

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Hearing

September 3, 1999
Jefferson City, Missouri
Volume 8

In the Matter of Laclede Gas)
Company's Tariff to Revise) Case No. GR-99-315
Natural Gas Rate Schedules.)

NANCY M. DIPPELL, Presiding,
SENIOR REGULATORY LAW JUDGE.

SHEILA LUMPE, Chair,
CONNIE MURRAY,
ROBERT G. SCHEMENAUER,
M. DIANNE DRAINER, Vice-Chair
COMMISSIONERS.

REPORTED BY:

PATRICIA A. DURBIN, CCR, CSR, RPR, RMR
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P R O C E E D I N G S

JUDGE DIPPELL: Go ahead.

MR. PENDERGAST: Yeah. Thank you, your
Honor. I just wanted to make a few preliminary
announcements.

First of all, the parties have reached an
agreement in principal on the class cost of service

8 and rate design issues that were raised in this
9 proceeding, as well as on several of the miscellaneous
10 tariff issues.

11 We are in the process of formulating an
12 amended partial stipulation and agreement that will
13 include both the resolution of the weather issue that
14 we have reached, as well as a provision addressing the
15 rate design and class cost of service, and it is our
16 intention to have an attachment to that that will set
17 out, in not as full a detail as we'd like, but I think
18 in sufficient detail for the Commission to get an idea
19 of what the parties have agreed to on rate design and
20 have that filed before the end of the day.

21 JUDGE DIPPELL: Okay.

22 MR. PENDERGAST: Okay. And then I suppose
23 if the Commission would like us to make a presentation
24 of that, we'd certainly be available Tuesday if they'd
25 like to do that, but if they'd like additional time to

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1 perhaps take a look at it, we're available at any time
2 that suits the Commission's schedule.

3 In light of that development, we will
4 obviously have a very shortened proceeding here today.
5 The only remaining issues we had were the capacity
6 release and off-system sales, and I think by agreement
7 of the parties, we've come up with a procedure for
8 shortening that.

9 Your Honor may be aware that major elements
10 of that issue were litigated and litigated rather

11 extensively in the Company's GSIP case, GT-99-303.

12 The Commission's determination in that case
13 which is expected in the not too distant future will
14 have a significant impact on that issue in this case,
15 and rather than burden the record with going over what
16 we've already gone over in that case, I think the
17 parties are agreeable to depending on what the
18 Commission does and how it rules, if we could have a
19 late-filed exhibit, where if there is a need to
20 address those issues further in this case, we could
21 simply by agreement put into the late-filed exhibit
22 those relative portions of the GSIP record that
23 address this specific issue.

24 And we think we'd be able to do that before
25 briefing would arrive. That would allow us to go

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1 ahead and have, I think, the evidentiary record that
2 everybody believes we need without having to go
3 through all of the old territory today, the old
4 territory that we've already gone over today.

5 And we would also agree to go ahead and
6 stipulate into the record, I believe, of the testimony
7 that's been filed by Staff, Public Counsel and
8 ourselves on this issue in this case.

9 I think the only remaining issue that would
10 leave is the issue relating to service territories,
11 and I think the parties are prepared to proceed with
12 that. And I think that probably about covers it from
13 our perspective.

14 The only additional item I would mention is
15 that we do have our true-up request, and we've talked
16 in terms of at least the parties' recommendation
17 sometime in late September, and if you would like to
18 try and perhaps schedule that sometime today, we'd
19 certainly appreciate it.

20 Thank you.

21 JUDGE DIPPELL: Okay. I was looking at the
22 calendar just before I came in here with regard to the
23 true-up hearing, and I am not available in the end of
24 September, and the first calendar date that I saw that
25 was convenient for the Commission was October 7.

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1 Is that going to be too late?

2 MR. STUEVEN: That's fine from Staff's point
3 of view.

4 MR. PENDERGAST: Could I have just a moment,
5 please?

6 JUDGE DIPPELL: Sure.

7 We can go off the record.

8 (OFF THE RECORD.)

9 JUDGE DIPPELL: Okay. We discussed off the
10 record the hearing date for a true-up hearing, and
11 everyone was fairly agreeable then to October 7th, I
12 believe, so we'll tentatively set that and I'll issue
13 a written order the first of next week with briefing
14 schedules and the wrapping-up stuff of the hearing and
15 setting the true-up hearing.

16 MR. PENDERGAST: Thank you, your Honor.

17 JUDGE DIPPELL: We also discussed that we
18 would reserve Exhibit No. 125 for portions of the
19 record from -- can you give me the case number again?

20 MR. PENDERGAST: Yes, your Honor. That was
21 GT-99-303.

22 JUDGE DIPPELL: -- for portions of the
23 record from that regarding the off-systems sales
24 capacity release issue.

25 So then we are going to go ahead and proceed

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1 with the service territory issue today.

2 Is there anything else before or should we
3 just proceed with that?

4 MR. MICHEEL: Your Honor, I would just like
5 to move the admission then, if there is no objection,
6 to Mr. Shaw's direct testimony. I think everyone has
7 agreed that it can come in, and that's been marked for
8 purposes of identification as Exhibit No. 53.

9 If there is no objections to that being
10 entered into the record, I'd like to get that out of
11 the way now.

12 MR. STUEVEN: No objection from Staff.

13 MR. PENDERGAST: No objection from the
14 Company.

15 I might also note, your Honor, that
16 Mr. Cline had testimony on this issue, as well as the
17 rate design issue, and obviously there are many
18 parties that had testimony on the rate design and
19 class cost-of-service issue. As it normally does, the

20 stipulation agreement we intend to present on that
21 will provide for waiving that testimony into the
22 record.

23 And I don't -- it's probably, I guess,
24 appropriate to wait until that is filed and then
25 make a determination on presentation when all of that

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1 testimony goes into the record. would that be the
2 preferred approach for your Honor?

3 JUDGE DIPPELL: Are you including Mr. Shaw's
4 testimony in that?

5 MR. PENDERGAST: No. No. I think Mr. Shaw
6 is independent.

7 JUDGE DIPPELL: You're talking about the
8 cost-of-service issue?

9 MR. PENDERGAST: Right.

10 JUDGE DIPPELL: Let's first deal with
11 Mr. Shaw's testimony.

12 Then are there any objections to entering
13 that?

14 MR. STUEVEN: No objections.

15 JUDGE DIPPELL: Then I'll receive Exhibit
16 No. 53 into the record.

17 (EXHIBIT NO. 53 WAS RECEIVED INTO EVIDENCE.)

18 JUDGE DIPPELL: And then, okay, the
19 remainder of the -- the issues that you settled
20 basically, the witnesses whose testimony hasn't
21 already been entered will be -- presumably going to be
22 waived into the hearing record pursuant to the

23 stipulation. Is that --

24 MR. PENDERGAST: Yes, that would be my
25 anticipation.

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1 MR. STUEVEN: Mr. Wallis's testimony would
2 have to be motioned in. I move for Mr. Wallis's
3 testimony, 95NP, 95HC and 96, to be admitted into the
4 record.

5 JUDGE DIPPELL: Would there be any
6 objections to 95NP and 95HC and Exhibit 96?

7 Then I'll receive those into the record.

8 (EXHIBIT NOS. 95NP, 95HP AND 96 WERE
9 RECEIVED INTO EVIDENCE.)

10 JUDGE DIPPELL: And Mr. Cline is going to
11 testify on our next issue and so we'll take care of
12 his testimony then.

13 MR. MICHEEL: And, your Honor, Mr. Shaw is
14 here if you did have any questions for him on those
15 issues. And I'd be happy to put him up if you had
16 questions or if any of the Commissioners had
17 questions.

18 JUDGE DIPPELL: Okay. Let's go off the
19 record just a moment.

20 (OFF THE RECORD.)

21 JUDGE DIPPELL: I don't believe the
22 Commission has any questions for those witnesses at
23 this time, so we'll wait for the stipulation or the
24 agreement on that after the Commission's decision,
25 including the portion of the record.

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1 Should we go ahead and admit Exhibit 125,
2 the portions of the record or -- we're going to treat
3 that as a late-filed agreement.

4 MR. BYRNE: We don't have it yet.

5 JUDGE DIPPELL: We're going to treat that as
6 a late-filed exhibit. When you designate what
7 portions of that record, you can present them to me
8 and then I will at that time rule on admission.

9 MR. BYRNE: Very good, your Honor.

10 JUDGE DIPPELL: So then why don't we go
11 ahead with witnesses from the service territory issue
12 if there is nothing further that needs to be taken
13 care of.

14 And so we'll have three witnesses then:
15 Mr. Cline, Mr. Difani and Mr. Gray; is that correct?

16 MR. BYRNE: That's correct.

17 JUDGE DIPPELL: And I believe Mr. Cline is
18 first.

19 (Witness sworn.)

20 MICHAEL T. CLINE, having been sworn, testified as
21 follows:

22 DIRECT EXAMINATION BY MR. BYRNE:

23 Q. Mr. Cline, can you please state your name?

24 A. Michael T. Cline.

25 Q. By whom are you employed, Mr. Cline?

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1 A. Laclede Gas Company.

2 Q. And are you the same Michael T. Cline
3 that caused to be filed in this proceeding the
4 direct testimony that's been marked as Exhibit 28,
5 rebuttal testimony that's been marked as Exhibit 29
6 and surrebuttal testimony that's been marked as
7 Exhibit 30?

8 A. Yes.

9 Q. Do you have any corrections that you'd like
10 to make to that prefiled testimony?

11 A. I have one correction to my rebuttal
12 testimony.

13 Q. Okay.

14 A. On page 9, line 14, the number, one cent, or
15 \$.01 per demand term should be \$.02.

16 Q. Okay. Any other corrections?

17 A. No.

18 Q. With that correction, is the information
19 provided in your testimony and any attached schedules
20 true and correct to the best of your knowledge and
21 belief?

22 A. Yes, it is.

23 Q. If I was to ask you the same questions that
24 are contained in that prefiled testimony here today
25 when you're under oath, would your answers be the

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1 same?

2 A. Yes.

3 MR. BYRNE: Your Honor, I'd offer
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4 Exhibits 28, 29 and 30 and tender Mr. Cline for
5 cross-examination.

6 JUDGE DIPPELL: Are there any objections to
7 Exhibits 28, 29 and 30 with the correction coming into
8 the record?

9 (No response.)

10 JUDGE DIPPELL: Then I'll receive that into
11 the record.

12 (EXHIBIT NOS. 28, 29 AND 30 WERE RECEIVED
13 INTO EVIDENCE.)

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

16 MS. KNOWLES: Just a couple of quick
17 questions.

18 CROSS-EXAMINATION BY MS. KNOWLES:

19 Q. Mr. Cline --

20 MR. MICHEEL: I'm going to object at this
21 point. I think these parties' positions are aligned.
22 This is friendly cross. My reading of the issues list
23 indicates that Union Electric supports Laclede's
24 position with respect to the service territory.

25 MS. KNOWLES: I will just respond that I

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1 believe earlier in the week Mr. Micheel stated that
2 there is no prohibition on friendly cross in support
3 of one of his questions. This will be very brief and
4 would not be burdensome to the record.

5 JUDGE DIPPELL: I'm going to allow it.

6 BY MS. KNOWLES:

7 Q. Mr. Cline, on page 6 of Mr. Gray's
8 surrebuttal testimony, Mr. Gray makes reference to
9 other utilities that have agreed to provide service
10 area descriptions in their tariffs.

11 Do you see that general testimony?

12 A. Yes, I do.

13 Q. Okay. Do you have any knowledge of any
14 other utility in the St. Louis area that provides some
15 level of description in their tariffs?

16 A. I'm aware that AmerenUE does.

17 Q. In their -- that's in their electrical
18 tariffs?

19 A. That's my understanding.

20 Q. Okay. Do you have an understanding or a
21 belief as to the relative administrative burden that
22 that creates?

23 A. My -- my knowledge is pretty much confined
24 to what I understand Mr. Difani mentioned in his
25 testimony, understanding that these descriptions are

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1 not something that Union Electric is particularly
2 enamored with, and I suspect from some of what he
3 said, that that does cause some problems.

4 Q. Do you know the nature of those problems?

5 A. I'm not intimately familiar with those, no.
6 I can only surmise as to what those might be based on,
7 you know, what I think the problems would be if
8 similar --

9 MR. SCHWARZ: I'll object at this stage.

10 The witness is by his own words surmising and I think
11 that it's inappropriate.

12 MS. KNOWLES: That's fine. I'll withdraw
13 the question.

14 BY MS. KNOWLES:

15 Q. Does Laclede Gas Company have customers in
16 all areas of its service territory?

17 Let me ask it a different way. Does Laclede
18 Gas Company have customers -- in all areas of its
19 certificated areas, does it have customers?

20 A. I'm -- I'm not sure that we have -- that
21 there is customers in necessarily every area that
22 we've been certificated to serve.

23 Q. Would the requirements suggested by the
24 Staff require Laclede to designate those areas where
25 it serves no customers?

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1 A. It appears that they would.

2 Q. And what difficulty, if any, would that pose
3 for you?

4 A. The difficulty it would pose, it -- would
5 be that it would require us to put in our tariff
6 descriptions and that -- that really are best provided
7 by Commission decisions in the past where the company
8 has been given authority to serve certain areas. And
9 I guess I don't see the need to incorporate anything
10 more than what those Commission determinations might
11 be at some point.

12 I think that as long as -- from my point of
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13 view, the tariff is -- works fine the way it's set up
14 today. There is very little confusion I'm aware of.
15 We have -- I'm aware of no concerns that have been
16 posed to us from our customers as to, you know,
17 confusion over where we're allowed to serve and where
18 we can serve.

19 So I just think at this point the
20 suggestions of the Staff are not really warranted.

21 MS. KNOWLES: Nothing further.

22 JUDGE DIPPELL: Okay.

23 Cross-examination from Public Counsel?

24 MR. MICHEEL: None, your Honor.

25 JUDGE DIPPELL: Staff?

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1 MR. SCHWARZ: Yes, ma'am.

