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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Hearing
August 31, 1999
Jefferson City, Missouri
Volume 5

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

NANCY M. DIPPELL, Presiding,
SENIOR CHIEF REGULATORY LAW JUDGE.
SHEILA LUMPE, Chairperson,
M. DIANNE DRAINER,
CONNIE MURRAY,
ROBERT G. SCHEMENAUER,
COMMISSIONERS.

REPORTED BY:
MELINDA ADOLPHSON, CSR
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1 APPEARANCES:

GR99315v5

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MICHAEL C. PENDERGAST, Attorney at Law
THOMAS M. BYRNE, Attorney at Law
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FOR: Laclede Gas Company.

SUSAN B. KNOWLES, Attorney at Law
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FOR: Union Electric Company.

DOUGLAS E. MICHEEL, Senior Public Counsel
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FOR: Office of the Public Counsel and
the Public.

MARC D. POSTON, Assistant General Counsel
THOMAS R. SCHWARZ, JR., Deputy General Counsel
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Service Commission.

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PROCEEDINGS

JUDGE DIPPELL: We're back on the record,
GR-99-315, and we are going to begin with
Mr. Wagner. You had a pending motion to strike his
Page 2

5 testimony. Do you want to go ahead and argue that
6 at this time?

7 MR. POSTON: Thank you.

8 JUDGE DIPPELL: Staff?

9 MR. POSTON: In Mr. Wagner's surrebuttal
10 testimony he starts out by saying that he will
11 comment on the issue raised in rebuttal testimony
12 regarding the proper use of market to book
13 adjustment to discounted cash flow model. And the
14 next question that's asked is, Have you previously
15 made comments to bear on this issue, and the
16 testimony goes into a discussion about something he
17 had said at a symposium. And every question after
18 that in the entire testimony is tied into that
19 symposium. So this is not responsive to anything
20 in Staff's testimony, Staff's direct or Staff's
21 rebuttal, and Staff moves that the entire testimony
22 be stricken.

23 MR. BYRNE: Yes, your Honor. They move to
24 strike all of Mr. Wagner's testimony, but I think
25 the record will show that Mr. Wagner's testimony is

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1 responding to Mr. Broadwater's rebuttal testimony.
2 Starting on page 3 of his rebuttal testimony he's
3 critical of Ms. McShane's market to book
4 adjustment. He says it's inappropriate.

5 Mr. Wagner is a natural gas stock analyst
6 and his testimony says that it is appropriate to

7 make a market to book adjustment, and that if
8 investors require a 10 percent return as
9 Mr. Broadwater is saying in that rebuttal
10 testimony, they are taking about a 10 percent
11 return on the market value of their investment, not
12 the book value of the assets underlying it.

13 He also says in his testimony that their
14 natural gas LDCs currently have a market to book
15 ratio of 180 percent, which is responsive to the
16 statement on page 3, line 20 where Mr. Broadwater
17 assumes that a company stock is trading at book
18 value. I guess the primary concern Staff has is
19 that Mr. Wagner also testified that he's always
20 held these views, and when he made a remark at a
21 symposium in Columbia, he was talking -- where he
22 said gas utilities should be permitted to earn 8 to
23 10 percent on their investment, he was talking
24 about the market value of the investment, not the
25 book value. I think that's responsive to

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□

1 Mr. Broadwater's testimony as well.

2 And for that matter, Staff has used
3 Mr. Wagner's statement in other proceedings to
4 imply that he was -- that he was referencing the
5 book value. And so I think it's helpful to the
6 Commission to clarify that. I think all the
7 testimony, all two pages of it is directly
8 responsive to the Broadwater testimony beginning at
9 page 3. Thank you.

10 JUDGE DIPPELL: But you're not suggesting
11 that he's responding directly to -- that Staff
12 hasn't quoted him this time or said that --

13 MR. BYRNE: They did not quote him this
14 time, that's true. They did not quote him this
15 time, but in his testimony he's responding to their
16 opposition to the market to book adjustment, which
17 is contained on page 3 of Broadwater's testimony.

18 JUDGE DIPPELL: Did any of the other
19 parties have any response to this motion?

20 MR. POSTON: Can I add one more thing?

21 JUDGE DIPPELL: (Nods head.)

22 MR. POSTON: Even the final or second to
23 last question where he does bring in the 180
24 percent, it's still responding to his position at
25 the symposium.

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1 MR. BYRNE: But it also responds to
2 Mr. Broadwater's testimony that addresses this
3 issue.

4 JUDGE DIPPELL: I'm going to allow it. I
5 think it's very loosely responding to
6 Mr. Broadwater's testimony, but if Laclede feels
7 this is necessary evidence to make its position,
8 I'm going to let you put that witness on and let
9 the other parties question him on it.

10 MR. BYRNE: Thank you. So I guess I'll
11 call to the witness stand Mr. Wagner.

12 JUDGE DIPPELL: Would you please spell
13 your last name for the court reporter?

14 MR. WAGNER: W-A-G-N-E-R.

15 (WITNESS SWORN.)

16 JUDGE DIPPELL: You may go ahead,
17 Mr. Byrne.

18 ZACH WAGNER, being first duly sworn, testified as
19 follows:

20 DIRECT EXAMINATION BY MR. BYRNE:

21 Q. Could you please state your name,
22 Mr. Wagner?

23 A. Zach Wagner.

24 Q. And by whom are you employed?

25 A. Edward Jones.

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1 Q. And in what capacity are you employed
2 there?

3 A. I am the natural gas analyst.

4 Q. Are you the same Zach Wagner who caused to
5 be filed in this proceeding surrebuttal testimony
6 that's been marked as Exhibit No. 10?

7 A. Yes, I am.

8 Q. And do you have any corrections you would
9 like to make to that surrebuttal testimony?

10 A. I do not.

11 Q. Are all of the answers to the questions in
12 that surrebuttal testimony true and correct to the
13 best of your knowledge and belief?

14 A. Yes, they are.

15 Q. If I was to ask you those same questions
16 contained in that testimony here today when you're
17 under oath, would your answers be the same?

18 A. They would be the same.

19 MR. BYRNE: I'd like to offer Exhibit 10
20 and tender Mr. Wagner for cross-examination.

21 JUDGE DIPPELL: Are there any objections
22 to Mr. Wagner's testimony other than the one we've
23 previously ruled on?

24 MR. POSTON: I'm sorry?

25 JUDGE DIPPELL: Any other objections to

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□

1 Mr. --

2 MR. POSTON: Oh, no.

3 JUDGE DIPPELL: In that case then I will
4 receive it into evidence.

5 (EXHIBIT NO. 10 WAS RECEIVED INTO EVIDENCE
6 AND MADE A PART OF THE RECORD.)

7 JUDGE DIPPELL: And is there
8 cross-examination by Ameren UE?

9 MS. KNOWLES: No, no questions.

10 JUDGE DIPPELL: Public Counsel?

11 MR. MICHEEL: Yes, I have some questions,
12 your Honor.

13 CROSS-EXAMINATION BY MR. MICHEEL:

14 Q. Mr. Wagner, do you believe that in terms
15 of an investor's risk aversion and required rate of
16 return that an investor would view Laclede Gas

17 differently than she would view, for example,
18 General Electric Company?

19 A. I think there are differences between the
20 two companies. What I would say is that the
21 utility industry is generally perceived as being a
22 more conservative or lower risk industry than, say,
23 a General Electric or any other non-utility type
24 investment. So I would probably make the case that
25 most individual investors would view a utility

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1 generally as being a more conservative investment
2 than General Electric.

3 Q. Let's unpack that there are various
4 utilities and let's talk about the local
5 distribution company utilities. How would they
6 rate in terms of -- in your opinion in terms of
7 investors' risk analysis of, for example, local
8 distribution companies versus electric companies?

9 A. Versus electric utilities, I would say
10 it's difficult to generalize. I prefer to look at
11 it on a case-by-case basis with companies with
12 which I'm familiar. So I would just say it's
13 difficult to make a generalization like that.

14 Q. What local distribution companies do you
15 track?

16 A. I follow about 30 of them.

17 Q. And they are all local distribution
18 companies?

19 A. Not all of them. There's a few, you know,
Page 8

20 larger pipeline companies.

21 Q. As an analyst covering the natural gas
22 industry, is it correct that you make stock
23 recommendations to the customers of Edward Jones?

24 A. That is correct.

25 Q. And so investors who are customers of

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□

1 Edward Jones, they have the benefit of your
2 analysis and knowledge and indeed your
3 recommendation in deciding whether they should make
4 an investment or to liquidate an investment in an
5 LDC; isn't that correct?

6 A. That's correct.

7 Q. In formulating your analysis with respect
8 to the local distribution companies that you
9 follow, do you consider the regulatory environment
10 based by an LDC as part of the company's basic
11 business risk?

12 A. The regulatory environment faced by a
13 company I follow is very material and relevant to
14 my recommendations.

15 Q. So when you make a recommendation, you
16 have already considered the company's regulatory
17 environment; is that correct?

18 A. Yes.

19 Q. Are you aware that Missouri utilizes an
20 original cost rate base rate of return regulation
21 generally?

22 A. I am not that familiar with Missouri
23 regulation.

24 Q. Okay. Do you follow specifically Laclede
25 Gas Company?

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□

1 A. I do not.

2 Q. Are you aware that Laclede recently issued
3 \$25 million worth of equity?

4 A. I am aware of that.

5 Q. And are you aware of whether all that
6 equity was placed?

7 A. I do not know that.

8 Q. Okay. Let me ask you this: How did you
9 come to be involved in this proceeding?

10 A. Can you clarify that question?

11 Q. Who asked you to testify?

12 A. I was contacted by Laclede Gas, and they
13 indicated that as a result of my speaking at the
14 Financial Research Institute symposium in Columbia,
15 Missouri in March, that some of my comments had
16 shown up in rate cases in Missouri, and they asked
17 to speak with me about that subject.

18 Q. Thank you very much, Mr. Wagner.

19 JUDGE DIPPELL: Staff?

20 MR. POSTON: I have no questions. Thank
21 you.

22 JUDGE DIPPELL: Are there questions by the
23 Bench, Vice Chair Drainer?

24 COMMISSIONER DRAINER: Yes, just a
Page 10

25 couple.

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1 QUESTIONS BY COMMISSIONER DRAINER:

2 Q. Good morning, Mr. Wagner.

3 A. Good morning.

4 Q. Office of the Public Counsel's attorney,
5 Mr. Micheel, was asking you about the companies
6 that you are familiar with. And do you, although
7 you are a gassed analyst, do you track any electric
8 or telecommunications utilities?

9 A. Well, we have about 20 analysts in our
10 research department, and we are segmented by
11 industry, so we have a telecom analyst, we have an
12 electric utility analyst, and we have a natural gas
13 analyst.

14 Q. But do you have discussions with them
15 about their regulated utilities as compared to the
16 gas utilities that you track?

17 A. I would say that there are discussions
18 primarily between myself and the electric utility
19 analyst.

20 Q. And those discussions do you -- have you
21 made any conclusions or do you have any impressions
22 as to whether the electric utilities are more
23 volatile or have a higher risk than the gas LDCs?

24 A. I would say, again, I do not want to make
25 a generalization, because there are many, many

□

1 utilities as you know, and they differ in each
2 individual --

3 Q. Okay. But I'm just asking for your
4 impression as when you look at, like, an Ameren UE
5 as compared to Laclede. When you've looked at
6 those, do you have any impression as to whether
7 it's more voluble?

8 A. I could not say whether Laclede is higher
9 risk or lower risk than Ameren UE. I do not follow
10 Laclede formally. And my electric analyst is much
11 more familiar with Ameren, so . . .

12 Q. When you look at the rate of returns or
13 the return on equity at electric utilities received
14 and compared to gas utilities, are they
15 comparable? Are they higher, are they lower?

16 A. Off the top of my head I cannot answer
17 that question.

18 COMMISSIONER DRAINER: Okay. Thank you.
19 I have no other questions.

20 JUDGE DIPPELL: Is there any recross based
21 on questions from the Bench?

22 MR. MICHEEL: No, your Honor.

23 JUDGE DIPPELL: Then is there redirect?

24 MR. BYRNE: Just a couple, your Honor.

25 REDIRECT EXAMINATION BY MR. BYRNE:

□

1 Q. Mr. Wagner, Mr. Micheel asked you a little
2 bit about the differences between the way an
3 investor perceives a regulated utility and
4 unregulated business, do you remember that
5 question?

6 A. I do.

7 Q. And I think you indicated that there are
8 some differences in risk, but is it true that in a
9 broad sense utilities compete with unregulated
10 companies for investment dollars?

11 MR. MICHEEL: I'm going to object to the
12 leading nature of the question.

13 MR. BYRNE: I don't think the question is
14 leading, but . . .

15 JUDGE DIPPELL: Can you restate the
16 question?

17 BY MR. BYRNE:

18 Q. Okay. Well, I'll ask it the other way.
19 Regardless of the differences in risk, do
20 unregulated investments compete against regulated
21 investments for investment dollars?

22 A. Absolutely.

23 Q. So is considering both regulated and
24 unregulated investment alternatives relevant when
25 deciding whether to invest in a regulated utility?

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1 A. Investors have a lot of options as to what
2 types of investments they wish to invest in, so

3 absolutely, I would say that regulated companies
4 must compete against non-regulated companies for
5 that money.

6 MR. BYRNE: That's all I have.

7 JUDGE DIPPELL: Thank you, Mr. Wagner.
8 You may be excused.

9 (WITNESS EXCUSED.)

10 JUDGE DIPPELL: Laclede, you can call your
11 next witness.

12 MR. PENDERGAST: Thank you, your Honor.
13 We call Glenn W. Buck to the stand now.

14 (WITNESS SWORN.)

15 JUDGE DIPPELL: Thank you.
16 You may proceed.

17 GLENN W. BUCK, being first duly sworn, testified as
18 follows:

19 DIRECT EXAMINATION BY MR. PENDERGAST:

20 Q. Mr. Buck, would you please state your name
21 and business address for the record?

22 A. My name is Glenn W. Buck, and I work for
23 Laclede Gas Company at 720 Olive Street, St. Louis,
24 Missouri 63101.

25 Q. Okay. And are you the same Glenn W. Buck

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1 that has previously caused to be filed in this
2 proceeding direct, rebuttal and surrebuttal
3 testimony that have been premarked as Exhibits 11,
4 12 and 13?

5 A. Yes, I have.

6 Q. Do you have any corrections to make to
7 either your direct, rebuttal or surrebuttal
8 testimony?

9 A. Yes, I do.

10 Q. Please do.

11 A. They are all to my surrebuttal testimony.
12 The first one is on page 2 -- I'm sorry -- my
13 rebuttal testimony. The first one is on page 2 on
14 line 16, reading the -- or substitute or removal of
15 the word revenue and substitute in the word
16 collection, so that line would now read, Laclede's
17 customers, period. The company's result in
18 collection lag utilizing the accounts.

19 I also have a correction -- or two
20 corrections on page 3 of my rebuttal testimony.
21 The first one is on line 4. I want to remove the
22 words pulled and, and on line 5 insert between the
23 word staff apostrophe S and calculation the word
24 filed. So lines 4 and 5 would now read, The
25 staff's lab was based on a sample of customers

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1 first calculated in the company's last rate
2 proceeding GR-98-374. And that proceeding was
3 staff's filed calculation.

4 Q. Do you have any other corrections to make
5 in any of your testimony?

6 A. No, sir I don't.

7 Q. If I were to ask you the same questions

8 today that appear in your direct, rebuttal and
9 surrebuttal testimony, would your answers be the
10 same?

11 A. Yes, they would.

12 Q. And are those answers and the information
13 contained in any schedules true and correct to the
14 best of your knowledge and belief?

