

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

In the Matter of the Tariff )  
Filings of Union Electric Company )  
d/b/a Ameren Missouri, to Increase ) Case No. ER-2011-0028  
its Revenues for Retail Electric )  
Service )

DEPOSITION OF LENA MANTLE,  
a witness, produced, sworn and examined on the 25th day of  
April, 2011, between the hours of 8:00 a.m. and 6:00 p.m.  
of that day at the offices of the Missouri Public Service  
Commission, 200 Madison Street, Suite 800, in the City of  
Jefferson, County of Cole, State of Missouri, before

KELLENE K. FEDDERSEN, RPR, CSR, CCR  
MIDWEST LITIGATION SERVICES  
3432 West Truman Boulevard, Suite 207  
Jefferson City, MO 65109  
(573)636-7551

in the above-entitled cause, on the part of Union Electric  
Company, d/b/a Ameren Missouri.

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A P P E A R A N C E S

FOR UNION ELECTRIC COMPANY, D/B/A AMEREN MISSOURI:

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ALSO PRESENT: John Rogers

SIGNATURE INSTRUCTIONS:

Presentment waived; signature requested.

EXHIBIT INSTRUCTIONS:

Retained by Mr. Lowery.

1 (WHEREUPON, the deposition began at  
2 1:51 p.m.)

3 LENA MANTLE, being sworn, testified as follows:

4 DIRECT EXAMINATION BY MR. LOWERY:

5 Q. Good afternoon, Ms. Mantle.

6 A. Good afternoon.

7 Q. You and I know each other, right?

8 A. Yes.

9 Q. So we can dispense probably with all the  
10 introductions. You've been deposed a number of times,  
11 correct?

12 A. Yes.

13 Q. Including once in this case. So you  
14 know -- you know that you can't nod your head and shake  
15 your head, you've got to give verbal answers and try to  
16 let me finish my questions and I'll try to let you finish  
17 your answers so we don't speak over each other, right?

18 A. Yes.

19 Q. I'm sure -- I'm sure I know the answer to  
20 this question, but do you have any medical conditions or  
21 haven't taken any medication that prevents you from  
22 understanding my questions or giving complete, truthful  
23 answers to them today, right?

24 A. That's correct.

25 Q. If you don't understand a question that I

1 ask, and that's possible because you probably know more  
2 about this subject matter than I do, I'd ask you to please  
3 tell me. And is it fair for me to assume if you don't ask  
4 for a clarification and you just go ahead and answer the  
5 question, that you understand the question? Is that fair?

6 A. I understand the question as I understand  
7 it and not necessarily as you meant to say it.

8 Q. You'll at least believe in your mind that  
9 you understood the question, true?

10 A. Yes.

11 Q. Okay. In the context of preparing your  
12 part of the Staff Report and also your surrebuttal  
13 testimony, and those are the two pieces of testimony you  
14 have in this case, right?

15 A. That's correct.

16 Q. And I'm just going to refer -- sometimes  
17 I'll probably refer to the Staff Report or your part of it  
18 as just your direct testimony even though I guess it's in  
19 a different form. You understand what I mean, correct?

20 A. Yes.

21 Q. In the context of preparing those two  
22 pieces of testimony, and in developing the opinion that  
23 you expressed in those two pieces of testimony, did you  
24 consider all of the facts, all of the information that you  
25 thought was important to developing that opinion? And the

1 opinion I'm talking about is the opinion that the  
2 Commission should change the sharing percentage in the  
3 company's fuel adjustment clause to 85/15.

4 MS. OTT: Mr. Lowery, first I want to put  
5 on the record that Mr. Lowery wasn't the original attorney  
6 that did the deposition for Lena on April 13th. However,  
7 also Staff will object to any question that is based upon  
8 the Cost of Service Report, her direct testimony, as that  
9 is information that was available at her first deposition,  
10 and according to the Commission Order issued on  
11 April 21st, 2011, Ms. Mantle's deposition I believe should  
12 be limited to any new allegation or new positions set out  
13 for the first time in her surrebuttal.

14 So if we're going to be referring to her  
15 direct testimony, I will be objecting to all of those  
16 questions as Mr. Byrne had full opportunity to question  
17 her.

18 MR. LOWERY: Well, I think we better get  
19 Morris in here to rule on how we're going to deal with  
20 this because it's necessary to talk about her direct  
21 testimony and what may have been there or not there as  
22 juxtaposed against her surrebuttal and how things may have  
23 changed, and there's going to be questions about that.

24 So let's get Morris in here and we'll see  
25 if we can resolve the dispute if you're going -- if every

1 time I mention the direct testimony you're going to direct  
2 the witness not to answer. Is that your position, you're  
3 going to direct the witness not to answer the question?

4 MS. OTT: If it is not a new allegation or  
5 new position set out in her surrebuttal testimony, that is  
6 my position, that I will be objecting.

7 MR. LOWERY: Well, do you want to get  
8 Morris in here now or do you want to see how it goes and  
9 see whether or not you actually prevent her from answering  
10 questions that I think she needs to answer?

11 MS. OTT: That's up to you. I mean, it may  
12 be easier in terms of --

13 MR. LOWERY: We'll proceed for the time  
14 being, but if necessary we're going to have to have the  
15 judge rule on this because her surrebuttal testimony  
16 doesn't exist in a vacuum, and part of the issue is, is  
17 that there are new things and different things now than  
18 what she said in her direct testimony, and it's fair for  
19 me to ask those questions.

20 MS. OTT: To new material only, not  
21 material --

22 MR. LOWERY: I'll ask my questions, and for  
23 the time being we'll see how that goes. If necessary,  
24 we'll get the judge to resolve the dispute. Okay?

25 BY MR. LOWERY:

1 Q. I'm going to reask that question because I  
2 don't even remember what it was, let alone I'm sure you  
3 don't.

4 In preparing your testimony in this case,  
5 did you consider all the facts and the information that  
6 you thought was important as a basis for what I think is  
7 your basic opinion in the case, and that is that the  
8 sharing percentage should be changed from 85 to  
9 15 percent?

10 A. That is the Staff's position, and yes, I  
11 took into consideration all facts that I was aware of.

12 Q. And any facts that you thought were  
13 important; is that true?

14 A. Yes.

15 Q. Now, when you say that's Staff's position  
16 that the sharing percentage should be changed, do you  
17 personally hold that opinion?

18 A. Yes.

19 Q. Okay. So for purposes of this case, it's  
20 your opinion, it's your position as well, correct?

21 MS. OTT: Objection. Asked and answered.

22 BY MR. LOWERY:

23 Q. Can you tell me what facts and data you  
24 believe support that opinion?

25 A. As I laid out in the --



1 Q. Go ahead. I'm sorry.

2 A. As I laid out in the Staff Report, I  
3 considered five different factors when I made -- as a part  
4 of the Staff's position to move to 85/15, and those can be  
5 found beginning on page 105 of the Staff Report filed on  
6 February 8th in this case. Oh, wait. That is --

7 Q. I think it's a little later, isn't it?

8 A. Yes, it is. That was the recommendations  
9 that I made that begin on page 105.

10 Q. Probably more like around 111, isn't it?

11 A. Yes.

12 Q. Okay. Your testimony, your opinion today  
13 still is that these are the five considerations that are  
14 relevant; is that true?

15 A. Yes.

16 Q. The opinions that you hold today, is there  
17 any particular materials or information that you reviewed  
18 or relied upon in arriving at those? Prior testimony,  
19 data request responses, anything of that nature?

20 MS. OTT: I'm going to object to any  
21 information that should have been asked in the previous  
22 deposition that's not new to her surrebuttal testimony.

23 THE WITNESS: The question was, what did I  
24 take into consideration?

25 BY MR. LOWERY:

1 Q. Did you rely upon any particular documents,  
2 when I say documents, I mean electronic as well, but  
3 documents, information, testimony, data request responses,  
4 filings, any particular information?

5 A. Yes, I did. I took into account the  
6 information on the monthly filings, FAC filings, or  
7 they're submittals. They are not filings. I took into  
8 consideration the two cases that are currently open before  
9 the Commission regarding Ameren's FAC. One is the  
10 prudence audit case, and the other's the true-up case. I  
11 took into consideration testimony that was filed by the  
12 company and by the direct testimony of other witnesses in  
13 rebuttal testimony regarding the FAC.

14 Q. Could you be more specific? Testimony  
15 filed by the company in what case?

16 A. In the rate case.

17 Q. Pardon me. The current rate case that  
18 we're here on today?

19 A. ER-2011-0028.

20 Q. Okay.

21 A. Also, there was no testimony filed in the  
22 true-up case, but there was testimony filed in the  
23 prudence case. I have read that. Off the top of my mind,  
24 I cannot remember it at this moment, but I'm sure that was  
25 part of my decision also.

1 Q. Any particular reports or data request  
2 responses that you took into account that were  
3 particularly important to your opinion?

4 A. Not one that stands out more than the  
5 others.

6 Q. Okay. Let's talk more specifically about  
7 your surrebuttal testimony. You point to Mr. Wills'  
8 rebuttal testimony at page 22, lines 12 to 13, correct?

9 A. Page --

10 MS. OTT: Can you please instruct where  
11 you're looking at?

12 MR. LOWERY: Well, I thought I did.

13 MS. OTT: Page 22?

14 MR. LOWERY: I'm sorry. That's Mr. Wills'  
15 testimony. Let me get the reference in her testimony.

16 BY MR. LOWERY:

17 Q. How about page 1, Ms. Mantle? You point to  
18 Mr. Wills' testimony there, right?

19 A. That's correct.

20 Q. You were pointing to his testimony at  
21 page 22, lines 12 and 13, right?

22 A. Right.

23 Q. Is it fair to say that you imply that it  
24 was Ameren Missouri and Ameren Missouri alone that, quote,  
25 erroneously calculated net fuel -- net base fuel costs?

1 Is that what you're saying there?

2 A. They were the ones that did the  
3 calculation. Staff did review it and the Commission  
4 approved it.

5 Q. Was the answer to my question yes or were  
6 you meaning to give a slightly different answer?

7 A. The answer is yes.

8 Q. Okay. Fair enough. Would you agree that  
9 an erroneous calculation and a mistake are the same thing?

10 A. Yes.

11 Q. Okay. Does Mr. Wills say in his testimony  
12 that it was Ameren Missouri and Ameren Missouri alone  
13 who -- that performed an erroneous calculation or that  
14 made a mistake? Does he say that?

15 A. I don't have his testimony in front of me,  
16 but I don't believe that he did.

17 Q. Okay. Then if you don't believe that he  
18 did, how can you say that he stated in his rebuttal  
19 testimony that Staff was reluctant to acknowledge that  
20 Ameren Missouri erroneously calculated net base fuel cost?

21 A. I would need to have his testimony in front  
22 of me.

23 Q. I'll hand you a copy of his testimony. You  
24 might want to look at page 22, lines 12 to 13 or  
25 thereabouts where you pointed to in your testimony.

1           A.       He did not specifically point out that it  
2 was Ameren Missouri who made that error, but it was Ameren  
3 Missouri who made that error.

4           Q.       In your opinion?

5           A.       Yes.

6           Q.       Your opinion is Ameren Missouri's the only  
7 one that made the error, right?

8           A.       My opinion is Staff had no way to know that  
9 an error had been committed.

10          Q.       I see. Okay. You attended a meeting --  
11 can I have that back, please? Just trying to keep myself  
12 somewhat organized.

13                    You attended a meeting at Brubaker's office  
14 in Chesterfield on about May 11, 2010? You know the  
15 meeting I'm talking about, about this calculation issue  
16 that we've been talking about that's the subject of  
17 ER-2010-0274?

18          A.       Yes. I do not remember about the date, but  
19 that seems correct.

20          Q.       That's a -- you recall it was last spring.  
21 I guess it would have been last spring now, right? Does  
22 that sound about right?

23          A.       Yes.

24          Q.       Okay. Let me make sure I understand a  
25 basic concept that if I don't understand none of my

1 questions are going to make any sense. And as an  
2 engineer, I'm sure you can probably explain it to me. And  
3 it's a concept in terms of the sales, the kilowatt hour  
4 sales or the loads that we've got to use to calculate the  
5 cents per kilowatt hour net base fuel cost value. Okay?  
6 That's the context in which I'm asking this question. Are  
7 you following me?

8 A. Okay.

9 Q. And we can refer to those kilowatt hour --  
10 kilowatt hour sales, we can refer to them as loads. They  
11 really mean the same thing in the context of calculating  
12 that net base -- those two net base fuel cost cents per  
13 kilowatt hours numbers that we use in the FAC, right?

14 A. If that's how you want to use the word  
15 loads, yes, I'll take that.

16 Q. You understand how I'm using the words  
17 kilowatt hour sales and loads interchangeably for purpose  
18 of that calculation; is that fair?

19 A. Okay.

20 Q. It makes sense, what I'm asking you?

21 A. Yes.

22 Q. I just want to make I'm not using a  
23 misnomer of some kind.

24 A. Load is sometimes referred to as peak load,  
25 average load. There's different -- but if you're

1 referring to load --

2 Q. As sales.

3 A. -- in this case in this instance as sales,  
4 usage, I will take that as your definition.

5 Q. Okay. All right. Now, in that -- in this  
6 context, the context of calculating these NBFC -- when I  
7 say NBFC, that's a shorthand for net base full cost. You  
8 understand that, right?

9 A. Yes.

10 Q. In the context of performing that  
11 calculation which ends up in the FAC tariff, those two  
12 values, in the context of performing that calculation,  
13 when we say determined at the generation level, what we  
14 mean is that the kilowatt hour sales that are used to  
15 calculate those NBFC values should include all the losses;  
16 they should include the transmission losses and they  
17 should include the distribution losses, right?

18 MS. OTT: Can I just have a clarification?  
19 When you're saying NBFC, are you referring to the NBFC  
20 rates or the net base full costs, which are two different  
21 things in the tariffs?

22 MR. LOWERY: I'm referring in these  
23 questions to the rates.

24 MS. OTT: The NBFC rates. Okay.

25 BY MR. LOWERY:

1 Q. Did you understand that, Ms. Mantle?

2 A. Can you do it again?

3 Q. Sure.

4 A. I think I remember, but I want to make  
5 sure.

6 Q. The context I'm talking about is  
7 calculating the cents per kilowatt hour rates, values,  
8 factors, whatever we want to call them, that are in the  
9 FAC tariff. Okay? You understand that? As opposed to a  
10 \$350 million net base full cost number in the revenue  
11 requirement.

12 A. Okay.

13 Q. You understand the difference as Ms. Ott  
14 was pointing out, correct?

15 A. Correct.

16 Q. Okay. So in that context, when we say we  
17 need to determine the NBFC rates, those cents per kilowatt  
18 hours values at the generation level, to do that we need  
19 to use kilowatt hour sales, or loads as I was using them a  
20 minute ago, we need to use kilowatt hour sales that  
21 include all the losses, distribution losses and  
22 transmission losses, right?

23 MS. OTT: I'm going to object as  
24 speculation, but I'll let you answer.

25 THE WITNESS: At that time, I thought it



1 was at generation. I've come to since -- and as I've put  
2 in my direct report and in my surrebuttal, Staff did not  
3 fully understand until January of this year that it was  
4 not appropriate to have those at generation.

5 BY MR. LOWERY:

6 Q. That wasn't my question, though.

7 A. Okay. What was your question?

8 Q. As an engineer, if I say -- if I say I need  
9 to make a calculation at the generation level, okay,  
10 what's that mean?

11 A. That means at the generator, all losses  
12 included from the point where customer uses it to where  
13 the generator generates it.

14 Q. And all losses means transmission losses  
15 and distribution losses need to be included in that  
16 kilowatt hour sales figure, correct?

17 A. Correct.

18 Q. And if all the losses are not included in  
19 that kilowatt hour sales figure, then the sales, the load  
20 as I was using it, are not at the generation level,  
21 correct?

22 A. That's correct.

23 Q. Okay. I just -- I'm just trying to make  
24 sure that I'm understanding the math and the engineering  
25 before I ask you some additional questions. Okay?

1           Would it be fair to say that aside for  
2     addressing the legal issues in Case No. ER-2010-0274,  
3     which are Ms. Ott's or Mr. Williams' or somebody else's  
4     responsibility, aside from addressing those issues, is it  
5     fair to say that from a technical perspective or a  
6     non-attorney perspective on the Staff, that you're  
7     principally responsible for addressing the issues in that  
8     docket?

9           MS. OTT: I'm just going to make a  
10    continuing objection that she addressed this case in her  
11    direct testimony, as well as Mr. Byrne did ask her  
12    questions regarding that case in the first deposition. So  
13    in relationship for each subject matter that we're going  
14    to be reploting through it seems today, so for right now  
15    for that prudence case, which is --

16           MR. LOWERY: It's actually the true-up  
17    case, not prudence.

18           MS. OTT: The true-up case, ER-2010-0274,  
19    there will be a continuing objection that it's been asked  
20    and answered.

21    BY MR. LOWERY:

22           Q.       Can you answer my question?

23           A.       The Staff expert that wrote the Staff  
24    recommendation in that case is David Roos. That's  
25    R-o-o-s. But I have been involved in the process for that

1 case.

2 Q. You've been heavily involved in the  
3 process, have you not?

4 A. Yes.

5 Q. But my characterization that you're  
6 principally responsible for the Staff's nonlegal position  
7 in that issue, I mean, if you disagree with that  
8 characterization, that's fine. I'm just asking you  
9 whether you are the principal Staff person responsible for  
10 the nonlegal aspects of that case for the Staff or is it  
11 somebody else?

12 MS. OTT: Objection. Asked and answered.

13 THE WITNESS: David Roos is an employee in  
14 the energy department. I'm the manager of the department.  
15 To that extent, yes, I am a staff that is -- makes those  
16 determinations as to whether or not Staff -- what Staff's  
17 position is.

18 BY MR. LOWERY:

19 Q. As Mr. Roos' manager, I guess you  
20 ultimately have responsibility for the work that he does;  
21 is that true?

22 A. That's true. John Rogers is actually the  
23 supervisor, and then I would be the supervisor of John  
24 Rogers, but that is correct. It is ultimately my  
25 responsibility.

1 Q. Okay. Fair enough. Would it be fair to  
2 say at that May 11 meeting, and if it wasn't May 11, the  
3 meeting I'm going to refer to as the May 11 meeting that  
4 you know you attended and it was somewhere around that  
5 time, would it be fair to say that you were the principal  
6 spokesperson for the Staff at that meeting?

7 A. I'm trying to remember who else was there  
8 from the Staff, and I know we did a lot of listening in  
9 that meeting, but it's very likely that, yes, I would have  
10 been the spokesperson on Staff.

11 Q. Fair enough. Is it fair to say that there  
12 was a lot of technical discussion at that meeting?

13 A. Yes.

14 Q. So we can agree on one question once in a  
15 while. Do you recall --

16 MR. LOWERY: Kellene, will you mark this as  
17 an exhibit?

18 (MANTLE EXHIBIT NO. 1 WAS MARKED FOR  
19 IDENTIFICATION BY THE REPORTER.)

20 BY MR. LOWERY:

21 Q. Ms. Mantle, I'm going to hand you what's  
22 been marked Deposition Exhibit 1. Ask you if you  
23 recognize that document.

24 A. I believe this was handed out at this  
25 meeting. I don't know if that was the only -- if this is

1 a complete set of the documents. I do know there were a  
2 set handed out. This was part of the documents we  
3 received on that day.

4 Q. Okay. And that day being that on or about  
5 May 11th, 2010 meeting we've been talking about, right?

6 A. Yes.

7 Q. And that may be all that you received, you  
8 just don't remember?

9 A. I'm pretty sure we received more than that.

10 Q. Okay. And when you say received more, more  
11 from the company?

12 A. Yes.

13 Q. You recognize Exhibit 1 as having come from  
14 the company, right?

15 A. It looks like what I remember from that  
16 meeting, yes.

17 Q. Okay. And you recall that I think  
18 Mr. Wills did a lot of the talking or maybe did all of the  
19 talking around what was being discussed or illustrated or  
20 depicted in Exhibit 1? Do you remember that?

21 A. I do remember he did a lot of the talking.

22 Q. You probably asked some questions about it?

23 A. I'm sure we had some questions.

24 Q. Now, at the end of that meeting, and I  
25 don't -- do you remember how long the meeting lasted?

1 A. No.

2 Q. At the end of that meeting, Mr. Wills and  
3 others who attended it tell me that at the end of the  
4 meeting you stated in some substance something like this,  
5 and I want you to tell me if you remember you said this or  
6 you didn't say it or you think you said something  
7 different. Okay?

8 They tell me that in substance you said  
9 something like -- and this obviously isn't an exact quote,  
10 but you can tell me if it's a fair quote or not -- we, and  
11 I think meaning Staff, we think we understand and we think  
12 we agree that the kilowatt hour sales used in the  
13 calculation of the NBFC rates were not calculated at the  
14 generation level, but that the kilowatt hour sales used in  
15 the accumulation period calculations were, but we want to  
16 think about it.

17 MS. OTT: Objection, hearsay. If you  
18 remember...

19 MR. LOWERY: Just for the record, if she  
20 said it, I don't know that it's going to be hearsay.

21 MS. OTT: But if she said it to somebody  
22 else who told you, I think it becomes hearsay.

23 BY MR. LOWERY:

24 Q. Did you in substance say that?

25 A. I don't know.

1 Q. You can't dispute whether you said it or  
2 not because you don't know whether you did or not; is that  
3 fair?

4 A. I know when we left this meeting, we  
5 thought we had a better understanding, but when we got  
6 back and we looked at it, we didn't. So I'm -- and I know  
7 that out of that meeting we settled the net base -- the  
8 NBFC rates for the case we were currently in. That was  
9 ER-2010-0036. So Staff was aware enough that there was  
10 likely a problem that we did come up with a settlement in  
11 that case.

12 Q. I want to make sure, though, I understand  
13 your testimony. Is your answer that you didn't make the  
14 statement that I posited to you or that you don't know  
15 whether you made the statement?

16 A. I don't know whether I made the statement.

17 Q. If Mr. Wills were to testify under oath,  
18 for example, that you did, you wouldn't say he's a liar,  
19 he's mistaken, he doesn't know what he's talking about?  
20 You couldn't say that, right?

21 A. I wouldn't say that.

22 Q. Okay. Fair enough. Is it -- is it  
23 possible that, in fact, at that time you did agree that  
24 the sales that had been used to calculate the NBFC rates  
25 were not at the generation level while the accumulation

1 period sales were? Is it possible that you did agree with  
2 that on May 11?

3 MS. OTT: Objection. Asked and answered.

4 THE WITNESS: I don't believe that Staff  
5 understood that yet.

6 BY MR. LOWERY:

7 Q. Do you remember that Mr. Dauphinais for  
8 MIEC did definitively agree that the kilowatt hours sales  
9 that had been used in the NBFC rates why -- I'll start  
10 over.

11 Do you recall that Mr. Dauphinais for MIEC  
12 did agree that the kilowatt hour sales that had been used  
13 to calculate the NBFC rates were not at generation while  
14 the kilowatt hours sales that had been used to do the  
15 accumulation period calculations were? Do you recall that  
16 Mr. Dauphinais did definitively agree with that?

17 A. I do remember that MIEC, and I believe it  
18 was Mr. Dauphinais -- I don't know if Mr. Meyer or  
19 Mr. Brubaker was there -- they did seem to have an  
20 understanding, a better understanding than Staff did. I  
21 don't know if he said that or not, but like I said, I do  
22 remember coming away from that meeting that MI-- with the  
23 understanding that MIEC had some understanding that Staff  
24 didn't, wasn't necessarily there yet.

25 Q. You don't remember whether Mr. Dauphinais



1 definitively agreed with that point or not; is that fair?

2 A. That's fair.

3 Q. Okay. Now, as we sit here today, there's  
4 no question that that is the case. I mean, Staff  
5 stipulated to that fact in the fuel adjustment -- in the,  
6 excuse me, stipulation in ER-2010-0274, right?

7 A. That's correct.

8 Q. We all agree that kilowatt hour sales used  
9 to calculate those NBFC rates should have been at  
10 generation, but they weren't, right?

11 MS. OTT: Objection, speculation. We all?  
12 Who's we all? I'm just trying --

13 BY MR. LOWERY:

14 Q. We all is the company and the Staff, since  
15 we're the only two in that docket. Does that clarify it  
16 for you now?

17 A. And the question was whether --

18 Q. The company and Staff -- pardon me. The  
19 company and Staff both agree that the NBFC rates should  
20 have been calculated using kilowatt hour sales at the  
21 generation, at the generation level?

22 MS. OTT: For clarification, are you  
23 talking about the true-up case or are you talking about  
24 the 0036 case?

25 MR. LOWERY: The true-up case is -- let me

1 ask a different question.

2 MS. OTT: I'm just trying to keep it  
3 straight in my head.

4 BY MR. LOWERY:

5 Q. We all agree, we being the Staff and the  
6 company, that when the net base full cost rates were  
7 calculated in for inclusion in the FAC tariff that was  
8 approved in the 0036 case, that the kilowatt hour sales  
9 should have been at the generation level but they were  
10 not?

11 A. I do not believe that's what we agreed to.

12 Q. You don't believe that's what you agreed to  
13 when?

14 A. Either in the stipulation of facts or any  
15 time since then. It's my understanding that according  
16 to -- what we've been told and what we believe from Ameren  
17 Missouri at this point in time, that the loads that should  
18 be used are those that are at transmission, that the -- at  
19 generation the extra losses are added by MISO through a  
20 different calculation. So the net -- the loads, the  
21 hourly loads that we should use are at transmission. That  
22 extra step from transmission to generation is done through  
23 a different calculation through MISO.

24 Q. Are you familiar with the stipulation of  
25 facts that's been entered in and agreed upon by the Staff

1 and the company in the -- I'm just going to say the 0274  
2 docket to shorten this up a little bit?

3 A. Yes.

4 Q. Can you take a look at paragraph 14 of that  
5 stipulation?

6 MS. OTT: I just want to renew my  
7 continuing objection related to the 0274 case, that it  
8 should have been asked and answered in the previous  
9 deposition.

10 THE WITNESS: Okay. I've read it.

11 BY MR. LOWERY:

12 Q. Can you square the answer you gave to my  
13 prior question with that stipulation?

14 A. Yes. That stipulation was, the phrase that  
15 is currently in -- that was in the fuel adjustment clause  
16 tariff at that time stated that it needed to be at  
17 generation, and that's what at generation meant at the  
18 time that that was written.

19 Q. In the 0318 case, right?

20 A. Yes.

21 Q. Which I think maybe is part of the problem  
22 we've had with the last couple of questions. The NBFC  
23 rates that we're talking about here arose out of the  
24 ER-2008-0318 case, right?

25 A. Yes.

1 Q. Okay. And there's no question that the  
2 fuel adjustment clause tariff approval in that case  
3 required that the kilowatt hour sales used to calculate  
4 the NBFC rates be at the generation level, is there?

5 A. That is correct. That's what the tariff  
6 required.

7 Q. That's right. And there's also no question  
8 that the kilowatt hour sales used to calculate the NBFC  
9 rates that ended up appearing in the tariff that came out  
10 of the 0318 case were not at the generation level, right?

11 A. That's correct.

12 Q. And we, being the company, and Staff agree  
13 on that fact, don't we?

14 A. Yes.

15 Q. And there's also no question that when the  
16 accumulation period calculations -- and when I say  
17 accumulation period calculations, you understand that I  
18 mean the calculations made by the company to actually  
19 adjust the FPAC rate for accumulation period one,  
20 accumulation period two, et cetera, that the kilowatt hour  
21 sales used in those calculations were at the generation  
22 level, right?