2 MR. SCHWARZ: As a preliminary manner, I
3 would ask the Commission to take official notice of
4 the tariff of the Missouri Gas Energy division of
5 Southern Union Company, and in particular, sheet
6 numbers 3 through 6.16. I have copied those sheets
7 and would offer them to be marked as an exhibit.

8 JUDGE DIPPELL: Okay. I'll mark those as
9 Exhibit 126.

10 (EXHIBIT NO. 126 WAS MARKED FOR
11 IDENTIFICATION.)

12 JUDGE DIPPELL: Would there be any objection
13 to the Commission taking official notice of the PSC
14 No. 1 tariff of Missouri Gas Energy.

15 MR. BYRNE: No, your Honor.

16 MS. KNOWLES: No objection.

17 JUDGE DIPPELL: Then the Commission
18 will take administrative notice of that tariff,
19 particularly these pages that have been marked as
20 126.

21 CROSS-EXAMINATION BY MR. SCHWARZ:

22 Q. Mr. Cline, I'm handing you a document that
23 has now been marked for identification --

24 MR. SCHWARZ: Actually I'd move the
25 admission of Exhibit 126 at this point.

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1 JUDGE DIPPELL: I took notice of it. I
2 don't know if -- intending on it to be --

3 MR. SCHWARZ: Very well.

4 BY MR. SCHWARZ:

5 Q. Mr. Cline, I've handed you a copy of what
6 has been marked as Exhibit 126. Is that correct?

7 A. Yes.

8 Q. And does this appear to -- strike that.

9 Sheet No. 3 is titled index of communities
10 served; is that correct?

11 A. That's correct.

12 MR. BYRNE: Your Honor, I'm going to object
13 to him asking him any questions about this. He hasn't
14 laid a foundation that the witness has even received
15 it.

16 I don't mind if you take administrative
17 notice of the tariff, but, you know, to ask Mr. Cline
18 about something that he's arguably never seen before

19 right now is not proper, so I object.

20 JUDGE DIPPELL: Would you like to lay some
21 foundation questions, Mr. Schwarz?

22 MR. SCHWARZ: The question that I asked was,
23 is Sheet No. 3 titled index of communities served. I
24 don't know what foundation needs to be laid for that
25 question frankly.

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1 MR. BYRNE: Fine. I'll delay my objection
2 until he asks the next question.

3 JUDGE DIPPELL: I think you can answer that
4 question.

5 BY MR. SCHWARZ:

6 Q. Is Sheet No. 3 titled index of communities
7 served?

8 A. That's what Sheet No. 3 says.

9 Q. Thank you.

10 If you turn to No. 6, that is entitled index
11 of certificated areas, is it not?

12 A. That's what that tariff sheet says.

13 Q. And I will ask you on Sheet No. 6 if you,
14 under, for instance, Andrew County, there is a column
15 heading township, a column heading range, and then a
16 column heading of sections. And under Andrew County,
17 for instance, there is a listing T58N R35W.

18 Do you understand what is meant by those
19 numbers?

20 MR. BYRNE: Your Honor, I'm going to
21 interpose my objection again.

22 I guess if he just wants Mr. Cline to read
23 what is on this exhibit, I would object because it's
24 redundant.

25 If he wants him to do anything more than

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1 read what is on this exhibit, he hadn't laid a proper
2 foundation, because he hasn't asked Mr. Cline if he's
3 ever seen this document or has any familiarity with
4 it, so I object.

5 JUDGE DIPPELL: Would you like to respond,
6 Mr. Schwarz?

7 MR. SCHWARZ: I asked him if he knows what
8 the numbers might represent. I don't know that any
9 additional foundation need be laid.

10 JUDGE DIPPELL: I agree that the Commission
11 can read and interpret the tariff which it's taken
12 notice of. I do think that the counsel is trying to
13 find out what knowledge the witness has of whether the
14 witness can read and interpret what the tariff says,
15 so I'm going to allow him to ask these questions.

16 MR. BYRNE: Okay.

17 THE WITNESS: I can tell you this: That I
18 understand what the intent of this tariff sheet is
19 supposed to be. I understand that this appears to be.

20 BY MR. SCHWARZ:

21 Q. I'll ask you at this stage to answer the
22 question that I asked, which is, do you understand the
23 import of T58N R35W?

24 A. The import?

25 Q. Yes. Do you know what those represent?

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1 A. I believe they probably refer to townships
2 and ranges, and this is exactly the problem I have
3 with having this kind of information in a tariff,
4 because I think that it's from my understanding from a
5 lot of what the Staff has said in its testimony, that
6 this is supposed to have some usefulness to -- to the
7 customers, the developers, other people like that, and
8 I -- I believe that there are very few people who
9 could tell you exactly what is meant by these
10 descriptions.

11 And unfortunately, I wasn't really aware
12 until I read Mr. Gray's testimony what a lot of these
13 terms meant. I just don't think they're the -- that's
14 the kind of information a customer understands, and
15 like I said, that appears to be one of the main
16 reasons why the Staff is insisting that information
17 like this be put into the tariff. And for that reason
18 I think it's extraneous and it's unnecessary.

19 Q. Would you take a look at your rebuttal
20 testimony on page 7, line 13. You talk -- on line 13
21 it starts, Commission determines territorial
22 boundaries.

23 Do you see that?

24 A. Yes, I do.

25 Q. Do you think perhaps knowing the township

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1 and the range and the section in which a particular
2 piece of real property lies might be helpful in
3 determining territorial boundaries?

4 A. In some cases I think that, in my
5 familiarity with the case that was recently before the
6 Commission having to do with territorial boundaries
7 between Laclede and AmerenUE in the Wentzville area,
8 there were -- the territorial boundaries, as I
9 understand it, really does not conform to township
10 ranges and sections.

11 It goes along creeks and streets and -- and
12 pertains to things like that. So I believe that, you
13 know, if one is a really -- one really wants to
14 establish territorial boundaries, this does not even
15 sufficiently convey that. It may in some instances,
16 but I'm aware of at least one instance where that
17 would not be the case.

18 Q. Is it your understanding looking at this
19 sheet that is in front of you that it purports to be a
20 description of the service area boundaries of Missouri
21 Gas Energy?

22 MR. BYRNE: Which sheet are you talking
23 about?

24 BY MR. SCHWARZ:

25 Q. I'm still on Sheet 6.

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1 A. Sheet 6 point.

2 Q. Just Sheet 6.

3 A. And the numerous sheets that fall behind it,
4 I agree that that appears to -- to -- to be some
5 attempt to describe for someone's benefit what areas
6 the Missouri Gas Energy is certificated to serve.
7 whether that, in fact, represents their
8 certificated areas, I don't know. I don't know if
9 their areas can be as precisely defined as this
10 suggests, but that appears to be what this is
11 attempting to do.

12 And I might note that it takes 20 pages plus
13 a map to set -- to set that forth, and basically add a
14 lot of -- of information which I don't think is
15 particularly helpful to the customer to a tariff.

16 MR. SCHWARZ: May I approach the witness,
17 please?

18 JUDGE DIPPELL: Yes.

19 BY MR. SCHWARZ:

20 Q. And ask you, Mr. Cline, if you recognize
21 what I've handed you.

22 A. I do.

23 Q. What is it, please? Identify it for the
24 record.

25 A. It's third revised Sheet No. R-1 of Laclede

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1 Gas Company's tariff.

2 Q. I would ask -- and the first paragraph
3 there, how is that entitled? What is that entitled?

4 A. The first paragraph?

5 Q. Well, excuse me. There is a paragraph there
6 that is identified as the St. Charles Gas Company
7 division; is that correct?

8 A. That's correct.

9 Q. Now, would you read that paragraph, please,
10 and would you read it aloud and into the record?

11 A. This paragraph that is intended to
12 describe what territory, what customers are covered
13 by St. Charles company division?

14 Q. Right. Yes, would you read that into the
15 record, please?

16 A. All areas and communities served in
17 St. Charles County, Missouri. The portion of the
18 company service area in St. Charles County south of
19 U.S. Highway 61 and Interstate Highway No. 70,
20 excludes the following areas, all of which are
21 specifically defined in the stipulation and agreement
22 in Case Nos. GA-99-107 and GA-99-236 consolidated.

23 Part of township 47 north, range 1 east,
24 part of township 47 north, range 2 east, part of
25 township 46 north, range 1 east, and part of township

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1 46 north, range 2 east.

2 The portion of the company's service area in
3 St. Charles County north of Highway 61 and Interstate
4 Highway No. 70 includes all unincorporated areas,
5 certain incorporated areas and certain portions within
6 the City of Wentzville along the main that serves the
7 General Motors assembly plant site as more

8 specifically set forth in the Commission's May 4, 1999
9 order in the aforementioned cases.

10 Q. Thank you.

11 And that description included, did it not,
12 township and range numbers?

13 A. It did, but like I mentioned before, I can
14 tell you that this is not a precise characterization
15 of the exact boundaries of the -- of the areas that
16 Laclede is certificated to serve in St. Charles County
17 as a result of the Commission's order.

18 It is only a very -- it's only an
19 approximate boundary that is not -- if someone, as
20 Mr. Gray suggested in his testimony, was wanting to
21 know where a gas pipeline was or if there is a gas
22 leak, they wanted to get in touch with the gas company
23 in a particular area to be absolutely certain about
24 it, one would have to go to a Commission order which
25 has very -- a great amount of detail, pages and pages

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1 of detail that sets forth the exact boundaries between
2 Laclede and AmerenUE.

3 And it's that kind of information as well as
4 this that is -- unnecessarily clutters up a tariff.

5 Q. Looking again at Exhibit 126 and Sheet
6 No. 6, if you would, that doesn't contain nearly the
7 clutter of that legal description, does it?

8 A. Well, I guess, you know, I've been informed
9 by Mr. Gray's testimony that actually the, you know,
10 references to township range and sections is not

11 really apparently a legal description. A legal
12 description apparently goes more to meets and bounds
13 and is more precise than township range and sections.

14 But certainly there is not the clutter on
15 sheet No. 6, but as you know, sheet No. 6 is just one
16 of the numerous pages in MG's tariff of about 20 pages
17 that deals with -- deals with these certificated
18 areas. And I just would be surprised if a customer in
19 MGE has any knowledge of where they fall in this
20 20 pages.

21 Q. Would you be aware that every assessor's
22 office in the State has scaled, aerial photography
23 with scale ownership, overlays referencing township
24 and range location for every piece of real property in
25 that county?

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1 A. I don't have an intimate familiarity with
2 all that is involved in that end. What you say
3 certainly sounds like it makes some sense to me. I'm
4 sure that kind of information is there and have seen
5 pieces of it in various places.

6 And, you know, I agree. It's perhaps a
7 specialist in certain fields that would have some
8 interest in things like this. But the customer or a
9 person who detects a gas leak, a person who comes in
10 from another town who wants to know which gas company
11 serves them in a particular area that they're
12 contemplating locating in, you know, I would think the
13 first thing they would do is look in the phone book

14 under gas companies and find out, you know, who serves
15 them.

16 or if they find a gas leak, either call an
17 emergency phone number or call the gas companies in
18 the phone book. But they're certainly not going to
19 refer to a series of tariff sheets to try to find out,
20 you know, which company's the one that is involved in
21 that area.

22 Q. would you know that any licensed surveyor in
23 the state could locate these sections on maps in order
24 to locate real property?

25 A. I suspect perhaps a licensed surveyor could

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1 do that, but if one was trying to, then, perhaps,
2 locate a piece of pipe that is in the ground, in other
3 words, know where to dig, this would not necessarily
4 provide the appropriate information.

5 Q. That's correct. He'd have to call the One
6 Call?

7 A. That's exactly right.

8 Q. Are you aware that One Call gets this kind
9 of information from all utilities down to the quarter
10 section?

11 A. I don't have an in-depth knowledge of what
12 all One Call has. I would assume that if it's -- if
13 it's supposed to provide the kind of service I
14 understand is provided, I'm sure they have very
15 detailed information so that there is, you know, a
16 minimal amount of these gas line breaks.

17 Q. Is Laclede -- do you know if Laclede is a
18 member of One Call?

19 A. I don't know who or who is not a member of
20 One Call. I'm sure Laclede cooperates fully with --
21 with One Call. We definitely have an interest in
22 making sure that people aren't damaging our lines. I
23 think that is in everybody's interest. And we're, I'm
24 sure, 100 percent behind that, and I don't think that
25 this kind of detail in the tariff sheets is necessary

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1 to on -- to make that happen.

2 Q. Would you turn to your rebuttal testimony,
3 page 8, please?

4 Beginning on line 1, you indicate that
5 territorial clarifications and modifications are
6 relatively rare; is that correct?

7 A. That's correct.

8 Q. So that an undertaking of this kind would
9 pretty much be a one-time effort?

10 A. What concerns me about undertaking, if
11 this is what you mean, an undertaking to do the kind
12 of thing that MGE has done, what concerns me about
13 that is that I -- I would not want to be the one,
14 don't think I should be the one or the company should
15 be the one that reads any more into a certificate
16 authorization than is there when the Commission, you
17 know, approves a certain service territory for the
18 company. And that's my biggest concern.

19 Q. I'll ask the question again, because I don't

20 think he answered it.

21 To -- for Laclede to compile something akin
22 to what you have in front of you for MGE would pretty
23 much be a one-time undertaking, would it not?

24 A. I'm not necessarily -- I'm not so sure about
25 that. Because I think that there is -- can be

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1 situations that develop that -- where in the past
2 maybe a certain area was unincorporated and perhaps
3 Laclede had a certificate at one point in the past to
4 serve all unincorporated areas and maybe no gas lines
5 were there at the point in time.

6 Eventually this area that wasn't
7 incorporated gets annexed, becomes incorporated. I
8 think that this, to me, sounds like it's -- you know,
9 can be a very dynamic process. I'm not so sure that a
10 one-time analysis of old Commission orders along with
11 an interpretation which I don't think is -- is
12 advisable, along with those Commission orders, to set
13 something up like this in a tariff sheet, I don't
14 think that is just going to happen one time.