15 A. Yes, sir.

16 MR. PENDERGAST: With that I would tender
17 Mr. Buck for cross-examination and offer Exhibits
18 11, 12 and 13 into the record.

19 JUDGE DIPPELL: Is there any objection to
20 Exhibits 11, 12 with the corrections and 13?

21 Then I'll receive those into evidence.

22 (EXHIBIT NOS. 11, 12 AND 13 WERE RECEIVED
23 INTO EVIDENCE AND MADE A PART OF THE RECORD.)

24 JUDGE DIPPELL: Is there cross-examination
25 from Ameren UE?

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□

1 MS. KNOWLES: No.

2 JUDGE DIPPELL: Public Counsel?

3 MR. MICHEEL: I have no questions for
4 Mr. Buck on this issue.

5 JUDGE DIPPELL: Staff?

6 MR. POSTON: Staff has no questions.

7 JUDGE DIPPELL: And there are no questions
8 from the Bench.

9 MR. PENDERGAST: I have just a little
10 redirect, your Honor, if I could -- no. I'm

11 kidding.

12 JUDGE DIPPELL: I don't think I was going
13 to give you the opportunity.

14 well, Mr. Buck, you may step down for
15 now. I believe you are to testify on a different
16 issue later in the hearing.

17 THE WITNESS: Yes, I am. Thank you.

18 JUDGE DIPPELL: Then I believe we're ready
19 for Office of the Public Counsel's first witness.

20 MR. MICHEEL: Your Honor, we would call
21 Mark Burdette.

22 (WITNESS SWORN.)

23 JUDGE DIPPELL: You may proceed,
24 Mr. Micheel.

25 MARK BURDETTE, being first duly sworn, testified as

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□

1 follows:

2 DIRECT EXAMINATION BY MR. MICHEEL:

3 Q. Mr. Burdette, would you state your name
4 and business address?

5 A. Mark Burdette, Office of the Public
6 Counsel, Post Office Box 7800, Jefferson City,
7 Missouri 65102.

8 Q. And are you the same Mark Burdette who
9 caused to be filed your direct testimony which has
10 been marked for purposes of identification as
11 Exhibit 44, your rebuttal testimony, which has been
12 marked for purposes of identification as Exhibit 45

13 and your surrebuttal, which has been marked for
14 purposes of identification as Exhibit 46?

15 A. Yes.

16 Q. And do you have any corrections that you
17 would like to make to those testimonies?

18 A. No.

19 Q. And if I asked you the questions contained
20 in Exhibits 44, 45 and 46, would your answers be
21 substantially the same or similar?

22 A. Yes.

23 MR. MICHEEL: With that, your Honor, I
24 would move for the admission of Exhibits 44, 45 and
25 46 and tender Mr. Burdette for cross-examination.

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1 JUDGE DIPPELL: Okay. This may be a
2 little unusual, but I want to ask to make sure that
3 I have a correct copy of the exhibit. My exhibit,
4 the direct testimony, goes through schedule MB
5 No. 12, yet Mr. Burdette cites on page 16 and 17 an
6 MB 20; is that a typographical error?

7 THE WITNESS: What page was the cite?

8 JUDGE DIPPELL: 16, line 28 and 17, line
9 13.

10 THE WITNESS: I think I do have a
11 correction. Yes. Page 16, line 28 should be MB 9
12 rather than 20. And the same correction on page
13 17, line -- page 17, line 13 instead of MB 20, MB
14 9.

15 JUDGE DIPPELL: Okay. Would you like to
Page 18

16 offer those Exhibits for those corrections,
17 Mr. Micheel?

18 MR. MICHEEL: Sure. With the correction
19 just made, and I'd offer 44, 45 and 46.

20 JUDGE DIPPELL: Are there any objections
21 to Exhibits 44, 45 and 46?

22 In that case those will be received into
23 the record with the corrections.

24 (EXHIBIT NOS. 44, 45 AND 46 WERE RECEIVED
25 INTO EVIDENCE AND MADE A PART OF THE RECORD.)

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1 JUDGE DIPPELL: Is there cross-examination
2 from Ameren UE?

3 MS. KNOWLES: No, pass.

4 JUDGE DIPPELL: Staff?

5 MR. POSTON: No questions. Thank you.

6 JUDGE DIPPELL: Laclede?

7 MR. PENDERGAST: Just a few.

8 CROSS-EXAMINATION BY MR. PENDERGAST:

9 Q. Mr. Burdette, first of all, good morning.

10 A. Good morning.

11 Q. I'd like to direct your attention to
12 page 12 of your rebuttal testimony, if I could,
13 which I think has been marked as Exhibit 45?

14 A. Yes.

15 Q. Do you have that?

16 A. Uh-huh.

17 Q. And there you have a general discussion of

18 the company's proposal to implement a demand charge
19 in this proceeding and a potential impact on the
20 company's business risk and hence its return; is
21 that correct?

22 A. Correct.

23 Q. And there you state that any adjustment or
24 change in revenue stream that reduces the
25 variability of revenue tends to decrease the risk

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1 associated with those revenues; is that correct?

2 A. Correct.

3 Q. And in your view such a reduction risk
4 warrants a reduction to the company's authorized
5 return on equity; is that correct?

6 A. Correct. Depending on the change in
7 volatility and reduction of risk, it could warrant
8 a reduction, that would be correct.

9 Q. Okay. Were you here yesterday,
10 Mr. Burdette, when counsel for Public Counsel
11 discussed Public Counsel's proposal in this
12 proceeding to reduce the company's residential
13 customer charge?

14 A. Yes.

15 Q. Okay. And do you know by how much Public
16 Counsel proposes to reduce the customer charge by?

17 A. I believe it's \$2.

18 Q. And for the cost that would no longer be
19 recovered, assuming Public Counsel's proposal was
20 adopted through the customer charge, what's your

21 understanding of how those costs would then be
22 recovered?

23 A. Are you asking me how the company would
24 collect the difference?

25 Q. I'm saying under Public Counsel's proposal

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□

1 if the costs were no longer going to be recovered
2 through the fixed customer charge, what's your
3 understanding of what kind of charge they would be
4 recovered through, that would be a volumetric
5 charge?

6 A. I'm not -- I'm not sure of that.

7 Q. Well, are you aware of any other fixed
8 charges that the company has that it would be
9 recovered through?

10 A. No, I'm not aware of that.

11 Q. Well, assume for me, if you will, that
12 it's going to be recovered on a volumetric basis.
13 Okay?

14 A. Okay.

15 Q. And if it recovered on a volumetric basis,
16 are the companies' volumes subject to weather
17 variability?

18 A. They are.

19 Q. Okay. And therefore to the extent they
20 are now recovered on a volumetric basis rather than
21 fixed basis, the revenues that were previously
22 collected through the customer charge would be

23 subject to additional variability, wouldn't they?

24 A. Correct.

25 Q. Okay. And Laclede has approximately

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□

1 600,000 customers, over 600,000?

2 A. Okay.

3 Q. Do you know how many of those customers
4 are residential customers?

5 A. I have a rough percentage that I could dig
6 out for you, 55, 60 percent. Is that wrong? No, I
7 do not know. I don't remember. I don't remember.
8 I know it's a good chunk, but honestly I don't
9 remember the exact percentage.

10 Q. Can we assume that it's -- let's just
11 assume 550,000; is that okay with you?

12 A. Okay.

13 Q. Okay. And if we're talking about a \$2
14 reduction in the customer charge, that's a \$2
15 reduction in a monthly customer charge; is that
16 correct?

17 A. Correct.

18 Q. Okay. And \$2 for 550,000 customers would
19 be how much per month?

20 A. \$2, 550,000 per month, 110,000.

21 \$110,000 -- I'm sorry. \$1,100,000.

22 Q. And what would that be on an annual basis?

23 A. \$13,200,000.

24 Q. That's sounds close enough to me. And so
25 consequently if we're talking about a reduction of

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1 customer charge of 200,000, we're assuming
2 550,000 -- or \$2 and we're assuming 550,000
3 customers, on an annual basis that means that we're
4 taking about \$13,200,000 worth of costs that are
5 now being recovered through a fixed charge, and
6 we're recovering them through a volumetric charge
7 which you have indicated is subject to weather
8 variability and that type of thing; is that
9 correct?

10 A. Correct.

11 Q. And since it's subject to weather
12 variability, would you agree with me that it would
13 tend to increase the volatility of Laclede's
14 earnings?

15 A. Yes.

16 Q. And, in fact, you use your phraseology,
17 would this reduction in the customer charge be a
18 change in the revenue stream that increases the
19 variability of revenues and thus tends to increase
20 the risk associated with those revenues?

21 A. Same potential for increase, correct.

22 Q. And would it be therefore something that
23 would potentially warrant an increase in the
24 company's return on equity and consideration of
25 this increase?

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1 A. I would certainly look at that, yeah.

2 Q. And can you tell me how much of an
3 increase in the company's return on equity it would
4 potentially warrant?

5 A. No.

6 Q. Well, how would you go about calculating
7 the increase in return on equity that would be
8 warranted by such an adjustment?

9 A. I'm not exactly sure how I would go about
10 it. We've tried to quantify changes like this
11 whether it's a weather normalization clause, the
12 quantification was difficult.

13 Q. Okay.

14 A. I don't know that I would know what I was
15 going to do for sure until I really got into it.

16 Q. Well, in view of the fact that you're not
17 sure how you would calculate how much of an
18 increase in return on equity would be warranted by
19 something that increases the company's earnings
20 volatility, is it safe to assume that you also
21 haven't been able to calculate what type of
22 reduction an ROE would be warranted by something
23 that decreases the company's earnings volatility?

24 A. Correct. I have not made a quantitative
25 analysis.

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1 Q. And you make a recommendation to the
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2 Commission in your testimony that this could
3 decrease our risk and hence our required return.
4 Since you haven't offered any quantification
5 calculation or other indication of what -- and to
6 what extent it does so and are unable to perform
7 that kind of calculation, what would you suggest
8 the Commission do with that information?

9 A. If the Commission feels it's important and
10 it's something that they should consider, I don't
11 know every avenue or procedure the Commission has
12 for gathering information or gathering data. If
13 they felt it was important enough, I would think
14 that they would -- that Staff would attempt to
15 analyze, ask for information, open a case. I don't
16 know what the procedure would be, but I would
17 expect the Commission to do what they felt
18 warranted.

19 Q. Okay. So your testimony would be that if
20 the Commission were to go ahead and look at your
21 testimony here and say, well, Mr. Burdette says
22 that this demand charge proposal may reduce the
23 company's risk and hence its required return, the
24 Commission would have to have some additional
25 proceedings in order to go ahead and make some

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1 reasonable determination of what the magnitude of
2 that might be; is that what you're saying?

3 A. I haven't done an analysis that I could

4 make a -- I could not make a recommendation at this
5 time.

6 Q. Okay. And therefore the Commission, at
7 least based on any recommendation you've made,
8 couldn't make an adjustment in our required return
9 on equity; isn't that correct?

10 A. Correct.

11 Q. Okay. And are you aware of any other
12 evidence in this record that has suggested some
13 kind of quantification of any reduction in risk
14 associated with the company's rate charge proposal?

15 A. I'm not aware either way.

16 Q. Okay. Are you familiar with Public
17 Counsel's proposal in this proceeding to remove
18 capacity release and off system sales revenues from
19 the company's PGA clause and imputed level of those
20 revenues in this case?

21 A. I believe so. Is there a subject name or
22 like a --

23 Q. Capacity release and off system sales
24 revenue?

25 A. Okay. I'm aware.

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1 Q. And is it also your understanding that
2 under Public Counsel's proposal, like any other
3 item of assumed revenue, Laclede would absorb
4 100 percent of any decrease in those revenues for
5 the imputed level inbetween rate cases?

6 A. I'm not fully informed on the issue. To
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7 my understanding that sounds accurate, but I'm not
8 sure.

9 Q. And conversely be able to retain
10 100 percent of any increase in those revenues above
11 that level?

12 A. I believe so.

13 Q. Okay. And would that tend to increase the
14 volatility of Laclede's earnings?

15 A. I would have to look into the -- I'd have
16 to look into that deeper to make a -- to make a
17 decision.

18 Q. Well, assume for me, Mr. Burdette, that
19 right now those revenues are accounted for in the
20 company's PGA clause, and if they don't decrease,
21 the company does not get to retain 30 percent what
22 it used to retain, but it doesn't lose money, would
23 you make that assumption for me?

24 A. I'm assuming that -- I'm sorry. Repeat it
25 one more time.

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1 Q. Yes. That under the existing PGA clause,
2 if there's a decrease in those revenues, while the
3 Company will not be able to collect 30 percent of
4 its share under the incentive mechanism, it will
5 not lose money under those particular
6 circumstances --

7 A. Okay.

8 Q. -- other than opportunity cost?

9 A. Okay.

10 Q. And if that's the case, and now you're
11 putting it in base rates and the Company stands the
12 possibility of losing 100 percent of any decrease
13 from those revenues, assume that's correct, under
14 those circumstances would Public Counsel's proposal
15 tend to increase the volatility of the Company's
16 earnings?

17 A. If I understand what you're saying under
18 the specific circumstances you're listing, then it
19 could -- it could tend to increase volatility,
20 correct.

21 Q. Okay. And once again, to use your
22 phraseology, if it did increase volatility in the
23 Company's earnings, that would tend to increase the
24 risk associated with those revenues, wouldn't it?

25 A. Potentially, yes.

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1 Q. And once again, that would be something
2 that would potentially warrant an upward adjustment
3 on Laclede's return on equity?

4 A. It would warrant a consideration. My
5 opinion is not against the Company. It's not
6 against anything. My overall opinion is anything
7 that affects the variability of earnings increases
8 variability, decreases variability has a potential
9 impact on ROE.

10 Q. Okay.

11 A. So I would look at them up or down.

12 Q. Okay. And I guess I'm just kind of
13 curious given that you're looking at -- wanting to
14 look at both those that go up and those that go
15 down, why in your testimony you focused only on the
16 demand charge proposal that in your view tends to
17 go ahead and decrease the Commission's risk, and
18 you didn't focus on Public Counsel's proposal,
19 which we've just discussed, would increase earnings
20 volatility and tend to increase our risk and why
21 you didn't focus on this imputation of capacity
22 release revenues? Is there a reason why you only
23 focused on this one?

24 A. I wrote only on demand charge, because
25 that's what I was asked to write on.

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1 Q. Can you tell me who asked you to do that?

2 A. With -- no. No. It could be my immediate
3 supervisor, Russell Trippensee, it could have been
4 in discussions with Mr. Micheel or an economist of
5 Public Counsel. I don't know who specifically
6 said, Please write the testimony.

7 Q. You don't recall. But whoever it was they
8 didn't tell you that you ought to take a look at
9 this demand charge proposal and at the same time be
10 sure to check out my proposed reduction of the
11 customer charge, they didn't ask you to do that,
12 did they?

13 A. Correct.

14 Q. Okay. And they didn't say while you're
15 looking at earnings volatility and what may
16 increase or decrease the Company's risk, be sure
17 and look at our proposal to impute capacity release
18 and off systems sales revenues?

19 A. Correct.

20 Q. Do you think they should have?

21 A. I don't have an opinion on that.

22 Q. Are you familiar, Mr. Burdette, with
23 staff's proposal of the Company's recent gas supply
24 incentive proceeding case to establish a fixed rate
25 to govern the company's recovery in its gas supply

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1 and commodity cost?

2 A. Vaguely.

3 Q. And is it your understanding that that's
4 in place of the current rate structure which
5 subject to some incentive provisions for which the
6 Company to increase or decrease its rates as
7 necessary to recover below through increases or
8 decreases in the market index price of gas?