23 A. Yes.

24 Q. And that created a mismatch, didn't it?

25 A. Yes.

1 Q. And that's the mismatch that's talked about  
2 in the stipulation in the 0274 case, isn't it?

3 A. Yes.

4 Q. And so the kilowatt hour sales used to  
5 calculate the NBFC rates in the 0318 case, they didn't  
6 include transmission losses, right?

7 A. We now know that they did not, that's  
8 correct.

9 Q. Whether we now know it or we knew it then,  
10 the bottom line is they did not include transmission  
11 losses, right?

12 A. Correct.

13 Q. And they should have back at the time of  
14 the 0318 case, shouldn't they, because the tariff said  
15 they have to?

16 A. We also -- I mean, we could revise the  
17 tariff in that case, so we could have revised the tariff  
18 to say that it was much as what we proposed in this case.  
19 So, but given that tariff language, yes.

20 Q. Let me ask it this way. The Commission --  
21 we all entered into a stipulation in that case, and the  
22 stipulation is attached as Appendix A to the 0274  
23 stipulation of facts. Do you recall that?

24 A. Yes.

25 Q. And that Appendix A has attached to it an

1 FAC tariff. Do you recall that? Would you like to look  
2 at it?

3 A. Yes, please.

4 Q. You recognize Exhibit A to the 0274  
5 stipulation of facts, do you not?

6 A. Yes.

7 Q. And Exhibit A is a Stipulation & Agreement  
8 relating to the FAC tariff approved in the 0318 case,  
9 right?

10 A. Yes.

11 Q. And attached to Exhibit A, the FAC  
12 stipulation in the 0318 case, is -- and the lawyers  
13 probably shouldn't have done it this way, but is something  
14 we call Appendix A. Do you see that?

15 A. Yes.

16 Q. And I know it's small. I'm sorry. And do  
17 you recognize Appendix A as being the FAC tariff that came  
18 out of the 0318 case? And you're welcome to look at it.  
19 I'm sorry. It's small and we're trying to reach across  
20 the table here.

21 A. It has all but the last sheet of the FAC  
22 tariffs.

23 Q. It doesn't have what I would call a  
24 calculation sheet. You know the one I'm talking about,  
25 right?

1 A. The one with all the numbers.

2 Q. The one with all the numbers. It's the  
3 last sheet of the FAC tariff, right?

4 A. Yes.

5 Q. That's not there?

6 A. Yes.

7 Q. But otherwise, except for the sharing  
8 percentage amount and the actual NBFC rates, this tariff  
9 was agreed upon by the Staff and the company and MIEC and  
10 I think some others that if the Commission approved a fuel  
11 adjustment clause, this tariff with this exact language  
12 was going to be the tariff, right?

13 A. Yes.

14 Q. And so once the Commission issued its  
15 Report and Order and said -- well, let me back up.

16 Once the Commission approved the  
17 Stipulation & Agreement in 0318 case about the -- about  
18 the fuel adjustment clause tariff, once that happened,  
19 that was going to be the tariff, right, except for the  
20 sharing percentage and the NBFC rates themselves, right?

21 A. I suppose if all the parties had found an  
22 error before the Commission issued an order, we could have  
23 changed it.

24 Q. Okay. That's fair. Let me revise my  
25 question. Absent all of the parties finding an error and

1 coming to the Commission and saying, you know, we made a  
2 mistake and we don't want you to approve the FAC tariff we  
3 agreed to attach to the FAC tariff stipulation in the 0318  
4 case, we want you to approve a different one, absent that,  
5 that tariff was the one we were all stuck with, right?

6 MS. OTT: Objection, speculation.

7 THE WITNESS: It was the one we all agreed  
8 to.

9 BY MR. LOWERY:

10 Q. And it's the one we all had to live with,  
11 right?

12 A. Yes.

13 Q. And that tariff required that the kilowatt  
14 hour sales used to determine the NBFC rates were supposed  
15 to be at the generation level, right?

16 A. Yes.

17 Q. And we now know that they were not at the  
18 generation levels, were they?

19 A. They were not.

20 Q. Thank you. You participated in another  
21 meeting involving the company and some others, and again  
22 you may not remember the exact date, but I believe it was  
23 on August 17th, 2010. I think it was in this room, and it  
24 was about the mistake that I've been talking about. You  
25 said -- you said you called it an erroneous calculation.



1 I said it was the same as a mistake. You said yes, right?

2 A. Yes.

3 Q. So just to shorten this up, we, meaning the  
4 company and the Staff, had a meeting in this very room,  
5 Room 810, in August of 2010 to talk some more about that  
6 mistake, correct?

7 A. We had a meeting. I'm not for sure where  
8 it was at.

9 Q. You don't remember?

10 A. (Witness shook head.)

11 Q. Do you remember it was about that time?

12 A. Yes.

13 Q. Okay. And there were numerous folks from  
14 the company there and quite a few people from the Staff  
15 there. Do you remember that?

16 A. Yes.

17 Q. Do you remember who from the Staff was  
18 there?

19 A. Obviously I was there. I believe Nathan  
20 Williams was there. Alan Bax was there. Dan Beck may  
21 have been there, and I believe David Roos was there.

22 Q. John Rogers maybe?

23 A. Yes, he was probably there also.

24 Q. Do you remember who from the company was  
25 there?

1           A.       I'm pretty sure Steve Wills was there. You  
2 were there.

3           Q.       You're right about that.

4           A.       Will Cooper I believe was there. Other  
5 than that, I can't be real certain, but I do know there  
6 were several people from Ameren.

7           Q.       Do you recall that the -- that at that  
8 meeting -- first of all, do you recall that the company  
9 requested that meeting?

10          A.       Yes.

11          Q.       And do you recall that basically at that  
12 meeting what the company was saying to the Staff was,  
13 look, this mistake occurred, is the Staff going to agree  
14 that it should be corrected or not? Is that a fair  
15 characterization of what the company was saying to the  
16 Staff at that time?

17          A.       Yes.

18          Q.       Okay. And there was quite a bit of  
19 discussion. I don't remember how long the meeting went  
20 on, but it went for a while and there was a lot of back  
21 and forth discussion about what happened, should we  
22 correct it, can it be corrected and all those kind of  
23 things. Is that kind of a fair shorthand summary of what  
24 happened?

25          A.       Yes.

1 Q. Do you recall that near the end of that  
2 meeting you were asked a question that in substance was as  
3 follows: If the Staff attorneys were to advise you, you  
4 being Ms. Mantle, that correction of the mistake was okay  
5 from a legal perspective, then would you, Ms. Mantle,  
6 would you be okay with correcting it? Do you remember  
7 being asked that question?

8 A. No, I do not.

9 Q. You don't remember that? You don't  
10 remember? You're not saying you weren't asked the  
11 question, right?

12 A. No. I'm saying I do not remember being  
13 asked that question.

14 Q. But you're not saying that you were not  
15 asked that question, are you?

16 A. No.

17 Q. And since you don't remember being asked  
18 the question, then I'm sure that your answer is going to  
19 be that you don't remember saying, no, I wouldn't object  
20 if the lawyer said it was okay. You don't remember saying  
21 that?

22 A. No.

23 Q. You're not denying that you said it, are  
24 you?

25 A. No.

1 Q. Okay. Fair enough. Now, in your  
2 surrebuttal testimony, I think it's at page 2, you say --  
3 and I think it's lines 18 to 19. You say that it was not  
4 until January 2011 when the Staff, quote, fully understood  
5 why, end quote, this mismatch, this mistake occurred. Is  
6 that your position?

7 A. Yes.

8 MS. OTT: What line was that?

9 MR. LOWERY: I believe it was lines 18 to  
10 19.

11 BY MR. LOWERY:

12 Q. Did I read that accurately?

13 A. Yes.

14 Q. Now, I'm trying to understand that  
15 statement, it was not until January 2011 that the Staff  
16 fully understood why the calculation of the NBFC rates was  
17 in error. Okay?

18 If you knew that the kilowatt hour sales  
19 used to calculate the net base fuel costs were not at  
20 generation --

21 A. I'm sorry to interrupt you.

22 Q. Go ahead.

23 A. We did not know that they were not at  
24 generation.

25 Q. When you say we, who's we?

1           A.       I did not know. Alan Bax was of the  
2     opinion that the loss factors that he had filed would  
3     bring the load up to generation. The staff that ran the  
4     fuel model was not aware that that was at generation.  
5     Anybody that had to do with anything with net system input  
6     did not realize that we had not been provided net system  
7     input. We'd been provided net system outputs, and the  
8     difference was transmission.

9           Q.       All right. Let's peel that back a little  
10    bit. Because you said we and this staff and this person,  
11    so I need to know who we're talking about here. A fuel  
12    model's been run obviously in different cases at different  
13    times, for example, and in different cases at different  
14    times we've dealt with net system input and loads and  
15    those kind of things. I mean, that's fair, right?

16          A.       That is fair.

17          Q.       I mean, we've got to figure out what point  
18    in time we're talking about to figure out what people knew  
19    when; isn't that fair?

20          A.       That's correct.

21          Q.       So when you say that the people that ran  
22    the fuel model didn't know, what people are you talking  
23    about and at what time are you talking about them?

24          A.       I would go back as far as the complaint  
25    case, and --

1 Q. Are you talking about the EC-2002-1 case?

2 A. Yes. That's the last time, to my  
3 knowledge, that we had net system input. At this point in  
4 time, I know that's the last time I believe in a case we  
5 had net system input, and even at that time it wasn't net  
6 system input because we found out late in the case that it  
7 included things other than Ameren's load. But we -- it  
8 was at generation.

9 I believe the next case -- I was trying to  
10 think. The next one I remember was EO-2007-0002.

11 Q. You mean ER-2007-0002, right?

12 A. Yes. I'm trying to remember whether Staff  
13 ran that model or Michael Rahrer did, and that's R-a-h-a-r  
14 (sic), I believe. I know he ran the model for Staff in  
15 some case between -- the complaint case, he didn't in this  
16 case or the prior case. I don't remember which case  
17 exactly, but he would have run it. But then also David  
18 Elliott of the Staff and Leon Bender may have run it in  
19 one of those cases also.

20 Q. Who does Dave Elliott -- well, we're going  
21 to have to go through this in some detail. There's a lot  
22 of different time frames you're bringing up, a lot of  
23 different points in time, different cases and so on. I'm  
24 going to put aside the complaint case for a minute.

25 A. Okay.

1 Q. At the time of the ER-2007-002 case, what  
2 was your job at the Commission? And just to help you  
3 bracket it, that case was filed 3rd of July, I think, or  
4 no, not 3rd. It was the 5th of July, 5th or 6th July,  
5 within a couple days of that in 2006, and it was over with  
6 a Report and Order that came out in late May of 2007.  
7 Just kind of give you a bracket. So what were you doing  
8 at the Commission at that time?

9 A. I believe I was manager of the energy  
10 department. If I wasn't, I was supervisor of the  
11 engineering analysis group, which also had -- which did  
12 the fuel runs for the rate cases.

13 Q. The first or the second group did the fuel  
14 runs?

15 A. Well, the engineering analysis group is a  
16 section in the energy department.

17 Q. I see. Okay. So if you were manager of  
18 the energy department from, say, July of '06 to spring of  
19 '07, then within the org chart below you directly or  
20 indirectly was, what did you call them?

21 A. The engineering analysis section.

22 Q. Engineering analysis, and they were the  
23 guys or the gals who ran the fuel model for the Staff; is  
24 that correct?

25 A. That's correct.

1 Q. So indirectly at least you had  
2 responsibility for the fuel model in that case?

3 A. Yes.

4 Q. Okay. And you're not sure if it was  
5 Mr. Rahrer or somebody else that actually ran the model in  
6 the 0002 case, right?

7 A. Right.

8 Q. Okay. Let's go to the 0318 case, which was  
9 the next case. Same thing, you're manager of the energy  
10 department. The engineering analysis section is a part of  
11 that organization, so directly or indirectly you're  
12 responsible for the fuel model in that case as well?

13 A. Yes.

14 Q. Okay. And do you know who ran the fuel  
15 model in that case?

16 A. That may have been the one Michael ran the  
17 fuel model for. Leon Bender ran -- I'm mixing up. I  
18 don't know for sure but those two cases, the 2007-2008  
19 case.

20 Q. Okay. And then we go to the 0036 case,  
21 which is the next case, same -- if I ask you the same  
22 thing in terms of you were directly or indirectly  
23 responsible because you're the manager of the department  
24 for the fuel run, you would say yes, correct?

25 A. Yes.



1 Q. Okay. And is that true in the case we're  
2 here on today as well?

3 A. Yes.

4 Q. Okay. Now, a minute ago you said that  
5 Mr. Bax, he didn't really understand that the kilowatt  
6 hour sales used to calculate the NBFC rates in the 0318  
7 case, he didn't really understand that they weren't at  
8 generation, right?

9 A. That's correct.

10 Q. He thought that applying loss factors he'd  
11 calculated would bring them up to generation, right?

12 A. Yes.

13 Q. And who else -- who else did you say on the  
14 Staff didn't really understand? You sort of used a  
15 description of categories of people, not names as I recall  
16 it.

17 A. We have Staff that weather normalize the  
18 system input. That was likely Shawn Lange for the 2008  
19 case and the 2010 case.

20 Q. And when you -- I'm sorry to interrupt you,  
21 Ms. Mantle, but when you say the 2008, so it was likely  
22 Shawn Lange for the 0318 case and the 0036 cases?

23 A. Yes.

24 Q. Okay. I'm sorry to interrupt you.

25 A. Walt Cecil is the person in the current

1 case.

2 Q. Okay.

3 A. Shawn likely was the normalization and net  
4 system input person for the 2007 case also.

5 Q. The 0002 case, right?

6 A. Yes.

7 Q. Okay. Go ahead. Who else?

8 A. So he was involved in that conversation.  
9 He takes the normalized billing usage and fits it under  
10 that curve. So the people that do the normalization for  
11 billing and sales really wouldn't have any connection with  
12 it. Alan Bax does calculate loss factors to take the  
13 billing month sales up to generation. So that is why he  
14 is involved, although it was Erin Maloney in the  
15 ER-2007-0002 case because Alan was in Kuwait.

16 Q. All right. Now, you said something a  
17 minute ago that I'm not sure I followed. It was about  
18 people fitting things under curves, and you said they --  
19 something like they weren't really or they wouldn't have  
20 really been involved in it. Who were you talking about  
21 there?

22 A. Okay. We have within the department --

23 Q. You're going to have to put it at the sixth  
24 grade level for me.

25 A. We take the billing month sales as provided

1 by AmerenUE and we do weather norm-- we normalize those  
2 for weather. We calculate a billing adjustment, or a days  
3 adjustment and other types of annualizations. That is  
4 typically done in the economic analysis section of the  
5 energy department. That would have been Curt Wells, Walt  
6 Cecil, Mike Scheperle.

7 Q. Okay. I'm going to stop you right there  
8 just so I can keep up. So it would have been Curt or Mike  
9 or Walt in maybe the 0002 case and the 0318 case and maybe  
10 the 0036 case, would have been one of those three  
11 individuals performing that function, you think?

12 A. It probably was likely to be more than one  
13 because it is more than one adjustment done. Manisha  
14 Lakhanpal.

15 Q. Okay. I recognize that name. They're not  
16 the folks that you're consulting with when you're trying  
17 to figure this out -- when I say this, this mistake, this  
18 mismatch, sort of now or figure it out, you know, as of  
19 January 2011, they're not the folks you were talking to  
20 because that's not really their area, is that fair to say?

21 A. That's fair to say.

22 Q. The people that you were talking with were  
23 Ms. Maloney maybe, Alan Bax, Shawn Lange, David Roos I'm  
24 sure was involved. I know he was.

25 A. Yes.

1 Q. In helping figure this out. You were  
2 involved. Who else?

3 A. Yes. Dan Beck --

4 Q. Okay.

5 A. -- would have been involved in the  
6 conversations also.

7 Q. And so -- all right. So now I want to kind  
8 of circle back a minute. So when you several questions  
9 ago said something like -- and if I don't characterize  
10 this correctly, you tell me I'm not characterizing it  
11 correctly. You said something like we didn't understand  
12 until very recently until January 2011, according to your  
13 surrebuttal testimony, we didn't fully understand that the  
14 kilowatt hour sales used to calculate the NBFC rates in  
15 the 0318 were not at generation. The we is you and  
16 Mr. Beck and Mr. Lange and Ms. Maloney and Mr. Bax and  
17 yourself, and who did I leave out?

18 A. Mr. Roos.

19 Q. Mr. Roos?

20 A. Mr. Roos.

21 Q. Okay. That's the we you're talking about,  
22 that group of folks, right?

23 A. Yes.

24 Q. Okay. So now I understand. And let me  
25 just put a finer point on it if I could. When you talk

1 about on page 2, lines 18-19 what you did not fully  
2 understand, what I think you're saying is that the  
3 Staff -- and the Staff would be those five or six people  
4 you just listed for me, correct?

5 A. Yes.

6 Q. The Staff didn't fully understand -- Staff  
7 didn't fully -- the Staff thought that maybe the kilowatt  
8 hours -- let me put it this way. The Staff thought maybe  
9 the kilowatt hour sales used in the 0318 case to calculate  
10 the NBFC rates were at generation until January. That's  
11 your position, right?

12 A. Yes.

13 Q. Okay. All right. Now, on page 2, lines 2  
14 to 5 of your surrebuttal testimony, you were again talking  
15 about what you -- the realization that you came to -- and  
16 when I say you, I'm again going to talk but you and those  
17 five or six people that we just talked about. Okay?  
18 We're clear about that? Mr. Beck, Mr. Lange, Ms. Maloney,  
19 Mr. Bax, Mr. Roos and you. I think it's six. Is that the  
20 group?

21 A. Yes.

22 Q. Okay. So when the six of you collectively  
23 did come to the realization that, yeah, the kilowatt hour  
24 sales used to calculate the NBFC rates in the 0318 case  
25 were not at generation, when you finally came to that

1 realization in January, you said at page 2, lines 2 to 5,  
2 you said you were able to confirm that Ameren Missouri had  
3 not calculated the NBFC rates, meaning hadn't used sales  
4 at generation, I think is what you're saying, right?

5 A. Yes.

6 Q. Okay. As Staff had originally understood  
7 the calculation to have been done. Okay. When you say  
8 originally understood, what point in time is originally?

9 A. Originally would have been at the time that  
10 they were calculated in the 0318 case.

11 Q. You're talking about probably around  
12 January or February 2009, which is when the compliance  
13 tariffs were being put together; is that fair?

14 A. Yes.

15 Q. Okay. Now, when you say as Staff had  
16 originally understood them, now, who's Staff talking --  
17 who's the Staff there?

18 A. That would be the group of individuals.

19 Q. Okay. Same six people?

20 A. (Witness nodded.)

21 Q. Okay. You've talked to all five of these  
22 other folks about this issue; is that true?

23 A. Yes.

24 Q. Have all five of you met about this issue?

25 A. Yes.

1 Q. When did those -- and I'm not going to try  
2 to go blow by blow necessarily, but if you can just maybe  
3 answer my question, it may be enough information. Did  
4 those meetings take place in late '10, early '11? Did  
5 they start taking place months before? Were there a  
6 series of meetings? Can you give me some sense about this  
7 group getting together to try to figure this out?

8 A. Well, of course, when Ameren asked for  
9 meetings and we did participate, we discussed it some  
10 afterwards. I don't know if we ever all of us got  
11 together and were in a room and discussed it. I do know  
12 that when the true-up case was filed, I believe that's the  
13 0274 case --

14 Q. That's correct.

15 A. -- we did all get together so that, you  
16 know, most importantly Mr. Roos who had filed the Staff  
17 recommendation could understand what was going on.

18 Q. Okay.

19 A. So I know we got together then. Other than  
20 that, I don't know that we were -- there was no formal set  
21 time for meetings or anything. It would be when -- and it  
22 may be two or three of us at a time and the other two or  
23 three trying to get -- so that we could understand what  
24 was going on.

25 Q. Is it fair to say that you asked all five

1 of those individuals or at least the five of you, you  
2 personally know from talking to each of those five  
3 individuals that not any one of them understood that the  
4 kilowatt hour sales that were used to make the NBFC rate  
5 calculations in 0318, none of them understood that those  
6 sales were not at the generation level?

7 MS. OTT: I'm going to object to  
8 speculation.

9 MR. LOWERY: Since I asked her if she  
10 personally knows, I don't think it's speculative. Can you  
11 answer my question?

12 MS. OTT: I thought you were asking if she  
13 knew what they were thinking, that was the question,  
14 but --

15 BY MR. LOWERY:

16 Q. Let me ask the question again so the  
17 record's a little clearer. Did you talk to each of these  
18 five individuals about whether or not they knew or didn't  
19 know that the kilowatt hour sales used to calculate the  
20 NBFC rates in the 0318 case were at the generation level?

21 A. I talked with them. None of them knew that  
22 the sales in the 318 case was not at generation.

23 Q. And you know they did not know that because  
24 you asked them; is that right?

25 A. Yes.



1 MS. OTT: We've been going about an hour  
2 now? Do you mind taking a break for a few minutes?

3 MR. LOWERY: That's fine.

4 (A BREAK WAS TAKEN.)

5 BY MR. LOWERY:

6 Q. Let's look at the stipulation of facts  
7 again. We may have covered some of these points, so give  
8 me just a second.

9 We talked about a minute ago that  
10 Appendix A, which was the exemplar FAC tariff that we all  
11 had agreed to except it didn't have a sharing percentage  
12 filled in and it didn't have NBFC rates filled in and it  
13 didn't have the sheets with all the numbers, right?

14 A. Yes.

15 Q. Appendix A to the FAC tariff stipulation in  
16 0318, which is Exhibit A to the 0274 stipulation of facts,  
17 but this Appendix A is the tariff that was adopted by the  
18 Commission in the 0318 case except the sharing and NBFC  
19 rates, right?

20 A. I believe it is.

21 Q. So once the Commission approved this  
22 stipulation, approved the FAC for the company, the next  
23 task, one of the next tasks had to be calculate the NBFC  
24 rates, right?

25 A. Correct.

1 Q. We couldn't leave Xs. I think there's --  
2 if you look on sheet -- if you look on sheet 98.5, we've  
3 got Xs for the two NBFC rates in this exemplar tariff,  
4 right?

5 A. Yes.

6 Q. So we had to calculate the numbers that go  
7 in there, correct?

8 A. Yes.

9 Q. Were you involved in the calculation of  
10 those numbers, those NBFC rates back in -- well, let me  
11 back up.

12 Would you agree that it was probably -- do  
13 you remember if the Commission's Report and Order came out  
14 in late January of 2009 in that case?

15 A. I really don't remember.

16 Q. All runs together, doesn't it?

17 A. Yes.

18 Q. I want you to assume it came out in late  
19 January of 2009 for purposes of my questions. Would you  
20 agree that sometime shortly thereafter somebody had to  
21 calculate these rates, right?

22 A. Yes.

23 Q. NBFC rates I should say just to be clear,  
24 correct?

25 A. Yes.

1 Q. Were you involved in the calculation of  
2 these NBFC rates at that time?

3 A. I didn't do the calculations myself. I did  
4 ask auditors who were aware of what was in the different  
5 accounts listed there to check over the work papers, I  
6 believe, that were supplied by Mr. Weiss, but I myself, I  
7 did not do any of the calculations.

8 Q. Who did the calculations?

9 A. I believe Mr. Weiss did it. Auditors would  
10 have checked them, which would likely have been Steve  
11 Rackers, maybe Greg Meyer.

12 Q. Was Mr. Meyer, he was still Staff at that  
13 time, I guess; is that correct?

14 A. I believe so.

15 Q. Okay.

16 A. And I do believe he was case coordinator of  
17 that case. So they would have looked at the numbers. I  
18 know that I saw from -- I just looked over it and couldn't  
19 see any problems with it.

20 Q. Okay. We'll talk about that in just a  
21 minute. How do you know -- you just described to me that  
22 you think Mr. Weiss calculated something, you called it a  
23 work paper, sent a work paper to the Staff. Is that right  
24 so far? Is that your understanding so far?

25 A. That -- I don't explicitly remember seeing

1 Mr. Weiss' work paper. That's typically how --

2 Q. So you don't --

3 A. -- it's done. No, I did not see, I did not  
4 get a spreadsheet as an e-mail from Mr. Weiss. That was  
5 done through the auditors.

6 Q. And I'm not trying to be argumentative with  
7 you about this at all, but is it fair to say you don't  
8 really know how the calculation came to be made; is that  
9 true?

10 A. I know that different pieces of it came  
11 from the fuel run. Other pieces of it came from either  
12 agreements that the Staff and the parties had, and those  
13 costs were divided by the number of days to do a  
14 summer/winter split, but the fuel costs were done by the  
15 monthly results of the fuel run.

16 So I'm not -- while I did not specifically  
17 do the calculation, I can't say that I'm totally oblivious  
18 to what went on in it.

19 Q. I understand, but I'm -- I'm really at a  
20 very basic level, very basic question here. Somebody had  
21 to take all the information you just talked about, fuel  
22 run results, there are components of net base fuel costs  
23 that don't have anything to do with the fuel run, right?

24 A. Yes.

25 Q. Like Westinghouse credits and capacity

1 charges and stuff like that, right?

2 A. Taum Sauk factor.

3 Q. Taum Sauk factor, stuff like that. So  
4 somebody had to take all that information -- you know, you  
5 might have a legal pad and you have 15 things on there, 15  
6 pieces of information. Somebody has to take that, add it  
7 all up, or some of it's revenue, some of it's cost and net  
8 it all out and come up with a dollar figure, correct?

9 A. Correct.

10 Q. And then somebody's got to divide that  
11 dollar figure by some kilowatt hour sales, correct?

12 A. Correct.

13 Q. And, in fact, by two different sets of  
14 kilowatt hour sales, one for the summer periods and one  
15 for the winter periods, right?

16 A. Correct.

17 Q. So all those revenues and expenses that  
18 would come with the dollar figure got to come from  
19 somewhere, and kilowatt hour sales have to come from  
20 somewhere, and somebody has to with a slide ruler or a pen  
21 and paper or spreadsheet or something, they have to  
22 calculate a cents per kilowatt hour, two cents per  
23 kilowatt hour figures, right?

24 A. Correct.

25 Q. And my very simple question is, you don't

1 have personal knowledge of exactly how all that took  
2 place, do you?

3 A. No.

4 Q. Or who exactly did it?

5 A. No.

6 Q. Or where they got all of those inputs that  
7 they need for the calculation?

8 A. No.

9 Q. Okay.

10 A. I do know that most of them were agreed to  
11 in a fuel stip, I believe, in that case.

12 Q. And --

13 A. It may have been the same one that's  
14 attached to --

15 Q. Well, your memory's pretty good. There is  
16 a second Stipulation & Agreement from the 0318 case, which  
17 is Exhibit B to the stipulation of facts in the 0274 case,  
18 and is that the one that you're talking about that has a  
19 lot of the agreed-upon values? You're free to look at it.

20 A. If it's attached to this case, I will say  
21 yes, it is the right one.

22 Q. Well, you might have gone too far.  
23 Exhibit B to the 0274 stipulation is the Stipulation &  
24 Agreement as to off-system sales related issues. Do you  
25 see that?

1 A. Uh-huh.

2 Q. Do you recognize that stipulation?

3 A. Yes.

4 Q. Yes, you recognize it, correct?

5 A. Yes.

6 Q. Is that the stipulation you were talking  
7 about a minute ago that there was another stipulation  
8 where a lot of things had been agreed to --

9 A. Yes.

10 Q. -- that go into that dollar figure that I  
11 was talking about that you have to have to calculate these  
12 NBFC rates?