15 And it would require one to keep on top of
16 it over years as -- as things change, as communities
17 grow, as areas are incorporated.

18 Q. Then you are recanting your testimony that
19 territorial clarifications and modifications are
20 relatively rare?

21 MR. BYRNE: I'm going to object to the
22 question. I think it mischaracterizes the testimony

23 that Mr. Cline has just given.

24 JUDGE DIPPELL: I don't think that that's an
25 exact characterization of his testimony either.

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1 MR. SCHWARZ: It's not a characterization of
2 his written testimony. But my understanding is, he
3 has just said it's something that you'll have to keep
4 on top of, that things are changing all of the time,
5 that territories are expanding. If that's the case,
6 that's fine. But then his direct -- then his prefiled
7 testimony is something that I would think he'd want to
8 modify.

9 MR. BYRNE: I don't think that's
10 inconsistent with his prefiled testimony, your Honor,
11 so that's the mischaracterization.

12 JUDGE DIPPELL: I will sustain your
13 objection.

14 The witness has stated, no, he doesn't think
15 it's a one-time undertaking and his testimony says
16 it's relatively rare.

17 MR. SCHWARZ: Very well.

18 I don't think I have anything else.

19 JUDGE DIPPELL: I just have one question for
20 you, Mr. Cline.

21 QUESTIONS BY JUDGE DIPPELL:

22 Q. Can you tell me what the term "relatively
23 rare" means to you?

24 A. Yes. When I was -- when I wrote that
25 particular part of my testimony, I was thinking of

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1 two incidents which were separated by perhaps as many
2 as 8 -- 7, 8, 9 years.

3 As one can see from looking at the tariff
4 sheet that Mr. Schwarz put in front of me, we did
5 expand our tariff sheet back in 1990, roughly in that
6 area, and that was in GA-90-280 when Laclede got
7 certificate authority to serve portions of Franklin
8 County, Crawford County as a result of an expansion at
9 that time.

10 And at that time it was -- it was decided
11 that that kind of clarification would be necessary for
12 the -- for the tariff then. Several years obviously
13 had passed since then. We're now into -- we're now
14 into another area recently in the Wentzville area
15 where it was required once again to perhaps provide
16 some clarification in the tariff.

17 I just consider those two instances to be
18 relatively rare. I think those kind of things can be
19 dealt with on a case-by-case basis. It's not like
20 those kinds of things happen every year or several
21 times within a year. They were separated by, like I
22 said, as many as 7, 8, 9 years.

23 Q. So you think -- or has it been the
24 experience of the Company that territorial
25 clarifications and modifications happen once every 8

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1 or 9 years?

2 A. It wouldn't necessarily be once every 8 or
3 9 years. I mean, it could happen in several years.
4 It just depends on -- on the way the system is growing
5 and the way population is expanding, that kind of
6 thing.

7 But certainly I think that for the most
8 part, based on our past experience, which I think is a
9 good guide, it can be considered rare and is not
10 something that -- and because of that, I think we can
11 deal with these clarifications and agree with -- and
12 agree, you know, we probably should deal with these
13 clarifications on a case-by-case basis as those --
14 those things occur.

15 JUDGE DIPPELL: Thank you.

16 Is there any recross based on my questions?
17 from AmerenUE?

18 MS. KNOWLES: No.

19 JUDGE DIPPELL: Public Counsel?

20 MR. MICHEEL: No.

21 JUDGE DIPPELL: Staff?

22 MR. SCHWARZ: No.

23 JUDGE DIPPELL: Redirect?

24 MR. BYRNE: Yes, your Honor, just a few.

25 REDIRECT EXAMINATION BY MR. BYRNE:

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1 Q. You were just talking with Judge Dippell and
2 Mr. Schwarz about what is relatively rare and what is
3 not. And, I guess, is it your testimony when you were

4 saying relatively -- some clarifications of relatively
5 rare in your prefiled testimony, were you talking
6 about under Laclede's existing tariff?

7 A. That's correct.

8 Q. Okay. And then on the other hand, does that
9 mean that if we incorporated all of the townships and
10 ranges and sections that the Staff is proposing, under
11 that scenario would changes be relatively rare?

12 A. No, they would not.

13 Q. And wouldn't it be conceivable that every
14 time a city boundary changed, it might change the
15 township or range or section?

16 A. That would be possible.

17 Q. And that's not the case under the existing
18 tariff; is that right?

19 A. That's correct.

20 Q. Okay.

21 In Laclede's tariff that Mr. Schwarz had you
22 read, in a number -- I don't have it in front me. But
23 in a number of places I believe it said portions of
24 townships; is that correct?

25 If you have that, maybe you can look at it.

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1 A. Are you referring to our tariff sheet that
2 sets forth our service territory?

3 Q. Yes.

4 Yes. The service territory.

5 A. Right, it does discuss parts of townships in
6 several -- several places.

7 Q. Okay. And where it says portions of
8 townships or parts of townships, that doesn't tell you
9 exactly where the service boundary is, does it?

10 A. No, it does not. You would need to go back
11 to the Commission order, and specifically stipulation
12 and agreement in that case, to find the very detailed
13 description of the -- of the territorial boundary to
14 be absolutely certain as to what that is.

15 This is only -- this is as I consider it
16 to be a rough description and would not be something
17 that -- well, just stick with that.

18 Q. Mr. Schwarz asked you some questions about
19 One Call. Do you remember that? At least one
20 question about --

21 A. Yes, I do.

22 Q. -- providing descriptions to One Call.
23 Isn't it true that One Call looks at where
24 Laclede's facility are located and not where their
25 service territories are?

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1 A. Once again, I don't have a real familiarity
2 with One Call, but I would -- I would think that's
3 probably correct.

4 Q. Okay. Let me ask you this: To the extent
5 that the Commission has not identified in the order
6 issuing a certificate to Laclede to the extent that
7 they have not identified the service territory with
8 sufficient particularity to pin it down to a township
9 range and section, would it even be possible to do

10 what the Staff is proposing for Laclede to do in this
11 case?

12 A. I don't see how it could. I think that's --
13 I think that we have -- the tariff, once again, I
14 think should be just something that that codifies
15 what the Commission has determined in a proceeding.
16 And certainly, you know, if there was that kind of
17 clarification provided by the Commission, one could go
18 about doing that.

19 Q. Are you aware of any certificate orders that
20 the Commission has issued to Laclede where there isn't
21 that kind of clarification?

22 A. Where there isn't that kind of
23 clarification?

24 Q. Where that kind of clarification hasn't
25 been provided so that you could necessarily write in a

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1 tariff the township range and section.

2 A. I'm not aware of -- of any Commission orders
3 that -- that would enable us to specifically set that
4 forth.

5 Q. Okay.

6 MR. BYRNE: Thank you very much. That's all
7 of the questions I have.

8 JUDGE DIPPELL: All right. Then I believe
9 that is all --

10 MR. SCHWARZ: If I might --

11 JUDGE DIPPELL: Mr. Schwarz?

12 MR. SCHWARZ: -- just clarify for the
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13 record -- and I should have done it earlier. That
14 portion of the Laclede tariff is attached as
15 Schedule 1 to Mr. Gray's surrebuttal testimony.

16 JUDGE DIPPELL: All right.

17 MR. SCHWARZ: I'm sorry.

18 JUDGE DIPPELL: Thank you.

19 I believe we're finished with you,
20 Mr. Cline. You may be excused.

21 And Ameren has Phillip Difani. Is that my
22 next witness?

23 MS. KNOWLES: Yes, your Honor.

24 (Witness sworn.)

25 JUDGE DIPPELL: Thank you.

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1 You may proceed.

2 PHILLIP B. DIFANI, JR., having been sworn, testified
3 as follows:

4 DIRECT EXAMINATION BY MS. KNOWLES:

5 Q. Would you please state and spell your name
6 for the record?

7 A. My name is Phillip B. Difani, Jr. That's
8 Difani, D-i-f-a-n-i.

9 Q. And are you employed, sir?

10 A. Yes, I am.

11 Q. By whom and in what capacity?

12 A. I'm employed by AmerenUE. I'm a rate
13 engineer.

14 Q. And did you prepare prefiled testimony in
15 this case?

16 A. Yes, I did.

17 Q. Let me draw your attention to what has been
18 previously marked for identification purposes as
19 Exhibit 103 and ask you, is that your -- to identify
20 that document, that exhibit.

21 A. That is my surrebuttal testimony.

22 Q. And your surrebuttal testimony deals with
23 two topics. Correct?

24 A. Cost of service, service territory
25 description and rate design.

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1 Q. Okay. And if I asked you today -- do you
2 have any corrections to your testimony, your
3 surrebuttal testimony?

4 A. No, I don't.

5 Q. And if I asked you today under oath the same
6 questions that are contained within your prefiled
7 testimony, would your answers be the same?

8 A. They would.

9 MS. KNOWLES: I don't have any further
10 questions.

11 JUDGE DIPPELL: Would you like to offer --

12 MS. KNOWLES: If I may offer Exhibit 103.

13 JUDGE DIPPELL: Are there any objections to
14 Exhibit 103?

15 Then it is admitted into the record.

16 (EXHIBIT NO. 103 WAS RECEIVED INTO
17 EVIDENCE.)

18 JUDGE DIPPELL: And your witness was
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19 tendered for cross-examination?

20 MS. KNOWLES: Yes.

21 JUDGE DIPPELL: Is there cross-examination
22 by Public Counsel?

23 MR. MICHEEL: No, your Honor.

24 JUDGE DIPPELL: Staff?

25 MR. SCHWARZ: Yes, your Honor.

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1 May I approach the witness?

2 JUDGE DIPPELL: Yes. Do you want to --

3 MR. SCHWARZ: That's Exhibit 126.

4 CROSS-EXAMINATION BY MR. SCHWARZ:

5 Q. Mr. Difani, I handed you a copy of what has
6 been marked as Exhibit 126; is that correct?

7 A. That's correct.

8 Q. I would ask you to turn to page 6 of that
9 exhibit if you would.

10 A. And that's Sheet 6?

11 Q. Yes, Sheet 6. And now I would ask you to
12 take a look at your testimony which has been marked
13 Exhibit 103 on page 3, line 14.

14 A. Yes, sir.

15 Q. Okay. You say that including a legal
16 description, parenthesis, that is township section and
17 range numbers, closed paren, by Missouri county is
18 unnecessary and burdensome, do you not?

19 A. Yes, I do.

20 Q. Looking again at Sheet No. 6, do you
21 consider those to be legal descriptions?

22 A. My understanding was simply from the
23 testimony that I read. And that's what my
24 understanding was.

25 Hearing earlier discussions today, I believe

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1 it's meets and bounds and goes into a much greater
2 amount of detail, but that's why I tried to qualify my
3 testimony that I'm simply talking about township
4 section and range numbers.

5 Q. In your testimony you suggest that for
6 Ameren's electric service tariffs, tariff -- excuse
7 me -- that those contain 63 pages of legal
8 descriptions; is that correct?

9 A. That's correct.

10 Q. would an approach such as this be more or
11 less burdensome than those 63 pages?

12 A. The 63 pages are basically this type of
13 description.

14 Q. Okay. And do you know what portion of the
15 territory of the State of Missouri AmerenUE service --
16 electric service territory takes in?

17 A. I know it encompasses a great amount of this
18 space in Missouri.

19 Q. If I suggested 30 percent.

20 A. I would not quarrel if you said 30 percent.
21 I would not quarrel if you said 40. That is, I'm
22 going to accept 30 as a working number.

23 Q. I understand. It's in the ballpark?

24 A. Correct.

25 Q. Looking again on Sheet 6, under Andrew

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1 County, it says T58N R35W. Do you know what that
2 stands for?

3 A. From our tariffs, it would mean township
4 58 north, range 35 west.

5 Q. And in Andrew County?

6 A. That's correct.

7 Q. Looking at Exhibit No. 6?

8 A. That's correct.

9 Q. And are you aware that -- no. Strike that.

10 MR. SCHWARZ: I have nothing further.

11 JUDGE DIPPELL: Thank you.

12 Is there any cross-examination from Laclede?

13 MR. BYRNE: Just a little bit, your Honor.

14 CROSS-EXAMINATION BY MR. BYRNE:

15 Q. Mr. Difani, my understanding, I guess, is
16 that you have 63 pages of this kind of information in
17 your electric tariffs; is that right?

18 A. I believe so.

19 Q. Is it your experience that that information
20 has been useful to your customers?

21 MR. SCHWARZ: I'll object. It calls for
22 speculation.

23 MR. BYRNE: I don't think it calls for
24 speculation. He's got experience in dealing with
25 customers of UE and that's what I'm asking him about.

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1 MR. SCHWARZ: I don't think he knows how
2 customers have used UE's tariffs.

3 MR. BYRNE: I didn't ask him to -- I didn't
4 ask him to speculate about what the customers think.
5 I asked if he knows if it's been useful to the
6 customers.

7 JUDGE DIPPELL: I believe you asked him in
8 your opinion has it been useful to the customers. I'm
9 going to allow the witness to answer that question.

10 THE WITNESS: In my opinion, it is
11 absolutely useless to the customers.

12 BY MR. BYRNE:

13 Q. Has it caused any administrative burdens for
14 Union Electric Company?

15 A. It has caused very large administrative
16 burdens. First of all, just trying to change from a
17 simple map that -- that my son who is a Boy Scout can
18 read, to -- to this description that even I don't
19 fully understand, and I helped write the tariffs.

20 In our -- and what we do to prepare this
21 sort of tariff is we have to have our district
22 engineer who has -- who knows the area, he'll use a
23 street map, more or less, a highway map, and then that
24 will be turned over to somebody who understands this
25 type of description which is in our real estate

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1 division. And they will produce some maps that have

2 the township, range, sections, all of that kind of
3 stuff and that information will be transferred over
4 into that.

5 And then we will try to decide, you know, if
6 this line on the map really coincides with what part
7 of this section, and if it includes any part of this
8 section at all, throw it into our tariff and then we
9 prepare those tariffs and we send them down here to
10 the Staff to have them look them over, and there might
11 be some disagreement, there might not. They might
12 fully agree.

