 5   discovery; and then if it was necessary, you would go

 6   ahead and have a hearing to work through any issues that

 7   may not be resolved by the parties.

 8   **Q.   So do you think that in this report and order**

 9   **the Commission could order some type of AAO and then the**

10   **details to be worked out through either another docket or**

11   **through additional discussions within this one?**

12   A.   Well, I think what the Commission could do is

13   not to go ahead and sort of put its thumb on the scales

14   at this point and say why don't we start with this and

15   then you guys work out the additional details. I think

16   it would be entirely appropriate for the Commission to

17   say we think that there ought to be some sort of

18   proceeding to consider this AAO concept. And, you know,

19   I mean, it's not the kind of proceeding that's going to

20   take like eight months or nine months or probably even

21   more than a few months. But at least something that

22   would give the parties an opportunity to evaluate it, ask

23   some discovery, come to a full understanding of what's

24   being intended, and then have the opportunity to go ahead

25   and comment on it.

1   You know, part of the commentary might be to

2   put this in the larger context of where we already are

3   and what kind of financial impacts we've already

4   experienced as a result of what this regulatory process

5   has culminated in so far. And I would not want to give

6   up my right to bring those things to the Commission's

7   attention.

8   **Q.   So you -- you believe that the details of**

9   **that deferral mechanism could be determined later and be**

10 **made retroactive to the effective date of rates in this**

11 **case?**

12   A.   You know, I'd have to think a little bit

13 about that. But I know that, you know, AAOs have been

14 put into place. For example, you have a major storm.

15 You know, that storm is in the past when the AAO's

16 granted, and it is made retroactive to the date when that

17 storm happened. This is a little bit of a different

18 kettle of fish, but I think that that is probably within

19 the realm of what you would normally expect with an AAO.

20   **Q.   Okay. Well, I for one would be more willing**

21 **to make a decision on the exact parameters of an AAO if**

22 **there was some sense that the Company agreed that there**

23 **was no problem putting it in place retroactively.**

24 **Because I think there is some question as to whether that**

25 **can be done. And for that reason, at least from my**

1   **perspective, there is some urgency to getting that in**

2   **place, at least if that is what the Commission ultimately**

3   **decides is appropriate.**

4   A.   Well, Chairman, if you would allow me to go

5   ahead and just confer with my other colleagues here and

6   get you an answer before the day is through on that

7   specific question as far as what our position is. I just

8   don't feel entirely comfortable with that.

9   Q.   **And that's -- that's totally understandable.**

10 **And then one other question, and this may be something**

11 **that you want to defer to your -- to your witness. But**

12 **on the property tax offset advocated by the Company, does**

13 **that include the AMR property tax component?**

14   A.   I don't think it did when we filed the

15 affidavit and outlined our estimate, which was reduced by

16 property taxes. I think, and I'll confirm this, but we

17 had gone ahead and excluded the AMR because we had a

18 proposal on our cost of service to recognize that.

19   Q.   **So if the Commission wanted to recognize**

20 **offsets for property tax, it would take the numbers**

21 **proposed by the Company and add the 400,000, or am**

22 **I mis--**

23   A.   Yeah, either do that or, if the Commission

24 decides that it ought to be included in our cost of

25 service otherwise by whatever decision it renders on

1   that, then it would not be included in that.

2   CHAIR HALL: Okay. Thank you.

3   MR. PENDERGAST: Thank you.

4   JUDGE DIPPELL: Thank you, Mr. Pendergast.

5   Does staff have an opening statement for us?

6   OPENING STATEMENT BY MS. PAYNE:

7   MS. PAYNE: Thank you, yes. May it please

8   the Commission. The Tax Cuts and Jobs Act, which became

9   effective with the start of this new year, is guaranteed

10   to reduce the taxes of all major Missouri utilities. Tax

11   changes of this magnitude are extraordinary and have not

12   been seen since the Tax Reform Act of 1986, which at that

13   time led to an extensive investigation by the Commission

14   of the utility rates at that time.

15   As staff has filed or pointed out in the

16   affidavits previously filed in this proceeding, there are

17   multiple elements of the new Tax Act that are bound to

18   have effects unknown at this time. Due to these

19   uncertainties, staff has attempted in its recommendations

20   to offer various possible mechanisms for the Commission's

21   consideration to ensure that all savings related to the

22   new Tax Act are captured for the benefit of Spire's

23   customers, without being detrimental to the Company.

24   As to current income tax amounts, staff would

25   recommend immediate reduction to Laclede and MGE's

1 revenue requirements in these rate cases, based on the

2 reduction of the corporate tax rate from the 35 to 21

3 percent. Assuming that the Commission adopts staff's

4 recommended consolidated capital structure, the

5 approximate amount of the reduction to tax expense would

6 be between 15 and $20 million, based on staff's

7 calculations.

8   An important consideration in all ratemaking

9 is the -- whether an amount is known and measurable.

10 Based on the Tax Act, the need to reduce utility revenue

11 requirements now, due to an excessive accumulated

12 deferred income tax reserve, is certainly known; but the

13 rate impact may not be fully measurable at this time. To

14 that end staff would recommend that the Commission order

15 flow-back of the excess deferred taxes to customers in

16 relation to its order in these cases, along with

17 implementing a tracker for this flow-back. The tracked

18 amounts would be considered for recovery in a future

19 proceeding.

20   Staff witness Mark Oligschlaeger will take

21 the stand later and can offer more information regarding

22 the possible deferral of the taxable impacts and the use

23 of trackers.

24   Additionally, staff would recommend that it

25 is proper at this time to include the updated 2017

 1   property taxes, as those actual amounts are now known, in

 2   consideration of the Tax Act impact.

 3   As far as any other savings or costs realized

 4   as a result of the Act, apart from the income tax rate

 5   reduction and the excess ADIT flow-back, staff would also

 6   recommend that these amounts be tracked, beginning with

 7   the effective date of rates for this case and considered

 8   for recovery, along with the tracked amounts of the ADIT

 9   in a future rate case.

10   Should the Commission have concern that some

11   or none of these amounts resulting from the Act are truly

12   known and measurable to a calculable extent at this time,

13   staff would recommend to defer any of the tax change

14   impact amounts which are not granted immediate rate

15   recovery and add a tracking mechanism beginning with

16   January 1 of 2018 to account for that.

17   In conclusion, staff will offer its witnesses

18   Mark Oligschlaeger and Lisa Ferguson to provide their

19   insight into the Act and its impacts. Mr. Oligschlaeger

20   can offer answers as to the policy and theory behind

21   staff's recommendations, and Ms. Ferguson can provide

22   detail on how staff performed calculations for the

23   amounts it recommends in accordance with this proceeding.

24   Through direct examination staff will provide

25   the extent of its investigation and what it views as the

 1   Commission's options for resolution of this matter, as

 2   stated previously. We ask the Commission to ask

 3   its witness -- ask staff's witnesses any questions that

 4   you may have, and we are happy to answer.

 5   Thank you.

 6   JUDGE DIPPELL: Mr. Chairman.

 7   QUESTIONS BY CHAIR HALL:

 8   **Q.   Good morning.**

 9   A.   Good morning.

10   **Q.   Did I understand you correctly that staff is**

11   **now in agreement with the Company as to the property tax**

12   **offset?**

13   A.   I am not sure if -- I would ask either

14   Mr. Oligschlaeger or Ms. Ferguson as far as the

15   calculation that they have proposed. However, we --

16   **Q.   In concept?**

17   A.   But in concept, yes.

18   **Q.   Okay. But the actual numbers, I'll need to**

19   **raise that with your witnesses?**

20   A.   I apologize, I'm not a numbers person.

21   **Q.   That's fine. Do you think that there is any**

22   **question as to the legality of the -- of putting an AAO**

23   **in place retroactively to January 1?**

24   A.   I think that an AAO is the most proper device

25   at this time for something like this. And staff

1   recognizes that it is an extraordinary event. I would

2   say I do not -- I am unaware of any legality concerns as

3   far as the retroactivity. I hold on a little bit of a

4   caveat to that, because I didn't look into specifically a

5   retroactive action on it.

6   **Q.   So do you believe that it would be**

7   **appropriate for the Commission to put an AAO and tracker**

8   **in place in the report and order for this rate case and**

9   **then determine the exact parameters of that mechanism at**

10 **a later date, or does it need to be included in the**

11 **report and order?**

12   A.   Based on staff's investigation, we think that

13 an AAO and a tracker could be put in at this time. And,

14 of course, we would always be open to determining any

15 finer details of that at a later date, working with the

16 Company and the other parties to the proceeding. I don't

17 see any legality concerns with that.

18   **Q.   Okay. In the affidavit staff estimated the**

19 **tax impact as 15.1 million, and the Company estimated it**

20 **as 23 million. Do you know, is that difference largely a**

21 **function of the different revenue requirements of those**

22 **two parties?**

23   A.   Correct. Staff's understanding is that the

24 Company used its recommended revenue requirement, and

25 that was largely what created the difference. However, I

1   would also suggest that you ask staff witnesses for more

2   explanation of that.

3   CHAIR HALL: Thank you.

4   MS. PAYNE: Thank you.

5   JUDGE DIPPELL: Thank you.

6   Public Counsel.

7   OPENING STATEMENT BY MR. WILLIAMS:

8   MR. WILLIAMS: Good morning. May it please

9   the Commission. My name is Hampton Williams, counsel on

10 behalf of the Office of the Public Counsel.

11   I appreciate the hearing today. This is an

12 exciting opportunity, I think, for all Missourians to --

13 and particularly the customers for Spire, to realize the

14 benefit of the federal tax cuts.

15   On December 27th the change in the tax law,

16 which was enacted January 4th -- 1st, excuse me, secured

17 a substantial benefit that customers need an opportunity

18 to realize.

19   I want to first just go over a brief proposal

20 that's in the nonunanimous stipulation that was filed by

21 OPC, as well as some other parties, and also just respond

22 to a few comments that were made previously.

23   First off, to address the question of what is

24 known and measurable and whether or not these are costs

25 that can be considered, a concern raised by counsel for

1   the party, the Western District has actually examined

2   this question, which in discussing kind of use of test

3   years in GTE North, Inc. versus the Missouri Public

4   Service Commission, 835 Southwest 2d 356 1992, examined

5   the question of adjustments that were made occurring to

6   outside of the test year. They say the criteria used to

7   determine whether a post-year event should be included in

8   the analysis of the test year is whether the proposed

9   adjustment is, one, known and measurable; two, promotes

10   the proper relationship of investment, revenues, and

11   expenses; and, three, is representative of the conditions

12   anticipated during the time that rates will be in effect.

13   On the first issue, the new tax rate,

14   effective since January 1st, is 21 percent. We know that

15   rate. Throughout the contemplation of this case, which

16   began before the enactment of that rate was argued in

17   front of this Commission for the enactment of that rate,

18   the corporate tax rate was 35 percent. The figure itself

19   is measurable. From the evidentiary basis in this case

20   used to contemplate the attributable revenue requirement

21   for federal income taxes, the Commission can discern the

22   impacts of what the known rate is today.

23   The staff in its affidavit, as well as the

24   Company, have put forth estimates as far as what tax

25   impacts are. And today the Commission will have the

1   opportunity to hear the testimony of both staff witnesses

2   as well as OPC witnesses on what the impact of that rate

3   reduction will be.

4   The second test, does it -- the rate --

5   excuse me, does the consideration of the costs, is it

6   proper -- does it promote a proper relationship of

7   revenue and expense. When we think about the

8   relationship between revenues and expenses, we try to

9   design the rates and what should be in the revenue

10   requirement as well as what should be in rates to the

11   closest degree possible. We want to tie the expense type

12   with the applicable revenue source, because we want the

13   rates to approximately reflect how those costs are

14   incurred. Here the Commission's examination of this

15   subject will evaluate the relationship between the

16   expenses and revenues necessary to meet Spire's federal

17   income tax needs.

18   And then the third issue is whether or not

19   the consideration will be representative of the

20   conditions anticipated during the times that rates will

21   be in effect. The Jan-- like I said, the rates went into

22   effect January 1st. And at the time that the Commission

23   will order its new rates, that will be the corporate tax

24   rate that is in effect.

25   Moving on to the -- so having walked through

1 the question of what is known and measurable, in looking

2 to the stipulation and agreement filed by the parties,

3 the Office of the Public Counsel, in addition to other

4 signatories, have filed a nonunanimous stipulation which

5 accomplishes the task of reflecting the actual corporate

6 tax income rates for the -- for Spire, and it also

7 provides tools necessary that fully resolve this issue

8 moving forward.

9   It's a twofold plan, one of which is to use

10 the information that we have available within the

11 evidentiary record to quantify what the reduction of that

12 rate is. And the second fold is to identify a regulatory

13 asset account where costs that are identified moving

14 forward can be weighed against that estimated amount.

15   The -- first, we know that there are known

16 savings now. We know that that will occur. In their

17 affidavits, both Spire witness Tim Krick testified that

18 those impacts could be $23 million; staff witness Lisa

19 Ferguson identified at the time, using the lower -- the

20 effect of the lower corporate tax rate on staff's true-up

21 audit numbers, the combined would be $15 million. And I

22 understand that updates may be available and presented

23 today. OPC and the signatories' approach is to take

24 the -- a conservative estimate of what those ranges could

25 be and try to realize those in rates today.

1   Further, the signatories recommend that the

2   Commission address the impact of accumulated deferred

3   income tax issue in this case. Witness Greg Meyer will

4   testify that there are substantial ADIT resources that

5   have been accumulated and will need to be flowed back.

6   We've heard staff testify a lit-- or speak to that issue

7   a little bit today, although we have a different

8   treatment.

9   The accumulated total should be flowed back

10   to customers, as the Company will not need those

11   accumulated funds to pay those taxes at a higher rate,

12   the purpose of which that they've already collected and

13   have been accounted for. In total, including the ADIT

14   and tax reduction issues, the signatories propose a

15   reduction to the revenue requirement of $28 million.

16   In addition, the establishment of a

17   regulatory account to book the difference between the sum

18   of these actual impacts of the $28 million, which again

19   is that estimated number, including the ADIT issue, can

20   be taken up in Spire's next case.

21   The Commission's going to hear testimony

22   today regarding these figures, and I believe that the

23   Commission will appreciate that the recommendation put

24   forth by the parties seeks to achieve a conservative

25   estimate of these tax impacts and allow the customers,

1   small-income and low-income residential customers alike,

2   to realize the benefit of these -- of the federal tax law

3   immediately.

4   Furthermore, the signatories' recommendation

5   seeks the Commission grant a regulatory account to

6   further address the impact of the issues of this law

7   above or below that $28 million threshold moving forward.

8   The -- in large part, you know, as the

9   Commission has heard today, I think the primary question

10 is when to address these savings and what's an

11 appropriate mechanism. We think that putting a value and

12 trying to secure as much of the savings that we can from

13 the testimony and the evidence in this case is the

14 appropriate method moving forward, and then putting forth

15 an account which try and capture those differences in a

16 subsequent rate case resolves this issue today in this

17 proceeding.

18   So, with that, I will stand available for

19 questions.

20   JUDGE DIPPELL: Any questions, Commissioner?

21   CHAIR HALL: No.

22   MR. WILLIAMS: Thank you.

23   JUDGE DIPPELL: Does MIEC have an opening?

24 OPENING STATEMENT BY MR. MILLS:

25   MR. MILLS: Good morning. May it please the

 1   Commission.   Lewis Mills on behalf of the MIEC.

 2   You know, you've heard a lot already today

 3   about the matching principle and the test year and the

 4   known and measurable changes, and I'm going to talk a

 5   little bit about that. But I think one of the things

 6   that you really need to keep in mind is the magnitude of

 7   the impact that we're talking about.

 8   When we talk about property taxes and when we

 9   talk about this or that or the other thing, very few

10   times in your careers as Public Service Commissioners

11   will you see an event like this. In fact, it's unlikely

12   that you ever will see this again. In just a couple of

13   months I will have been doing this for 30 years, and I

14   haven't seen it yet. The only people that have been

15   through an event like this are those folks who were here

16   since 1986, the last time it happened.

17   So the magnitude, as well as the type of

18   event, is extremely relevant to how you decide to deal

19   with it here. And the magnitude is huge. You've seen

20   the proposal in the nonunanimous stipulation and

21   agreement to flow back $28 million annually, and that's a

22   conservative estimate. We anticipate that it's likely to

23   be higher than that.

24   So the -- in the big picture, when you think

25   about the matching principle, you think about test year,

1   you think about known and measurable changes, all of

2   those are mechanisms designed to make sure that the rates

3   that are in effect, after you put them in effect in this

4   case, reasonably reflect the costs and revenues of the

5   Company. And if you do not do something along the lines

6   of what the stipulation and agreement provides, they

7   absolutely will not.

8   Is that $28 million number perfect? Probably

9   not. As you will hear later in the testimony, we won't

10   know from year to year what the exact effects of the Tax

11   Act are, because we have to look at what different

12   vintages of property we're retiring in a different year

13   and the associated accumulated and deferred income taxes

14   associated with those.

15   So that's the big picture. But I want to

16   talk a little bit about just how in general the

17   Commission goes about setting rates. And the idea -- and

18   I don't think anybody disagrees with this, is that the

19   idea is that you set rates to allow the Company to

20   recover all of its prudently-incurred expenses, plus its

21   reasonable cost of capital. And that's the bedrock

22   principle. And if you -- if you issue an order in this

23   rate case that deliberately strays from that principle,

24   then you will have done a disservice to the customers

25   that you're designed -- that the Commission is designed

 1   to protect. So that's a pretty simple concept in theory;

 2   but in practice, of course, it gets a little bit messy.

 3   So the way that the Commission typically

 4   tries to figure out how to set rates that will meet that

 5   principle is using a test year. And the test year, of

 6   course, is simply a historic period in which you look at

 7   revenues, expenses, and investment. But the test year is

 8   not inviolate, it's not sacrosanct, and it never has

 9   been.

10   From day one, when the Company files its

11   case, it will have made normalizations. It will have

12   made annualizations. It will take averages of this

13   expense over three years, that expense over five years.

14   Some expenses it simply won't even include, even though

15   they believe that they were prudent, simply because it

16   knows the Commission's past practices.

17   So the test year from the very beginning is

18   not a rigid set of revenues and expenses that never gets

19   varied. It always gets varied. And that's as it should

20   be, because it's not meant to be rigid. It's meant to be

21   a guide so that the rates going forward will be

22   appropriate. It's not meant to exactly recover the

23   expenses and costs from a past period. It simply uses

24   the past period to set good rates going forward.

25   And so the matching principle is a similar

 1   concept. And that simply says that, to the extent

 2   possible, you want to use the investments, the revenues,

 3   and the costs from the same period so that you don't get

 4   a mismatch from revenues that are incurred in one period

 5   that are different from the costs that are incurred in a

 6   different period. But, again, that is not a sacrosanct

 7   principle. There are all kinds of variations to the

 8   matching principle. Most of them work to the utility's

 9   advantage.

10   So, for example, the ISRS. ISRS is a

11   violation of the matching principle. It's designed that

12   way. Everyone knows that it is, and that's how it's

13   supposed to work. And the idea is that the investment in

14   the kinds of plant that is subject to the ISRS is so

15   significant and so important that we violate the matching

16   principle and recover those investments as they happen,

17   regardless of what is happening with other costs and

18   other expenses and other revenues.

19   The PGA also is an enshrined violation of the

20   matching principle. We look at the cost of the gas that

21   the company actually purchases to provide to its

22   customers, and we track that and adjust rates outside of

23   the context of a rate case to account for that. Every

24   AAO that the Commission has ever granted is a violation

25   of the matching principle.

1   So are -- so are trackers. And you'll

2   hear -- you'll hear evidence today that, you know, the

3   com-- and, in fact, you actually heard evidence in this

4   case that the Company has requested several trackers in

5   this case. Those all violate the matching principle.

6   And that's -- you know, we can argue about whether or not

7   they're appropriate, but until -- until today when I

8   heard the opening statement from Spire, I don't think

9   anyone has ever suggested that the matching principle was

10   a legal requirement that the Commission could never

11   violate. And I'm not sure if that's exactly what Spire

12   suggested this morning. But, in any event, it is not and

13   it never has been a legal requirement.

14   So all of those things, the matching

15   principle and the test year, those are guidelines that

16   are tools, as you will, that the Commission uses to set

17   rates. They are not rigid straight jackets that require

18   the Commission to take certain actions or not certain

19   actions.

20   So I want to address at least a few of the

21   points that Spire made in its opening statement. And I

22   think there were three points. And as I understood the

23   opening statement, these three points were designed to

24   explain to the Commission why it was not permissible for

25   the Commission to adopt the process that's set out in the

1   nonunanimous stipulation and agreement.

2   And the first was the true-up, which I just

3   talked about. The second was known and measurable

4   changes, which I've also talked about. And with respect

5   to that, I'd like to just sort of bring up one particular

6   example that is fairly similar to what the signatories

7   are proposing in the nonunanimous stipulation and

8   agreement, and that's the approach that the Commission

9   took after it had promulgated rules for infrastructure

10   inspections and vegetation management for electric

11   utilities.

12   After the Commission implemented those rules,

13   the utilities suggested -- in fact, testified and put on

14   evidence in rate cases that they really didn't know what

15   the costs were going to be to comply with those. They

16   had an estimate, but they didn't know, because they had

17   no experience with the new rules, they didn't know

18   exactly what the ongoing costs were going to be. So the

19   Commission, in a series of rate cases for all of the

20   electric utilities, implemented trackers; that they put

21   in the best estimate of what that expense was going to be

22   going forward, and then the actual expenditures were

23   tracked for consideration in a later rate case.

24   This is exactly the flip side of that. We

25   don't know exactly year to year what the exact dollar

1   amounts will be of the Tax Act, but we have a pretty good

2   idea, and we ought to put that pretty good idea into

3   effect now. And to the extent that there are some

4   changes in the actual experience, then those are tracked,

5   and they will neither harm nor help the utility going

6   forward.

7   And then I think the last item that

8   Mr. Pendergast brought up was the question of if the

9   Commission does decide to take action and flow back a

10   certain portion of the benefits of the Tax Act in rates,

11   how is that allocated to the classes. And, frankly, I

12   think that's a red herring. Income taxes are allocated

13   in this case, and this is simply a change in the income

14   tax rate. And it's really not that hard to figure out

15   how this particular benefit will follow the income taxes

16   as they're allocated to the different classes.

17   So one of the things that I also want to talk

18   about is the question of what happens if the Commission

19   does not do what the stipulation and agreement suggests;

20   if the Commission decides that, rather than making an

21   adjustment to the rates that will be established in this

22   case, if they're simply subject to an AAO and deferred

23   for recovery in some later case. That is sometimes

24   appropriate for some expenses and -- and in this case

25   some revenues, but the issue here -- one is the

 1   magnitude, which is what I started out with. This is a

 2   $28 million or more annual issue, which is hugely

 3   significant in the context of the revenue requirement

 4   that the Commission is looking at in this case. But

 5   second is the question of timing. Because of the

 6   operation of the ISRS, it is likely that Spire will not

 7   be back in to flow back whatever is accumulated in that

 8   deferred liability account to customers for four years

 9   after this. And the four years is based on the current

10   ISRS law. And as I'm sure the Commission is aware, the

11   gas utilities and Spire have supported legislation in

12   recent years to make that a longer period of time.

13   So it's -- it's possible that if the

14   Commission were to take the AAO approach, the customers

15   may not see the benefit of the tax reduction that has

16   already taken place until four or five or more years from

17   now. And that's simply not consistent with the approach

18   that regulation is supposed to take.

19   And then, in closing, I just want the

20   Commission to think about what would happen if, for

21   example, the Federal Government had changed taxes in the

22   other direction. If we were at this point in this case

23   and there was legislation that had passed, signed into

24   law, that everyone knew was going to increase taxes by

25   30 percent, we would not be having this discussion.

 1   There would be a very clear recognition that this was --

 2   that that was an event beyond the Company's control that

 3   would have a significant impact on the revenue

 4   requirement, and we would have figured out how to

 5   quantify that accurately enough and flow it back through

 6   rates. And if we didn't, you would have the Company

 7   screaming about takings and constitutional confiscation

 8   and things like that, which we probably would agree with.

 9   And so we wouldn't even be here. This would be a

10   nonissue were it going the other way. So I think it's

11   only fair that when it's an issue of this magnitude,

12   this -- this -- at this point in this case where there is

13   time to deal with it in rates going forward, that the

14   Commission should do so.

15   Thank you.

16   JUDGE DIPPELL: Any questions?

17   CHAIR HALL: No questions.

18   JUDGE DIPPELL: Thank you.

19   Did Consumers Council wish to make an

20   opening?

21   OPENING STATEMENT BY MR. COFFMAN:

22   MR. COFFMAN: Just briefly, Your Honor. John

23   Coffman. May it please the Commission. I'm appearing

24   here on behalf of Consumers Council. And thankfully

25   Lewis Mills made just about every point I was hoping to

1   make and very eloquent -- more eloquently than I would

2   have. Consumers Council would simply ask that you look

3   at the nonunanimous stip and see it as a fair way to

4   resolve things. It is consistent with the way I

5   understand things were resolved in 1986 and the years

6   thereafter. Even though I wasn't hired by the Office of

7   Public Counsel until 1989, some of those cases from the

8   '86 Tax Reform Act were still pending. So even though I

9   wasn't here for that event and it has been quite awhile,

10   we saw some of the fallout.

11   Now in that Federal 1986 law, there were

12   provisions that affected the utilities in the way that

13   they dealt with deferred taxes that I don't think we have

14   with the current 2017 Tax Act.

15   So we are simply asking that the Commission

16   recognize this as soon as possible in this rate case

17   decision to its best ability and then adopt a regulatory

18   asset/regulatory liability to true it up. And I think

19   that's the fairest way to do it.

20   Also, we have viewed accounting authority

21   orders and regulatory assets in the past very critically,

22   agreed to some, but, you know, believing that it should

23   be an extraordinary and nonrecurring event. And we have

24   a problem with just matters that are of, you know,

25   ongoing business operations, to not be extraordinary and

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 1   nonrecurring.  But this -- we believe that this item,

 2   which is an act of the government and which is sizable

 3   and I think ultimately will be measurable, is entirely

 4   appropriate for a regulatory liability.

 5              So this stipulation would accomplish both of

 6   those things and give consumers the credit that they

 7   deserve from this law, tax law.

 8              Thanks.

 9              JUDGE DIPPELL:  Thank you.

10              Any questions?

11              CHAIR HALL:  No questions.

12              JUDGE DIPPELL:  Thank you.

13              All right.  Then I believe that that

14   concludes the opening statements.  And so I think this is

15   a good opportunity for us to take a short break and

16   regroup before we begin with actual witnesses.

17              Mr. Pendergast, do you have --

18              MR. PENDERGAST:  Yes, Your Honor.  I know the

19   court reporter wasn't here -- perhaps she's fortunate --

20   for my opening.  I did have copies of it.  Would you like

21   to have copies for the commissioners or do you think

22   they'll be able to get a transcript in time?

23              JUDGE DIPPELL:  The court reporter could --

24   would probably appreciate that.  That will help her when

25   she's transcribing the actual thing.
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 1   MR. PENDERGAST: Thank you.

 2   JUDGE DIPPELL: I'll let you give that to

 3   her.

 4   Okay. Then let's take a short break, and

 5   return in 15 minutes at 10 till.

 6   Thank you. Let's go off the record.

 7   (Off the record.)

 8   JUDGE DIPPELL: All right. We are back on

 9   the record, and Mr. Zucker has kindly come to the podium

10   to call his first witness.

11   MR. ZUCKER: The Company calls Steve Rasche.

12   Your Honor, if it's okay --

13   JUDGE DIPPELL: Yes, go ahead.

14   MR. ZUCKER: -- Mr. Rasche has a prepared

15   statement. Rather than go through question and answer,

16   is it all right if I just ask him a general question and

17   then he can...

18   JUDGE DIPPELL: I'm looking. Would anyone

19   have an objection to that?

20   MR. MILLS: I don't necessarily have an

21   objection to that procedure, but I -- there may be things

22   that he starts to say that I will object to. And it's

23   easier to object to a question than to a narrative. But

24   I'm -- you know, Judge, if you want to try it, I'll try

25   it.

 1   MS. SHEMWELL: But it does give the attorneys

 2   an opportunity to object.

 3   JUDGE DIPPELL: Mr. Zucker, could you go

 4   through question and answer instead, at least break it up

 5   into topics?

 6   MR. ZUCKER: Okay. I can do that.

 7   JUDGE DIPPELL: And, Mr. Rasche, did you have

 8   the opportunity to testify before?

 9   THE WITNESS: Yes, I did.

10   JUDGE DIPPELL: Okay. Then I'm going to

11   consider you still under oath for our purposes.

12   STEVE RASCHE,

13   after having been previously duly sworn, was

14   examined and testified on his oath as follows:

15   JUDGE DIPPELL: And -- but we can then

16   dispense with most preliminaries. Perhaps you can spell

17   your name for the court reporter.

18   THE WITNESS: Steve Rasche, R-A-S-C-H-E. I'm

19   the executive vice president and chief financial officer

20   of Spire, Inc. and Spire Missouri.

21   JUDGE DIPPELL: Okay. Go ahead, Mr. Zucker.

22   DIRECT EXAMINATION BY MR. ZUCKER:

23   **Q.   Good morning, Mr. Rasche.**

24   A.   Good morning, Rick.

25   **Q.   Could you describe the Tax Cuts and Jobs Act**

1   **and how it affects the Company?**

2   A.   Yeah.   The Federal Tax Cuts and Job Act, or

3   tax reform, was introduced and passed in late December,

4   effective January 1, 2018, and as the opening remarks

5   stated, reduced the federal statutory rate from

6   35 percent to 21 percent.

7   As you know, Missouri is a pass-through

8   state, and our customers already benefit from the

9   effective tax rate that is lower than the 35 percent

10   federal rate plus the state tax rate, as we've taken

11   aggressive but allowable tax positions to lower the

12   overall burden for the benefit of our customers.

13   The tax law itself is over 1,000 pages. It

14   is extremely complex, and there's significant guidance

15   from the Treasury Department that is yet to be issued.

16   And it is the expectation of all those in the market --

17   I've been dealing with tax reform for nine months now --

18   that that guidance will be issued during the balance of

19   calendar 2018.

20   It's also important to note that, if you step

21   back from the impact that we're talking about today and

22   look at the broader impact for corporations overall,

23   including publicly-owned utilities throughout the United

24   States, the Securities & Exchange Commission and the FASB

25   have both recognized that we do not have all the

1   information yet to make an accurate and full calculation

2   of what the federal income tax impact will be on each of

3   our individual utilities, including Spire Missouri in

4   this case. As a result, the SEC has allowed a

5   measurement period, which will likely be for the entire

6   calendar 2018, for companies to calculate and recalculate

7   the impacts of tax reform on their individual companies,

8   as guidance from the Treasury Department is issued later

9   on this year and as the industry gets their arms around a

10   fairly significant and complex piece of legislation.

11   And I might add that the filing that we made

12   with the Securities & Exchange Commission last week, our

13   first quarter fiscal earnings was filed under those

14   exceptions and with that flexibility allowed to us by the

15   federal regulatory bodies, because we have a duty to make

16   an estimate for purposes of our investors.