9 A. Vaguely. Not in a way that I can -- it's
10 not my issues. I can't answer questions on
11 something that's not my issues.

12 Q. Let me ask you this: Did you review
13 Mr. Fallert's surrebuttal testimony in this case in
14 preparing to take the stand?

15 A. I would have read it, yes. I did read it,
16 yes.

17 Q. Well, do you recall him indicating that
18 staff's fixed rate proposal would subject the
19 Company to a potential under recovery of
20 \$52 million based on current market conditions?

21 A. If it was in that testimony, I read it.

22 Q. And assuming that Mr. Fallert's right and,
23 of course, nobody asked him any questions about
24 that yesterday when he was on the stand, if it
25 would, in fact, have that proposal, is that an

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1 adjustment that would tend to increase volatility
2 of the Company's earning and hence its required
3 return on equity?

4 A. I don't know enough about the issue
5 offhand to make a -- it's not my issue. I mean --

6 Q. Okay. Well --

7 A. -- I would hesitate to comment very much
8 on an issue that I haven't researched and
9 analyzed.

10 Q. Well, let's just assume that you know
11 nothing about that particular issue, but let's
12 assume further that we are now being asked to -- or
13 if there's a proposal that we operate under a rate
14 structure under which we would be in immediate
15 jeopardy of under recovering our gas cost by
16 \$52 million, assume that for me.

17 A. Yes. Okay.

18 Q. Is that something that you would view as

19 increasing the volatility and variability of our
20 earnings?

21 A. Potentially, yes.

22 Q. And can you tell me what the company's net
23 income is?

24 A. Not off the top of my head. I would have
25 to dig it out of --

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1 Q. Around 25 million sound about right?

2 A. I'll take your word for it.

3 Q. And if something would go ahead and
4 subject us to earnings variability that's double
5 our net income for an entire year, would you view
6 that as a significant increase in earnings
7 volatility?

8 A. If we make all the assumptions to get to
9 the end --

10 Q. Yes.

11 A. -- that it's indeed 52 million and it's
12 indeed everything else, yes, that would be
13 significant.

14 Q. Okay. Well, you're here to provide
15 testimony to the Commission about what Laclede's
16 risks are on a going forward basis, is that
17 correct, and how that should be factored into its
18 required return on equity?

19 A. Yes.

20 Q. And did anybody from Public Counsel at any
21 point come to you and say, There's a proposal over

22 here to substantially change the way the Company
23 recovers its cost, its gas cost, would you please
24 take a look at that and see what impact it has on
25 its risk, did anybody ask you to do that?

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1 A. No, I do not believe so.

2 Q. well, if we were in a situation where, you
3 know, suddenly we're put in jeopardy or perhaps
4 losing money equivalent to a couple of years or a
5 net income, we're starting to look kind of like a
6 wild cat or drilling in the field, aren't we, as
7 far as the risk -- riskiness is concerned?

8 A. I haven't analyzed any -- many drilling in
9 the fields of the Company, so I wouldn't make that
10 comparison.

11 Q. what kind of company would you compare us
12 to if that were the case?

13 A. If that were the case, I would look at
14 Laclede and start from there. You're asking me to
15 assume something about Laclede and then try to
16 decide which companies I would assume comparable,
17 and I wouldn't make that jump.

18 Q. well, has it been your experience that
19 it's typical for utilities to go for a couple of
20 years with no net income?

21 A. Not typically, no.

22 Q. Okay. Are there any companies included in
23 your analyses in these proceedings that have gone a

24 couple of years without any net income?

25 A. No.

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1 Q. Can you cite for me one utility that's
2 gone a couple of years without any net income?

3 A. El Paso Electric might have been their
4 history, but off the top of my head without looking
5 at value line or looking at financial statistics, I
6 couldn't pull one out of the air, no.

7 Q. So maybe one, but you're not sure?

8 A. Yeah. That's what I said. I'm not aware.

9 Q. Okay. If I could ask you, please,
10 Mr. Burdette, to turn to page 35 of your direct
11 testimony.

12 At page 35, I believe it's line six and
13 seven, you say since the required rate of return
14 for any given investor is based on both the
15 perceived riskiness of the security and return
16 opportunities available in other segments of the
17 market, it can be easily demonstrated when
18 perceived riskiness is increased, the investors
19 required return is also increased and the market
20 value of the investment falls into its value, less
21 by the marginal investor; is that correct?

22 A. Correct.

23 Q. Okay. And when you say, Return
24 opportunities available in other segments of the
25 market, what other segments of the market are you

1 referring to there?

2 A. It would be generally other opportunities
3 for the investor.

4 Q. You're not, in making this statement,
5 imposing any kind of artificial constraint on what
6 segments of the market the investor looks at, are
7 you?

8 A. No. I believe an investor would -- each
9 investor would have their own segments of the
10 market they might be interested in, which segments
11 of the market fit their risk profile. I don't
12 think that's a limiting statement at all.

13 Q. Okay. And since it's not a limiting
14 statement we're talking about, return opportunities
15 available, and I suppose all other segments of the
16 market, but those include that segment of the
17 market that Mr. Olson has referred to in his
18 testimony?

19 A. Well, given that Mr. Olson referred to the
20 Corporate American and it would our responsibility
21 to find that as pretty much every equity investment
22 available in the country, yeah, it would have to.

23 Q. Okay. So when the investor does his
24 analysis and determines what his required rate of
25 return is, he is going to look at Corporate

1 American, he's going to look at all these companies
2 that Mr. Olson filed testimony on and gave
3 information on what the returns were, right?

4 A. I don't know what he would look at. They
5 would be available for him to look at.

6 Q. Well, you just said that since the
7 required return for any given investor is based on
8 both the perceived riskiness of the security and
9 return opportunities available in other segments of
10 the market. Now, you're saying now he won't look
11 at other segments of the market?

12 A. No, not at all. I'm saying that I'm not
13 going to say what a specific investor might do.

14 Q. Okay.

15 A. Yeah. If you want to think there's one
16 investor out there who is going to do an analysis
17 on every other single company in the market, that
18 person might be out there. There's probably other
19 investors who are only looking at utilities or only
20 looking at companies under a particular beta or
21 whatever it is, but I'm not going to categorize a
22 particular investor that, you know --

23 Q. But you're saying here that investors
24 generally are going to look at other opportunities,
25 other segments of the market, and you're not

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1 limiting what those segments are going to be?

2 A. What they may look at, correct.
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3 Q. Okay. If you could please turn to page 27
4 of your -- on 27 of your direct?

5 A. Okay.

6 Q. And there you have a statement from
7 Bluefield; is that correct?

8 A. Correct.

9 Q. And this statement is included under a
10 section of your testimony called Appendix D, legal
11 requirement for a fair rate of return; is that
12 right?

13 A. Correct.

14 Q. Okay. And let's just start looking at the
15 first line here of the Bluefield case. It says, A
16 public utility is entitled to such rates as will
17 permit it to earn a return on the value of the
18 property which it employs for the convenience of
19 the public. When it says, value of the property,
20 what's your understanding of what value means?

21 A. Well, my interpretation specifically in
22 this arena is rate case, what this Commission and
23 this State has determined is the fair value on
24 which to earn a return and that's rate base.

25 Q. Rate base. Okay, fine. But is there

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1 anything in the words value that suggest original
2 cost rate base?

3 A. No more so than it would suggest market
4 value.

5 Q. Okay. It doesn't answer that question one
6 way or another in your view?

7 A. It says the value of the property.

8 Q. Okay. And when you go out and you think
9 about the term value, do you always think about it
10 in terms of original cost?

11 A. I guess that would depend on what you're
12 talking about.

13 Q. Okay. So you don't always think about it?

14 A. No.

15 Q. And then as it continues on it says that a
16 public utility is entitled to such rates as
17 permitted to earn a return on the value of the
18 property equal to that generally being made at the
19 same time and the same general part of the company
20 on investments in other business undertakings. Do
21 you see that?

22 A. Uh-huh.

23 Q. When it says, Equal to investments and
24 other business undertakings, what's your
25 understanding of the word other?

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1 A. Any, all inclusive. I mean, what is
2 available? I'm not sure I understand the question.

3 Q. Let me ask you this: When it says
4 "other", is it your understanding that it's
5 referring to setting a return based on the risk of
6 the company that you're setting a return for; is
7 that what you think it means by other?

8 A. I don't understand the question.

9 Q. Okay. When it says that you have to set a
10 return equal, would that generally be made at the
11 same time and same general part of the company on
12 investments and other business undertakings? Okay?

13 A. I would --

14 Q. Does that suggest to you that you're
15 supposed to look at other companies and what
16 investments are doing there, what the risk of those
17 other companies are?

18 A. Yes.

19 Q. Okay. Is there anything here in this
20 standard that you have cited that says, Do your
21 analysis instead on a company-specific basis, where
22 instead of looking at other companies with
23 corresponding risks, you're just looking at the
24 company that you're setting the return for?

25 A. I don't think this speaks to an analysis

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1 at all. It talks about considering risk.

2 Q. Well, it talks about how you drive a fair
3 return, doesn't it?

4 A. Yes.

5 Q. Okay. And does it say or does it imply or
6 does it suggest in any manner that in deriving that
7 fair return, you do it by looking at the risk and
8 looking by reference to the company that you're
9 deriving the return for exclusively, does it say

10 that?

11 A. No.

12 Q. Would it suggest that, in fact, what
13 you're supposed to do is look at other companies
14 with similar risks?

15 MR. MICHEEL: At this point I'm going to
16 object. I mean, the corp opinion speaks for
17 itself. Mr. Burdette has already testified that he
18 does not agree with counsel's interpretation. I
19 mean, it's been asked and answered.

20 MR. PENDERGAST: I don't think he's
21 disagreed with my interpretation at all. And this
22 is the standard that he's put in his testimony, and
23 he says is the standard that this Commission should
24 use in deriving a fair return. I think it's --

25 THE WITNESS: I think I can answer the

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1 question.

2 JUDGE DIPPELL: I'm going to let the
3 witness answer.

4 THE WITNESS: I don't believe it speaks to
5 the method of analysis. It says that the return
6 the utility receives should be commensurate and in
7 line with risks of other companies. It doesn't say
8 that you have to look at those other companies for
9 your analysis. It says whatever you come up with
10 for the utility, should be in line with the other
11 companies. That doesn't tell me that I need to do
12 any particular sort of analysis except to consider

13 the utility and potentially consider other
14 companies.

15 BY MR. PENDERGAST:

16 Q. Potentially consider other companies?

17 A. To the point that it's relevant. Laclede
18 is a company that it's easy to find comparable
19 companies. I believe that it's very relevant and
20 important to look at other companies compared to
21 Laclede. I don't read anything in here that says
22 that I can't also look at Laclede.

23 Q. Do you read anything in there that says
24 you should look at Laclede only?

25 A. I don't read anything in here that tells

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1 me how I should do my analysis at all.

2 Q. Do you read something in there that says
3 in your view that the return established for
4 Laclede has to be based on returns that are
5 expected for other companies with similar risk? Do
6 you read that in there?

7 A. That it has to be based on, no, I do not.
8 I read that it should be in line with those, not
9 based on them.

10 Q. Okay. It has to be consistent with?

11 A. Correct.

12 Q. Okay. And when it says other companies or
13 other business undertakings, is there anything in
14 there that says that those have to be public

15 utilities?

16 A. No.

17 Q. Okay. And at the very end of that it
18 says, Rate of return may be reasonable at one time
19 and become too high or low by changes affecting
20 opportunities for investment, the money market and
21 business conditions generally; is that correct?

22 A. Uh-huh.

23 Q. Okay.

24 A. Correct.

25 Q. I'd like to explore with you a little bit

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1 about the phrase, Changes affecting opportunities
2 for investment. Can you tell me if you're trying
3 to drive a return, and you're trying to determine
4 whether it's too high or too low by changes
5 affecting opportunities for investments, what
6 generally thumb-nail sketch within the
7 opportunities for investments and changes in those
8 over the last 10 years, Mr. Burdette?

9 A. I don't understand what you're asking.

10 Q. How have opportunities for investment for
11 the average investor changed over the last 10
12 years?

13 A. I would say a greater choice of
14 alternative forms of securities, derivatives,
15 mutual funds. Generally I would say greater,
16 greater opportunity.

17 Q. Greater opportunity and would you also say

18 certainly greater opportunity for higher returns
19 over the last 10 years?

20 A. Greater opportunity for higher returns,
21 yes.

22 Q. Okay. If you would please turn to page 7
23 of your rebuttal testimony?

24 A. Rebuttal?

25 Q. Yes, please. Beginning at line 4, you

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1 talk in terms of the companies that Ms. McShane
2 used in her analysis; is that correct?

3 A. Correct.

4 Q. Okay. And you say one of Ms. McShane's
5 selections, Atmos Energy, has operations within the
6 jurisdiction of MPSC; is that correct?

7 A. Correct.

8 Q. And that to avoid circularity many
9 analysts do not use comparison companies operating
10 in the same jurisdiction as the company being
11 analyzed; is that right?

12 A. Correct.

13 Q. When you say to avoid circularity, what do
14 you mean by that?

15 A. I mean that if this Commission were
16 setting rates for Laclede Gas, and they only
17 considered other decisions for Missouri-based
18 utilities, and this Commission tended to go one way
19 or the other, if this Commission tended to go high

20 or we tended to go low, tended to be hard on the
21 company, tended to be soft on the company, and they
22 only considered other Missouri utilities when
23 considering Laclede, then they could compound any
24 potential problem.

25 Q. Okay. So it's kind of a compounding

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1 affecting? Maybe you have a regulatory environment
2 or, you know, other factors that for whatever
3 reason are having an impact one way or another on a
4 utility, and what you're trying to do is screen out
5 those impacts by not using companies operating in
6 the same jurisdiction; is that right?

7 A. Correct.

8 Q. And, in fact, when you do your analysis of
9 other companies, you screen those out yourself,
10 don't you, Missouri utilities?

11 A. Except for the utility that's being
12 analyzed, correct.

13 Q. Except for the utility being analyzed.
14 Okay.

15 And Atmos Energy, do you know how much of
16 its operations are in Missouri?

17 A. From a long ago case, I'm remembering I
18 thought it was about 10 percent, but I do not know.

19 Q. 10 percent. So here we have a company,
20 Atmos Energy, that has 10 percent of its operations
21 in Missouri, and that would imply that it has
22 90 percent of its operations outside Missouri?

23 A. That would be reasonable, yes.

24 Q. And you're concerned enough about this
25 circularity thing that you think that even

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1 considering a company that only has 10 percent of
2 its operation in Missouri or 10 percent of its
3 operations are impacted by whatever happens in
4 Missouri, is an inappropriate thing and that
5 company ought to be excluded; is that correct?

6 A. I haven't made a determination on what
7 percentage is appropriate or not. I chose a
8 criteria of zero operations in Missouri, which was
9 quite consistent with what I had seen done in
10 regulatory proceedings.

11 Q. But at the time you made this evaluation
12 and you made this criticism of Ms. McShane, I mean,
13 you knew that Atmos Energy only had a relatively
14 modest percentage of its operations in Missouri,
15 didn't you?

16 A. Correct.

17 Q. And despite that fact you still thought
18 that these circularity concerns were substantial
19 enough that you needed to put into testimony or
20 criticism of her use of Atmos Energy; isn't that
21 correct?

22 A. Correct. That's a standard criticism. If
23 I find company testimony that's included,
24 Missouri-based utilities in the comparable group, I

25 point that out.

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1 Q. Okay. If you would please turn to page 5
2 of your direct testimony?

3 A. Direct?

4 Q. Yes. Beginning at lines 18 you discuss in
5 the financial literature which you claim supports
6 inclusion of short-term debt and capital structure;
7 is that correct?