13 Then we prepare illustrative tariffs, send
14 them down to the Commission. Those are looked at,
15 possibly modified, and then sent back where we reissue
16 the tariffs.

17 whenever we have done that for several
18 territory changes, say, in our electric business,
19 which has happened, I think that each -- any territory
20 change that we make has been negotiated with the
21 neighborhood coop, it probably consumes over 60, maybe
22 100 or so hours of our time just to prepare the tariff
23 in this format from that.

24 Q. So I didn't understand what you just said.
25 If you make a -- if you switch service territories

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1 with a coop?

2 A. If we -- on occasion it's beneficial to
3 AmerenUE and to a coop where they will be serving a
4 certain service territory that is close to our

5 facilities or that we would take over their facilities
6 in trade with some of our facilities someplace
7 elsewhere, it's to a mutual benefit, that has
8 happened. That has been negotiated.

9 We have had to come to the Commission to get
10 approval for that. But in the process of preparing
11 those agreements into this type of description and
12 format, it's a huge undertaking just to prepare the
13 tariffs.

14 Q. And you're saying 60 to 100 hours to fix the
15 tariffs sometimes?

16 A. That's my estimate based on the time that I
17 have spent personally and the lawyers' time and my
18 understanding of what went on at the district level
19 and real estate level.

20 MR. BYRNE: Okay. I don't have any further
21 questions.

22 Thank you.

23 JUDGE DIPPELL: Mr. Difani, I have just a
24 couple of questions for you.

25 QUESTIONS BY JUDGE DIPPELL:

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1 Q. You're a rate engineer?

2 A. Yes, ma'am.

3 Q. Can you tell me what a rate engineer does?

4 A. We prepare tariffs. We also work on various
5 administrative issues. If somebody wants a copy of
6 our tariffs, somebody needs some explanation of what
7 the tariffs might say, they might come to us. We

8 prepare all kinds of cost studies. We do cost of
9 service, for instance, rate design, and in these kinds
10 of cases we're responsible for that.

11 We try to analyze any number of functions
12 that we're asked to analyze that have to do with
13 rates.

14 Q. And how often does AmerenUE make changes to
15 its service territory?

16 A. Basically it's whenever there is some change
17 to our service territory that has been either
18 negotiated or required by -- by some proceeding.

19 Q. Do you have any kind of estimate as to, does
20 it happen twice a year. Does it happen every 3 years?

21 A. I've been in the department for 8 years, and
22 I believe for the first part of that I wasn't involved
23 with communities, and I don't believe that we had --
24 I'm not aware of any negotiated agreements, and then
25 there seemed to be a flurry of them, maybe 4 of them,

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1 4 or 5 in the last 3 or 4 years.

2 JUDGE DIPPELL: Okay. Thank you.

3 Are there any recross questions based on my
4 questions?

5 From Public Counsel?

6 MR. MICHEEL: None.

7 JUDGE DIPPELL: Staff?

8 MR. SCHWARZ: Judge, I hadn't realized that
9 Laclede was going to be permitted to cross after I
10 did. I think that as the most adverse party, I should

11 have been permitted the last cross questions.

12 I did not object to what was I feel
13 borderline friendly cross. I would ask a little
14 latitude to ask a few follow-up questions of
15 Mr. Difani.

16 It is not, I understand, the regular
17 procedure, and I may have been asleep at the switch at
18 the time. But I would ask that indulgence.

19 MR. BYRNE: Your Honor, I don't have any
20 objection. We set up this set of cross -- you know,
21 the order of cross-examination when the rate design
22 issue was the primary issue, and Mr. Schwarz is right,
23 the most adverse party should have the last chance to
24 cross.

25 I don't object.

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1 JUDGE DIPPELL: Okay. I was -- I actually
2 kind of questioned that when I started this order of
3 cross because -- but I will just say that I am
4 following the proposed order of cross-examination
5 filed by the Staff.

6 But I will allow Staff to finish cross on
7 this issue.

8 MR. SCHWARZ: Thank you, Judge.

9 FURTHER CROSS-EXAMINATION BY MR. SCHWARZ:

10 Q. Do you have as many changes in your gas
11 territory as you do in your electric?

12 A. No, we don't.

13 Q. Did you think to ask your property tax

14 department for territory descriptions?

15 A. They're in our tariff. I'm sorry. I don't
16 know what you're looking for.

17 Q. Are you aware that AmerenUE pays property
18 taxes in probably more than half of the counties in
19 the State of Missouri?

20 MS. KNOWLES: Mr. Difani is not going to --
21 this is not Mr. Difani's area. It calls for
22 speculation from the witness.

23 MR. SCHWARZ: No. It calls for a yes or no
24 answer.

25 JUDGE DIPPELL: He did ask, was he aware.

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1 I will allow him to answer if he's aware of
2 it or not.

3 THE WITNESS: Trying to be helpful, I
4 haven't -- I'm not aware of how many. I have heard --
5 I have friends in the department and they constantly
6 complain about the amount of taxes we pay, but . . .

7 BY MR. SCHWARZ:

8 Q. Did you think to check with the property tax
9 department as to how they report the Company's
10 property as far as -- as obtaining legal descriptions?

11 A. No, I did not.

12 Q. Is it possible -- let me preface this
13 question.

14 It sounded like you went through a pretty
15 laborious process to put together your 63 pages of
16 tariffs; is that correct?

17 A. Absolutely. Yes, sir. I mean, months of
18 work. And it wasn't my work, mind you. I wasn't even
19 involved in it. But I understand it was months.

20 Q. Is it possible that there was a much easier
21 way of doing it of which your personnel were not
22 aware?

23 MS. KNOWLES: Objection. It clearly -- is
24 it possible that you're not aware? I think that's
25 pure speculation.

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1 I mean, either you're aware of something or
2 you're not.

3 JUDGE DIPPELL: Would you rephrase your
4 question, Mr. Schwarz?

5 BY MR. SCHWARZ:

6 Q. Is it possible that the persons working on
7 your -- putting together your tariff descriptions that
8 you have described, were unaware of easier methods of
9 doing it?

10 MS. KNOWLES: That clearly calls for
11 speculation from Mr. Difani. That calls for
12 speculation in that Mr. Difani would have to opine or
13 speculate as to what efforts others in a real estate
14 or district department would need to do.

15 MR. SCHWARZ: I'll withdraw the question and
16 rephrase it.

17 BY MR. SCHWARZ:

18 Q. Is it possible there was an easier way of
19 doing it?

20 MS. KNOWLES: The same objection. Anything
21 is possible.

22 THE WITNESS: I'm --

23 MR. SCHWARZ: Well, he testified to the
24 process and he testified that it was burdensome. I
25 think that the objection now that he's not familiar

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1 with the process and doesn't know the ins and outs is
2 a little late. He's testified in some detail as to
3 what the process was. I've asked him if it's possible
4 that there was an easier way.

5 JUDGE DIPPELL: I'll overrule your
6 objection. He can answer the question.

7 THE WITNESS: Your Honor, I think there's
8 a couple of easier ways. The way that we had it
9 originally, just having a map would have been easier
10 and more clear to anybody looking at it. I don't know
11 if that's what you're looking for, but I was confused
12 by the give and take here.

13 But I think if you have a map of Missouri
14 with, you know, simply highlighting our service
15 territory that I see all over our company, that that's
16 very clear as to the general bounds of our service
17 territory. And it's clear to understand and if
18 somebody would see it, they'd have a much better idea,
19 of if they were in our service territory, than reading
20 township 23 north, range 27 west, Section 6 from
21 Sheet 6, of which I have no idea of where that is,
22 except it's in Berry County someplace, and frankly I'm

23 not sure where that is.

24 BY MR. SCHWARZ:

25 Q. Andrew County.

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1 A. Andrew County.

2 Q. Andrew County, if I may, is up in the
3 northwest.

4 Are you a surveyor?

5 A. No, sir, I'm an engineer.

6 Q. Are you a builder?

7 A. I've helped design buildings as a matter of
8 fact.

9 Q. Are you a contractor?

10 A. No, I'm not. I -- I've worked with
11 contractors.

12 Q. Are you a real estate developer?

13 A. Not -- no, sir.

14 MS. KNOWLES: Not on a full-time basis.

15 MR. SCHWARZ: I think that's all I have.

16 JUDGE DIPPELL: Thank you.

17 Is there any redirect?

18 MS. KNOWLES: No.

19 JUDGE DIPPELL: Thank you, Mr. Difani. You
20 may be excused.

21 Let's take just a short break and come back
22 and finish the last witness. Let's go off the record.
23 Come back at ten.

24 (A RECESS WAS TAKEN.)

25 JUDGE DIPPELL: Let's go ahead and go back

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1 on the record. I believe we're ready for Mr. Gray's
2 testimony. There was a motion to strike still pending
3 on Mr. Gray's testimony too.

4 MR. BYRNE: Did I file that motion?

5 JUDGE DIPPELL: Did that go away?

6 MR. SCHWARZ: Weather -- on the schedule.

7 JUDGE DIPPELL: Revised Schedules 5 and 6 --

8 MR. BYRNE: Yes, your Honor.

9 JUDGE DIPPELL: -- attached to rebuttal
10 testimony.

11 MR. BYRNE: That is encompassed in the
12 weather settlement. So assuming the weather
13 settlement is filed, we have no -- we have no motion
14 anymore.

15 JUDGE DIPPELL: Okay. So do you want that
16 part to come in or do you want to attach it to his
17 testimony?

18 MR. SCHWARZ: I think if we could admit it
19 subject to submission of the stipulation and
20 agreement.

21 JUDGE DIPPELL: Okay. I tell you what, I'll
22 rule on his objection after the submission of the
23 stipulation and agreement.

24 MR. BYRNE: That would be great, your Honor.
25 Thank you.

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1 JUDGE DIPPELL: Okay. Let's go ahead and
2 ask Mr. Gray to come up.

3 (Witness sworn.)

4 JUDGE DIPPELL: Thank you.

5 JAMES A. GRAY, having been sworn, testified as
6 follows:

7 DIRECT EXAMINATION BY MR. SCHWARZ:

8 Q. Would you state your name for the record
9 please?

10 A. James A. Gray.

11 Q. Where are you employed?

12 A. The Missouri State -- the Missouri Public
13 Service Commission.

14 Q. And in what capacity?

15 A. As a Regulatory Economist I.

16 Q. Are you the same James Gray who has caused
17 to be prefiled Exhibit 69, the direct testimony of
18 James Gray, Exhibit 70, the rebuttal testimony of
19 James Gray, and Exhibit 71, the surrebuttal testimony
20 of James Gray?

21 A. Yes, I am.

22 Q. If I asked you today the same questions that
23 are set forth in those exhibits, would your answers be
24 the same?

25 A. Yes, they would be.

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1 Q. Do you have any corrections or changes to
2 make?

3 A. No, other than the errata I've already

4 provided to the other -- in the weather normalization
5 issue.

6 Q. Okay. I'm trying to think where I was in
7 the litany.

8 Are those answers true and correct to the
9 best of your information, knowledge and belief?

10 A. Yes, they are.

11 MR. SCHWARZ: I would offer Exhibits 69,
12 70 and 71 and tender the witness for
13 cross-examination.

14 JUDGE DIPPELL: Okay. I believe the witness
15 mentioned some errata sheets. I'm assuming that is
16 something that had to do with the settlement that
17 you-all are working on, and so I'm assuming that your
18 settlement agreement will encompass those.

19 MR. SCHWARZ: I think that's correct.

20 JUDGE DIPPELL: And we also discussed that
21 we had a pending motion to strike, but what we'll do
22 is go ahead and rule on the evidence coming into the
23 record and make the motion to strike pending until
24 after the settlement agreement.

25 So are there any objections to Exhibits 69,

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1 70 and 71?

2 MR. SCHWARZ: Yes, ma'am.

3 MR. BYRNE: As long as my motion to strike
4 is potentially still alive, that's fine. No
5 objection.

6 JUDGE DIPPELL: Okay. Then I will admit
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7 Exhibits 69, 70 and 71, and I will note that the
8 motion to strike is still pending on that -- the
9 written motion to strike.

10 (EXHIBIT NOS. 69, 70 AND 71 WERE RECEIVED
11 INTO EVIDENCE.)

12 JUDGE DIPPELL: Okay. Did you tender the
13 witness?

14 MR. SCHWARZ: Yes, I did, ma'am.

15 JUDGE DIPPELL: Is there cross-examination
16 by AmerenUE?

17 MS. KNOWLES: Yes.

18 CROSS-EXAMINATION BY MS. KNOWLES:

19 Q. Mr. Gray, what township, range and section
20 number do you live in?

21 A. To tell you the truth, I don't even know.

22 Q. And I take it then you probably have existed
23 quite happily without that bit of information?

24 A. Pardon?

25 Q. You've existed quite happily without that

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1 bit of information?

2 A. I'm sorry. I still didn't hear you.

3 Q. It's not necessary for you to know that
4 information, I take it?

5 A. I have a copy of the abstract of my
6 property. It's right there on it.

7 Q. So on the occasion when you purchased your
8 home, it was necessary to know that information.
9 Correct?

10 A. I don't think so.

11 Q. All right. Well, then there is no real
12 argument then.

13 when did you buy your home?

14 A. 1978.

15 Q. Okay. And since at least 1978 to the
16 present you've not made use of that particular
17 information, the township, range and section number
18 for your particular home?

19 A. I have looked at it a year ago, I know.

20 Q. Okay. And in what connection did you look
21 at it?

22 A. I was looking at the county map showing the
23 various homes and so forth on them, and I did notice
24 the township, range and section number on there. I
25 just can't recall them at the present time.

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1 Q. Do you think the average residential
2 consumer knows their township number?

3 A. Not the average residential consumer
4 perhaps. Perhaps a builder certainly would.

5 Q. Now, the genesis of the Staff's
6 recommendation stems from a dispute between Union
7 Electric Company and Laclede?

8 A. That is incorrect.

9 Q. No. Okay. Tell me, where does it come
10 from?

11 A. I think it is spelled out in my surrebuttal
12 testimony. Let me check and make sure this is right

13 while I thumb through it. On -- let's see. Yeah.
14 Give me a moment to find the page.