13 A. Yes.

14 Q. Do you know where the kilowatt hour sales  
15 that were used in the NBFC rate calculation in the 0318  
16 case, do you know where they came from?

17 A. Yes.

18 Q. Where?

19 A. They were an output of real-time fuel  
20 model.

21 Q. Real-time fuel model being the Staff's fuel  
22 model, right?

23 A. Yes.

24 Q. And they were an output of a particular  
25 Staff fuel model run which the parties under one or more

1 of these stipulations we're talking about in that case had  
2 agreed to those fuel runs, right?

3 A. Yes.

4 Q. Just so that you're oriented here, I'm  
5 showing you, and just verify that I'm showing you -- what  
6 I'm showing you is accurate, that I'm not making this up.  
7 Okay? I'm again showing you the Stipulation & Agreement  
8 as to all FAC tariff rate design issues from the 0318  
9 case, correct?

10 A. Yes.

11 Q. And you recognize this document and you're  
12 familiar with it, right?

13 A. Yes.

14 Q. And on page 3, in paragraph C, would you  
15 read page 3, paragraph C of that stipulation into the  
16 record?

17 A. The summer NBFC rate and the winter NBFC  
18 rate will be calculated by dividing allocated summer and  
19 winter net base fuel cost by normalized summer and winter  
20 kilowatt hour sales, paren, at the generation level, close  
21 paren.

22 Q. It goes on, correct?

23 A. Yes. Respectively, as determined in  
24 Staff's simulation model run attached as Appendix A to the  
25 OSS stipulation.



1 Q. Thank you. That's all of paragraph C  
2 starting on page 3, carrying over to page 4 of the FAC  
3 rate design stipulation in the 0318 case, right?

4 A. Yes.

5 Q. And do you understand or do you agree with  
6 me that the reference to the OSS stipulation in the  
7 passage you just read is a reference to the Stipulation &  
8 Agreement as to off-system sales related issues in the  
9 0318 case?

10 A. Yes.

11 Q. So what that means is that the fuel run  
12 results that are attachments to the OSS stipulation are  
13 where the kilowatt hour sales for the NBFC rate  
14 calculations came from, right?

15 A. That is correct.

16 Q. And we, being the company and the Staff and  
17 maybe some other parties, agreed that those are the sales  
18 we were going to use, right?

19 A. Yes.

20 Q. So whoever, whether it be one person or  
21 more than one person, calculated the NBFC rates got the  
22 sales that they used from the Staff's fuel model run?

23 A. Yes.

24 Q. And you didn't know it until January 2011,  
25 according to your testimony, but as it turns out, those

1 kilowatt hour sales were not at the generation level?

2 A. That's correct.

3 Q. Refer you to page 3 of your surrebuttal  
4 testimony. I think you claim on page 3 that the company  
5 made some changes to its, what you refer to as its 3.190C  
6 or 1C data; is that right?

7 A. Yes.

8 Q. I'm going to hand you -- I guess we should  
9 mark this for the record.

10 (MANTLE EXHIBIT NO. 2 WAS MARKED FOR  
11 IDENTIFICATION BY THE REPORTER.)

12 BY MR. LOWERY:

13 Q. I'm going to hand you what's been marked as  
14 Deposition Exhibit 2 and ask you if you recognize that  
15 document.

16 A. It includes 4 CSR 240-3.190, reporting  
17 requirements for electric utilities and rural electric  
18 cooperatives.

19 Q. And on line 6 and line 8 on page 3 of your  
20 surrebuttal testimony, that's the regulation you're  
21 referring to, isn't it?

22 A. Yes.

23 Q. Did you mean 1D?

24 A. Yes.

25 Q. Okay. So when it says 1C in your

1 surrebuttal testimony, it's 3.190(1)(d) is what you meant,  
2 correct?

3 A. I'm not certain. I believe we've had an  
4 updated 3.190 since.

5 MR. LOWERY: Ms. Ott, would you mind if I  
6 grab your regulation books or you would right off your  
7 shelf there, as luck would have it? Thank you.

8 BY MR. LOWERY:

9 Q. Ms. Mantle, what revision down at the  
10 bottom on Exhibit 2, what revision of the regulation does  
11 that document indicated it to be?

12 A. It was effective April 30th, 2004. I know  
13 we have --

14 Q. I bet I have an old version. You're  
15 probably right. Do you remember what changed? Let me  
16 strike that.

17 I'm going to hand you, I believe, the Staff  
18 Counsel's copy of the Code of State Regulations, and I  
19 believe I've turned to the page that has 240-3.190; is  
20 that correct?

21 A. Yes.

22 Q. Did I find it? And the revision in that  
23 one's 7/31/2010, correct?

24 A. Yes.

25 Q. Do you -- Ms. Mantle, you're pretty

1 familiar with this rule, I take it, are you not, this  
2 particular one?

3 A. Yes.

4 Q. You probably had a lot to do with writing  
5 it or at least revising it when it was revised?

6 A. Revising it, yes.

7 Q. What in substance, if it isn't too much  
8 trouble to explain, changed between the version I showed  
9 you in Deposition Exhibit 2 and the version we're looking  
10 at here in the Staff Counsel's Code of State Regulations?

11 MS. OTT: I'm just going to object to  
12 relevance. This is beyond the scope of whatever issues  
13 she testified to as well as what the deposition should go  
14 into.

15 BY MR. LOWERY:

16 Q. Well, let me ask it this way. Try to speed  
17 it up. Is there anything that changed in the 3.190 rule  
18 in the revisions reflected in the book you have in front  
19 of you versus Deposition Exhibit 2, is there anything that  
20 changed that's related to this net system input, this  
21 reporting issue that you've raised in your surrebuttal  
22 testimony?

23 A. No.

24 Q. And so your surrebuttal testimony in  
25 referring to subsection C is correct?

1 A. Yes.

2 Q. Okay. So apparently something before the  
3 old subsection D got combined or taken away; is that fair  
4 to say?

5 A. I believe it was the subsection B report  
6 was removed.

7 Q. In fact, as you just testified, do you  
8 recall that, in fact, 3.190 subsection 1 in parens up to  
9 the old subsection D, the new version is the same as the  
10 old one except the old subsection B was taken out? Do you  
11 recall that?

12 A. I believe that's correct. There were other  
13 changes further back in the rule.

14 Q. What used to be subsection D in Deposition  
15 Exhibit 2 is exactly the same as what is now subsection C  
16 in the current rule; is that true?

17 A. Yes.

18 Q. Thank you. My mistake. Now, back to my  
19 original question before I diverted us too much there, at  
20 lines 6 and 7 and 8 because they sort of carry over on  
21 page 3 of your surrebuttal testimony, you essentially  
22 claim that the company had changed its 3.190(1)(c) data,  
23 right?

24 A. Yes.

25 Q. And you said that the Staff uses that data

1 from those reports to determine the net system input that  
2 it uses in its production cost modeling?

3 A. Yes.

4 Q. Okay. And you indicated that you think  
5 that the data in 3.190 reports reported hourly loads at  
6 the transmission level?

7 A. I believe that now, yes.

8 Q. And you believe it now. When did the 3.190  
9 data, at least as you understand it, include data at the  
10 transmission level?

11 A. I believe sometime between the end of the  
12 complaint case and the 2007 case. I don't know when it  
13 switched. It had to do with MISO. We weren't notified of  
14 when it switched. We haven't taken the time to go back  
15 and find out exactly when it switched.

16 Q. So it's your testimony that at least back  
17 at the time of the complaint case in 2000, 2001,  
18 thereabouts, that the 3.190, would have been (1)(d) data  
19 then but it's (1)(c) data now, that the data the company  
20 was supplying was at the generation level at that time?

21 A. That it -- I found out in the complaint  
22 case that it was not as what we had thought it was. It  
23 contained hourly requirements of some cooperatives that  
24 were within Ameren's control area in Illinois. So it  
25 really wasn't even then what the rule required it to be.

1 Q. I understand, but that wasn't my question.

2 A. Okay. It wasn't net system input then.

3 Q. Okay. But that wasn't my question. My  
4 question was, that the AmerenUE loads within that 3.190  
5 data that you were being given back at the time of the  
6 complaint case, whether there were other loads of coops or  
7 so on in that or not, but the Ameren Missouri loads in  
8 there were at the generation level. You did understand  
9 that, correct?

10 A. There were not AmerenUE loads. The load  
11 that was given was more than just AmerenUE. I do agree  
12 that some -- as a part of that load, that I believe was  
13 Ameren control area and was at the generation level.

14 Q. Okay. The loads that were in there were at  
15 the generation level was your understanding?

16 A. Yes.

17 Q. Okay. And you think that sometime, maybe  
18 coinciding with the start of the MISO market, that the  
19 3.190 data that the company was providing was no longer at  
20 the generation level but rather was at the transmission  
21 level?

22 A. Yes.

23 Q. And you think that why?

24 A. Because Ameren employees have told us that  
25 that is what it is now. And I also believe that because

1 the loss factor that was calculated in the ER-2007-0002  
2 case was actually a little over 5 percent, which at the  
3 time I thought was very low to be -- to take from -- to go  
4 from second -- to have all the way to generation. I  
5 thought that was low. My staff said, given the data that  
6 we've got, we have no reason to believe that it's wrong.  
7 We filed it. AmerenUE did not tell us any different.

8 But looking back now, it makes more sense  
9 to me that at that time those were losses up to  
10 transmission, not generation. So that's what I'm basing  
11 that on.

12 Q. Okay. You gave me two bases. I want to  
13 talk about the one you just talked most about first, then  
14 I'll go back to the other one.

15 A. Okay.

16 Q. You thought that the roughly 5 percent loss  
17 amount seemed too low to you, right?

18 A. Yes.

19 Q. And that if it had -- if the loads actually  
20 had been at generation, would have been something higher,  
21 I don't know, a couple percent higher or something like  
22 that?

23 A. Around 6 percent, 6 to 6 and a half  
24 percent.

25 Q. Okay. So that's -- so you've deducted from



1 that with hindsight now that the 3.190 data must not have  
2 been at generation because that percentage seemed too low  
3 to you now, and now that you've learned some things,  
4 you've deducted that that data must not have been at  
5 generation back, I guess, at the time of the 0002 case,  
6 right?

7 A. Yes.

8 Q. But you haven't actually verified whether  
9 the 3.190 data was or was not at generation; is that true?

10 A. No, I have not.

11 Q. Okay. And since you haven't verified it --  
12 and I have no idea, but I'm just using some deductive  
13 reasoning myself. Since you haven't verified that the  
14 3.190 data back at the time of the 0002 case was or was  
15 not at generation, and you know the 3.190 data at least at  
16 an earlier time was at generation, even though say it had  
17 some other stuff in there, you don't know if the company  
18 changed its 3.190 data or not, do you?

19 A. I'm not sure how to answer that question.  
20 It changed at what level it was reporting to obviously  
21 sometime between the complaint case and the current case  
22 where now we've realized, we've been told that it's -- by  
23 AmerenUE again, and I guess it was -- we were told at the  
24 last case that it was at transmission. So it changed  
25 sometime during that period.

1 Q. Well, let me try again. You told me a  
2 minute ago that you haven't verified whether the 3.190  
3 data back at the time of the 0002 case was at generation  
4 or not?

5 A. That's correct.

6 Q. If you haven't verified at what level that  
7 data was reported, generation versus transmission, then  
8 you don't know if the company changed its 3.190 data for  
9 the 0002 case versus the complaint case. You don't know,  
10 do you?

11 A. No.

12 Q. Okay. And I ask about this to such a  
13 degree because your testimony, your surrebuttal testimony  
14 says the company has, quote, repeatedly misrepresented,  
15 end quote, the data, and when you say that, you mean the  
16 3.190 data, don't you?

17 A. Yes, I do.

18 Q. But it's your testimony here today that you  
19 don't know for sure if the company changed the 3.190 data;  
20 isn't that true?

21 A. I know in the 2000-- or in the complaint  
22 case, it misrepresented it to me. I've talked with my  
23 staff person that deals with this data, takes it in and  
24 works on it, and she is currently confused because it  
25 changes every month. Every two or three months she gets

1 something new and it's not explained.

2 Q. All right. Let's go back and explore that.  
3 So the repeated misrepresentation is what? The alleged  
4 repeated misrepresentation is what? Because you just told  
5 me something different than a change from generation to  
6 transmission level.

7 A. I know she showed me this morning the April  
8 data. She is not convinced of what any of that data is.  
9 There's no data says this is the net system input.  
10 There's hourly data. I know that. I know that in the  
11 complaint case the net system input that was told to me  
12 was net system input was not net system input.

13 Q. All right. Let me stop you there. Who  
14 and/or how were you told in the complaint case that the  
15 3.190 data was net system input?

16 A. I probably issued a DR. I do not know who  
17 responded to that DR.

18 Q. What did your DR say?

19 A. Please provide net system input for, and I  
20 gave the time period.

21 Q. And what was the response?

22 A. I don't know. I don't know if they  
23 actually sent me data or I used the 3.190 data. At that  
24 time it was Chapter 22.080 data. Often we would send DRs  
25 and it would say, please send us the data. If the 3. --

1 excuse me -- 22.080 data that we currently have meets this  
2 requirement, just let us know and we will use that data.  
3 It's the same requirement. It just moved from Chapter 22  
4 to Chapter 3.

5 Q. Okay. The 22.080 requirement moved to  
6 3.190?

7 A. Actually, it's 20.

8 Q. Pardon me. 20. I'm sorry.

9 A. I probably said 22.

10 Q. That's all right. So it's your testimony  
11 here today that you don't know who back in, say, 2001-2002  
12 told you that I guess at that time the 20.080 data, yeah,  
13 080 data, you don't know who told you that that data was  
14 net system input, correct?

15 A. I do not recall who at Union Electric would  
16 have told me that.

17 Q. You're not sure whether you -- you are sure  
18 that you asked a DR for that or you're not sure?

19 A. I believe I did. I -- no, I cannot say  
20 100 percent sure because sometimes I just used the 3.190  
21 data because it comes in being sworn to that it, in fact,  
22 is the data that it is represented to be.

23 Q. You might have just grabbed the 3.190 data  
24 and used it without asking a DR? You don't know, right?

25 A. I would have taken a column that said net

1 system input at that time.

2 Q. Okay. So your allegation of repeated  
3 misrepresentation wasn't necessarily that the company used  
4 to provide the data at generation and then changed to  
5 providing it at transmission; it was that it really had to  
6 do with this the data was the Ameren control area, not  
7 only Ameren load. Am I understanding you correctly?

8 A. No. I believe that at one time we were  
9 supplied net system input at generation, and that is what  
10 I've been told by AmerenUE people.

11 Q. Who told you?

12 A. I believe it was Steve Wills.

13 Q. When?

14 A. I cannot come up with a date. It's  
15 sometime in this discussion. I actually remember him  
16 saying, Lena, you should have realized it when you got the  
17 data, which I remember that because I was thinking, how  
18 can I look at every bit of data that comes in to the  
19 Commission. We've been told that it switched sometime  
20 when they started in MISO from generation to transmission.  
21 I do not know the exact time.

22 Q. Now, the content and the format of the  
23 3.190 data, by agreement with the Staff and with the MIEC  
24 and the company, that actually, I think in the spring of  
25 2010, the content and the format actually changed, did it

1 not, what the company's been sending you since the spring  
2 of 2010?

3 A. I believe in the last case AmerenUE did  
4 agree to provide that data, some additional data with  
5 respect to market prices, and that was to be provided to  
6 Staff, MIEC and I believe Office of the Public Counsel. I  
7 thought it had more to do with market prices than net  
8 system input.

9 Q. I could be mistaken. I had understood --  
10 and you just tell me if you think my understanding's wrong  
11 or that you don't know. I had understood that as part of  
12 the 3.190 data reporting, the company actually changed  
13 what it was reporting starting last spring. Do you think  
14 that I'm mistaken about that?

15 A. I believe it was in addition to what is  
16 currently in 3.190.

17 Q. In addition to what the company was already  
18 providing?

19 A. In addition to the requirements of 3.190.

20 Q. I understand that, but that's a little bit  
21 different. Did the company continue to provide  
22 essentially exactly what it was providing before that  
23 agreement was reached and then some additional stuff or  
24 did the company change the pre-existing information in  
25 some way in terms of the content of it or the format of it

1 on a going-forward basis?

2 A. We don't specify the format that data is  
3 provided to us. Over the years it has changed many times,  
4 the format of it. It may have changed when it was agreed  
5 that additional information would be given to us. I'm --  
6 I do not look at that data every month when it comes in.  
7 I cannot say.

8 Q. When you talk about a change that the  
9 company did not tell the Staff about, you know what I'm  
10 talking about?

11 A. Yes.

12 Q. I don't have exact reference, but you agree  
13 that you said the company made a change in its 3.190 data  
14 and didn't tell us?

15 A. Yes.

16 Q. Precisely what change are you alleging was  
17 made and you weren't told about?

18 A. Going from net system input, which is at  
19 generation, to what now we realize AmerenUE calls net  
20 system output, which is at transmission.

21 Q. And you think that the company used to  
22 give -- used to give data at generation in the 3.190 and  
23 then changed and stopped giving data at generation in the  
24 3.190 reports?

25 A. I know they used to give it at generation

1 because we could add up the hourly generation, add the  
2 hourly purchases, subtract the hourly sales and get the  
3 net system -- the NSI, net system input.

4 Q. Okay. Now, the information -- it's your  
5 contention that the information that the Staff used to  
6 develop its loads that ultimately ended up in the  
7 production cost model in the 0002 case, I'll talk about it  
8 for now, was this net system output as you say Ameren  
9 Missouri calls it, AmerenUE calls it, from the company,  
10 right?

11 A. Yes.

12 Q. That came out of these 3.190 reports,  
13 correct?

14 A. Yes.

15 Q. And you say that because that data was at  
16 the transmission level, but you mistakenly thought it was  
17 at the generation level, that that's why in those fuel  
18 runs or later fuel runs, maybe in the 0318 case for  
19 example, that's why the Staff didn't realize that the  
20 kilowatt hour sales used to calculate the NBFC rates were  
21 not at generation, right?

22 A. That in addition to the fact that wrote  
23 testimony that said the loss factor brought it up to  
24 generation, we wrote testimony that said this was net  
25 system input, and we were never rebutted on that. The



1 company never came back and corrected us, both in the 0002  
2 case and the 0318 case.

3 Q. Am I correct that the 3.190 rule does not  
4 contain a definition of net system input?

5 A. That's correct.

6 Q. How do you contend -- why do you contend  
7 that your definition of net system input is the  
8 controlling definition? When I say yours, I guess I'll  
9 say Lena Mantle's.

10 A. Because AmerenUE started calling it net  
11 system output when it was at transmission level. I  
12 believe they were very much aware of the difference  
13 between net system input and what they were giving us.

14 Q. Did you ever ask them if what they call net  
15 system output and what you call net system input, whether  
16 it's the same thing or not?

17 A. No.

18 Q. So when you say you believe they're aware  
19 that they are different, at least in your mind, that's a  
20 belief, that's an opinion, that's your speculation, right?

21 A. Yes.

22 Q. So given that the kilowatt hour sales used  
23 in the production cost model probably in the 0002 case and  
24 I think we now know in the 0318 case, given that those  
25 kilowatt hour sales were not at generation, then the

1 mismatch that ended up happening was sort of fait  
2 accompli, and it was -- once that mistake took place, once  
3 that fact happened, then we were bound to have a mismatch,  
4 weren't we?

5 A. I'm not for sure what the Latin meant that  
6 you used.

7 Q. I'm sorry. An accomplished fact.

8 A. They don't teach us Latin in engineering  
9 school. Yes, the fact that we had the fuel cost at one  
10 level and the kilowatt hours at a different, there was  
11 going to be a mismatch going forward if the accumulation  
12 sale was indeed brought up to generation.

13 Q. Right. And the FAC tariff from the 0318  
14 case said the kilowatt hour sales for the accumulation  
15 period were supposed to be at generation, right?

16 A. As well as the generation that cal-- what  
17 was calculated in the NBFC rate.

18 Q. Right. When did you personally come to  
19 understand that once the MISO market started, transmission  
20 losses were handled differently?

21 A. I wasn't convinced until this January.

22 Q. Okay. Mr. Wills -- I'll hand you again  
23 Exhibit 1 from the deposition. Mr. Wills specifically  
24 talked about that issue at the Brubaker meeting in May of  
25 2010, I guess, right?

1 A. He provided that, yes, at the meeting.

2 Q. Do you remember that he talked -- he  
3 explained that once the MISO market started, that  
4 transmission losses were handled differently than they had  
5 been in the pre-MISO world, right?

6 A. Yes.

7 Q. And, in fact, if we look at the fourth page  
8 of Exhibit 1, there is a -- there's a triple asterisk that  
9 is sort of a footnote back to the off-system sales row.  
10 Do you see that?

11 A. Yes.

12 Q. And do you understand today that what that  
13 triple asterisk and the information on this slide is  
14 telling you is that transmission losses are actually  
15 treated like revenues from off-system sales generally in  
16 the MISO market world?

17 A. Yes.

18 Q. So if you have a definition -- let me back  
19 up.

20 I think you said that net system input is  
21 generation plus purchases -- I'm going to ignore  
22 inadvertent flows. You probably didn't think I even knew  
23 anything about those. Can we ignore those for purposes of  
24 this discussion?

25 A. Yes.

1 Q. So net system input is generation plus  
2 purchases minus sales, right?

3 A. That's the way it was in the pre-MISO.

4 Q. Okay. And -- or you could express it as  
5 generation plus purchases plus net interchange. Is that  
6 another way of looking at it?

7 A. Yes.

8 Q. And is net interchange purchases minus  
9 sales?

10 A. Yes.

11 Q. I guess it could be that the plus and minus  
12 signs could be flipped the other way, but for Ameren  
13 Missouri or AmerenUE that's not likely given its  
14 particular mix of generation and how little purchased  
15 power it buys, right?

16 A. For use by itself, yes.

17 Q. Okay. So if net system input is generation  
18 plus purchases minus sales, and if transmission losses are  
19 part of sales, then calculating net system input like the  
20 company is calculating it means the same thing, doesn't  
21 it?

22 A. This is where we were confused because we  
23 thought we had net system input at generation, and that's  
24 why we could never -- I mean, until January, Staff experts  
25 were not convinced that it was -- it wasn't at generation,

1 and we had been told for so many years that that net  
2 system input was at generation. It took us a while to get  
3 past that.

4 Q. I understand, but I want to go back to my  
5 question. If net system input equals generation plus  
6 purchases minus sales, and if sales includes transmission  
7 losses, and they do include transmission losses in the  
8 post-MISO market world, correct?

9 A. Yes.

10 Q. Then net system input equals generation  
11 plus purchases minus off-system sales of energy made to  
12 third parties minus transmission losses, the revenues from  
13 the transmission losses, because the revenue from  
14 transmission losses is part of the sales, isn't it?

15 A. It's my understanding it's different  
16 post-MISO because the hourly loads are at transmission.  
17 Generation and off-system sales are at generation, but  
18 hourly loads are at transmission. So when you're talking  
19 about net system input, that's the hourly load  
20 requirements that AmerenUE is required to meet, and MISO  
21 measures that at transmission, but generation, off-system  
22 sales is at generation.

23 That is -- so I'm -- given that, I believe  
24 that now, it's harder for me to reconcile that sim-- it's  
25 not that simple equation anymore because we've got MISO in

1 the mix.

2 MS. OTT: Just for the record, since we've  
3 been going at least another hour since I made my  
4 continuing objection related to NBFC rates related to the  
5 true-up case in ER-2010-0274, I still stand on my  
6 objection to any of this line of questioning which should  
7 have been asked in the first deposition as Ms. Mantle  
8 brought this as one of her main issues for the sharing  
9 mechanism in her direct case. But since we're going over  
10 an hour on this issue, I'm just going to keep --

11 MR. LOWERY: I'll try not to add too much  
12 more time. She didn't claim that the company had  
13 repeatedly misrepresented data under 3.190 until her  
14 surrebuttal testimony, and that's why we're having this  
15 long discussion.

16 BY MR. LOWERY:

17 Q. I'm going to try my question again. If  
18 sales in the MISO market include revenues from the  
19 off-system sales, the megawatt hours sold off-system  
20 actually taken by a counterparty or actually sold into the  
21 market generally, and also include sales revenues from the  
22 transmission losses that are settled financially, then I  
23 could define net system input as generation plus purchases  
24 minus all of those sales, couldn't I?

25 A. You could.

1 Q. And you didn't -- again, I'm sorry.  
2 Probably I've asked this question, but -- or something  
3 like it. You didn't really understand that the MISO world  
4 had changed all of this until -- maybe you started getting  
5 some understanding when Mr. Wills talked to you about it  
6 at the Brubaker meeting, but you didn't fully understand  
7 it until January of this year; is that true?

8 A. That's true.

9 Q. Let me make sure I understand something.  
10 When the Staff or the company runs their respective  
11 production cost models for the purpose of attempting to  
12 establish a normalized level of net fuel costs, and that's  
13 why they do it, right?

14 A. Yes.

15 Q. What kilowatt hours should be used? What  
16 kilowatt hour sales should be used? You'd say net system  
17 input, right, the way you define it; is that true?

18 A. For Ameren, it should be at transmission,  
19 because the transmission losses are a financial  
20 transaction that takes place between MISO and Ameren.

21 Q. Okay. You didn't have that opinion until  
22 January, I guess, of this year, right?

23 A. That's right.

24 Q. You would have -- if I'd asked you that  
25 question in December, you would have said it should have

1 been at generation? Well, let me go back before last May.  
2 How about that? Before last May, you would have said it  
3 should have been at generation?

4 A. Yes.

5 Q. If I'd asked you that question in December,  
6 you might have scratched your head a little bit and gone,  
7 hmm, I'm not sure; is that fair to say?

8 A. I would have most likely said it should be  
9 at generation, but there was some contention about that  
10 that we were trying to understand.

11 (MANTLE EXHIBIT NO. 3 WAS MARKED FOR  
12 IDENTIFICATION BY THE REPORTER.)

13 BY MR. LOWERY:

14 Q. I'm going to hand you Deposition Exhibit 3  
15 and ask you if you could identify that document, please?

16 A. That's the direct testimony of Erin Maloney  
17 in ER-2007-0002.

18 Q. And at that time, and I think today,  
19 Ms. Maloney, probably not one of your direct reports, but  
20 she works in your department or she's within your -- the  
21 organization tree that your department is over; is that  
22 true?

23 A. That is true.

24 Q. So in the 0002 case, it was Ms. Maloney who  
25 was responsible for the net system inputs, the loads that



1 were used in the Staff's production cost modeling run; is  
2 that true?

3 A. No.

4 Q. Okay. Why is it not true?

5 A. She was responsible for the loss factor and  
6 the allocation factors.

7 Q. Okay.

8 A. I believe it was most likely Shawn Lange  
9 that was responsible for the net system input.

10 Q. Okay. Did Mr. Lange use information that  
11 she got -- that he got from Ms. Maloney?

12 A. Yes.

13 Q. So she had a role in the calculation,  
14 determination of the kilowatt hour sales that Mr. Lange  
15 developed for use in the production cost model; is that  
16 the accurate way to say it?

17 A. She provided an energy loss, the average  
18 energy loss factor that was to bring the normalized  
19 annualized billing month sales to generation, is what we  
20 thought it was at the time, for use in the fuel run.