17   **Q.   Okay. Thank you.**

18   **Your Honor, I would like to now hand out the**

19   **affidavit that we filed on January 24th, and it is**

20   **Mr. Rasche's intent to adopt it. Should I do that?**

21   JUDGE DIPPELL: Go ahead. I will mark that

22   as Exhibit 72.

23   And I'll just note, Mr. Zucker, this is

24   marked still as confidential at the top. But you had

25   indicated earlier that this is no longer confidential; is

1   that correct?

2   MR. ZUCKER: Yes. Would you like me -- let

3   me give one to the court reporter. I'll mark out the

4   confidential.

5   JUDGE DIPPELL: That will be fine. So just

6   so that the record is clear and -- it's marked

7   confidential on every page, and I am marking out highly

8   confidential and confidential. This is a completely

9   public document.

10   BY MR. ZUCKER:

11   **Q.   Okay. Mr. Rasche, are you familiar with the**

12   **affidavit filed by Timothy W. Krick in this case on or**

13   **about January 24th?**

14   A.   Yes, I am.

15   **Q.   And you have read that affidavit?**

16   A.   Yes, I have.

17   **Q.   And do you agree with that affidavit?**

18   A.   Yes, I do. I would point out that the

19   affidavit was based upon a set of assumptions that we had

20   to make in order to -- in order to come up with the

21   calculation that was included in the affidavit.

22   It is crucial to understand that the

23   calculation of income tax and the regulatory recovery

24   treatment that are the issues involved in this case are

25   inextricably linked. You cannot calculate one without

1   the other. Hence, the confusion that not only that we've

2   had, but I believe staff has made similar comments in

3   their filings. We had a set of assumptions that were the

4   underlying basis for the calculations in the affidavit,

5   and those were the assumptions based upon the Company

6   filing position as of that date.

7   **Q.   Okay. Thank you.**

8   **I offer Exhibit 72, nonconfidential, into**

9   **evidence.**

10   JUDGE DIPPELL: Would there be any objection

11   to Exhibit 72?

12   Seeing none, then I will admit that into

13   evidence.

14   (Company Exhibit 72 offered and received into

15   the record.)

16   BY MR. ZUCKER:

17   **Q.   And do you have any further comment on**

18   **Exhibit 72, Mr. Rasche?**

19   A.   Exhibit 72 would be?

20   **Q.   The affidavit, the Krick affidavit.**

21   A.   Oh. The only other comments that I would

22   have on the affidavit are that Mr. Krick's best guess,

23   and it was -- that's a quote from the affidavit -- we're

24   using the Company's actual costs and applying assumptions

25   based upon historic and balanced regulatory treatment, as

1 well as the assumptions on certain components of the

2 complex legislation, as I mentioned, with -- of

3 significant amount of guidance that is yet to be issued.

4 Remember, the legislation is 45 days old.

5   As Mr. Pendergast outlined in his

6 assumptions, Mr. Krick's affidavit and the assumptions

7 underneath it are materially different than where it

8 appears the Commission may be leaning in the material

9 issues on this case; and, therefore, the calculation

10 changes with the change in the recoverability of the

11 various aspects.

12   If the Commission elects to depart from Spire

13 Missouri's current capital structure and debt cost, the

14 tax calculation changes. As new positions are formulated

15 by the Commission that market base casts incentive

16 compensation is not capitalizable, the tax calculation

17 changes.

18   As the market and rating agencies assess

19 Missouri's regulatory climate and the potentially

20 detrimental impact on our credit rating and our cost of

21 borrowing, the tax calculation changes.

22   Deductibility and recoverability are

23 inextricably linked, and we can't -- we can't separate

24 the two of them. And, in short, again, to distill it

25 down -- I'm a simple guy -- without the benefit of order

 1   language, we cannot accurately predict or calculate the

 2   impact of tax reform.

 3   **Q.   Okay. So what is -- you are Spire's witness**

 4   **today. What is Spire asking for in this case?**

 5   A.   We seek, and we have sought from the

 6   beginning of the rate proceedings, a fair, reasonable,

 7   and sustainable regulatory outcome that returns a

 8   substantial portion of the benefits that we've accrued

 9   and earned, which are well documented in our case, to the

10   customers, while giving us fair recovery of our costs

11   incurred to deliver those benefits, and do so in a way

12   that maintains our strong financial base so that we can

13   continue to operate --

14   MS. SHEMWELL: Judge, I'm going to object to

15   this as going beyond the tax issue itself and rearguing

16   the rate case.

17   MR. ZUCKER: So what Mr. Rasche is referring

18   to is the -- I guess, Exhibit 71, the one-page handout.

19   And what -- what his reference involves is assuming that

20   the -- as the Company and staff have said, that the tax

21   change is outside of the true-up period and not properly

22   includable in this rate case, what we are presenting is

23   what our position would be in order for us to voluntarily

24   provide the tax benefits.

25   JUDGE DIPPELL: I'm going to allow him to

 1   continue. While I do not want to relitigate

 2   already-litigated issues, I do believe that the Company

 3   has made their position clear that these things are

 4   linked, and they have presented that they are willing to

 5   do a voluntary reduction or consideration of the taxes.

 6   I think it's important for the Commission at this point

 7   to know what strings that they're proposing be attached.

 8   But I do not want to relitigate those issues.

 9   I will say that you're welcome to give your position, but

10   we're not going to argue those issues again.

11   MS. SHEMWELL: May I also note one thing?

12   Exhibit 71 is a demonstrative exhibit, and it is not

13   admitted for purposes of evidence in this case.

14   JUDGE DIPPELL: And that is correct. And so

15   if those numbers on that exhibit are to be discussed,

16   then they need to have some foundation.

17   MR. ZUCKER: One moment, Your Honor.

18   JUDGE DIPPELL: Yes.

19   MR. ZUCKER: Your Honor, Exhibit 71 has

20   already been handed out today. Did Commissioner Silvey

21   get a copy of it? Okay. Thank you.

22   BY MR. ZUCKER:

23   **Q.   Mr. Rasche, do you have a copy of Exhibit 71**

24   **entitled at the top Items Impacting Income Tax?**

25   A.   Yes, I do.

1   Q.   And was that exhibit prepared by you or under

2 your supervision?

3   A.   Yes, it was.

4   Q.   And you're familiar with the contents?

5   A.   Um-hum. Yes, I am.

6   Q.   And you agree with everything in that

7 exhibit?

8   A.   Yes, I do.

9   MR. ZUCKER: Okay. I would like to offer

10 this exhibit into evidence.

11   JUDGE DIPPELL: Would there be any objection

12 to Exhibit 71?

13   MR. MILLS: I have the same objection I

14 raised earlier as to its relevance. I don't think this

15 has -- these are -- as I think the Commission recognizes,

16 these are issues that have been tried. The Commission

17 has already discussed them in the open meetings. And

18 there is no basis on the -- on the limited scope of the

19 hearing that the Commission has set for today, for the

20 Commission to even consider these. So I object that this

21 entire exhibit is irrelevant to the proceedings today.

22   MS. SHEMWELL: And I would like to agree with

23 that objection.

24   MR. ZUCKER: Judge Dippell, obviously there's

25 no order in this case yet. So, you know, I assume there

1   will be another opportunity for the Commission to discuss

2   it before the order's issued. And I completely agree

3   with you that I have no intent to reargue any of these

4   issues. We're just presenting them as -- as basically

5   what we need so that we can provide the tax benefits to

6   the customers.

7   MS. SHEMWELL: Judge, in presenting them,

8   they are rearguing them. They are attempting to --

9   MR. ZUCKER: No, we're not.

10   MS. SHEMWELL: -- influence the Commission's

11   discussions in the past agenda and their conclusions on

12   certain issues, and that's inappropriate at this point.

13   JUDGE DIPPELL: Well, I will say that the

14   Commission has not made any rulings or any final

15   determinations in this case. The Commission has

16   obviously had discussions in their agenda about the

17   evidence in this case and made their preliminary

18   positions known. But this case is not concluded, and a

19   report and order has not been issued.

20   Given that, I'm going to overrule the

21   objections. I'm going to allow this exhibit, it -- for

22   what its worth. The weight of this exhibit will be

23   judged, along with the rest of the evidence in this case.

24   MR. ZUCKER: That's all we can ask for.

25   Thank you, Your Honor.

 1   JUDGE DIPPELL: So, I'm sorry, objections are

 2   overruled, and I will admit Exhibit Number 71.

 3   (Company Exhibit 71 received into the

 4   record.)

 5   BY MR. ZUCKER:

 6   Q.   Okay. And, Mr. Rasche, in Exhibit Number 71

 7   you have set forth, it looks like, four items that the

 8   Company would like to have ruled in its favor, in

 9   exchange for volunteering the tax benefits; is that

10   correct?

11   A.   Yes.

12   Q.   And can you tell me why the Company wants

13   these items? What has happened as a result of Commission

14   deliberations that influence that?

15   MR. MILLS: Judge, this is -- this is clearly

16   outside of the scope of the hearing. He's going to talk

17   about things that -- about why he believes that these

18   particular issues should be reconsidered, and he's going

19   to offer additional evidence about them.

20   The Commission did not notice that these

21   issues were going to be heard today. I didn't bring a

22   capital structure witness. I didn't bring witnesses to

23   address these issues. And for them to go beyond the

24   scope of what the Commission set for the hearing and talk

25   about and offer evidence in support of these particular

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 1   items I think goes beyond what you were suggesting that

 2   the purpose of Exhibit 71 was and really does go to the

 3   point of rearguing the issues that we've already argued

 4   and closed the record on.

 5            JUDGE DIPPELL:  Okay.  Again, the record's

 6   not closed.  Here we are today in a hearing.

 7            MR. MILLS:  We had -- we had --

 8            JUDGE DIPPELL:  No conclusions have been

 9   made.

10            MR. MILLS:  Correct.  But my point is that we

11   had set times to hear these issues, and this is not one

12   of those times.  And I think it's prejudicial and unfair

13   to allow one party to bring in issues, put evidence on

14   those issues, when no notice was given that these issues

15   were going to be addressed at the hearing today.

16            MR. ZUCKER:  Again, Your Honor, we're not

17   arguing these issues.  We're not getting into the

18   substance of any of them.  We just laid out facts and a

19   request.

20            JUDGE DIPPELL:  And your objection is noted,

21   Mr. Mills, and I'm going to overrule it again.  I'm going

22   to allow him to discuss what it is that the Company is

23   seeing as necessary for their position that they are

24   willing to voluntarily offer up these -- that was one of

25   their positions in their opening, that they were
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 1   voluntarily willing to include these tax reforms, but

 2   they had a list of strings that were attached. And I

 3   believe that Mr. Rasche was about to testify as to one of

 4   those strings and the reason for it. So I'm going to

 5   allow the testimony.

 6   MS. SHEMWELL: I think we may need the

 7   opportunity then to call further witnesses at some point,

 8   since we understood that only the tax issue would be

 9   argued here. That was our understanding of what the

10   witnesses would present.

11   JUDGE DIPPELL: Okay. We can discuss that

12   after.

13   BY MR. ZUCKER:

14   **Q.   Okay. Mr. Rasche --**

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

16   **Q.   I think the judge just laid it out pretty**

17   **well. Basically why are -- why are we asking for these**

18   **particular items and what's happened that has caused it?**

19   A.   Yeah, in my role as the chief financial

20   officer for Spire, Inc., I have to balance the customer

21   service and them treating the customer and delivering

22   cost-effective service, the financial viability/stability

23   of the Company now going forward, and the -- communicate

24   that in an appropriate way to those who would provide the

25   debt and equity financing who are investing in the

 1   business and ultimately are going to make decisions on

 2   the cost of capital which will impact our customers'

 3   rates.

 4   And I've said all along, I think the Company

 5   has been very clear from the start, that we seek a fair,

 6   balanced, and sustainable outcome, which includes income

 7   tax reform.

 8   In my role -- let me take each of those in

 9   kind. And I'm going to start with the external market.

10   Investors and rating agencies are watching these

11   proceedings very closely. In fact, many of them are

12   listening this morning. As Mr. Pendergast noted, debt

13   and equity investors, rating agencies, and analysts

14   immediately reacted to the direction of the Commission's

15   deliberations last week. From the time those

16   deliberations started on Wednesday to the end of the day,

17   Spire lost roughly $125 million in market capitalization.

18   Moody's contacted us that very day to inquire about our

19   parent company capital structure.

20   MR. MILLS: Judge, I'm going to object on

21   this. The basis is that it is hearsay. I think he's

22   about to testify to what someone at Moody's told him,

23   which is clearly hearsay. And I don't believe it falls

24   under any exception.

25   MR. ZUCKER: Yeah, all he's testifying to is

 1   the fact that Moody's contacted him. He is not going to

 2   offer hearsay as to what the Moody's people said or

 3   thought or said in any substance. But he can -- it is

 4   not hearsay for him to testify that he received a call

 5   from Moody's.

 6   JUDGE DIPPELL: Objection overruled. This is

 7   an administrative proceeding, and we can actually admit

 8   hearsay and consider it so long as it's not the only

 9   thing that the Commission bases its decision on. So I

10   will allow the answer.

11   THE WITNESS: Thank you. So the investors

12   reacted. In discussion with Moody's, they indicated and,

13   in fact, they issued this morning a note expressing

14   concern about the credit stability of utilities in the

15   state of Missouri and specifically the use of Spire

16   Missouri's parent capital structure in the gas utilities

17   rate case.

18   I have the note. It is a matter of public

19   record as of this morning. So I leave it to you, Rick,

20   or to the rest of the team whether we want to introduce

21   this into evidence or make it available for all the

22   parties to review. It's not hearsay. It's the fact.

23   MR. ZUCKER: Well, we do not have copies of

24   it, Your Honor. It was just issued this morning. Can I

25   have Mr. Rasche read from it?

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1               MR. MILLS:  Judge, I'm going to have to

2     object again.  I think we have -- we're crossing the line

3     between what I think you said was allowable, which was

4     for Spire to explain what the strings are, and going into

5     rearguing whether or not what particular capital

6     structure is appropriate for the Commission to use

7     setting rates in this case.

8               And I think your earlier ruling was that we

9     were not going to reargue those issues.  And I think by

10    bringing additional evidence on that particular issue, I

11    think that's exactly what the Company is doing.  And this

12    is the issue that I brought up.  We don't have a

13    responsive witness on capital structure, because that was

14    not noticed for hearing today.  We can't simply take

15    something that the market issued on an issue that we

16    tried weeks ago and react to what this witness is going

17    to say to it today and provide evidence on.

18               JUDGE DIPPELL:  Okay.  I'm going to overrule

19    the objection.  I said that he could speak to why it is

20    that the Company believes that they need these particular

21    items.  I do not believe that he is rearguing.  I get it

22    that it's out there and that these items are very closely

23    linked.  But because of that, they are very closely

24    linked with the tax cut legislation, and I think that we

25    need to hear why it is that they want what they want.  So
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1   I'm going to allow his testimony.

2   MS. SHEMWELL: I would like on the record to

3   state that we do not believe they are closely linked and

4   that the Commission is accepting evidence after the

5   record on these issues has been submitted for decision.

6   JUDGE DIPPELL: Your objection is noted,

7   Ms. Shemwell.

8   MS. SHEMWELL: Thank you.

9   MR. ZUCKER: Okay. As I said, we don't have

10   copies. We can have them made, if you like. Or I can

11   just have Mr. Rasche read from the report, just the

12   material parts of it.

13   MR. MILLS: Judge, I don't want to be a

14   broken record, but I'm going to object to that too. We

15   have no foundation laid for this. We haven't even seen

16   it. For him to simply read into the record from a piece

17   of paper without any foundation, without the opportunity

18   for counsel to look at it, is inappropriate, in addition

19   to all the other things I've objected to about this whole

20   line.

21   MS. SHEMWELL: And particularly for him to

22   pick and choose certain things when we haven't seen the

23   whole document.

24   JUDGE DIPPELL: Okay. I'm going to let you

25   hold on that one, let you make copies for the other

1   parties, and then we will take that up again.

2   MR. ZUCKER: Okay. If it's okay, I'll pick

3   the --

4   JUDGE DIPPELL: Yes, please.

5   MR. ZUCKER: Get that process started.

6   JUDGE DIPPELL: Thank you.

7   BY MR. ZUCKER:

8   **Q.   Mr. Rasche, could you just summarize what --**

9   **the outcome of the Moody's letter?**

10   A.   The outcome of the Moody's letter is that

11   their view is that the decision specifically on using the

12   consolidated capital structure, and an equity-thin

13   capital structure at that, would be credit negative to

14   Spire Missouri. And that's the title of the -- as I

15   recall, that's the title of the note.

16   **Q.   Okay. Would you proceed on explaining why**

17   **Spire is making this request?**

18   A.   Yeah. And, again, on balance I'm looking to

19   the market, educated third parties who are following the

20   Company and analyzing the impact on the Company currently

21   going forward, including the credit rating agencies who

22   play a big part in the cost of our debt, which ultimately

23   impact the cost to our customers.

24   I think I've outlined and Mr. Pendergast has

25   outlined what the market reaction was immediately and

1   what it was during the balance of last week, and we've

2   worked hard to stabilize that situation as of the end of

3   the day on Friday.

4   The market expectations are for a fair,

5   balanced, and sustainable rate outcome, including the

6   passing of tax benefits back to our customers. The

7   out -- the items outlined on Exhibit 71 define, based on

8   long-standing precedent, what the expectations are that

9   would be defined as a fair, balanced, and sustainable

10   rate case outcome. And I think Mr. Pendergast talked

11   through each one of those items individually. I'll leave

12   it to you, Rick, if there's anything more that we want to

13   talk about in each or any one of those.

14   But, ultimately, when I look at it as the

15   chief financial officer and as the investors look at --

16   and I spent two days talking with investors; I think I

17   have good firsthand feedback from a whole raft of

18   investors, including debt investors -- is that the

19   forward implications of certain of the potential

20   directions that the Commission is taking, especially as

21   it relates to the recoverability of pension benefits

22   going forward or the capital structure going forward,

23   are --

24   MS. SHEMWELL: Again, Judge, I'm going to

25   object. He's rearguing issues in the case that have been

 1   submitted.

 2   MR. ZUCKER: He's merely giving his view, as

 3   the chief financial officer, of the investors' -- the

 4   debt and equity investors' reaction to the delib-- last

 5   Wednesday's deliberation.

 6   MR. MILLS: And, Judge, that's exactly the

 7   objection. He's not responding to the Tax Act. He's

 8   rearguing points based on what the Commission's

 9   deliberation revealed. And I don't believe that's the

10   purpose for the hearing today.

11   JUDGE DIPPELL: Okay. Objection's overruled.

12   Mr. Zucker, could you please help your

13   witness make a connection between these issues and their

14   effects from the tax cut?

15   MR. ZUCKER: Okay.

16   BY MR. ZUCKER:

17   **Q.   Let me ask you this, Mr. Rasche: The**

18   **Commission discussed this matter first on the week before**

19   **last week, January 23rd. What was the market's reaction**

20   **to that agenda meeting?**

21   A.   No particular reaction whatsoever. We traded

22   in line with the rest of our peers.

23   MS. SHEMWELL: How does that connect to the

24   tax event? He hasn't connected it, Judge.

25   JUDGE DIPPELL: We're getting to that,

 1   Ms. Shemwell.

 2   MS. SHEMWELL: We'll see. Thank you, Judge.

 3   BY MR. ZUCKER:

 4   **Q.   Okay. So, Mr. Rasche, does the Company want**

 5   **to share the benefits of tax reform with its customers?**

 6   A.   Yes, we do want to expedite the sharing of

 7   tax -- the benefits of tax reform with our customers in

 8   the context of a fair, reasonable, and sustainable rate

 9   case outcome that balances the benefit to the customers

10   and the financial stability of the Company now and going

11   forward.

12   MR. ZUCKER: Okay. I now have these copies,

13   if I can hand them out. I guess Exhibit 73, Your Honor?

14   JUDGE DIPPELL: I'll mark it as Exhibit 73.

15   Mr. Zucker, I'd like to give the other

16   parties a chance to actually look at this and digest it a

17   little. So if we could still hold on offering or

18   anything on that for a while.

19   MR. ZUCKER: Do you want me to inquire about

20   it or just take a pause?

21   JUDGE DIPPELL: Let's just take a pause. So

22   if you can just continue with whatever else.

23   BY MR. ZUCKER:

24   **Q.   Okay. Mr. Rasche, did you consid-- do you**

25   **consider the market's reaction to be important?**

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 1              MS. SHEMWELL:  Again, how does that have to

 2   do with the tax cut?  I'm objecting.

 3              JUDGE DIPPELL:  Thank you, Ms. Shemwell.  I'm

 4   hoping that --

 5              MS. SHEMWELL:  I'll just --

 6              JUDGE DIPPELL:  -- we're getting to it.

 7              MS. SHEMWELL:  -- make a standing objection.

 8              JUDGE DIPPELL:  All right.  Overruled for

 9   now.

10   BY MR. ZUCKER:

11        Q.    Okay.

12        A.    The market, which encompasses investors in

13   our debt and equity securities, also analysts who follow

14   the Company, credit rating agencies and other folks who

15   are looking to support the Company, have a fair and

16   third-party view of what fair and reasonable regulatory

17   treatment is across the United States.  They have the

18   ability to look across bounds.

19              So I think that their reaction is a good

20   gauge on what is fair and reasonable, and they --

21   generally those market reactions are forward looking,

22   trying to understand what the implications are for any

23   company, whether it be Spire or any company going

24   forward.  And those reactions were swift and negative in

25   this situation late last week.
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 1              MR. ZUCKER:  I would like to hand out one

 2   more exhibit, Your Honor.

 3              JUDGE DIPPELL:  I can mark that as Exhibit

 4   74.

 5              MR. ZUCKER:  Okay.  Could we proceed with

 6   this one or let people --

 7              JUDGE DIPPELL:  I'm assuming this one is

 8   similar to the last one, so let's hold that one for a

 9   little bit too.

10              MR. ZUCKER:  Okay.

11              MS. PAYNE:  Your Honor, I can go ahead and

12   lobby an objection on staff's behalf, now that I have

13   taken a look at it and do not see the word tax reform

14   anywhere in here.  I fail to see how this is at all

15   referencing the points in this hearing.

16              MS. SHEMWELL:  Neither exhibit says a word

17   about taxes.

18              JUDGE DIPPELL:  Okay.  I'm going to hold your

19   objections until it's actually been offered.

20              And, Mr. Zucker, I'm going to ask you to wait

21   to offer it until we've had a chance to digest it.

22              MR. ZUCKER:  Yes, Your Honor.

23   BY MR. ZUCKER:

24       Q.     Mr. Rasche, could you give your opinion as

25   to -- or let me ask you this:  Have you had a chance to
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1   look at the nonunanimous stipulation and agreement?

2   A.   Only briefly, since it was just introduced

3   this morning.

4   Q.   Okay. And do you have any opinion of how the

5   market would react if that went in -- was approved?

6   MR. MILLS: Object. It calls for

7   speculation.

8   MS. SHEMWELL: Yes, no one can predict the

9   market.

10   JUDGE DIPPELL: He's been asked for his

11   opinion, and I'm going to allow him to give it.

12   Objection overruled.

13   THE WITNESS: The market standard for the

14   passing of tax reform benefits back to the customers are

15   that it is neutral to the utility in all respects. So

16   the -- my concerns about the stipulation you refer to are

17   several fold.

18   One, as Mr. Pendergast discussed -- I can't

19   speak to the legal concerns regarding that, that proposed

20   agreement. I also can't speak to the process

21   considerations. I will leave that to other members of

22   the team. But I can say that, in looking at the

23   calculation as proposed, that it does not meet the

24   standard of the market nor what happens in most

25   jurisdictions, especially as it relates to the ADIT

1   component of the calculation.

2   There's a long-standing treatment for ADIT

3   that the market expects and that there's long precedent

4   for because the excess ADIT, the flow through --

5   BY MR. ZUCKER:

6   **Q.   Can you explain what ADIT is?**

7   A.   I can give it a -- I can try. We have

8   another witness, Mr. Krick, who can speak to it in more

9   detail. It is essentially the accumulated deprec--

10 accumulated deferred income tax that was established at

11 rates higher than what tax reform would allow us to

12 actually deduct going forward. It is essentially a

13 timing difference of deducting on an accelerated basis

14 the depreciation for tax purposes of our investments --

15 our significant investments and infrastructure versus

16 when they will actually flow through the financial

17 statements.

18   Deferred income tax is a very complex

19 calculation. Every utility has to deal with it, and

20 generally every utility is in the position of Spire

21 Missouri where they have excess accumulated deferred

22 income tax that needs to flow back to the customers. No

23 one disagrees that that is how it's supposed to be

24 treated. We agree that's how it's supposed to be

25 treated. The market standard for flowing that back is

 1   that it flows back in cash as the underlying timing

 2   differences are reversed. These are generally tied to

 3   long-term investments in fixed assets. So a flow-back

 4   period of 20-years-plus is not unusual. In fact, that's

 5   the market standard and the long history and precedent

 6   that we've used in this state and other states for

 7   flowing that back.

 8   So I have a particular concern about that

 9   component of the proposed order that, Rick, you

10   referenced earlier, because it's yet another example of

11   overreach and flowing cash back that we do not have and

12   will not receive from the customer -- from the reversal

13   of those tax positions back to the customers, essentially

14   asking the Company to finance that yet again in an

15   environment where the overall Tax Reform Act -- the one

16   clear item from tax reform is that it detrimentally

17   impacts the cash flow of every utility going forward.

18   That is the primary concern of the credit rating

19   agencies, it's one of our primary concerns going forward.

20   So to overreach and grab even more cash, pull

21   it out of the Company before we have the ability to

22   monetize that in our tax filings that will happen over

23   the years going forward, is particularly galling. And

24   the rating agencies and investors would look at that

25   component specifically and view that as a particularly

 1   punitive and adverse approach.

 2   We would agree that there is a calculation of

 3   the pass-back to the customers of the ongoing change in

 4   the effective tax rate that should be in the customers'

 5   bills. No one disagrees with that. The only thing we

 6   disagree with is it has to be in the context of a fair

 7   and balanced rate proceeding.

 8   **Q.   You said that the new Tax Act will**

 9   **detrimentally impact cash flows for utilities?**

10   A.   Yes.

11   **Q.   Can you explain that in simple terms?**

12   A.   Simple terms, yeah. And I attempted to do

13   that on the earnings call. It's a fairly simple concept

14   that if a utility collects income taxes from its

15   customers -- we all agree that income tax expense is part

16   of the cost of service, and in a regulatory rate model

17   the customers pay their share of the income tax that the

18   utility incurs. To the extent that that rate goes down,

19   the cash flows that the Company secures for that

20   component of the overall base rate goes down, therefore

21   impacting our EBITDA, which is one of the measures of

22   free cash flow, which is another measure of the business.

23   Every utility will see their free cash flow or EBITDA go

24   down, which will put pressure on their credit metrics,

25   specifically FFO to debt, but then also the EBITDA

1   metrics.   The credit rating agencies are on top of this.

2   This is one reason why Moody's issued their

3   note this morning.   And there's been ample other

4   communications to the market by the rating agencies and

5   the analysts highlighting that that is going to, one,

6   increase the cost of capital going forward, because we

7   will be required to finance that deficit in cash flow as

8   we continue to invest in the infrastructure upgrades in

9   our -- in our utility system, which is the right thing to

10   do for our customers.   And it's also going to increase

11   interest rates.

12   So it increases both the equity and the

13   interest cost component, exacerbated potentially by the

14   fact that if we are -- if the rate proceeding gives us an

15   equity-thin consolidated group cap structure, then the

16   pressure is double down on our credit rating, which will

17   have a detrimental impact on the interest cost to our

18   customers immediately.

19   **Q.   Does the new Tax Act affect the Company's**

20   **opportunity to use bonus depreciation to lower taxes?**

21   A.   Yes, it does.   As a matter of fact, regulated

22   utilities have certain protections and exceptions from

23   the job -- the Tax Reform Act, for lack of a better term;

24   and that includes the elimination of bonus depreciation.

25   Bonus depreciation allows all companies to write off on

1   an accelerated basis for tax purposes investments in

2   long-term assets. And it has been a fairly significant

3   cash generator, which has helped all companies, including

4   utilities, with additional cash flow to help them

5   finance, essentially on an interest-free basis,

6   investments in our infrastructure and rate base.

7   The new Tax Act eliminates that bonus

8   depreciation effective late September of last year, which

9   again puts pressure on the cash flows of not only our

10   business, but all utilities going forward. That is a

11   specific exception for the utilities. The general

12   industrial population has the ability to expense all of

13   their capital expenditures going forward, which is a

14   fairly significant incentive for nonregulated entities,

15   including utilities. But that is a specific exception

16   for utilities, acknowledging the fact that we're trying

17   to keep our costs low. And the industry and members of

18   my team, including myself, worked with the tax writers in

19   Washington to make sure that those protections were put

20   in place, because ultimately it ensured the lowest cost

21   of capital and the lowest cost to our customers. And

22   that was unanimous among all the utilities. And I think

23   we mentioned that on our earnings call last week.

24   Q.   So Spire Missouri has quite a bit of

25   accumulated deferred income tax currently. Do you agree

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1    with that?

2         A.      Yes, we do.

3         Q.      And so going forward under the new Tax Act,

4    is the amount of accumulated deferred income tax

5    liability that the Company builds going to be smaller?

6         A.      The new build on those timing differences

7    will be significantly smaller than it was under the old

8    act, yes.

9         Q.      And so will that cause rate base to be

10   higher?

11        A.      It will ultimately cause rate base to be

12   higher, because bonus depreciation is an offset to rate

13   base right now, for all the right reasons.  Because if

14   we're getting the cash benefit of the accelerated

15   depreciation and, therefore, the cash from paying lower

16   taxes ultimately, that should accrue to the benefit of

17   customers in Missouri.  That's the essence of the

18   flow-through method that Missouri uses.

19        Q.      So deferred taxes are an offset to rate base;

20   that's --

21        A.      Yes.  Yes, they are.

22        Q.      Okay.  So it makes rate base lower and makes

23   the return our customers pay lower?

24        A.      Um-hum.  Yes.

25        Q.      And so as rate base goes up over this --
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1   MS. SHEMWELL: They're leading questions,

2   Your Honor.

3   JUDGE DIPPELL: Mr. Zucker, if you could try

4   to keep them nonleading.

5   MR. ZUCKER: Okay. So -- I haven't led yet.

6   BY MR. ZUCKER:

7   Q.   As rate base goes up, the customer -- would

8   the customers then have to pay more in capital and

9   return -- or depreciation and return?

10   A.   Yes.

11   Q.   So is it necessarily a good idea for

12   customers to have cash flowed back to them from ADIT, as

13   contemplated in the nonunanimous stipulation?

14   A.   It is right, fair, and reasonable for the

15   customers to benefit by the reduction in ADIT as the cash

16   is realized, as the underlying timing differences resolve

17   themselves, generally over about a 20-year period. The

18   proposal is to accelerate that significantly quicker,

19   which would have the impact of increasing rate base at a

20   faster rate than the actual cash that we're collecting.

21   Q.   Okay. So just so I understand, the proposal

22   under the nonunanimous stipulation and agreement is to

23   put money into rates now, in other words, to have a

24   deduction now; correct?

25   A.   That is my understanding. And, again,

 1   Mr. Krick can speak more specifically to that.

 2   Q.   But the deferred taxes we're talking about

 3   will actually realize over 20 years?

 4   A.   Our estimate at this point -- it's a very

 5   complex calculation -- is that the reversal would

 6   generally be over a period of about 20 years.