15 On page 6 and 7 of my surrebuttal testimony,
16 I point out the natural gas utilities on page 6 that
17 have started this process, and on page 7, I indicate
18 the electric utilities that have started this process.

19 Q. Okay.

20 A. That was well before the Wentzville case.

21 Q. Okay. But in your recommendation on page 4
22 you are citing the service area description?

23 A. What page 4 of what testimony?

24 Q. I'm sorry. Of your surrebuttal.

25 A. Okay. Okay. Where are we at, on what line?

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1 Q. Between lines 3 and 6.

2 A. Yes. Okay.

3 Q. Now, that is a reference to the Wentzville
4 case. Correct?

5 A. Correct.

6 Q. That involved Union Electric Company and
7 Laclede?

8 A. Right.

9 Q. And for the benefit of the record, what was
10 the general nature of the dispute between the two
11 companies in that case?

12 A. It was a territorial dispute, south of
13 Wentzville and a clarification around the GM plant
14 north of I-70.

15 Q. Okay. And did the dispute stem from a lack
Page 53

16 of clarity in the certificates?

17 A. Overlapping certificates. Correct.

18 Q. And there was a specific dispute as to the
19 appropriate interpretation of some of the language
20 contained within the certificate. Correct?

21 A. Yes.

22 Q. And there wasn't a dispute at least between
23 the parties as to any tariff sheets between the
24 parties. Correct?

25 A. Oh, no. There were not.

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1 Q. Okay. And the enabling authority that
2 allows a utility to serve in a given area stems from a
3 certificate issued by the Commission or other order
4 issued by the Commission?

5 A. That's correct.

6 Q. And not from a tariff. Correct?

7 A. Yes. I think I stated in my -- the tariff
8 neither takes away or adds to the service area. I
9 stated that somewhere if I can find it.

10 Q. No. That's fine.

11 A. Okay.

12 Q. Now, you say, I think, on page 4 of your
13 surrebuttal five basic reasons as to why you think
14 Laclede should be ordered to provide further
15 description in its territory as to service areas.
16 Correct?

17 A. This is a quote out of my direct which is a
18 quote out of the wentzville case, yes.

19 Q. Now, the Wentzville case -- the issues in
20 the Wentzville case are not identical to the issues in
21 this?

22 A. Correct.

23 Q. Now, those five reasons, my characterization
24 would be that the first three are sort of consumer-
25 related?

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1 A. Yes.

2 Q. And the last two were utility related?

3 A. Right.

4 Q. Okay. In regards to Items 4 and 5, you talk
5 about utilities need to plan for facilities and things
6 of that nature. Correct?

7 A. Right.

8 Q. Do you think that the utilities would be in
9 a better position to know what would be helpful
10 information to them than you would be?

11 A. Clarify your question.

12 Q. Sure. You say utilities -- and this is
13 No. 4, page 4 of your surrebuttal -- the utilities
14 need to plan their facilities for the future.

15 A. Okay. In my rebuttal, I thought it was --
16 hold on a minute.

17 On top of page 23, lines 1 through 7, I
18 quoted Laclede witness Bitanski in the Wentzville
19 case, saying they needed to know specific --
20 specificity of the boundaries of their respective
21 areas.

22 Q. Right. And in that case, Laclede Gas
23 Company and Union Electric Company were asking the
24 Commission to reissue certificates clarifying
25 boundaries; is that correct?

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1 A. Correct.

2 Q. They weren't asking for tariff sheets to be
3 revised reflecting boundaries. Correct?

4 A. That's correct.

5 Q. And that was in the context that Laclede and
6 Union Electric filed their testimony. Correct?

7 A. Correct.

8 Q. Okay. So do you think, though, that the
9 utilities would be in a better position to know what
10 information is helpful to them in order to plan for
11 their future growth?

12 A. I'll have to qualify that. Dan Brown of
13 Quivre River Electric Coop called me right after the
14 Wentzville lawyer, and he wanted to provide natural
15 gas.

16 MS. KNOWLES: Object. This is hearsay.

17 MR. SCHWARZ: I don't know that it
18 necessarily is hearsay. Hearsay is an admission
19 asserted to prove the truth of the matter asserted,
20 and we certainly haven't gotten to that. All we know
21 is that he received a phone call from an individual.

22 MS. KNOWLES: But he's about to say the
23 out-of-the-court declaration that is not overruled.

24 MR. SCHWARZ: But the hearsay objection goes
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25 to use of the out-of-court declaration to prove the

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1 truth of the matter asserted, and if Mr. Gray is going
2 to use this conversation with Mr. whatever, to prove
3 the truth of what Quivre River said, it's
4 objectionable.

5 If he's just reciting the facts of the
6 conversation, that's not objectionable.

7 JUDGE DIPPELL: Let's back up here and ask
8 the witness to answer the question that was asked,
9 which was in his opinion if --

10 BY MS. KNOWLES:

11 Q. I think I asked, are utilities in a better
12 position to know what information is necessary and
13 meaningful to them in order to plan for growth?

14 A. What kind of utilities? Regulated or
15 unregulated?

16 Q. Well, how about Laclede Gas Company?

17 A. Okay. That's a regulated utility. Okay.
18 I'll agree with that statement for a regulated.

19 Q. You also cite safety-related issues. That's
20 No. 1 on page 4.

21 A. Yes.

22 Q. Okay. How would a tariff sheet be helpful
23 if a residential homeowner smells the odor of gas in
24 their front yard?

25 A. I can think of building contractors.

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□

1 Q. Okay. My question is for a residential
2 homeowner.

3 A. I wouldn't -- I couldn't speculate to that.

4 Q. People generally know who their utility
5 provider is, don't they?

6 A. Generally, I would think.

7 Q. Sure. Because you write a check and you pay
8 your bill. Correct?

9 A. Correct.

10 Q. So --

11 A. I don't know who my neighbor's utility bill
12 is sometimes, but, you know . . .

13 Q. Well, can you think of a circumstance when
14 you and your next-door neighbor were not --

15 A. Across the street or something like that I
16 may not know.

17 Q. All right. Then how would a tariff sheet be
18 helpful to either -- across-the-street neighbors?

19 A. Possibly not. I don't know.

20 Q. So I take it since the tariff sheet would
21 not be helpful, then any range or township or section
22 number description contained within that tariff sheet
23 would not be helpful?

24 A. I couldn't speculate.

25 Q. Now, builders, if they're going to develop

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□

1 an area, would know who the utility provider in that

2 area would be, would they not?

3 A. It they were in the process of construction,
4 I would hope so.

5 Q. Okay. So there is no realistic likelihood
6 of confusion with regard to the builder or developer
7 of a real estate project as to who the utility
8 provider is. Correct?

9 A. I -- I wouldn't necessarily think so. I
10 couldn't speculate at all on that, because it depends
11 on the circumstances.

12 Q. What use would a builder or developer of a
13 real estate project have for a township, range and
14 section number description in a tariff sheet?

15 A. Don't they employ surveyors and things like
16 that before they develop? I would think it's
17 important in that respect.

18 Q. Well, I don't think anyone would dispute
19 that the underlying legal description of a property is
20 important to a developer. But do you think that it's
21 important to a developer that such information be
22 contained within a tariff sheet?

23 A. I couldn't answer that, except to say that
24 they -- I would think they would refer to such a
25 document or something.

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1 Q. To a tariff sheet or to a legal description?

2 A. If I were going to build, I think I would
3 check to see who the provider would be within that
4 particular section. Then if there were more than one,

I might go further into it.

Q. Okay. And you think that the builder would reference a tariff sheet in order to find that information, or do you think they would know that information, call the local utility, call the county assessor?

A. It's possible.

Q. Okay. Do you think it's more likely that they would use a source other than a tariff sheet in order to derive who the utility provider is in that area?

A. It's possible. They're still based upon section numbers and so forth.

Q. Correct.

A. And ranges.

Q. Right.

No. 1, you state safety-related issues. If a person notices a gas leak in a neighborhood, that person might not know to which utility to report the gas leak.

Now, most people know their service

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provider. Correct?

A. Yes.

Q. And in that circumstance, there would be no confusion about who to contact. Right?

A. In that particular circumstance --

Q. Okay.

A. -- perhaps.

8 Q. Or they could call 911. Correct?

9 A. Correct.

10 Q. And could consult a phone book and see in
11 the beginning portion of a phone book who to call in
12 case of emergency --

13 A. Correct.

14 Q. -- could they not?

15 On page 6 of your surrebuttal, lines 6
16 through 10 --

17 A. 6 through 10?

18 Q. Yes. -- you contain a statement, Staff
19 interprets surrounding or adjacent areas as to the
20 section next to or adjacent to the city limits.

21 A. Correct.

22 Q. Okay. I take it then, is that in reference
23 to an interpretation of the certificate?

24 A. Yes, for an area certificate like in a
25 vicinity, town and vicinity.

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1 Q. And would you agree with me that that's a
2 legal conclusion as to the appropriate interpretation
3 of a certificate?

4 A. I -- I suppose it could be.

5 Q. Okay. And legal conclusions are for the
6 Commission to determine or some other reviewing
7 judicial authority. Correct?

8 A. Yes, it could be.

9 Q. Okay. And in the Wentzville case, that's
10 what Laclede and Union Electric Company were seeking,

11 they were seeking a Commission interpretation?

12 A. Right, they were.

13 Q. And is it accurate to say that Laclede and
14 Union Electric Company were able to resolve their
15 difference on an applicable basis?

16 A. That's correct.

17 MS. KNOWLES: Nothing further.

18 JUDGE DIPPELL: Is there cross-examination
19 from Public Counsel?

20 MR. MICHEEL: No questions, your Honor.

21 JUDGE DIPPELL: Laclede?

22 MR. BYRNE: Yes, your Honor.

23 CROSS-EXAMINATION BY MR. BYRNE:

24 Q. Good morning, Mr. Gray.

25 A. Good morning, Mr. Byrne.

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1 Q. Let me ask you this: Your recommendation
2 about putting townships and sections and ranges in the
3 tariff, is that required by any Commission rule?

4 A. Not for gas utilities, that I'm aware of.

5 Q. Is it required for other kinds of utilities
6 under some Commission rule?

7 A. Well, I quoted in my -- on page 7 of my
8 surrebuttal, lines 3 through 7. And that's the
9 closest I could find to it for electric.

10 Q. Okay. And that is -- okay. But that
11 doesn't necessarily say that there should be township,
12 ranges and sections. It just says a more lengthy
13 description of territory to be served --

14 A. That's the way I read it.
15 Q. -- will often be necessary.
16 Okay. And I was looking at the reasons that
17 you list, I guess one place you list the five reasons
18 is in your direct testimony on page 23?
19 A. Okay.
20 Q. Well, and before I ask you about that, given
21 the fact that there is no rule, would it be fair to
22 say that the reason that the Staff wants to include
23 this in the tariff is because it would be helpful to
24 consumers?
25 A. It would be helpful to -- I think I stated

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1 in my -- wait a second. Look through my testimony
2 here.
3 On Page 7, lines 21 through 22, I say
4 especially in those cases it is important to list
5 township, range and section numbers for developers,
6 contractors and their potential homeowners and
7 possibly other utility companies such as Quivre River.
8 Q. Okay.
9 A. I don't say that in there but that could be
10 another.
11 Q. Was that your -- is that your surrebuttal
12 that you were just quoting from?
13 A. Yes, I did.
14 Q. Okay. Well, then if you would turn to
15 page 23 of your direct, where you list the five
16 reasons --

17 A. Sure.

18 Q. -- I'm trying to understand exactly how
19 those would come into play with this proposal, and,
20 you know, Reason No. 1 is safety-related issues. You
21 say if a person notices a gas leak in a neighborhood,
22 that person might not know to which utility to report
23 the gas leak.

24 Could you explain to me a little bit how
25 that would work?

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1 I mean, okay, I imagine a person on the
2 street in a neighborhood, he smells gas. What -- how
3 does -- what does he do? How does the tariff come
4 into play in that situation?

5 A. Really the only reason -- I mean, the only
6 explanation I could think of something off the hand --
7 offhand would be like, say, a contractor or something
8 was digging a backhoe and perhaps busted a safety line
9 or something like that and he happened to know the
10 tariff.

11 Q. Okay. So in your example, the contractor
12 would be operating a backhoe and maybe break a gas
13 line and smell gas. Then he would -- would he have
14 the tariff with him on his backhoe, do you think?

15 A. Well, I assume -- I assume they might
16 possibly. No, I can't speculate.

17 Q. But you're not saying they would have the
18 tariff or --

19 A. No, I am not.

20 Q. You're not saying he would then go to
21 Jefferson City and look in the records?

22 A. No. He might call 911 or anything like
23 that.

24 Q. He might call 911?

25 Okay. I guess he could call 911 whether

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1 this was listed in our tariff or not, couldn't he?

2 A. Yeah. Of course.

3 Q. Okay. Rate confusion. That's No. 2.

4 Neighbors might have different rates for natural gas
5 and this can create confusion.

6 Okay. You know, again, I'm imagining
7 two neighbors in a house. They have different rates.
8 They're confused. How does a tariff come into play?

9 Again, do they have a copy of the tariff and
10 look at the townships and ranges?

11 A. No, they wouldn't.

12 Q. Do you envision they would call Jefferson
13 City or -- I just don't understand how the tariff
14 comes into play in that situation.

15 A. It's only for the delineation of service
16 territory. You probably would not look at the tariff.

17 Q. And those confused neighbors probably would
18 not be looking at the tariff?

19 A. Probably not.

20 Q. Okay. Construction crews, No. 3.

21 Construction crews for the city and developers.

22 Now, my understanding is -- well, again, I have

23 trouble seeing how the tariff is going to work into
 24 construction projects. My understanding is there is a
 25 One Call system in Missouri; is that true?

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1 A. That is correct.