21 Q. Okay. Where did Mike Proctor fit in the  
22 mix of all these departments at this time?

23 A. He was in St. Louis working primarily with  
24 SPP and MISO.

25 Q. Back at that time?

1 A. I believe so.

2 Q. The reason I ask that is he had a lot of  
3 testimony off-system sales and fuel adjustment clause in  
4 this particular case that we're talking about.

5 A. We pulled him in on that.

6 Q. Okay. Fair enough. Ms. Maloney -- you can  
7 go ahead and keep that. I've got another copy. If you  
8 take a look at, oh, I think if you start page 2, line 15,  
9 carry over to the next page, in a nutshell, she is  
10 describing this net system input calculation that you and  
11 I were talking about a few minutes ago, right?

12 A. Yes.

13 Q. Do you see line 18 and 19 on page 3 of  
14 Deposition Exhibit 3?

15 A. Yes.

16 Q. She says that net system input was provided  
17 by the company in response to Staff Data Request No. 137.  
18 Do you see that?

19 A. Yes.

20 Q. So when she says that, what she's saying is  
21 the company provided kilowatt hour sales at generation,  
22 right?

23 A. It was most likely megawatt hour sales.

24 Q. I'm sorry. Yeah, megawatt hour sales. Let  
25 me just make sure the record's clear. So when she says

1 the NSI was provided by the company in response to Staff  
2 Data Request 137, she's saying that the company -- that  
3 the data that the company provided in response to Staff  
4 Data Request 137 was the net system input that she used;  
5 is that right?

6 A. Yes.

7 Q. And it all makes sense to me now.

8 (MANTLE EXHIBIT NO. 4 WAS MARKED FOR  
9 IDENTIFICATION BY THE REPORTER.)

10 BY MR. LOWERY:

11 Q. Hand you what's been marked Deposition  
12 Exhibit 4. Ask you if you recognize that document?

13 A. The cover page is Staff's Report Cost of  
14 Service in Case ER-2008-0318. It was filed August 28th,  
15 2008. It looks like the section that was pulled out,  
16 Section 3, hourly net system input.

17 Q. And then page --

18 A. It goes --

19 Q. I'm sorry.

20 A. -- through losses and starts on payroll.

21 Q. And am I correct that Mr. Bax -- and the  
22 two sections that you just pointed to are Sections 3 and 4  
23 on pages 40 and pages 42, and Mr. Bax was responsible for  
24 those portions of the report?

25 A. Shawn Lange was responsible for the net

1 system input.

2 Q. Okay.

3 A. Mr. Bax was responsible for the loss  
4 calculation.

5 Q. And that makes sense because I think you  
6 said before Mr. Bax was in National Guard or something  
7 back when Ms. Maloney did this in the 0002 case but  
8 Mr. Bax normally did it, right?

9 A. That's correct.

10 Q. And on page 42 and 43, mostly page 42 of  
11 Exhibit 4, Mr. Bax basically word for word in substance  
12 has that same discussion of what net system is that  
13 Ms. Maloney had in the 0002 case, right?

14 A. Yes.

15 Q. Go back to Exhibit 3, if you would,  
16 Ms. Maloney's testimony. We talked about before the fact,  
17 and she had said this in her testimony, and if you look at  
18 that exhibit, you're going to see -- I'm sorry. It's a  
19 schedule at the end of her testimony, Ms. Mantle. ELM-2,  
20 I believe.

21 Ms. Maloney has a net system input number  
22 there, correct? Says actual NSI?

23 A. Oh, yes.

24 Q. You see it now?

25 A. Yes.

1 Q. Okay. And she says that she got that from  
2 the response to DR 137 from the company?

3 A. That's what it says.

4 Q. And that's what she had said back on the  
5 earlier page that we pointed to, right?

6 A. I don't remember, but I'll take your word  
7 for it, that was 137.

8 Q. If you look at -- if you look at lines 18  
9 and 19 on page 3 of her direct testimony.

10 A. Yes, it is 137.

11 (MANTLE EXHIBIT NO. 5 WAS MARKED FOR  
12 IDENTIFICATION BY THE REPORTER.)

13 BY MR. LOWERY:

14 Q. I'm going to hand you what's been marked as  
15 Deposition Exhibit No. 5. Ask you -- that's a two-page  
16 document that reflects the company's response and  
17 supplemental response No. 1 to DR No. 137 in the 0002  
18 case, right?

19 A. Yes.

20 Q. That's the information Ms. Maloney says  
21 that she used, that she got as the net system input from  
22 the company, right?

23 A. It would have been attached as the file  
24 MPSC0137tfinnelluehourlyloads.xls file.

25 Q. Well, I should have done this before to

1 save us some time, but I'm going to show you that file.  
2 That would be a pretty big file, wouldn't it, 8,760 hours?

3 A. It's more because it was 18 months.

4 Q. Yeah. So 12 or 13,000 hours. So I didn't  
5 print the whole file because I wanted to be more green  
6 than that. Let me ask you a couple questions about that  
7 DR response, though, before we take a look at the file.

8 Take a look at the second page of  
9 Exhibit 5. At the top of the second page or the top of  
10 the response, Mr. Finnell's response, he says that  
11 Ms. Maloney called him about the original response to  
12 DR 137, right?

13 A. Yes.

14 Q. And she had some questions, and her  
15 question was that the 3.190 reporting requirement related  
16 to the 3.190, and she wanted to know what the differences  
17 were between the hourly loads in the 3.190 data that she  
18 apparently had looked at and the file that you just  
19 mentioned the file name of that Mr. Finnell had provided  
20 in the original response to DR 137, right?

21 A. Yes.

22 Q. And Mr. Finnell goes on to explain that  
23 difference in the following three paragraphs of that  
24 supplemental response, doesn't he?

25 A. Yes.

1 Q. And what does he say? And you can  
2 paraphrase it or you can read it. I'm not asking  
3 necessarily to read it word for word.

4 A. Well, it says that the 3.190 data is  
5 control area data, not net system input.

6 Q. Okay.

7 A. It talks about April 1st AmerenUE started  
8 operating on the MISO Day 2 market. On the MISO Day 2  
9 market the transmission losses are settled financially and  
10 not physically.

11 Q. Okay. Let me stop you there. Mr. Finnell  
12 is explaining to Ms. Maloney -- who is a member of the  
13 Staff, right?

14 A. Yes.

15 Q. -- back on October 18, 2006, that  
16 transmission losses are no longer supplied physically but  
17 they're settled financially in the MISO market, isn't he?

18 A. That's what he says.

19 Q. Isn't that a fact that you said that Staff  
20 wasn't aware of until very recently?

21 A. This does not say that the 3.190 data no  
22 longer contained transition losses as of April 1st, 2005.  
23 He's just telling her -- I wouldn't have read that as go  
24 back to your hourly loads and look at them. She's doing  
25 her work from a much more higher level. Shawn's the one

1 that actually used the hourly data.

2 Q. Well, Shawn's the one that actually asked  
3 the data request, isn't he?

4 A. That's what it says, it's requested from  
5 Shawn Lange. And then he -- the response goes on to say  
6 that DR 137 data was obtained from MISO Day 2 MDMA, and it  
7 includes UE load data plus load data from AmerenUE  
8 wholesale customers and then lists the wholesale customers  
9 and ends with, it says, do not have transmission analysis  
10 on them.

11 Q. So let me ask my question again. In that  
12 last sentence of the next to last paragraph says, note  
13 the -- note that MDMA -- and I don't know what that stands  
14 for, and I suspect you don't either.

15 A. No.

16 Q. But MDMA MISO Day 2 loads do not have any  
17 transmission losses.

18 A. That's what it says.

19 Q. Okay. And that next to the last paragraph  
20 says, the data that I gave you, Mr. Lange or Ms. Maloney,  
21 whatever your pressure is, in the response to DR 137 came  
22 from the MISO MDMA, and that data does not have  
23 transmission losses. That's what this tells, correct?

24 A. Well, it says in the conclusion that the  
25 3.190 data is higher than the data supplied in 137 because



1 it contains non-UE cust-- customers with the AmerenUE  
2 control area as well as physical transmission line losses.  
3 So I can read that as the 3.190 data has physical  
4 transmission line losses in it.

5 Q. I understand. I'm going to get to that,  
6 but you didn't answer my question.

7 A. Okay. What was the question?

8 Q. The supplemental response to Mr. Lange's  
9 data request tells the Staff that in the MISO Day 2  
10 market, the hourly load data does not include transmission  
11 losses, doesn't it?

12 A. Yes.

13 Q. And the conclusion is saying or certainly  
14 can be read as you just read it to say that the 3.190 data  
15 does include transmission losses, right?

16 A. Yes.

17 Q. Which means that the 3.190 data in the  
18 post-MISO market world -- or I said post, beginning of the  
19 MISO market I should say, is at generation?

20 A. That's the way I read it.

21 Q. Do you think Mr. Finnell generally knows  
22 what he's talking about?

23 A. Yes.

24 Q. Now I'm going to ask you the question I  
25 asked you a minute ago. One of the things that you told

1 me earlier today that the Staff didn't understand -- and  
2 the Staff was you and these five other folks. I won't  
3 repeat all their names. It's in the record. One of the  
4 things the Staff didn't understand is that in the MISO  
5 world, the transmission losses were not included as they  
6 had been before. Isn't that one of the things you said  
7 you didn't understand until very recently?

8 A. I didn't understand that the, what was  
9 being reported as net system input did not include  
10 transmission losses. I did not understand that the load  
11 node from which those loads are measured did not include  
12 transmission losses.

13 Q. Let me ask you this. Ms. Maloney and  
14 Mr. Lange are using the data from the response to DR 137  
15 as net system input, correct?

16 A. Yes.

17 Q. And Mr. Finnell told them that that data  
18 did not include transmission losses, didn't he?

19 A. The data supplied with one -- in 137,  
20 DR 137 did not, but he did not say that the 3.190 data --  
21 actually, I read it as it does have transmission losses.

22 Q. I'm going to have to ask you the question  
23 again because you didn't answer my question.

24 A. I'm sorry.

25 Q. That's all right. It will just take

1 longer. Mr. Lange and Ms. Maloney used the data from the  
2 response to DR 137 as the net system input used in the  
3 Staff's production cost model in the 0002 case, right?

4 A. I know Erin did. I do not know that Shawn  
5 did.

6 Q. You don't know that he didn't either,  
7 correct?

8 A. That's correct.

9 Q. All right. And Mr. Finnell told the  
10 Staff -- and for this purposes the Staff is the six people  
11 we talked about, including you, right?

12 A. Yes.

13 Q. That includes Ms. Maloney and Mr. Lange,  
14 right?

15 A. Yes.

16 Q. And Mr. Finnell told the Staff, those six  
17 people for purposes of my question effectively, told the  
18 Staff that the data in response to DR 137 that I provided  
19 you does not include transmission losses, which means he  
20 told them that that data, those hourly loads are not at  
21 generation, right?

22 A. He told Erin that.

23 Q. Well, it's Mr. Lange's DR response, right?

24 A. I don't know if she asked for the  
25 clarification. I don't -- I don't know how Shawn was

1 involved in this. Yes, he did ask the initial one.

2 Q. Do you think Mr. Lange makes a practice of  
3 reviewing all of the responses, including supplemental  
4 responses, to the DRs that he asks?

5 A. Yes.

6 Q. If he doesn't, should he?

7 A. Yes.

8 Q. If he didn't and if Ms. Maloney didn't pass  
9 this information on to him, should she have?

10 A. We get a lot of information in during a  
11 rate case. Some of it we have to decide whether it's  
12 worth taking people's time. I don't know if this was the  
13 time when we had four rate cases going on at once, and  
14 there's a lot going on in Staff. We don't always get told  
15 things.

16 Q. I'm going to ask my question again. Well,  
17 let me ask a slightly different question, then I'll ask  
18 the question. For Mr. Lange's work, it's relevant  
19 information to him whether or not the net system input  
20 that Ms. Maloney said she used contained transmission  
21 losses or not. That's relevant to what Mr. Lange does,  
22 isn't it?

23 A. No. Erin was getting information from  
24 several different sources trying to reconcile to get net  
25 system. She calculated an average annual loss factor, an

1 average annual number. Shawn looked at the 3.190 data.  
2 He -- and what he uses that for is to get the load shape  
3 that goes into the fuel run.

4 Q. How do you know he looked at the 3.190  
5 data?

6 A. Tim Finnell said that that's --

7 Q. Tim Finnell didn't say Shawn Lange looked  
8 at the 3.190 data.

9 A. No. Shawn looked at the 3.190 data, just  
10 as I did when I did this work prior to Shawn.

11 Q. How do you know? Did you ask him?

12 A. Okay. It's a fair -- a good assumption  
13 that Shawn looked at the 3.190 data. I did not  
14 specifically ask him. I do not have time to specifically  
15 ask all my staff what specifically they used. Erin --  
16 whoever does the losses tries to get the data from  
17 different sources so they can compare it and try to come  
18 up with this loss factor.

19 Shawn's work is independent of Erin's other  
20 than, yeah, we try to compare notes. I don't know if they  
21 did or not. His work is to get the neat system input load  
22 shape normalized for weather and then put the normalized  
23 annualized sales underneath that load shape.

24 Q. You just told me a little while ago  
25 unequivocally that net system input means generation plus

1 purchases minus sales and that is at the generation level.  
2 You wouldn't agree with me when I said, well, minus sales,  
3 just throw the transmission losses into it, that's the  
4 right definition.

5 So let me ask you this. Ms. Maloney  
6 defines net system input in great detail. Mr. Finnell  
7 told her that the data that she was calling net system  
8 input and that she called net system input in her  
9 testimony did not include transmission losses, right?

10 A. Yes.

11 Q. I mean, Mr. Finnell was clear, was he not?

12 A. Yes, he was, and she believed it was actual  
13 NSI.

14 Q. How can she believe it was actual NSI when  
15 he told her the transmission losses were not in there and  
16 she defined NSI in a way that dictated the transmission  
17 losses had to be in there?

18 MS. OTT: Objection, speculation.

19 THE WITNESS: You would have to ask  
20 Ms. Maloney that.

21 BY MR. LOWERY:

22 Q. She made a mistake, didn't she?

23 A. Sure.

24 Q. Fair enough. And I'm going to ask you  
25 again. You don't think that Ms. Maloney should have told

1 Mr. Lange that there was a supplemental response, assuming  
2 he didn't know? We don't know if we knew or not, do we?

3 A. No, we do not.

4 Q. I mean, how hard would it have been to tell  
5 Mr. Lange, hey, there's a supplemental response and  
6 Finnell says that transmission losses are not in the net  
7 system input data?

8 A. But he says that it is in the 3.190 data.

9 Q. But you told me a minute ago that the 3.190  
10 data is no good for your purposes because it's control  
11 area and it's got stuff other than Ameren Missouri loads.

12 A. He would have had the hourly loads for  
13 Citizens Electric, Citizens Electric Proctor & Gamble,  
14 city of Jackson, city of California, city of Linneus, city  
15 of St. Charles. It's part of our process to pull those  
16 out and weather normalize those separately from the rest  
17 of the load. So he would have pulled those out of that  
18 control area.

19 Q. So you can use the data if you pull those  
20 loads out, right?

21 A. Yes.

22 Q. And you know to pull them out, right?

23 A. Yes.

24 MS. OTT: We've been going about another  
25 hour. Think we can take another break?

1 MR. LOWERY: Sure. I'll tell you what, can  
2 we just -- a couple more questions covering this DR 137  
3 and then we'll take a break, if that's okay. It will be a  
4 more natural break point.

5 MS. OTT: Okay.

6 BY MR. LOWERY:

7 Q. Ms. Mantle, and I'll let you open this up  
8 yourself if you'd like. I'll let you see the file name.  
9 As a matter of fact, why don't we just do that. This is  
10 the file that Mr. Finnell referred to in his response to  
11 DR 137, which is Exhibit 5, right?

12 A. Yes.

13 Q. And Ms. Maloney has a net system input  
14 number of 39,712,524, I guess that's megawatt hours, isn't  
15 it?

16 A. Yes.

17 Q. And that would be for the test year,  
18 wouldn't it?

19 A. Yes.

20 Q. And the test year in this case, do you  
21 remember what it was?

22 A. No.

23 Q. Okay. I want you to assume -- because the  
24 record's going to show what it was. We can verify that  
25 from the Report and Order. I want you to assume it was



1 the 12 months ending June 2006. Okay?

2 A. Okay.

3 Q. If I want to know whether or not this file  
4 actually is the source of that data -- there's an awful  
5 lot of data here. You're better with Excel than I am.

6 A. Is that where you wanted to go?

7 Q. Actually, it's not. I wanted to go to  
8 July 1, 2006. How about that? Do you know how to do  
9 that? I'm sorry. July 1, 2005. I'm making you do more  
10 work than I should have. You were pretty close and I  
11 messed you up.

12 A. July 31st, 2005?

13 Q. The end of the test year would be  
14 June 30th, 2006, so we've got to either start at the end  
15 or the beginning. I don't care which. You're getting  
16 close. All right. If the test year ended the 12 months  
17 ending June 30th, 2006, then I need to start on July 1,  
18 2005, right?

19 A. Yes.

20 Q. And if I go down -- I'm sorry. Okay.  
21 We've got the cursor on July 1, 2005 on the hourly load,  
22 right?

23 A. Yes.

24 Q. If I go all the way for that full 12-month  
25 period, I use Excel here -- already went too far. No. I

1 didn't go near far enough. I go all the way to the last  
2 hour on June 30th, 2006, do I get the same number that  
3 Ms. Maloney reported in her Schedule ELM-2?

4 A. Yes.

5 Q. So this data that Ms. Maloney is calling  
6 NSI, that Mr. Finnell said doesn't have transmission  
7 losses, unless Mr. Finnell doesn't know what he's doing,  
8 it doesn't have transmission losses, does it?

9 A. No.

10 MR. LOWERY: All right. We can take a  
11 break.

12 (A BREAK WAS TAKEN.)

13 BY MR. LOWERY:

14 Q. All right. Ms. Mantle, before we went off  
15 the record we were talking about the response to DR 137.  
16 You told me a minute ago when I asked you whether or not  
17 Ms. Maloney should have brought that DR response to  
18 Mr. Lange's attention, that is if she didn't and if he  
19 didn't already know, which she may have and he may have  
20 known, right, you don't know?

21 A. That's correct.

22 Q. But if she didn't and if he didn't know, I  
23 asked you, should she have brought it to his attention,  
24 and you said, well, Staff gets a lot of information,  
25 everybody's busy, and I don't remember if you said I don't

1 know or you just didn't really answer the question. But  
2 whatever your answer is -- what is your answer? Should  
3 she have? You don't know if she should have? It didn't  
4 matter?

5 A. It mattered, and she should have. I do  
6 know that was the case we had a rate case in for every  
7 utility. We had so much data and so much coming at us  
8 that it's easy to understand why somebody wouldn't have  
9 pointed that out.

10 Q. And that's fair enough.

11 A. Yes, ideally, in the perfect world, it  
12 would have worked out that way.

13 Q. Because what it meant is, is that net  
14 system input that you, the Staff, intended to be at  
15 generation in the model wasn't at generation in the model,  
16 right?

17 A. Yes.

18 Q. And had Mr. Lange and, frankly, had the six  
19 people in the group we're talking about just read this DR  
20 back at that time, they would have really understood the  
21 whole problem that we've spent a couple hours talking  
22 about here, wouldn't they?

23 A. I don't think that you can understand  
24 everything that went on from that DR answer.

25 Q. Okay. Fair enough. I might have

1 overstated it. But it sure would have given you some  
2 leads that something might be wrong with the -- with the  
3 loads that are being used in Staff's production cost  
4 model, wouldn't it?

5 A. It explains why Erin Maloney had that low  
6 of a load factor in that case.

7 Q. So you said in your surrebuttal testimony  
8 it was communication issues, that was the problem that  
9 kind of led to all this, right?

10 A. Right.

11 Q. And I'm really not trying to argue with you  
12 about this, but part of the communication issue was within  
13 the Staff itself, wasn't it?

14 A. Erin filed that. AmerenUE read it.  
15 AmerenUE did not file rebuttal testimony that said she was  
16 wrong. Okay. Now, should I take the fact that AmerenUE  
17 did not file rebuttal testimony as -- typically when Staff  
18 does something wrong, the company points it out,  
19 especially in this case it meant millions of dollars in  
20 fuel cost, because if she had had the right loss factor,  
21 it would have been higher fuel cost. The fact that  
22 AmerenUE did not point that out is another  
23 miscommunication.

24 Q. Well, let me ask you about that. Isn't it  
25 true that the fuel numbers were settled in the case?

1 A. Yes, but that does not mean that -- that  
2 doesn't stop parties, especially analysts, from helping  
3 each other understand things and going forward.

4 Q. You're not -- surely it's not your  
5 testimony here today that the blame lies at the company's  
6 feet for not saying, oh, Ms. Maloney, something wrong,  
7 you've made a mistake? Is that your testimony, that it's  
8 the company's fault that this happened?

9 A. That is part of the communications that I  
10 was talking about, yes.

11 Q. But my simple question was, part of the  
12 communication problem lies with Staff as well, doesn't it?

13 A. Yes.

14 Q. And when you wrote your surrebuttal  
15 testimony, I don't think that's what you were opining  
16 about, was it?

17 A. No.

18 Q. You were blaming the company for this  
19 entirely, weren't you?

20 A. Staff had -- yes.

21 Q. I mean, repeatedly misrepresented, those  
22 are pretty strong words, wouldn't you agree?

23 A. It happened in the next rate case,  
24 ER-2008-0318. We once again had a low loss factor. It  
25 was once again put in testimony, and again the company did

1 not tell us what was wrong with that loss factor.

2 Q. Ms. Mantle, the company not coming back and  
3 saying your loss factor looks too low is a far cry from  
4 misrepresenting information to the Staff, isn't it?

5 A. Yes.

6 Q. You know what the word misrepresent means,  
7 don't you?

8 A. Yes, I do.

9 Q. It means to knowingly mislead, knowingly  
10 try to cause another party to have a false understanding;  
11 isn't that what it means?

12 A. I don't know that I would say that.

13 Q. Well, how would you define the word?

14 A. The 3.190 data, the rule requires net  
15 system input. At some point it changed. I don't think  
16 anybody intended on misleading the Staff that that was not  
17 the net system input anymore, but I do know that it was  
18 represented to us every month by a signature page that  
19 somebody had checked these and it was correct to the best  
20 of their knowledge.

21 Q. But in their mind, net system input may be  
22 different than you say it is; isn't that fair?

23 A. I believe it's different -- it's an  
24 industry term. It is not something that changes.

25 Q. Well, let me ask you this. DR 137, the

1 response that Mr. Finnell gave, it says that the 3.190  
2 data is higher than the data that Ms. Maloney used from  
3 DR 137 --

4 A. Uh-huh.

5 Q. -- because it includes physical  
6 transmission line losses. Isn't that what he said?

7 A. That is what it says.

8 Q. Well, then the 3.190 data was at  
9 generation, right?

10 A. Yes.

11 Q. Now, your beef with it is, it wasn't net  
12 system input as you define it for AmerenUE because it had  
13 these other loads in it, right?

14 A. Yes.

15 Q. That's your real beef, right?

16 A. When you say my real beef, what are you  
17 referring to?

18 Q. Let me try it this way. If the 3.190 data  
19 after the MISO market started -- and we're in a period  
20 here where after the MISO market started, right?

21 A. I believe so.

22 Q. Well, when did the MISO market start?

23 A. It's on that data request answer there.

24 Q. I'm sorry.

25 A. April 1st, 2005.

1 Q. And we just went through a series of  
2 questions where we -- the test year was July 1st, 2005 to  
3 June 30th, 2006, right?

4 A. Yes.

5 Q. So we're in the MISO market operations?

6 A. First year, yes.

7 Q. First year. Well, you know, everybody has  
8 to learn, right?

9 A. Yes.

10 Q. You don't expect the company to be perfect  
11 all the time either, do you?

12 A. No. We all get to make mistakes.

13 Q. I've made ten of them here today, I'm sure.  
14 So we're in the MISO market, and Mr. Finnell is telling  
15 the Staff that the 3.190 data includes transmission  
16 losses, so it is at generation, right?

17 A. Correct.

18 Q. So you have alleged that the company, they  
19 sign a signature, a certification or whatever it is on the  
20 3.190 reports, and the reports you say are wrong, that  
21 they're not what the rule requires, right? That's what  
22 you say?

23 A. That's what I've said. That's what  
24 AmerenUE has told me.

25 Q. And I'll come back to that. And the only



1 manner in which the 3.190 reports are not in compliance  
2 with the definition of net system input that you say  
3 applies isn't that they're not at generation, but it's  
4 because there are loads other than AmerenUE loads in the  
5 data; isn't that fair?

6 A. That's what that DR response says, yes. At  
7 that point in time, I've got no reason to not believe  
8 Mr. Finnell.

9 Q. Okay. And so what that means is, the 3.190  
10 data that you're getting back in the complaint case and  
11 before the MISO market came along, that was control area  
12 data, so it had probably other cities but certain cities  
13 and Proctor & Gamble or other industrial loads, Citizens  
14 would be a prime example, that 3.190 data was at  
15 generation but it had these other loads in it, and in the  
16 MISO market 3.190 was at generation but it had these other  
17 loads in it. There wasn't a change in the 3.190 data if  
18 Mr. Finnell's correct, and you believe he is, right?

19 A. At that time, that's right.

20 Q. Okay. And I don't -- I don't know -- I  
21 don't know when the Staff, and maybe you can tell me, but  
22 the Staff obviously has figured out that all it has to do  
23 is pull the loads for these non-AmerenUE loads out of the  
24 3.190 data and it will get back to generation level data  
25 for AmerenUE, right?

1 A. Yes.

2 Q. Did you know that at the -- during the 0002  
3 case? Did Mr. Lange understand that?

4 A. He -- he understood that there was some  
5 adjustments to be made to 3.190 data, yes, for the  
6 municipal wholesale customers.

7 Q. Now, you said something offhand a minute  
8 ago, something about the 3.190 data has changed from what  
9 it was back pre-MISO. You agree with me now at this time,  
10 0002 case time, according to Mr. Finnell, it's the same  
11 data you were getting before? You agree with me about  
12 that, right?

13 A. I have no reason not to believe that, yes.

14 Q. Okay. Assuming Mr. Finnell's right, and  
15 you think he probably is, right?

16 A. Yes.

17 Q. Okay. So what was your comment a minute  
18 ago about you've been told that it changed?

19 A. I -- in our discussions with -- in  
20 ER-2010-0274, it seems to -- I seem to recall that I've  
21 been told that we now get net system output, and actually  
22 I have from Ms. Maloney what we get, and, frankly, we're  
23 not sure what we're getting right now.

24 Q. You're talking about right now being  
25 contemporaneously with this deposition more or less or at

1 least in very recent weeks or months, right?

2 A. I believe this was, is the -- the data that  
3 we just received, the 3.190 data that we received, it says  
4 April 2010 hourly loads.

5 Q. I'm sorry.

6 A. That's 2010. It's 2011. That was my  
7 problem here.

8 Q. Okay.

9 A. I couldn't figure out why we had April  
10 loads already. This would have been a year ago. It is a  
11 year ago. It changed.

12 Q. Well, you said that's from April 2010?

13 A. Uh-huh.

14 Q. Well, isn't the reason it changed is that  
15 there was a stipulation in the 0036 case and the company  
16 agreed to meet with the Staff and MIEC and did so in the  
17 spring of 2010, and out of that meeting it was agreed that  
18 the company would start supplying more or different  
19 information and, in fact, would retroactively go back, I  
20 forget how far, but several months, maybe even a year and  
21 a half if member serves, and resubmit 3.190 data as had  
22 been discussed in that meeting? Do you remember that?