 7   MR. ZUCKER: Okay. Am I ready to do any of

 8   my exhibits yet?

 9   JUDGE DIPPELL: Are you at the end of as far

10   as you can go without it?

11   MR. ZUCKER: Well, almost. Let me --

12   JUDGE DIPPELL: Okay.

13   MR. ZUCKER: -- confer a moment.

14   Okay. I have not been able to scare up any

15   more questions, so...

16   JUDGE DIPPELL: Okay. I'll let you go ahead,

17   then.

18   BY MR. ZUCKER:

19   Q.   Do you still have a copy of Exhibit 73 marked

20   at the top News and Analysis?

21   A.   Yes, I do.

22   Q.   And what -- is this a public document?

23   A.   Yes, it is. It was issued today,

24   February 5th, in the Credit Outlook, which is a

25   newsletter put out by Moody's every Monday morning.

1   Q.   Okay.   And this came electronically to Spire?

2   A.   Yes, it did.   We have access to the Moody's

3   system, as I believe other participants in the case do.

4   Q.   Okay.   And is this a true and correct copy of

5   that report?

6   A.   Yes, it is.

7   MR. ZUCKER: Okay.   I would offer it into

8   evidence.

9   JUDGE DIPPELL: Are there objections to

10   Exhibit Number 73?

11   MR. MILLS: Judge, I believe I'll have some

12   objections.   But may I conduct brief cross of the witness

13   before I --

14   JUDGE DIPPELL: You may.

15   VOIR DIRE EXAMINATION BY MR. MILLS:

16   Q.   Mr. Rasche, you said that this is a public

17   document; correct?

18   A.   Yes.

19   Q.   And anyone, regardless of whether or not they

20   subscribe to Moody's service, can simply go online and

21   read it?

22   A.   I can't speak to that directly.   I know we

23   have access, and we're offering it now so that you all

24   have the benefit of that.   I don't know -- there was no

25   press release associated with this.   It's part of a much

 1   larger document that was 47 pages long, which they put

 2   out every Monday morning.

 3   **Q.   But you don't know whether the public can**

 4   **access that 47-page document for free?**

 5   A.   I can assure you that the market participants

 6   all have access to this --

 7   **Q.   That was not my question. Do you know or do**

 8   **you not know whether the public can access that document**

 9   **for free?**

10   A.   I do not know. But before I get done today,

11   I'll have the answer for you.

12   MR. MILLS: Well, Judge, one, I object

13   because part of the foundation, I think, is inaccurate.

14   But, two, I object primarily because this is irrelevant

15   to the question that we're here to address today, which

16   is the question of what to do with the impacts of the Tax

17   Act. This is -- even though it does briefly mention the

18   Tax Act, all it says is that puts pressure in the same

19   direction as the Commission's apparent decision on

20   capital structure.

21   The whole point of this exhibit is to give

22   new evidence to get the Commission to reconsider its --

23   its -- I won't call it a decision, but the direction in

24   which it appears to be heading on capital structure.

25   That's the whole point. Anything having to do with the

1   Tax Act and the purpose of this hearing is infinitesimal

2   compared to the point of the document, so I object that

3   it's irrelevant.

4   MS. SHEMWELL: I would like to --

5   JUDGE DIPPELL: Ms. Shemwell.

6   MS. SHEMWELL: Thank you. I would like to

7   join that objection and mention that nowhere in either

8   document does the term tax appear. The analysis in these

9   has nothing to do with the taxes, but other issues in the

10   case.

11   Additionally, the Credit Suisse contains

12   speculation as to investment in the STL Pipeline.

13   JUDGE DIPPELL: Okay. We haven't actually

14   gotten to Exhibit 74 yet.

15   MS. SHEMWELL: Oh, sorry.

16   JUDGE DIPPELL: That's fine.

17   MS. SHEMWELL: So I'm continuing my objection

18   to Exhibit 73 as irrelevant to the issues today and an

19   attempt to supplement the record in an already-closed

20   record.

21   JUDGE DIPPELL: Thank you.

22   MR. COFFMAN: Your Honor --

23   MR. ZUCKER: The document actually does

24   include a reference to recent changes in U.S. tax laws.

25   JUDGE DIPPELL: Okay. And, I'm sorry,

 1   Mr. Coffman, you wanted to make an --

 2   MR. COFFMAN: Yes.

 3   JUDGE DIPPELL: -- objection as well?

 4   MR. COFFMAN: Yes, I'd like to join the

 5   objections that have been made by MIEC and OPC and point

 6   out that I certainly don't have access to these type of

 7   services. And, you know, it's unclear, having just seen

 8   them today, if they aren't taken out of context or if

 9   they aren't, you know, indicative of sort of selective

10   production of information. And, you know, we have yet to

11   have the opportunity to cross-examine this witness or

12   explore exactly whether the -- you know, whether Moody's

13   or Credit Suisse is truly a reliable source. You know,

14   these are entities that do business with utilities. And,

15   you know, particularly the Credit Suisse document appears

16   to be more an editorial about regulation in general,

17   rather than about any facts in the case.

18   So, with that, I'd join their objections.

19   MS. PAYNE: And staff would raise an

20   objection to Exhibit 73, that we now have evidence that

21   is part of a larger document that we do not have access

22   to at this time.

23   MR. ZUCKER: This document looks like it

24   stands on its own. I mean, it's got a title, a report,

25   and then a conclusion.

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 1              JUDGE DIPPELL:  I think it has been clear

 2   that it's -- I mean, the witness has said that it's part

 3   of a 47-page report that he received.  I also think it's

 4   pretty clear that this is the page with regard to Spire.

 5   But I haven't seen the other 46 pages either.  I'm

 6   reluctant to include the other 46 pages of the document.

 7              MR. ZUCKER:  If you would accept it for what

 8   it's worth, that would be acceptable to us.

 9              MR. MILLS:  And, Judge, if I may add, I mean,

10   this sort of goes back to my original objection.  We --

11   because we did not know this was an issue today, we don't

12   have a witness to explain the counterpoint to this

13   exhibit.  So if the Commission admits it, we will have no

14   opportunity to put on a witness to say, oh, it says this,

15   but here's how I interpret it.  You've got Spire's

16   interpretation of what it means and why it's relevant;

17   but you get no one else's, because no one else planned to

18   try this issue today.

19              MR. ZUCKER:  The purpose of this is simply to

20   show why we're offering what we're offering.

21              JUDGE DIPPELL:  And on that note, I am going

22   to allow this exhibit.  I'm going to overrule the

23   objections.  Again, it's -- the weight of this document

24   is for what it's worth, and the Commission will consider

25   that with the rest of the evidence.  So Exhibit Number 73
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 1    is admitted.

 2                 (Company Exhibit 73 received into the

 3    record.)

 4                 MR. ZUCKER:  Thank you, Your Honor.

 5    FURTHER DIRECT EXAMINATION BY MR. ZUCKER:

 6         Q.     I guess we should proceed to Exhibit Number

 7    74 then.  Do you have a copy of the Credit Suisse report

 8    in front of you?

 9         A.     Um-hum.  Yes, I do.

10         Q.     And what day is it dated?

11         A.     February 1st, 2018.

12         Q.     Okay.  And was this also delivered to Spire

13    Missouri?

14         A.     Yes, it was.  Michael Weinstein is one of the

15    better analysts in the utility space.  And we offer it as

16    an example.  We have about 12 others of analysts' reports

17    surrounding the activities of last week, including our

18    earnings call, but not exclusively focused only on that.

19         Q.     Okay.  And is this a document that the public

20    can get to?

21         A.     You have to be a client of Credit Suisse or

22    you have to be one of the companies that are covered by

23    the analysts, in this case Mr. Weinstein, in order to

24    have access to the report.

25         Q.     Okay.  And is this a true and correct copy of
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 1 **the report?**

 2   A.   Yes, it is.

 3   MR. ZUCKER: Again, I'm going to offer

 4 Exhibit 74 into evidence.

 5   JUDGE DIPPELL: And were there additional

 6 objections to this report?

 7   MR. MILLS: Judge, I have all the same

 8 objections to this exhibit as I did Number 73. I won't

 9 restate them now, because the record's already getting

10 quite long and we're --

11   JUDGE DIPPELL: Thank you.

12   MR. MILLS: -- yet to get to stuff.

13   JUDGE DIPPELL: Mr. Coffman?

14   MR. COFFMAN: Ditto. I agree with --

15   JUDGE DIPPELL: All right.

16   MR. COFFMAN: -- previous objections.

17   JUDGE DIPPELL: Ms. Shemwell, do you have

18 something in addition to --

19   MS. SHEMWELL: Yes, I had --

20   JUDGE DIPPELL: -- add?

21   MS. SHEMWELL: -- one question.

22 VOIR DIRE EXAMINATION BY MS. SHEMWELL:

23   **Q.   Has the FERC approved the St. Louis Pipeline**

24 **project?**

25   A.   We have not yet received the certificate from

1   FERC.

2   MS. SHEMWELL: Thank you. Yes, all the same

3   objections. We don't have a witness to respond to this.

4   The witness has been able to pick and choose certain

5   documents from certain credit agencies. He favorably

6   commented about one of the analysts. So you can assume

7   that this is pro-Spire, the point they're wanting to

8   make. And we don't have the ability to offer other

9   analysts' comments in response to this.

10   JUDGE DIPPELL: Thank you.

11   MS. PAYNE: And staff would renew its

12   objection that this is irrelevant to this proceeding. It

13   speaks to things that were already litigated and

14   discussed at agenda.

15   JUDGE DIPPELL: Okay. Thank you.

16   I will overrule the objections and admit

17   Exhibit 74.

18   (Company Exhibit 74 received into the

19   record.)

20   MR. ZUCKER: Thank you, Your Honor.

21   Okay. That's all I have for you for the

22   moment, Mr. Rasche. Thank you.

23   JUDGE DIPPELL: Thank you.

24   Mr. Chairman, did you -- I'm sorry, we'll go

25   through cross first, unless -- okay. I'm sorry. Then

1   we'll go through cross-examination first.

2   Is there cross-examination from staff?

3   MS. PAYNE: Yes, briefly. Thank you, Your

4   Honor.

5   CROSS-EXAMINATION BY MS. PAYNE:

6   **Q.   Good morning, Mr. Rasche. Can I ask you how**

7   **much flow-back to the customers of this excess**

8   **accumulated deferred income tax do you speculate that the**

9   **market would consider reasonable?**

10   A.   Mr. Krick can answer the question more

11 directly. I think I mentioned earlier in my remarks that

12 the market expectation is that the accumulated deferred

13 income tax would be returned back to customers as the

14 underlying timing differences are unwound, which is

15 generally about 20 years.

16   MS. PAYNE: Okay. Thank you.

17   JUDGE DIPPELL: Is that all, Ms. Payne?

18   MS. PAYNE: That is all. Thank you.

19   JUDGE DIPPELL: Okay. Thank you.

20   Public Counsel?

21   MS. SHEMWELL: Thank you.

22 CROSS-EXAMINATION BY MS. SHEMWELL:

23   **Q.   You used the term EBITDA. What does that**

24 **stand for?**

25   A.   I'm sorry, one more time.

1   Q.   You used the term EBITDA. What does that

2 stand for?

3   A.   Earnings before interest, depreciation --

4 depreciation and amortization. It's a commonly used

5 metric for --

6   Q.   Thank you.

7   A.   -- cash earnings.

8   Q.   Do you know the current amount in your ADIT,

9 Spire Missouri's ADIT?

10   A.   Are you talking about the excess ADIT or the

11 total amount of ADIT?

12   Q.   Total.

13   A.   Not off the top of my head.

14   Q.   Do you accept that it's somewhere over

15 400 million?

16   A.   Yes.

17   Q.   Do you use that money interest free?

18   A.   That represents the benefit of taking an

19 accelerated --

20   Q.   I understand. But do you --

21   A.   -- position from tax purposes and using it to

22 invest back in the system and flow it back to the

23 customers in our effective tax rate that is embedded in

24 the customer bill.

25   Q.   But do you use the money interest free?

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 1        A.      That is the -- that is what the --

 2        Q.      Is that --

 3        A.      -- design of accelerated depreciation is for.

 4        Q.      Was that a yes?

 5        A.      That's a yes.

 6        Q.      Thank you.  Did I hear you say that the

 7   income tax is passed through, and it is neutral to the

 8   Company?  Your income tax is passed through directly to

 9   customers, and it is neutral to the Company?

10        A.      I believe that my comment was that the market

11   expectation of any change in -- for tax reform, since

12   that's a go-forward adjustment, that it would be neutral

13   to the Company and the Company would neither be benefited

14   nor detrimented.  So it would pass through back to the

15   customer in the context of a fair and balanced rate

16   outcome.

17        Q.      Have you announced a rate decrease for

18   Alagasco?

19        A.      Yes, as a matter of fact we did.

20               MS. SHEMWELL:  If I may approach?

21               JUDGE DIPPELL:  Yes.  Do I need to mark this?

22   BY MS. SHEMWELL:

23        Q.      The document I have handed you is from AL.com

24   Howard Koplowitz; correct?

25        A.      Yes, it is.
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1   Q.   And Spire announced retail customers in

2 Mobile can expect a 4 percent rate decrease, while those

3 in Spire's Central Alabama, which covers Montgomery and

4 Birmingham, can expect a 3 percent rate decrease;

5 correct?

6   A.   Yes, that's what it says.

7   Q.   And that was announced by your spokesperson,

8 Jenny Gobble, G-O-B-B-L-E; correct?

9   A.   Yes.

10   JUDGE DIPPELL: I'm sorry, Ms. Shemwell, did

11 you need that marked as an exhibit? Were you going to

12 offer it or --

13   MS. SHEMWELL: Yes, please.

14   JUDGE DIPPELL: -- just the --

15   MS. SHEMWELL: I would like it marked as an

16 exhibit, please.

17   JUDGE DIPPELL: OPC's next exhibit number is

18 439.

19   MS. SHEMWELL: And it could be titled Spire

20 to Slash Rates in Response to Trump Tax Cuts, please.

21   JUDGE DIPPELL: That is, in fact, the title

22 on the document.

23   MS. SHEMWELL: Do you have the number, Judge?

24 I apologize, I don't have the number.

25   JUDGE DIPPELL: 439.

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1              MS. SHEMWELL:  Thank you.  I would like to

2   offer this exhibit at this time.

3              JUDGE DIPPELL:  Would there be any objection

4   to Exhibit 439?

5              MR. ZUCKER:  No objection, Your Honor.

6              JUDGE DIPPELL:  Then I will admit it into

7   evidence.

8              (OPC Exhibit 439 offered and received into

9   the record.)

10  BY MS. SHEMWELL:

11       Q.    Did your spokesperson speak with the

12  St. Louis Post Dispatch?

13       A.    I believe that she did, yes.

14             JUDGE DIPPELL:  And I will mark that one as

15  Exhibit 440.

16  BY MS. SHEMWELL:

17       Q.    As you look through that, do you recognize

18  that article?

19       A.    Yes, I do.

20       Q.    And you recognize the name of your

21  spokesperson, Jenny Gobble?

22       A.    Yes.

23       Q.    And in about paragraph 5, she is quoted as

24  saying, We will pass these savings along to customers

25  because it's the right thing to do.  We're in the process
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1   **of determining the amount of savings. Have I read that**

2   **correctly?**

3   A.   Yes, you have.

4   MS. SHEMWELL: Judge, I would move for

5   admission of Exhibit 440.

6   JUDGE DIPPELL: Would there be any objection

7   to Exhibit 440, which is a St. Louis Post Dispatch

8   article from January 14th of '18?

9   MS. SHEMWELL: Do you want to label it by its

10   title?

11   JUDGE DIPPELL: I can. The title says,

12   Utilities Can't Keep Their Corporate Tax Cut; the Money

13   Belongs to Consumers.

14   MS. SHEMWELL: Thank you.

15   JUDGE DIPPELL: Is there any objection to

16   Exhibit 440?

17   MR. ZUCKER: No. No.

18   JUDGE DIPPELL: Then I will receive that into

19   evidence.

20   (OPC Exhibit 440 offered and received into

21   the record.)

22   BY MS. SHEMWELL:

23   Q.   **One last question. Sir, might Moody's change**

24   **its opinion tomorrow or next week?**

25   A.   I'm sorry, one more time.

1   Q.   Might Moody's change its opinion from what

2   it -- from what it announced in Exhibit 73?

3   A.   My long experience in working with Moody's

4   and Standard & Poor's, which are the two credit rating

5   agencies in North America, is that they weigh their

6   communications seriously before they publish them. So I

7   would be extremely surprised for them to change their

8   view. And this is the view they have been sharing

9   consistently since tax reform proposals were put forth --

10   Q.   So you're stating that they're not going to

11   change their opinion in the next month or year?

12   A.   If you're talking about their opinion of the

13   subject matter right here, I don't think they're going to

14   change the direction of their opinion. If you're asking

15   if they're going to change their credit rating or their

16   outlook on Spire Missouri, that is yet to be determined

17   as we go forward. Again --

18   Q.   So it could change?

19   A.   I'm sorry?

20   Q.   So it could change in the future?

21   A.   It would change in the negative, yes.

22   Q.   That's a prediction, that it could change in

23   the negative?

24   A.   I'm only reading the first, second, third

25   paragraph, which I think is fairly clear about their view

1   and the direction of their current rating assessment.

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

3   JUDGE DIPPELL: Thank you.

4   Is there cross-examination by MIEC?

5   MR. MILLS: Yes, a few. Thank you.

6   CROSS-EXAMINATION BY MR. MILLS:

7   **Q.   When was the last time that Spire paid**

8   **federal income tax?**

9   A.   I would have to defer to Mr. Krick on that

10 one. I honestly don't recall.

11   **Q.   It's been several years, has it not?**

12   A.   I believe so. We do have a net operating

13 loss, which would be indicative that we haven't paid

14 significant cash taxes.

15   **Q.   And how long have you been running with a net**

16 **operating loss?**

17   A.   I would have to defer to Mr. Krick. I don't

18 recall off the top of my head. But it would be the last

19 several years.

20   **Q.   Can you describe for me the components that**

21 **make up your rate base?**

22   A.   I can give you the 10,000-foot level. If

23 you're looking for a much more specific explanation, I

24 would defer you back to all the testimony in the case.

25   **Q.   Just your understanding.**

1   A.   It would include, first of all, the fixed

2 investment that we make in the infrastructure that we

3 have to invest in in order to deliver gas safely and

4 reliably to our customers every day. It would also

5 include regulatory assets and liabilities, which are

6 established to recognize how our investments in funding

7 of those investments relate to the actual recovery in any

8 rate case. Those are the -- two of the most significant

9 items. And then there are a bunch of other items that

10 fall below that.

11   There are also a number of items that don't

12 fall into rate base that we have to expend significant

13 amounts of money in order to do -- for the benefit of our

14 employees and our customers. And those are the items

15 that generally become part of the -- part of the filing

16 in the Company's rate case.

17   **Q.   Okay. Thank you. This is not the first rate**

18 **case that has -- that Spire -- either Laclede or Spire**

19 **has filed while you've been in your current position; is**

20 **that correct?**

21   A.   That is correct.

22   **Q.   And in prior rate cases is it not normal for**

23 **you to get calls from analysts such as Moody's and**

24 **Standard & Poor's as a rate case comes to its conclusion?**

25   A.   It is unusual for us to get the number of

1   calls and the tenor of the calls this year in this rate

2   case during the deliberations, especially last week,

3   versus the handful of calls that we would have received

4   in past rate proceedings, all of which, as you may

5   recall, were settled on a black-box basis. So we didn't

6   go to the full litigation, which as you all know we've

7   gone through this year because of the shear number of

8   issues that we were not able to reach agreement on.

9   Q.   So in past cases there has not been as much

10   public discussion by the Commission that analysts can

11   watch; is that correct?

12   A.   I would say that's true, in my experience and

13   recollection.

14   Q.   Now, I think you testified that in the

15   proposal that's embodied in the nonunanimous stipulation

16   and agreement filed this morning that it flows back the

17   benefits of the change in rate for the -- for the

18   accumulated deferred income taxes faster than they would

19   be realized. Was that your testimony?

20   A.   Yeah, I -- I would defer to Mr. Krick to

21   answer that more specifically. It's my understanding, as

22   I think about the macro trends and the macro drivers that

23   result in the unwinding of accumulated deferred income

24   tax, that those generally follow the reversal

25   depreciation of the underlying fixed assets, which have

 1   lives of 30-plus years.

 2   Q.   And what is the basis for your understanding

 3   that the -- that the amount in the nonunanimous

 4   stipulation and agreement does not treat those -- those

 5   amounts properly?

 6   A.   Given the two-minute read I had of the

 7   stipulation as it was offered this morning and my long

 8   understanding in working with about 25 other utilities in

 9   North America, who all have the same issue and it was

10   part of our discussion as we formulated our strategy for

11   what ultimately you know as the Tax Reform Act, it was

12   the general consensus for each of those unanimously that

13   the flow-back and the reversal of ADIT generally follows

14   the lives of the assets, which in our industry is very

15   long.

16   Q.   But you don't -- you have not seen at this

17   point the calculations underlying the $28 million that is

18   contained in the joint stipulation -- in the stipulation

19   and agreement; correct?

20   A.   I have not.

21   Q.   So based on that, you don't know how the

22   treatment of those deferred amounts was calculated in

23   coming up with that $28 million; correct?

24   A.   If you're asking if I know numerically and

25   specifically, the answer is no. If I know directionally

 1   and -- and understanding the concepts underlying it, I

 2   think I have a fairly educated view of how they would

 3   reverse.

 4   **Q.   Without ever having seen it, you have a**

 5   **fairly educated view?**

 6   A.   I've already said no.

 7   MR. MILLS: Okay. I have no further

 8   questions.

 9   JUDGE DIPPELL: Is there anything from

10   Consumers Council?

11   MR. COFFMAN: Yes, briefly.

12   CROSS-EXAMINATION BY MR. COFFMAN:

13   **Q.   Good morning.**

14   A.   Good morning.

15   **Q.   You testified about having frequent contact**

16   **with various credit agencies?**

17   A.   Yes, sir.

18   **Q.   Does the communication go both ways; in other**

19   **words, has Laclede initiated the communication of**

20   **information to these credit agencies over the last few**

21   **weeks?**

22   A.   In the last few weeks we have not initiated

23   any discussions with the rating agencies. As a general

24   rule, our approach is to make ourselves available for the

25   rating agencies should they -- should they have any

 1   questions on our quarterly earnings releases. And there

 2   are occasions when they may reach out.

 3   If we have a significant event, which would

 4   be a new financing, perhaps a transaction in the

 5   marketplace that would result in or require financing, it

 6   is standard fare to give an advanced heads up to the

 7   rating agencies so that they find out about it.

 8   Our relationship with the rating agencies, as

 9   you can imagine, includes a great degree of confidential

10   information, because they're making forward assessments

11   based upon our plans. So we tend to honor that by giving

12   them the courtesy of advanced notice in significant

13   transactions.

14   But to answer your question, in the last

15   three weeks there wasn't any -- any outward-bound

16   communication on our part. We did get inward-bound

17   inquiries from both Moody's and S & P. Moody's actually

18   put out a note. S & P has yet to do anything.

19   **Q.   Was there any information that wound up in**

20   **Exhibit 73 or Exhibit 74 that Spire or Spire**

21   **representatives communicated to these agencies?**

22   A.   No. The typical process for both Moody's

23   and Standard & Poor's, and Fitch for that matter, the

24   other rating agency that works in North America and

25   handles utilities, is that the analysts go through their

1   own independent assessment, based upon their own models

2   and projections of the facts and circumstances for the

3   Company on a go-forward basis. It's always a go-forward

4   view. And then as a common courtesy, they will share the

5   draft press release or the draft note in this -- in this

6   situation with several of the Company representatives,

7   which would include myself and the treasurer, to review

8   for factual accuracy only. They do not share the

9   calculations, but they want to make sure that they aren't

10   misstating any of the facts that would be in their note.

11   So in this instance we received a preview of

12   this note on Friday morning; and we were given an hour,

13   which is the general turnaround time that you are

14   given -- companies are given, to look at the release and

15   to suggest any factual errors that might be included.

16   Q.   And you did that, you provided information?

17   A.   We did. And the only thing that we asked

18   them to do was to remove the reference to the -- to the

19   hearing this morning, because they did not understand the

20   nature of the hearing.

21   Q.   What services do Moody's or Credit Suisse

22   provide to Laclede or MGE or any of Spire's companies?

23   A.   Different answers for each of those. Moody's

24   is a credit rating agency. The services they provide

25   across the industry for the benefit of our debt investors

1 and our equity investors is a rating of the strength

2 collectability of generally debt instruments. And so

3 they will rate each offering that a utility might make,

4 as well as an overall rating for the Company overall and

5 for each of the credit facilities, to the extent you have

6 more than one registrant and we issue debt, not only

7 Spire Missouri and also Spire Alabama and at the holding

8 company, that is -- in the market that's what a credit

9 rating agency's job and responsibility is.

10   Credit Suisse is one of a number of

11 investment banks that provide many services to the

12 industry overall, including assisting in the issuance of

13 debt and equity securities. And then as part of their

14 service to their customers, their investing customers,

15 they have analysts like Weinstein that analyze the

16 company and provide his opinion on the forward plan for

17 the company and its suitability for investment for their

18 investment clients.

19   MR. COFFMAN: Okay. That's all I have.

20 Thank you.

21   JUDGE DIPPELL: Thank you.

22   Mr. Chairman, did you have questions?

23   CHAIR HALL: Just a few as well.

24 QUESTIONS BY CHAIR HALL:

25   Q.   Good afternoon.

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 1        A.      Good afternoon.

 2        Q.      Do you have staff's reply affidavit in front

 3   of you?

 4        A.      I do not.

 5                CHAIR HALL:  Could somebody please provide

 6   the witness with that affidavit?

 7                THE WITNESS:  Is that exhibit -- no, it's not

 8   Exhibit 72.  Thank you.

 9   BY CHAIR HALL:

10        Q.      Are you familiar with this document?

11        A.      Not very -- I've read it, but I read it

12   quickly.

13        Q.      Okay.  Well, let's -- would you turn to

14   page -- well, the pages are not numbered, but the sixth

15   page.  And the bottom paragraph of that page concerns

16   staff's position as to how a deferral mechanism would

17   work in this case.  Do you -- do you see that?

18        A.      Are we talking about the paragraph that

19   begins with in summary?

20        Q.      As applied.  Maybe I've got the wrong page.

21        A.      Two, four, six.

22                JUDGE DIPPELL:  So it's the sixth page of the

23   attachment.

24                THE WITNESS:  Ah, okay.  Okay.

25   BY CHAIR HALL:
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1   Q.   So you have read this document?

2   A.   As I said, I do have it. I can't -- I'm

3 reading it now as we chat. So...

4   Q.   Okay. Well, starting with the -- on the

5 second line, it says, Each month starting January 2018

6 Laclede and MGE would make two separate calculations of

7 accrued income tax expense; one using the tax rates and

8 the rules in effect January 1, 2018; the other using the

9 new TCJA rates and rules effective January 1, 2018. The

10 difference in the calculated amount of income tax under

11 the -- turning to the next page -- two scenarios would be

12 deferred to the Utility's balance sheet as a regulatory

13 liability and preserved for consideration in the

14 Utility's next general rate proceeding.

15   My question for you is would that process

16 work? And if not, why?

17   A.   Excuse me just a minute. In my estimation

18 it's a part of the overall process, but it's not the --

19 it's not the entirety of the process as described here.

20 Income tax reform is a forward-looking concept. Sure,

21 income tax rates change. Our cash flow changes. The

22 treatment of certain other items change.

23   This is focused solely and exclusively on

24 income taxes, when I would argue that the in-- there is

25 a -- there is an equal and detrimental impact to the cash

1 flows of the business that in a forward view has to be

2 considered in the overall impact of tax reform.

3   **Q.   So what would you add to make this work?**

4   A.   I would have to confer with my team in order

5 to come up with the right language.

6   **Q.   Do you agree with the overall approach, in**

7 **terms of what it's trying to do?**

8   A.   If the goal of the overall approach is to

9 make sure that the Utility's neither benefited nor

10 detrimented from the overall impact of tax reform, then I

11 agree. My read of this, I'm not sure if I can say

12 unequivocally that that's the purpose of this very

13 description of a very specific calculation.

14   And I would also state that the calculation,

15 as its basis, has a number of moving parts, which we

16 talked about earlier in the testimony about what the

17 baseline revenue is and how those numbers at this

18 juncture are not known, because they're subject to some

19 of the questions that are involved in the overall rate

20 proceeding.

21   **Q.   Turning to page 2 of Mr. Krick's affidavit**

22 **where there's a discussion of two offsets, 1.3 million**

23 **for Laclede, 1.7 million for MGE, related to property tax**

24 **for a plant installed through December 31, 2017 that have**

25 **or will be made in 2018; is that correct?**

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 1        A.      Yes.

 2        Q.      And though this is not your affidavit, you

 3   stand by these numbers?

 4        A.      Yes, I do.

 5        Q.      Do these numbers include the additional

 6   property tax for the AMRs that are issued in this case?

 7        A.      They do not include those numbers.

 8        Q.      So if the Commission were to determine that

 9   it was appropriate to offset this reduced -- reduced tax

10   rate with the increased property tax, we would need to

11   incorporate that, that 400,000 on top of the 1.3 and the

12   1.7; is that correct?

13        A.      That's correct.

14        Q.      Okay.  Putting aside the actual numbers, if

15   your -- I'm interested in your view of staff's approach

16   versus the nonunanimous stipulation approach.  My

17   understanding of staff's position in this case is that a

18   deferral mechanism should be put in place and ratepayers

19   would get the benefit of the tax cut at the next rate

20   case, whereas the nonunanimous stipulation attempts to

21   estimate the amount of that tax cut and then puts in

22   place a deferral mechanism for the over- or

23   under-recovery of the -- or the appropriate amount.