2 Q. Where -- and, you know, I'm no One Call
 3 expert, but my understanding is if you're going to
 4 construct something, if you're going to dig, you can
 5 call and all of the utilities who are members will
 6 tell you where the facilities are?

7 A. That's correct.

8 Q. And Laclede is a member. Right?

9 A. As far as I know.

10 Q. So wouldn't you think if one of these
 11 construction crews or developers was going to dig a
 12 hole, they would probably call One Call rather than
 13 consult the tariff?

14 A. Possibly so.

15 Q. I mean, wouldn't that be the more logical
 16 way for them to find out whether Laclede or any other
 17 utility that is a member of One Call has facilities in
 18 that area?

19 A. Yeah. Okay.

20 Q. And I guess No. 5 is, it says, as population
 21 growth causes utility boundaries to encroach upon one
 22 another, each utility cannot be sure that its
 23 investment in facilities will be secure.

24 Can you explain how that would work? What
 25 do you mean by that?

□

1 A. well, as I said in the thing, in my opinion
2 better service area description as I have recommended
3 in this case would help in reducing confusion about
4 the boundaries of adjoining utilities.

5 Q. well, an example of that that you and I both
6 worked on was that wentzville case. Right?

7 A. That's correct.

8 Q. Now, how do you believe that a better
9 description of the service territory in either UE's
10 tariff or Laclede's would have averted the problems
11 that we encountered in wentzville?

12 A. They may have called attention to it
13 earlier.

14 Q. Okay. But would it be fair to say they
15 wouldn't have -- the problems that UE and Laclede had
16 stemmed from the way their certificates were written?

17 A. Right. They were overlapping certificates.

18 Q. So the -- whereas I agree with you maybe if
19 there had been --

20 A. Yes.

21 Q. -- more specificity in the tariff, the
22 problem could have come to light earlier?

23 A. Yes, it might have, yes.

24 Q. But it wouldn't -- you're not saying it
25 would have solved the problem, are you?

□

1 A. No. The tariff neither takes away or adds
2 to the certificate.

3 Q. Okay.

4 A. It just --

5 Q. Let me ask you a little bit about how
6 this -- again, how this would play out with regard to
7 Laclede's certificated service territory.

8 Laclede, for example, if you start
9 looking at counties, Laclede serves all of the
10 City of St. Louis, which I guess is a city and a
11 county. Now, wouldn't -- for all of the benefits that
12 you could -- you could ever get out of putting a more
13 specific description in the tariff, wouldn't it --
14 wouldn't it be better just to say Laclede provides all
15 of the gas service in the City of St. Louis rather
16 than, you know, go in and trying to figure out what --
17 what townships and sections and -- wouldn't that be
18 more helpful to everyone if it just said that we
19 served -- provided all of the gas service to the City
20 of St. Louis?

21 A. Give me second to look for my surrebuttal.
22 I believe it's in there.

23 It will take me a moment to find it.

24 I think -- I haven't found it. But I think
25 I recommended that it list communities and the

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1 sections and so forth of the unincorporated areas of
2 counties.

3 Q. Okay. So if we serve --

4 A. Like if I can find it here.

5 Q. Okay. Take your time.

6 A. Okay. Okay. Here it is on page 24 of my
7 direct, lines 21 through 23.

8 The tariff's service area description should
9 list all communities served by company division -- it
10 should say, and Missouri county -- for unincorporated
11 areas, including any rural farm tap customers, the
12 authorized service areas for each Missouri area should
13 be defined by township.

14 I've got section out of order there. I
15 would say township, range and section numbers.

16 Q. Okay. So if we serve everywhere in
17 St. Louis City, we can -- as far as you're concerned,
18 that's all -- about St. Louis City, that's all we have
19 to say?

20 A. I believe that would be sufficient.

21 Q. And the same with St. Louis County? If we
22 provide service throughout St. Louis County, we can
23 just say that. We don't have to put section, township
24 and range?

25 A. Only for unincorporated areas.

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1 Q. Only for unincorporated areas. I don't
2 understand that. There are some unincorporated areas
3 of St. Louis County.

4 A. That's what I was thinking. So
5 unincorporated areas, I'm asking for township, range
6 and section numbers.

7 Q. So even though we serve all of St. Louis
8 County, both incorporated and unincorporated areas?

9 A. Yes.

10 Q. It's not good enough to just say we serve
11 St. Louis County? You want us to split out the
12 incorporated areas and I mean --

13 A. Yes.

14 Q. -- from the unincorporated areas?

15 A. Yes.

16 Q. So you want us to say we serve Maplewood
17 and Brentwood and all -- all of the -- you know, list
18 98 incorporated areas in St. Louis County and then
19 have a township, section and range for the
20 unincorporated areas?

21 A. I think I have said -- let me back up here.

22 In my surrebuttal, on page 9, page --
23 I mean, lines 9 through 12, in my opinion it
24 would be acceptable if Laclede indicated that it is
25 authorized to serve all of the unincorporated areas of

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1 St. Charles County with the exception of a list of
2 township, range and section numbers of the
3 unincorporated areas it is not authorized to serve.

4 I was really -- did not know that you
5 were -- you were authorized to serve all of St. Louis
6 County. I never researched that.

7 Q. But if we are, is it okay then under this
8 logic for us just to list St. Louis County?

9 A. If you serve the entire county, I would

10 think.

11 Q. Okay. Let's talk about St. Charles County a
12 little bit.

13 A. Yes.

14 Q. Now, my understanding is our certificate
15 that was issued in the early '60s authorizes us to
16 serve all unincorporated areas of St. Charles County?

17 A. Correct.

18 Q. And what you're suggesting is that we say in
19 the tariff that we are authorized to serve all
20 unincorporated areas of St. Charles county, but then
21 except certain areas?

22 A. Except certain section numbers that you're
23 not authorized to serve.

24 Q. And what section numbers would those be?

25 A. The only ones I'm aware of are stemming out

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1 of the Wentzville territorial agreement with you and
2 AmerenUE.

3 Q. Okay. So we could just put, and you'd be
4 happy with in our tariff, all of unincorporated
5 St. Charles County, except the Wentzville?

6 A. If you want me to reread it, I will.

7 JUDGE DIPPELL: What page was that,
8 Mr. Gray?

9 THE WITNESS: Pardon me, Judge?

10 JUDGE DIPPELL: What page of your testimony?

11 THE WITNESS: Just a second. I have to --
12 it's on page 9 of my surrebuttal, lines 9 through 12.

13 In my opinion it would be acceptable if
14 Laclede indicated that it is authorized to serve all
15 of the unincorporated areas of St. Charles County,
16 with the exception of a list of township, range and
17 section numbers of the unincorporated areas it is not
18 authorized to serve.

19 BY MR. BYRNE:

20 Q. And I understand you're happy with the way
21 we've done it for Wentzville, because we had a
22 proceeding and we reached an agreement with UE on
23 exactly where that boundary is.

24 A. Right.

25 Q. But is that the only one we would have to

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1 address, the one that the Commission has specifically
2 resolved?

3 A. Are you not authorized to serve the rest of
4 St. Charles County?

5 I don't know. See, I don't know, so I can't
6 answer your question.

7 Q. Well, the difficulty I think arises from the
8 fact that the Commission's order in 1963 or 1964
9 authorized us to serve all areas of unincorporated
10 St. Charles County.

11 A. That was my understanding.

12 Q. Now, let me ask you a few specifics about
13 that.

14 A. Sure.

15 Q. Let's say a city was incorporated in
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16 St. Charles County in 1970, so it was incorporated
17 after we got the authority to serve unincorporated
18 St. Charles County --

19 A. Right.

20 Q. -- but before now.

21 Do we --

22 JUDGE DIPPELL: Let me interject just a
23 moment.

24 Mr. Gray, if I could get you to wait until
25 after Mr. Byrne finishes his question before you

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1 answer.

2 THE WITNESS: Okay. I apologize.

3 BY MR. BYRNE:

4 Q. In that situation where a city was
5 incorporated in St. Charles County after we got the
6 original authority, would that be -- in your opinion
7 would that be something that we would have to except
8 from our tariff?

9 A. I don't understand the question.

10 Q. Okay. Let me go back over it again.

11 In 1963 we got a certificate to serve
12 unincorporated St. Charles County. In my
13 hypothetical, in 1970 a city was incorporated in
14 St. Charles County for the first time.

15 Under your proposal, would we have to write
16 an exception to that into our tariff?

17 A. You just list the community. It's an
18 incorporated community. It should be listed as an

19 incorporated community.

20 Q. We are not authorized?

21 A. You're serving in that?

22 Q. Well, I don't know. See, well, that's
23 another -- you brought up another fact.

24 A. Are you serving?

25 Q. Well, in my hypothetical I could or could

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1 not be. Does it matter to you?

2 Does it matter to you if we were already
3 serving there when it was incorporated?

4 A. I -- this is a recollection based upon the
5 Wentzville case. It's calling for a legal opinion but
6 I will just throw it out. Lara said she thought it
7 was all of the -- could be construed to be all of the
8 unincorporated areas at that time.

9 I'm not a legal . . .

10 Q. Well, what if you had a city like Wentzville
11 that was already incorporated but its boundaries
12 expanded over time, should we exclude the expanded
13 boundaries from our tariff or should we only have the
14 size of Wentzville as it was in 1963 when our
15 certificate to serve unincorporated St. Charles County
16 was issued?

17 A. I think you would exclude the section number
18 if -- if it expanded.

19 Q. What if we already had facilities there when
20 it expanded, does that matter to you?

21 A. That's a legal question, again, about case

22 law.

23 Q. Well, let me ask you this, Mr. Gray: Aren't
24 there difficult legal questions that are implicated in
25 trying to pin down with the specificity service

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1 territory boundaries when maybe the Commission orders
2 that establish those boundaries were not as specific?

3 A. That may be true, but the tariff neither
4 takes away or adds to your service territory.

5 Q. And are you aware of whether tariffs have
6 the force and effect of law?

7 A. I certainly would not be aware of that.

8 Q. If they did have the force and effect of
9 law, would that change your opinion about whether we
10 should include townships, sections and ranges that
11 might be in -- might be inconsistent with the
12 certificate --

13 MR. SCHWARZ: I am going to object at this
14 time. Certainly Mr. Gray is required to apply the law
15 occasionally in his work. I think this is far afield
16 from -- from that area. These sorts of questions do
17 call for a legal opinion and, quite frankly, I think
18 might well call for litigation to resolve them.

19 I therefore object, that this question calls
20 for a legal opinion.

21 MR. BYRNE: Well, your Honor, let me
22 rephrase the question so it doesn't call for a legal
23 conclusion.

24 JUDGE DIPPELL: Thank you.

25 BY MR. BYRNE:

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1 Q. I want you to assume for me, Mr. Gray, that
2 tariffs have the force and effect of law.

3 Can you make that assumption for me?

4 A. That's contrary to what -- what I believe.
5 In my testimony I stated it does not either define or
6 take away service territory.

7 Q. Okay. But just for now assume for me --

8 A. Can I assume that? Okay.

9 Q. Okay. Now, does it cause you any trouble
10 under my assumption, if my assumption -- if you take
11 my assumption that tariffs have the force and effect
12 of law, does it cause you any trouble that the
13 township, section and range specified in a tariff
14 might be inconsistent with or in addition to the
15 authority conveyed by the Commission in the
16 certificate order?

17 MR. SCHWARZ: I will renew my objection. It
18 still calls for a legal opinion which is not one which
19 Mr. Gray in his ordinary dealings with tariffs and
20 that sort of thing is qualified to answer.

21 MR. BYRNE: I don't think it does call for a
22 legal conclusion, your Honor. I think I'm asking if
23 that causes him trouble.

24 I'm asking him to assume the thing that I
25 could have asked him about and would have called for a

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1 legal conclusion, and I'm asking if that causes him
2 any problems.

3 MR. SCHWARZ: No. Judge, I don't believe
4 that's a fair characterization. The question -- I
5 think --

6 JUDGE DIPPELL: That's all right,
7 Mr. Schwarz. I'll take it from here.

8 I believe you are asking him whether a
9 conflict of law bothers him. I'm not sure that the
10 witness even understands what a conflict of law is,
11 but I suppose if you want to ask him if that bothers
12 him, I'll let you ask him that. But I'll let you save
13 your legal arguments on that issue for your briefs.

14 MR. BYRNE: Okay.

15 JUDGE DIPPELL: You may ask him the
16 question. If he knows, he may answer.

17 BY MR. BYRNE:

18 Q. And the question is, if --

19 MR. SCHWARZ: I'm going to object again on a
20 different ground. It calls for -- it assumes a fact
21 which is simply contrary to law. That is, the tariff
22 cannot alter the certificate.

23 JUDGE DIPPELL: Mr. Schwarz, I'll let you
24 argue that all you want in your brief. I think he's
25 asking him if it bothers him -- if this conflict --

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1 assumed conflict that he's made a hypothetical, if

2 this assumed conflict of law bothers him.

3 You may ask the question and the witness may
4 answer.

5 THE WITNESS: It is possible for two
6 utilities to serve within the same section as in the
7 wentzville case. That does not bother me because the
8 tariff does not take away or add to the service area.

9 BY MR. BYRNE:

10 Q. Okay. But that wasn't my question.

11 My question is --

12 A. It wasn't?

13 Q. Now, I know it was a while since you heard
14 the question. So let me try to ask it again.

15 A. Okay.

16 Q. If you assume that tariffs have the force
17 and effect of law, so I'm asking you to make that
18 assumption, does it bother you if a tariff is in
19 conflict with an order issuing a certificate to a
20 utility?

21 Does that bother you, yes or no?

22 A. Yes, because the certificate is the
23 authority.

24 Q. Let me ask you this: You talked a little
25 bit before -- well, Mr. Schwarz asked some -- well, I

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1 don't know. I'm not sure when you talked about it.

2 But I think -- I know.

3 In response to AmerenUE's questions, you
4 were talking about knowing your section, township and

5 range when you purchased your house.