23 A. I don't believe I was part of that meeting.  
24 I may have been. I do not recall. I do know that we  
25 started getting more information due to an agreement, but

1 this still -- we still don't -- we still don't know  
2 whether this is net system input, net system output, what  
3 it is.

4 Q. Okay. That's fair. But if you have data  
5 that's different than the 3.190 data that you were given  
6 back in the 0002 case and I suspect in the 0318 case  
7 that's different than maybe you've been getting since the  
8 early 2000s or whenever, you don't -- as you sit here  
9 today, you don't know that the company's misrepresenting  
10 anything to you, do you?

11 A. In settlement and technical discussions in  
12 this case, I was told we were getting net system output,  
13 and I asked the company to file for waiver from the 3.190  
14 data that let the Commission know that they were supplying  
15 net system output. I did not necessarily have a problem  
16 with them filing -- giving us net system output. It's  
17 just that the rule required net system input. So I do  
18 remember when I heard that we were getting net system  
19 output.

20 Q. But that's been pretty recently, right?

21 A. Yes.

22 Q. Doesn't really have much of anything to do  
23 with what happened back in the 0318 case, does it?

24 A. I don't know.

25 Q. Well, if you were getting 3.190 data that

1 was at generation that Mr. Lange knew how to back out the  
2 wholesale loads so that you get right back to net system,  
3 and told me he knew how to do at that time, right?

4 A. Yes.

5 Q. Then Staff could have used kilowatt hour  
6 sales at generation in its model, couldn't it?

7 A. It -- I know it didn't because --

8 Q. I didn't ask you whether it did. I said it  
9 could have.

10 A. Yes.

11 Q. But the Staff didn't do so, right?

12 A. Correct.

13 Q. And I have a feeling as you sit here today  
14 you're not entirely sure why the Staff didn't do so. Is  
15 that true?

16 A. No, that's not true.

17 Q. Okay. So why did the Staff not use -- why  
18 did the Staff not take the 3.190 data, back out the  
19 non-AmerenUE load in the control area, and use that as net  
20 system input since Mr. Lange knew that he could do that?

21 A. Because what the net system input is for  
22 the fuel run is the billing month sales data that is  
23 normalized and annualized and growth adjusted and  
24 everything else, then the losses are added to it. That's  
25 why we calculate an average annual net system loss. At

1 that point we have an annual kilowatt hour number that we  
2 put underneath the normalized net system input load shape.

3 Q. But the Staff could have started with the  
4 3.190 data, pulled out the wholesale loads and then done  
5 all the things you just described to me, correct?

6 MS. OTT: Objection. Asked and answered.

7 THE WITNESS: I know it sounds like  
8 semantics, but we -- the only thing that we do with the  
9 net system input is come up with the load shape. The  
10 actual loads, what that sums up to is calculated using the  
11 usage that the normalized revenue is calculated from times  
12 that loss factor from which Erin Maloney did not have the  
13 transmission losses in. So whether the net system input  
14 load shape was at transmission or distribution,  
15 transmission or generation, it's the load shape that we  
16 get from that.

17 BY MR. LOWERY:

18 Q. You claim it was virtually impossible for  
19 the Staff to have avoided what actually ended up  
20 happening?

21 A. Yes.

22 Q. Is that still your testimony, it was  
23 virtually impossible?

24 A. Yes.

25 Q. Really? So your testimony is, had

1 Ms. Maloney sat down with the other five people in the  
2 group of the Staff group that we're talking about and  
3 pointed out this data request response, that you guys  
4 couldn't have figured it out or you wouldn't have asked  
5 the company questions to help you figure it out?

6 A. We had four electric rate cases going on at  
7 that time. It was physically impossible --

8 Q. Okay.

9 A. -- for us.

10 Q. So it was impossible because your demands  
11 in your workload were too great but not because of what  
12 the company did or didn't give you? The company didn't  
13 create the impossibility; is that fair?

14 A. If the only place that it was pointed out  
15 to was in a DR, then -- then I think -- I still believe  
16 that it was virtually impossible for us.

17 Q. But the reason you believe that is because  
18 you had four rate cases, you were slammed, that all of you  
19 were slammed, you couldn't keep up with the demands and  
20 the workload and the data request responses, and so you  
21 just couldn't focus on it to the extent that you might  
22 have liked; isn't that fair?

23 A. Yes.

24 Q. I mean, it's the circumstances you were in  
25 that made it virtually impossible, not something the

1 company did or didn't do; isn't that fair?

2 A. If the company had come back and said the  
3 losses that Erin Maloney had done was at transmission, we  
4 would have taken the time to figure it out then. When the  
5 only reference is in a DR response, then it's still my  
6 testimony.

7 Q. All right. It's your testimony. It's a DR  
8 that the Staff asked, right?

9 A. Yes.

10 Q. Specifically in the rate case at issue,  
11 right?

12 A. Yes.

13 MS. OTT: Can we clarify that DR?

14 MR. LOWERY: DR 137.

15 MS. OTT: In what case?

16 MR. LOWERY: 0002 case.

17 MS. OTT: Okay. It just sounded like you  
18 were talking about this particular case, and I wanted the  
19 record to be clear.

20 THE WITNESS: Actually, I thought it was  
21 talking about the 318 case where we first came across  
22 this.

23 BY MR. LOWERY:

24 Q. Okay. Well, let's just make sure we aren't  
25 all confused, that I haven't confused us. The DR 137 that



1 we're talking about, which I believe is Exhibit 5, is from  
2 the 0002 case, right?

3 A. Yes.

4 Q. What DR in the 0318 case did you have in  
5 your mind a moment ago?

6 A. Too many cases.

7 Q. Okay.

8 A. I had that was the response in 0318,  
9 and --

10 Q. You thought DR 137 was a response in 0318?

11 A. Not when I had it in front of me.

12 Q. Not when you had it before the break?

13 A. Right. Well, I don't know exactly when my  
14 mind switched.

15 Q. I'm sorry. Well, I'm going to put it back  
16 in front of you.

17 A. Okay.

18 Q. I'll give you the one that's got the right  
19 sticker on it. I'll keep my copy.

20 A. Because I would like then to go back. The  
21 stipulations you were showing me earlier that are attached  
22 to 0274, those were from the 318 case; is that correct?

23 Q. Yes, that's correct.

24 A. I'm again trying to remember which one of  
25 these cases it was when we were slammed with four rate

1 cases. I want to get that correct.

2 Q. Yeah, because I'm not -- well, I don't know  
3 for sure. Do you recall when you were slammed with four  
4 rate cases? Because the 0318 case for Ameren took place  
5 from -- I want you to assume this is correct, and you can  
6 tell me if your memory is matching up with mine -- from  
7 early April 2008 through January, roughly January/February  
8 of 2009. That was the 0318 case. Do you remember that?

9 A. May I look at that again?

10 Q. You bet. When you say that, so the  
11 record's clear, you're looking at the Stipulation of Facts  
12 in the 0274 case, right?

13 A. That's correct.

14 Q. There should be dates probably on the  
15 stipulations. That should refresh your recollection of  
16 when 0318 was going on.

17 A. Actually what I was going to look at was  
18 the list of witnesses whose testimony was entered into --

19 Q. Do you want me to help you find it?

20 A. If you think you can.

21 Q. I think I can. There it is.

22 A. Because Michael Rahrer is on here. I know  
23 he did the fuel runs for us for Ameren Missouri when we  
24 had rate cases in here for three other cases. So this,  
25 the 318 case is the case where we were slammed with four

1 rate cases at once. So I want to make -- clear that up.

2 Q. So maybe it wasn't as impossible back in  
3 the 0002 case when Ms. Maloney and maybe Mr. Lange and  
4 maybe others, we don't know, you don't know for sure, but  
5 when the Staff in other words was -- had it explained to  
6 them what the 3.190 data did and did not include and the  
7 fact that the data that Ms. Maloney used was, in fact, not  
8 at generation? Maybe you weren't as slammed as you  
9 thought?

10 A. That's correct.

11 Q. And maybe it was more possible for the  
12 Staff to have figured this out at that time than you  
13 thought when you were answering my questions a few minutes  
14 ago; isn't that fair?

15 A. Yes.

16 Q. Let me step back a minute. We've obviously  
17 had a long discussion, and you might appreciate sort of  
18 why we had a long discussion, because as I look at the 137  
19 response and some of these things, you know, we on the  
20 company's side have a little bit of a head scratcher as to  
21 why we're having all these communication kind of issues  
22 because -- let me ask you this way.

23 Isn't it fair to say that people on both  
24 sides in good faith can think that they're communicating  
25 and think that they're sharing information and that the

1 other side understands and, in fact, the other side really  
2 doesn't have any idea? Isn't that fair?

3 A. That's fair.

4 Q. And isn't it fair that you may -- you may  
5 have a good faith belief that the company hasn't been  
6 complying with 3.190 and the company feels just as  
7 strongly that, well, yes, we have, we're giving you the  
8 right information? Isn't that possible?

9 A. Yes.

10 Q. Knowing what you know now, do you think  
11 misrepresented was the right word for you to use?

12 A. I think for as long as you've been --  
13 Ameren has been supplying net system output where the  
14 3.190 data requires net system input, if we weren't  
15 notified, then when whoever signs the document, the cover  
16 sheet that comes with those, that response, the compliance  
17 submissions, I believe that that is misrepresenting it to  
18 us, if we are not told this is not net system input, what  
19 we are really giving you is X, Y or Z, regardless of  
20 whether it's you or any other utility.

21 Q. Does your -- when I say your, I mean  
22 Staff's -- concept or definition of net system input, does  
23 it make sense for AmerenUE given that it's in the MISO  
24 market and given how transmission losses are handled?

25 A. I don't know enough to say.

1 Q. I think you told me a minute ago that you  
2 really didn't have a problem with Ameren Missouri giving  
3 you what they call net system output, which you understand  
4 to mean without transmission losses, right?

5 A. Yes.

6 Q. So you don't have a problem with that. You  
7 just want there to be a formal waiver requested and  
8 granted, right?

9 A. I wanted to be told about it, and yes, a  
10 waiver request be filed and granted.

11 Q. All right. Okay. Mr. Bax did this loss  
12 work in the 0318 case, right?

13 A. Yes. That's B-a-x.

14 MS. OTT: While you're looking for that, it  
15 appears you have substantially more. It's nearing five.

16 MR. LOWERY: Why don't we go off the record  
17 for a second?

18 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

19 BY MR. LOWERY:

20 Q. I had showed you earlier Exhibit 4, which  
21 included Mr. Lange's and Mr. Bax' direct testimony  
22 effectively in the 0318 case, right?

23 A. Yes.

24 Q. Do you see here where Mr. Bax, it's the  
25 last paragraph on page 42, and he explains where he got

1 the information that he -- that he used to develop his  
2 losses?

3 A. Yes.

4 Q. Okay.

5 (MANTLE EXHIBIT NO. 6 WAS MARKED FOR  
6 IDENTIFICATION BY THE REPORTER.)  
7 BY MR. LOWERY:

8 Q. I'd hand you what's been marked as  
9 Exhibit 6, and you may or may not have seen this. I know  
10 you haven't seen the part where it's printed with my name.  
11 Ignoring that, this is -- I just printed this yesterday  
12 from an e-mail that was sent to me. Would you agree that  
13 that's an e-mail from Steve Wills to David Roos back on  
14 February 25th of this year?

15 A. Yes.

16 Q. And does that appear to be in response to a  
17 request from Mr. Roos to provide the work papers that were  
18 provided by the company in the 0318 case?

19 A. Yes.

20 Q. And it looks like that Mr. Roos wasn't sure  
21 how the Staff got them or what they looked like. Do you  
22 recall any of this, by the way? I mean, this was back  
23 when I think we were working together to try to come to a  
24 stipulation of facts. Do you remember that?

25 A. Yes.

1 Q. Do you recall this request by Mr. Roos or  
2 discussion about the work papers?

3 A. Yes.

4 Q. What do you recall about it?

5 A. I know that David Roos was trying to  
6 understand this whole bit, and the date is what confuses  
7 me, because we had earlier than this realized that we were  
8 working from net system output or loads at transmission.  
9 I'm not for sure why he would be asking for these work  
10 papers later, unless it was to confirm how net base fuel  
11 cost rate was calculated. I don't know.

12 Q. Okay. Well, that's fair. My recollection  
13 was that you guys were trying to just verify some things  
14 before you signed off on the stipulation of facts. Does  
15 what sound -- does that refresh your recollection at all?

16 A. We signed the stipulation of facts in early  
17 March; is that right?

18 Q. Well, we'll look at it. March 3rd is when  
19 we finally got it done.

20 A. So, yeah, David was probably trying to  
21 understand what had gone on in this case to verify what --

22 Q. In the -- pardon me. In the 0318 case, he  
23 was just probably trying to verify some facts about that  
24 0318 case before the Staff said, yeah, we're okay with the  
25 stipulation of facts; is that fair?

1 A. That's fair.

2 Q. And so the first page of this, ignoring the  
3 header where I printed it out just so I could bring it  
4 here today, the first page of this is Mr. Wills' e-mail to  
5 Mr. Roos, right?

6 A. Yes.

7 Q. And the second and third page -- and I'll  
8 let you look at it a second -- is it fair to say the  
9 second page is a verification, it has pasted here a  
10 verification from United Parcel Service as to how the work  
11 papers were delivered to the Commission back at the time  
12 of the case?

13 A. That's what I assume was being sent since  
14 the subject is updated work papers.

15 Q. Do you see here where the UPS verification  
16 shows that it was delivered on June 5th, 2008, and it was  
17 signed for at the front desk by somebody named Doerhoff?

18 A. That would be Ron Doerhoff.

19 Q. A Commission staff person?

20 A. Yes.

21 Q. And I think the reason we got this is I  
22 think you guys were questioning whether or not you had  
23 these or did you get them or whatever, and so does that  
24 ring a bell with you? Maybe not.

25 A. No.



1 Q. That's fair. That's fair. Do you --  
2 starting with the fourth page of Exhibit No. 6, can you  
3 identify what that appears to be?

4 A. It says Gary Weiss' supplemental direct  
5 work papers for ER-2008-0318.

6 Q. You know Mr. Weiss. We were talking about  
7 him earlier, right?

8 A. Yes.

9 Q. On the next page, which is page 1 of 2,  
10 GS -- work paper GSW -- well, it says GSWWPE803. WP  
11 probably stands for work paper. That makes sense, doesn't  
12 it?

13 A. Yes.

14 Q. What is on this page? As somebody that  
15 knows what you're talking about, what's on here?

16 A. It looks like it is sales numbers. It says  
17 normal sales and normal kilowatt hour net output by month.

18 Q. Okay.

19 A. I don't know if it's billing month or  
20 calendar month.

21 Q. Does the column over here that says April,  
22 that doesn't necessarily tell you either, right?

23 A. No. Oh, it says calendar month up here.

24 Q. It is calendar month. And the next page,  
25 probably just -- it's probably just the same information

1 for different rate classes, right?

2 A. That's what it looks like.

3 Q. Okay. What would this be used for, do you  
4 know?

5 A. To find the loss difference -- it may be  
6 used to try to calculate the loss differences between the  
7 net system output and the kilowatt hour sales to -- since  
8 kilowatt hour sales are measured on a billing month, the  
9 net output would be on a calendar month, and adjustments  
10 are done to the billing months to get it to calendar  
11 months, and then a difference would be calculated that  
12 would be losses.

13 Q. Who would be interested in this kind of  
14 work paper on the Staff? Mr. Bax?

15 A. I don't know who -- I don't know who would  
16 be. He may have.

17 Q. Well, is this -- in the work Mr. Bax did in  
18 the 0318 case, is this kind of information useful for what  
19 he was doing?

20 A. Yes.

21 Q. Okay. When he says company work papers in  
22 performing his loss calculations, this is the kind of  
23 information he might be looking at, isn't it?

24 A. It may be, yes, although he doesn't get to  
25 the class detail. This is class detail. He would have

1 been looking at total company.

2 Q. Okay.

3 A. There's --

4 Q. The last page of this has the total.

5 A. Excluding RES, streetlight and wholesale.

6 I don't know what it is.

7 Q. Okay.

8 A. It does say used to calculate composite  
9 loss factor back to transmission connection.

10 Q. This is -- this is trying to calculate at  
11 least the first cousin to what Mr. Bax is calculating,  
12 right?

13 A. This would be at transmission. He was  
14 trying to calculate it to generation.

15 Q. Right. I mean, this tells -- this tells us  
16 that this is not at generation, right, this work paper?

17 A. I don't know that I'd -- before two or  
18 three month ago, I don't know that I would have agreed  
19 with you that that's what that says.

20 Q. What about this note at the very end,  
21 though, that tells you, doesn't it?

22 A. It tells me that, yeah, going from this to  
23 this, back to transmission connection point, not at  
24 generation.

25 Q. Right. When it says back to transmission

1 connection point, that means not at generation, right?

2 A. Yes.

3 Q. And this 4.75 percent composite number,  
4 which is all the rate classes except this little bit that  
5 is excluded in that total number, that's kind of in that  
6 ballpark of that 5 percent that you sort of thought was  
7 too low, wasn't it?

8 A. Yes.

9 Q. But, of course, at transmission that sort  
10 of makes sense, right?

11 A. Yes.

12 Q. So in the 0318 case -- and I'm not  
13 quarreling. I'm not quarreling with you about who should  
14 have done what, but the fact is in the 0318 case, the  
15 company supplied the Staff information that showed at the  
16 transmission connection point the losses were around  
17 5 percent, right?

18 A. Yes.

19 Q. And for all you know, Mr. Bax used this  
20 information?

21 A. He may have.

22 Q. Now, if he did, and if he seen that at the  
23 transmission connection point the losses are around  
24 5 percent, and then he's calculating the number that's  
25 around 5 percent at generation, a light bulb probably

1 ought to go on in his head and wonder if there's something  
2 wrong, shouldn't it?

3 A. I asked him about it in that case.

4 Q. And what did he say?

5 A. He said it had been a long time since there  
6 had been a loss study for AmerenUE, that he -- he  
7 believed -- I think his number was a little bit over five.  
8 He believed that was accurate because of advances in  
9 transmission facilities and where load was at and where  
10 generation was coming from, and so I believed our Staff  
11 expert on that.

12 Q. Okay. Turned out he was wrong, but he had  
13 some reasons as to why he thought he was right, correct?

14 A. And I thought if he filed it and it was  
15 wrong, AmerenUE would point it out to us.

16 Q. Okay.

17 (MANTLE EXHIBIT NOS. 7, 8 AND 9 WERE MARKED  
18 FOR IDENTIFICATION BY THE REPORTER.)

19 BY MR. LOWERY:

20 Q. Ms. Mantle, I'm going to hand you what's  
21 been marked as Exhibits 7, 8 and 9, and I bet you have  
22 never seen them before, but they're pretty short and  
23 simple to understand, I think. Actually, I probably have  
24 them out of order. Let's look at No. 8 first, if we can.  
25 Would you agree that No. 8 is a Data Request from MIEC to

1 the company in the 0318 case and they're asking about  
2 whether the line losses Mr. Finnell's using in his model,  
3 are they at generation or what level are they at. Is that  
4 a fair --

5 A. Yes.

6 Q. -- summary of what they're asking?

7 A. Yes.

8 Q. And Mr. Finnell tells him what?

9 A. Line loss are related to distribution line  
10 loss.

11 Q. Which means there's no transmission line  
12 losses there, right?

13 A. Yes.

14 Q. Which means the loads he's using aren't at  
15 the generation level, right?

16 A. Yes.

17 Q. Okay. And then if you could look at Data  
18 Request No. 7, is it fair to say that that's a -- you know  
19 what, I may have goofed this up. Hang on here a second.  
20 Oh, I'm mistaken here. Is that a data request in the 0318  
21 case?

22 A. Yes, it is.

23 Q. And is that a response from the company?

24 A. It says it's prepared by Mary Hoyt, yes.

25 Q. And you know Mary Hoyt works -- she's a

1 paralegal for the company, right?

2 A. Yes.

3 Q. So John Cassidy is asking the company to  
4 give the Staff its full responses to a number of MIEC data  
5 requests; is that what that's doing?

6 A. That's what it looks like, yes.

7 Q. And it looks like those responses that  
8 Mr. Cassidy wants are from the fourth and the fifth  
9 series, some of the fourth and the fifth series of MIEC  
10 data requests; is that fair?

11 A. I'm not sure what their numbering  
12 convention meant, so --

13 Q. Well, the one -- Exhibit 8 was MI-- was a  
14 request from MIEC to the company labeled 04-08, right?

15 A. Yes.

16 Q. And I'm doing this out of order probably,  
17 but let me show you Exhibit 9. Can you tell me what  
18 Exhibit 9 appears to be?

19 A. Appears to be a data request of Ameren from  
20 Diana Vuylsteke.

21 Q. Does it appear to be a data request from  
22 Diana Vuylsteke to Ameren?

23 A. It's from Diana Vuylsteke to Jim Lowery,  
24 Mary Hoyt, Wendy Tatro and Tom Byrne.

25 Q. And is it MIEC's fourth data request in the

1 0318 case?

2 A. That's what the subject line is, yes.

3 Q. And those are -- and then Ms. Vuylsteke  
4 says it's MIEC's fourth data request to AmerenUE?

5 A. Yes.

6 Q. And then -- and that's her cover e-mail,  
7 and did Mr. Dottheim get a copy of that from  
8 Mr. Vuylsteke?

9 A. It looks like he did.

10 Q. And then the next page of Exhibit 9, the  
11 next two pages appear to be the data requests themselves?

12 A. That's what it appears to be, yes.

13 Q. And one of those is the data request we  
14 just talked about on Exhibit 8?

15 A. Yes.

16 Q. That Mr. Finnell answered?

17 A. Yes.

18 Q. So the Staff had this fourth set of data  
19 requests from MIEC?

20 A. Mr. Dottheim had it.

21 Q. Well, Mr. Dottheim had it, and then  
22 Mr. Cassidy actually asked for some of the responses that  
23 the company had given, right, to that fourth set?

24 A. Yes. He asked for some of them.

25 There's --



1 Q. 4-1?

2 A. 9, 12, 10 and 6.

3 Q. But he didn't ask for the response to 4-8,  
4 did he?

5 A. It doesn't look like he did in this data  
6 request, no.

7 Q. So somebody at the Staff knew that that  
8 question about the line losses had been asked, but  
9 apparently the Staff didn't ask for the response; is that  
10 fair to say?

11 A. Not in that DR.

12 Q. At least not in that DR.

13 A. That may have been a different one. I  
14 don't know.

15 Q. All right.

16 (MANTLE EXHIBIT NO. 10 WAS MARKED FOR  
17 IDENTIFICATION BY THE REPORTER.)

18 BY MR. LOWERY:

19 Q. I'm going to hand you what's been marked as  
20 Exhibit 10. Ask you if you've ever seen this before?

21 A. Is there a difference between the two  
22 pages?

23 Q. There are. First of all, have you ever  
24 seen it before?

25 A. I don't know. I have seen similar

1 spreadsheets. Whether it's this exact one, I don't know.

2 Q. Can you, just so we don't get these mixed  
3 up, write page -- write just in your own handwriting one  
4 on the page with the sticker and two on the second page?

5 A. (Witness complied.)

6 Q. I'm sorry. I wasn't paying attention to  
7 your answer. You said you weren't sure if you've seen  
8 this before or not or you've seen something like it?

9 A. I've seen something like it.

10 Q. You've seen something like it from the 0318  
11 case?

12 A. I probably did.

13 Q. Well, I asked you very early on in this  
14 deposition about the calculation of the NBFC rates, and I  
15 think you said you might have seen the work paper, you  
16 might have seen something, that you didn't know but you  
17 thought it might have come from Mr. Weiss. Does that ring  
18 a bell at all with respect to Exhibit 10?

19 A. This would have been at the level that I  
20 would have seen it.

21 Q. Okay. Do you have any independent  
22 recollection of whether you did see it or not?

23 A. No.

24 Q. Fair enough. There are some differences,  
25 and one of the differences is, is in the Missouri summer

1 column on page 1 versus the Missouri summer column on  
2 page 2 at the very bottom in the box. Do you see the  
3 difference?

4 A. Yes. It's the third digit one.

5 Q. You have no idea who prepared these  
6 spreadsheets; is that fair?

7 A. That's fair.

8 Q. Let's take a look at our Stipulation of  
9 Facts in the 0274 case again. Do you recall that that  
10 stipulation has attached to it the actual FAC tariff that  
11 was approved and put in place from the 0318 case that has  
12 since been superseded because we had a -- we modified it  
13 in the next case, the 0036 case?

14 A. Okay. You're talking about which  
15 agreement?

16 Q. I'm sorry. This is the -- this is the  
17 Stipulation of Facts in the 0274 case. And did you  
18 recall, and I can show you if we need to, that Exhibit C  
19 to that stipulation is a photocopy of the actual tariff  
20 that was in effect for AmerenUE from the beginning of  
21 the -- when it went into effect after the 0318 case?

22 A. Yes.

23 Q. You recognize that Exhibit C to be that  
24 tariff; is that fair?

25 A. Yes.

1 Q. Went into effect on March 1, 2009, which is  
2 when the FAC started for Ameren Missouri, right?

3 A. Yes.

4 Q. And so if I go to the right page here, I  
5 ought to find some NBFC rates where those Xs have been  
6 replaced with rates, right?

7 A. Yes.

8 Q. And, in fact, on sheet 98.5 I find that,  
9 don't I?

10 A. Yes.

11 Q. And I find the 1.001 cent that is on page 2  
12 of Deposition Exhibit 10, don't I?

13 A. Yes.

14 Q. And I also find the .690 cent that's on  
15 page 2 of Deposition Exhibit 10.

16 A. It's also on page 1.

17 Q. It's also on page 1. And there's some  
18 other differences. Would you verify that the load  
19 forecast at generation level per Staff's model is a little  
20 different on the second page of Exhibit 10 than on the  
21 first page?

22 A. Yes.

23 Q. Now, I realize you don't know this, but I  
24 want you to assume for a minute that page 1 of Exhibit 10  
25 is Mr. Weiss' spreadsheet and page 2 of Exhibit 10 is a

1 spreadsheet that the Staff sent him after he sent the  
2 Staff page 1.

3 A. Okay.

4 Q. I want you to assume that for me.

5 A. Okay.

6 MS. OTT: So is this a hypothetical?

7 MR. LOWERY: Yes, it's a hypothetical,  
8 because she doesn't know, so I'm asking her to assume that  
9 that is true.

10 BY MR. LOWERY:

11 Q. If that's true, then Staff's 1.001 cent net  
12 base fuel cost rate is the one that ended up in the  
13 tariff, not Mr. Weiss' 1.000 rate, isn't it?

14 A. If that's true, yes, that is correct.

15 Q. And you don't know if it's true or not?

16 A. No, I do not.

17 Q. Because you weren't involved in the  
18 calculation?

19 A. No, I was not involved in the calculation.

20 Q. And even if you looked at spreadsheets like  
21 this, I'd be shocked if you can remember two years later  
22 whether it was 1.001 or 1.000; isn't that fair?

23 A. That's fair.

24 Q. Let me ask you this: When you looked at  
25 this, if you did look at it, what would you be -- I mean,

1 what would you be looking for, given your role in all of  
2 this?