8 A. Correct.

9 Q. And in the passage you cite from S and P
10 corporate finance criteria, it states beginning, I
11 think at line 28 that as a rule of thumb, a level
12 of short-term debt that exceeds 10 percent total
13 capital was cause for concern; is that right?

14 A. Correct.

15 Q. What percentage of short-term debt to
16 total capital are you recommending the Commission
17 recognize for Laclede in this proceeding?

18 A. In direct, right on the top of that page
19 is 15.88 percent. I'm not sure exactly what the
20 percentage is since we've talked about changes and
21 altered some numbers, but I'm assuming it's
22 probably in the 10 to 13, 14 percent range after
23 the inclusion of new equity and new long-term debt.

24 Q. 13, 14. Do you think it will be above
25 10 percent?

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1 A. I don't know. I think there's a chance it
2 could be above 10 percent.

3 Q. Is there any quick way of verifying that
4 or --

5 A. No. There's probably not a very quick way
6 of verifying that.

7 Q. well --

8 A. I don't have a problem saying that I
9 believe it will be above 10 percent, if that makes
10 it easier for you.

11 Q. That's fine. Thanks. It does and I
12 appreciate it.

13 In that same passage it also indicates
14 that seasonal self-liquidating debt is excluded
15 from the permit debt amount; is that correct? It's
16 at the top of that.

17 A. Oh, yes. Yes, correct.

18 Q. And then it goes on to say, If this
19 situation is rare with the exception of certain gas
20 utilities; is that correct?

21 A. Correct.

22 Q. Okay. Can you tell me what seasonal
23 self-liquidating debt means?

24 A. Seasonal self-liquidating debt would be, I
25 believe debt that would have to be taken on, for

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1 example, by a gas company in the winter time when
2 they're purchasing more of their gas need, more
3 cash, and after the use of that debt and in a
4 relatively short time period, there would be
5 revenue to repay that debt.

6 Q. Okay. So you're talking about debt that
7 is driven by seasonal considerations such as the
8 need to finance the procurement for gas supplies?

9 A. Some sort-term debt, correct. Some
10 companies continue to hold large levels of
11 short-term debt while out of season.

12 Q. Would you agree with me generally speaking
13 that if Laclede had more cash earnings than it has
14 historically had in the past, that it would
15 probably make less use of short-term debt?

16 A. I wouldn't agree that it would probably.
17 I would agree that if Laclede had more cash, they
18 would have the potential to use less short-term
19 debt.

20 Q. Would Laclede have the potential and --
21 well, let's say, would Laclede have less need to
22 use short-term debt under those circumstances?

23 A. Again, if there was extra cash available
24 and the company made it available for the uses of
25 short-term debt, then obviously they would need

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1 less short-term debt.

2 Q. Okay. So you would agree with me that
3 with more cash available to Laclede, more earnings,

4 that it could use less short-term debt?

5 A. Potentially, yes.

6 Q. Okay. Fine.

7 And your recommendation to recognize
8 80 million in short-term debt in this case as
9 opposed to what the company has recommended, all
10 else being even, would that result in Laclede
11 having less cash available in the future or more
12 cash available in the future?

13 A. Inclusion of a higher level of short-term
14 debt would tend to lower overall rate return, so it
15 could mean less cash.

16 Q. Okay. So the potential fact of that is
17 that you reduce -- or you increase the short-term
18 debt which reduces ultimately the amount of cash
19 that's available to Laclede, that ultimately makes
20 it more necessary to use short-term debt; is that
21 fair?

22 A. No. Because I didn't increase short-term
23 debt. I presented an accurate representation of
24 the company's use of short-term debt.

25 Q. I'm talking about if the Commission adopts

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1 \$80 million worth of short-term debt in its capital
2 structure versus \$40 million of short-term debt in
3 the capital structure or some alternative number,
4 that's going to result in a lower return, overall
5 return, right?

6 A. Correct.

7 Q. Okay. And that's going to result in less
8 cash available to the company; is that correct?

9 A. It would produce less revenues, correct.

10 Q. And revenue is made of cash, aren't they?

11 A. I would tentatively agree with that, yes.

12 Q. Thank you.

13 A. I don't mean to be a --

14 Q. I appreciate that.

15 And to the extent that more cash makes it
16 possible to use less short-term debt, would you
17 also agree with me that less cash makes it more
18 necessary to use short-term debt?

19 A. If that's the only issue, if that's all
20 that you're looking at, I guess the problem I have
21 with that line of reasoning is that there are lots
22 of uses and -- lots of uses of cash to say that
23 short-term debt is the only thing that would be
24 affected by some other changes as a rate of
25 return. I think that's a stretch, but in the

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1 vacuum of the very narrow what you're talking
2 about, if that's all we're talking about, yes, I
3 would agree with you.

4 Q. Thank you.

5 Now, in your rebuttal testimony you talk
6 about Dr. Olson or Mr. Olson's testimony, and would
7 you agree with me generally that one of your main
8 criticisms of Mr. Olson's testimony is that he's

9 referenced all these companies making all these
10 great returns, but that in your view that's not
11 terribly relevant because he's failed to adjust or
12 take into account in your view the risk differences
13 between Laclede and utilities and these other
14 companies that are making fairly substantial
15 returns; is that fair characterization of your
16 criticism?

17 A. Yes.

18 Q. And --

19 A. Part of the criticism, yes.

20 Q. Yeah. I didn't mean to suggest it was the
21 exclusive one.

22 And you would agree with him that there
23 has been a fairly significant differential between
24 earned returns for the companies he's talking about
25 and what utilities in general?

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1 A. In general for the most part, yes.

2 Q. And I guess just on a philosophical basis,
3 Mr. Burdette, you know, how big of a gap does there
4 have to be between the returns that are being used
5 in the utilities that you rely on, and the returns
6 that are being earned by other unregulated
7 companies out in the market before you start asking
8 yourself the question, Is my return and the degree
9 to which it's below these other returns reflective
10 of the risk differences between my companies and

11 the companies I am using and these unregulated
12 companies? Do you ever get to a point where you
13 ask yourself that question?

14 A. When you're talking about Internet stocks
15 or other high risk equities, I don't know that that
16 question particularly comes to mind or is
17 worrisome. If, in general, every company in the
18 market, every company comparable in risk or LDCs,
19 if every other company was leaving LDCs in the
20 dust, then it could be something to consider. My
21 problem with Dr. Olson's testimony is that I don't
22 believe he differentiates on risk and to say, My
23 gosh, Laclede isn't getting enough money because
24 Yahoo and Alta Vista and whatever other Internet
25 stocks are earning 25, 30, 40 percent, I'm not sure

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1 that's valid -- I don't believe that's a valid
2 comparison.

3 Q. Well, and I'm asking you, though, is when
4 did you start to wonder whether or not -- I mean,
5 if every other company in the United States or most
6 other companies in the United States that are
7 publicly traded that are subject to being purchased
8 by mutual funds in the US to any significant degree
9 with earning 2,000 basis points more than public
10 utilities, would you, under those circumstances,
11 say, I've got to take another look at my return
12 recommendations and see whether the risk associated
13 with the utilities I'm using is so much less than

14 these other companies that it justifies that kind
15 of differential?

16 A. 2,000 basis points; is that what you
17 said?

18 Q. Yeah, 2,000. Let's just use that as an
19 example of at least 2,000 basis points less.

20 A. I would probably look at -- I would
21 probably do a risk analysis between LDCs in the
22 market, yeah.

23 Q. And you would want to do that to confirm
24 is there something wrong going here that suggests
25 that maybe my returns or the returns that are being

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1 recommended for these utilities are lower than what
2 would really be justified by the risk differential
3 between them and these companies that are earning
4 2,000 basis points higher?

5 A. I would try to present -- I would try to
6 do a fair analysis and recommend a fair return for
7 Laclede regardless of what was happening in the
8 market. I don't think I would suddenly just find
9 myself -- unless you guys didn't come in for a rate
10 case for 20 years, and we were plopped down in the
11 middle of a market and haven't looked at anything,
12 then maybe that kind of broad base, oh, my gosh,
13 you know, how did we get here kind of analysis, but
14 in general, I guess I'm having a hard time
15 following your what if, your scenario.

16 Q. Well, my what if is simply this, I mean,
17 you criticized Dr. Olson because he fails to take
18 in to risk, and you assume that there's a big
19 enough risk differential that we're not really
20 comparable to these companies that are earning
21 these higher returns; isn't that correct?

22 A. Correct.

23 Q. And I'm just asking you is when those
24 returns get high enough and a differential is great
25 enough, do you think you had an obligation at some

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1 point to kind of look at it the other way and say,
2 Look, maybe my returns aren't adequate. Maybe
3 they're below what the risk differential between
4 these companies and these other companies over here
5 are earning. Do you ever reach that point?

6 A. I have not reached -- I have not reached a
7 point where I've sat down and done an analysis on
8 LDCs and thought it was so out of line. If I ever
9 reach that point, I'll tell you.

10 Q. Okay. So some day you may, but you
11 haven't yet?

12 A. If the market would continue as it is, and
13 that -- I mean, you're asking me to tell you what I
14 would do if something would happen, and I don't
15 know that I can answer that. I try to take into
16 consideration everything that's relevant when I do
17 an analysis.

18 Q. By the way, are you operative Alta Vista
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19 than the S and P 500?

20 A. I don't know. I don't believe so. I
21 think they're on Nasdaq.

22 Q. Okay. By the way, do you know how your
23 capital structure compares to Laclede's actual rate
24 base, your recommended capital structure?

25 A. Do I know how my actual recommended

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1 capital structure compares to Laclede's rate base?

2 Q. Right.

3 A. I'm not sure I understand the question.

4 Q. The total value of your capital structure,
5 the total cost of your capital structure that
6 you're recognizing?

7 A. I'm still not sure what you're asking me.

8 Q. How much short-term debt -- what's the
9 value of the short-term debt you're recognizing?

10 A. \$79 million.

11 Q. What's the value of the long-term debt
12 that you're recognizing in this case?

13 A. Direct testimony was just over 178
14 million. That would be before Laclede's new issue.

15 Q. Okay. And then value of equity?

16 A. In direct was almost 267 million and that
17 was also a new --

18 Q. So what's the total value of your capital
19 structure?

20 A. Okay. I'm sorry. I didn't understand

21 your question. As in direct, 528,000,206.

22 Q. 528 --

23 A. 528 million.

24 Q. 528 million. And do you know how that

25 corresponds to the rate base that's being

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1 recommended that Laclede be allowed to earn on in
2 this case?

3 A. I don't remember the rate base off the top
4 of my head.

5 Q. Do you know whether it's higher or lower?

6 A. I do not know what the rate base is off
7 the top off my head.

8 Q. Assume that it's 20 or \$30 million lower?

9 A. Assume a rate base is 20 or \$30 million.

10 Q. Yeah. Let's assume that we have a
11 disparity between the value of the capital
12 structure and the rate base. Okay?

13 A. Okay.

14 Q. Okay. And is it your view that under
15 those circumstances it's nevertheless appropriate
16 even though you're recognizing a rate base that's
17 smaller than capital structure components that
18 you're using to derive your overall return that you
19 nevertheless use incremental amounts above that
20 rate base to derive that return?

21 A. If I understand your question, I have not
22 run into a situation where there was such a
23 discrepancy between rate base and capital structure

24 that has been a specific concern.

25 Q. Okay. Is it possible that there could be

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1 a significant enough discrepancy that would be a
2 concern to you?

3 A. As I understand it, yes. I mean, I've
4 read the literature, I read textbooks. They do
5 talk of matching some analysts that attempt a very
6 precise matching in that capital structure and rate
7 base. I don't remember coming across a situation
8 that I've faced that kind of problem.

9 Q. And how big of a problem would it have to
10 be in your view and what criteria would you judge
11 to use to --

12 A. I'm not sure. I believe something like
13 that would be discussed across disciplines at OPC.
14 I would get input from accountants and economists,
15 and I can't -- I don't have a criteria at this
16 point.

17 Q. Okay. Well, can you explain for me then
18 why some analysts try to achieve this close
19 matching of capital structure value in rate base?
20 What's the theory behind that?

21 A. As I understand the theory, they tried to
22 match those closely as possible, the capital
23 structure level with rate base dollars.

24 Q. And I'm asking you why?

25 A. Consistency. I would have to read more

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1 research, more on people that put forth that
2 opinion.

3 Q. Consistency comes to mind, though?

4 A. Potentially, yeah. You're asking me to
5 talk about something that I have not had a problem
6 with, so it hasn't been a problem I've had to try
7 to solve.

8 MR. PENDERGAST: Okay. Just a moment, if
9 I could.

10 Thank you, Mr. Burdette. I don't think I
11 have anymore questions.

12 THE WITNESS: Thank you.

13 JUDGE DIPPELL: No questions from the
14 Bench at this time, but I am going to -- I'm not
15 sure. The Commissioners are in agenda right now,
16 so they have may have some questions for you,
17 Mr. Burdette, when they return.

18 Is there any redirect at this time?

19 MR. MICHEEL: Yes, your Honor. I have
20 some redirect.

21 REDIRECT EXAMINATION BY MR. MICHEEL:

22 Q. Mr. Burdette, Mr. Pendergast asked you
23 some questions about Mr. Olson's proposal and the
24 difference in earned returns between the companies
25 he cited in utilities. Do you recall those

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1 questions?

2 A. Yes.

3 Q. Do you know if different type -- if there
4 are different types of investors that have
5 different expectations in investing?

6 A. Yes, there are.

7 Q. And do you have an opinion about whether
8 or not the companies that you utilized for your
9 analysis were comparable to Laclede?

10 A. I believe the comparable group I put
11 together an investor interested in investing in
12 Laclede would consider those very viable
13 alternative investments depending on the individual
14 investor's risk and return trade-offs.

15 Q. Do you think he did a fair analysis of
16 Laclede's risk vis-a-vis comparable company risks?

17 A. Yes.

18 Q. Have you seen any indication in the market
19 that investors are not interested in investing in
20 Laclede's stock?

21 A. No.

22 Q. Mr. Pendergast asked you a number of
23 questions with respect to the short-term debt and
24 the capital structure. Do you recall those
25 questions?

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1 A. Yes.

2 Q. He specifically asked you about a quote
3 you had there from Standard and Poor's with respect
4 to a 10 percent level of short-term debt. Do you
5 recall those questions?

6 A. Yes.

7 Q. And I think you agreed with Mr. Pendergast
8 that Laclede -- your recommendation would give
9 Laclede a short-term debt above 10 percent. Why
10 doesn't that concern you?

11 A. Why doesn't the conclusion of a short-term
12 debt over that level concern me?

13 Q. Yes.

14 A. It's not that it's -- it's not that it's
15 not of concern necessarily, it is that it's
16 accurate. It's an accurate representation of the
17 company. And if it's cause for a concern, then I
18 think the Commission would consider that or the
19 company would consider that and potentially make
20 adjustments.

21 Q. Historically do you know what type of
22 levels of short-term debt Laclede has had?

23 A. I believe this is the third case I've
24 written for Laclede, and I think I included -- I
25 know I included a high level of short-term debt.

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1 High being 10 percent or more in that neighborhood,
2 last case. I think it's pretty consistent that
3 they have a high level of short-term debt.

4 Q. And so consistently in their operations
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5 you've seen short-term debt above 10 percent?

6 A. Yes.

7 Q. Let me ask you, is debt cost an expense on
8 the income statement of the company?

9 A. Is debt cost, yes.

10 Q. Does debt cost represent an owner's equity
11 return to Laclede?

12 A. No.

13 Q. So is it fair to state that the overall
14 rate of return reflects both equity returns and
15 expense related to debt?