6 Do you recall that?

7 A. I saw it on the description. I don't know
8 if I memorized it at the time, but I do know I saw it
9 there. In fact, you know, it was -- I'm positive I
10 looked at it.

11 Q. I guess a person who lives in an apartment
12 or maybe even who rents a house wouldn't have that
13 opportunity to see their section, township and range,
14 at least that opportunity to see it, would they?

15 A. That's speculation. I'm a homeowner. I
16 wouldn't know.

17 Q. Okay. Have you had any complaints from
18 customers about lack of clarity in the tariff to your
19 knowledge?

20 A. I have been -- I've only handled two
21 complaints since I've been working in the gas
22 department. So the answer to that is no.

23 Q. And how long have you been working in the
24 gas department?

25 A. Since -- pardon me while I look at my direct

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1 testimony. Forgive me.

2 Beginning in -- let's see -- December of
3 1997 on page 2, line 10 --

4 Q. Okay.

5 A. -- of my direct.

6 Q. And you're not aware of any other complaints
7 from before you were in the gas department, are you?

8 A. I was in economic analysis. No, I was
9 sitting at a different end of the Commission. No.

10 Q. So you're not aware of any complaints?

11 A. I wouldn't know if there were any or if
12 there were not any.

13 Q. Okay. Mr. Gray, did you seek any legal
14 advice in preparing your testimony regarding this
15 issue?

16 A. No, I did not. They reviewed it. I did not
17 seek legal advice in preparing it.

18 Q. Let me ask you one more question.
19 whose idea -- was this your idea to propose
20 this or is there -- was it the utility's idea or was
21 there someone else at the Staff whose idea it was?

22 where did this idea come from, from putting
23 sections, townships and ranges in tariffs?

24 A. I really don't know. It's a Staff idea that
25 started before I went into the -- that area of the

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1 Commission.

2 Q. Okay. So it wasn't your idea; is that fair
3 to say?

4 A. I don't understand the question.

5 Q. It wasn't your idea; is that fair to say?

6 A. I don't understand the question.

7 Are you talking about Laclede in this case
8 or are you talking about the sections as originally
9 put in?

10 Q. I'm sorry. It wasn't a clear enough

11 question.

12 what I'm talking about is the overall idea,
13 not just --

14 A. The overall idea in this case is my idea,
15 but I have notarized this document.

16 Q. Sure. I understand. I understand you're
17 endorsing that idea in this case. But what I was
18 really asking is the overall idea --

19 A. I was not -- I was not in the gas department
20 at that time.

21 Q. Okay. So other people in the gas department
22 developed it and --

23 A. I'm not even sure. Obviously if you read my
24 testimony, the electric department is doing it also.
25 So I don't . . .

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1 MR. BYRNE: Okay. Thank you very much.
2 That's all I have, Mr. Gray.

3 JUDGE DIPPELL: Thank you. Is there
4 redirect?

5 MR. SCHWARZ: Yes.

6 REDIRECT EXAMINATION BY MR. SCHWARZ:

7 Q. In response -- AmerenUE inquired if you have
8 used your -- the legal description of your home since
9 you bought it and you indicated you had not. Do you
10 know if other persons might have used the legal
11 description of your home?

12 A. Yes. I imagine they have but I don't know
13 positively. I think I might have used it for a loan.

14 Q. There were some questions, I believe, from
15 AmerenUE about doesn't a utility know what it means by
16 its own tariffs.

17 Do you remember the line of questions along
18 those lines?

19 A. No, I don't.

20 Q. Well, let me -- let me ask you this: would
21 one utility necessarily know what another utility
22 meant -- would Laclede necessarily know what AmerenUE
23 meant by a general description of service territory in
24 its tariffs?

25 A. Absolutely not. That's the reason the

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1 wentzville docket took place.

2 Q. would another energy provider such as Quivre
3 River or a mutual -- a municipality -- strike that.

4 Just someone like a coop --

5 A. No.

6 Q. -- necessarily know?

7 A. Dan Brown did not know when he called me.
8 He asked specifically if he could provide natural gas
9 service in St. Charles County, and I told him to the
10 best of my knowledge, no. So obviously he didn't
11 know.

12 Q. To your knowledge do all excavators or
13 contractors consult One Call before digging?

14 A. I don't think they do, but I have no
15 personal experience of that.

16 Q. To your knowledge has the Staff ever

17 received inquiries from developers or contractors as
18 to what utility serves a particular area?

19 A. I -- not personally but I think I've heard
20 something to that effect.

21 Q. Okay. Specifically with respect to the
22 wentzville dispute between AmerenUE and Laclede, if
23 each of those companies had listed in their tariffs
24 the same township, range and section numbers, would it
25 have alerted a potential developer in those areas that

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1 there might be some question as to who could serve
2 their developments?

3 A. Absolutely.

4 MR. SCHWARZ: I think that's all.

5 Thank you.

6 JUDGE DIPPELL: Thank you. You may be
7 excused then.

8 Okay. Are there any other witnesses that
9 any of the parties wish to call at this time, or is
10 everything else dependent upon your settlement
11 negotiations?

12 MR. BYRNE: I don't think we have any more
13 witnesses, your Honor. In fact, this hearing is
14 virtually over.

15 JUDGE DIPPELL: Don't go there.

16 What I would like to do then at this time is
17 to just kind of run through a brief wrap-up. I'd like
18 to kind of go down the schedule of exhibits and just
19 let you know what I think has been admitted.

20 MR. SCHWARZ: If we might, I would like to
21 get Mr. Poston in here to do that.

22 (Off the record.)

23 JUDGE DIPPELL: Let's go back on the
24 record.

25 I just want to run through the list of

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1 exhibits briefly as we can to kind of clear up
2 anything that might be confused and let you-all state
3 if you think that my list for some reason is not
4 correct.

5 Of course, the transcript will reflect it
6 more accurately, but I show that Exhibits 1 through
7 7 were admitted. I'm sorry. 1 through 13 were
8 admitted. 14 through 16 was offered in part and I did
9 not rule on that at that time.

10 Does that need to be ruled on?

11 MR. BYRNE: I think, yeah, we've entered all
12 of the other weather testimonies, so we ought to rule
13 on that too.

14 JUDGE DIPPELL: Mr. Micheel, did you --

15 MR. MICHEEL: I think that's right. I think
16 that's correct.

17 JUDGE DIPPELL: So do you want to just offer
18 the weather portions of your testimony then?

19 MR. PENDERGAST: I think we can offer the
20 whole entirety of it, your Honor.

21 JUDGE DIPPELL: I would prefer that.

22 Okay. Then are there any objections to

23 Exhibits 14, 15 and 16?

24 MR. SNODGRASS: Judge, could you clarify
25 what those were?

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1 JUDGE DIPPELL: I'm sorry. Those were the
2 direct, rebuttal and surrebuttal testimony of Patricia
3 Krieger.

4 Okay. Then are there any objections to
5 Ms. Krieger's testimony?

6 (No response.)

7 JUDGE DIPPELL: Then I will receive those
8 exhibits, 14, 15 and 16.

9 (EXHIBIT NOS. 14, 15 AND 16 WERE RECEIVED
10 INTO EVIDENCE.)

11 JUDGE DIPPELL: I also show that
12 Exhibits 17, 18 and 19 were admitted. Exhibits 20, 21
13 and through 30 were all admitted. Exhibits 31 through
14 42 were not admitted, and I'm expecting that those
15 would either be -- something will be done with those
16 in the stipulation if you want any of that on the
17 record.

18 MR. MICHEEL: I didn't think Exhibit 43,
19 which was the accounting schedules for Laclede,
20 A through E were admitted either.

21 JUDGE DIPPELL: I was getting to that one
22 next.

23 MR. MICHEEL: Oh, okay.

24 JUDGE DIPPELL: Exhibit 43 was also not
25 offered and admitted. Did that need to be offered for

□

1 any of the witnesses that testified on the other
2 issues?

3 MR. BYRNE: Well, your Honor, I guess maybe
4 we ought to offer at least the accounting schedules
5 now, because that deals with issues that were settled
6 and issues that weren't.

7 So I'll offer Exhibit 43.

8 JUDGE DIPPELL: Would there be any objection
9 to Exhibit 43, which was Laclede's accounting
10 schedules?

11 Is it just accounting schedules?

12 MR. BYRNE: Yes, your Honor.

13 JUDGE DIPPELL: Okay. If there is no
14 objection to that, then I will receive that into the
15 record.

16 (EXHIBIT NO. 43 WAS RECEIVED INTO EVIDENCE.)

17 MR. BYRNE: Now, with regard to the other
18 issues, we could either -- I mean, we could offer them
19 now. I guess the other parties are in the same boat.
20 We could offer them now and have them accepted into
21 the record. Those are the items that are going to be
22 the subject of the partial stipulation.

23 MR. MICHEEL: Well, for example, if --

24 MR. POSTON: That's fine with us.

25 MR. BYRNE: And some of those -- some of

□

1 them are also -- well, they're all subject to the
2 partial stipulation.

3 MR. MICHEEL: Mr. Moten's testimony is not
4 subject to the partial stipulation.

5 MR. PENDERGAST: That's correct. And I
6 think we could offer into evidence 35 certainly
7 through 40, 42, because those all relate to accounting
8 issues that I think have already been resolved through
9 what we have already filed.

10 MR. BYRNE: Could we offer all of them
11 starting with 31 and -- 31 to 42?

12 Does anyone have any objection to us
13 offering all of the unoffered ones, Exhibits 31
14 through, I guess it would be, 43, counting the
15 accounting schedules?

16 JUDGE DIPPELL: Mr. Micheel, did you have an
17 objection to Exhibit 40 --

18 MR. MICHEEL: No.

19 JUDGE DIPPELL: -- which is Mr. Moten's --

20 MR. MICHEEL: Not at all.

21 MR. PENDERGAST: You know, your Honor, I
22 think probably from our perspective it probably does
23 make sense, even though we have a stipulation and
24 agreement that is going to be filed later on that will
25 address this.

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1 I mean, this was the day when we were
2 supposed to have a rate design. I think there are
3 some parties that are absent, because, obviously, we

4 have reached an agreement, and I think from just a
5 housekeeping standpoint, since there is nobody here to
6 object to entering them and everybody here feels
7 comfortable offering them, that administratively it's
8 probably just easier to do it now rather than wait.

9 JUDGE DIPPELL: Okay. Then Exhibits 31
10 through 42 have been offered and, granted, the
11 witnesses aren't here, but I'm assuming you-all are
12 stipulating to the testimony -- I mean, the
13 corrections and the testimony and so forth.

14 Are there any objections then to Exhibits 31
15 through 42?

16 (No response.)

17 JUDGE DIPPELL: That will be received into
18 the record.

19 (EXHIBIT NOS. 31 THROUGH 42 WERE RECEIVED
20 INTO EVIDENCE.)

21 JUDGE DIPPELL: And those have all been
22 premarked so the court reporter should have an
23 accurate reflection before the hearing of what those
24 are. They're all testimony.

25 Now I show 44 through 57 was admitted.

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1 58NP and 58HC was not offered. Does that need to be
2 offered by Office of Public Counsel?

3 MR. MICHEEL: Your Honor, we have not
4 offered or presented Ms. Hu. That would be 54, 55 and
5 56.

6 JUDGE DIPPELL: Oh, I'm sorry.
Page 88

7 MR. MICHEEL: So 57 is in, but 58 is not in.
8 So at this time I would offer Exhibits 54, 55, 56 and
9 58NP and HC.

10 JUDGE DIPPELL: Would there be any objection
11 to those exhibits?

12 (No response.)

13 JUDGE DIPPELL: Then I will admit
14 Exhibits 54, 55, 56, 58NP and 58HC.

15 (EXHIBIT NOS. 54, 55, 56, 58NP AND 58HC WERE
16 RECEIVED INTO EVIDENCE.)

17 JUDGE DIPPELL: Okay. And then again I show
18 Exhibits 59 through 62 have been admitted.

19 Does Staff want to offer its other exhibits?
20 63 through 68 have not been admitted.

21 MR. POSTON: Yes. Staff would like to offer
22 Exhibits 63 through 68.

23 JUDGE DIPPELL: Would there be any
24 objections to Exhibits 63 through 68?

25 (No response.)

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1 JUDGE DIPPELL: Then I will receive those
2 into the record.

3 (EXHIBIT NOS. 63 THROUGH 68 WERE RECEIVED
4 INTO EVIDENCE.)

5 JUDGE DIPPELL: Okay. Exhibits 69 through
6 71 were admitted with the caveat that there is still a
7 motion to strike pending.

8 Exhibits 72 through 80 were not admitted.
9 Would staff like to offer those at this time?

10 MR. POSTON: Yes, your Honor, Staff would
11 like to offer 72 through 80.

12 JUDGE DIPPELL: And would there be any
13 objection to those exhibits?

14 MR. BYRNE: Your Honor, our motion to strike
15 also goes to Mr. Warren's testimony. I guess just
16 subject to the motion to strike.

17 JUDGE DIPPELL: Okay.

18 MR. BYRNE: I have no objection.

19 JUDGE DIPPELL: Okay. I will receive
20 Exhibit 72, and that includes 73NP and 73HC, through
21 Exhibit No. 80, and your motion to strike on
22 Exhibits 72, 73, 73HC and 74, whichever ones the
23 motion goes to, I'm not exactly certain, but the
24 motion to strike is still pending.

25 But I will receive those exhibits.

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1 (EXHIBIT NOS. 72, 73, 73HC AND 74 THROUGH 80
2 WERE RECEIVED INTO EVIDENCE.)

3 MR. BYRNE: How far up did you go?

4 JUDGE DIPPELL: To 80, and then 81 through
5 88 have been admitted. 89 through 91 is the testimony
6 of Ms. Westerfield.

7 would Staff like to offer that at this time?

8 MR. POSTON: Yes, your Honor, we would.

9 JUDGE DIPPELL: Would there be any
10 objections to Exhibits 89, 90 and 91?

11 (No response.)

12 JUDGE DIPPELL: Then I'll receive those into
Page 90

13 the record at this time.