3 A. I would be looking to see, some of the  
4 costs are allocated by day, number of days in summer and  
5 winter, and those, you know, fall in kind of a pattern.  
6 The fuel, of course, comes from the fuel loads. I would  
7 be looking at magnitudes. I would be looking at -- if I  
8 saw that the winter was higher than the summer, I would  
9 have --

10 Q. You were looking for an obvious number bust  
11 of some kind?

12 A. Yes.

13 Q. Something pretty obvious?

14 A. It would have to be at this level, yes.

15 Q. Fair enough. Now, if my hypothetical  
16 question is accurate -- and I'm not asking you to concede  
17 because you don't know. Okay?

18 A. Okay.

19 Q. -- that page 2 is an Excel spreadsheet  
20 calculated by the Staff and sent back to the company, then  
21 it's actually Staff's final calculation that ended up in  
22 the FAC tariff for the NBFC rates, not the company's;  
23 isn't that right?

24 A. That's correct.

25 Q. Okay. Now, I think seven different times

1 in your surrebuttal testimony you referred to the  
2 calculation as Ameren Missouri's calculation, but given  
3 our discussion here today -- and I'm not talking about  
4 whether this is true or not. I'm talking about the fact  
5 that you weren't really involved in the calculation. You  
6 don't know if that's true or not, those seven times when  
7 you claimed it was Ameren Missouri's calculation? You  
8 don't really know, right?

9 A. It became Ameren -- in my mind, it became  
10 Ameren Missouri's calculation when they filed the tariff  
11 sheet with that number on there.

12 Q. So the company can't rely on the Staff's  
13 information that it gives it?

14 A. I didn't say that. I believe it did rely  
15 on and it counts on Staff as a check for reasonableness  
16 just as we check, rely on the company.

17 Q. Isn't it possible, in fact pretty likely  
18 here, that what happened is you've got Mr. Weiss is an  
19 accountant and Mr. Rackers is an accountant, and they  
20 don't have anything to do with net system inputs, loads at  
21 generation or transmission, and we all agreed, we being  
22 the company and the MIEC and the Staff, that the Staff's  
23 model run was going to be used, the sales from the Staff  
24 model run were going to be used in the NBFC rate  
25 calculations, and the FAC stipulation in 0318 said it was

1 supposed to be at generation and the tariff said it was  
2 supposed to be at generation, so everybody had agreed on  
3 all that, isn't it pretty likely that whoever was filling  
4 in these Excel spreadsheets with those data I was talking  
5 about on the legal pad earlier, they assumed it was at  
6 generation?

7 MS. OTT: Objection, speculation.

8 THE WITNESS: Yes.

9 BY MR. LOWERY:

10 Q. It's not -- it's not -- it's actually  
11 pretty understandable that they might have assumed that,  
12 isn't it?

13 A. Yes. Staff did.

14 Q. Isn't it true that what happened here is  
15 everybody made a mistake? I'll limit everybody to the  
16 company and the Staff. Didn't we both make a mistake?

17 A. In the 0318 case?

18 Q. Yes.

19 A. It's a hard stretch for me to try to figure  
20 out how we would have known those loads were at  
21 transmission. I mean, I can't see how we would have known  
22 that those loads were at transmission.

23 Q. If the Staff had had all the time in the  
24 world in the 0002 case when Mr. Lange's DR response came  
25 in and said -- from Mr. Finnell and said the information



1 that's being used by you guys is net system input, is not  
2 at the generation level, he'd had some time and you'd all  
3 sat down and talked about it, it's pretty easy for me to  
4 see how you might have figured that out. Isn't that fair?

5 A. When you balance that against the fact that  
6 we had filed what ended up being bringing the sales, the  
7 usage data to transmission, if I had a notation at the  
8 bottom of a DR versus AmerenUE not responding to our  
9 testimony, which would I give more weight to? Would I  
10 give more weight to the fact that -- I give more weight to  
11 the fact that Ameren wants to recover as much fuel cost as  
12 it can, so it would look at that loss.

13 I see before us two conflicting messages  
14 from the company, and given -- I don't see how we could  
15 have known anything different. I mean, John Cassidy might  
16 have got -- might have read a DR that said a line in Tim  
17 Finnell's testimony said there was distribution, this was  
18 distribution losses. But when you compare that to the  
19 magnitude of the line loss being filed at generation to  
20 bring loads up to generation and AmerenUE not responding  
21 to it, I would choose the fact that AmerenUE did not  
22 respond to the testimony and would believe that.

23 Q. Doesn't make it impossible for you to  
24 figure it out, does it?

25 A. No, it does not make it impossible.

1 Q. Let me ask you this: How much -- what  
2 percent, roughly, because we all agree -- we all agree  
3 that distribution losses were included, right?

4 A. Yes.

5 Q. The issue here is transmission losses?

6 A. Yes.

7 Q. You've looked at a lot of these numbers.  
8 You said you guys have looked at these very closely the  
9 last two or three months. You figured it out. You saw  
10 this difference between --

11 A. I haven't looked at numbers.

12 Q. What percent transmission losses -- you  
13 obviously -- you obviously had something bugging you in  
14 the back of your head and said, boy, that five or five and  
15 a quarter seems too low. I think you told me earlier you  
16 thought it out to be six, six and a quarter, about a  
17 percent different?

18 A. Yeah. Percent to a percent and a half,  
19 yes.

20 Q. All right. How much would that impact the  
21 fuel -- the net fuel cost, that 1 percent? Are we talking  
22 about maybe 40 million megawatt hours a year approximation  
23 here? I mean, I'm talking about a total.

24 A. It's hard to -- I would just think, you  
25 know, a 1 percent of the total fuel cost, I know for this

1 case it's running about 450 million.

2 Q. Four and a half million dollars?

3 A. Yeah.

4 Q. Okay.

5 A. That's 1 percent.

6 Q. Okay. Now, you agree that fuel was settled  
7 in the 0002 case, right?

8 A. I don't know.

9 Q. Okay. Well, I want you to assume that it  
10 is, and the Report and Order is going to show whether it  
11 was resolved as a contested issue or not; isn't that fair?

12 A. Yes.

13 Q. Isn't it fair to say that the reason the  
14 company might not have responded about this 1 percent loss  
15 issue might be because for a whole variety of reasons  
16 we -- we have a lot of give and take on the Staff's part,  
17 give and take on the company's part, MIEC's part. For a  
18 whole lot of reasons, the parties ended up settling fuel  
19 and it just never became an issue that needed to be  
20 responded to; isn't that fair?

21 MS. OTT: Objection, speculation.

22 THE WITNESS: Yeah. It's -- that's  
23 probably what happened.

24 BY MR. LOWERY:

25 Q. That probably is what happened, right?

1 A. Yes.

2 Q. It probably doesn't have anything to do  
3 with the company ever even thinking about, boy, we need  
4 to -- we need to push back against Erin Maloney and Alan  
5 Bax. Their losses are way off. We've got to push back or  
6 we're going to lose four and a half million dollars of  
7 fuel. It probably didn't have anything to do with that,  
8 did it?

9 A. I don't have any idea what it meant.

10 Q. Well, I asked you a question because you in  
11 this deposition probably half a dozen times have said,  
12 boy, I tell you, the company didn't push back on our loss  
13 numbers and that tells me -- that tells me that something  
14 was amiss. Hasn't that been your testimony?

15 A. That has been my testimony, and I -- maybe  
16 it was an unfair assumption. Staff, my department talks  
17 with the analysts at the utilities, and if we had seen  
18 something like that, if we'd noticed something like that,  
19 whether it had gone on to be settled or not, and I know  
20 Mr. Wills and he's a technician at heart, he's an analyst  
21 at heart, he wants to get things right. He would have  
22 called him up and said, hey, Steve, did you know you don't  
23 quite have this right?

24 Q. Well, did you --

25 A. And --

1 Q. Sorry.

2 A. And no, we didn't call him and talk to him  
3 about it, but, I mean, that was the relationship that we  
4 had had. I hope that it stays that way because Mr. Wills  
5 is a good analyst.

6 Q. And Mr. Finnell's a good analyst, too,  
7 isn't he?

8 A. He's like me. I don't think he does as  
9 much analysis anymore as he does policy work, but yes.

10 Q. I shouldn't say analyst, but he's good at  
11 what he does?

12 A. Yes.

13 Q. He knows what he's doing; is that fair to  
14 say?

15 A. I've never had an occasion to not believe  
16 that.

17 Q. Okay. He's a pretty nice guy, too, isn't  
18 he?

19 A. Yes.

20 Q. I think they both are actually, the best I  
21 can tell, as much as I know them.

22 Mr. Wills wasn't involved in the 0002 case;  
23 isn't that right?

24 A. I have no idea.

25 Q. Well, that's fine. Why in your surrebuttal

1 testimony did you make these claims about changes to the  
2 3.190 data and repeated misrepresentations and so on and  
3 you didn't mention any of that in the direct testimony?

4 A. It was the characterization by both  
5 Mr. Wills and Ms. Lynn Barnes that it was something that  
6 was, you know, a simple mistake, anybody could have caught  
7 it, Staff had everything it needed to know to be able to  
8 correct this mistake when we didn't.

9 Q. Maybe they thought you did. Is that fair?

10 A. That's fair. That's why I put it in my  
11 testimony.

12 Q. You even said in your direct testimony that  
13 it's the first time AmerenUE had had an FAC since the  
14 1970s, I think, and there's bound to be more mistakes  
15 beside the one we're talking about here, right?

16 A. That's correct.

17 Q. There's something I don't understand about  
18 that. It's your position, I think, in this case that the  
19 FAC true-up process shouldn't accommodate the ability to  
20 correct a mistake, right?

21 MS. OTT: Objection, mischaracterization.

22 MR. LOWERY: Well, she can tell me if it's  
23 a mischaracterization or not. I asked her if it was  
24 correct.

25 THE WITNESS: That's correct. We do not

1 think that changes should be made in true-up for anything  
2 other than the difference between what the company was  
3 supposed to collect and return and what was actually  
4 billed.

5 BY MR. LOWERY:

6 Q. And when you say what the company was  
7 supposed to collect and return versus actually billed,  
8 you're talking about the only things you think should be  
9 corrected is if the forecasted kilowatt hour sales for the  
10 recovery period turn out to be different than the actual?

11 A. Yes.

12 Q. And they will be different than the actual  
13 every time, won't they?

14 A. Yes.

15 Q. Okay. And so what if the opposite had  
16 happened here and we'd made the opposite mistake that had  
17 been made here in term of not having the net base full  
18 cost at generation, it's your position -- and the company  
19 then collected too much. It's your position, too bad for  
20 the customers, company gets to keep that money?

21 A. Yes.

22 Q. I'm very curious as to why that's the  
23 Staff's position.

24 A. We are not tasked with protecting the  
25 customer or the company. We are to be fair. We are -- a

1 tariff has been approved by the Commission, that we see  
2 that that tariff is met.

3 Q. Well, if the kilowatt hour -- if the net  
4 base fuel cost rates weren't determined at the generation  
5 level, then the tariff wasn't met, was it?

6 A. The tariff says this is what the net base  
7 fuel cost -- net base fuel cost rate is.

8 Q. That's true, but it also says that it was  
9 supposed to be calculated at generation and it wasn't;  
10 isn't that true?

11 A. That is what it says, yes.

12 Q. So the Staff's position is it's upholding  
13 two numbers in the tariff but it's not upholding several  
14 words in the tariff, is it?

15 A. That's correct.

16 Q. Now, in your surrebuttal testimony, you  
17 express the opinion that more sharing, the 15 percent  
18 share for the company would have created a greater  
19 incentive for the company to catch this mistake, right?

20 A. Yes.

21 Q. And you didn't express that opinion in your  
22 direct testimony either, did you?

23 A. Not expressly. I did say -- I don't know.

24 Q. Okay. Well, why don't you take a look?  
25 Because if I missed it, I'd like for you to point it out



1 for me.

2 MS. OTT: Can you read back that previous  
3 question?

4 THE REPORTER: "Question: Now, in your  
5 surrebuttal testimony, you express the opinion that more  
6 sharing, the 15 percent share for the company would have  
7 created a greater incentive for the company to catch this  
8 mistake, right?"

9 BY MR. LOWERY:

10 Q. Where I'm referring to, Ms. Mantle, is on  
11 page 114, and your discussion of this issue actually  
12 starts on page 113, and you basically lay out the fact --  
13 well, all right. You know what, I'm going to say I'm  
14 wrong. You did say. You did say it.

15 MS. OTT: I'm also going to object that I  
16 believe Mr. Byrne asked about incentives in the previous  
17 deposition.

18 BY MR. LOWERY:

19 Q. Strike the question. You said it in both  
20 pieces of testimony. You're the model of consistency.

21 Obviously when you wrote your surrebuttal  
22 testimony you didn't know that the information in the  
23 response in 0002 to DR 137 had been provided to the Staff,  
24 right?

25 A. That's correct.

1 Q. That was a surprise to you?

2 A. Yes.

3 Q. And is it fair to say that you didn't know  
4 that the 3.190 data that the company was supplying even  
5 after the MISO market started was at generation?

6 A. I didn't. I still don't know when it  
7 changed from net system input to net system output.

8 Q. Well, if Mr. Finnell is right in his  
9 response to DR 137, and you said you don't have any reason  
10 to believe he's not, you know back at that time that it  
11 was at generation, don't you?

12 A. Yes.

13 Q. And before -- before the deposition today,  
14 isn't it true that you thought that once the MISO market  
15 came on, that 3.190 data was no longer at generation?

16 A. That was my assumption, yes.

17 Q. It was an assumption you made?

18 A. Yes.

19 Q. Which turned out to be wrong?

20 A. Yes.

21 Q. Fair enough. Your surrebuttal testimony on  
22 page 3, it's the answer that starts on page 1, and this is  
23 what we've been talking a little bit about, a follow-up on  
24 a question I think I just asked you. You say on line 7,  
25 however, without notifying Staff, Ameren Missouri much

1 earlier had changed its monthly 3.190 submissions. And  
2 much earlier, isn't it fair to say in the context of that  
3 answer to that question you were suggesting that much  
4 earlier meant before 0318 and before 0002, right, because  
5 in the next sentence you talk about the fact that the  
6 Staff used net system output?

7 A. I was referring there to prior to the 2007  
8 case, yes. I thought at that time because of the low loss  
9 factor that we got that the 3.190 data had been provided  
10 at the wrong level or at a different level and we had not  
11 been told about it.

12 Q. Which turns out not to be true?

13 A. That's correct.

14 Q. So it wasn't as a result of a change to the  
15 3.190 data that the Staff used what you call net system  
16 output in 0002 and 0318, it was for a different -- it was  
17 because of something else, right?

18 A. I believe that's true in the 0002 case. I  
19 don't know about the 318 case.

20 Q. Okay. If it turns out that the company  
21 continued to provide the 3.190 data at generation into and  
22 through the end of or even after the 0318 case, then no  
23 change to the 3.190 data had anything to do with you using  
24 what you call net system output in that case either, did  
25 it?

1 A. If that's true, yes.

2 Q. Knowing what you know now, these new facts  
3 that you didn't know before today about what the company  
4 did or didn't change at least up to a certain point and  
5 what Mr. Finnell told the Staff in that DR response, is it  
6 truly your contention that if the sharing was 15 percent,  
7 that the company, Mr. Weiss would have been more careful  
8 in making the NBFC rate calculation in the 0318 case?

9 A. I don't know if Mr. Weiss would have been,  
10 but I believe the more -- the higher the amount the  
11 company gets to absorb or keep will make a difference in  
12 how closely they look at the numbers and how closely they  
13 track things.

14 Q. That's a theory, right?

15 A. I've got no reason to think different than  
16 that.

17 Q. But it's a theory, right?

18 A. Yes.

19 Q. How do you know -- well, let me back up.  
20 You don't know if a change in the sharing percentage is  
21 going to induce different behavior or not, do you?

22 MS. OTT: I'm going to object to this  
23 should have been asked in the previous deposition. She  
24 raised incentive in her direct testimony, and Mr. Byrne I  
25 believe questioned her on incentives. He may not have

1 gone into the detail Mr. Lowery would have liked, but it's  
2 not appropriate for this deposition.

3 BY MR. LOWERY:

4 Q. Do you remember the question?

5 A. No.

6 Q. You don't know whether a change in the  
7 sharing percentage would induce change in behavior or not,  
8 do you?

9 A. No.

10 Q. You don't know if the sharing percentage  
11 had been 75 percent share for the company, if it would  
12 have rooted out this mistake in the net base fuel cost  
13 rate, do you?

14 MS. OTT: I'm just going to continue that  
15 objection.

16 MR. LOWERY: You really don't have to. I  
17 mean, you've got a continuing objection.

18 MS. OTT: Well, that was only directed for  
19 that particular case you were referring to, so --

20 THE WITNESS: The answer is no.

21 BY MR. LOWERY:

22 Q. In your surrebuttal testimony on page 10,  
23 lines 18 to 21, you say that the Stipulation of Facts in  
24 the 0274 case, quote, includes a description of the error  
25 made by Ameren Missouri, period, end quote. Is it, in

1 fact, really true or do you contend that it's true that  
2 this stipulation anywhere says that Ameren Missouri made a  
3 mistake any more or less than the Staff made a mistake?

4 A. I think that in the 0318 case, AmerenUE was  
5 at a much better position to know what levels,  
6 transmission, distribution, generation, the load was at.  
7 Staff was not.

8 Q. I understand.

9 A. I -- you are the ones that filed the tariff  
10 sheet. So at that point you -- it is your number.

11 Q. I understand. That wasn't my question.

12 A. So at that point, it is your error because  
13 you filed the tariff sheet.

14 Q. Does the Stipulation of Fact describe it as  
15 Ameren Missouri's error any more or less than it does the  
16 Staff's error?

17 A. No, the Stipulation of Facts does not.

18 Q. That was my question. When Staff files a  
19 recommendation to approve tariff sheets, does Staff  
20 include an affidavit?

21 A. Yes.

22 Q. Does Staff's affidavit indicate therefore  
23 that the tariff sheets are in compliance with the  
24 Commission's order and are correct?

25 A. To the best of our knowledge, yes.

1 Q. You're not contending the company had  
2 actual knowledge that the sales used in the calculation of  
3 NBFC rates were not at generation, are you?

4 A. Sooner or later they figured it out. Staff  
5 didn't. So I don't know when that was done, and I -- I  
6 don't know what the company knew and what -- I know what  
7 the Staff knew.

8 Q. I didn't ask you that. I said are you  
9 contending that at the time the company filed that tariff  
10 sheet in the 0318 case, that it knew that the sales were  
11 not at generation? Is that your contention or not?

12 A. I don't know whether it knew it or not, but  
13 an error was made and the tariffs were filed.

14 Q. As far as you know, to the best of the  
15 company's knowledge, it had been done correctly at the  
16 time it filed the tariff sheet, just like to the best of  
17 the Staff's knowledge it had been done correctly; isn't  
18 that fair?

19 A. That's fair.

20 Q. Page 11, lines 12 to 17, you liken a  
21 postage increase to an increase in net fuel cost, right?

22 A. Yes.

23 Q. And I guess the point that you're trying to  
24 make is that if postage is higher than assumed in the  
25 revenue requirement, that doesn't mean the postage expense

1 is, quote, disallowed, right?

2 A. That's correct.

3 Q. Let me ask you this: Did Senate Bill 179  
4 authorize a rider for postage?

5 A. No, it did not.

6 Q. But it did authorize a rider, a rate  
7 adjustment mechanism for fuel, didn't it?

8 A. Yes, it did.

9 Q. That makes postage and fuel different in  
10 the ratemaking process, doesn't it?

11 A. Yes.

12 Q. Are power prices volatile, unpredictable?

13 A. Yes.

14 Q. If I pick any one 12-month period and  
15 compare it to another 12-month period, might I expect that  
16 the average price in the first 12-month period might vary  
17 a lot up or down from the average price in the second  
18 12-month period?

19 A. Yes.

20 Q. And that's true of certain other components  
21 of the revenue requirement as well, right?

22 A. Yes.

23 Q. It's true of some of the inputs we use in  
24 the fuel model?

25 A. Yes.



1 Q. And, you know, in the fuel model we use  
2 six-year averages, equivalent availability, and we  
3 normalize some of the inputs, don't we?

4 A. Yes.

5 Q. And we normalize storm costs. It's just  
6 like what happened last weekend. We have a huge storm one  
7 year and no storm at all the next year, right?

8 A. Yes.

9 Q. Why does the Staff and company for that  
10 matter, why do we normalize things in ratemaking?

11 A. If the costs were extreme, extremely high  
12 in a given year due to something that can be normalized,  
13 then the company will earn much greater than its return.  
14 Likewise, if they're a lot lower, for example, your storm  
15 costs you were talking about, than typically occurs, then  
16 the RO-- you will not earn your return.

17 Q. And it may just be because they just --  
18 they bounce up and down all over the place and so it's  
19 really hard to predict, right?

20 A. Yes.

21 Q. Is that one reason we normalize?

22 A. Well, we don't predict -- we use an example  
23 of a historical time period as a prediction for the  
24 future. We don't use forecasted numbers.

25 Q. I agree with that.

1           A.       But what it really is is a predictor where  
2 say the most recent 12 months, whatever 12-month period  
3 annualize, normalize is the best predictor on a  
4 going-forward basis.

5           Q.       But sometimes for a number of items we use  
6 multiyear averages, historical averages, because we've  
7 made a judgment that because -- because it's hard to know  
8 from year to -- hard to know from year to year to year  
9 whether that particular expense or revenue is going to be  
10 the same this year versus this year versus this year, that  
11 an average is probably the best proxy for that future that  
12 we can come up with?

13          A.       For many things, yes, an average is used.

14          Q.       And along that line, all of the parties in  
15 maybe all four of the rate cases that Ameren Missouri's  
16 had, including this one, in the last few years have used  
17 multiyear average to develop the hourly market prices that  
18 are used to set net fuel costs, right?

19          A.       That Ameren has used? I believe there may  
20 have been a rate case where Staff only used one year.

21          Q.       And you might be right. I can't remember  
22 for sure. In this case, Ms. Maloney, she filed her  
23 testimony, used three-year average, right?

24          A.       Yes.

25          Q.       Just like the company did?

1 A. I'm not real familiar what the company did.

2 Q. That's fine. And they didn't produce the  
3 same number because we had some disputes about the inputs,  
4 but it was -- they were both meant to be three-year  
5 averages if I'm right about what the company did?

6 A. Yes.

7 Q. You do know Ms. Maloney was using  
8 three-year averages, right?

9 A. Yes.

10 Q. And you believe that was an appropriate  
11 thing to do; is that true?

12 A. That's what her analysis said should be  
13 done, and I trust her judgment.

14 Q. So that means that it was Staff's judgment  
15 that a three-year historical average was the best that we  
16 could do to try to predict what the average hourly market  
17 price is going to be after rates are set, right?

18 A. Yes.

19 Q. And maybe you don't agree with this. I  
20 thought -- I thought this was an uncontroversial point.  
21 The reason Ms. Maloney or any of us might use -- not just  
22 use the test year, for example, might use two or three  
23 years or whatever, is because of that volatility and  
24 unpredictability in power prices, right?

25 A. She looks at the purchased power prices

1 over the test year, and if there's a trend one direction  
2 or the other, she tries to account for that. If it's all  
3 over the place, yeah, three-year average gets a little bit  
4 of everything, it's been her judgment. So she's looking  
5 at the data trying to be able to, if there's a way to  
6 normalize it, you know, come up with that, that  
7 normalization, but at the same time providing prices that  
8 still have volatility in them, go up and down but have an  
9 average price that she feels is representative.

10 Q. Now, I'm just trying to make this simpler.  
11 Volatility and unpredictability in power prices, is that  
12 part of the reason you might want to use a multiyear  
13 average?

14 A. Volatility in the prices is a typical thing  
15 that happens, and we do try to capture that volatility in  
16 how we assign prices to hours, although we do make the  
17 average of those prices be equal to the three-year  
18 average. So we are -- there's something -- volatility is  
19 typical. Therefore, we put some volatility in the  
20 purchased power prices.

21 Q. Pages 11 to 12 of your surrebuttal  
22 testimony, you now say that maybe the Commission ought to  
23 consider the extent to which the company rebased net fuel  
24 costs or didn't rebase them or how accurately it did in  
25 consideration regarding your sharing proposal because

1 maybe the off-system sales price being used to set the  
2 base in this case is too high. Is that the point you're  
3 making?

4 A. No, that is not the point I'm making.

5 Q. Can you explain the point you're making,  
6 then? Because I obviously missed it.

7 A. Ms. Barnes says in her testimony, her  
8 rebuttal testimony, that she believes fuel cost, net base  
9 fuel costs are likely to be set at a level that is too  
10 low. If it is the company's position that that level is  
11 too low, they need to come in with the correct net base  
12 fuel cost.

13 Q. Let me ask you about that. When she says  
14 that, she says the reason that she's concerned that the  
15 net base fuel cost rates are likely to be lower than what  
16 the net fuel costs actually turn out to be is principally  
17 because of the fact that don't think power prices are  
18 really going to be as high as the ones assumed in the  
19 case?

20 A. Then Ameren should file what it believes  
21 the purchased power prices are going to be.

22 Q. You mean off-system sales? Well, it's for  
23 purchased power, too, but it's mostly off-system sales.

24 A. Off-system sales. It's price set by MISO.

25 Q. And Mr. Haro in his rebuttal testimony

1 talks a little bit about this, too, right?

2 A. Yes.

3 Q. He says that the three-year average is, I  
4 believe, about 32.51, and the current forwards as of the  
5 time he filed the testimony three or four weeks ago were  
6 29-something. Do you remember that?

7 A. I remember that he had some testimony to  
8 that, yes.

9 Q. Does that sound about right or do you want  
10 to take a look at it?

11 A. I would prefer to take a look at it.

12 Q. That's fair.

13 A. I think I have it.

14 Q. Take a look at page 3 starting at the first  
15 full sentence on line 21, I think you'll see where he  
16 talks about that issue.

17 A. Okay. He does make that statement.

18 Q. And if that turned out to be true, then the  
19 net base may very well be lower than what the actual fuel  
20 costs turn out to be, right?

21 A. If -- if the forward prices are what is  
22 really realized, that they will be lower than what was  
23 modeled.

24 Q. And what is it, is it 2 -- I can't see it  
25 here -- 29.60, so about --

1 A. 29.06.

2 Q. 29.06, so close to \$3.50 a megawatt hour  
3 difference between the forward curve and the forward price  
4 and the three-year average, right?

5 A. That's what his testimony is, yes.

6 Q. Ameren Missouri ballpark has about  
7 10 million megawatt hours of off-system sales in a year,  
8 do you know?

9 A. I don't know.

10 Q. I want you to assume, and it's a  
11 hypothetical for purposes of this case, that that's true,  
12 that it's about 10 million megawatt hours a year. So  
13 that's going to be -- if that really happened, if we use a  
14 three-year average, a forward price that's 3.50 a megawatt  
15 hour lower roughly, then that's \$35 million, right?

16 A. It's a lot of money. The assumption was  
17 three and a half dollars a megawatt hour times ten  
18 megawatt -- yeah.

19 Q. \$35 million, right?

20 A. Yes.

21 Q. Here's -- and you said it a minute ago.  
22 The point you're trying to make is, Ameren Missouri ought  
23 to insist that the off-system sale price be what it's  
24 going to be in the future if it think it's too -- if the  
25 price being used in the case is too high. Is that your

1 point?

2 A. Yes.

3 Q. I want you to tell me exactly what you want  
4 the company to do about that given the ratemaking  
5 construct that we have.

6 A. What I want the company to do about that?

7 Q. You say -- you say do something about it.  
8 You just told me a minute ago we don't use budget or  
9 forecasted prices, right, in the ratemaking process?