24   Between those two approaches, what makes more sense to

25   you?
```

1   A.   I can't comment on which of those two make

2   more sense, because I go back to -- and I can only speak

3   for my own perspective and the overall expectations as we

4   try to manage and grow our business and the expectations

5   of the market. I expect a fair -- would hope for --

6   Q.   I understand the Company's position. But

7   what I'm trying to understand is if -- one option would

8   be to defer the entire cost savings to the next rate

9   case, which would allow the Company to charge rates at a

10 higher cost of service than -- than they're actually

11 experiencing, but four years from now there would be a

12 dramatic hit to the Company as that over-recovery is

13 taken into account and put into rates.

14   So I'm trying to get a sense from the

15 Company's perspective which of those two approaches would

16 make more sense? I understand you don't like either of

17 them.

18   A.   That's right.

19   Q.   But I'm trying to understand between those

20 two, what would be in the Company's best interest?

21   A.   What is in the Company's best interest is a

22 fair and reasonable settlement, which is why the third

23 option, which --

24   Q.   I'm only giving you two, sir.

25   A.   Then I'm not sure that I can give you an

1   answer between the two, because there are pluses and

2   minuses for each one of those.

3   **Q.   Okay. Well, then if this Commission does**

4   **choose one of those, there will be nothing in the record**

5   **indicating that the Company would have preferred the**

6   **other.**

7   A.   Ultimately the fair and reasonable treatment

8   for our customers is to pass back the benefit of income

9   taxes to them. In many ways -- and we've offered an

10   opportunity to accelerate that, especially given the cold

11   winter that we've experienced.

12   That again, Mr. Chairman, is in the context

13   of a fair and overall rate proceeding settlement. That

14   is our approach and that's my view.

15   **Q.   Trying to get a -- trying to reconcile**

16   **staff's numbers with the Company's numbers. And I**

17   **under-- and my understanding is -- and I want your view**

18   **on that. My understanding is that the differences are**

19   **based largely on the assumptions built into the**

20   **calculation, i.e., the Company made its calculation of**

21   **tax savings based upon the numbers in the rate case that**

22   **it filed, the capital structure, the equity component,**

23   **and various other aspects in the rate case; whereas staff**

24   **made its calculation based upon either the decisions that**

25   **were reached by the -- or the decisions that were**

 1   discussed in agenda or their position in the rate case at

 2   the inception.

 3   Is that your understanding, that that's the

 4   major difference between the two sets of numbers?

 5   A.   If you're talking about the two affidavits,

 6   that is my understanding of the major differences. There

 7   were certain other minor differences, which we were

 8   unable to reconcile between the two positions once we saw

 9   the staff's position. But I would agree with your

10   characterization that a majority of the difference is the

11   difference in the assumptions on which the revenue is

12   based.

13   CHAIR HALL: I have no further questions.

14   Thank you.

15   JUDGE DIPPELL: Thank you.

16   Commissioner Silvey, did you have any

17   questions?

18   COMMISSIONER SILVEY: No.

19   JUDGE DIPPELL: All right. Then is there

20   further cross-examination, based on the Chairman's

21   questions, from staff?

22   MS. PAYNE: Just one. Thank you.

23   FURTHER CROSS-EXAMINATION BY MS. PAYNE:

24   Q.   Mr. Rasche, you were discussing the effect on

25   the cash flow caused by a deferral. Can you tell me at

1   what time would an effect take place?

2   A.   You'll have to change what you're asking.

3   I'm not sure I follow your reasoning.

4   Q.   Okay. So in the sense of a deferral, your

5   understanding of a deferral, do you have a solid

6   understanding of how that might work?

7   A.   I have a reasonable understanding, but I

8   would defer to the other witness to have a more specific

9   discussion.

10   Q.   Okay. Well, just -- we'll make an attempt.

11   You -- you showed some concern with how that would affect

12   the Company's cash flow; is that correct?

13   A.   I clearly have concerns about how tax reform

14   overall impacts the Company's cash flow and affect --

15   impacts the cash flow negatively of all utilities, yes.

16   Q.   Okay. Then if these amounts were to be

17   deferred, at what time would the Company expect to see an

18   impact on its cash flow?

19   A.   I'm not sure I can answer that question

20   without doing financial analysis.

21   Q.   Okay. Is it safe to say that a deferral is a

22   method of accounting that reserves costs to be examined

23   in a future proceeding?

24   A.   My understanding of a deferral is that's the

25   definition, yes.

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 1       Q.       So it would be reasonable to assume that an

 2   impact from those deferred amounts might take place in a

 3   future proceeding?

 4       A.       Oh, it -- our expectation is that it would

 5   be, yes.

 6              MS. PAYNE:  Okay.  Thank you.  No further

 7   questions.

 8              JUDGE DIPPELL:  Anything further from Public

 9   Counsel?

10              MS. SHEMWELL:  No, thank you.

11              JUDGE DIPPELL:  MIEC?

12              MR. MILLS:  Yes, a few.

13   FURTHER CROSS-EXAMINATION BY MR. MILLS:

14       Q.       You had some discussion with the Chairman

15   about the proposal to defer all of the -- the proposal

16   contained in the staff affidavit.  Do you recall that?

17       A.       Yeah.

18       Q.       Okay.  Is it your understanding that the way

19   that would work is that all of the differences between

20   the way tax would -- the way taxes would have been

21   calculated prior to January 1, 2018 and the way taxes

22   would be calculated after January 1, 2018 would be

23   accumulated and deferred until the next rate case?

24       A.       My read of the paragraph is that the income

25   tax calculation, as you outlined, would be the amount
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1 deferred.

2   Q.   Okay. And as -- as you sit there on the

3 stand today, what is -- what is your best estimation of

4 what that would be on an annual basis going forward?

5   A.   I have not analyzed the staff's position. So

6 it would be hard for me to understand the assumptions

7 underneath that. And it's difficult to calculate,

8 because there's a number of assumptions that have to be

9 predicated in order to do that calculation. What I can

10 point to is Exhibit Number 71, which highlights a number

11 of $20 million.

12   Q.   Okay. And that doesn't have any treatment

13 for ADIT; correct?

14   A.   I believe it does not, because that

15 calculation has yet to be completed. And I think by

16 agreement with the staff, that was something that needed

17 further work going forward.

18   Q.   Okay. So the $20 million would be increased

19 by some amount based on the treatment of the ADIT going

20 forward; correct?

21   A.   Yes, that's true.

22   Q.   Okay. And you don't -- you don't have any

23 estimate as you sit there today what that would be?

24   A.   No.

25   Q.   Okay.

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 1      A.      I couldn't --

 2      Q.      So --

 3      A.      I couldn't answer.

 4      Q.      So let's go -- let's go with $20 million as a

 5  floor.  Is it -- and assume with me that Laclede -- Spire

 6  does not file another rate case until it's required by

 7  the ISRS statute.  That's approximately four years after

 8  the conclusion of this rate case; correct?

 9      A.      Um-hum.

10      Q.      If you accumulate only $20 million a year,

11  that's an $80 million regulatory liability sitting on

12  your books in your next rate case; correct?

13      A.      Um-hum.

14      Q.      If that were to have occurred in this case,

15  what kind of a percentage rate reduction would that have

16  been, if you had an $80 million regulatory liability that

17  you were going to pass back to customers immediately?

18      A.      You'd have to tell me some of the other

19  underlying assumptions which are yet to be determined,

20  including capital structure, ROE, and interest rate.

21      Q.      Okay.  Would you also have to figure out

22  what -- over what period of time to return that

23  regulatory liability?

24      A.      On a go-forward basis, that's absolutely

25  correct.
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1   Q.   Okay. So the benefits of the Tax Act -- if

2   we were to follow that path, the benefits of the Tax Act

3   began on January 1, 2018, but customers would not begin

4   seeing those until four years from now and would not

5   ultimately see all of those benefits until the end of

6   whatever amortization period the Commission determines in

7   that rate case four years from now; is that correct?

8   A.   It's impossible for me to predict what

9   deliberations would happen four years hence. And I would

10   also point out that, in response to the Chairman's

11   question, we don't view that as the right way to share

12   the benefits back with the customers. But we do expect

13   to have a fair, reasonable, and balanced rate case

14   outcome.

15   Q.   Okay. And if that -- if the Commission does

16   adopt that practice and does not return any of the

17   benefits of the Tax Act until the next rate case, in the

18   interim Laclede will continue taking advantage of the --

19   I mean Spire will continue taking advantage of the ISRS

20   statute, will it not?

21   A.   I know of nothing in the rate -- rate case

22   proceedings that would change the ISRS statute, except

23   for the reset of cap structure, ROE, and underlying

24   calculations.

25   Q.   Right. So in that four-year period,

 1   customers would continue to see rate increases from the

 2   ISRS mechanism; correct?

 3   A.   To the extent we file for ISRS rider

 4   increases, that is true.

 5   MR. MILLS: Okay. Nothing further.

 6   JUDGE DIPPELL: Thank you.

 7   Is there anything further from Consumers

 8   Council?

 9   MR. COFFMAN: No, Your Honor.

10   JUDGE DIPPELL: All right. Is there redirect

11   by Spire?

12   MR. ZUCKER: Yes, thank you, Your Honor.

13   REDIRECT EXAMINATION BY MR. ZUCKER:

14   Q.   Good afternoon, Mr. Rasche.

15   A.   Hi again, Rick.

16   Q.   When -- let's take ISRS construction, for

17   example.

18   A.   Okay.

19   Q.   When the Company does ISRS construction at

20   first, the customers pay nothing for it until the ISRS

21   case; is that right?

22   A.   That's absolutely right. Last year alone

23   over $200 million of capital invested in infrastructure

24   upgrades.

25   Q.   Okay. And then once the ISRS case occurs,

1   the customers get the benefit of deferred income taxes in

2   the ISRS case?

3   A.   Yes, they do.

4   Q.   And that lowers the rate base that the

5   Company constructed in the ISRS case?

6   A.   Yes.

7   Q.   And so when it lowers the rate base, that

8   means the Company -- let's just say the -- their return

9   is 10 percent. In effect, the customers are saving that

10   10 percent by having the rate base lowered; is that --

11   A.   Yes.

12   Q.   -- correct? Ms. Shemwell showed you an

13   article from Alabama in which the Company has already

14   given its customers the benefit of the tax refund;

15   correct?

16   A.   Yes.

17   Q.   And is there a different regulation in

18   Alabama versus Missouri?

19   A.   Like Missouri, we are the predominant natural

20   gas provider in the state of Alabama. Alabama is the

21   number one rated regulatory jurisdiction by RRA. It

22   involves an RSE rate stabilization and equalization

23   mechanism that is essentially forward rates that are

24   adjusted quarterly and reset annually based upon a

25   forward budget.

1   As a result, it is significantly easier for

2   us to calculate the benefits of the income tax reduction

3   in the customers' rates and put them in effect effective

4   on February 1, because we know in the next quarterly

5   review, of which there are four every year, we can

6   revisit the calculation with the cooperation of the staff

7   and other folks who are involved in the rate proceedings

8   and make adjustments to the rates realtime.

9   So that is why we're able quickly to make the

10   adjustment in Alabama. There's no discussion of rate

11   base, ROE. All those things are predetermined on a

12   four-year basis. So it really expedites our ability to

13   get those tax benefits back to the customers. And we

14   welcome that -- that approach. It's a great approach,

15   which really helps to benefit the customers, especially

16   in this time we haven't only seen cold weather here in

17   Missouri, but you might recall over the holidays and

18   right after I think 85 percent of the country was under

19   snow, including Alabama. So we're able to deliver those

20   benefits back to the customers so they can reduce their

21   bills realtime.

22   Q.   **And that's really what you want to do here;**

23   **right?**

24   A.   Absolutely.

25   Q.   **So you are satisfied with Alabama regulation?**

1   A.   Not only satisfied, as you know we've been

2 working to try to change the regulatory approach in

3 Missouri based upon the Alabama model.

4   **Q.   And is that the point of your -- of the**

5 **legislation that the Company has proposed this year?**

6   MS. PAYNE: I object. There was no questions

7 about legislation anywhere in cross-examination of this

8 witness.

9   MR. ZUCKER: Well, I guess we're talking

10 about the difference between Alabama and Missouri.

11   MS. PAYNE: There wasn't an excessive

12 discussion of the differences between Alabama and

13 Missouri in the cross-examination of this witness.

14   MR. ZUCKER: There was information that the

15 Company has given back the money in Alabama, and I think

16 we should have an opportunity to explain why.

17   MR. COFFMAN: Your Honor, if Spire is allowed

18 to pursue this line of cross-examination, I would ask for

19 the opportunity for recross on this.

20   MR. ZUCKER: There's no need for that.

21   JUDGE DIPPELL: Okay. There was an exhibit

22 having to do with what was going on in Alabama, as

23 regards to the putting back the tax cuts. However, I do

24 not recall arguments about -- or questioning about

25 legislation in Alabama. So I will sustain the objection.

 1   MR. ZUCKER: Just for your information, it

 2 was about legislation in Missouri.

 3   MS. PAYNE: That was my objection --

 4   MR. ZUCKER: Yeah. I'm just to --

 5   JUDGE DIPPELL: I'm sorry.

 6   MR. ZUCKER: I just want to make sure we're

 7 clear.

 8   JUDGE DIPPELL: Would you repeat your

 9 question?

10   MR. ZUCKER: The -- you had mentioned

11 legislation in Alabama. We were --

12   JUDGE DIPPELL: Right.

13   MR. ZUCKER: -- discussing legislation in

14 Missouri.

15   JUDGE DIPPELL: I thought your question

16 related to comparing -- his last answer related to

17 comparing Alabama to Missouri. And so perhaps I wasn't

18 keeping up.

19   MR. ZUCKER: Oh, okay. Well, the question

20 was: Is the proposed legislation that Spire has proposed

21 in Missouri this year going to make -- if it was passed,

22 would it make Missouri more like Alabama?

23   JUDGE DIPPELL: Okay. I'll still sustain the

24 objection.

25   MR. ZUCKER: Okay. Thank you, Your Honor.

 1   BY MR. ZUCKER:

 2   Q.   You were also showed a Post Dispatch article

 3   by Ms. Shemwell. Do you recall that?

 4   A.   Exhibit 440?

 5   Q.   Okay. Yes. And it is, in fact -- or is it,

 6   in fact, Spire Missouri's wish to refund the tax

 7   difference to customers?

 8   A.   In the context of a fair, balanced, and

 9   sustainable outcome, we would love to share the benefits

10   back with the customers. We're seeking a win/win, not a

11   lose/lose/lose/lose/lose, which is the customers lose,

12   the state loses, our employees lose, our debt investors

13   lose, and our equity investors lose. So we are looking

14   for a win/win. And we truly believe that the benefits of

15   tax reform should pass back to our customers to help

16   offset their higher bills this year because of the cold

17   weather we've had, including today.

18   Q.   In fact, the point in Alabama is that the

19   Company put its money where its mouth is; is that right?

20   A.   Yes, sir.

21   Q.   I believe it was Ms. Shemwell asked you

22   whether Moody's might change their opinion later. If --

23   if the -- the Commission were to issue an order

24   consistent with our exhibit, do you think Moody's would

25   remove their negative implication?

 1   MS. SHEMWELL: Again, we're getting into

 2   discussion of the rate case --

 3   MR. ZUCKER: She asked the question.

 4   MS. SHEMWELL: -- and it's been submitted.

 5   JUDGE DIPPELL: I will overrule that, if that

 6   was an objection. Go ahead, you may answer.

 7   THE WITNESS: Yeah, Rick, I believe the

 8   answer to the question lies in the third paragraph, which

 9   talks specifically about the pressures on the credit

10   metrics due to the hold. co. cap structure, which

11   violates the ring fencing that we've been operating

12   underneath ever since the MGE stipulation. It's the

13   right thing to do for our customers, and it's the right

14   business approach. And then also the equity thin layer

15   of that corporate capital structure.

16   So if those were -- if those were addressed

17   in the final order, I believe that Moody's view would

18   change.

19   BY MR. ZUCKER:

20   Q.   Okay. I believe Mr. Mills asked you some

21   questions about prior rate cases and contacts you might

22   get from investors. Have you ever before received a

23   contact from an investor expressing concern about a rate

24   case? How about expressing a specific concern about a

25   rate case?

1   A.   Well, the answer to the question is that

2   investors are always trying to understand the Company's

3   perspective and whether it's in the fair and reasonable

4   range market clearing type of expectations in terms of

5   capital structure, ROE, interest rate, all the thing --

6   rate base, everything that goes into a rate case and

7   reasonable recovery of the cost of service that a comp--

8   a company, a utility, needs in order to continue to

9   provide its service to its customers.

10   So it is not unusual for us to get questions

11 to ensure that we feel that we're in that zone of

12 reasonableness, in terms of all of those -- all those

13 various factors. And I can say that up until this rate

14 case, we can say unequivocally that we were always in a

15 reasonable range on all of those main factors, which is

16 one reason why we were able to get to a black-box

17 settlement on a few of the issues at the very end.

18   We also agreed on the ISRS -- various factors

19 in calculating the ISRS, which gives the market and those

20 outside of the case a chance to look inside the black box

21 to make sure that the cap structure, ROE are reasonable.

22   So past questions have been just to make sure

23 we were in that zone of reasonableness. The tone and

24 tenor of the questions that we got were significantly

25 more concerning this time around than they ever have been

1   in my eight years in working at the Laclede Group, or now

2   Spire.

3   Q.   Okay. I have been told that if you register

4   with Moody's, you can get their reports for free. There

5   is no fee required. You just have to sign up with them.

6   Does that sound right to you?

7   A.   Yes, it does. As a matter of fact, in a

8   break I reviewed the email I got from our treasurer; and

9   she said anyone can have access to them as long as they

10   register.

11   Q.   The Chairman asked you some questions about

12   which of two unacceptable proposals do you prefer. If --

13   putting aside the numbers, as the -- as the Chairman

14   prefaced his question, if one proposal indi-- involved

15   giving back current tax money and the other proposal

16   involved giving back current tax money and ADIT money,

17   which one would you prefer?

18   A.   The current tax money is -- is much more

19   definitive and definable. And I think that, again, all

20   things being equal in the context of a fair, reasonable,

21   and sustainable rate proceeding, should go back to the

22   customers to reduce their -- to reduce their bill.

23   The ADIT and the flow-back of ADIT is a much

24   more complex calculation that I think needs further

25   study. And I do believe that other parties to the case

1   share in that view, that there's more work that needs to

2   be done before we can figure out what that flow-back

3   would be.

4   **Q.   One other question. In your proposal you**

5   **have a certain dollar amount that we would flow back to**

6   **customers; is that right?**

7   A.   You're speaking about Exhibit 71?

8   **Q.   Yes.**

9   A.   Yes.

10   **Q.   Okay. And what if the amount turned out to**

11   **be -- the tax savings turned out to be less than what we**

12   **flowed back?**

13   A.   As Mr. Pendergast noted in his prepared

14   remarks at the beginning, there's still significant

15   uncertainty about the calculation, the benefits of -- as

16   a result of income tax reform, or what the effective tax

17   rate will be for the customers or for the Company

18   overall.

19   In the vein of trying to reach an agreement

20   overall, we've put forth the recommendation that we would

21   be willing to accept the $20 million credit, as outlined

22   on Exhibit 71, and take at risk any changes from that

23   rate, as the guidance is received from the Treasury

24   Department or as other interpretations for the industry

25   overall -- because there's still a lot to be

1   understood -- as that is all crispened up over

2   essentially the balance of calendar 2018.

3   So I think on balance we're willing to take

4   that at risk and deal with it in our next rate case.

5   Without a deferral mechanism, we'll -- we think we

6   understand the range of which the income tax benefit is

7   that should be passed back to the customers under the

8   auspices of a fair and reasonable balance.

9   Also included in that is a consideration of

10 the adverse cash flow impacts that we are taking the risk

11 on or we are going to accept the additional cost for as

12 our cash flows will decrease over time.

13   MR. ZUCKER: Okay. That's all I have. Thank

14 you, Your Honor.

15   JUDGE DIPPELL: Thank you.

16   And I believe that concludes your testimony,

17 Mr. Rasche, and you may step down.

18   THE WITNESS: Thank you.

19   (Witness excused.)

20   JUDGE DIPPELL: It is the lunchtime and

21 beyond, and so we are going to take a break for lunch.

22 Going to have you return at 1:00 promptly, please -- I'm

23 sorry, at 1 -- at 2:00 promptly. I'll give you a little

24 more than 10 minutes.

25   We can go off the record.

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 1              (Off the record.)

 2              JUDGE DIPPELL:  Okay.  We're back on the

 3  record after our lunch break, and it looks like we are

 4  ready for a new witness.

 5              Does Spire have another witness they want to

 6  call?

 7              MR. ZUCKER:  Your Honor, we have Mr. Krick

 8  here.  Mr. Rasche has already adopted his testimony.  So

 9  he is available if the commissioners have questions for

10  him.  But, otherwise, I don't know that he needs to be

11  called.

12              JUDGE DIPPELL:  Okay.  I don't think that the

13  Commission had specific questions for him.  However,

14  there were several questions during cross-examination

15  that were deferred to him from Mr. Rasche.

16              If Mr. Krick were on the stand, would there

17  be cross-examination of him?

18              MR. MILLS:  Judge, I don't -- I don't need to

19  cross-examine him.  Obviously, if there were questions

20  from the bench, I would like the opportunity for

21  follow-up questions.

22              JUDGE DIPPELL:  Right.

23              MR. MILLS:  But other than that, no.

24              JUDGE DIPPELL:  Okay.

25              MS. PAYNE:  Staff has no prepared cross at
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 1   this time.

 2   MS. SHEMWELL: Same.

 3   JUDGE DIPPELL: Same for Public Counsel and

 4   Consumers Council?

 5   All right. Then I don't believe his

 6   testimony is going to be necessary at this time.

 7   MR. ZUCKER: Should we have him hang around

 8   or is he excused?

 9   JUDGE DIPPELL: I would prefer he hang around

10   just in case.

11   MR. ZUCKER: Mr. Krick, would you please

12   stay?

13   MR. KRICK: Yes, sir, I will.

14   JUDGE DIPPELL: I won't bar the door or

15   anything, but...

16   Okay. Then I think that we can go ahead with

17   our next witnesses. And would staff be next --

18   MS. PAYNE: Yes.

19   JUDGE DIPPELL: -- on the list? Okay. Then

20   I will let you call your first witness.

21   MS. PAYNE: Staff would call its witness,

22   Mark Oligschlaeger, to the stand.

23   JUDGE DIPPELL: Mr. Oligschlaeger, you also

24   testified previously in these proceedings --

25   THE WITNESS: I did.

 1   JUDGE DIPPELL: -- that's correct? So you

 2   will remain under oath for our purposes.

 3   And you may go ahead, Ms. Payne.

 4   MS. PAYNE: Thank you.

 5   MARK OLIGSCHLAEGER,

 6   after having been previously duly sworn, was

 7   examined and testified on his oath as follows:

 8   DIRECT EXAMINATION BY MS. PAYNE:

 9   **Q.   Would you please state and spell your name**

10   **for the court reporter.**

11   A.   Sure. My name is Mark L. Oligschlaeger.

12   Last name is spelled O-L-I-G-S-C-H-L-A-E-G-E-R.

13   **Q.   Thank you, Mr. Oligschlaeger. Could you**

14   **please begin by telling me your understanding of the**

15   **changes that will result from the Tax Reform Act?**

16   A.   Okay. Just very broadly, the major material

17   changes we are aware of, and this was discussed already

18   this morning to some degree, are the reduction in the

19   corporate -- federal corporate income tax applicable to

20   Laclede and MGE from the former 35 percent rate to a

21   21 percent rate.

22   In addition to that, the new tax law also has

23   created a situation where some portion of the current

24   accumulated deferred income tax reserve is overstated and

25   that it was deferred at a 35 percent rate, but will

1   ultimately only be paid using a 21 percent federal rate,

2   and that that excess amount needs to flow back to

3   customers through some reasonable means.

4   And there's probably other impacts. Those

5   are the major ones.

6   **Q.   And it's safe to say some impacts probably**

7   **won't be realized at this time; is that correct?**

8   A.   Well, we're -- some of them, at least exact

9   quantification of them, may be subject to further

10   clarification from the SEC or the U.S. Treasury or other

11   parties, yes.

12   **Q.   Now, based on that understanding of this Tax**

13   **Reform Act, what is staff's recommendation to be applied**

14   **to the current income taxes?**

15   A.   Our recommendation, to state it broadly, is

16   that if it is reasonably possible to flow the financial

17   impacts of the new tax law into customer rates in a rate

18   proceeding such as this, that is the preferred course of

19   action.

20   Failing that, though, the impacts of the new

21   tax law should be subject to deferral on the Utility's

22   books, so the financial impacts are captured and can be

23   flowed back to customers at an appropriate point in time.

24   More specifically, however, what we're

25   recommending in this case is that the change in the

1 corporate income tax rate should be computed in this rate

2 case. We consider it a known and measurable change,

3 movement from 35 percent to 21 percent, and we think that

4 can be calculated with great accuracy. And I'm not aware

5 of anyone disputing the staff's method for calculating

6 that impact.

7   However, offsetting that, we are not opposed

8 to incorporation or inclusion of the Company's paid

9 property taxes at year end 2017, that increase as an

10 offset to incorporation of the reduced corporate income

11 tax rate.

12   For the excess accumulated depreciation

13 reserve, we think we now have enough information from the

14 Company to make a reasonable approximation of what that

15 impact should be. The excess deferred taxes can be

16 divided into two categories. One is protected

17 differences. The other are unprotected differences.

18 Protected differences must be flowed back to customers in

19 a way consistent with the current normalization

20 provisions of the tax code. Unprotected differences the

21 Commission, to my knowledge, is totally free to determine

22 the timing of that flow-back.

23   So with that distinction, we are recommending

24 a 20-year flow-back of protected excess deferred taxes;

25 and a 10-year flow-back of unprotected deferred taxes.

 1   However, again, those are based on what we believe is

 2   reasonable values, based on values given to us by the

 3   Company. We would not say that they are exact, but we

 4   think that they are reasonable enough to currently

 5   incorporate in rates, as long as there is a tracker

 6   applied to that so that whatever differences between the

 7   final determined amount of that flow-back and what is

 8   requested in rates can be accumulated and subject to

 9   being passed back to the customers or to the Company, as

10   the case may be, in a future rate case.

11   MR. PENDERGAST: Your Honor, if I could, I'd

12   like to lodge an objection myself now. And the heart of

13   the objection is staff has, I think, changed its position

14   from what was reflected in its affidavit; and we are

15   hearing this new position for the first time today. And,

16   you know, it's February 5th. We are talking about, you

17   know, an extremely abbreviated process that you

18   established where, if parties wanted to go ahead and

19   weigh in on numbers and quantifications, they were

20   supposed to do that, I thought, in the affidavits so that

21   you would have at least some minimal time to look at it

22   and go ahead and prepare cross. I still think that's

23   insufficient, given the normal due process protections

24   that have been provided for every other litigated issue

25   in this case.

1   But now here we are, we're having new

2   material, new calculations put on the record. We're

3   supposed to respond to those immediately and ask

4   intelligent cross-examination. Our witnesses are off the

5   stand. We're not going to have an opportunity to respond

6   to it in any way, and I don't know if they would be in a

7   position to do it if they could.

8   So, you know, I think from a due process

9   standpoint, this is totally inappropriate and does not

10 give the Company a reasonable opportunity to digest

11 what's being proposed, to ask any questions on what's

12 being proposed, or to go ahead and properly respond to

13 it.

14   MS. PAYNE: I'll respond, if I can get a

15 breath in. Staff is not changing its position, per se.

16 We filed an affidavit based on our best knowledge at that

17 point in time. Since that time we've had an opportunity

18 to speak to the Company. We had a technical conference

19 last week. We have a better understanding at this time

20 of what we believe to be the best method. And, in fact,

21 we did not file position statements. So staff views this

22 as it is establishing its position here.

23   The Company certainly has its ability,

24 pursuant to due process, to question our witness based on

25 each of these things. And given further opportunity to

1   continue my direct, I intend to explain differences and

2   our reasoning behind those differences between the

3   affidavit and what's being stated here.

4   MR. PENDERGAST: And, Your Honor, that gives

5   me no source of comfort whatsoever. As I said, this is

6   being put on the record literally two days before the

7   Commission's going to go ahead and consider these issues.

8   We're not going to have an opportunity to brief anything.

9   We're not going to go ahead and have an opportunity to

10   rebut anything. We're not going to have an opportunity

11   to conduct any of the kind of discovery that we've done

12   over the last nine months in this case.

13   And I just think it's fundamentally unfair at

14   this point to raise these kind of issues and expect the

15   Company to go ahead and be able to intelligently respond

16   to them.

17   MS. PAYNE: And I would simply say that the

18   Company is not being disadvantaged any differently than

19   any party here. None of us are being able to brief these

20   issues either.

21   And, with that, I would rest and let the

22   judge make a ruling.

23   JUDGE DIPPELL: Okay. I'm going to overrule

24   the objection. I'm going to let this continue. I

25   realize that this extra day of hearing has been unusual

1   in our proceeding; but the whole point is to get all of

2   the facts, all the factors out and in front of Commission

3   so they can make a decision in this case.

4   We're going to go forward with -- if this is

5   staff's position at this point, I want to hear what the

6   rest of it is.

7   MS. PAYNE: Thank you.

8   BY MS. PAYNE:

9   **Q.   Mr. Oligschlaeger, what is staff's position**

10   **as far as any impacts that are undetermined at this time?**

11   A.   Our position on those impacts would be that,

12   going back to January 1st, 2018, the Company should defer

13   those additional impacts in the manner that we suggested

14   in the affidavit, i.e., run two separate calculations of

15   their financials, using both the old tax rates and rules

16   and the new tax rates and rules. And in that way, to the

17   extent that there are unanticipated or at this time

18   unquantifiable financial impacts from the tax law, those

19   can be captured and also addressed in a later general

20   rate proceeding.

21   **Q.   Thank you. Now, moving on, were you party to**

22   **the affidavit that staff previously filed in this**

23   **proceeding?**

24   A.   I was.

25   **Q.   And is it true that staff's position has**

1   **changed from what was originally filed in that affidavit?**

2   A.   Yes. We still think the course of action in

3   the affidavit would be a reasonable one for the

4   Commission to follow. However, we think, in light of

5   additional information we have received, what we're

6   recommending here today is the best course of action.

7   Since we filed the affidavit, in terms of the

8   tax rate change, we are now very comfortable with how we

9   quantified the impact of the tax rate change. We're not

10   aware of any objection to how we have quantified it from

11   the other parties. And for that reason we think that is

12   very much a known and measurable change in the

13   traditional sense of the word.

14   In regard to the excess deferred income tax

15   flow-back, the two crucial pieces of information

16   necessary to work up a ratemaking recommendation in that

17   area is, number one, the assumed remaining life of the

18   Company's assets, which is the guideline for flowing back

19   the Company's protected accelerated deferred income

20   taxes. And we've heard from the Company, both previously

21   and today in hearing, that that's approximately 20 years.

22   The other crucial piece of information is the

23   Company's estimate of approximately half of their

24   deferred tax reserve consists of unprotected differences

25   and half consists of protected differences. And since

1   there may be -- we believe there's good reason to have

2   different amortization periods for those two categories

3   of deferred taxes, that was also a crucial bit of

4   knowledge to have.

5   So using that, using those information, we

6   think we have constructed a reasonable amount to include

7   in rates going forward to begin flowing back those excess

8   deferred taxes to customers, again buttressed by the

9   tracker mechanism which will ensure that at the end of

10 the day it's trued up to the actual flow-back and

11 customers or the Company can get their fair due.