16 A. Correct.

17 Q. If the cost of service includes an expense
18 that the company does not accurately incur --
19 actually incur, will the company receive excess
20 revenue?

21 MR. PENDERGAST: I'm going to object to
22 that. I don't have any idea what the heck that's
23 got to do with anything.

24 MR. MICHEEL: Well, Mr. Pendergast talked
25 specifically about the company receiving revenue,

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1 and would they get less cash or more cash on the
2 80 million short-term debt would affect the overall
3 rate of return, would it produce less revenues. I
4 think it's specifically directed to those questions
5 that Mr. Pendergast asked.

6 MR. PENDERGAST: Well, first of all, I'm

7 not sure I see the relationship and secondly, I'm
8 not sure he's laid any foundation for us having a
9 cost that has -- well --

10 MR. MICHEEL: I'll just make an
11 assumption, assume that.

12 MR. PENDERGAST: What's the assumption?

13 MR. MICHEEL: Assume -- well, I'll just
14 move on. How about that?

15 BY MR. MICHEEL:

16 Q. Let me ask you this, Mr. Burdette,
17 Mr. Pendergast talked to you about page 27 of your
18 direct testimony about the Bluefield case and the
19 quotation that you had there, and he specifically
20 talked about the passage about other businesses and
21 undertakings. Do you recall those questions?

22 A. Yes.

23 Q. In your analysis in your opinion, did you
24 look at companies that were consistent with other
25 business undertakings that Laclede is doing?

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1 A. Did I look at companies -- I'm not sure I
2 understand.

3 Q. Well, did you look at -- did you look at
4 other companies other than Laclede in forming your
5 analysis?

6 A. I did, yes. A group of six comparable
7 LDCs.

8 Q. And do you have an opinion whether or not
9 those particular companies are the same or similar

10 business undertakings as Laclede?

11 A. I believe they are very similar business
12 undertakings.

13 Q. And do you think that that analysis was
14 consistent with the Bluefield test?

15 A. Consistent, yes.

16 Q. Are you aware of whether or not the
17 Bluefield test requires any sort of specific
18 analysis?

19 A. I don't read in there that there's a
20 specific analysis.

21 Q. Okay. Mr. Pendergast asked you a number
22 of questions about the demand charge?

23 A. Yes.

24 Q. Do you recall those?

25 A. Yes.

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1 Q. Have you recommended any specific
2 reduction?

3 A. No.

4 Q. And was the purpose of that testimony just
5 to alert the Commission --

6 A. Yes.

7 Q. -- that that could be a factor?

8 A. Yes.

9 Q. Do you know whether the purpose of your
10 rebuttal testimony should be to rebut Public
11 Counsel's direct testimony?

12 A. Generally, no.

13 MR. MICHEEL: That's all I have. Thank
14 you, your Honor.

15 JUDGE DIPPELL: Mr. Burdette, you may step
16 down.

17 (WITNESS EXCUSED.)

18 JUDGE DIPPELL: Now, we're going to take a
19 15-minute break, and then I'll check during that
20 time to see if the Commissioners had any additional
21 questions for you.

22 Come back at 20 till. Off the record.

23 (OFF THE RECORD.)

24 JUDGE DIPPELL: Mr. Burdette, Commissioner
25 Murray had one question for you. Will you take the

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1 stand?

2 Commissioner Murray, I believe you had a
3 question for Mr. Burdette?

4 COMMISSIONER MURRAY: Yes, thank you.

5 QUESTIONS BY COMMISSIONER MURRAY:

6 Q. Good morning.

7 A. Good morning.

8 Q. On page 31, this is your Appendix F, page
9 31 of your direct?

10 A. Yes.

11 Q. And you illustrate a market to book
12 ratio. I'd like you to explain that to me, because
13 it seems to me that this is the reverse of what
14 actually would exist, the market to book ratio

15 being already greater than one, but it seems to me
16 like the investor would have to pay in your example
17 \$12, and that any return would have to be
18 calculated on the market value. I guess I just
19 don't understand your illustration there, and ask
20 if you would explain it.

21 A. Can I read it real quick?

22 Q. Sure.

23 A. When you're talking about utilities and
24 you know that they are going to be able to earn on
25 book value, that's the way it is. They get their

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1 own book value. Let's say you have a book value
2 that is \$10, and an investor requires, let's say,
3 10 percent. They want a 10 percent return, so it's
4 going to be a dollar. On a \$10 investment, that
5 investor is going to want a dollar. Okay. And
6 let's say that that utility pays one dollar in
7 dividend, so the investor knows that they are going
8 to receive one dollar.

9 Now, why would that investor bid the price
10 of that stock up to \$12? Why if they -- if they
11 actually require a 10 percent return, why would
12 that investor pay \$12 for the stock above book
13 value? The reason he would pay \$12 for -- the
14 reason he would pay \$12 for a stock that is booking
15 at 10 and paying a dollar, is because that investor
16 doesn't actually require 10 percent.

17 If that investor required a 10 percent
18 return, they would never pay more than 10 bucks for
19 the stock. But the fact that they will go to \$12,
20 by simple math, a dollar return on \$12 is a lower
21 return than a dollar return on \$10.

22 Q. Okay. But isn't that the argument that at
23 some point the investor won't pay that because they
24 require more so they won't pay the market value?

25 A. It depends on what the investor has to

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1 have. This investor -- I might be willing to pay
2 \$12 for that stock. I might be willing to pay \$12
3 and receive that dollar, and my return is less than
4 10. Another investor who genuinely requires a 10
5 percent return will not be willing to pay \$12 for
6 the stock. I'm not sure I understand your question
7 or where you're confused.

8 Q. Well, I'm trying to understand the
9 argument you're making, and I guess the argument
10 that you're making is if the market value is \$12,
11 but the return is 10 percent on \$10, then the
12 investor is willing to receive less than 10
13 percent --

14 A. Exactly.

15 Q. -- and the investor wouldn't make the
16 investment?

17 A. Exactly. There is no reason the investor
18 would pay more than book value for that stock
19 unless the investor did not require 10 percent.

20 Q. And with the return that you have
21 recommended, do you think that investors are
22 willing to settle for that return in today's
23 market?

24 A. I believe investors realize that
25 Missouri -- or that utilities work on a book

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1 value -- on book value regulation. Laclede is
2 trading at a value greater than market -- or I'm
3 sorry -- greater -- Laclede's market value is
4 greater than book value. And I do not believe
5 investors would be paying for a market value
6 greater than book if the returns were too low. It
7 doesn't -- it's illogical.

8 Q. But is it your opinion that investors will
9 continue to invest --

10 A. Yes.

11 Q. -- in Laclede at the rate of return that
12 you are recommending?

13 A. Yes.

14 COMMISSIONER MURRAY: Okay. I think
15 that's all. Thank you.

16 JUDGE DIPPELL: Is there recross based on
17 questions from the Bench from Ameren UE?

18 MS. KNOWLES: No.

19 JUDGE DIPPELL: Staff?

20 MR. POSTON: No.

21 JUDGE DIPPELL: Laclede?

22 MR. PENDERGAST: Yes.

23 RECROSS-EXAMINATION BY MR. PENDERGAST:

24 Q. Mr. Burdette, let me see if I've got this
25 straight. You're aware of the calculations we went

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1 through with Mr. Broadwater where we looked at the
2 current market value of Laclede's stock?

3 A. Yes.

4 Q. And we applied his returns to those stock
5 values and what earnings per share they would
6 produce with the revenue requirement Staff is
7 granting in connection with this return
8 recommendations?

9 A. You're talking about you guys --

10 Q. Yes.

11 MR. MICHEEL: I'm going to object to the
12 line of questioning, because it's beyond the scope
13 of the Commissioner's question. She asked Mr.
14 Burdette about his calculation. If I understand
15 Mr. Pendergast's questions correctly, now he's
16 asking Mr. Burdette about Staff's calculations.

17 MR. PENDERGAST: What I'm doing, your
18 Honor, is Commissioner Murray asked him about his
19 example in here about the market to book and how
20 that particular example plays out in the real
21 world, and I'm trying to flush that out and what
22 his views really are by using a real world example.

23 JUDGE DIPPELL: I'm going to allow the
24 question.

25 BY MR. PENDERGAST:

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1 Q. And we went down and looked at the cash
2 flow as applied to those cash flows the outstanding
3 value of Laclede's stock and market value at this
4 point in time what the earnings per share would be
5 and how much of a return on that market investment
6 value of the stock today of what that utility would
7 really earn that 9.5 percent. Do you recall that?

8 A. I recall that, yes.

9 Q. And it would produce an effective return
10 given the cash flow that Staff is recommending in
11 connection with this return recommendations about
12 6.3 percent. Do you recall that?

13 A. I recall the calculation, yes.

14 Q. Is it your testimony in this proceeding
15 that an investor investing in Laclede's stock today
16 requires a return of 6.3 percent and expects to get
17 a return of 6.3 percent?

18 A. I haven't testified on 6.3 percent or
19 not. It is my testimony that an investor who
20 demands 12.75 on utilities that earns on book is
21 not going to pay substantially above book value for
22 the stock. An investor -- no. I don't believe
23 your calculation is accurate. I think the
24 entire -- you're asking me about that presentation,
25 and I think it was -- I think it was -- I'm not

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1 disputing the calculations. I think you did the
2 math right, but I don't believe it's relevant.

3 Q. well, fine. You don't believe it's
4 relevant. Let me ask you this question: Do you
5 believe that investors out there are going to be
6 satisfied with a 6.3 percent return for Laclede?

7 A. I believe investors will continue to buy
8 and sell Laclede's stock if they receive what I
9 have recommended, yes. How you want to categorize
10 that or do a calculation, I don't necessarily agree
11 with that calculation, so I'm not -- but I believe
12 that Laclede's stock will continue to trade with my
13 recommendation, yes.

14 Q. Let me ask you this: Is it your position
15 that an investor in today's market is expecting and
16 anticipating a return of 6-- an effective return of
17 6.3 percent on Laclede's stock given what its value
18 is today, is that what that investors required
19 return is today, yes or no?

20 A. I'm not -- I wouldn't say yes or no.
21 You're asking -- first of all, based on numbers on
22 Mr. Broadwater's calculations, so I don't know how
23 to answer your question.

24 Q. well, leave aside Mr. Broadwater's
25 calculations. Assume Mr. Broadwater never did any

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1 calculations, and let me put it to you straight and
2 flatly. Do you believe that investors require a
3 return of 6.3 percent, an effective return from
4 Laclede based on today's market conditions, yes or
5 no?

6 MR. MICHEEL: I'm going to object. This
7 is beyond the scope of the question from the Bench.

8 MR. PENDERGAST: I don't believe it's
9 beyond the scope of the questions at all. I'm just
10 carrying the example that we had to its logical
11 conclusion.

12 JUDGE DIPPELL: You can answer the
13 question, Mr. Burdette.

14 THE WITNESS: I believe investors will
15 continue to buy and sell Laclede's stock.

16 BY MR. PENDERGAST:

17 Q. And that's fine, Mr. -- Are you done?

18 A. Yes.

19 Q. That's fine, Mr. Burdette. That's not
20 what I asked you. What I asked you was, is it your
21 testimony today that Laclede's investors require a
22 return of 6.3 percent?

23 A. I have not done a calculation that would
24 show me that either way. You're asking me to
25 answer a question on an analysis that I didn't do.

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1 MR. PENDERGAST: Okay. Fine. Thank you.

2 JUDGE DIPPELL: Is there redirect?

3 MR. MICHEEL: No, your Honor.

4 JUDGE DIPPELL: You may be excused then,
5 Mr. Burdette.

6 (WITNESS EXCUSED.)

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

9 MR. PENDERGAST: Your Honor, we have a
10 little dispute here evidentiary-wise that I think
11 we probably ought to address before we get into
12 Mr. Broadwater, and Mr. Byrne is prepared to go
13 ahead and address it. The dispute centers over our
14 desire to admit a deposition that we took of
15 Mr. Broadwater that was, I believe on July 30 into
16 the record in this case. We think it would help to
17 go ahead and shorten the cross-examination
18 significantly, and it's my understanding that Staff
19 opposes us being allowed to make that an exhibit
20 and enter it into the record. If Staff wants to
21 clarify that, that's fine, but since it will
22 directly affect the length of cross-examination to
23 get that ruled upon, we thought it might be wise to
24 take that up now.

25 MR. POSTON: Your Honor, co-counsel, Cliff

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1 Snodgrass, is going to handle this.

2 MR. SNODGRASS: Yes, Judge. Staff's
3 position is if Laclede is seeking to introduce the
4 entirety of a discovery deposition, Staff feels
5 that it's highly improper under the statutory

6 scheme set out in Missouri Revised Statutes
7 492.400. Basically that kind of deposition cannot
8 be read into the record unless the person that gave
9 the deposition is either dead or unavailable. All
10 of our witnesses are here today and ready to
11 testify. So I don't think that's the
12 circumstance.

13 Also looking at Supreme Court Rule 57.07,
14 if you look at the use of a deposition, it does say
15 in one part of that subsection 2 that you can admit
16 a deposition for any purpose, but it also qualifies
17 that and says that if the deponent is not in court
18 or if the deponent is an adverse party, it goes on
19 to requalify the deponent as an adverse party, and
20 basically says that a discovery deposition cannot
21 be used as evidence, unless such party's deponent
22 is dead, incompetent or basically otherwise unable
23 to testify.

24 Once again, we have all of our witnesses
25 here live and in living color ready to testify.

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1 Another part of Staff's objection is that a
2 discovery deposition standard of inquiry is not
3 what's relevant but what could lead to relevant
4 material. And as a result of that, all kinds of
5 incompetent material comes in on discovery
6 deposition. To admit that in its entirety would
7 certainly be against the rule in evidence and these

8 proceedings be competent and relevant.

9 So obviously the Staff feels that seeking
10 to introduce an entire discovery deposition
11 certainly against the rules of evidence, and we
12 have all of our witnesses here in person to
13 testify, Judge.

14 MR. MICHEEL: Your Honor, if I may just
15 interject also. Chapter 2 of the Commission rules
16 provides that the Civil Rules of Procedure are
17 essentially controlling and put in place unless
18 there's some other specific rule that displaces
19 those rules, and I don't think there is here. So
20 to that extent, the Office of the Public Counsel
21 would join the Staff.

22 MR. SNODGRASS: Also, Judge, I have a copy
23 of Supreme Court Rule 57.07 which deals with that
24 issue and a copy of the Missouri revised statutes.
25 I can furnish that to you for your review this

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1 morning.

2 JUDGE DIPPELL: That's okay.

3 Mr. Byrne you had a --

4 MR. BYRNE: Yes, your Honor. If I could
5 just address that. I agree with what Mr. Micheel
6 said under the Commission's rules under
7 4 CSR 240-2.090, the Rules of Civil Procedure
8 govern the use of depositions in Public Service
9 Commission proceedings.

10 And I also agree with Mr. Snodgrass that
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11 Missouri Supreme Court Rule 57.07 specifically
12 governs the use of depositions. Unfortunately I'm
13 afraid Mr. Snodgrass has misstated what that rule
14 says. There are two kinds of uses of a deposition
15 under Rule 57.07. I have a copy of it as well, but
16 I, you know --

17 JUDGE DIPPELL: Let me have a copy of it
18 that we're arguing.

19 MR. SNODGRASS: Be glad to.

20 MR. BYRNE: Okay. There are two types of
21 uses of the deposition. The deposition can always
22 be used to impeach any deponent, but under the
23 second example, it can be used for any purpose if
24 it's used against an adverse party. And contrary
25 to what Mr. Snodgrass said that the party doesn't

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1 have to be dead or missing or unavailable for that
2 to apply, that's an alternative. It says if you're
3 an adverse party or if you're dead, missing or
4 otherwise unavailable.