10 A. That's correct.

11 Q. And Staff's recommending a multiyear  
12 average in this case, right?

13 A. Yes.

14 Q. For power prices?

15 A. Yes.

16 Q. Staff's not going to support using a  
17 forward price to set the off-system sales price in net  
18 base fuel cost, is it?

19 A. No, it will not.

20 Q. So you've criticized -- you're criticizing  
21 the company. You're saying, boy, if you think that the  
22 power price being used in the case is too high, you ought  
23 to do something about it. What do you want us to do?

24 A. Take it to the Commission.

25 Q. Is the Commission going to let the company



1 use a forward price to set the net base fuel cost?

2 MS. OTT: Objection, speculation.

3 THE WITNESS: Please don't ask me to  
4 speculate what the Commission will do.

5 BY MR. LOWERY:

6 Q. In your experience, based upon your  
7 experience -- and you've been at the Commission for, I  
8 don't know, what, 25 years, Lena?

9 A. 27.

10 Q. 27. I was close.

11 A. I do believe they issued an Order last week  
12 where they said that for KCPL we should use the prices  
13 forecasted by the Midas run.

14 Q. Oh, using the prices forecasted by a fuel  
15 run is not the same thing as using a forecasted power  
16 price in the fuel run, is it?

17 A. That's how the prices were got -- were  
18 calculated to put in the fuel run.

19 Q. So it's your --

20 A. Was using the Midas model.

21 Q. It's your testimony that the average  
22 hourly -- the hourly market prices used in KCPL's Midas  
23 run for setting their off-system sales in their rate case  
24 were forward energy prices; is that your testimony?

25 A. No.

1 Q. Then what is your testimony on that point?  
2 Because you've confused me.

3 A. Forward energy prices are prices that  
4 somebody would pay now to get power in the future. If  
5 they're buying power, they're making the assumption it's  
6 going to be higher and they want to buy at that. If  
7 they're selling, they're making the assumption it will  
8 probably be lower. That's why forward prices should not  
9 be used. It is -- it is a different animal than even  
10 forecasting what the prices are going to be.

11 Q. Then explain to me what your understanding  
12 is of the inputs in the Midas model in the KCPL case.

13 A. What they did is model the entire eastern  
14 interconnect, and they look at the -- all the power plants  
15 in the eastern interconnect, what all the utilities said  
16 they were going to add power plants, which ones are going  
17 to be added, which ones are going to be retired, and from  
18 that they do some magic and come up with some hourly power  
19 prices.

20 Q. Is it your testimony that the hourly power  
21 prices that they input into that model are not based on  
22 historical prices at all?

23 A. I don't know.

24 Q. Then what point were you trying to make  
25 about what the Commission did about hourly -- about how

1 the Commission was setting rates in terms of what power  
2 price was used?

3 A. You can never guess what the Commission is  
4 going to come up with.

5 Q. I won't mark this because a Report and  
6 Order is what a Report and Order is. Give you a two-page  
7 document, ask you if you recognize that. It's obviously  
8 not the entire Report and Order.

9 A. No. It's one page from the Report and  
10 Order in Case ER 2007-0002.

11 Q. Do you recall that others actually wanted  
12 to use budgeted power prices to set Ameren Missouri's,  
13 AmerenUE's power prices in that case which were based on  
14 forward prices and the Commission said we use historical  
15 test year in Missouri and we're not going to use  
16 forecasted prices to set off-system sales? Do you  
17 remember that?

18 A. That's -- they talk here about problems  
19 with using budgeted amounts. So my guess is in this case  
20 they did not use budgeted amounts in their Order.

21 Q. I'm back to my original question. Other  
22 than -- other than take something to the Commission the  
23 Commission's been very clear about the Commission's not  
24 going to do, that the Staff is going to clear about the  
25 Staff is going to oppose, and that is come to the

1 Commission and say please let us use forward prices to  
2 model off-system sales in our rate case, other than that,  
3 what do you suggest the company does about the problem of  
4 its net base fuel costs perhaps being lower than maybe it  
5 can really realize because of the forward -- it turns out  
6 that the forward energy prices turn out to be true? What  
7 else would you suggest we do?

8 A. A one year, use the actual test year just  
9 as Staff has in the past. If Mr. Haro believes that the  
10 prices are still declining, then he makes that case before  
11 the Commission.

12 Q. Do you think that it's a good idea to, rate  
13 case A we'll use one method to normalize power prices,  
14 rate case B we use a different one, rate case C we switch  
15 again, rate case D we switch to something else? Do you  
16 think that's a good idea?

17 A. No.

18 Q. Why didn't the Staff suggest using a  
19 one-year average in this case?

20 MS. OTT: Objection. It calls for  
21 attorney/client privilege, but the --

22 BY MR. LOWERY:

23 Q. If you can answer my question without  
24 revealing confidential communications with your attorneys  
25 about that question, please do so.

1           A.       It's my understanding from Ms. Maloney that  
2 the price -- she sees the prices are actually coming back  
3 up. She's looked at a trend over the last three years.  
4 She told me, I believe it was yesterday, that the prices  
5 are not back above where they were three years ago, but  
6 from what she can tell, the prices aren't going down.  
7 They are coming back up.

8           Q.       So it seems like if the company wanted to  
9 use one year, Staff probably wouldn't be very supportive  
10 of that, would they?

11          A.       I don't know. It's according to the  
12 justification for using the years.

13                   (A BREAK WAS TAKEN.)

14 BY MR. LOWERY:

15          Q.       Ms. Mantle, on page 7, line 11 of your  
16 surrebuttal testimony, you claim that the company's  
17 actions regarding how it treated the AEP and Wabash  
18 contract sales was unlawful, right?

19          A.       Yes.

20          Q.       How was it unlawful?

21          A.       It was against -- that is the Staff's  
22 position. It -- it's unlawful in that it went against  
23 what the FAC tariff said it should.

24          Q.       Okay. So a tariff is -- you've been around  
25 ratemaking long enough. A tariff has a force and effect

1 of law, you've heard that probably?

2 A. Yes.

3 Q. Like it was a statute, right?

4 A. As an engineer, it doesn't make --

5 Q. You understand the concept, though. The  
6 tariff's binding, right?

7 A. Right.

8 Q. It's the law, and you have to follow it,  
9 and we have to follow it and customers to have follow it,  
10 everybody has to follow it, right?

11 A. Yes.

12 Q. So when you say that the actions were  
13 unlawful, what you're saying is the tariff said that the  
14 sales under those contracts fall within the term  
15 off-system sales and have to be run through as off-system  
16 sales, and since the company didn't do that, the company  
17 didn't follow the tariff and that was unlawful. That's  
18 your position, right?

19 A. Yes.

20 Q. Let's talk about a couple hypotheticals.  
21 Assume that neither the Staff nor anyone else had objected  
22 to the company's treatment of AEP and Wabash, either you  
23 agreed with the company's interpretation of the tariff or  
24 whatever, but nobody objected. Okay? In that case, the  
25 company keeps the \$42 million that are at issue, not at

1 issue in this particular case, but that will be over the  
2 four or five accumulation periods, right?

3 A. I'll accept that assumption. Yeah, in that  
4 circumstance, that we would agree that you should be able  
5 to keep it?

6 Q. Yeah. I want to make sure that your  
7 answers are clear. The hypothetical circumstance that you  
8 agree -- let's just -- let's put a finer point on it.  
9 Let's say that the Staff agreed that the company  
10 interpreted the tariff just right and those sales are not  
11 within the definition of off-system sales and so the  
12 company keeps them. Let's hypothetically say that you  
13 agree with that. Do you understand that assumption?

14 A. Yes.

15 Q. Under that set of assumed facts, the  
16 company is going to be entitled to the \$42 million, right?

17 A. Right.

18 Q. Now, if -- let's take the opposite  
19 hypothetical. The company says, yep, you're right, those  
20 sales are within off-system sales, and the Staff says,  
21 yes, they're within off-system sales, and so the revenues  
22 go through the FAC. Okay. That's the second question.  
23 Do you understand that question, that set of assumptions I  
24 should say?

25 A. 95 percent of it, yes.

1 Q. So -- right. So in that case, the company  
2 is going to benefit by 5 percent of those revenues, right?

3 A. Right.

4 Q. \$2.1 million; does that sound about right?  
5 It's late, but is 5 percent of 42 around \$2 million?

6 A. I don't know right now.

7 Q. I really want to move along quickly, but  
8 I've really got to have the answers to my questions. Use  
9 my calculator.

10 A. 42 million, right?

11 Q. Yep.

12 A. 2.1 million.

13 Q. 2.1 million. Okay. All right. Let's say  
14 that -- you probably might as well keep it. Let's say  
15 that your 15 percent sharing mechanism had been in place  
16 instead of the 95/5. In that case -- and we're in the  
17 situation here where the company agrees the definition of  
18 off-system sales does include the AEP and Wabash revenues  
19 and so they have to go through the fuel adjustment clause.  
20 How much does the company get to keep of that \$42 million  
21 in that circumstance if your 15 percent had been in place?

22 A. 6.3 million.

23 Q. I knew an engineer could do that.

24 6.3 million, right?

25 A. Yes.



1 Q. And a couple other real easy ones. If it  
2 was 50/50 sharing, the company would get to keep  
3 21 million, right?

4 A. Yes.

5 Q. And if it was 75 percent sharing, and I had  
6 to use a calculator for this, the company would get to  
7 keep 31.5, right?

8 A. 31.5 million, yes.

9 Q. The point is that no matter what the  
10 sharing percentage is, unless it's 100 percent, which  
11 would be like not having a fuel adjustment clause, right?  
12 The point is, no matter what the sharing percentage is, UE  
13 is better off financially when it comes to these two  
14 contracts if the sales under the contracts don't fit the  
15 definition of off-system sales; isn't that right?

16 A. Yes, UE being the shareholders and the  
17 owner.

18 Q. Okay. If you want to draw a distinction.  
19 Shareholders, UE shareholders are better off no matter  
20 what the sharing percentage is if these two contracts are  
21 not within the definition of off-system sales; isn't that  
22 right?

23 A. That's correct.

24 Q. So tell me, then, on what do you base your  
25 contention that a higher sharing percentage would have

1 caused AmerenUE to treat these contracts differently?

2 A. It's my contention that they could have.  
3 Again, we don't know what would have happened, but as I do  
4 state on page 8, line 18, I believe it is very likely  
5 Ameren Missouri's actions would have been different had  
6 the incentive mechanism only passed 5 percent of the  
7 revenues from these contracts to the ratepayers instead of  
8 95 percent.

9 Q. I understand that's what you say. What I'm  
10 trying to get you to tell me is, I don't understand your  
11 logic. Ameren Missouri is still better off, is still  
12 better off financially if these contracts are not  
13 off-system sales at virtually any sharing percentage you  
14 can pick, right?

15 A. Yes.

16 Q. So why would you think it's very likely or  
17 likely at all that Ameren Missouri would have done  
18 something different about these two contracts if the  
19 sharing -- if its share had been greater through the FAC?

20 A. Because there's cost in going through the  
21 prudence case. There's a lot of effort. There's -- and  
22 it could be that AmerenUE just decides that, hey, we're  
23 going to split this with the customers, we're going to  
24 share this. You know, I don't know. There's a lot of  
25 reasons why AmerenUE would act different given a different

1 incentive mechanism.

2 If the goal of AmerenUE is always to  
3 maximize what goes to the shareholders and not necessarily  
4 the ratepayers, then I agree with you, nothing other than  
5 100 percent would have satisfied the company.

6 Q. Okay. Well, let me just put it this way.  
7 It's in -- it's in Ameren Missouri's financial interest  
8 for these contracts not to be off-system sales no matter  
9 what the sharing percentage is, right?

10 A. Long-term or short -- well, I guess because  
11 you're a monopoly and the customers have to take service  
12 from Ameren, that is correct. If Ameren does not care  
13 about its customers or its relationship with its  
14 customers, then, yes, that's right. But if Ameren -- I  
15 guess that's just -- that's it.

16 Q. But it's not the change in sharing  
17 percentage, all the things you just talked about, Ameren  
18 Missouri might do this different or might do that  
19 different, those -- if Ameren Missouri engaged in  
20 different behavior on this particular issue about these  
21 two contracts, it's not going to be driven by a change in  
22 the sharing percentage, is it?

23 A. I don't have any idea.

24 (MANTLE EXHIBIT NO. 11 WAS MARKED FOR  
25 IDENTIFICATION BY THE REPORTER.)

1 BY MR. LOWERY:

2 Q. I'm going to hand you what's been marked as  
3 Deposition Exhibit 11 and ask if you recognize that.

4 A. It's a response to the DR I provided  
5 Ameren.

6 Q. And the first -- the graph on the first  
7 page of that is the same graph that Mr. Haro included in  
8 his rebuttal testimony, right, except I think you may  
9 have -- did you include an additional accumulation period  
10 worth of data?

11 A. Yes.

12 Q. Is that what you did?

13 A. Yes, I did.

14 Q. And the graph on the second page is an  
15 update of a graph you had in your direct testimony, right?

16 A. Yes.

17 Q. And the difference is, is that it too goes  
18 out one more accumulation period than what you had in your  
19 direct testimony; is that right?

20 A. Actually, I believe the second graph is in  
21 my -- it's in my direct up through accumulation period  
22 five, but I believe it's in --

23 Q. Surrebuttal?

24 A. -- surrebuttal through six.

25 Q. That's what I meant to say if I didn't say

1 it.

2 A. But with incorrect numbers.

3 Q. Right. Your surr-- the graph on the second  
4 page of Exhibit 11 is in your surrebuttal testimony up  
5 through accumulation period six, but you made a mistake in  
6 the graph in your surrebuttal testimony, right?

7 A. That's correct.

8 MS. OTT: Is there a page in the  
9 surrebuttal?

10 MR. LOWERY: Maybe it's in your work  
11 papers.

12 THE WITNESS: Or is it in the schedule?

13 BY MR. LOWERY:

14 Q. None of us can remember all of a sudden.

15 A. It's on page 5.

16 Q. I'm sorry, but because I think we all kind  
17 of goofed up the record a little bit, the graph on the  
18 second page of Exhibit 11 essentially is the same graph as  
19 on page 5 of your surrebuttal testimony, right, except --  
20 correct?

21 A. They look the same. Obviously there was a  
22 difference in one of the formulas, so --

23 Q. It was a minor difference, though, right?

24 A. Yes.

25 Q. And then the graph on the first page of

1 Exhibit 11, that graph is on Schedule LMM-S1-1 to your  
2 surrebuttal?

3 A. Yes.

4 Q. But it contained -- the one in your  
5 surrebuttal contained a more significant mistake in the  
6 formula, right?

7 A. Right. I should have caught that one.

8 Q. And you corrected that in your DR response  
9 when we asked you about it, right?

10 A. Yes.

11 Q. Now, the graph on page 5 in your  
12 surrebuttal testimony is an update to a graph that was in  
13 your direct testimony, correct?

14 A. Correct.

15 Q. And the update is that you added one  
16 additional accumulation period in your surrebuttal  
17 testimony graph versus the one in the direct testimony,  
18 and that's on page 114 of your direct testimony.

19 Now, the graph in your surrebuttal  
20 testimony shows that between accumulation periods five and  
21 six we've got off-system sales going up while power prices  
22 are going down, right?

23 A. Yes. Sales are going up from five, and the  
24 average price is going down.

25 Q. And that's the opposite phenomenon that you

1 sort of get the impression about if you look at the  
2 similar graph through accumulation period five in the  
3 direct testimony, right?

4 A. Yes.

5 Q. The graph in the direct testimony, it might  
6 suggest that there -- and I think this is the way you  
7 couched it, that it might suggest that -- that kind of  
8 information might suggest maybe Ameren Missouri doesn't  
9 have enough incentive to make off-system sales because  
10 price is going up but volumes seem to be going down. Is  
11 that the point you were making at the time?

12 A. The point I was making, just given that  
13 graph, yes.

14 Q. And now we see that in the updated graph  
15 maybe the data doesn't necessarily support that  
16 hypothesis; isn't that fair?

17 A. Maybe, yes. Mr. Haro provided a lot of  
18 explanation.

19 Q. Now, on page 5 of your surrebuttal  
20 testimony, lines 8 to 11, you take issue with a statement  
21 Mr. Haro made. He said that -- well, let's just talk  
22 about it. Page 8 -- or page 5, line 8, you say that  
23 Mr. Haro states on page 2, line 12 that you, meaning you,  
24 Ms. Mantle, contend that Ameren Missouri had a lack of  
25 incentive to make off-system sales. Then you ask yourself

1 the question, is that what you are contenting? You say,  
2 no, that's not I am contending. I am not contending that  
3 Ameren Missouri lacks sufficient incentive to make  
4 off-system sales. Is that a fair summary of your  
5 testimony?

6 A. I'm contending that there's so little data  
7 available to say one way or the other. I mean, that this  
8 graph might show -- somebody could look at that and see  
9 that. I don't know if that's what's happening yet. I  
10 know the Commission in the last case asked Staff to look  
11 at it and we said we didn't have enough data, so I  
12 presented data to the Commission.

13 Q. But at this moment as you sit here today  
14 and as you wrote your surrebuttal testimony, it's not your  
15 contention that the company lacks sufficient incentive to  
16 make off-system sales like it should; is that true?

17 A. That's true.

18 Q. Now, I'm wondering exactly how you square  
19 that position reflected on line 11 of your surrebuttal --  
20 or page 5 of your surrebuttal testimony with what you said  
21 at page 115 of the Staff Report where you said, a utility  
22 may have little or no incentive to reduce fuel costs and  
23 make off-system sales. They seem inconsistent to me.

24 A. What line was that?

25 Q. I will have to find it. Lines 5 and 6, I



1 think. There is little or no incentive for a utility to  
2 reduce fuel costs or make off-system sales. But you say  
3 in your surrebuttal testimony, you told me now, that  
4 you're not contenting that the company doesn't have enough  
5 incentive to make off-system sales.

6 A. I don't know if the company has or has not.  
7 I don't know what the difference would be if the incentive  
8 mechanism was different. I don't know what the sales  
9 would have been had there been zero incentive, if zero of  
10 it had gone back to AmerenUE. It may have been the same.  
11 I don't know.

12 Q. If you were a Commissioner and you took the  
13 graph you have on page 114 of your direct and then you  
14 read the language we were just talking about on page 115,  
15 would you perhaps reasonably interpret that to mean that  
16 what the Staff witness is saying is that this graph is  
17 suggesting they don't have enough incentive to make  
18 off-system sales?

19 MS. OTT: Objection to speculating on what  
20 a Commissioner may or may not do, but she can interpret it  
21 how she believes.

22 THE WITNESS: Yes, and that's why I went on  
23 in that paragraph to explain how there's factors that have  
24 impacted Ameren's ability to make off-system sales. The  
25 graph showed what the graph showed, but I knew there were

1 some other factors, and I did not want to stop at just the  
2 graph and say, hey, Commission, see what's happened. I  
3 wanted to present a fair presentation, Commission, this  
4 shows part of the picture.

5 BY MR. LOWERY:

6 Q. So I think the bottom line at least based  
7 upon where you are today, perhaps in part because you have  
8 additional data and you have an updated graph in your  
9 surrebuttal testimony, is it fair to say you don't know  
10 one way or the other whether Ameren Missouri has or  
11 doesn't have sufficient incentive under the current fuel  
12 adjustment clause to manage its fuel costs, to make  
13 off-system sales, you just don't know; is that fair to  
14 say?

15 A. That is fair to say.

16 Q. Doesn't that make any opinion you have  
17 about that speculative?

18 A. Any opinion on an incentive mechanism by  
19 anybody in Missouri right now would be speculative.

20 Q. Okay. Which means yours is speculative,  
21 right?

22 A. Yes.

23 Q. Fair enough.

24 A. Including mine.

25 Q. All right. That's fair. I noticed in your

1 surrebuttal testimony that you didn't rebut anything that  
2 Mr. Haro said in his rebuttal testimony starting with line  
3 1 on page 16 all the way to page 22, line 17. All you  
4 said about that is that you appreciated his thoroughness;  
5 is that fair?

6 A. That's fair.

7 Q. Is it fair for me to conclude that you  
8 agree with those lines and pages in his rebuttal  
9 testimony?

10 A. I have no reason to -- I've said in the  
11 Staff Report that there were outages, that there was --  
12 the Callaway plant was down and the sales were up, and he  
13 just explained those in great detail.

14 Q. You don't take any issue with any of that?

15 A. I don't have any reason to.

16 Q. Okay. So he's right when he demonstrates  
17 that to the extent off-system sales are lower during  
18 accumulation period -- during all the accumulation periods  
19 that have occurred so far because retail sales went up or  
20 because there were planned maintenance outages, he's right  
21 about that, isn't he? That's the reason, isn't it?

22 A. That affects how much energy is available  
23 to be sold on the off-system sales market.

24 Q. And his information demonstrated that the  
25 drop in off-system sales observed in the data was more

1 than offset by a combination of retail sales increases or  
2 less megawatt hours being available because of planned  
3 maintenance outages; isn't that true?

4 A. Yes.

5 Q. He's right when he says there's no evidence  
6 that any lower off-system sales volumes that AmerenUE has  
7 experienced during these five accumulation periods, that  
8 there's no evidence that that lower volume took place  
9 because there was not a sufficient incentive? He's right  
10 about that, isn't he?

11 A. Yes.

12 Q. You agree the company's got to make retail  
13 sales first?

14 A. Definitely.

15 Q. You agree that planned maintenance of  
16 generating units is important?

17 A. Yes.

18 Q. Would you agree that at a time when power  
19 prices have come off or down, that that might be a good  
20 time to take some planned maintenance outages?

21 MS. OTT: I'm going to object to asked and  
22 answered in her previous deposition.

23 BY MR. LOWERY:

24 Q. Would you agree?

25 A. Yes.

1 Q. And why would that be?

2 A. Do the maintenance when the price is down  
3 so you have the power plant at a higher efficiency when  
4 the prices are up and you can make more sales.

5 Q. To lower fuel costs for customers,  
6 customers get 95 percent of that benefit, right?

7 A. Get more back to AmerenUE in their  
8 5 percent.

9 Q. Everybody wins, right?

10 A. Yes.

11 Q. Right now, customers win to the extent of  
12 95 percent. If your proposal is adopted, they'll only win  
13 to the extent of 85 percent, right?

14 A. Right. They'll only be taking on  
15 85 percent of the risk instead of 95 percent.

16 Q. Now, at page 18 of Mr. Haro's rebuttal  
17 testimony, he put a graph that's actually a graph that  
18 came from your work papers, right?

19 A. Yes.

20 Q. And in your surrebuttal testimony, you've  
21 put that graph in one of your schedules essentially,  
22 right, except you've added accumulation period six data to  
23 it, correct?

24 A. Correct.

25 Q. And that's the one on the first page of

1 Exhibit 11 that had a material mistake?

2 A. I should have caught that one, yes.

3 Q. Okay. And you've corrected that mistake in  
4 the answer to DR No. 20, Exhibit 11, and we all agree now  
5 on what that graph should have shown, right?

6 A. I corrected it. I don't know if you guys  
7 agree with it. So I will assume if you say you do, you  
8 do.

9 Q. You corrected the error that we pointed out  
10 to you, right?

11 A. Yes.

12 Q. We didn't point any other errors out, did  
13 we?

14 A. No.

15 Q. I -- your story -- I think what you've told  
16 me now is that in including the graph you did include on  
17 page 114 of your direct testimony that you've updated in  
18 your surrebuttal testimony, that when you included that in  
19 your direct testimony, the point you were trying to make  
20 was that graph might show a lack of incentive, but then  
21 you went on and talked qualitatively in the text about  
22 some things that might mean that that graph isn't really  
23 pointing to that. Is that the point you were making at  
24 that time?

25 A. I was -- the point I was trying to make was

1 it shows a definite move in the wrong direction for  
2 somebody with a fuel adjustment clause. However,  
3 Commission, there's some things you need to take into  
4 account. Now, I don't know that, you know, it erases all  
5 that things would have been different had -- I know things  
6 would have been different if the plant had been up and so  
7 forth, but I was trying to make sure that the Commission  
8 considered everything. I did not want to be just pushing  
9 one view without the consideration of everything.

10 Q. Well, that's kind of the question I had,  
11 because tell me why in your surrebuttal testimony you  
12 included the graph on Schedule LMM-S1-1, the third of the  
13 three graphs which has now been corrected in Exhibit 11.  
14 Why did you include that graph in your surrebuttal  
15 testimony but you didn't see fit to include it in your  
16 direct testimony?

17 A. I -- I included it on my schedule because  
18 Mr. Haro included it in his testimony. I don't remember  
19 why I decided to not include it in my report, in the  
20 report. But again, to give the Commission information, I  
21 wanted to show what that graph looked like with additional  
22 information.

23 Q. But that graph at the time of your direct  
24 testimony that you've now shared with the Commission,  
25 Mr. Haro shared it with them first, it would have showed

1 retail sales increasing at the same time that generation  
2 was going up, it would have shown that increase in retail  
3 sales that Mr. Haro ends up pointing out to the Commission  
4 that explained away frankly some or all of what the graph  
5 you did include on page 114 showed, right?

6 A. It would show those coming closer together,  
7 the retail sales versus what was generated.

8 Q. It would have given the Commission a more  
9 complete picture at the time of your direct testimony had  
10 you included it than the picture that you painted for  
11 them, wouldn't it?

12 A. I don't know.

13 Q. Well, on page 114 you show them that  
14 off-system sales are going down and prices are going up?

15 A. Yes.

16 Q. But the graph that you didn't include would  
17 have shown them that retail sales were going up, right?

18 A. Yes.

19 Q. And if you see the two things together,  
20 then you can go, aha, off-system sales may be going down  
21 but retail sales are going up, and so part of the reason  
22 off-system sales are going down is because retail sales  
23 that I have to make first are going up; isn't that true?

24 A. I'd already discussed the 15 percent  
25 increase in retail usage between the two summer



1 accumulation periods in my --

2 Q. Would you agree that a picture is worth a  
3 thousand words?

4 A. To some people.

5 Q. Well, they are to lawyers and I suspect  
6 Commissioners who are all lawyers, but I won't ask -- you  
7 don't have to answer the question. That's a free  
8 editorial comment.

9 But in any event, you didn't show them the  
10 second graph in your direct testimony?

11 MS. OTT: Asked and answered.

12 THE WITNESS: No, I did not.

13 BY MR. LOWERY:

14 Q. Would it have at least graphically given  
15 them a little bit more complete picture had you done so?

16 MS. OTT: Objection. Asked and answered.

17 THE WITNESS: It may have.

18 BY MR. LOWERY:

19 Q. You're not sure why you didn't include it,  
20 correct?

21 A. At this point, no.

22 Q. All right. Let me try to cut to the bottom  
23 line. You don't know whether Ameren Missouri does or does  
24 not have a sufficient incentive to manage its fuel costs  
25 and make off-system sales today, either way, you don't

1 know, right?

2 A. That's correct.

3 Q. You don't know if Ameren Missouri's  
4 behavior over the last two years would have been any  
5 different in regard to those two subjects if the sharing  
6 percentage had been 15 percent?

7 A. No, I do not.

8 Q. At the bottom of page 6, lines 29 to 31 of  
9 your surrebuttal, is it fair to -- would it be fair to  
10 characterize what you're saying to the Commission at  
11 those -- at that page at those two lines, would it be fair  
12 to characterize that as your suggestion the Commission  
13 might want to engage in an experiment about whether the  
14 behavior would be any different?