12   **Q.   Thank you. To clarify, when you say that the**

13 **customer and the companies would get -- and the Company**

14 **would get their fair due, does staff view the tracker as**

15 **ensuring that any amounts uncertain at this time would be**

16 **known and measurable at some point?**

17   A.   Well, right. I mean, in some cases we're

18 saying defer the difference in entirety. In other cases

19 we're saying put in a reasonable estimate now and true it

20 up through the tracker mechanism. In other instance,

21 such as the change in the corporate tax rate, we think

22 that can just be inputted directly into rates.

23   **Q.   Thank you. When you say excess deferred**

24 **taxes, that's still accumulated deferred income tax, as**

25 **that term has been used throughout the day today --**

1   A.   Right.

2   Q.   -- is that correct?

3   A.   I mean, the balance of the Company's

4   accumulated deferred income tax, again, that has been

5   reflected in prior rates and even in the early stages of

6   this case, are now known to be excessive because, again,

7   they were booked using a 35 percent -- or most of them

8   35 percent federal tax rate, when we know now best

9   information is they will only be paid in at a 21 percent

10 federal tax rate.

11   Q.   Thank you. And can you tell me -- Mr. Rasche

12 spoke earlier regarding the relationship between the tax

13 reform and the Company's credit rating going forward in

14 this case. Are you aware of any relationship between

15 these two from your investigation?

16   A.   Well, I think Mr. Rasche stated on the stand,

17 and I think he stated it correctly, that across the board

18 companies, or at least utilities, will receive less cash

19 flow under the new rates than they would the old rates

20 for probably what may be an obvious reason is they will

21 no longer be collecting deferred taxes in advance of

22 payment based on an assumed 35 percent rate. Now it will

23 be a 21 percent rate. That means they will get less

24 capital from their customers over time and, accordingly,

25 will -- to the extent they have the same capital plans,

1 would have some incremental increase in necessary

2 external financing.

3   **Q.   Thank you. And, finally, does staff intend**

4 **this recommendation to be applied to all of Missouri's**

5 **utilities?**

6   A.   No. Laclede and MGE are in somewhat of a

7 unique situation in that they have an existing rate

8 proceeding going on, but one that's in its very last

9 stages. Okay? So we kind of play catch-up here in terms

10 of how best to respond to the Commission's interest in

11 this issue and how best to address it.

12   For -- in general, staff intends to supply

13 some generic suggested courses of action in its response

14 to be filed February 15th and its report to be filed that

15 day in the AW-2018-0174 docket concerning tax reform

16 generally.

17   MS. PAYNE: Thank you very much. That's all

18 I have at this time, Your Honor.

19   JUDGE DIPPELL: Is there cross-examination by

20 Public Counsel?

21   MS. SHEMWELL: Just a couple of questions.

22 Thank you.

23 CROSS-EXAMINATION BY MS. SHEMWELL:

24   **Q.   Have you looked at the nonunanimous**

25 **stipulation and agreement?**

1   A.   I would say I've read it. I wouldn't say

2 thoroughly. But, yeah, I think I've digested its

3 content.

4   **Q.   Do you have some general understanding of the**

5 **numbers?**

6   A.   I think generally. I think we're a little

7 bit off with the excess deferred income tax amortization

8 amount in the step. I think that's stated at a

9 $13 million value. I think our quantification is an

10 11-and-a-half million value.

11   I think the other part is the income tax rate

12 effect, which I think is stated in the stip as 15

13 million. I don't know whether that's intended to be just

14 a flat 15 million regard-- regardless of what the

15 Commission decides on the issues or whether that should

16 be trued up for the actual issue decisions by the

17 Commission.

18   Our best take at this time -- this is

19 preliminary -- but based on the Commission's agenda

20 discussion, we would expect the rate impact of the --

21 associated with the income tax reduction to be somewhere

22 around 16.6 million. Again, that's preliminary and

23 subject to change.

24   **Q.   So you expect some additional clarifications**

25 **that -- but that you're suggesting that this number is**

 1   reasonably known and measurable?

 2   A.   Which number are you talking about?

 3   Q.   I'm sorry, the 16.6.

 4   A.   Well, again, the Commission obviously has the

 5   ability to change its mind on decisions, and that would

 6   certainly change my quantification too. But I have high

 7   confidence that whatever they decide, we can calculate

 8   the impact of the income tax rate accurately.

 9   Q.   Because you know the difference between the

10   35 percent and the 21 percent?

11   A.   That's correct.

12   Q.   And on the ADIT, is your number based on a

13   balance of 344 million?

14   A.   I believe staff's number was a little bit

15   different than that. I think -- and Lisa Ferguson can

16   probably address this in more detail. I think her

17   assumed balance was 338 million.

18   Q.   You mentioned cash flow. Does ISRS improve

19   the Company's cash flow, their ability to file ISRS?

20   A.   Compared to a situation where they just have

21   to just rely on general rate increases to increase rates,

22   it definitely does.

23   Q.   What about the PGA, does it also improve

24   their cash flow between rate cases?

25   A.   It could, yes.

1   Q.   Does the fact that they don't have to go out

2   and borrow millions of dollars improve their financial

3   situation?

4   A.   Based on PGA; is that --

5   Q.   Yes.

6   A.   -- what you're saying?

7   Q.   Yes.

8   A.   Again, I think they're better off with the

9   PGA in that respect than without it.

10   Q.   On the protected and unprotected ADIT, is

11   only the protected based upon the assumed remaining lives

12   of the equipment or plant?

13   A.   As I understand the normalization provisions

14   within the code --

15   Q.   Just a moment. Which code?

16   A.   I'm sorry, the IRS code, the tax code. The

17   Commission or the Company's restricted from flowing back

18   protected deferred income taxes any faster than over the

19   assumed remaining life of the assets giving rise to the

20   deferred taxes. But that only applies to the protected

21   differences, which I think is pretty much accelerated

22   depreciation benefits. Any other tax timing difference

23   assumed in setting rates is unprotected and could be

24   flowed back at a pace to be determined by the Commission.

25   Q.   Mr. Rasche this morning discussed the long

1   lives. But is the 20-year life a combined depreciation,

2   do you know?

3   A.   That would be my understanding, yes.

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

5   JUDGE DIPPELL: Is there cross-examination

6   from MIEC?

7   MR. MILLS: Yes. Thank you.

8   CROSS-EXAMINATION BY MR. MILLS:

9   Q.   Mr. Oligschlaeger, what is your exact title

10   with the staff?

11   A.   I am the manager of the auditing department.

12   Q.   So in that role do you have supervisory

13   oversight over all the auditors?

14   A.   Yes.

15   Q.   And so as part of that responsibility, do you

16   keep up with all of the audits in all of the rate cases?

17   A.   I do my best to do so.

18   Q.   And in this case in particular, you've kept

19   up with the audit staff and the course of the audit

20   throughout the case?

21   A.   I have tried to. And, actually, I filed

22   testimony and assumed the witness stand in an earlier

23   stage. So, yes, I've been involved.

24   Q.   Okay. Now, you've been on the staff since

25   before the 1986 Tax Act passed; is that correct?

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 1        A.        I will concede that, yes.

 2        Q.        What was the -- what was the general approach

 3   that the utilities took in response to the 1986 Tax Act?

 4        A.        I can probably answer that question a little

 5   bit better probably from the perspective of the staff.

 6   Okay?

 7        Q.        Okay.

 8        A.        Which is that I think we reached out to most

 9   utilities -- you know, there may have even been dockets

10   filed, and it's kind of investigatory dockets for each

11   company to determine their willingness to pass on all or

12   a part of the tax savings associated with that vintage of

13   tax reform.  And I think for the most part for most

14   utilities, more or less it result -- it resulted in

15   voluntary agreements for rate reductions.

16        Q.        And do you recall, were there any utilities

17   that were in the process of a rate case at the time that

18   the Tax Act -- that that Tax Act passed?  By that Tax

19   Act, I mean the 1986 Act.

20        A.        Again, my recollection may not be exact.  I

21   think there was at least one.  But I believe the company

22   withdrew that rate application before we reached the

23   stage of filing direct testimony or anything.  And my

24   understanding at the time was that was at least partly,

25   if not mostly, related to the impacts of the Tax Reform
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 1   Act.
 2        Q.      Can you explain for me the purpose of using a
 3   historical test year in setting rates?
 4        A.      It is to establish an appropriate baseline
 5   for prospective rates going forward, based on known and
 6   measurable financial results from a test year and update
 7   periods, using that as the foundation.
 8        Q.      Okay.  And was that the approach that the
 9   staff auditors took in this case?
10        A.      Yes, it was.
11        Q.      Okay.  And is part of the reason to use a
12   historical test year to be able to apply the matching
13   principle?
14        A.      That's one of the reasons why we think use of
15   a historical test year is generally appropriate, yes.
16        Q.      And can you explain to me what the matching
17   principle is?
18        A.      A matching principle is simply the belief
19   that to properly set rates one should measure a utility's
20   revenues, expenses, rate base, and cost of money at a
21   generally consistent period of time.  Usually at the end
22   of the test year.  In most cases the end of the true-up
23   period.
24        Q.      Okay.  And in this case there was a true-up
25   period; correct?
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 1        A.      Yes.

 2        Q.      Okay.  And that true-up period ended

 3   September 30th, 2017?

 4        A.      I believe so.

 5        Q.      If the Commission does not address the

 6   impacts of the 2017 Tax Act in this case, will the

 7   matching principle be upheld?

 8        A.      I think a very narrow view of the matching

 9   principle in that the items -- the elements that play in

10   this case will have been measured out through September.

11   However, in this particular instance, we were aware that

12   there has been a major change in at least one of the

13   factors used in setting rates; and it's reasonable to

14   believe that the rates set going forward, ignoring the

15   changes in income taxes, will not be necessarily fair and

16   reasonable from a customer perspective.

17        Q.      And when you say will not necessarily be fair

18   and reasonable from a customer perspective, do you mean

19   if the Commission does not address the Tax Act in this

20   case?

21        A.      Yes.  I'll just leave it at that.  Yes.

22        Q.      Okay.  Now, I believe that in response to the

23   direct examination, your -- based on what you know of the

24   way the Commission's decisions are shaping up in this

25   case, that the direct effect of the Tax Reform Act was
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1   16.6 million?

2   A.   That was the estimate provided to me. If you

3   have greater curiosity about the whys and wherefores of

4   that number, I suggest you ask Lisa Ferguson.

5   Q.   I'm going to -- I'm going to stay at a very

6   high level for the next couple of questions. And so that

7   the effects from the deferred taxes, I believe you gave a

8   number of 11.5 million; is that correct?

9   A.   That was our -- that's an approximation. But

10   in that ballpark, yes.

11   Q.   And if I were to add those two together, that

12   would be 28.1 million; correct?

13   A.   Yes.

14   Q.   Okay. Is that not very consistent with the

15   28 million that's contained in the nonunanimous --

16   A.   It --

17   Q.   -- stipulation --

18   A.   It's very consistent. I think maybe we came

19   up with the component numbers a bit differently, but the

20   overall result is very consistent.

21   Q.   Okay. And in terms of the way that you came

22   up with the component numbers, are you familiar with the

23   process that MIEC Witness Meyer used to calculate those

24   numbers?

25   A.   We discussed that, and I think I'm somewhat

1   familiar with it, yes.

2   Q.   Okay. Are -- do you believe that the method

3   that he used is a reasonable way to calculate those tax

4   impacts?

5   A.   I have no direct criticisms of it, and I

6   would be -- I don't think there's a very large

7   difference.

8   Q.   Okay. We're in the -- he will get on the

9   stand and explain what he did. So we're a little bit

10   awkward, because I'm asking you to agree to it before

11   he's gone on the record and explained it to you. But as

12   far as you know, you don't know of any errors in the

13   methods that he used to calculate that?

14   A.   Right. And, quite frankly, given how --

15   how -- what my understanding is of how Mr. Meyer

16   calculated it, I'm kind of wondering whether his number

17   shouldn't be very close to ours, because I don't think

18   methodologically what Lisa or I did was much different

19   than what Greg did.

20   Q.   Okay. So given that $28 million

21   quantification, let's assume that the Commission takes

22   the approach of -- the deferral approach and does not

23   make any adjustments to the rates ordered in this case

24   but simply defers that amount every year until the next

25   rate case. Are you with me on those assumptions?

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 1        A.      I believe so.

 2        Q.      And further assume that the next rate case is

 3   four years from now.

 4        A.      Okay.

 5        Q.      First question:  Do you believe that those

 6   are both reasonable assumptions, if the Commission takes

 7   that approach, $28 million a year for four years?

 8        A.      Well, based on past history, I think the

 9   Company's shown an ability to stay out for three- or

10   four-year periods.

11        Q.      Okay.  So not to make you do math on the

12   stand, but what is the 28 million per year over four

13   years?

14        A.      If my math in my head is right, that should

15   be 112 million.

16        Q.      That's what my head gets, so I think we're on

17   the same page.  Now, let me ask you how do you believe --

18   let me back up.  If you were a staff witness in that case

19   in which there was $112 million regulatory liability that

20   needed to be addressed in a rate case, would that need to

21   be amortized over a period of time or could that be

22   reflected in a single year of rates?

23        A.      Given that it is an accumulation of a number

24   of years, the impact of the change in tax rates, I very

25   much suspect that we would more say amortize it over a
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1   period of time, as opposed to reflect it in a lump sum.

2   Plus, I mean, if you're -- if you're putting

3   that in as a lump sum, that may be allowing ultimately

4   customers to over-recover that benefit, to the extent

5   rates can't be changed every year. So it's -- let me say

6   it probably would be good policy to amortize that out.

7   **Q.   And the amortization period, probably a**

8   **minimum of four years?**

9   A.   Four years may be a reasonable period,

10 because that's the period of accumulation. It wouldn't

11 surprise me perhaps if the Company, even other parties

12 would -- because of the magnitude may want a longer

13 amortization period.

14   **Q.   Okay. So four years is probably a -- in the**

15 **scheme of what staff would propose and what the Company**

16 **would propose, that's probably on the short end of the**

17 **spectrum; correct?**

18   A.   If I were to foretell the future, yes.

19   **Q.   Okay. So if the Commission were to take the**

20 **deferral approach, that means that under some fairly**

21 **reasonable assumptions, customers would not see the full**

22 **benefit of the Tax Act that passed a month or more ago**

23 **for eight years; is that correct?**

24   A.   Assuming the shortest reasonable amortization

25 period that we discussed, that would be true.

1   Q.   And it could be considerably longer than

2   that?

3   A.   That is correct as well.

4   Q.   All right. Now, during that -- the

5   four-year -- the assumed four-year period between now and

6   the next rate case, do you have any reason to believe

7   that Laclede won't come in for ISRS rate increases in the

8   same way that they have done in the past?

9   A.   I know of no particular reason why they would

10 choose not to do so, yes.

11   Q.   And do you know what the -- the total amount

12 in this case that had been being charged to ISRS for the

13 two companies was?

14   A.   That I couldn't tell you. I'm very confident

15 Ms. Ferguson could probably answer that question.

16   Q.   Did you -- were you here this morning when

17 the Company introduced Exhibit 71?

18   A.   I was.

19   Q.   If I were to tell you that that exhibit,

20 which has been introduced and admitted in the record,

21 showed that ISRS through February of '17 was $49 million,

22 would that seem about right to you?

23   A.   That is my vague recollection, talking with

24 Lisa and Karen Lyons, that that would be a good value.

25   Q.   Okay. So assume that the Company invests in

1   ISRS-eligible plant at roughly the same rate over the

2   next four years as they have over the last four years.

3   Would that mean that in that next rate case, in which the

4   Company would have accumulated a regulatory liability of

5    $112 million, they would also have managed to increase

6   rates to customers by almost $50 million during the same

7   period?

8   A.   If they choose to continue using the ISRS

9   rate mechanism, yes, that would follow.

10   Q.   Do you have an opinion on the general

11   public's view of treatment like that?

12   A.   Well, I hesitate to express the general

13   opinions of the public. I have a view of that; and that

14   is, regardless of the legal ability to obtain

15   single-issue ratemaking relief in this state, that

16   becomes somewhat problematic when we know that there is a

17   sizable regulatory liability accumulating on the

18   Company's books or the -- said another way, that base

19   rates are set too high.

20   Q.   Okay. Doesn't seem fair, does it?

21   A.   Not to me.

22   Q.   Okay. Going back to the matching principle

23   and the relationship that -- among the components that

24   was established at the end of the true-up period, other

25   than the impact of the 2017 Tax Act, are you aware of any

1   other factors that would skew that relationship to a

2   significant degree?

3   A.   Well, no. I mean, the tax change really

4   doesn't in and of itself immediately affect the rate base

5   values or the other expense values or the revenue values

6   for that matter, to my knowledge. So in terms of the Tax

7   Act specifically, I'm not aware of any particular

8   matching issues related to putting that into the rate

9   calculation, other than is it appropriate to do so when

10   that took effect January 1 as opposed to September 30th.

11   Q.   Okay. But my question -- perhaps I didn't

12   phrase it very well -- was are you aware of any other

13   factors that have changed significantly in the way that

14   the revenue requirement for federal income taxes have

15   changed?

16   A.   I'm certainly not aware of anything of a

17   comparable magnitude, no.

18   Q.   Anything that you would consider significant?

19   A.   Again, you might ask Ms. Ferguson that. She

20   probably would have more knowledge of the exact details

21   of the cost of service, but I'm not aware of any.

22   Q.   Okay. Were you here this morning when I did

23   my opening statement?

24   A.   Yes.

25   Q.   Okay. Let me -- let me have you think of a

1   **hypothetical situation in which there was a change in the**

2   **federal tax code that caused the revenue requirement for**

3   **Spire to increase somewhere in the neighborhood of**

4   **4 percent per year; and it had already passed, already**

5   **been signed into law. What would the staff's position be**

6   **if that had happened in a similar time frame as the tax**

7   **changes that occurred in this case?**

8   A.   Well, the first thing we would do is look at

9   the -- to the extent there are precedents out there of

10   when similar situations have taken place. I don't know

11   that there's a direct precedent, other than the 1986 tax

12   change. But I do know that in the context of things like

13   agreed-upon rate moratoriums and the earnings sharing

14   plans that were put in effect for Southwestern Bell

15   Telephone and for later Ameren Missouri, that there was a

16   specific kickout clause in at least some of those

17   agreements by which a federal tax law change was one of

18   the items that abrogated the agreement, allowed a company

19   under a rate moratorium to seek to increase rates or, if

20   it went the other way, a complaint could be filed.

21   So I think in the past the concept of a major

22   federal tax law change has been one recognized to be a

23   very unusual and abnormal ratemaking impact that wouldn't

24   necessarily -- wouldn't necessarily follow that it should

25   be treated kind of as a status quo or business as usual.

1   So -- and to respond directly to your

2   question, based on that history, certainly I would

3   advocate that it would be just, reasonable, and

4   appropriate to incorporate that known change in the

5   context of an ongoing utility rate change request.

6   **Q.   And to come up with -- and I'll ask you this.**

7   **But were you involved in rate cases for electric**

8   **utilities in the period shortly after the Commission**

9   **promulgated rules on vegetation management and**

10 **infrastructure inspection?**

11   A.   I was.

12   **Q.   And in those cases were the exact amounts of**

13 **the increased costs to the utilities for those rule**

14 **changes known?**

15   A.   Certainly not -- well, prior to the rule

16 changes going into effect or shortly thereafter, no, they

17 would not be known with certainty.

18   **Q.   And how did the Commission treat those**

19 **changes when it was setting rates for those utilities?**

20   A.   As I recall, a reasonable estimated amount

21 was included in rates for compliance with the rules and a

22 tracker was set up so that those estimates could

23 ultimately be converted to the actual incurred value for

24 ratemaking purposes.

25   **Q.   And although I recognize that the relative**

1   expense levels are different than what we're talking

2   about here, do you view that as an analogous situation?

3   A.   Somewhat, yes.

4   MR. MILLS: Okay. I don't have any further

5   questions. Thank you.

6   JUDGE DIPPELL: Thank you.

7   Is there anything from Consumers Council?

8   MR. COFFMAN: No, Your Honor.

9   JUDGE DIPPELL: Is there cross from Spire?

10   MR. PENDERGAST: Yeah, just a few questions.

11   CROSS-EXAMINATION BY MR. PENDERGAST:

12   Q.   Good afternoon, Mr. Oligschlaeger.

13   A.   Good afternoon.

14   Q.   Now, can you tell me when staff changed its

15   position?

16   A.   Well, following the technical conference we

17   had with some of the parties, including Spire, we had a

18   series of discussions -- internal discussions in which

19   ultimately we agreed within staff that this was the most

20   appropriate course of action to recommend.

21   Q.   And can you tell me who participated in those

22   discussions?

23   A.   Sure. Jamie Myers, myself, Ms. Ferguson,

24   Mark Johnson, and Whitney Payne. And I'm not going to

25   absolutely say there was no one else, but that's who I

 1   recall.

 2   Q.   Okay. And on what date was the decision made

 3   to change position?

 4   A.   I would say the final decision was probably

 5   made Friday, last Friday.

 6   Q.   Friday. And do you know if anybody contacted

 7   the Company to inform it of this change of position?

 8   A.   I'm not aware if anyone did.

 9   Q.   So this is really the first time we're

10   hearing about it, isn't it?

11   A.   Yes.

12   Q.   Let me ask you about those electric cases

13   that Mr. Mills was asking you about where an estimate was

14   used. Was that estimate that was used for vegetation

15   management developed well after the true-up period in the

16   case on hearing day that was a few days before the

17   Commission rendered its decision?

18   A.   Thankfully in those cases we had the luxury

19   of more time to determine.

20   Q.   And by more time do you mean the luxury to go

21   ahead and have parties look at the estimates?

22   A.   I assume that the parties had the opportunity

23   to offer input into staff's recommendations and vice

24   versa, yeah.

25   Q.   Okay. Did the parties have an opportunity to

1   do any kind of discovery on those estimates?

2   A.   I assume they did.

3   Q.   Okay. Has that opportunity been afforded in

4   this case?

5   A.   Obviously there's been the opportunity for

6   some discussion. Not up to the normal rate case

7   discovery standards, due to the lack of time.

8   Q.   Okay. Well, let me ask you this: Has there

9   been any discovery whatsoever on the calculations and

10   estimates that you're proposing to use today and have the

11   Commission accept?

12   A.   I'm not aware of any.

13   Q.   Okay. In that -- those electric cases, was

14   there an opportunity, if people disagreed with staff's

15   estimate, to file testimony specifying what their

16   disagreements were?

17   A.   I expect there would have been, yes.

18   Q.   Okay. And has that opportunity been made

19   available in this case?

20   A.   There's been no provision for filing of

21   testimony in this specific process by anyone.

22   Q.   Okay. In the electric case was there an

23   opportunity for people to submit briefs on the whole

24   issue of using estimates and argue whether or not it was

25   appropriate?

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 1        A.       I certainly expect there was.

 2        Q.       Okay.  Is there an opportunity to do that in

 3   this particular instance?

 4        A.       Again, due to the lack of time, no one is

 5   filing briefs to my knowledge.

 6        Q.       Okay.  You have recommended that there be a

 7   20-year amortization and a 10-year amortization based on

 8   the nature of the ADIT; is that correct?

 9        A.       Yeah, that is the dividing point in terms of

10   whether it's protected or unprotected.

11        Q.       Okay.  Where would I go in the evidentiary

12   record to find that 20-year recommendation, the basis for

13   it, how it was arrived at?

14        A.       I don't know if 20 years was cited as the

15   remaining life of Laclede and MGE's plant within the

16   record.  We are relying upon the Company's representation

17   to us, as part of the technical conference and other

18   discussions that have happened recently.

19        Q.       So you're accepting a number that the Company

20   went ahead and mentioned as a rule of thumb, and that's

21   what you're using?

22        A.       Well, I don't know the wide extent rule of

23   thumb is a fair characterization.  I know that that's an

24   estimate.  I assume it's a reasonable estimate.

25        Q.       And how about the ten-year?
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 1   A.   The ten-year just seems like a reasonable

 2   period of time to flow back excess deferred taxes to the

 3   customers who originally provided them in expectation of

 4   a higher tax rate.

 5   Q.   Okay. And where in the evidentiary record

 6   would I go to find the support for the use of that ten

 7   years and why it's appropriate? Would the record consist

 8   only of what you've just said?

 9   A.   I'm -- there would have been no reason for

10   that discussion, I think, to come up in the earlier

11   stages of the case. So --

12   Q.   Okay. So the only thing we have to support

13   that ten years is what you have just said?

14   A.   It's a reasonable period of time, yes.

15   Q.   Okay. Based on what you have concluded and

16   just told us today?

17   A.   Right. It's a fair compromise between

18   getting the money back to customers relatively quickly

19   but not unduly impacting your financials.

20   Q.   Yeah. Were you -- well, speaking of

21   impacting financials, can you tell me what sort of

22   analysis staff has done of what the impact adopting this

23   recommendation and taking this money now in this kind of

24   fashion under these circumstances will have on the

25   Company's cost of capital, on its creditworthiness, on

1   **how it may be rated by credit agencies?**

2   A.   The analysis I did -- and this is obviously

3   somewhat basic and fundamental, given the lack of time --

4   is as I understand it, your -- Mr. Rasche agreed the

5   20 years would be at least approximately a reasonable

6   period of time to flow back excess deferred taxes to. I

7   know he didn't say it should happen now or in this case,

8   but I think he agreed generally that was an appropriate

9   period of time. And that's what we're proposing for the

10   protected piece.

11   For the unprotected piece we're proposing 10

12   years. Let's say we push that back to a 20-year

13   amortization to meet Mr. Rasche's criticisms. I think

14   the rate impact would be a shade under $4 million a year

15   annually. In other words, 10 years versus 20 years would

16   take $4 -- $4 million of deferred taxes away from you,

17   compared to the 20-year alternative. And when you

18   compare that $4 million incremental difference to Laclede

19   and Spire's 1.8 billion rate base, I hardly believe that

20   that incremental impact would be seriously damaging

21   either to your rate of return or to your financial

22   metrics, credit rating agency metrics, and so on.

23   Q.   **Well, let me ask you this: Is that what you**

24   **are now proposing today is something that will have a**

25   **revenue requirement impact immediately right now of**

1   **$4 million? Is that it?**

2   A.   No, no, no. What we're proposing -- number

3   one, we're proposing -- the amount we gave in our

4   affidavit was a $15 million quantification for the tax

5   rate change. That's likely to go up somewhat because of

6   how the Commission's agenda discussion seemed to be

7   going. But that should have, at least in my mind, no

8   long-term credit metric impacts, because you'll be paying

9   less cash to the Federal Government, you'll be receiving

10   less cash from your customers, and that should wash.

11   Now, the excess deferred tax amortization,

12   yes, that does take, I guess, dollars you have collected

13   in the past from customers, gives it back to them over a

14   period of time. And that may have some impact on your

15   cash flow. Again, for the reason I gave, I don't think

16   that that will have a material difference.

17   **Q.   So we're talking about a revenue requirement**

18   **impact that staff is now recommending this Commission**

19   **adopt of a combined $19 million?**

20   A.   No, no, no, no. Again, Mr. Rasche, as I

21   certainly understood him to say on the stand, indicated

22   any flow-back to the Company -- or to the customers from

23   protected deferred taxes should occur over a 20-year

24   period. And I don't think he was saying that that

25   flow-back shouldn't occur at all because of cash metric

 1   basis or anything. So in my mind that's not a disputed

 2   issue in terms of cash flow.

 3   We're saying -- and Ms. Ferguson can deal

 4   with -- can address the specific numbers. What I'm

 5   saying is, assuming a 20-year flow-back of protected

 6   deferred taxes and a 20-year flow-back of unprotected

 7   deferred taxes, there's only 4 million -- slightly less

 8   than $4 million difference than our proposal to flow back

 9   the unprotected piece over 10 years.

10   **Q.   And just because, you know, I haven't heard**

11   **any of these recommendations until today, I'm asking you**

12   **what are you now proposing the Commission do with regard**

13   **to the tax issue with respect to the Company's revenue**

14   **requirement in these two cases?**

15   A.   Okay. First of all, I don't -- we're not at

16   this time suggesting a flat dollar amount for the income

17   tax rate decrease. Okay? That needs to be flowed

18   through the final decisions made by the Commission in

19   this case. Our best take right now is that number should

20   be around 16.6 million. Okay?

21   Our recommendation on excess deferred income

22   taxes flow-back for both protected and unprotected is

23   approximately 11-and-a-half million. You add those two

24   together, I think you're somewhere around $28.1 million

25   reduction to revenue requirement.

1   Q.   Okay. Were you in the hearing room today

2   when there was the discussion about the various responses

3   we've gotten from credit rating agencies, our investors,

4   with respect to sell-off of the Company's stock, how much

5   our market cap went down when the market became aware of

6   where the Commission might be heading, before any of

7   these impacts were taken into account? Were you here for

8   that?

9   A.   I was here all morning. And, yes, I was here

10   for that.

11   Q.   Okay. And have you done any analysis to

12   determine where this additional revenue requirement

13   recommendation that you are now revealing for the first

14   time today will have on how we are perceived in the

15   investment community, will have on how outside parties

16   rate our debt instruments, what they assess as far as the

17   finances of the Company and its -- and its future?

18   MR. MILLS: I object to the question. It's

19   argumentative and compound.

20   BY MR. PENDERGAST:

21   Q.   Well, let me ask you this then -- I'll try

22   and break it down -- what analysis have you done along

23   those lines?

24   A.   We did not directly take into account the

25   expected reactions from credit rating agencies or other

1   outside parties. We tried to formulate it based on what

2   we thought the most fair treatment was to both the

3   Company and the customer.

4   Q.   And would it be fair to say that any

5   opportunity to discuss those particular impacts, to

6   propose anything to the Commission as far as its impact

7   on our cost of capital or our cost of equity, that boat

8   has left the pier?

9   A.   At this late stage of the case, unfortunately

10   I don't think there's time for much of that activity.

11   Q.   Okay. So at this late stage those are just

12   some of the items that we really can't take into account

13   or deal with; is that correct?

14   A.   Well, we'd all love to have more time, but

15   this is the situation we're faced with.

16   Q.   Okay. Well, under your deferral, if it does

17   have adverse credit impacts and that sort of thing, are

18   you proposing to recognize those in the deferral?

19   A.   Credit rating impacts I don't think would be

20   the sort of direct impact of the tax law change that we

21   were envisioning in our deferral. So, no.

22   Q.   Okay. So what we're doing here may have an

23   adverse impact in the way we're doing it, but that's not

24   something we're going to worry about; is that right?

25   A.   Well, it's highly unlikely that the credit

1 metrics can be isolated to the degree where it's just the

2 tax law change that's affecting it. You -- your company

3 has made it very clear that there's a number of items at

4 issue in this case that you think will have negative