5 So if you're an adverse party, you can use
6 the deposition for any purpose. And the truth is
7 that it is common practice in Missouri for
8 attorneys to just read a deposition into the record
9 that's been taken against an adverse party when the
10 adverse party is sitting there. Here, we've taken
11 a deposition of Mr. Broadwater, who in this case is
12 an adverse party. We are absolutely entitled to

13 read that deposition into the record without asking
14 him a single question, you know. I don't want to
15 waste the Commission's time by spending two hours
16 reading his deposition into the record, but we are
17 absolutely entitled to do that under the Missouri
18 Rules of Civil Procedure.

19 And in addition to that, the common
20 practice of the Commission for, like, the last 10
21 years that I know of, is to accept depositions into
22 the record. The Staff itself in Laclede's most
23 recent case about a month ago offered depositions
24 taken of Laclede's witnesses into the record. And
25 that's entirely consistent with the Rules of Civil

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1 Procedure and it's entirely consistent with
2 practice of the Public Service Commission and it
3 should be followed in this case, too.

4 MR. SNODGRASS: Judge, I'd like to respond
5 to that briefly.

6 JUDGE DIPPELL: Let me ask a question
7 first. What about the part of the rule that says
8 any part of the deposition that is admissible under
9 the rules of evidence? Are you contending that all
10 of the deposition is admissible?

11 MR. BYRNE: Your Honor, if there are
12 objections to the content -- to portions of the
13 content of the deposition, if the Staff has an
14 objection on relevancy to part of the deposition or
15 any other reason that they can object to any piece

16 of evidence, they are certainly entitled to make
17 that objection, and then the Commission would rule
18 on that objection, but it's not to the whole
19 deposition.

20 JUDGE DIPPELL: And this is going to speed
21 up the hearing?

22 MR. BYRNE: Absolutely. You know, it's
23 probably a three-hour deposition. If we have to go
24 through and ask all the questions in the deposition
25 again, it will take substantially longer. And the

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1 truth is, you know, there's no reason to do that
2 under the Missouri Rules of Civil Procedure.
3 Because they are an adverse party, the Missouri
4 Rules of Civil Procedure say you don't have to do
5 that.

6 MR. SNODGRASS: Judge, we have no problem
7 with them using the deposition for impeachment
8 purposes. That's certainly proper, and they can
9 certainly refer to excerpts in the deposition as
10 proper evidentiary procedure. However, if I
11 understand what they're asking you to do, they're
12 asking you to admit the entire deposition as
13 substantive evidence, as I understand their
14 argument. We certainly disagree with that and it's
15 certainly improper.

16 Mr. Byrne is correct when he says you can
17 read excerpts of a deposition into the record to

18 impeach a witness. We have no problem with that
19 whatsoever. In fact, I have a case here which
20 indicates that a recent appellate court confirm
21 using that procedure, but also affirm the denial of
22 usage of the entire deposition as substantive
23 evidence. I have a copy of that case right here if
24 you would like to see it.

25 JUDGE DIPPELL: What case is that?

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1 MR. SNODGRASS: I have a case called
2 Emery versus Norfolk and Western Railway, Missouri
3 Appellate Court, case dated 1995.

4 MR. BYRNE: Your Honor, again, he's
5 misstated the rule and --

6 MR. SNODGRASS: I'm not misstating that at
7 all.

8 MR. BYRNE: Well, it is true that the
9 deposition of anyone, adverse party or not can be
10 used for impeachment. So if you have a witness --
11 and this is what the rule says -- if you have any
12 witness whether they're an adverse party or not, a
13 deposition can be used for impeachment. Okay? But
14 if you have an adverse party, it's much, much
15 broader.

16 The rule says you can use it for any
17 purpose, and for any purpose in Missouri means you
18 can read that deposition into the record. You can
19 put that deposition into the record, part of it or
20 all of it. Of course, it's subject to any other --

21 any substantive, you know, if there's a relevancy
22 objection or if there's an evidentiary objection
23 for other reasons, of course, anyone can make that
24 objection. But they can't object on the grounds
25 that you just can't put a deposition into the

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1 record. You absolutely can. And I've got a
2 Missouri Appellate Court case that says that you
3 can as well, which I'd like you to look at if
4 you're going to look at their case.

5 JUDGE DIPPELL: Okay. Each of you give me
6 your cases. We're going to take another 10-minute
7 break, and I'm going to consider it.

8 MR. BYRNE: But, your Honor, I think this
9 can be resolved based on the clear language of the
10 rule even without these cases.

11 MR. SNODGRASS: Judge, I'd like to respond
12 to that before we adjourn just briefly.

13 JUDGE DIPPELL: One more time.

14 MR. SNODGRASS: If you read the Supreme
15 Court Rule, it does state it can be used for any
16 purpose. But if you read further in that rule, it
17 qualifies that in the plain language of the rule.

18 JUDGE DIPPELL: I understand that, and I'm
19 going to go read the rule out of this room.

20 MR. MICHEEL: Can I make one more comment,
21 your Honor?

22 JUDGE DIPPELL: Mr. Micheel?

23 MR. MICHEEL: As Mr. Byrne indicated in
24 GT-99-303 there were certain depositions that came
25 into evidence. But I think that the key factor

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1 there was that those depositions came into evidence
2 by agreement of all of the parties, and I think if
3 you look at the transcript in that case, all of the
4 parties agreed, and that's not the case here.
5 Apparently the Staff is objecting.

6 JUDGE DIPPELL: Let's take a 10-minute
7 recess. Off the record.

8 (OFF THE RECORD.)

9 JUDGE DIPPELL: Before I can rule on this
10 I think I need to know whether or not
11 Mr. Broadwater is an adverse party. And that
12 according to the rules seem to turn on how the
13 notice was sent. So can you produce the notice for
14 the deposition?

15 MR. BYRNE: Yes, we can, your Honor.

16 JUDGE DIPPELL: Do you have that now?

17 MR. BYRNE: I don't have it right in front
18 of me, but I can produce it.

19 JUDGE DIPPELL: Do you know if the notice
20 was sent to Mr. Broadwater, or if the notice was
21 sent to the Staff?

22 MR. PENDERGAST: The notice was sent to
23 the Staff, and it was sent to the Staff saying by
24 mutual agreement we will have the deposition of
25 several Staff witnesses including Mr. Broadwater.

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1 MR. SNODGRASS: Sent it to their attorney;
2 is that right?

3 MR. PENDERGAST: Yes. We sent it to the
4 other parties as well.

5 JUDGE DIPPELL: Did the notice -- I guess
6 the distinction that's made in the rules appears to
7 be a party, I mean, the deposition of an adverse
8 party can come in. To be a party, Mr. Broadwater
9 has to have been designated by Staff to act on
10 their behalf.

11 MR. BYRNE: He was certainly designated as
12 their rate of return witness. In the list of
13 witnesses, the Staff filed and designated him as
14 their rate of return witness.

15 JUDGE DIPPELL: And was the list of
16 witnesses -- I'm not sure how things go on behind
17 the scenes, and I guess that's what I'm trying to
18 figure out is, do you ask Staff to produce
19 witnesses on X issue, and they say, Yes, we'll
20 produce Mr. Broadwater, or do you ask Staff to
21 produce Mr. Broadwater?

22 MR. PENDERGAST: We asked Staff to produce
23 Mr. Broadwater and produce the other witnesses,
24 because we obviously already know that they have
25 been put forward. This is after his direct

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1 testimony had been filed, and Staff had put him
2 forward as their expert on rate of return. And so
3 we asked that they produce Mr. Broadwater as well
4 as other witnesses.

5 MR. BYRNE: I mean, in a sense he was
6 already designated when he filed his direct
7 testimony. So do you see -- there would have been
8 no point in just saying, Produce a rate of return
9 person, because he had already been designated by
10 virtue of filing direct testimony.

11 MR. SNODGRASS: Judge, there was no
12 subpoena issued for this witness in this case.

13 JUDGE DIPPELL: But there was a notice --

14 MR. SNODGRASS: It was a deposition by
15 agreement of the parties with listed witnesses.

16 JUDGE DIPPELL: Was there not any kind of
17 notice of the deposition?

18 MR. SNODGRASS: There was an agreed date
19 where depositions would be taken and where they
20 would be taken and at what time.

21 JUDGE DIPPELL: So does Staff agree that
22 Mr. Broadwater is an adverse party?

23 MR. SNODGRASS: Well, Staff agrees that
24 he's one of their witnesses for their case. That's
25 how we characterize it.

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1 JUDGE DIPPELL: I'm trying to make the
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2 distinction between whether or not he's a witness
3 or whether he's an adverse party.

4 MR. BYRNE: Your Honor, in my mind he's
5 clearly an adverse party. You know, all of the
6 Staff designates all their witnesses when they file
7 testimony. And if he's not an adverse party, then
8 I guess no one from the Staff ever could be an
9 adverse party. He's as adverse as he could be to
10 us, and he's been designated by Staff to file the
11 rate of return testimony. If he is not an adverse
12 party, I don't know who is.

13 JUDGE DIPPELL: Okay. Let me tell you
14 what the rule says. The term party as used in this
15 rule includes a deponent, who at the time of taking
16 a deposition was an officer, director or managing
17 agent of a party, or a person designated under Rule
18 57.03 B 4. 57.03 B 4 says, In the event that
19 you've noticed a public private corporation, a
20 partnership or association or a governmental
21 agency, the organization so named shall designate
22 one or more officers, directors or managing agents
23 or other persons to consent to testify on behalf,
24 and may set forth for each person designated the
25 matters on which the person will testify.

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1 So in 57.07 itself it defines the term
2 party as being a person that's designated.

3 MR. BYRNE: Your Honor, let me try to

4 address that. The difference is 57.07 is talking
5 about several court proceedings where there's no
6 prefiled testimony. So, you know, at the time that
7 no one has ever been designated in a normal court
8 proceeding with no prefiled testimony. But since
9 there's prefiled direct and rebuttal and
10 surrebuttal testimony in this case, that's the
11 point in time where the Staff designates the
12 person. So unlike a civil action where you would
13 only designate them for the first time when you got
14 the notice of deposition, he's already been
15 designated by virtue of filing the direct
16 testimony.

17 JUDGE DIPPELL: Okay.

18 MR. SNODGRASS: Well, Judge, he's not a
19 corporate officer, representative, a figure head of
20 an agency, though, where it seems to be the spirit
21 of that particular enactment.

22 MR. BYRNE: Well, it also has or
23 government agency.

24 JUDGE DIPPELL: Yeah. I think it's
25 talking about a person that is designated on

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1 behalf. It doesn't have to be the superior of the
2 agency. Okay. Is there any other argument before
3 I make a ruling? I don't frankly understand why
4 you want to bring the deposition instead of just
5 asking your cross-examination live. I mean, this
6 is, like, prefiled direct and prefiled cross, and

7 that would be great if you would have told me, and
8 apparently I think you-all knew that you were going
9 to have this dispute before the witness came up
10 here, and I wish that you would have alerted me to
11 that earlier.

12 MR. SNODGRASS: Judge, I was only aware of
13 this yesterday.

14 JUDGE DIPPELL: Yesterday, when we sat in
15 here this morning with nothing to do, you could
16 have alerted me to that, but we've wasted most of
17 the morning. I'm clearly upset about that. But I
18 see no reason, it does appear that the rules says
19 it can come in, and I think you're right, he's an
20 adverse party considering the way our process
21 works. If you want to bring it in, you can bring
22 it in. Are you going to sit here and read it into
23 the record like we would in civil court so they can
24 make their objections?

25 MR. BYRNE: We would propose to just

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1 offer, you know, mark it as an exhibit and offer it
2 into evidence. And if they have objections about
3 part of it, they can raise those objections.

4 JUDGE DIPPELL: Well, certainly they're
5 going to get an opportunity to raise all of the
6 objections that they would.

7 BY BYRNE: Certainly.

8 JUDGE DIPPELL: Now, the way it would be

9 done in a civil court would be the lawyers would --
10 your side would read it into the record, and they
11 would be allowed to make their objections as we've
12 read it in.

13 MR. BYRNE: I mean, we could do that, but
14 that would take a lot of time in a relatively time
15 constraint proceeding. I guess I don't see what
16 the problem would be in putting it into the record,
17 and maybe if they have objections, they can submit
18 them in writing. You know, if they object to the
19 relevancy to part of it, they can object in writing
20 and we can respond in writing, and then it wouldn't
21 waste everyone's time reading a two- or three-hour
22 deposition.

23 MR. SNODGRASS: Well, Judge, we really
24 don't want to burden the Commission with going
25 through every page of that deposition. What we

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1 propose is that we be allowed to have a court's
2 ruling on our objections in the deposition itself
3 when we receive the transcripts of this hearing and
4 rule on those. Is that a viable suggestion,
5 Judge?

6 JUDGE DIPPELL: I'm confused. When is
7 it that --

8 MR. SNODGRASS: We have objections to
9 certain lines of questioning that has come in in
10 this discovery deposition. We have a right to have
11 those objections ruled upon, and we don't want to

12 burden the Commission with reading that deposition
13 at this point in time and reading every page into
14 the record. Could you rule on those objections if
15 they are not raised in the hearing after the
16 transcripts are received?

17 JUDGE DIPPELL: Well, I wouldn't want to
18 rule on the objections after the hearing, but I
19 could rule on those objections as Mr. Byrne
20 suggested. I could designate a time for Staff to
21 file written objections as to what parts of the
22 deposition they object to, and then I can make
23 those rulings, and maybe we can do that before the
24 hearing itself is completed even if we need to
25 extend the hearing date beyond the time of

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1 physically in this room.

2 MR. BYRNE: Your Honor, Staff could -- you
3 know, they've read the deposition, I guess and if
4 they can just say in the hearing what portions they
5 object to, then you can rule on it right then, you
6 know, and --

7 JUDGE DIPPELL: Well, I want to give them
8 the opportunity to go line by line and make any
9 objections that they feel -- obviously they need to
10 preserve those objections.

11 MR. BYRNE: My understanding, too, is
12 under the Rules of Civil Procedure they have to
13 have made the objection in the deposition as well

14 as now, but that's an issue when they make their
15 objections.

16 JUDGE DIPPELL: That's not my
17 understanding of the rules, but anyway --

18 MR. SNODGRASS: Judge, any objections --

19 JUDGE DIPPELL: -- we'll deal with that
20 when we get to that.

21 MR. SNODGRASS: Any objections we made are
22 on the record in the deposition, and any objections
23 not made to relevance are not waived by not making
24 them during the deposition.

25 JUDGE DIPPELL: Right. Let's deal with

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1 that --

2 MR. BYRNE: We can deal with that when the
3 objections are made.

4 JUDGE DIPPELL: Okay. I'm going to let
5 the exhibit come in subject to objections that
6 staff can make in writing. I'm not sure when I
7 want those yet, but I will let you know by the end
8 of the day. What's the next step for this
9 witness. We need to go ahead and bring the witness
10 up then?

11 MR. PENDERGAST: Yes. We can mark the
12 exhibit and then bring him up.

13 JUDGE DIPPELL: Do you have copies of the
14 exhibit for the Bench --

15 MR. PENDERGAST: Yes, we do.

16 JUDGE DIPPELL: -- and the other parties?
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17 JUDGE DIPPELL: Okay. I'm going to mark
18 this as Exhibit 116.

19 (EXHIBIT NO. 116 WAS MARKED FOR
20 IDENTIFICATION.)

21 MR. PENDERGAST: I should probably note
22 that the court reporter put the name on the front
23 as Michael Broadwater apparently confusing me with
24 Mr. Broadwater. And, of course, his name is not
25 Michael Broadwater, but --

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1 JUDGE DIPPELL: Okay.