14 (EXHIBIT NOS. 89, 90 AND 91 WERE RECEIVED
15 INTO EVIDENCE.)

16 JUDGE DIPPELL: Exhibits 92 through 96,
17 which included another HC exhibit at 95, have been
18 admitted. Exhibits 97, 98NP, 98HC and 99 have not
19 been admitted.

20 Would staff like to offer those?

21 MR. POSTON: Yes, your Honor.

22 JUDGE DIPPELL: Would there be any
23 objections to those exhibits?

24 (No response.)

25 JUDGE DIPPELL: Then I will admit those

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□

1 exhibits.

2 (EXHIBIT NOS. 97, 98NP, 98HC AND 99 WERE
3 RECEIVED INTO EVIDENCE.)

4 JUDGE DIPPELL: Exhibits 100, 101 and 102
5 have not been admitted.

6 Would AmerenUE like to offer those exhibits?

7 MS. KNOWLES: Yes, your Honor.

8 JUDGE DIPPELL: Would there be any objection
9 to those exhibits?

10 (No response.)

11 JUDGE DIPPELL: Then I will admit 100, 101
12 and 102.

13 (EXHIBIT NOS. 100, 101 AND 102 WERE RECEIVED
14 INTO EVIDENCE.)

15 JUDGE DIPPELL: Exhibits 104, 105, 106, 107,
Page 91

16 108 and 109 have not been admitted.

17 Is anyone here from --

18 MR. PENDERGAST: No, your Honor. Nobody is
19 here to offer them. I think from what will be covered
20 by the stipulation and agreement, and I'm sure at the
21 time we make the presentation we can take care of
22 that. I would feel comfortable, obviously, offering
23 it on their behalf.

24 JUDGE DIPPELL: Then we will not -- we will
25 not deal with those at this time then.

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1 Okay. Late-filed exhibit, I show 110 was an
2 analysis of the effect of Staff return. Does that
3 make sense to you?

4 MR. SCHWARZ: That's exactly what I have,
5 analysis of Staff return on equity is one tag.

6 JUDGE DIPPELL: Okay. Of the return on
7 equity. Okay.

8 MR. POSTON: Was that analysis that was
9 performed by Staff?

10 MR. BYRNE: I think that's the thing
11 Mr. Broadwater prepared.

12 JUDGE DIPPELL: Actually it was Laclede's --

13 MR. PENDERGAST: I think it was our exhibit,
14 our individual exhibits.

15 JUDGE DIPPELL: Oh, okay.

16 MR. BYRNE: Oh, okay. That's fine.

17 JUDGE DIPPELL: It was from the opening
18 statements. I'm sorry. I didn't read all of the way

19 across the page.

20 Exhibits 110, 111 and 112 were from the
21 opening statements. They were just basically marked
22 for purposes of making the record clear. They weren't
23 offered into evidence. But I did have down that I
24 need copies of those for the court reporter, if you
25 could get me three copies of those.

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1 MR. PENDERGAST: We'll get you additional,
2 sure.

3 JUDGE DIPPELL: Then late-filed Exhibit 113
4 was for Laclede to prepare at Commissioner Drainer's
5 request, and they prepared that and gave that to me
6 yesterday. Late-filed Exhibit 114HC was also at
7 Commissioner Drainer's request and that was prepared
8 and given to me and I'm assuming served on all of the
9 other parties, all of these, or it will be.

10 Late-filed Exhibit 115 was at
11 Commissioner Schemenauer's request and was also
12 provided to me. Late-filed Exhibit 116 was the
13 deposition of Mr. Broadwater and that was admitted.

14 Late-filed Exhibit 117 was at Commissioner
15 Drainer's request and was provided by the Staff.
16 Late-filed Exhibit 118 is the partial stipulation and
17 agreement and that was admitted.

18 Late-filed Exhibit 119 was the adjusted data
19 charts and that was withdrawn. Late-filed Exhibit 120
20 was Data Request No. 2 of 3, and it was admitted.
21 Late-filed Exhibit 121 was Data Request 1117 and that

22 was admitted.

23 MR. MICHEEL: Your Honor, if I may, some of
24 these are not late-filed. Some of them were just
25 exhibits that were made via cross-examination of

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1 witnesses, and I just think if we put the late-filed
2 tag on there, that puts the ten-day rule in effect and
3 all of that --

4 JUDGE DIPPELL: You're right. Let me --

5 MR. MICHEEL: -- but that's correct with
6 some of these exhibits.

7 JUDGE DIPPELL: Let me restate that again.
8 The exhibits that I stated that were already admitted,
9 even though they're late-filed in the sense that they
10 weren't prefiled, are not outstanding, and when I talk
11 later about objections to late-filed exhibits, I'm
12 just talking about those that have not specifically
13 been admitted at this point.

14 Exhibit 122 was also admitted and that was
15 the Data Request No. 116. Exhibit 123 was direct
16 testimony of Paul Adam from GR-99-246 and that was
17 admitted. Exhibit 124 was Paul Adams' work papers
18 from GR-98-374 and that was admitted.

19 Exhibit No. 125 has been reserved to include
20 the record from GT-99-303 that's relevant to this case
21 and encompassed in your stipulation. Exhibit 126 was
22 tariff sheets of MGE and that was -- administrative
23 notice was taken of that.

24 And administrative notice was also taken of
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25 some census weather data that Mr. Schwarz offered, and

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1 we didn't get that an exhibit number at the time.

2 Is that still going to be necessary?

3 MR. PENDERGAST: Your Honor, that was, as I
4 recall, associated with the weather issue, and since
5 that has been settled and will not be briefed, I'm not
6 sure that there is still any need to make an exhibit
7 for it.

8 JUDGE DIPPELL: Okay.

9 MR. SNODGRASS: Judge, are you sure that was
10 with the weather issue? I thought that might have
11 been with the service territory issue.

12 JUDGE DIPPELL: No, sir. It was the --

13 MR. SNODGRASS: It was the weather? I'm
14 sorry. I'm sorry.

15 MR. MICHEEL: It was with respect to
16 population and was with the weather issue.

17 JUDGE DIPPELL: Okay. And that's all of the
18 exhibits that I have to this point.

19 with regard to those late-filed exhibits,
20 that is exhibits requested by the Commission,
21 basically -- that were --

22 I'm sorry, Mr. Poston. You have a question?

23 MR. POSTON: I was just going to ask if you
24 could throw out those numbers.

25 JUDGE DIPPELL: I will.

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1 MR. POSTON: Okay. Thank you.

2 JUDGE DIPPELL: That is Exhibits 113,
3 114HC, 115, 117, and that is all of the ones that were
4 requested by the Commission.

5 I will give you-all ten days -- I think
6 they've all been provided; is that correct?

7 MR. MICHEEL: That is correct, your Honor.

8 JUDGE DIPPELL: Okay. I will give you-all
9 ten days -- oh, there is a holiday.

10 I'll give you two weeks to file any written
11 objections to those exhibits, the 17th of September,
12 for objections to those. And then I will rule at that
13 time on their admittance.

14 With regard to the deposition of
15 Mr. Broadwater, we left hanging the objections there
16 might be to those. Is that still going to be a
17 necessary part of -- I guess the question I'm asking
18 is, do you still -- does Staff still need time to
19 respond with corrections and objections to the
20 information in that exhibit?

21 MR. POSTON: Yes, your Honor.

22 JUDGE DIPPELL: Okay. Then I would ask you
23 to also have those objections by September 17th.

24 MR. BYRNE: Your Honor, my understanding on
25 those late-filed exhibits is, you said we could file

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1 objections by September 17th. But my understanding is

2 at the time they were admitted, we could also respond
3 to them; is that correct?

4 JUDGE DIPPELL: I'm sorry, Mr. Byrne. I
5 don't understand your question.

6 MR. BYRNE: My understanding is the parties
7 were to be allowed to file responses to the analyses,
8 not just legal objections.

9 JUDGE DIPPELL: I will allow you to file
10 responses as well as objections.

11 MR. BYRNE: Okay. Thank you.

12 JUDGE DIPPELL: Thank you for making that
13 clarification.

14 I would not expect your responses to be very
15 long in length.

16 MR. BYRNE: Okay.

17 JUDGE DIPPELL: We've talked about
18 setting a true-up hearing possibly for October 7th. I
19 will issue a briefing schedule and order setting
20 the true-up hearing and stating the date for the
21 late-filed exhibit responses and objections hopefully
22 first thing next week. But you have advance notice of
23 those.

24 I encourage you if you are so inclined to
25 also -- you're encouraged to file proposed findings of

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1 fact and conclusions of law, if you would like. We
2 will accept them. If you decided to do that, it would
3 be very helpful to do so with an electronic version as
4 well, either a diskette or ask you to file it -- you

5 may send it to my e-mail, that's fine, so long as it
6 is an exact copy of what you filed.

7 MR. PENDERGAST: And, your Honor, would you
8 recommend that when we do that, we file that at the
9 time we file our additional briefs?

10 JUDGE DIPPELL: That would be the
11 appropriate time, yes.

12 I will remind you that it's very helpful for
13 the Commission, as well as the regulatory law judge,
14 and just good legal practice to cite in your briefs to
15 the record.

16 we have already received copies of
17 late-filed exhibits, so never mind. If the
18 Commissioners should have questions on your
19 stipulation, then it may be necessary to require you
20 to come back in some time, but at this point it's not
21 going to be Tuesday.

22 we won't know that soon if they have
23 questions. But I will after we've had a chance to
24 analyze what you get filed, then if they have some
25 kind of questions, then you can present that in a

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1 formal setting. I would let you know.

2 MR. PENDERGAST: And your Honor, just so
3 there won't be any confusion, when we do file it, we
4 will try and put in the cover letter a brief
5 explanation as to how this amended partial stipulation
6 and agreement differs from the one we filed the other
7 day, so that if the Commission has already begun to

8 read it, they'll know we added paragraph such and such
9 and paragraph such and such, and, you know, any
10 attachment to it, if that would be helpful

11 JUDGE DIPPELL: That would be fine.

12 Now, is it my understanding that you're
13 going to end up with one stipulation and agreement
14 that covers everything?

15 MR. PENDERGAST: Yes, that's our intention,
16 Judge, to call it a first amended partial stipulation
17 and agreement, so you will have the final document in
18 front of you.

19 JUDGE DIPPELL: And will that be a unanimous
20 stipulation and agreement or is that just --

21 MR. PENDERGAST: It will be a unanimous
22 stipulation and agreement involving all of the really
23 active parties. I'm not sure whether MRT will care to
24 sign on. In the past I don't believe they always
25 have. And our union guys who participated, either in

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1 the prehearing conference or here, and I don't
2 anticipate at this late stage trying to get them to
3 sign it. But all of the active parties, I think,
4 will.

5 MR. BYRNE: So we would probably have to go
6 through the motion of allowing them ten days to object
7 to it.

8 MR. PENDERGAST: Five days.

9 MR. BYRNE: Five days. I'm sorry.

10 JUDGE DIPPELL: I started to say, if it is

11 ten days -- but you're correct. The rule is five days
12 on this.

13 Okay. Is there anything else that you can
14 think of that I need to take care of while we're still
15 on the record?

16 MR. PENDERGAST: Your Honor, just one brief
17 observation. I think that you indicated a day for
18 staff to file objections to the Broadwater deposition
19 or to state what their objections might be, and I
20 think you maybe also mentioned corrections at one
21 point. And as you will recall, when it came to the
22 who -- Dr. Hu's deposition, there was an issue of both
23 objections and corrections because he had never signed
24 his particular deposition, verified it.

25 I believe Mr. Broadwater did verify his

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1 deposition. So I would think that what staff would be
2 entitled to do would be to state their objections but
3 not to go ahead and present additional corrections.

4 MR. SNODGRASS: That's in connection with
5 Mr. Broadwater; is that correct?

6 JUDGE DIPPELL: That's correct. Is that
7 your understanding, Mr. Snodgrass?

8 MR. SNODGRASS: That seems accurate to me.

9 JUDGE DIPPELL: All right. I'll try to make
10 that clear when I issue the order.

11 And we didn't talk about a briefing
12 schedule. If we have a true-up hearing on October 7,
13 would it be unreasonable --

14 well, let me ask this question: How many
15 days after the true-up hearing do you need for initial
16 briefs?

17 MR. PENDERGAST: Personally, your Honor, I
18 don't think it has to be an extended period of time,
19 because we will have, I think, really already briefed
20 all of the issues and it's just a question of maybe
21 updating some numbers.

22 And, you know, in some minor way it could
23 impact a particular issue. So I would say that if we
24 have five or six days after that, if that gives you
25 enough time, that would probably work.

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1 MR. BYRNE: When would the transcript from
2 the -- would we need the transcript from the
3 true-up --

4 JUDGE DIPPELL: Okay. Let's say October 15
5 will be for the initial brief period, and then, is two
6 weeks sufficient for reply briefs?

7 MR. PENDERGAST: That's fine with us.

8 JUDGE DIPPELL: November 1st then for reply
9 briefs.

10 MR. POSTON: That's fine.

11 JUDGE DIPPELL: Okay. Anything else?

12 MR. PENDERGAST: And I take it that the
13 proper procedure once we get our stipulation and
14 agreement signed is simply go ahead and file it, and
15 obviously you will have received your copies, as well
16 as the Commissioner.

17 JUDGE DIPPELL: Yes. Just go ahead and then
18 file it through the regular records room process.

19 MR. PENDERGAST: Very good.

20 JUDGE DIPPELL: Okay. Anything further?

21 I appreciate you-all working, cooperating
22 with each other, settling some of these issues and
23 getting me out for the Labor Day holiday on time.

24 MR. SNODGRASS: On behalf of the company, I
25 would like to say we appreciate all of the cooperation

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1 of the other parties.

2 JUDGE DIPPELL: This hearing is adjourned.

3 WHEREUPON, the hearing was concluded.

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EXHIBIT NO. 14

4

Direct Testimony of
 Patricia A. Krieger

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5

EXHIBIT NO. 15

6

Rebuttal Testimony of
 Patricia A. Krieger

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EXHIBIT NO. 32

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20

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