15 A. If the Commission wants to know whether or  
16 not a change would cause a change in behavior, the only  
17 way they can do that is to change. If you want to call it  
18 an experiment, I -- it's a very expensive experiments, but  
19 if that's what the Commission wants to know, the only way  
20 you can tell is by changing the mechanism.

21 Q. You'd agree that it's fair to characterize  
22 it as an experiment if they did that?

23 A. That can be characterized as an experiment,  
24 yes.

25 Q. You've got 19 months of data roughly right

1 now, right, through the first six accumulation periods  
2 because the first one only had about three months in it;  
3 does that sound about right?

4 A. I think it's 23 months.

5 Q. Okay. I'm accept your -- I may be wrong.

6 Yeah, you're right, 23 months. Four times five plus  
7 three. Okay. You've got 23 months of data. And the  
8 Staff's done one prudence review that covered about seven  
9 or eight months, right?

10 A. Seven months.

11 Q. Seven months. Okay. And the only  
12 imprudence that the Staff has claimed thus far, realize  
13 you haven't done an additional prudence review, is your  
14 characterization that it was imprudent in terms of how the  
15 company classified the AEP and Wabash contracts, right?

16 A. That's correct.

17 Q. And you said it a minute ago. If the  
18 Commission does engage in the experiment as I characterize  
19 it, in the last 23 months -- I said 19, but the last  
20 23 months, the company's net fuel costs have gone up about  
21 \$200 million. Does that sound about right?

22 A. I don't know.

23 Q. I'll ask you to assume that's true.

24 A. Okay.

25 Q. The FAC data will show what it will show.

1 If your sharing percentage had been in effect, that would  
2 have added about \$20 million to the company's share. If  
3 that happens again -- well, strike that.

4 If your sharing percentage had been in  
5 effect, then it would add about \$20 million, right?

6 A. During that time there's been a rate  
7 increase, so it was rebased. So it really needs to be  
8 just the amount that it's been different from what the  
9 base is. So that's why I'm hesitating. I don't --

10 MR. LOWERY: Would you mark that for me.

11 (MANTLE EXHIBIT NO. 12 WAS MARKED FOR  
12 IDENTIFICATION BY THE REPORTER.)

13 BY MR. LOWERY:

14 Q. I'm going to hand you Deposition Exhibit 12  
15 and ask you if you recognize that.

16 A. Yeah. It's my work papers.

17 Q. Okay. Those work papers will answer the  
18 question I just asked you, won't they?

19 A. Yeah.

20 Q. Can you answer it now?

21 A. I'll have to look at it a little bit. It  
22 looks like it's been -- for the five accumulation periods,  
23 it's been \$195 million that's been under-collected. So  
24 the difference would have been about 19.5 million.

25 Q. So when I asked you the question, the

1 difference would have been about an additional \$20 million  
2 if your sharing percentage is in place, then that was  
3 about right, correct?

4 A. Yes.

5 Q. That's the -- if the next 23 months turn  
6 out --

7 A. Is 19.

8 Q. That's where I got the 19. I'm sorry.

9 A. That's 19 months there.

10 Q. If the next 19 months turned out like the  
11 first 19 months, all else being equal and we changed the  
12 sharing to your proposal and do the experiment, as I like  
13 to call it, that experiment's going to cost the company  
14 \$20 million, right?

15 A. If everything else remains the same.

16 Q. That's what I said.

17 A. Including your actions and -- yes.

18 Q. Okay. If everything else remains the same,  
19 the experiment will cost the company an additional  
20 \$20 million because of the change in the sharing  
21 percentage, right?

22 A. The company will have -- would have to  
23 absorb 19.5.

24 Q. So when you said it would be expensive,  
25 that's what you meant, right?

1 A. That's more than my raise this past year.

2 Q. Okay. The two decisions that you attached  
3 to your surrebuttal testimony, one from Wyoming and one  
4 from Utah, why did you attach those?

5 A. Those have been provided to me, and I know  
6 the Commission is always asking what other jurisdictions,  
7 other commissions have done, and so I -- that's why I  
8 provided those.

9 Q. How were they provided to you? How did you  
10 come to learn of those?

11 A. Mr. Brubaker provided those to me.

12 Q. When did that happen?

13 A. Well, it would be since the orders came  
14 out, and they haven't been out very long. There's a date  
15 on those orders.

16 Q. I'm not asking you --

17 A. It hasn't been very long.

18 Q. In the last two weeks, four weeks?

19 A. I believe it was before rebuttal was filed.

20 Q. Okay.

21 A. I did not file rebuttal. This one was  
22 issued March 3rd.

23 Q. Was the reason that you attached them to  
24 show that Rocky Mountain Power in Wyoming and in Utah now  
25 have a sharing mechanism that has a 70/30 percent split in

1 their energy cost adjustment? Is that the reason you  
2 attached them?

3 A. Yes.

4 Q. Can you tell me how the, I think they call  
5 it an ECAM -- energy cost adjustment mechanism I suspect  
6 is what that stands for. Can you tell me how the ECAM for  
7 Rocky Mountain Power works in Wyoming?

8 A. No.

9 Q. Did you read these orders before you  
10 attached them to your surrebuttal testimony?

11 A. I read them when I attached them, as I was  
12 attaching.

13 Q. You mean literally the first time you read  
14 them was the day you were finalizing your surrebuttal  
15 testimony?

16 A. Well, I wanted to read them before I  
17 finalized my testimony, but yes, I had been too busy prior  
18 to that to look at anything other than doing a search to  
19 find out where the mechanism was in these orders.

20 Q. Okay. Had you already decided before you  
21 read them that you were going to attach them?

22 A. If I had found anything when I read them  
23 that would lead -- I wouldn't -- that would lead me to  
24 think that I should not attach them, I wouldn't have.

25 Q. Now, forgive me if I asked this question

1 already. Can you tell me how the ECAM for Rocky Mountain  
2 Power works in either one of those two states?

3 A. No.

4 Q. How those utilities are the same or  
5 different or similar or not similar to Ameren Missouri?

6 A. No.

7 Q. You don't know how the base is set in their  
8 ECAMs versus how the base is set for Ameren Missouri's?  
9 I'm not asking you to look now. I mean --

10 A. I do remember reading in one of these that  
11 the Commission talked about how important it was to set  
12 the base correctly.

13 Q. You didn't realize when you attached them,  
14 for example, that the base in those two mechanisms is set  
15 using forecasted, whatever their equivalent of net fuel  
16 cost is, they may have a different name for it, but the  
17 base is set using forecasted power prices, forecasted  
18 fuel, did you realize that when you attached those?

19 A. Yes.

20 Q. Would you agree with me that that makes a  
21 significant difference in how a sharing mechanism will  
22 impact the company and the customers?

23 A. No, I don't think I'd agree with that.

24 Q. Let me ask it this way: In an environment  
25 when net fuel costs are rising, and that's the environment



1 we've been in for some time; isn't that true?

2 A. Yes.

3 Q. If net fuel costs are rising and they're  
4 expected to continue to rise, then a greater sharing  
5 percentage for a utility is going to impact the utility  
6 less if it's setting its base using forecasted power  
7 prices and fuel prices than if it's using historical power  
8 prices and fuel prices, isn't that true, just as a simple  
9 matter of mathematics?

10 A. I guess it depends on how good their  
11 forecast is.

12 Q. Well, if historically the net fuel costs  
13 were lower because I said we've been in a period of rising  
14 costs, so if we look back in history and the trend's up,  
15 then the history's going to be lower than the trend,  
16 right?

17 A. Yes.

18 Q. And if the trend, the upward trend  
19 continues in the future, and assuming they capture the  
20 upward trend in their forecast, which is I think the point  
21 you were just making --

22 A. They capture it correctly.

23 Q. Well, even if they capture some of the  
24 upward trend, it's going to be a higher number than the  
25 historical number if the trend is up, right?

1 A. Yes.

2 Q. So if they capture some of the upward trend  
3 or do a really good job of capturing the upward trend,  
4 then a higher sharing percentage under those circumstances  
5 for the utility is going to impact the utility less than  
6 if the utility was required to set its base using  
7 historical numbers, that is if we are in a rising fuel  
8 cost environment; isn't that true?

9 A. Yes.

10 Q. Okay. So that's an important difference  
11 between Wyoming and Utah for Rocky Mountain Power and  
12 Ameren Missouri which is stuck with historic -- using  
13 historical fuel costs as the base, right?

14 A. That's why it's so important to get the  
15 base correct. If the market prices you feel are too low  
16 or too high, that's why it's important to make -- get them  
17 right.

18 Q. But my question was, that's a significant  
19 difference? I didn't ask you why. I said a significant  
20 difference between the mechanisms you've pointed the  
21 Commission to in these two attachments and the one that  
22 Ameren Missouri must live with is that Ameren Missouri's  
23 going to have to use historical prices, whereas those  
24 utilities can use forecasted prices. Isn't that a  
25 significant difference?

1 A. Yes.

2 Q. You say in response to Mr. Rygh that it  
3 seems incredulous that the FAC wouldn't be reviewed in  
4 detail in every rate case. That's how you felt,  
5 incredulous, right?

6 A. Yes.

7 Q. The General Assembly decided that an FAC  
8 didn't have to be reviewed at all except every four years,  
9 correct?

10 A. It says it must -- that you must come and  
11 file at least every four years.

12 Q. Which means, according to Senate Bill 1179,  
13 if a utility doesn't file a rate case, it's okay with the  
14 General Assembly if the FAC's only reviewed once every  
15 four years, right?

16 MS. OTT: Object to calls for a legal  
17 conclusion.

18 THE WITNESS: That's what the -- yes.  
19 That's what the statute says.

20 BY MR. LOWERY:

21 Q. Tell me if you think that this is a fair  
22 characterization of one of the things Mr. Rygh had to say.  
23 Isn't Mr. Rygh basically saying that, look, if there's  
24 evidence that a utility's doing a poor job, if there's  
25 evidence that the utility needs more incentive, then

1 investors would understand if the Commission changed the  
2 sharing percentage. Is that a fair statement of what you  
3 understood his point to be?

4 A. I believe that's what he said toward the  
5 end of his testimony.

6 Q. You understand that that's essentially the  
7 point that he's making, if there's evidence that the  
8 incentives are lacking or the company's doing a poor job,  
9 that investors can understand that if the Commission then  
10 takes action based on that evidence; is that fair?

11 A. Yes.

12 Q. But do you understand that he's also saying  
13 that if there is not such evidence, that investors are not  
14 going to understand why the Commission is changing the  
15 sharing mechanism? Isn't that a fair characterization of  
16 what he said?

17 A. I don't remember it being -- I know that  
18 whole testimony is about the sharing mechanism, but I  
19 don't remember him being so keyed off of the investor  
20 understands the sharing mechanism. I think what the  
21 investor may understand was they may not -- you may not --  
22 Ameren may not recover as many of its fuel costs, but I  
23 don't know -- if you can point me to where he talks about  
24 how well the investor understands the current sharing  
25 mechanism where there's a base and it's only the

1 differential between the base and the actual costs --

2 Q. Well, that wasn't my question, and if you  
3 don't know the answer to my question, you can say you  
4 don't know.

5 A. And I've completely forgotten what your  
6 question was.

7 Q. The question simply was, do you understand,  
8 do you think that what Mr. Rygh was trying to say is,  
9 Commission, if you have evidence the company is not doing  
10 a good job, you have evidence that the company doesn't  
11 have enough incentive, then if you change the sharing  
12 mechanism, make it a greater share for the company,  
13 investors can understand why you did that. But if you  
14 don't have such evidence, investors aren't going to  
15 understand why you did it. Did you take that away from  
16 Mr. Rygh's testimony or not?

17 A. The first part I did take away from his  
18 testimony, that if you find something and you make a  
19 change, the investors will understand that.

20 Q. But you didn't understand that he was also  
21 saying that if you don't find something but you make a  
22 change anyway, if you haven't found anything but you make  
23 a change anyway, the investors are not going to understand  
24 why you did that?

25 A. Yeah, I guess he did say that.

1 Q. And the reason I ask you about it is  
2 because you -- you claim he's inconsistent in a particular  
3 way, and I think what you're saying is, well, on the one  
4 hand he says you shouldn't be looking at every aspect of  
5 the fuel adjustment clause mechanism itself in every  
6 single rate case that comes along, but on the other hand  
7 he's saying, but if you find imprudence in the prudence  
8 reviews, you find that there is evidence of a problem,  
9 that it's okay to do it.

10 And what I'm trying to -- what I'm trying  
11 to probe with you a little bit here is, he's not -- he's  
12 not being inconsistent. He's just saying, if there's  
13 evidence of imprudence, if there's evidence of a problem,  
14 then investors can understand that, but if there's not,  
15 they really can't. And in this case, you by your own  
16 admission say you don't know. You're not really alleging  
17 there's evidence of imprudence or alleging evidence of a  
18 problem. You're just saying you don't know, right?

19 A. He was inconsistent in that he said if  
20 there's imprudence, the investment market or the  
21 investment community will -- he states that investors and  
22 rating agencies expect the Commission to thoroughly review  
23 every aspect, but then he says, don't review every -- you  
24 shouldn't look at every aspect in the case and that the  
25 Commission should just report on the issues found and let

1 the investors punish Ameren Missouri.

2 I found that all very contradictory. I  
3 didn't know whether the Commission's not supposed to do  
4 anything and let the investors punish Ameren or --

5 Q. I understand. Might what he's really  
6 saying is, use the prudence reviews, and if in the  
7 prudence reviews there are problems revealed, imprudence  
8 is found or there's evidence of imprudence, then take  
9 action, but don't look at every aspect of the FAC, the  
10 design of it, and the sharing mechanism is part of the  
11 design, you shouldn't be looking at that year after year  
12 unless there's really evidence that there's some major  
13 problem? Might that be what he's saying?

14 MS. OTT: Objection to the extent that  
15 question calls for speculation.

16 THE WITNESS: I believe he's saying that  
17 the Commission shouldn't examine the FAC every case, but  
18 he is saying that the Commission should do an exhaustive  
19 review. That's the conflicting --

20 BY MR. LOWERY:

21 Q. It's only a conflict if he -- it's not a  
22 conflict if the exhaustive review he's talking about is  
23 that it should be done in the prudence review, is it?  
24 Then it wouldn't be a conflict? Maybe he wasn't as clear  
25 as he could have been about that, but if that's what he

1 meant, it's not a conflict, right?

2 A. I believe somewhere he said that the  
3 Commission should -- and perhaps he was talking about the  
4 prudence review, but that's not how I read it.

5 Q. Okay. That's fine. That's not how you  
6 read it. That's what I was trying to clarify, that you  
7 didn't read it that way.

8 A. No, I did not read it that way.

9 Q. Okay. Fair enough. Page 16 of your  
10 surrebuttal testimony, the question on line 19 -- starting  
11 on line 19 and then your answer, I've got to tell you,  
12 you're going to have to explain that question and answer  
13 to me because I don't understand it at all. I understand  
14 the question, but I don't understand the answer, I think.

15 A. The question is, would a commission --  
16 should a Commission decision be indicative of that there  
17 was evidence that Ameren Missouri needed additional  
18 financial incentive, more or less that the Commission just  
19 does not make these decisions on a whim, that they do look  
20 at what is filed, that I'm hoping the financial community  
21 believes we've got five Commissioners that are fairly  
22 level headed and would not make such a decision based on  
23 nothing.

24 Q. I think the paradox for me in your answer  
25 is, by your own admission you say you don't know if Ameren



1 Missouri needs a greater financial incentive, which means  
2 I guess we don't have evidence that they do. You're  
3 saying they might or they might not. And I'm trying to  
4 understand how the -- how you think the financial  
5 community's going to understand a Commission decision to  
6 change the sharing percentage when there isn't evidence  
7 that it needs to be changed.

8 A. The law does not set out that there has to  
9 be evidence for an incentive -- imprudence or prudence for  
10 an incentive mechanism, and I don't -- I don't believe,  
11 and I believe it's in my testimony, that that has to be  
12 shown to be able to change the incentive mechanism.

13 Q. I understand, but I don't understand what  
14 the law has to do with what investors would or would not  
15 understand.

16 A. I believe the Commission has to balance the  
17 investors, it has to balance the law, it has to balance  
18 the ratepayers. Well, it has to follow the law.

19 Q. Fair enough.

20 A. It has to look what's in the law and then  
21 balance the others.

22 Q. Do you have any experience with credit  
23 rating agencies, lenders who fund utility credit  
24 facilities, large institutional investors that a lot of  
25 these utility shares, do you have any experience with them

1 at all?

2 A. No.

3 Q. Do you know anything about how they  
4 evaluate state regulatory commissions or their decisions?

5 A. Other than every once in a while I get a  
6 rating of some utility sent to me and I read through it,  
7 but no, I'm not an expert in that area.

8 Q. You don't know how they evaluate a  
9 utility's regulatory risk?

10 A. No.

11 Q. Are you qualified to give an opinion about  
12 the impact on UE's cost of capital either in the short or  
13 the long-term if the sharing mechanism were changed?

14 A. No.

15 Q. You talked to Mr. Murray about Mr. Rygh's  
16 testimony, right?

17 A. Yes.

18 Q. What did you talk about?

19 A. I asked him to read Mr. Rygh's testimony as  
20 it pertained to the FAC and either -- I asked him if he  
21 saw any -- well, I'm sure he would have. If he saw  
22 something that he wanted to write surrebuttal against, but  
23 I did ask him, too, to review what I had written to give  
24 me any comments that he considered was out of line or  
25 just -- so he did read through my surrebuttal testimony

1 because I am not an expert in the area.

2 Q. Did he help you write any of it?

3 A. He helped me with one Q and A, the one that  
4 has his name on it.

5 Q. Did he write it for you?

6 A. He suggested some language. I changed some  
7 of it.

8 Q. But in substance, that question and  
9 answer -- I suspect that's on page 14?

10 A. Yes.

11 Q. In substance, that question and answer is,  
12 the question and answer or the idea for the question and  
13 answer came from Mr. Murray?

14 A. Yes.

15 Q. Did he provide you any documents?

16 A. I checked. There were no work papers filed  
17 by Mr. Rygh.

18 Q. No. No. Did Mr. Murray provide you any  
19 documents?

20 A. No.

21 Q. Okay. Do you know what -- I'm just about  
22 done, I promise. Do you know what Trib Talk is? Have you  
23 ever heard of Trib Talk?

24 A. No.

25 Q. Do they have in Jeff City here in the

1 newspaper, do they have a -- you can call in on an  
2 anonymous line and leave comments and then they print them  
3 in the newspaper. Do they do that?

4 A. I'm not aware of it.

5 Q. All right. You just ruined all my  
6 questions, or almost all of them.

7 Is it fair to say that the basic message in  
8 the 99 comments that you cite in your surrebuttal  
9 testimony, the basic message is we don't like the FAC? Is  
10 that the basic message?

11 A. That's -- that's not basic. That is the  
12 message.

13 Q. And basically the message is, this thing's  
14 an extra charge on my bill and I don't want to pay more?  
15 Is that the basic message, even to put a finer point on  
16 it?

17 A. A lot of them say how that should be  
18 included in the regular rate and it should not be a  
19 separate rate.

20 Q. Any of them say the sharing ought to be  
21 more, any of those 99 people?

22 A. I don't believe any of -- other than the  
23 ones that I have talked to on the phone, which were not  
24 included in the 99 here, no, they do not understand that.  
25 But when we call -- when they call and we talk to them, we

1 do explain that.

2 Q. You explain the sharing to them, right?

3 A. Yes.

4 Q. Have you ever had any of them call you on  
5 the phone and on their own before you explain, well,  
6 there's this sharing and so on, have you ever had any of  
7 them on their own call you up and say, you know, FAC might  
8 be all right, but it needs to have more sharing for the  
9 company?

10 A. No.

11 Q. If the company's net fuel costs had gone  
12 down for the last 23 months and you were to look at the  
13 comments and 99 of them said, the basic message in those  
14 99 was something like, boy ,I tell you, we really like  
15 that fuel adjustment clause because it's a deduct on my  
16 bill every month, and if Ameren Missouri based on that  
17 said, you know, Commission, boy, give us a bigger share  
18 because 99 people filed comments and said they really --  
19 they really like getting 95 percent, we'd like to have a  
20 bigger piece of pie, would that be a good argument for the  
21 company?

22 A. I don't know.

23 Q. Well, why did you cite the 99 comments?

24 A. Because Mr. Rygh kept commenting on the  
25 investors, this is the investors' position, and we are to

1 balance the investor and the ratepayer, and that's why I  
2 wanted to provide a balance to this is what the investor  
3 thinks, this is what the investor thinks, this is what the  
4 investor thinks.

5 I did say I know that it's -- you know, it  
6 doesn't carry a lot of weight because of the way they're  
7 provided, but we have heard from a lot of customers who  
8 just really aren't happy with the FAC.

9 Q. They'd probably be happy if it went the  
10 other way?

11 A. Actually, we had to explain to many of them  
12 that it did for the first recovery period.

13 Q. I think somewhere in one of your  
14 testimonies you say that they really don't understand it,  
15 right?

16 A. I don't think I said that.

17 Q. I may have made that up. I thought I read  
18 it.

19 MR. LOWERY: That's all the questions I  
20 have.

21 MS. OTT: I will have a few redirect  
22 questions.

23 MR. LOWERY: Thank you for your patience,  
24 by the way.

25 CROSS-EXAMINATION BY MS. OTT:

1 Q. Ms. Mantle, there was a lot of discussion  
2 about the ER-2007-0002 case, and in that case was Ameren  
3 granted a fuel adjustment clause?

4 A. No, it was not.

5 Q. So when you guys were discussing NBFC  
6 rates, that's a phrase that comes from the fuel adjustment  
7 clause portion of Ameren's tariffs that was established in  
8 the ER-2008-0318 case, correct?

9 A. Yes.

10 Q. So in terms of Data Request, I believe it  
11 was 317 that's been marked as your Deposition Exhibit --

12 MR. LOWERY: Just to help the record, it's  
13 137.

14 MS. OTT: 137. Had the right numbers, just  
15 different order.

16 MR. LOWERY: It's Exhibit 5.

17 MS. OTT: Exhibit 5.

18 BY MS. OTT:

19 Q. Can you reconcile how DR 137 for Case  
20 No. 0027 and 0318 would have been different? Like, how  
21 would 137 have applied to the 0002 case?

22 A. Let me think. 137 I believe was in the  
23 2007 case, the one that was pointed out. So the fact that  
24 now we have different witness on losses, I mean,  
25 there's -- I don't know. The only thing is if we had

1 keyed on those words and we had spent a lot of time  
2 digging out what exactly Tim Finnell meant by what he put  
3 in that DR, then maybe we would have understood for the  
4 2008 case.

5 Q. So NBFC rates were not a part of the tariff  
6 that went into place as a result of the Report and Order  
7 in the 0002 case?

8 A. There were no FAC tariffs in that case.

9 Q. Who is Rahrer, just for clarification? I'm  
10 sure I'm butchering that man's name.

11 A. And I do believe I provided the wrong  
12 spelling to you. It is R-a-h-r-e-r. He was the developer  
13 of the real time fuel model that Staff uses to estimate  
14 fuel and purchased power expense. MIEC also uses the same  
15 model.

16 Q. So is he a contractor or is he a --

17 A. We did --

18 Q. -- Commission employee?

19 A. We did contract with him in the 318 case to  
20 do the fuel and purchased power because we had so many  
21 rate cases going on at once.

22 Q. So prior to this deposition, did anyone at  
23 Ameren ever present to you DR 137?

24 A. No.

25 Q. And that would be the same for the 0318



1 case or the 0036 case?

2 A. This is the first time I've seen DR 137  
3 from that case.

4 Q. However, in this case when your chart was  
5 wrong, they sent you a DR for you to correct that chart  
6 when it wasn't clear?

7 A. That's correct, they did.

8 Q. And you had some discussion, lots of  
9 discussions on the NBFC rates and the number, whether it  
10 was Staff's number from a work paper or Ameren's number  
11 from a work paper. Who ultimately decided the NBFC rate?

12 A. The company is the one that filed the  
13 tariff with the NBFC rate in it.

14 Q. But did somebody have to approve that  
15 tariff before it came in effect?

16 A. The Staff reviewed it and recommended the  
17 Commission approve it.

18 Q. So it's the Commission that made the  
19 ultimate decision?

20 A. Yes.

21 MS. OTT: That's all I have.

22 MR. LOWERY: I'm sure she wants to read and  
23 sign obviously.

24 MS. OTT: Yes. And we are still in the  
25 process of reading and signing the first one. I know your

1 support staff had contacted me about that.

2 MR. LOWERY: That's fine. I'd just like to  
3 have a stipulation that we always pretty much have, and  
4 that is entitled to read and sign it, but if it's not  
5 ready by the time she takes the witness stand for some  
6 reason, that we can treat it as if it has been signed.

7 MS. OTT: That's fine. We will do our  
8 best.

9 MR. LOWERY: I understand.

10 (PRESENTMENT WAIVED; SIGNATURE REQUESTED.)

11 (WHEREUPON, the deposition concluded at

12 7:14 p.m.)

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CERTIFICATE OF REPORTER

STATE OF MISSOURI            )  
  ) ss.  
COUNTY OF COLE            )

I, KELLENE K. FEDDERSEN, RPR, CSR, CCR, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action to which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

\_\_\_\_\_  
KELLENE K. FEDDERSEN, RPR, CSR, CCR

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SIGNATURE PAGE

STATE OF MISSOURI )  
 ) ss.  
COUNTY OF COLE )

I, Lena Mantle, do hereby certify:

That I have read the foregoing deposition;

That I have made such changes in form and/or substance to the deposition as might be necessary to render the same true and correct;

That having made such changes thereon, I hereby subscribe my name to the deposition.

I declare under penalty of perjury that the foregoing is true and correct.

Executed the \_\_\_\_ day of \_\_\_\_\_, 2011, at \_\_\_\_\_.

\_\_\_\_\_  
LENA MANTLE

Notary Public:

\_\_\_\_\_  
My commission expires:  
\_\_\_\_\_

KF/Lena Mantle  
In the Matter of Ameren Missouri

1 ERRATA SHEET

2 Witness: Lena Mantle  
3 In Re: Ameren Missouri

4 Upon reading the deposition and before subscribing  
5 thereto, the deponent indicated the following changes  
6 should be made:

7 Page Line Should read:  
8 Reason assigned for change:

9 Page Line Should read:  
10 Reason assigned for change:

11 Page Line Should read:  
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23 Witness Signature: \_\_\_\_\_

24 Reporter: Kellene K. Feddersen, RPR, CSR, CCR

25

1 Midwest Litigation Services  
2 3432 West Truman Boulevard, Suite 207  
3 Jefferson City, MO 65109

4 Phone (573)636-7551 \* Fax (573)636-9055

5 April 26, 2011

6 Jaime Ott  
7 Legal Counsel  
8 Missouri Public Service Commission  
9 P.O. Box 360  
10 200 Madison Street  
11 Jefferson City, MO 65102

12 In Re: Ameren Missouri

13 Dear Ms. Ott:

14 Please find enclosed your copy of the deposition of Lena  
15 Mantle taken on April 25, 2011, in the above-referenced  
16 case. Also enclosed is the original signature page and  
17 errata sheet.

18 Please have the witness read your copy of the transcript,  
19 indicate any changes and/or corrections desired on the  
20 errata sheet and sign the signature page before a notary  
21 public.

22 Please return the errata sheet and notarized signature  
23 page to Mr. Lowery for filing prior to trial date.

24 Thank you for your attention to this matter.

25 Sincerely,

Kellene K. Feddersen, RPR, CSR, CCR

Enclosure

cc: Jim Lowery