2 MR. PENDERGAST: -- it's correct inside.

3 JUDGE DIPPELL: Let's go ahead then and
4 ask Mr. Broadwater to come to the stand.

5 MR. POSTON: Staff calls David Broadwater.

6 (WITNESS SWORN.)

7 JUDGE DIPPELL: You can go ahead,
8 Mr. Poston.

9 MR. POSTON: Thank you.

10 DAVID P. BROADWATER, being first duly sworn,
11 testified as follows:

12 DIRECT EXAMINATION BY MR. POSTON:

13 Q. Please state your name and your employer
14 for the record.

15 A. David Broadwater. I'm employed by the
16 Missouri Public Service Commission.

17 Q. And what is your position?

18 A. Financial analyst.

19 Q. Are you the same David Broadwater in the
20 cause to be filed direct testimony, schedules,
21 rebuttal testimony and surrebuttal testimony that
22 have been premarked as Exhibits 59, 60, 61 and 62
23 respectively?

24 A. Yes, I am.

25 Q. Do you have any corrections to those

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1 exhibits?

2 A. Yes. My direct testimony, I believe on
3 page 17, line 34. There's a number 6,159,420. It
4 should read 25,735,167. And as well in the
5 schedule, Schedule 19. I submitted a revised
6 Schedule 19 in conjunction with my rebuttal
7 testimony. The corrections of the revised schedule
8 should be used in lieu of Schedule 19 of my direct
9 testimony.

10 Q. Do you have anymore corrections?

11 A. I'm sorry. I do have one more. Back in
12 my direct testimony, the very last page or --
13 yeah. Page 38 under adjustments, line 3. It says,
14 I'm sponsoring adjustment S dash 15 dot 28. I
15 believe that should read dot 22. That is it.

16 JUDGE DIPPELL: I'm sorry. What page was
17 that last one on?

18 THE WITNESS: Page 38 to my direct
19 testimony, line 3. Instead of dot 28, it should be
20 dot 22.

21 BY MR. POSTON:

22 Q. Mr. Broadwater, if I asked you the same
23 questions today that appear in your testimony,
24 would your answers be the same?

25 A. Yes, they would.

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1 MR. POSTON: Your Honor, I would like to
2 offer Exhibits 59, 60, 61 and 62 on the record and
3 I tender this witness for cross-examination.

4 JUDGE DIPPELL: Are there any objections
5 to Exhibits 59, 60, 61 and 62?

6 Then I'll receive those into evidence.

7 (EXHIBIT NOS. 59, 60, 61 AND 62 WERE
8 RECEIVED INTO EVIDENCE AND MADE A PART OF THE
9 RECORD.)

10 JUDGE DIPPELL: Okay. Cross-examination
11 then by Ameren?

12 MS. KNOWLES: None.

13 JUDGE DIPPELL: Public Counsel?

14 MR. MICHEEL: No, your Honor.

15 JUDGE DIPPELL: LaClede?

16 MR. PENDERGAST: Yes. Thank you, your
17 Honor.

18 CROSS-EXAMINATION BY MR. PENDERGAST:

19 Q. Good morning, Mr. Broadwater.

20 A. Good morning.

21 Q. I'd like to begin by asking you just a few
22 preliminary questions about your participation in
23 this proceeding so that there's no confusion over

24 the matter that we've just been discussing here for
25 the last couple of minutes.

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1 In addition to our discussion today about
2 your testimony in this proceeding, the Company also
3 asked you a number of questions regarding your
4 direct testimony in the deposition that was held on
5 July 30 of 1999; is that correct?

6 A. Yes.

7 Q. And obviously that was after your direct
8 testimony in this case was filed and before your
9 rebuttal testimony was submitted?

10 A. Correct.

11 Q. And at that deposition you were
12 represented by counsel; is that correct?

13 A. Yes.

14 Q. And can you tell me who else was present
15 at that deposition?

16 A. I believe it states that in the
17 deposition.

18 Q. Let me see if I can shorten this up. Was
19 Mr. Bible your immediate superior there at the
20 deposition?

21 A. Mr. Bible is my supervisor, yes, and he
22 was at the deposition.

23 Q. Okay. And after that deposition was
24 completed, you signed a notarized statement to the
25 effect that the transcript of that deposition was

1 true and accurate to the best of your knowledge; is
2 that correct?

3 A. Yes.

4 Q. And when you subsequently filed your
5 rebuttal testimony, you made several changes which
6 I think you have just alluded to to your direct
7 testimony and schedules to correct for several
8 errors that were brought to your attention during
9 the deposition?

10 A. Correct.

11 Q. And those are discussed at the top of
12 page 2 of your rebuttal testimony?

13 A. Yes.

14 Q. Okay. And just so I'm absolutely clear on
15 your testimony, I'd like to ask you about the
16 second correction you discuss starting at line 4 of
17 page 2?

18 A. Yes.

19 Q. And there you discuss an error in
20 schedule 19 to your direct testimony concerning
21 your calculation of proforma pretax interest
22 coverage ratios; is that right?

23 A. Yes.

24 Q. And would you just briefly discuss what
25 the nature of that error was?

1 A. In including -- let me go to that
2 schedule. In line 7 the calculation of annual
3 interest costs, the annual interest cost -- excuse
4 me -- attributable to short-term debt. We only
5 included a monthly amount where we should have
6 included an annual amount. So we bought the amount
7 listed there, the 14,158,464 was short by 11/12 of
8 the annual short-term debt interest cost. And the
9 revision I made to this schedule filed as part of
10 my rebuttal corrected that error.

11 Q. Okay. Your revised or corrected Schedule
12 19 corrected that error?

13 A. Yeah. That was filed to my rebuttal
14 testimony. I believe it was Schedule 1-1 to my
15 rebuttal testimony.

16 Q. Okay. And return to page 31 of your
17 direct testimony, just by way of housekeeping, at
18 the top of that page you had some texts that
19 discussed your Schedule 19?

20 A. Yes.

21 Q. And what its results were. Are there any
22 corrections you need to make to the text of your
23 direct testimony there to be consistent now with
24 the revised Schedule 19?

25 A. Correct. I mean, any change where I

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1 stated the interest coverages, that should be
2 changed to reflect the new interest coverages that
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3 result from the low, mid point and high end of my
4 range. So . . .

5 Q. So if you could just please look at lines
6 1 through 5 and tell me what changes in those lines
7 you would need to make to make it consistent with
8 your schedule, I'd appreciate it?

9 A. Okay.

10 JUDGE DIPPELL: What page are you
11 referring to?

12 MR. PENDERGAST: I'm on page 31 of his
13 direct testimony, lines 1 through 5.

14 THE WITNESS: You're at page 31?

15 BY MR. PENDERGAST:

16 Q. Yes.

17 A. I'm sorry. I thought it was -- Oh, okay.
18 I'm sorry. I'm with you. I apologize. On line 3,
19 the end of the line that says, 3.86 to 4.17 times,
20 there it should read 3.21 to 3.46 times. I believe
21 those are where I made reference to it on that
22 page.

23 Q. Okay. And is there any other correction
24 that you believe you need to make with the lines 1
25 through 5?

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1 A. I make the statement that it's in line
2 with Standard and Poor's financial mean for an A
3 and double A rated gas distribution company at 3.86
4 to 4.12 times. To the extent that 3.21, 3.46

5 aren't in line, they are with Standard and Poor's
6 financial means of an A and double A rated gas
7 distribution company. The statement would be
8 changed to say that it's below those ranges.

9 Q. Okay. So with that change, how would the
10 statement read to make it correct?

11 A. This interest coverage if below Standard
12 and Poor's financial means for an A and double A
13 rated gas distribution company of 3.86 and 4.12
14 times respectively.

15 Q. Okay. Thank you.

16 Now, if I could have you turn to page 3 of
17 your surrebuttal testimony?

18 A. Okay.

19 Q. And beginning at line 4 of that page, you
20 discuss, I think you call it two implications or,
21 if you will, illustrations of what the Laclede
22 witness McShane said in her rebuttal testimony
23 would result in the Commission adopting a return on
24 equity within Staff's range; is that correct?

25 A. Yes.

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1 Q. And let's turn to that first illustration
2 starting at line 7, page 3.

3 A. Okay.

4 Q. And there you paraphrase Ms. McShane as
5 saying that application of an expected return
6 estimated by reference to market value to book
7 value will tend to push the market book ratio of

8 Laclede's stock towards one; is that correct?

9 A. Yes.

10 Q. And is providing an example of what that
11 would mean, Ms. McShane assumed, did she not, a
12 current price of Laclede's stock of 23.25 and a
13 market to book ratio of about 1.6 times based on a
14 book value as of 9-30-98; is that correct?

15 A. Yeah. That's what the next line goes on
16 to say.

17 Q. Okay. And given what you know about the
18 current place of Laclede's stock and its market to
19 book ratio, would you agree with me that -- and I
20 know you disagree with perhaps the ultimate
21 conclusion reached by Ms. McShane, but at least her
22 assumption is at least correct and reasonably
23 reflected with Laclede's current stock situation;
24 is it not?

25 A. You're asking me to assume that Laclede's

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1 current stock price is \$23.25 and that market to
2 book ratio is approximately 1.6?

3 Q. Right.

4 A. I believe that's in the ballpark of where
5 stock price and market to book ratio is at.

6 Q. Okay. Thank you. Now, would you please
7 turn to page 3 of your rebuttal testimony?

8 A. Okay.

9 Q. There you say beginning at line 20 of page

10 3, and I'll quote here, Given that a company stock
11 is currently trading at book value, and the company
12 earns a 13 percent return on common equity while
13 investors are only requiring a 10 percent return on
14 common equity, the result will be that investors
15 will bid up the company stock price above the book
16 value to a point where they are receiving a
17 10 percent return on their investment; is that
18 correct?

19 A. Yes.

20 Q. And based on that you go on to include
21 that if the Commission accepts Ms. McShane's market
22 to book adjustment and grants the company a 12.75
23 percent return, the impact will be to drive up the
24 company's market to book ratio; is that right?

25 A. Correct.

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1 Q. Now, let me ask you the same question
2 about the assumption you relied on in arriving at
3 your conclusion here as I asked you about Ms.
4 McShane's assumption. Specifically, is your
5 assumption of a market to book ratio one true and
6 correct as it applies to Laclede today?

7 A. Laclede's current market to book ratio is
8 greater than one. And I wasn't trying to imply in
9 this statement that I was -- the example I was
10 using was Laclede in my example here. I was just
11 drawing an example of what would happen.

12 Q. So would it be fair to say that at least

13 as far as Laclede is concerned that the assumption
14 you're making there is not true, that you can't
15 simultaneous have a market to book ratio of 1.6
16 times and a market to book ratio of one; is that
17 correct?

18 A. It is correct that you can't have two
19 different market to book ratios at the same time.
20 But what I was really trying to go at here is that
21 sometime in the past, Laclede's market to book
22 ratio has been one, and it's now 1.6. And this is
23 kind of a little excerpt on how we had gotten here,
24 got to the point where we are now.

25 Q. Let's just say that based on today's

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1 current market conditions, that assumption is not
2 correct about Laclede; is that right?

3 A. That their market to book ratio is not
4 equal to one?

5 Q. Is one, that's not correct, right? Your
6 assumption here that you have a market to book
7 ratio of one is not correct for Laclede today?

8 A. Yeah, that is correct.

9 Q. Okay. And if we turn to page 20 of your
10 direct testimony --

11 A. 20 of my direct?

12 Q. Yes.

13 A. Okay.

14 Q. We find you indicating there, do we not,

15 that since 1995, Laclede's market to book ratio has
16 ranged from a low of 1.5 times to a high of 1.77;
17 is that correct?

18 A. I believe so. You're talking about what
19 starts on line 4 and runs through six?

20 Q. Yes.

21 A. Okay. Yes.

22 Q. Okay. So not only is your assumption not
23 true for Laclede today, but would it be a fair
24 statement to say that your assumption as it
25 pertains to Laclede has not been true at least for

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1 the last five years?

2 A. That is correct.

3 Q. Okay. So whatever one wants to say about
4 Ms. McShane's conclusion that your return
5 recommendation would drive down price of the
6 company's stock or your conclusion that
7 Ms. McShane's recommendation would drive it up.
8 The fact is that her theory proceeds from a correct
9 assumption regarding Laclede's current stock
10 situation, while your conclusion proceeds from an
11 incorrect assumption that we've just said does not
12 reflect Laclede's current stock situation. Would
13 that be a fair statement?

14 A. It's a fair statement.

15 Q. Okay. And turning again for a moment to
16 pages 3 and 4 of your rebuttal testimony --

17 A. Okay.

18 Q. Okay.

19 MR. POSTON: Would you repeat the page
20 number? I'm sorry.

21 MR. PENDERGAST: Yes. Page 3 of rebuttal
22 testimony. If I said surrebuttal, I apologize.

23 MR. POSTON: Thank you.

24 BY MR. PENDERGAST:

25 Q. And once again, while it may not be true

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1 for Laclede today in the example you've given there
2 beginning on line 20, you have assumed the market
3 to book ratio of one; is that correct?

4 A. Yes.

5 Q. And based on that assumption you've, as
6 we've already discussed, concluded that Ms.
7 McShane's adjustment would tend to drive up the
8 price of Laclede's stock; is that correct?

9 A. Yes.

10 Q. And when you refer to Ms. McShane's
11 adjustment on the following page, are you talking
12 about Ms. McShane's market to book adjustment?

13 A. Sir, could you --

14 Q. Yes. When you -- say, if the Commission
15 accepts the adjustment Ms. McShane is proposing,
16 when you say the adjustment, you're talking about a
17 market to book adjustment, are you not?

18 A. Yes, I am.

19 Q. Okay. Now, let's assume, you know,

20 despite what we've just discussed that your
21 assumption of the market to book ratio of one was,
22 in fact, true for Laclede, under those
23 circumstances where there is no difference between
24 the market value of Laclede's stock and its book
25 value, are you nevertheless suggesting to the

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1 Commission that Ms. McShane would still propose a
2 market to book adjustment?

3 A. I can't comment on what Ms. McShane would
4 do.

5 Q. Well, are you suggesting that it's
6 conceivable that Ms. McShane would come in here and
7 say, Commission, you have to make a market to book
8 adjustment for Laclede, because its stock is
9 trading above its book value, if, in fact, it's
10 stock wasn't trading above its book value?

11 A. Again, I don't know what Ms. McShane would
12 do. What I'm trying to say here is that the
13 adjustment she's proposing would have the effect of
14 driving the market to book ratio even higher in
15 this -- from going forward.

16 Q. No. I know what you're saying,
17 Mr. Broadwater. And what I'm trying to ask you is,
18 you have said Commission assume, No. 1, that
19 there's no difference between the market value and
20 the book value of a company's stock, assume that on
21 the one hand, and then assume on the other that you
22 have to deal with an adjustment that's a market to

23 book adjustment, which assumes that the market
24 value is above book value. And what I'm trying to
25 find out is if we assume that your assumption is

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1 correct, that there's no difference between the
2 market and book value, why is it appropriate to
3 assume the market to book adjustment would still be
4 proposed under those circumstances. Is that a
5 reasonable assumption to make?

6 A. Well, I don't -- I'm not trying to avoid
7 your question, but what -- I mean, obviously,
8 Ms. McShane is her own person, and I haven't talked
9 with her at all, even in the course of this
10 proceeding. So I don't know what she would do.
11 What I try -- I gave a hypothetical example or an
12 example here of a company that was trading at book
13 value. They were granted a return higher than what
14 was required and they're stuck with bid up greater
15 than book value.