5 credit rating agency impacts other than tax reform. So

6 breaking that all out, I'm not sure how you would do

7 that.

8   **Q.   Well, you're not sure how we would do that,**

9 **but the fact of the matter is we're not even going to**

10 **have an opportunity to try, are we?**

11   MS. PAYNE: Objection. That is definitely

12 argumentative.

13 BY MR. PENDERGAST:

14   **Q.   Well, I mean, are we?**

15   JUDGE DIPPELL: Mr. Pendergast, I don't

16 believe that's necessarily a question for

17 Mr. Oligschlaeger.

18   MR. PENDERGAST: Well, I know, Your Honor,

19 it's not, unfortunately. And the subject matter experts

20 aren't going to have an opportunity to weigh in on it.

21 That's kind of my point, but I'll move on.

22   JUDGE DIPPELL: I'll let you save the

23 proceeding arguments for your closing arguments.

24 BY MR. PENDERGAST:

25   **Q.   Okay. Is the tax law changes going to go**

 1   ahead and reduce the amount of, if you will, tax free --

 2   or money that -- cash that we receive because of the

 3   ability to take reductions?

 4   A.   If I understand your question, the tax law

 5   does take away at least regulated utilities' ability to

 6   use bonus depreciation, which have certainly contributed

 7   to the large amount of deferred tax financing you and

 8   other utilities have been able to collect from customers

 9   in past years.

10   Q.   Okay. So we're not going to have the

11   opportunity, at least to the degree that we used to, to

12   take advantage of those tax law provisions?

13   A.   Your deferred tax recovery in the future, all

14   other things being equal, will be less than what it has

15   in the past.

16   Q.   And does that mean that we will have to go

17   and rely on external sources of financing, if we want to

18   continue to make the same level of investments we have in

19   the past?

20   A.   I think so.

21   Q.   Okay. And under your particular approach, is

22   that effect of the tax law on increasing or financing

23   cost something that will be captured?

24   A.   Again, if that can be reasonably isolated to

25   the impacts of the tax law, that is something that we

1   could discuss. I have my doubts that it could.

2   **Q.   Okay. But right now it's not something**

3   **that's being proposed by staff?**

4   A.   It is not.

5   **Q.   Okay. And with a smaller amount of deferred**

6   **taxes, will that generally mean that our rate base will**

7   **be higher than it otherwise would be?**

8   A.   Going forward you will have a higher rate

9   base because of your greater reliance, all other things

10   being equal, on external financing.

11   **Q.   Yeah. And this is an impact that's flowing**

12   **from the tax law; is that correct?**

13   A.   Directly from it, yes.

14   **Q.   Okay. And is staff recommending that those**

15   **impacts and those additional rate base amounts that we**

16   **would otherwise be entitled to earn on, that that should**

17   **be included in the deferral mechanism?**

18   A.   No, we are -- in general we are limiting --

19   or we propose to limit the deferral mechanism to direct

20   impacts of the tax law -- the tax law changes. You were

21   able to deduct this amount in the past; you can deduct

22   this amount now; what's the difference that should be

23   deferred. No, we're not talking about expanding our

24   deferral to rate base expenses not directly related to

25   the tax law change.

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 1        Q.      Not directly related?  I thought we just

 2   established that it was related to the tax law change?

 3        A.      Indirectly, perhaps.  I would not argue

 4   that -- no, that that would be a direct change of the

 5   type we envision be included in the deferral.

 6        Q.      Okay.  So we have these direct effects.  We

 7   have these indirect effects.  And would you agree with me

 8   that there really hasn't been much of an opportunity to

 9   sort through that and have parties weigh in, submit

10   testimony, conduct discovery on what should count and

11   what shouldn't?

12        A.      There's been a lack of time for everyone

13   involved in this process, given the timing of the tax law

14   change and the stage this case was in.

15        Q.      Okay.  So would that be -- answer be no?

16        A.      That there hasn't been --

17        Q.      Yes.

18        A.      -- a lot -- yes, I would agree there has not

19   been a lot of time.

20        Q.      Okay.  Now, are you familiar with the

21   procedural orders in this case?

22        A.      Somewhat.  I'm sure I've read them at some

23   point.

24        Q.      Well, you're generally familiar with

25   recommendations that parties make regarding true-up
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1   periods and cut-offs and that sort of thing; is that

2   correct?

3   A.   That would be correct.

4   Q.   Okay. And to your knowledge the parties

5   recommended in this case that we true up known and

6   measurable changes through September 30th, 2017; is that

7   correct?

8   A.   I would -- wouldn't be surprised if that was

9   the exact language in the order.

10   Q.   And do you recall whether there was a force

11   majeure or other provision in there that said this is

12   what we'll do, unless there's a particularly big item?

13   A.   I'm not aware of any such provision in other

14   cases or this case.

15   Q.   Okay. And staff is not proposing to go ahead

16   and capture or recognize, with a deferral mechanism or

17   whatever it's including in rates now, property taxes that

18   will be paid by the Company in 2018; is that correct?

19   A.   That is correct.

20   Q.   And why -- why is that?

21   A.   Two different animals. We view the corporate

22   tax law change to be essentially extraordinary in nature,

23   as opposed to the ongoing types of changes a company like

24   yours will experience in property taxes and other areas.

25   Q.   How unknown and unmeasurable are property

1   **taxes that we'll incur next year?**

2   A.   How unknown and -- well, they're not known

3   and measurable. You're asking on --

4   **Q.   Okay.**

5   A.   -- what spectrum are they not --

6   **Q.   And why are they not known and measurable?**

7   A.   Because ultimately the rates have not yet

8   been set by the taxing authorities, the assessed values

9   or any of the other base information used ultimately to

10 charge property taxes to entities under their

11 jurisdiction.

12   **Q.   And based on your experience, if you know,**

13 **what do those factors usually mean, as far as a variation**

14 **in what those taxes will be, say, compared to historical**

15 **performance?**

16   A.   In most circumstances, in most occasions, we

17 have seen increases in property taxes over time.

18   **Q.   Okay. So you've seen increases in property**

19 **taxes. And can you tell me by what percent, or is that**

20 **just too generic a question for you to answer?**

21   A.   Sometimes they're sizable increases.

22 Sometimes they're small. In rare occasions we've seen

23 them remain steady or even decrease from year to year.

24   **Q.   On rare occasions?**

25   A.   On rare occasions.

1   Q.   Yeah. But generally they increase?

2   A.   That's the general experience.

3   Q.   Okay. But staff believes that they're still

4   too lacking in known and measurable qualities to

5   recognize in rates?

6   A.   That's correct.

7   Q.   Okay. And what analysis did you do of

8   whether or not the approach you're suggesting would

9   violate any normalization requirements?

10   A.   I don't believe it would. I have not done an

11 exhaustive analysis on that point.

12   Q.   Okay. And, once again, have you presented

13 anything on the record that would demonstrate what kind

14 of analysis you did do?

15   A.   No, not to my knowledge.

16   Q.   I think you mentioned that you had proposed a

17 certain -- or that staff had proposed a certain

18 calculation, and nobody had -- had disputed it; is that

19 correct?

20   A.   The quantification of the tax rate change,

21 yes.

22   Q.   Okay. And at the time staff proposed that

23 quantification, was it also saying that this is simply

24 too unknown and unmeasurable and we can't reflect any

25 adjustments in these cases?

1   A.   We said that generically, in terms of the tax

2   law as a whole. In between when we filed the affidavit

3   and today, among other things we received feedback from

4   you and other parties in terms of how we were calculating

5   quantifying the tax rate change -- just the tax rate

6   change.

7   When all is said and done, I think there was

8   general agreement that we were quantifying the impact

9   accurately, given the inputs necessary from Commission as

10 to how the case ultimately would be decided.

11   **Q.   Well, my question to you is, when you say**

12 **nobody's questioned that, would you concede that maybe**

13 **the Company at least didn't question it because it didn't**

14 **believe that it was going to go ahead and be used in this**

15 **case?**

16   A.   Well, it would cer-- I think we were

17 certainly proposing it be used as a part of a deferral as

18 a fallback position. So I think it would be in your best

19 interest to question it, if you didn't think it was

20 accurate.

21   **Q.   Well, as part of the deferral, but nothing**

22 **that would be immediately recognized in this case; is**

23 **that correct?**

24   A.   Our affidavit suggested deferral of that

25 impact, yes.

1   Q.   Okay. And if your affidavit instead had

2 suggested what you're suggesting today, that we want to

3 recognize this and we want to recognize it now in the

4 rate case, is it fair to say that folks might have taken

5 a different approach to whether they needed to go ahead

6 and question it?

7   MS. SHEMWELL: This is --

8   MS. PAYNE: Object. I'm sorry. I'm going to

9 object that this calls for speculation. This entire line

10 of questioning is asking Mr. Oligschlaeger to step into

11 the minds of the parties. And I don't believe that

12 that's something in his purview, intelligent though he

13 may be.

14   MR. PENDERGAST: Well, you know, he's already

15 stepped into the minds of the parties by saying you must

16 agree with my numbers because you didn't raise any

17 objections to it. And what I'm trying to do is ask him

18 could that be because you said that you were going to be

19 using it in this case now. And if he can't answer that

20 question, maybe he could just say I'm making no

21 indication that you were thinking my number was just

22 fine.

23   MS. SHEMWELL: Judge, I think Counsel is

24 stepping over the line of the duty of civility.

25   JUDGE DIPPELL: Okay. I don't think things

1   have gotten that far out of hand yet. Mr. Pendergast is

2   obviously passionate about his concerns for the Company's

3   case today, and we're going to give him a little leeway

4   in that regard.

5   As to the witness being able to say what

6   Spire was or wasn't thinking, I agree with Ms. Payne that

7   that is beyond his abilities.

8   However, if you want to rephrase your

9   question and ask him about whether or not Spire was aware

10   of.

11   BY MR. PENDERGAST:

12   **Q.   Let me leave Spire out of it entirely and**

13   **just ask you, Mr. Oligschlaeger, would you concede that a**

14   **person who is looking at whether he wants to raise issues**

15   **or not about the accuracy of something might have a**

16   **different opinion on whether they need to do that, based**

17   **on whether they think that has immediate consequences?**

18   A.   That may have an impact in how they would

19   respond. I would only add that staff was -- would be

20   very interested in any critiques, input, feedback that

21   you would have had on our method of tax calculation,

22   whether it was in the context of the deferral or an

23   actual rate reduction.

24   **Q.   What are you going to propose for the other**

25   **utilities?**

1   A.   Don't know. We'll take the first stab at

2   expressing that on February 15th.

3   Q.   **Have you reached any judgments as to what**

4   **you're going to say?**

5   MS. PAYNE: Object. That's not something

6   that's at issue in this hearing.

7   MR. PENDERGAST: Well, you know, I think that

8   we're a part of that docket. We've submitted something

9   in response to it. I thought I heard Mr. Oligschlaeger

10 say that he's not going to follow the same approach in

11 that case, and I think it's fair to inquire about how

12 differently we're being treated on this issue.

13   MS. PAYNE: I'll object that Mr. Pendergast

14 is mischaracterizing what my witness said. I believe

15 what my witness actually said was that this approach

16 would not necessarily be what we are recommending for the

17 other utilities; however, we will be issuing that on

18 February 15th.

19   JUDGE DIPPELL: I will overrule the

20 objection. You can answer.

21   THE WITNESS: Okay. If you could repeat your

22 last question on the table, I'll try to respond.

23 BY MR. PENDERGAST:

24   Q.   **Sure. I'd like to find out whether or not**

25 **you plan to propose this kind of treatment that you're**

1   proposing for us now, an immediate recognition of some

2   portion of the tax law and then a deferral to kind of

3   balance things out over time, for the other utilities?

4   A.   I think what I can state, in general terms I

5   expect we will on a broad basis suggest that if a general

6   rate proceeding is in process and the impacts of the tax

7   law change can be reasonably quantified in the context of

8   those cases, those should be immediately reflected in

9   rates. For those companies in which this is not

10   possible, primarily because they're not currently in for

11   rate relief, a deferral mechanism would be appropriate.

12   Q.   Okay. And what will that deferral mechanism

13   look like?

14   A.   I would expect it to encompass all changes

15   related -- specific changes to the tax law from the new

16   bill, in terms of the tax rate, the excess tax flow-back,

17   and any other material changes due to the legislation.

18   Q.   And do you believe that you'll have

19   discussions with those utilities about what those

20   particular provisions should look like, what kind of

21   offsets there should be, et cetera?

22   A.   I expect that there will be the opportunity

23   for such discussions with utilities in the future.

24   Q.   Okay. And tell me what the harm would be if

25   we simply went ahead and remained part of that group and

1   we went through the same kind of exercise that they're

2   going through.

3   A.   Well, whether I'd call it harm or not, I

4   think the drawback to that is if this -- these impacts

5   aren't reflected in this case, there may be an extended

6   period of time prior to when Laclede's customers --

7   Laclede's and MGE's customers would actually see the rate

8   benefits of tax reform.

9   Q.   So is -- how does that different from --

10   differ from the other utilities that you'll just use a

11   deferral mechanism with?

12   A.   The same problem to some degree could exist

13   with the other utilities.

14   Q.   Okay. So they may have the same problem, but

15   you'll be proposing a deferral there, whereas with us you

16   are proposing an immediate recognition of what you now

17   say is a known and --

18   A.   Well, again, I'm --

19   Q.   -- measurable adjustment?

20   A.   -- somewhat speaking ahead of myself, because

21   we haven't necessarily reached the final conclusions of

22   what we're going to say, but -- in our February 15th

23   filing. But I think certainly deferral is the option --

24   immediate option for companies who are not in for

25   immediate rate relief. We would certainly be interested

1   in exploring with those companies some ways of passing on

2   those benefits to rates on a reasonably fast basis.

3   Q.   Okay. But those companies, they'll have an

4   opportunity to sit down and chat with the staff, they'll

5   have an opportunity to go ahead and maybe suggest

6   alternatives, they'll have an opportunity to maybe ask

7   additional questions; and because of what you say are the

8   time constraints in this case, those aren't things that

9   are available to us at this point?

10   A.   I think to some degree they have been and

11   probably still are available. Not to the same degree,

12   unfortunately, as the other utilities under the process

13   I'm envisioning.

14   Q.   So in the end would it be staff's position

15   that effectuating these adjustments based on this one day

16   of hearings is the expedient thing that staff thinks it

17   needs to do, given the time constraints?

18   A.   I wouldn't agree with the word expedient.

19   It's not -- no course of action at this point in this

20   stage of the case is ideal. We think this is the best

21   course of action.

22   Q.   Okay. And you think that notwithstanding the

23   fact that under a deferral mechanism that said I want you

24   to defer, once we figure out what it is we're deferring,

25   from January 1st forward, if that protects ratepayers and

 1 **if that's what staff's going to propose with other**

 2 **utilities, why isn't it sufficient to protect our**

 3 **ratepayers?**

 4   MS. PAYNE: Object. I don't think that that

 5 question is proper. I can come up with a more

 6 determinant objection than that.

 7   MR. PENDERGAST: I think it's directly on

 8 point, Your Honor. I mean, if it works for the customers

 9 of these other utilities, why doesn't it work for ours?

10 Why the rush job? Why do we got -- we have to do that

11 right now, we have to do it in this case? I'm just

12 asking him why.

13   MS. PAYNE: I think Mr. Pendergast is asking

14 my witness repeatedly to reference a decision and a

15 recommendation by the staff that has not been filed yet,

16 and I think it's reaching beyond the limits of this case.

17   MR. PENDERGAST: Well, you know, I thought

18 Mr. Oligschlaeger had said that we'll probably -- you

19 know, subject to changing staff's position again -- look

20 at deferral mechanisms. And I'm just asking why doesn't

21 that work equally well for us.

22   JUDGE DIPPELL: I'm going to allow him to

23 answer that last question that you just asked,

24 Mr. Pendergast, which I think might have been a little

25 more on point than the original.

1   MR. PENDERGAST: That's entirely possible,

2 Your Honor. Thank you.

3   THE WITNESS: The fundamental difference, you

4 have a case now, you're seeking a change in rates, the

5 Commission has made determinations -- or will make

6 determinations, in terms of all of the relevant factors

7 that affect those rates. And the best answer to an

8 unfortunate situation, we believe, is it would be better,

9 to the extent they can be reasonably estimated, be

10 reasonably considered known and measurable, they should

11 be factored into the rates set in this case due to the

12 tax law.

13 BY MR. PENDERGAST:

14   Q.   And when you say all relevant factors, just

15 so we're clear -- not to go down a memory lane here --

16 but all relevant factors, except we won't have anything

17 on the record about the impact on cost of capital,

18 anything on the record about impact on creditworthiness,

19 on credit metrics, you know, on future rate base, and

20 those kind of things; is that correct?

21   A.   That's correct. That's inherent in any

22 situation which an isolated adjustment is considered for

23 inclusion in cost of service.

24   Q.   When an isolated adjustment is considered --

25   A.   Right.

1   Q.   -- for inclusion? Okay.

2   MR. PENDERGAST: If I could just have a

3   moment. Your Honor, I have no further questions. But I

4   just want to, again, renew my objection about the

5   propriety of delving into these issues at this late stage

6   of the proceeding. Thank you.

7   JUDGE DIPPELL: Your objection is so noted.

8   QUESTIONS BY JUDGE DIPPELL:

9   **Q.   Okay. Mr. Oligschlaeger, this may be a**

10   **stretch, but pretend I don't have a clue about what's**

11   **going on here today and explain a few things to me in**

12   **very simplistic terms just so that I can be clear about**

13   **staff's position.**

14   **So tell me exactly what's the difference**

15   **between what staff is advocating today and staff's**

16   **affidavit that it filed earlier.**

17   A.   Okay. At the time we filed the affidavit, I

18   believe on January 25th, we perceived there was a lot of

19   uncertainty regarding tax reform, its impact on the

20   utilities, how it should be reflected in rates. And at

21   that particular point we believed it best to recommend a

22   deferral to allow more time before numbers had to be

23   firmed up and so on.

24   But since that time we had the opportunity to

25   talk to the Company, talk to the other parties. We have

1   more faith and confidence in our ability to calculate

2   exactly the impact of the tax rate change. We have

3   sufficient information to -- we believe backstopped by

4   the tracker, to recommend an amount for inclusion in

5   rates flowing back excess deferred taxes.

6   So those are the two big pieces of

7   difference. We're saying reflect the income tax rate

8   change and the excess deferred tax amortization in rates

9   currently, as opposed to waiting to address them in a

10   future general rate proceeding.

11   **Q.   Okay. And then would you explain to me**

12   **the -- again, define the protected deferrals versus the**

13   **unprotected.**

14   A.   Okay. I'll try to. Deferred taxes

15   associated with accelerated depreciation are now and have

16   been for a long time deemed protected. In other words,

17   the Commission does not have essentially the ability to

18   flow the benefits of accelerated deferred tax

19   depreciation benefits to customers any faster than over

20   the life of the property giving rise to that. Okay.

21   That's --

22   **Q.   And that's deemed protected by the --**

23   A.   Right.

24   **Q.   -- Internal Revenue --**

25   A.   Right.

1   Q.   -- Service code?

2   A.   If the Commission were to rule or prescribe a

3   faster recovery for customers, my understanding is the

4   Company would lose the ability to deduct accelerated

5   depreciation for income tax. With that gun to their

6   head, no one does that. They're protected. Okay?

7   Now, here's the opposite situation. They've

8   collected deferred taxes. Now it turns out that a piece

9   of those will not actually be paid to the Federal

10 Government because, again, we assumed a 35 percent rate

11 then; it's now 21 percent. And so that amount, I think

12 all parties would agree, that should over time go back to

13 customers. Not immediately, but probably through some

14 amortization. Okay?

15   As it relates to protected deferred taxes,

16 those related to accelerated depreciation, the tax code,

17 kind of like it does on the opposite side, says,

18 Commission, effectively, you're not able to flow those

19 back to customers any faster than ratably over the

20 remaining life of the property. That's why they're

21 protected. And the Company's provided an approximate

22 20-year time frame for what that remaining life value is.

23   Unprotected deferred taxes are any tax timing

24 differences we use in the ratemaking process that don't

25 relate to accelerated depreciation. There's a number of

1   them. And the importance of those is there are no

2   restrictions in the code. The Commission could choose to

3   flow them over 20 years, over 10 years. They could

4   choose to flow that back entirely to customers in one

5   year. That probably wouldn't be a good idea in terms of

6   policy, but the Commission has the freedom to do that,

7   unlike with the protected piece where they are restricted

8   from giving those back any faster than over an extended

9   period of time.

10   **Q.   Okay. And you said -- during your direct**

11   **testimony you said something to the effect staff -- this**

12   **is staff's recommendation, if it's reasonably possible,**

13   **flow it in a -- flow it through in a rate proceeding such**

14   **as this?**

15   A.   Right.

16   **Q.   And so what is your definition there of it**

17   **being reasonably possible?**

18   A.   Well, again, this primarily goes to the

19   excess deferred tax amortization piece. Again, we think

20   the two most important pieces of information you need is

21   how much of their deferred taxes that exist currently and

22   are reflected on their books, how much are protected; how

23   much are unprotected. That's a vital distinction

24   because, again, you have to separate out protected and

25   give it special treatment. Company gave us an estimate

 1   of what they believed it is. They don't purport it to be

 2   an exact quantification. We're not claiming it is

 3   either. But it was a reasonable basis for doing this

 4   calculation.

 5   The other crucial piece of information is, as

 6   we've discussed, the remaining life of the assets. And,

 7   again, they told us it was approximately 20 years. And I

 8   think Mr. Rasche verified that on the stand today.

 9   So with those two pieces of information, we

10   think a reasonably accurate known and measurable

11   quantification of this impact is possible for this rate

12   case. But, again, the tracker is essential to protect

13   all parties.

14   **Q.   Okay. And then -- so, again, I just want to**

15   **be clear. I don't mean to keep repeating things. Is it**

16   **staff's position at this point that the mechanism in the**

17   **affidavit should not be considered?**

18   A.   It should be -- certainly be considered.

19   It's not our primary recommendation. But if the

20   Commission for any reason would be leery of reflecting

21   some of this in immediate rate, we certainly say the

22   alternative to that should be a deferral, as we laid out

23   in the --

24   **Q.   Okay.**

25   A.   -- affidavit.

 1   Q.   Okay. So now I'm going to ask you some

 2 questions for the Chairman. He unfortunately was ill and

 3 couldn't come back after lunch. So he's -- he's

 4 listening on line. And I'm probably not going to do this

 5 as eloquently as he would if he were here; but I'm going

 6 to attempt to ask his questions, which were based largely

 7 on staff's original position.

 8   A.   Sure.

 9   Q.   So I'm going to ask you some questions about

10 that.

11   A.   Right.

12   Q.   Well, let me make sure I've got my question

13 together here. Okay. Going back to your original -- the

14 staff's original affidavit that was filed earlier in the

15 week, there was some information from the Company earlier

16 in opening statements. Does staff believe that that

17 proposal and the current one takes into consideration all

18 of the concerns that were raised by the Company?

19   A.   In their opening statement?

20   Q.   In their opening statement.

21   A.   As I understand the concerns expressed in the

22 opening statement, it was -- I would use the term general

23 disgruntlement with the direction the Commission appeared

24 to be going on some major dollar issues and the belief

25 that that would perhaps cause credit -- credit metric

  1   issues in the future if they continued along those path.

  2   Quite frankly, we did not look at the tax

  3   reform quantification in terms of how does this impact

  4   the capital structure issue or the gas inventory issue.

  5   For the most part those aren't directly related. Okay?

  6   I don't think the factual predicate upon which those

  7   issues were argued before you in any way change because

  8   of the fact that a major tax bill passed in late December

  9   of 2017. Those are largely separate issues. I mean,

 10   obviously the impact of the Company -- or the

 11   Commission's order on the Company in terms of finances

 12   will be felt as a whole, as opposed to individual issues.

 13   But -- I'm not sure I'm totally answering

 14   your question. But I would say I don't consider those

 15   issues, for the most part, relevant to a determination of

 16   what a reasonable approach to tax reform in rate setting

 17   in this case are.

 18   Q.   **So if I rephrase that just a little bit,**

 19   **basically you're saying it doesn't necessarily**

 20   **specifically address those concerns that the Company had,**

 21   **but that is because it's a separate, discrete issue not**

 22   **needing to take into account the capital structure and**

 23   **other --**

 24   A.   I think you said that --

 25   Q.   **-- concerns?**

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 1        A.        -- very well.  I agree with how you put that.

 2        Q.        Okay.  And then what about -- you said you'd

 3   reviewed the stip -- the stip and agreement that was

 4   presented today by some of the parties -- or filed today

 5   by some of the parties.  Would it be possible, if the

 6   Commission adopted something along -- along that lines,

 7   to -- well, never mind.  Let me -- let me rephrase that.

 8   I'm headed down the wrong way.

 9             Do you think that the stip and agreement --

10   you stated that you believe you and Mr. Meyer have very

11   similar outcomes.  Do you think that -- let me just ask

12   you again.  I think you may have been asked this earlier.

13   But what is your opinion about the way that that process

14   works?

15        A.        The one --

16        Q.        The one in --

17        A.        -- laid out --

18        Q.        -- the stipulation?

19        A.        -- in the --

20        Q.        Yes.

21        A.        -- nonunanimous stipulation --

22        Q.        Yes.

23        A.        -- and agreement?  I don't think it's really

24   far apart from what the staff is recommending as well.

25   We have some questions on the numbers.  We'd certainly be
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1   happy to talk to the signatories and try to work some of

2   that out, but...

3   **Q.   And now you're saying that you think the**

4   **numbers are sufficiently known that the Commission**

5   **wouldn't just be -- have to lay out an estimate and then**

6   **somehow adjust it later?**

7   A.   Well, I mean, the whole purpose of the

8   tracker is to allow adjustment later. We think this

9   gets -- based on the information we have, gets it largely

10   accurate, not entirely accurate. And the Commission has

11   done that before. They've used trackers in other

12   circumstances to take amounts that were probably more

13   subject to estimation than most ratemaking values. But

14   when you apply the tracker, that kind of protects all the

15   parties; and ultimately you come up with the right

16   number. So I don't think it's out of line with some

17   other instances the Commission has approved or used this

18   process.

19   **Q.   Has the Commission in the past ever set out a**

20   **tracker and then like amended that tracker along the way**

21   **to include additional details if they...**

22   A.   I don't think they've done that. If your

23   question is would they have the right to do that, to take

24   into account --

25   **Q.   Both.**

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 1        A.        -- additional things -- well, when you talk

 2   about reported company financial results, there's some

 3   timing issues.  It's kind of hard to jump back to the

 4   previous year, once they've closed their books and

 5   changed that.  But certainly on a more current basis I

 6   think they would have the ability to do that.

 7        Q.        And then you -- you also looked at Mr. -- the

 8   affidavit from the Company that was filed; is that

 9   correct?

10        A.        Mr. Krick's --

11        Q.        Yes.

12        A.        -- affidavit?  Yes, I did.

13        Q.        And based on the numbers that he included, is

14   staff contesting those numbers as well?

15        A.        Well, it depends on what numbers you're

16   talking about.  They quantified the impact of the tax

17   rate change I think at around 23 million.  To my

18   knowledge all or almost all of that difference from our

19   initial 15 million is just related to the positions of

20   our respective parties on the other outstanding issues

21   before the Commission.  Okay?

22                  I think the Chairman may have had a question

23   about the property tax values --

24        Q.        Yes.

25        A.        -- referred to.  My understanding is that our
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 1   position is to take into account and offset paid property

 2   tax levels as of the end of 2017. We think that's a

 3   reasonable position to take, if you're going to address

 4   the income tax impacts. I believe that is a lesser

 5   amount of dollars than what the Company was seeking in

 6   Mr. Krick's affidavit. I think they're talking about

 7   some more forward-looking estimates of property taxes.

 8   Ms. Ferguson would probably be able to give

 9   you more detail on that, if you or the Chairman are

10   interested.

11   Q.   Okay. And that -- is that the 1.3 and the

12   1.7 million?

13   A.   I probably should look at that directly.

14   Q.   The effects of Missouri property tax

15   assessments?

16   A.   What page is that?

17   Q.   I'm looking at page 2 of Mr. Krick's --

18   A.   Okay.

19   Q.   -- affidavit in paragraph 6.

20   A.   Yes, this reads so that the 1.3 million for

21   Laclede and 1.7 million for MGE relate to property taxes

22   for both 2017 and 2018. Our proposal for the offset is

23   just for 2017. So our numbers would be different. I

24   think they're around 1.4 million in total.

25   Q.   Okay. Okay. And then I believe you said

1   something to this effect during your testimony also, that

2   these numbers are projections based on what you think the

3   Commission may or may not do and that --

4   A.   The 16.6 million certainly was, yes.

5   Q.   Right. And that -- I'm -- is it -- is the

6   way these things work is that the Commission says a

7   number or is the way these things work is that the

8   Commission says this is what is to be included, and then

9   those numbers come back in the -- in the compliance

10   tariffs and...

11   A.   Okay. How I'm aware that this has worked, at

12   least some cases I was personally involved in, is the

13   Commission would issue what's called scenarios, okay, and

14   say assume we rule this way on this issue, this way on

15   that issue and so on, tell us what the overall number

16   would be. Okay? To kind of customize that process for

17   this situation, it could be that you -- the Commission

18   would issue a list of preliminary decisions and tell the

19   parties calculate what the income tax impact would be if

20   the new tax law is included in the case.

21   And then -- again, I wouldn't expect there

22   necessarily to be serious disagreement on the issue of

23   the tax -- income tax quantification under those scenario

24   -- under that -- in that situation.

25   Q.   Okay. And if there were just a -- just a

1 **deferral, a straight deferral to the next rate case,**

2 **would the -- we talked a lot about how much you think**

3 **that that -- what the impact of that would be and how**

4 **it's to be amortized and so forth. But would you have**

5 **any concern about the effect of that deferral being too**

6 **great an impact at that time at the next rate case or...**

7   A.   Occasionally in the past in deferral

8 situations companies have made an argument that, listen,

9 this deferral that you've allowed us to book is just too

10 big; if you refuse to give us ratemaking treatment, we're

11 going to have serious financial problems; we'll have

12 write-offs and so on.

13   So I certainly don't envision parties

14 opposing the concept of future rate recovery of the tax

15 law change, but those issue have come up.

16   JUDGE DIPPELL: Okay. I appreciate your

17 patience with me, while I not so eloquently went through

18 that.

19   Are there further cross-examination questions

20 based on questions from the bench, from Public Counsel?

21   MS. SHEMWELL: None. Thank you.

22   JUDGE DIPPELL: MIEC?

23   MR. MILLS: No questions. Thank you.

24   JUDGE DIPPELL: Consumers Council?

25   Spire?

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 1              MR. PENDERGAST:  Yes, just a couple.
 2   FURTHER CROSS-EXAMINATION BY MR. PENDERGAST:
 3        Q.      I think in response to a question or two from
 4   the judge you were asked about whether tracker
 5   mechanisms, once established, have been changed in
 6   midstream.  Do you recall those questions?
 7        A.      Yes, I do.
 8        Q.      Okay.  And, once again, was it your
 9   understanding that you're not aware of that situation
10   happening?
11        A.      I don't recall that specific situation, no.
12        Q.      Okay.  And do you have in mind any process in
13   place for how adjustments might be made if the utility or
14   other parties believe that the mechanism should be
15   changed to include other factors?
16        A.      I don't have a specific process to suggest.
17   We're certainly willing to discuss those matters as they
18   may come up.
19        Q.      But, you know, assuming that we can't reach
20   agreement on how that ought to be resolved, would you
21   recommend that it come to the Commission?
22        A.      Well, if you're talking about a situation
23   where, say, the Commission would order a partial or total
24   deferral of the tax law impacts and basically say this is
25   general approval for that idea, but, parties, you work
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1   out the details, well, we would make a good-faith effort

2   to work out the details. But I assume when all is said

3   and done, if we can't work them out, that would need to

4   come back to the Commission fairly quickly.

5   **Q.   Okay. And would it be your experience, based**

6   **on handling trackers and AAOs before, that at that point,**

7   **if there wasn't a resolution by the parties, there would**

8   **be an evidentiary hearing to try and sort those matters**

9   **out?**

10   A.   That's certainly a possibility, yes.

11   **Q.   Okay. And are you proposing that these**

12   **impacts -- whether they're deferred impacts or ones that**

13   **staff is now saying they want to recognize in rates, how**

14   **should those be allocated between customers?**

15   A.   I'm definitely the wrong person to ask that

16   to. I would think that it would follow generally the

17   income -- the allocation of income tax expense that was

18   already decided upon --

19   **Q.   Okay.**

20   A.   -- in the case.

21   **Q.   But you haven't submitted any testimony or to**

22   **your knowledge the staff hasn't to specifically address**

23   **that issue in the context of these tax impacts?**

24   A.   That's correct.

25   MR. PENDERGAST: Okay. Thank you.

1   JUDGE DIPPELL: Redirect from staff?

2   MS. PAYNE: Yes, thank you.

3   REDIRECT EXAMINATION BY MS. PAYNE:

4   Q.   Mr. Oligschlaeger, the Judge, on behalf of

5   the Chairman, asked you about the numbers that were known

6   at this time, based on staff's position stated today.

7   Could you clarify what number staff believes is known

8   right now?

9   A.   We consider the tax rate change from 35 to

10   21 percent to be a known and measurable change. That's

11   something that can be quantified, I think, easily and

12   without -- I would hope not much disagreement, based upon

13   the decisions issued by the Commission.

14   The excess deferred tax amortization, we

15   think there's sufficient information that it can be

16   reasonably considered known and measurable. Not exactly

17   a perfect quantification, but sufficient to include in

18   rates, as long as it's backstopped through a tracker

19   mechanism.

20   Q.   Thank you. Now --

21   A.   And every -- I'm sorry. Everything else, any

22   other impacts of the tax law, we don't think will meet

23   the known and measurable test at this point.

24   Q.   Okay. Thank you.

25   Your Honor, I would go ahead and offer

1   **staff's prefiled affidavit into the record. There was**

2   **much questioning along the lines of it. And I'm happy to**

3   **provide you copies, if you would so like.**

4   JUDGE DIPPELL: Let me mark that. I believe

5   staff's next exhibit number is 298.

6   (Staff Exhibit 298 marked and offered.)

7   JUDGE DIPPELL: Would there be any objection

8   to Exhibit 298, which is the staff's reply affidavit

9   regarding the Tax Cuts and Jobs Act that was filed

10 earlier?

11   MS. PAYNE: And I do have extra copies, if

12 any party wants to review. However, it was exactly what

13 was filed in EFIS.

14   MR. PENDERGAST: Yeah, I think it also

15 addresses matters that were sponsored by Ms. Ferguson.

16 But to beat a snowstorm, we don't have any problem with

17 her getting on her way. Once again, it is a replication

18 of staff's prior position.

19   JUDGE DIPPELL: I don't think your microphone

20 is on, Mr. Pendergast.

21   MR. PENDERGAST: Yeah, once again, you know,

22 it's a replication of staff's prior position. And as

23 long as our continuing objection on its new position is

24 noted, we're okay.

25   JUDGE DIPPELL: It is. Seeing that, I will

1   admit Exhibit 298.

2   (Staff Exhibit 298 received into the record.)

3   MS. PAYNE: Thank you, Judge.

4   BY MS. PAYNE:

5   **Q.   Now, Mr. Oligschlaeger, there were questions**

6   **from Mr. Pendergast regarding a -- an isolated**

7   **adjustment. There was also some questions from Mr. Mills**

8   **regarding certain mechanisms, ratemaking mechanisms and**

9   **such, that might be used. Could you clarify a little bit**

10   **regarding staff's position, as far as this being an**

11   **isolated adjustment or a specific ratemaking mechanism?**

12   A.   In the past the Commission has stated in

13   orders that, in the context of the test year's update

14   periods and true-up periods it establishes, it will not

15   preclude parties from proposing isolated adjustments for

16   inclusion in rates that occur outside of those time

17   frames. And the -- in at least one order they

18   specifically stated they believed governmental mandates

19   to be an example of the isolated adjustments they were

20   discussing. The order stated that the Commission would

21   rule on the isolated adjustments in terms of whether,

22   number one, they were known and measurable; and, number

23   two, whether inclusion in rates would not unduly disturb

24   the revenues, expense, and rate base relationship.

25   I would say the -- in the context of the

1   Laclede and MGE rate case, the tax law change is an

2   isolated adjustment. It occurred obviously after the

3   true-up period expired, but it otherwise meets the

4   Commission's definition and criteria of the type of item

5   it would consider for inclusion in rates. So I think

6   that fully -- there's precedent for the Commission at

7   least taking such events into consideration in setting

8   rates such as this tax law change.

9   In terms of the other mechanisms, for

10   deferral the standard is extraordinary event. I

11   certainly believe that the tax law change appears to fit

12   well with the traditional definition of extraordinary in

13   that it's unusual, unique, and nonrecurring.

14   In terms of use of a tracker, as I --

15   particularly in recent years there have been cases where

16   we estimated the amount of O & M expenses associated with

17   a new generating plant coming on line for inclusion in

18   rates, because there was no operating history to the

19   plant; how do you know how much O & M expenses? Well, in

20   those cases -- they were recent for Empire, I think

21   Greater Missouri Operations, and KCPL -- the parties

22   agreed and the Commission approved an approach where

23   estimates were included in rates subject to a tracker so

24   ultimately those amounts -- the right amount of expense

25   would flow to customers. And that appears to be a direct

1   precedent for the treatment we're suggesting for income

2   taxes.

3   **Q.   Thank you. Now, you stated that this kind**

4   **of -- this is an extraordinary event. You also said**

5   **something in response to Mr. Pendergast's questioning**

6   **about Spire being in a particularly unique position. Do**

7   **you care to expand on that?**

8   A.   They are the only company in for a rate

9   increase application at this time that for which most of

10   the procedural schedule has already taken event -- or

11   already occurred. Testimony's been filed, hearings held,

12   and so on. Other companies are in for rates, but

13   we're -- for those companies we're still either in the

14   testimony process and/or still at the audit phase, which

15   obviously gives a little more time to determine how the

16   tax law should be incorporated in rates, if at all, in

17   those cases.

18   **Q.   Thank you. Now, did staff have an**

19   **opportunity to sit down with the Company and address**

20   **questions or other related concerns and such regarding**

21   **the Commission's order and the Tax Reform Act?**

22   A.   Well, we had a technical conference. I think

23   that may have been ordered by the Commission. But, yes,

24   a number of parties participated, and there was a free

25   flow of information exchanged.

1   Q.   Was staff's understanding that that was a --

2   an answer to the shortened time frame?

3   A.   That's certainly how I interpreted it, yes.

4   Q.   Thank you. Mr. Pendergast asked you about

5   the effect of tax reform on things like cash flow and

6   rate base. Is that something that you would say staff

7   commonly would consider with an analysis such as this?

8   A.   No. For trackers and deferrals, I mean,

9   we're looking for the direct impacts. I mean, I think,

10 you know, arguments about the value of rate base or what

11 tax reform may be doing to overall rate of return are

12 much more subjective than the type of determinations and

13 costs normally we either track or defer through AAOs or

14 trackers.

15   Q.   Thank you. And my final question is just did

16 staff reach out to the Company at all last week following

17 the technical conference?

18   A.   To my knowledge they did, yes.

19   Q.   Did the Company reach out to staff at all

20 following that technical conference that you're aware of?

21   A.   It's possible, but I have no knowledge of

22 that.

23   MS. PAYNE: Thank you very much. That's all

24 I have, Your Honor.

25   JUDGE DIPPELL: Thank you.

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 1              Thank you, Mr. Oligschlaeger.  You may step

 2   down.

 3              (Witness excused.)

 4              JUDGE DIPPELL:  I believe this affords us an

 5   opportunity to take a break.  And we can take a short

 6   break and return at 4 p.m., please.

 7              Thank you.  Let's go off the record.

 8              (Off the record.)

 9              JUDGE DIPPELL:  Okay.  Staff has another

10   witness, I believe.

11              MR. JOHNSON:  Staff calls Lisa Ferguson.

12              JUDGE DIPPELL:  Okay.  Ms. Ferguson, you have

13   already testified --

14              THE WITNESS:  I have.

15              JUDGE DIPPELL:  -- in this hearing in this

16   proceeding.  So you will remain under oath for our

17   purposes.

18              THE WITNESS:  Yes, ma'am.

19                   LISA FERGUSON,

20        after having been previously duly sworn, was

21   examined and testified on her oath as follows:

22   DIRECT EXAMINATION BY MR. JOHNSON:

23       Q.    Good afternoon.

24       A.    Good afternoon.

25       Q.    Would you please state your name and spell it
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1   for the court reporter.

2   A.   My name is Lisa Ferguson, F-E-R-G-U-S-O-N.

3   Q.   And, Ms. Ferguson, did you contribute to

4   staff's reply affidavit filed in this case and submitted

5   as exhibit -- Staff Exhibit 298?

6   A.   Yes, I did.

7   Q.   And in that affidavit did you recalculate --

8   or, excuse me, did you calculate staff's estimated impact

9   on current income taxes based off the new income tax rate

10   included in the Tax Cuts and Jobs Act?

11   A.   Yes, I did. I took the taxable income that

12   was based upon staff's position at the true-up hearing.

13   That contemplated some of the partial settlements that

14   the parties were able to agree upon, but it still

15   reflects the differences that are out there that the

16   decision needs to make -- the Commission needs to make

17   decisions on.

18   Q.   And what was your estimate?

19   A.   I estimate that the difference, just by

20   applying the new effective tax rate, is approximately

21   15.1 million between -- well, that's for both MGE and

22   Laclede.

23   Q.   And since staff filed its affidavit, have you

24   also calculated the amount of accumulated deferred income

25   tax you would estimate would need to be flowed back to

1   **customers as a result of the tax bill?**

2   A.   Yes, I have.

3   **Q.   And what level does staff believe should flow**

4   **back?**

5   A.   I calculate approximately 11.5 million. And

6   that -- would you like me to go through the calculation?

7   **Q.   Yes, please.**

8   A.   Okay. What I did was I took staff's position

9   on ADIT, which reflects some difference from Company

10   based mainly on regulatory assets and liabilities that

11   have deferred tax impacts. I took that 338.6 million,

12   and I backed into what the foundational number for that

13   would be. So I took the 338.6 million and divided it by

14   the effective tax rate that was originally in our case,

15   which was 38.3886. That's a combination of the

16   35 percent federal tax rate and the 6.25 percent state

17   tax rate.

18   Once I got that number, I multiplied it by

19   the new effective tax rate, which is effectively the

20   25.4483 percent. That is a combination of the flat 21

21   percent plus the state 6.25 percent.

22   Once I've gotten that separate number, I

23   subtracted the two. So I took the 338.6 less the 224.5,

24   and I considered that my excess deferred tax. Then I

25   multiplied that by 50 percent, because we're assuming

1   that 50 percent is protected and 50 percent is

2   unprotected. One-half I took and divided over ten years,

3   considering that unprotected, which was our proposal for

4   amortization. And then I took the other 50 percent, and

5   I divided it by the 20 years, which was the -- what we

6   believe would be the average asset life to return the

7   excess deferred taxes over.

8   Once that was done, each number was factored

9   up for the tax to make sure it was a revenue requirement

10   number, and that in total was 11-and-a-half million.

11   MR. JOHNSON: Thank you, Ms. Ferguson. No

12   further questions.

13   JUDGE DIPPELL: Thank you.

14   Is there cross-examination by Public Counsel?

15   MS. SHEMWELL: Thank you.

16   CROSS-EXAMINATION BY MS. SHEMWELL:

17   Q.   **Good afternoon, Ms. Ferguson.**

18   A.   Good afternoon.

19   Q.   **You testified I believe to 15.4 million for**

20   **the reduction?**

21   A.   15.1. And that is for the current tax only.

22   That's not including ADIT.

23   Q.   **Okay. So Mr. Oligschlaeger mentioned a**

24   **number of 16.6. Where is the difference there?**

25   A.   Okay. The 16.6 is basically me taking

1   staff's accounting schedules as of the true-up, with the

2   partial settlements included, and then basically

3   reviewing the discussion that has occurred during the

4   agenda and trying to reflect what we believe Commission's

5   decision will be in the accounting schedules, and then

6   applying that 21 percent rate. So instead of being 15.1,

7   we believe that would shift more to 16.6 or 17, based on

8   the decision.

9   **Q.   In the technical conference did you expect to**

10   **receive clarifications from the Company on their**

11   **positions?**

12   A.   No. Frankly, I just believed we were going

13   to be talking about tax reform. I didn't think that

14   there would be any more.

15   **Q.   Anything beyond tax --**

16   A.   Correct.

17   **Q.   -- reform?**

18   A.   Yes.

19   **Q.   And did you receive some clarifications about**

20   **tax reform?**

21   A.   We did receive -- I think that's basically

22   when we received the idea that the average asset life

23   would have been about 20 years for any kind of protected

24   ADIT. And shortly after that technical conference, I

25   think maybe within the same day, we received the

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 1   50/50 percentage on protected versus unprotected.

 2        Q.        From the Company?

 3        A.        Correct.

 4        Q.        Since you filed the affidavit, you have

 5   determined that some of these numbers aren't reasonably

 6   known and measurable?

 7        A.        Correct.

 8        Q.        When you go into a rate case, are all numbers

 9   absolutely known and measurable?

10        A.        Well, I think that what we look at

11   historically is definitely without a doubt known and

12   measurable.  But, of course, the adjustments that we

13   developed are, you know, best reasonable estimates of

14   what's going on based on historical information.  So, I

15   mean, in and of itself any normalization and

16   annualization is what we believe will be in effect in

17   future rates.

18        Q.        Which necessarily is an estimate in a way?

19        A.        Yes, it's a very educated estimate.

20        Q.        Thank you.  Do you have an opinion as to

21   whether or not mechanisms such as ISRS and the PGA

22   improve the Company's cash flow --

23        A.        I have --

24        Q.        -- as opposed to absent those?

25        A.        I haven't done any analysis.  But I would
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1   assume, yes, it would, because you're changing rates in

2   between rate cases.

3   **Q.   And does that shift the risk of, let's say,**

4   **borrowing from the Company to the customer?**

5   A.   I think that would be based on what we

6   determine would occur out of the ISRS or the PGA. More

7   than likely, yes.

8   **Q.   If the Commission orders a deferral and --**

9   **can we assume they might order some sort of deferral --**

10   **would staff have any way of knowing what the Company's**

11   **actually including in the deferral? And I have an**

12   **example for you. Might you know if they were including**

13   **things like credit metrics?**

14   A.   I would say definitely not between rate

15   cases. When we would go to review it during the rate

16   case, I would have to say I don't know. I doubt it,

17   unless it was pointed out to us.

18   **Q.   Do you believe it's possible that with a**

19   **complete deferral customers might never see any benefits**

20   **from the tax reduction?**

21   A.   I would have to say I don't know. I mean,

22   there's a lot of other factors that would go into play --

23   **Q.   Such as?**

24   A.   -- in a future rate -- in a future rate case.

25   Well, I mean, other revenues, other expenses. I mean,

1   right now that's part of the reason why staff is wanting

2   to take into account this tax reform, is because we have

3   just looked at all relevant factors.

4   Even though we are looking at this isolated

5   adjustment and we have proposed, you know, the actual

6   2017 property tax to offset that, this is probably the

7   closest and most appropriate time if we were going to

8   take into account tax reform.

9   **Q.   Might an accelerated replacement --**

10   **infrastructure replacement program overcome any deferred**

11   **amounts?**

12   A.   I think that would determine -- that would

13   depend on how much infrastructure they were replacing,

14   what investment level it would be.

15   **Q.   Do you agree that a regulatory asset**

16   **accumulation of 112 million would indicate that the**

17   **Company's rates are too high?**

18   A.   I guess if you're looking at everything else

19   equal, maybe.

20   **Q.   Would 112 million be an unusual accumulation**

21   **in a regulatory asset?**

22   A.   I would think it would be, yes.

23   **Q.   Do you have an opinion about the value of the**

24   **filing of a complaint between rate cases to try to reduce**

25   **this accumulation? Do you think it's a reasonable**

1   approach to take?

2   A.   In regards to tax reform?

3   Q.   Um-hum. Yeah. And the deferral mechanism.

4   Perhaps I should rephrase.

5   A.   Please do.

6   Q.   Let's say that there is some impression,

7   indication, evidence that the deferral mechanism is

8   growing much more quickly than you have projected. And

9   Mr. Oligschlaeger discussed the 112 million. Would you

10   think a complaint would be a reasonable step for either

11   the staff or Public Counsel or someone else to take?

12   A.   I would think that if any of the parties

13   looked at that -- and I would think you would have to

14   look at a few other things too. But I think that that is

15   definitely an avenue that we would have.

16   Q.   There's been some discussion in this case

17   about the parties' difficulty getting responses to data

18   requests. Are you aware of that?

19   A.   I --

20   MR. ZUCKER: I'm going to object to that.

21   This came up during the hearing. And, Judge, you did not

22   let me defend the Company on that. And I'm not saying

23   that was wrong, but let's -- let's not go down that path

24   again.

25   JUDGE DIPPELL: Ms. Shemwell, do you have

 1   a -- is this leading to something more relevant to --

 2   MS. SHEMWELL: I hope so.

 3   JUDGE DIPPELL: -- what's going on here

 4   today?

 5   MS. SHEMWELL: I think we heard, yeah, an

 6   abundance of stuff not particularly relevant. But I'm

 7   intending to lead to something relevant.

 8   JUDGE DIPPELL: Okay. I'm going to overrule

 9   the objection and let her -- let her answer.

10   BY MS. SHEMWELL:

11   Q.   Is a complaint necessarily difficult because

12   other parties don't have the level of information that

13   the Company has?

14   A.   That is true.

15   Q.   Has your understanding of the tax reduction

16   and its effects on utilities improved in the last two

17   weeks, based upon discussions with other staff members,

18   Company's review of the Tax Act itself?

19   A.   Yes.

20   Q.   And has that enabled you to refine your

21   recommendation to the Commission?

22   A.   Yes, I believe it has.

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

24   JUDGE DIPPELL: Is there anything from MIEC?

25   MR. MILLS: No questions.

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 1               JUDGE DIPPELL:  Consumers Council?

 2               Anything from Spire?

 3               MR. ZUCKER:  Thank you, Your Honor.

 4    CROSS-EXAMINATION BY MR. ZUCKER:

 5         Q.    Good afternoon, Ms. Ferguson.

 6         A.    Good afternoon.

 7         Q.    Can you tell me -- on January 25th,

 8    Exhibit 298, staff filed its reply affidavit.  Can you

 9    tell me what the estimate was for ADIT in that document?

10         A.    I did not make an estimation at that time.

11         Q.    Would -- would you have been the one to do

12    that?

13         A.    Yes.

14         Q.    So there was no number for ADIT?

15         A.    Not as of that date, no.

16         Q.    Okay.  But now you come this -- today here,

17    February 5th, and you have a number?

18         A.    I do.

19         Q.    Okay.  And is this the first we've heard of

20    this number?

21         A.    I believe so.  I honestly don't know.

22         Q.    Have you contacted the Company to tell them

23    about that?

24         A.    No, I have not.

25         Q.    Do you know how much the Company's pension
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 1   asset is?

 2   A.   I do not.

 3   Q.   Do you have any idea if it's more than the

 4   112 million?

 5   A.   I believe it is, just generally, yes.

 6   Q.   You were just asked by Ms. Shemwell, if there

 7   was a deferral of certain amounts, that that indicated

 8   the Company was over-earning; correct?

 9   A.   I don't remember it exactly asked like that,

10   but...

11   Q.   Okay. Let me ask you this: If there was --

12   if the Company was deferring these tax benefits, would

13   there be a need to file a complaint?

14   A.   Like I said, you would have to take into

15   account a lot -- I think other factors other than a

16   deferral.

17   Q.   But, I mean, if there was a deferral, the

18   customers' already getting credit for it, aren't they?

19   A.   Well, it -- if you're deferring it, then I

20   would say that you're deferring that impact to a later

21   rate case. So, no, not during that current -- the

22   current rates, unless you've set some kind of --

23   Q.   No, I said the customers' getting credit for

24   it?

25   A.   I guess technically credit -- if you mean,

 1   yes, in a future rate case there would be an offset, then

 2   yes.

 3   Q.   **You based your known and measurable amount of**

 4   **ADIT-related tax to the Company's information regarding**

 5   **the 50/50 split between protected and unprotected?**

 6   A.   That's correct.

 7   Q.   **And did you understand that 50/50 to be an**

 8   **exact number?**

 9   A.   I understood it to be an estimate, which is

10   why we believe that the ADIT calculation is known and

11   measurable, in the fact that it's a reasonable estimate,

12   yes.

13   Q.   **Okay. So the 50/50 number was an estimate?**

14   A.   That's what I'm understanding.

15   Q.   **Okay. It could be right? It could be wrong?**

16   A.   I would hope --

17   Q.   **Could be off?**

18   A.   Well, I mean, it's possible. I would hope

19   that the Company is giving us the best information they

20   have at the time. But, yes, it could be an estimate.

21   Q.   **Okay. And the Company told you it was an**

22   **estimate?**

23   A.   I believe so, yes.

24   Q.   **And the Company also gave you the 20-year**

25   **number?**

1   A.   Yes.

2   Q.   **Was that an estimate also?**

3   A.   I believe so.

4   Q.   **And does the same thing apply to the ten-year**

5   **number on the unprotected flow-back?**

6   A.   I don't believe that that was a number the

7   Company provided. But I believe that staff kind of

8   discussed internally that we thought that if the

9   protected was 20 years, then a reasonable life would be

10 10 years for the --

11   Q.   **So the staff made their own estimate on that?**

12   A.   I believe so.

13   Q.   **And so your known and measurable numbers are**

14 **all based on estimates; isn't that true?**

15   A.   I believe we know what the value, to the best

16 of our ability, of ADIT is. Now, how you're determining

17 what -- what is protected versus unprotected and what

18 life -- what amounts of time to amortize over, I think is

19 truly an estimate.

20   Q.   **Would you agree that since we're hearing this**

21 **for the first time today, the Company really doesn't have**

22 **a reasonable opportunity to -- to flesh this out to -- to**

23 **come to a reasonable conclusion?**

24   A.   I think that's possible. However, you all do

25 have staff's position on what deferred taxes are, so you

1 at least have part of the calculation.

2   Q.   On February -- on February 5th?

3   A.   You've had the 338.6 number for -- at least

4 since true-up.

5   Q.   Okay. And given the place we are in the --

6 in this case, which is after the hearings, after the

7 true-up hearing, after the brief, after the reply brief,

8 and during Commission deliberations, would you say that

9 it's too late to -- to come to a good number here that

10 the Company would have a fair chance of working with?

11   A.   I don't believe that's true. I mean, we

12 could have internal discussions amongst the parties to

13 determine what an ongoing amount could be. I think it's

14 within the Commission's power to say whether they want to

15 approve this isolated adjustment or whether they would

16 like to defer it.

17   Q.   So we could have more discussions you're

18 saying?

19   A.   I think it's possible.

20   Q.   And isn't it true that -- that there is

21 another docket going on to handle this very issue?

22   A.   That is true.

23   Q.   And that Spire Missouri is part of that

24 docket?

25   A.   That's true.

1   Q.   And that other utilities are in that docket?

2   A.   That is true.

3   Q.   And that these same decisions will be -- or

4 these same issues are being faced in that docket?

5   A.   I think in general, yes.

6   Q.   And so is -- is the rush to get this done in

7 this case just a matter of expediency for the Commission?

8   MS. SHEMWELL: Judge, Ms. Ferguson can have

9 no idea what's on the Commission's mind. You would have

10 a better idea of what's on the Commission's mind in

11 setting this for hearing. There's no way for her to

12 speculate about the Commission's intent.

13   MR. ZUCKER: I'll accept that. I think

14 that's all I have.

15   JUDGE DIPPELL: Thank you.

16   MR. ZUCKER: One moment. Mr. Buck's writing

17 furiously.

18   JUDGE DIPPELL: I'll give you a reprieve

19 there from...

20   MR. ZUCKER: Thank you.

21 BY MR. ZUCKER:

22   Q.   Ms. Ferguson, do you recall, is it true

23 that -- that the staff asked the Company to come up with

24 a ballpark estimate on the division between protected and

25 unprotected?

1   A.   I believe that's true.

2   Q.   And did the Company say that it had a high

3   degree of potential ranges?

4   A.   I don't recall that. I do recall asking for

5   a ballpark estimate because we had had -- we were in the

6   midst of discussions with the Company about what amount

7   of that deferred tax was protected versus unprotected,

8   and the Company had said that they didn't necessarily

9   know an exact number or valuation at that time.

10   Q.   Okay. And on unprotected ADIT, do you know

11 that a large portion is related to repairs?

12   A.   I did not -- I mean, I knew that that was a

13 portion of it, but I didn't know the majority of it was.

14   Q.   You don't know -- you didn't know how large

15 it was?

16   A.   I believed that the majority of the deferred

17 taxes was based on depreciation timing differences.

18 There were some regulatory asset difference --

19 differences, energy efficiency differences, but -- there

20 was some material differences, but...

21   Q.   Okay. So you are aware that a significant

22 part of unprotected ADIT is related to repairs?

23   A.   I don't -- I did not know a significant

24 portion of it was, no.

25   Q.   Okay. But you do know that repairs have the

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1    same range as long life plant, right; i.e., roughly

2    20 years or more than 20 years?

3         A.      I did not know that either.

4              MR. ZUCKER:  Okay.  I'm going to say that I'm

5    finished a second time, Your Honor.

6              JUDGE DIPPELL:  All right.

7    QUESTIONS BY JUDGE DIPPELL:

8         Q.      Okay.  Ms. Ferguson, I'm going to attempt to

9    ask you a couple of questions too.  We had some

10   discussion here today earlier about property taxes --

11        A.      Um-hum.

12        Q.      -- and property tax offset, basically, under

13   one of the proposals.  Do you -- do you have -- are you

14   familiar with the numbers involved with the property

15   taxes?

16        A.      Somewhat.  If you're talking about the actual

17   2017 paid, I will tell you that staff does not have all

18   of the invoices from the Company for the 2017 -- 2017

19   actual paid.  We did do an estimate based on the numbers

20   that Company provided us as part of true-up.  So if you

21   took that number, it would be an additional 1.475 million

22   on top of what staff has included in their case as of

23   September 30.  I can tell you that.

24        Q.      Okay.  Explain that number again to me.

25        A.      So the 1.4 or 1.5 is basically an additional
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1 amount on top of what staff has built in their case right

2 now. What staff has built in their case currently is

3 actually a ratio of the 2016 property taxes paid to 2016

4 plant at January 1. That ratio is then multiplied

5 against January 1 of 2017 plant. Okay? So that's what

6 staff has built in their case.

7   Since we are looking at this tax reform in

8 isolation, you could look at the Company's property taxes

9 that are now known and measurable as of 2017. The

10 1.5 million is my best estimate as to what that is. The

11 Company could provide us with the actual amount.

12   Q.   Okay.

13   A.   I don't know if that's what the number is in

14 their affidavit or not. I'm assuming that it's probably

15 2017 and 2018, based off of the information that I do

16 have.

17   Q.   Okay.

18   A.   Does that help?

19   Q.   Yes.

20   A.   Okay.

21   Q.   Yes, it does. Thank you. And then you went

22 through your calculations on direct. Do you have those

23 set out anywhere in a written document?

24   A.   I do -- well, I have my own written document,

25 but it's not in the record, no.

1   Q.   Okay. But is that in a -- is that in a

2   simple format that would follow with what -- how you

3   testified as to those --

4   A.   Yes.

5   Q.   -- calculations?

6   A.   I literally -- just for my own notation, so

7   it was easier for me to explain it, I actually have set

8   out the formulas and the dollar results.

9   JUDGE DIPPELL: Would -- would any of the

10   parties have an objection if I requested that from

11   Ms. Ferguson as an exhibit?

12   MR. MILLS: Judge, I have no objection to

13   that. And just -- just not to jump ahead too far, but we

14   have a very, very similar calculation that I plan to

15   offer as an exhibit during Mr. Meyer's direct testimony.

16   JUDGE DIPPELL: Okay.

17   MR. MILLS: It comes to almost exactly the

18   same calculation.

19   JUDGE DIPPELL: Would the Company?

20   MR. ZUCKER: Your Honor, we would have a

21   general objection to this -- to the whole pull-the-rug

22   out-from-under approach by staff here. And so this is

23   just, I don't know, another incremental step further to

24   enter into evidence something that not only haven't we

25   seen before February 5th, but we're not going to see it

1   on February 5th it sounds like. Anyway, that's our

2   objection.

3   JUDGE DIPPELL: Well, I think -- I think we

4   would let you see it today. But, with that, I will just

5   withdraw my request. And I will, you know, write it down

6   on paper following her testimony from the transcript.

7   THE WITNESS: Hopefully it wasn't too fast.

8   BY JUDGE DIPPELL:

9   **Q.   Not at all. And then, let me see if I can**

10   **formulate one more question for you. Okay. Would there**

11   **be any -- would there an issue if the Commission were**

12   **to reduce rates based on the lower tax rate -- or, you**

13   **know, formulate rates based on the lower tax rate but**

14   **wait until the next -- like defer the ADIT**

15   **considerations? Does that -- would that make any sense?**

16   A.   So you're talking about reflecting the lower

17   statutory rate for current income tax, but then deferring

18   the deferred piece?

19   **Q.   Yes.**

20   A.   I think that's an option that the Commission

21   has, yes.

22   JUDGE DIPPELL: Okay. Okay. I think that's

23   all the questions I have.

24   Are there questions based on questions from

25   the bench, from Public Counsel?

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 1              MS. SHEMWELL:  No.  Thank you.

 2              JUDGE DIPPELL:  MIEC?

 3              MR. MILLS:  Just very briefly.

 4  CROSS-EXAMINATION BY MR. MILLS:

 5      Q.      Ms. Ferguson, have you -- are you familiar

 6  with the calculations that Mr. Meyer did?

 7      A.      I haven't seen them.  But, in general, I

 8  believe I am.

 9      Q.      Okay.  Do you -- from your understanding do

10  you believe that he has a very similar approach that you

11  took with respect to ADIT calculation?

12      A.      Yes.

13              MR. MILLS:  Okay.  That's all I have.  Thank

14  you.

15              JUDGE DIPPELL:  Is there anything from Spire?

16              MR. ZUCKER:  Just real quickly, Your Honor.

17  FURTHER CROSS-EXAMINATION BY MR. ZUCKER:

18      Q.      Staff's new number today on current expenses

19  is 16.6; right?

20      A.      It's not a new number.  That was something

21  that was developed based off of the Commission's

22  discussions in agenda, because staff internally wanted to

23  know what the tax reform effect would be based on

24  Commission's decision.

25      Q.      I'm -- I'm not going to ask you how that
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1   isn't new, but -- so let's move on. Would the 2017

2   property tax estimate have AMR property in it?

3   A.   No, because they would not -- the AMR

4   property tax would not be assessed until January 1 of

5   '18. So, no.

6   Q.   You worked on the AMR issue, didn't you?

7   A.   Yes.

8   Q.   Did you see the AMR contract?

9   A.   Yes.

10   Q.   The July 1 purchase of the AMRs?

11   A.   Yes.

12   Q.   Do you remember how much the Company

13   purchased them for?

14   A.   I believe it was approximately 16 million.

15   Q.   The 16 --

16   A.   You're talking about the devices themselves;

17   correct?

18   Q.   Yes. Yes. I'm sorry. Could it be

19   16.6 million?

20   A.   Yes.

21   Q.   Was an exact number actually stated in that

22   contract?

23   A.   I believe it was actually.

24   MR. ZUCKER: Okay. Thank you.

25   JUDGE DIPPELL: Is there redirect from staff?

 1   MR. JOHNSON: Just -- just briefly. Thank

 2 you.

 3 REDIRECT EXAMINATION BY MR. JOHNSON:

 4   Q.   Ms. Ferguson, there was some discussion about

 5 a $16.6 million number?

 6   A.   Um-hum.

 7   Q.   Is that staff's official estimate of the

 8 current income tax impact?

 9   A.   No.

10   Q.   Does staff have a final estimate or a final

11 number?

12   A.   For current income tax?

13   Q.   For current income tax.

14   A.   Based on staff's position, it would be the

15 15.1 million. The 16.6 was only developed to see if we

16 could gauge the magnitude of what the tax reform would

17 be, based on what we believe the Commission decision

18 would be. But considering the Commission hasn't made a

19 decision, that's conjecture, the 16.6.

20   Q.   When will staff be able to come up with a

21 final number?

22   A.   Once the Commission orders a decision.

23   Q.   Going back to the 16.6 million number, did

24 staff share with the Company its EMS runs --

25   A.   Yes, actually. They were requested by

1   Mr. Mike Noack I believe the day before we filed our

2   reply affidavit. It might even have been after.

3   **Q.   There were also several questions that**

4   **Mr. Zucker asked you regarding certain estimated numbers**

5   **on which staff relied to calculate its ADIT flow-back**

6   **number.**

7   A.   Um-hum.

8   **Q.   Has staff proposed any -- does staff have any**

9   **additional proposals to account for the fact that those**

10 **were estimates?**

11   A.   Yes, we have. We are proposing a tracking

12 mechanism to make sure that the Company and the customers

13 are whole.

14   MR. JOHNSON: No further questions.

15   JUDGE DIPPELL: Thank you.

16   Thank you, Ms. Ferguson. You may step down.

17   (Witness excused.)

18   JUDGE DIPPELL: So I believe that was all of

19 staff's witnesses for today; correct?

20   MR. JOHNSON: Correct.

21   JUDGE DIPPELL: And then Office of Public

22 Counsel, are you still putting your witness on?

23   MS. SHEMWELL: There were no questions, so we

24 waive.

25   JUDGE DIPPELL: Okay. So just so we have

1   everything clear, Public Counsel had Mr. Riley here. But

2   none of the parties had any questions or anything for

3   Mr. Riley regarding OPC's position; correct?

4   Okay. The Commission doesn't have any

5   questions either, so we can go forward with the next

6   witness.

7   MR. MILLS: Eagerly approaching the stand,

8   Your Honor.

9   JUDGE DIPPELL: Now, Mr. Meyer, did you get

10   sworn in last time?

11   THE WITNESS: Yes.

12   JUDGE DIPPELL: I couldn't remember if you

13   got out of it or not.

14   THE WITNESS: Well, I had to ask.

15   JUDGE DIPPELL: Okay. Then for purposes of

16   this continuing hearing, you are remaining under oath.

17   Mr. Mills.

18   MR. MILLS: Judge, in the interest of the

19   advancing hour, I will skip over the traditional direct

20   testimony questions and just get into the questions that

21   have to do with the material that we're -- that we're

22   dealing with today, the calculation of the impact of the

23   tax reform quantification. And in that light, I would

24   like to have an exhibit marked.

25   JUDGE DIPPELL: Okay. I believe that MIEC's

1   next exhibit number is 754.

2   GREG MEYER,

3   after having been previously duly sworn, was

4   examined and testified on his oath as follows:

5   DIRECT EXAMINATION BY MR. MILLS:

6   **Q.   Mr. Meyer, I'm handing you a copy of what's**

7   **been marked by the court reporter as 754. Can you**

8   **identify that for the record, please?**

9   A.   Yes, this is a calculation that I've

10   performed to measure the impact of tax reform for Laclede

11   and MGE, based on the information we have to date.

12   **Q.   Okay. And in your opinion does this**

13   **accurately reflect the impact of the tax reform on**

14   **Laclede and MGE?**

15   A.   Based off the information that we have, yes.

16   **Q.   And do you have any reason to doubt any of**

17   **the information that you have?**

18   A.   No.

19   MR. MILLS: Judge, with that, I will offer

20   Exhibit 754 into the record.

21   JUDGE DIPPELL: Is there any objection to

22   Exhibit 754?

23   MR. ZUCKER: Your Honor, we would object,

24   again, just on the general grounds that we have not seen

25   this before and have not had an opportunity to study it

 1   or prepare a response to it.

 2   JUDGE DIPPELL: All right. I'm going to

 3   overrule your objection and admit Exhibit 754.

 4   (MIEC Exhibit 754 received into the record.)

 5   BY MR. MILLS:

 6   Q.   Now, Mr. Meyer, I'd like to walk you through

 7   the calculations that are set out on Exhibit 754. So

 8   just in general, it looks like you've got two columns

 9   here, one is Laclede, one is MGE; is that correct?

10   A.   That's correct.

11   Q.   And the upper half, before it's broken out

12   with the heading Deferred Tax Effects From Tax Reform,

13   what is the calculation that's shown in that -- in the

14   top part?

15   A.   That's the calculation for the current income

16   tax effect from tax reform. I started with -- do you

17   want me to go through the steps of it also?

18   Q.   Let me ask just a couple more questions.

19   Then I'll let you go through the steps. Is the number

20   16.7 your calculation of that impact?

21   A.   Yes, it is.

22   Q.   And is that a -- is that number comparable to

23   the 16.6 that the staff witness has testified to?

24   A.   I believe it is.

25   Q.   Okay. So if you would, please, explain how

1   **you derived that 16.7 million number.**

2   A.   Okay. I started with the most up-to-date, I

3   guess, accounting schedules that the staff has prepared.

4   And the first thing I did is I eliminated gas inventory

5   from rate base, which dropped the revenue requirement.

6   Then I eliminated short-term debt from

7   staff's capital structure, because of the Commission's --

8   these are all based off the Commission's discussions in

9   the agenda. That elimination increased the revenue

10 requirements for both Laclede and MGE.

11   I then put in a 9.08 -- I'm sorry,

12 9.8 percent return on equity into the -- into the runs,

13 the accounting schedules; and that drove a revenue

14 requirement of 18.6 million for Laclede and 13.9 million

15 for MGE.

16   I then went in and changed the federal tax

17 rate to 21 percent for both current -- for the current

18 and deferred income tax calculation, just reflecting the

19 change -- excuse me, new effective tax rates. And that

20 drove the revenue requirements down to 9.3 million for

21 Laclede and 6.5 million for MGE. Subtracting the

22 numbers, 9.3 from 18.6, gave a tax impact from tax reform

23 on a current basis for Laclede of 9.3 million. And

24 subtracting 6.5 million from the 13.9 gave a $7.4 million

25 impact for MGE. Combining those two together reduce--

1   produced 16.7 million.

2   Q.   Okay. And is it your understanding that that

3   is a very similar calculation to the way that the staff

4   calculated it?

5   A.   I know that the values are the same. And

6   what I heard from Ms. Ferguson just now is that she went

7   through the EMS runs. And I think she did the exact same

8   things I did. I don't know that she did it in steps. I

9   did it in steps to make sure that they kept tracing back.

10   Q.   Okay. Then if you would, please, on the --

11   on the -- just in general terms, the lower half of the

12   page under the heading Deferred Tax Effects From Tax

13   Reform, what is -- what is the purpose of the

14   calculations set forth there?

15   A.   That is just to give the -- to quantify the

16   impacts from tax reform for both the unprotected and the

17   protected piece of the deferred taxes that were

18   identified at September 30th, 2017.

19   Q.   Okay. And in terms of the $344 million shown

20   at the top of that calculation, what is the source of

21   that number?

22   A.   I think Tuesday evening, approximately 8:30,

23   we got that information from the Company in a -- in an

24   email from Mr. Zucker.

25   Q.   When you say Tuesday evening, do you mean the

1   **day of the technical conference --**

2   A.   Yeah, in the --

3   **Q.   -- last week?**

4   A.   -- in the technical conference there was much

5   discussion about the breakdown of the protected and

6   unprotected piece. And at that point Mr. Zucker asked

7   his tax people to provide that -- that breakdown, and we

8   got it at 8 -- I think it was actually 8:27.

9   **Q.   Okay. And so the -- when you said the**

10   **breakdown, that's the 50/50 number that's shown there?**

11   A.   Right.

12   **Q.   Okay. Can you please go through the**

13   **calculation that you performed, based on that data that**

14   **you got from the Company?**

15   A.   Sure. If you take the 344, which was

16   identified in their email, and break it down to 50/50,

17   which was also in the email, that gives you $172 million

18   for protected and $172 million for unprotected. The

19   code -- there's a new tax law that says that the

20   protected has to be flowed back over -- over the average

21   remaining life of the assets that generated, and that's

22   20 years for that proportion. 20 divided by 172 is

23   8.6 million. The -- the effective difference in the tax

24   rates is approximately 33.71 percent from the new -- the

25   new versus the old.

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 1          Q.      And let me stop you there.

 2          A.      Sure.

 3          Q.      And are the tax rates and the calculations

 4   you did on the tax rates identical to what Ms. Ferguson

 5   just described on the stand?

 6          A.      I believe they are.  I have not seen

 7   Ms. Ferguson's calculations.

 8          Q.      But from what you heard on the stand the way

 9   she described her calculations, do you believe it's the

10   same?

11          A.      Yes.

12          Q.      Okay.  So please go ahead.

13          A.      So the effective change in the taxes for the

14   effective rates is 33.71 percent.  Multiply the 8.6 times

15   33.71, you get 2.9.  And then you have the tax factor of

16   1.34, which gives you 3.9 million for Laclede.  And for

17   MGE -- I'm sorry, that's the protected portion.  The

18   unprotected portion we amortized back over ten years, and

19   that's not inconsistent with the tax law language.  Same

20   process.  Multiplying by 33.71 gives you 5.8.  Factoring

21   it up to a revenue requirement gives you 7.8.  Adding the

22   two together gives you 11.7 million.  And then adding

23   that 11.7 million to the 16.7 identified above produces a

24   total impact of 28.4 million.

25          Q.      Okay.  And just to go back, because I think I
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1   may have asked a question at the outset that was -- that

2   was perhaps not entirely clear. On the upper portion of

3   the page, the calculation, you calculate tax impacts

4   separately for Laclede and MGE; correct?

5   A.   That's correct.

6   Q.   And the bottom half of the page, the

7   calculations for total company are broken out by

8   protected and unprotected in the two columns?

9   A.   That's correct.

10   Q.   Okay. And the 11.7 that you calculate out

11   for the deferred tax effects, is that number comparable

12   to the 11.5 that the staff witness has calculated?

13   A.   I believe it is.

14   Q.   Okay. And so the total that you get from

15   adding those two numbers together, 28.4, is comparable to

16   28.1 that the staff calculated; correct?

17   A.   I believe so.

18   Q.   Okay. Now, are you familiar with the

19   stipulation and agreement that was filed this morning by

20   parties other than Laclede?

21   A.   Yes.

22   Q.   Okay. Is the $28 million -- I'm sorry, other

23   than Spire?

24   MR. ZUCKER: No, I'm -- I'm objecting just to

25   ask a question. Is staff part of that?

1   MR. MILLS: Oh, no, no, no. I'm sorry.

2   BY MR. MILLS:

3   Q.   Not all the parties other than Spire. But

4   some parties to the case, not including Spire. And to be

5   more specific, Consumers Council, OPC, MIEC and MECG.

6   That's the stipulation I'm referring to.

7   A.   I'm familiar with that one.

8   Q.   Okay. And the $28 million that is included

9   in that stipulation is essentially the 28.4 that's

10   calculated according to this exhibit; correct? Simply --

11   A.   That's my understanding, yes.

12   Q.   Okay. And is it the proposal in the

13   stipulation that that amount be included in -- as a

14   reduction to the rates that otherwise would be set in the

15   report and order issued in this case?

16   A.   Yes, we -- we think these -- the 28 million

17   should be used as a reduction to the current revenue

18   requirements established in this case.

19   Q.   And if the Commission accepts that position,

20   what does that do to the reduction in revenue requirement

21   between the time that the Tax Act went into effect on

22   January 1 and when rates go into effect after this case,

23   roughly the end of March?

24   A.   It does nothing for those. That money can

25   accrue to the benefit of the Company.

1   Q.   Okay. And according to your calculation,

2   that's roughly one-quarter of $28.4 million; correct?

3   A.   It would be something in that range.

4   Q.   Okay. And the -- and, again, the proposal is

5   to allow Company to retain that; correct?

6   A.   Yes. I mean, we're fine with them retaining

7   that, if -- if the 28 is put into rates subject to a

8   tracker.

9   Q.   Okay. So with respect to the -- to the

10 20-year amortization flow-back period that you use for

11 the protected amount, is it your testimony that that is

12 the same period of time over which the recovery will

13 be -- that that amount will be flowed back through the

14 tax system?

15   A.   Yes.

16   Q.   Okay. So do you agree with the testimony

17 that Mr. Rasche gave this morning that this proposal

18 would realize those savings faster than they're actually

19 being realized?

20   A.   You have to rephrase that.

21   Q.   Okay. Do you recall when Mr. Rasche

22 criticized the 28.4 -- I mean, the $28 million included

23 in the stipulation and agreement as recognizing the

24 benefits of the return of the protected ADIT faster than

25 they actually will be realized?

1   A.   Yeah, I would disagree with his statement.

2 This is -- this -- the protected calculation is based off

3 the information that the Company supplied us.

4   Q.   Okay. Now, the calculation that you have

5 done is based on the public deliberations of the

6 Commission. If the -- if the Commission in its report

7 and order ultimately decides things somewhat differently

8 than what many of the parties expect based on those

9 deliberations, would it be a relatively simple exercise

10 to recalculate this based on the actual decisions of the

11 Commission?

12   A.   Yes, I think it could. And I think

13 Mr. Oligschlaeger alluded to that in past practices with

14 the Commission with the use of scenarios.

15   Q.   Okay. And in past practices, when the

16 Commission has used scenarios, is that -- is that a very

17 quick process where the Commission orders scenarios done

18 on an extremely expedited basis?

19   A.   Yes.

20   Q.   Okay. So to go through that process would

21 not cause a delay in making -- in making the rates

22 effective when the Commission otherwise would like them

23 to be effective in this case?

24   A.   I would not foresee that a scenario would

25 slow up the process, no.

1   Q.   Now, Mr. Rasche this morning had some

2 testimony about bonus depreciation. Do you agree with

3 his conclusions about bonus depreciation?

4   A.   I'm a little confused with his -- with his

5 statement about bonus when the Company hasn't paid income

6 taxes since 2013. I don't understand how bonus can be a

7 consideration at this point, because I'm not sure they

8 can claim it.

9   Q.   Okay. So can you explain how bonus

10 depreciation works if the Company is in a net operating

11 loss position, as Mr. Rasche testified the Company has

12 been for several years?

13   A.   If you -- if you build bonus depreciation

14 into the rates, you have to offset it with an offset,

15 because you can't claim them because of net operating

16 losses. So it doesn't -- it has -- to my knowledge it

17 has no effect on rate base.

18   Q.   Okay. Now, there was some -- there was some

19 testimony this morning, again I believe from Mr. Rasche,

20 about the impact -- or potential impact on the Company's

21 credit ratings or credit outlooks based on both -- other

22 issues to be decided in this case and perhaps the passage

23 of the Tax Act and the Commission's reflection of that in

24 this case. Do you recall that?

25   A.   I do.

1   Q.   Do you agree with staff that it would be

2 difficult to separate out all of the separate factors

3 that would -- that may influence credit rating agencies

4 to discuss the credit impacts of the rate case in this

5 case?

6   A.   I do agree with Mr. Oligschlaeger.

7   Q.   Okay. And just to sort of walk through the

8 process, even if at some point after the Commission

9 issues a decision in this case there is a downgrade in

10 the -- in Spire's credit rating, what happens next? Is

11 there a direct impact on rates from such a step?

12   A.   Well, you know, just to -- I'm not a -- you

13 know, the financial expert witness that was sponsored by

14 MIEC or other parties. But I would not think that if you

15 were downgraded that that would immediately produce a

16 negative revenue requirement impact on -- on rates.

17   Q.   Okay. And do you have an opinion, based on

18 your understanding of the overall financial situation of

19 the Company, whether the Commission's reflection of the

20 effects of the Tax Act, according to the terms of the

21 stipulation and agreement, would cause it a -- the

22 Company to fail to meet its credit metrics and lead to a

23 downgrade?

24   A.   I have not done that analysis.

25   Q.   Okay. You don't have any reason to think

 1   that it would, do you?

 2   A.   I have no --

 3   MR. ZUCKER: Object, that's a leading

 4   question.

 5   BY MR. MILLS:

 6   Q.   **What is your opinion on the likelihood of**

 7   **that?**

 8   A.   At this time I don't have an opinion.

 9   Q.   **Okay. If for whatever combination of reasons**

10   **the Company's cost of short-term borrowing goes up in the**

11   **period in between rate cases, would that increase be**

12   **largely addressed through the operation of the ISRS?**

13   A.   The ISRS and the PGA.

14   Q.   **Okay. Between those two it would address**

15   **that -- an increase in the cost of short-term debt;**

16   **correct?**

17   A.   A lot of it, yes.

18   Q.   **Do you know approximately what percentage of**

19   **the Company's capital budget is dollars that go through**

20   **the ISRS?**

21   A.   I don't know a specific number, but I know

22   that a major portion of their capital program is from the

23   ISRS.

24   Q.   **Okay. A significant majority?**

25   A.   Yes.

1   Q.   Okay. Just as a -- as a way to sort of

2   short-circuit a lot of individual questions, you heard

3   the testimony of Mr. Oligschlaeger with respect to the

4   test year and matching principle and known and measurable

5   changes and that sort of thing; is that correct?

6   A.   That's correct.

7   Q.   Was there anything there that you disagree

8   with --

9   A.   I would --

10   Q.   -- in general?

11   A.   No. I would say that generally I would agree

12   with Mr. Oligschlaeger's testimony. What I found

13   compelling in my mind was that the relationship between

14   revenues, expenses, and rate base that the staff did when

15   they did their updated runs, that Mr. Oligschlaeger still

16   feels that those would be applicable, absent tax reform

17   and perhaps property taxes, from September 30th to 12-31.

18   So I think the basis is there just to make this

19   adjustment and maintain that proper relationship that is

20   critical to setting rates.

21   Q.   And let me ask you a similar question to the

22   one that I asked Mr. Oligschlaeger. Imagine if we were

23   at this position in a rate case and the effect of a

24   Congressional Tax Act was going in the opposite direction

25   in the same magnitude. What would your position be as an

1   expert witness in such a case?

2   A.   Well, I think everybody's position would be

3   completely opposite of -- well, let me -- let me back up.

4   I think our position would be that we would be compelled

5   to put it in the rates. I think that would be opposite

6   of where the Company's position would be, considering

7   their position today.

8   Q.   And that's consistent with this -- what

9   Mr. Oligschlaeger said the staff's position would be in

10   such a case; correct?

11   A.   And let me explain the reason why, is there's

12   very few of us in this room today that were here when tax

13   reform was last done. And that was 30-plus years ago,

14   and I don't think anybody wants to brag about being here

15   for then. But, anyway -- so it is an unusual event. It

16   is an extraordinary event. And that if you have a

17   mechanism like we have today or a process like we have

18   today where those can be reflected, it should be done.

19   That's -- that would have been -- that would be the

20   similar approach that we would have taken if the rate

21   would have gone up, which I think the Company would have

22   vehemently argued to have included.

23   Q.   Now, you've represented the MIEC in a number

24   of proceedings. Do you recall the MIEC not contesting

25   AAOs for acts of God in the event of extraordinary

 1   weather events?

 2   A.   Could you repeat that?

 3   Q.   Yeah. In a number of cases a number of

 4   utilities have requested AAOs to record to a deferred

 5   regulatory asset costs of extraordinary weather events;

 6   correct?

 7   A.   Yes.

 8   Q.   And there have been instances in which the

 9   MIEC has said, yes, that's extraordinary, we don't oppose

10   deferral treatment for that; correct?

11   A.   There's been instances like that, correct.

12   Q.   Okay. So it's not unheard of for the MIEC to

13   agree to allow the Company special treatment for an

14   extraordinary event that works in the Company's favor;

15   correct?

16   A.   That's correct. I mean, the other -- the

17   other item would be an electric company, a plant coming

18   on line that would be, you know, not able to be currently

19   reflected in rates, and you give them construction

20   accounting. We've supported those also.

21   Q.   Okay. Now, let me give you sort of a binary

22   choice, sort of like what the Chairman gave to one of the

23   Spire witnesses. If the Commission is choosing between

24   reflecting in rates in this case the effects of the Tax

25   Act or not reflecting them at all, do you have an opinion

 1   as to whether or not either or both of those would result

 2   in just and reasonable rates being set in this case?

 3   A.   Well, I believe if you don't reflect them,

 4   that inherently you're going to approve rates that are

 5   not cost of service.

 6   Q.   Okay. And if that's the case, does that not

 7   answer the question that Spire's asked about why this

 8   case is different from the utilities who are not in for

 9   rate cases currently?

10   A.   I believe it does, yes.

11   Q.   Because the Commission has to approve rates

12   in this case, does it not?

13   A.   And hopefully the basis for those approvals

14   are that they are just and reasonable at the time that

15   they're approved.

16   Q.   Okay. And that is not a situation that's

17   facing any other utility right at this moment; correct?

18   A.   Well, there's -- there's several other

19   utilities currently in for rate cases, and I expect that

20   the tax reform will be reflected in their rates as well.

21   Q.   Right.

22   A.   But they haven't been as far -- they're not

23   as far as down in the process as Laclede is.

24   Q.   That's what I meant. And, in fact, are you

25   familiar with the rate filing that KCPL and KCPL GMO made

 1   last week?

 2   A.   I'm aware that they filed that. But I have

 3   not had a chance to review that. But my indications are

 4   that tax reform is reflected in that.

 5   Q.   **That those two companies have affirmatively**

 6   **chosen to include the tax reform in their filings?**

 7   A.   That's correct.

 8   MR. MILLS: Okay. Judge, I believe that's

 9   all the direct examination I have.

10   JUDGE DIPPELL: Thank you.

11   Is there cross-examination by staff?

12   MR. JOHNSON: No questions. Thank you.

13   JUDGE DIPPELL: Sorry, getting ahead of

14   myself here. Just a minute.

15   Public Counsel?

16   MS. SHEMWELL: No questions. Thank you.

17   JUDGE DIPPELL: Anything from Spire?

18   MR. ZUCKER: Real quickly, Your Honor.

19   CROSS-EXAMINATION BY MR. ZUCKER:

20   Q.   **Mr. Meyer, I missed something earlier. You**

21   **talked about the Company retaining one-fourth, or**

22   **$7 million, for something. What was that?**

23   A.   Tax reform went into effect January 1, and

24   the value until your new rates are established we're

25   not -- we're not challenging that those have to be

 1   returned to ratepayers at this time, if tax reform is

 2   reflected in rates.

 3   **Q.   Okay. So those rates would be effective in**

 4   **March?**

 5   A.   That's correct.

 6   **Q.   And you're saying you would not go back to**

 7   **January 1 then?**

 8   A.   Right. I don't believe the -- I don't

 9   believe the staff's proposal does that either.

10   **Q.   All right. Are you aware that there is**

11   **another docket in which the utilities are involved that**

12   **has to do with determining the effect of tax reform?**

13   A.   I am.

14   **Q.   And are -- are you participating in that**

15   **docket?**

16   A.   We have been given participation, yes.

17   **Q.   And have you filed anything yet?**

18   A.   I don't know that we have. I'd have to look.

19   **Q.   Okay. And by you, I mean Brubaker or MIEC or**

20   **who are we talking about?**

21   A.   Brubaker would not have filed anything on its

22   own behalf. If it did, it would have gone through the

23   MIEC.

24   **Q.   Is that who you're representing in that case?**

25   A.   I believe that's who, yes, that's who

1   retained us.

2   Q.   Would you believe that a possible issue in

3   that case is whether to actually flow back the ADIT

4   versus leave it as a credit to -- or leave it as an

5   offset to rate base to keep rate base down? Could that

6   be an issue?

7   A.   Could you ask that again? I'm sorry.

8   Q.   Yes. Could it be an issue in that other

9   docket as to whether to flow back credits to customers or

10   leave those credits as offsets to rate base in order to

11   keep rate base down?

12   A.   I haven't seen that argument in the docket.

13   But I would -- I would not be in favor of that treatment,

14   just to keep the rate base from supposedly increasing.

15   Q.   Okay. But that could be an issue in that

16   docket?

17   A.   Along with a myriad of other issues, yes.

18   Q.   And you understand that Spire Missouri's rate

19   base is going to go up faster than it previously did

20   because of the lower tax rate and the lack of bonus

21   depreciation; is that true?

22   A.   Well, as we just talked about, bonus is not

23   really going to affect you because you're in a non-- a

24   net operating loss. The flow-back that we've calculated

25   here, I don't know that -- I know that if you hold

1   everything else constant, that the rate base will

2   increase. But what people aren't recognizing is that

3   there's still going to be investment going forward that

4   is going to be deferred under MACRS, which is the

5   accelerated tax depreciation allowed.

6   So to sit here and say that we know for a

7   fact that rate base will go up, considering the other --

8   the continued investment you're going to make in your

9   Company, I don't know that you can make that statement.

10   Q.   Okay. Well, could that be an issue in this

11   other docket?

12   A.   The rate base effect?

13   Q.   Yes.

14   A.   I suppose it could. I think it's going way

15   beyond the scope of what was intended for that docket,

16   but I guess it could be an issue.

17   Q.   Okay. How about the issue of who the tax

18   decrease should flow to, in other words, rate design?

19   A.   A tax decrease should flow back just like the

20   taxes that are currently in the cost of service have been

21   allocated to the customer classes, and just allocating --

22   Q.   I mean, I --

23   A.   -- a smaller number.

24   Q.   -- guess -- I guess that's your position.

25   But could that be an issue in these cases, in terms of

1   who gets the benefit of the -- of the flow-back?

2   MS. SHEMWELL: Judge, it's hard to understand

3   the relevance of this questioning to this case, when

4   we're discussing a completely different case.

5   JUDGE DIPPELL: I think that the other case

6   is sufficiently -- the issues are sufficiently related

7   that I'm going to allow him to continue the questions.

8   MR. ZUCKER: I'm almost finished, Your Honor.

9   THE WITNESS: And I hate to ask you, but

10   could you repeat it?

11   BY MR. ZUCKER:

12   Q.   Sure. Could it be an issue in this other

13   docket regarding who -- which customer classes the tax

14   benefits flow to?

15   A.   I wouldn't foresee that being an issue in the

16   other docket, no --

17   Q.   You -- you --

18   A.   -- because it would only arise when you want

19   to or when the utilities are forced or volunteer to

20   actually reduce their rates. But generically in the

21   docket I don't see it being an issue for the

22   quantification of the tax reform. It's a -- it's a side

23   issue.

24   Q.   As I recall, you were involved in the rate

25   design in this case, correct, you personally I mean, in

1   arriving at the rate design stipulation?

2   A.   Oh, you mean discussing the conditions of the

3   stip for our class?

4   Q.   Yes.

5   A.   I did it in conjunction with Mr. Brian

6   Collins, yes.

7   Q.   Okay. And were the -- was this tax reform

8   considered in reaching that agreement?

9   A.   Obviously not.

10   MR. ZUCKER: That's all I have, Your Honor.

11   Thank you.

12   JUDGE DIPPELL: Thank you.

13   I do not have any questions for you,

14   Mr. Meyer.

15   Is there redirect?

16   MR. MILLS: Just very briefly.

17   REDIRECT EXAMINATION BY MR. MILLS:

18   Q.   You were asked some questions about what

19   issues may arise in a workshop case that the Commission

20   has docketed. Is it the case in a workshop docket that

21   more or less any party can raise any issues that they

22   want to raise?

23   A.   I mean, I think you're free to bring up

24   anything.

25   Q.   Okay. Does that mean that those issues have

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 1   any merit?

 2        A.      No.

 3        Q.      Does it mean that they have any relevance to

 4   the issues the Commission has to decide in this case?

 5        A.      No.

 6        Q.      Does the fact that the Commission may treat

 7   other utilities who are situated differently in that case

 8   have any impact on what is the right thing to do in this

 9   case?

10        A.      Absolutely not.

11               MR. MILLS:  That's all I have.

12               JUDGE DIPPELL:  All right.  Then I believe

13   that concludes your testimony, Mr. Meyer.  You may step

14   down.

15               (Witness excused.)

16               JUDGE DIPPELL:  Were there any other

17   witnesses that anyone would like to present at this time?

18   Seeing none, then I believe that will conclude the

19   testimony on this portion.

20               So the procedure that I set forth the other

21   day was that we would have closing arguments and not have

22   any briefs.  Given the hour and the potential weather,

23   I'm inclined to give a slight change to that and that

24   that would be that you present to the Commission by close

25   of business tomorrow at least a statement as to what your
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1   party believes that the Commission should do in this --

2   with regard to this issue.

3   Given that, would you prefer to also give a

4   closing statement or give a written closing statement

5   along with that clarification of your position?

6   MR. ZUCKER: Well, I understood that to be an

7   either/or; in other words, today -- talk today and risk

8   the weather or file -- get home safe and file something

9   tomorrow.

10   JUDGE DIPPELL: I guess I didn't mean it to

11   be an either/or. I meant to say that I think the

12   Commission would like a statement from each of you as to

13   what you think the Commission should do with regard to

14   this issue.

15   MR. ZUCKER: As far as we're concerned, the

16   statement tomorrow would be fine.

17   JUDGE DIPPELL: If you would like the

18   opportunity to also give a closing statement now, you may

19   do so, or you may give further closing statements in your

20   clarification of your position tomorrow. But not -- not

21   130-page brief. I've read those. I don't need to read

22   those again.

23   MR. MILLS: Judge, can I ask a clarifying

24   question?

25   JUDGE DIPPELL: Yeah.

 1   MR. MILLS: When do we anticipate the

 2   transcript to be done and available.

 3   JUDGE DIPPELL: I've asked the court reporter

 4   to have it available on Wednesday.

 5   MR. MILLS: Ah, okay.

 6   JUDGE DIPPELL: So not in time for you to

 7   get.

 8   But this case is also back on the agenda or

 9   will be back on the Commission's agenda for discussion as

10   well on Wednesday. And so I think that they would like

11   to have at least a statement from you all by -- in time

12   that they can review that and discuss it further at

13   agenda.

14   MR. MILLS: By close of business tomorrow?

15   JUDGE DIPPELL: Yes.

16   MR. MILLS: Okay.

17   JUDGE DIPPELL: Would anyone like to give a

18   closing statement in addition to that?

19   MR. ZUCKER: If anyone wants to, then I'm

20   going to also, I should tell the parties.

21   MR. MILLS: I was going to say yes, but that

22   just talked me out of it.

23   No, Judge, I appreciate the opportunity. I

24   think it would be probably more helpful to the Commission

25   to allow us to write this down, particularly since the --

 1   it's late in the day and the weather is failing for --

 2   JUDGE DIPPELL: I agree.

 3   MR. MILLS: -- those of us who have to head

 4   to St. Louis. And I would...

 5   JUDGE DIPPELL: Okay. In that case then, we

 6   can adjourn. And I will order you all to submit those

 7   statements by close of business tomorrow.

 8   Seeing nothing further for today, we can go

 9   off the record. Thank you.

10   (Off the record.)

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 2

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 4    CCR No. 1382, the officer before whom the foregoing

 5    hearing was taken, do hereby certify that the foregoing

 6    hearing was taken by me to the best of my ability and

 7    thereafter reduced to typewriting under my direction;

 8    that I am neither counsel for, related to, nor employed

 9    by any of the parties to the action in which this hearing

10    was taken, and further, that I am not a relative or

11    employee of any attorney or counsel employed by the

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19              Angie D. Threlkeld, CCR

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