16 Q. So --

17 A. And then --

18 Q. Sorry.

19 A. And then I go on to say or what I'm trying
20 to do is say, in this case if the Commission would
21 accept the market to book adjustment that
22 Ms. McShane's proposing, that you can draw some
23 similarities from the example I've previously given
24 to what would happen going forward for Laclede and

25 saying that that -- I don't believe that adjustment

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1 should be made. So that's what I'm trying to draw
2 and the point I'm trying to make here. I'm not
3 trying to say that she would make that adjustment
4 if we were at a market to book ratio of one, or she
5 would not. I don't know what she would do.

6 Q. Okay. So you're trying to prepare the
7 Commission for a situation where utilities may come
8 in in the absence of there being any kind of
9 difference between market and book value, you're
10 trying to make sure that the Commission understands
11 that under those circumstances, if somebody
12 proposes a market to book adjustment for a
13 nonexistent differential, that it might bid up the
14 price of the stock. Is that what you're trying to
15 suggest to the Commission?

16 MR. POSTON: I'm going to object to that
17 question. It's an awfully long question, compound
18 question.

19 BY MR. PENDERGAST:

20 Q. Let me try and shorten it.

21 What are you trying to warn the Commission
22 about here, Mr. Broadwater? Are you saying -- and
23 I'm afraid I'm not sure if this is going to be any
24 shorter -- are you saying that in circumstances
25 where there is no difference between the market

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1 value and book value of the stock, that if somebody
2 comes in and proposes a market to book adjustment
3 that assumes there's a difference that that may
4 drive up the price of a company's stock. Is that
5 what your example was designed to show?

6 A. I'm just trying to make sure I understand
7 the whole question, and I believe I don't think
8 that's what I'm trying to say. What I'm trying to
9 say that if a return is authorized greater than
10 what's being required, the stock price will get bid
11 up.

12 Q. Okay. But under the only example that
13 you've given of that happening, the Commission has
14 to assume two things. It has to assume, No. 1,
15 that there is no difference between market and book
16 value for the utility in question, and, No. 2, that
17 someone has proposed a market to book adjustment
18 that is based on a difference between market value
19 and book value; is that right?

20 A. I think in my actual example, all that I'm
21 assuming is that the company is trading a book
22 value, and that the Commission authorizes a return
23 greater than what's being required by investors.
24 And then what I go on to say afterwards is that the
25 market to book adjustment that's proposed here will

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1 have the effect of require -- or authorizing a
2 return greater than it's being required by
3 investors.

4 Q. So you're not suggesting that for this --
5 that in the example you've given, there has to be
6 both a one times market to book ratio? In other
7 words, no difference and an adjustment that's based
8 on a market to book difference, that's not what
9 your example is designed to show?

10 A. No. All it's -- the main point of what
11 it's showing is that the Commission authorizes a
12 return greater than what's being required by
13 investors. And however that happened, I haven't
14 commented on in the actual example, how that came
15 to be. But what I go on to say is one way that
16 could happen is through a market to book
17 adjustment.

18 Q. Right. Okay. Would you agree with me
19 that it's highly unlikely that a market to book
20 adjustment is going to be proposed to account for
21 the fact that a stock is increased above a
22 utility's book value if, in fact, it hasn't, would
23 you agree with me there?

24 A. Well, I've seen cases where utilities were
25 trading at less than book value, and there have

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1 been adjustments like this proposed in an attempt
2 to get the utility's stock to be trading over book
3 value. So I think there are circumstances where

4 that would be proposed and there would be arguments
5 for this.

6 Q. Would it alleviate your concern if Laclede
7 made a commitment that it will never propose a
8 market to book adjustment based on the assumption
9 that the market value is above the book value if,
10 in fact, it's really not?

11 A. They are going to make that commitment
12 going forward?

13 Q. Yeah. If Laclede or any other utility
14 made that commitment, would that alleviate your
15 concern?

16 A. No.

17 Q. Excuse me? I'm sorry.

18 A. I said no.

19 Q. No. Okay.

20 Please turn back to page 3 of your
21 surrebuttal testimony, Mr. Broadwater.

22 A. Okay.

23 Q. Now, beginning at line 21 you respond to
24 Ms. McShane's concern over your recommended return
25 driving down the price of Laclede's stock by

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1 essentially saying that Laclede's been having its
2 return set based on the DCF model for 20 years; is
3 that correct?

4 A. Yes.

5 Q. And you go on to note that contrary to

6 your example or your assumption in the last example
7 that Laclede's had a market to book ratio of 1.6,
8 and there's no reason to where the use of DCF in
9 this case would result on a bid down on Laclede's
10 stock; is that right?

11 A. I'm sorry. Could you repeat the
12 question? I was reading in there. Could you
13 repeat the question?

14 Q. Yes. Beginning at line 21, you respond to
15 Ms. McShane's concern over your recommended return
16 driving down the price of Laclede's stock by
17 essentially saying that Laclede's been having its
18 return set based on the DCF model for 20 years.
19 And I take it from that, that you're concluding
20 under those circumstances that there's no reason to
21 worry, that use of DCF in this case or generally
22 would result in the bid down of Laclede's stock; is
23 that right? Is that what you're saying?

24 A. I believe so. I am stating that I'm not
25 using any different -- it's the same basic

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1 methodology that companies have been regulated
2 under as far as rate of return, return on equity.
3 And with that methodology in place, the company's
4 current market to book ratio is 1.6. And given
5 that over the last 20 years, that's what's been
6 going on. Market to book ratio has been bid up to
7 1.6. I don't know what's going to happen going
8 forward, but based on what we've seen in the past,
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9 it doesn't appear that it's necessarily eminent or
10 given that that is what's going to happen.

11 Q. In fact, you go on to note on page 4 that
12 market to book ratio for utilities generally have
13 increased over the past 20 years despite the use by
14 many state commissions of DCF model to set those
15 returns; is that correct?

16 A. Yes.

17 Q. First of all, I'd like to ask you, to your
18 knowledge when in the last 20 years has Staff
19 recommended that Laclede receive a 9.5 percentage
20 on equity?

21 A. To my recollection to -- I don't remember
22 going back that far. But from what I have
23 researched and seen, I don't believe Staff has ever
24 made that recommendation prior. I don't think
25 market conditions ever warranted that

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1 recommendation, so Staff had never proposed that.

2 Q. Okay. When in the last 20 years has the
3 Commission determined a return on equity for
4 Laclede based on its resolution of a litigated
5 issue involving that subject?

6 A. In the last 20 years that has not
7 happened. As I understand it, Laclede's last
8 contested rate case, which did involve the return
9 on equity issue was a 1977 case, which is more than
10 20 years ago.

11 Q. Okay. And when you were referring to the
12 DCF analysis being used elsewhere to determine
13 authorized returns without any adverse consequences
14 for the stock prices for other utilities, were you
15 referring to its use to determine the 10.93 percent
16 return authorized for Missouri Gas Energy?

17 A. Not specifically. I was referring to my
18 understanding that the DCF model -- excuse me -- is
19 not only the primary model used in this state, but
20 in most states throughout the United States to
21 calculate a company's -- to come up with a
22 company's return on equity.

23 Q. Right. And I'm not -- I'm not talking
24 about other states right now. I'm talking about
25 Missouri, and I'm just asking you when you talked

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1 about the DCF permitting utilities to stay above
2 book, was one of the DCF results that you had in
3 mind, the 10.93 return on equity for MGE?

4 A. Well, again, I'm not trying to be
5 obstinate. When you're asking me what was I
6 thinking or what was in my mind when I made this
7 statement, I wasn't just thinking Missouri, because
8 I think I talk about in there what's gone on in
9 more than just Missouri. So when I was making this
10 statement, I wasn't thinking about a particular
11 Missouri case.

12 Q. Well, you weren't excluding it either,
13 were you, Mr. Broadwater?

14 A. No. I was -- no, I wasn't excluding any
15 case.

16 Q. Okay. Were you thinking about how the DCF
17 is permitted book values to -- or market values to
18 stay above book values thinking of the 12.61
19 percent return for UE; is that what you were
20 thinking about?

21 A. No. Because again, I didn't work on that
22 specific case, but it's my understanding that the
23 DCF model never arrived at 12 -- or at that time,
24 which was, I believe four or five years ago, didn't
25 arrive at 12.61 for Union Electric Company that

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1 was -- that number wasn't what Staff believed their
2 required return on equity was.

3 Q. So that 12.61 you say would have been
4 based on something other than the DCF analysis?

5 A. I believe that Staff -- what Staff
6 believed Union Electric's return on equity, the
7 required return on equity for UE was at that time
8 was less than 12.61 based upon -- excuse me -- the
9 DCF analysis --

10 Q. Well --

11 A. -- but I don't know what the precise
12 number is. I wasn't a party to that case and
13 didn't do that analysis.

14 Q. So do you know if we have this one example
15 that's pretty close to home of a return being

16 authorized that substantially above or at least
17 above, we don't know how much the DCF analysis
18 results, how many other times does that happen in
19 other state commissions throughout the country that
20 might in part explain why utilities have been able
21 to keep their -- or why utilities market the value
22 of their stocks above their book value could have
23 happened elsewhere, too?

24 MR. POSTON: I'm going to object to that
25 question. It was awfully confusing. It may be

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1 just confusing to me. It was awfully long, and I
2 believe there was two questions in there.

3 MR. PENDERGAST: I'm certainly sympathetic
4 to that. Let me shorten it, if I could.

5 JUDGE DIPPELL: Please do.

6 BY MR. PENDERGAST:

7 Q. You've just given an example of an
8 instance here in Missouri where an authorized
9 return granted a utility was greater than what
10 would have been produced by the DCF results; is
11 that correct?

12 A. I believe 12.61 is the point at which
13 Union Electric begins to share. I do not believe
14 that was ever an authorized return granted Union
15 Electric.

16 Q. Let me ask you this way: Is that a return
17 that they are permitted to earn before they have to
18 start sharing with customers?

19 A. That is the point where they begin
20 sharing.

21 Q. And was that return where they're -- that
22 they're permitted to earn before they begin to
23 share approved by the Commission?

24 A. I believe the Commission had to approve
25 that. I believe that's the case.

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1 Q. Okay. Would it make you feel more
2 comfortable if we called it an approved return?

3 A. I prefer the point at which they begin
4 sharing, but --

5 Q. Okay. A return approved by the Commission
6 at which they begin sharing, how is that?

7 A. Okay.

8 Q. Okay. Do you know if there are other
9 jurisdictions that have also approved or authorized
10 returns that would be in excess of what the results
11 of DCF analysis would be?

12 A. I'm not aware of any. I haven't studied a
13 lot of other -- I'm not aware of any, but I haven't
14 done a lot of research in that area either.

15 Q. Just based on what you know, would it
16 strike you as odd that the only place where that's
17 happened is in Missouri?

18 A. That would be correct. That would be
19 correct. I would agree with that statement.

20 Q. Okay. And when you were referring to the

21 DCF analyses being used to determine authorized
 22 returns without adverse consequences for the stock
 23 prices of other utilities, were you referring to
 24 its use to determine the 11.51 average authorized
 25 returns granted to gas distributors in 1998?

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1 A. It's my -- like I stated before, it's my
 2 belief that the DCF model is the primary model used
 3 by most state commissions. And to the extent those
 4 commission's authorized returns in 1998, I wouldn't
 5 have any reason to doubt your statement, but
 6 wasn't -- I didn't come up with any of those
 7 numbers myself or do any research into that.

8 Q. Let's assume the average return was
 9 11.5 percent under the primary total being used by
 10 DCF or the primary total by regulators in other
 11 jurisdictions being the DCF, that would be about
 12 200 basis points above the return you're
 13 recommending in this case; is that right?

14 A. 11.2 and you're using my mid point of nine
 15 and a half?

16 Q. Versus 11.51, yes.

17 A. 11.51? I'm sorry.

18 Q. Yes.

19 A. Yes, that would be.

20 Q. Can you tell me when you're referring to
 21 the use of the DCF analysis elsewhere to determine
 22 authorized returns without adverse consequences to
 23 the stock prices of other utilities, how many

24 instances those were done on a company-specific
25 basis as you've done with Laclede in this case?

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1 A. Am I aware?

2 Q. Yes.

3 A. I haven't done that analysis.

4 Q. Do you have any ballpark figure about
5 whether it would be half or 25 percent or
6 10 percent?

7 A. No, I haven't done any analysis.

8 Q. Okay. Well, was the DCF done on a
9 company-specific basis with MGE?

10 A. Excuse me. In their last rate case?

11 Q. Yes.

12 A. It's my recollection that it was not.

13 Q. Okay.

14 A. But I didn't work on that case, again,
15 so . . .

16 Q. And I assume it wasn't done on a
17 company-specific basis with Ameren UE because the
18 return there was not the return that would have
19 been produced by a DCF; is that correct?

20 A. I'm sorry. Could you repeat that?

21 Q. And I'm assuming that the DCF analysis
22 wasn't done on a company-specific basis with
23 Ameren UE, because the 12.61 return before they
24 started sharing wasn't a product of a DCF analysis;
25 is that correct?

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1 A. I'm not sure any analysis was done to come
2 up with a 12.61.

3 Q. Okay. Fair enough.

4 A. I believe that was the decision made above
5 my level.

6 Q. Okay. Can you tell me for those companies
7 that had authorized returns of 11.51 in 1998, how
8 many of those returns were based on a
9 company-specific DCF analysis?

10 A. I haven't done the analysis to know that
11 number.

12 Q. Okay. And you couldn't give me a ballpark
13 figure on that?

14 A. No.

15 Q. In addition to DCF analysis, can you tell
16 me to what degree the state commissions that you've
17 referenced in your testimony there have relied on
18 alternative analyses to arrive at their authorized
19 returns?

20 A. I believe my statement here goes to the
21 fact that it's my understanding that most states
22 use the DCF model like Missouri as its primary
23 model, but they do look at the results of other
24 analyses.

25 Q. Okay. And do you have any idea of the

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1 degree to which maybe they put more emphasis or
2 less emphasis on those other analyses over the past
3 four or five years?

4 A. No, I don't.

5 Q. Okay. And you indicated page 4 as we've
6 discussed of your surrebuttal testimony that the
7 utility industries had a general increase of market
8 to book ratios even though state commissions
9 generally use the DCF analysis as their primary
10 tool. And my question is to you, are you saying
11 that the use by state commissions of the DCF
12 analysis has led to utility stocks going above book
13 value that it's responsible for that?

14 A. I don't necessarily think I would say it
15 was responsible for it driving it to that point
16 anymore than it would probably -- if in the future
17 we would return to a time when utility market to
18 book ratios were at or below one like it's happened
19 in the past, don't necessarily think it would be
20 responsible for doing that in and of itself either
21 between the other factors to take into account.

22 Q. Let me ask you about that, Mr. Broadwater,
23 because you do mention the fact that at some time
24 in the distant past market to book ratios were
25 below one, and we've established that right now

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1 Laclede's market to book ratio is around 1.6.

2 Now, if you were to look at a symmetrical
3 reduction in the market to book value on the other
4 side that would be equal to that 1.6, you would be
5 talking about a .4 market to book ratio; isn't that
6 right?

7 A. So you're saying if at some time in the
8 past we were at 1.0, we've gone up .6 from there,
9 you're saying we go down .6 from there?

10 Q. Right. And that would be a .4, wouldn't
11 it?

12 A. Yes. One minus .6.

13 Q. Where your stock value would be 40 percent
14 of your book value; is that right?

15 A. Correct.

16 Q. Can you tell me whether you're aware of
17 whether Laclede has ever had a market value of .4
18 to book value?

19 A. I'm not aware if Laclede has ever had a
20 market to book value ratio of .4.

21 Q. To your knowledge has it ever had a .4
22 while you've been here at the Commission?

23 A. To my knowledge it hasn't.

24 Q. Are you aware of any other utility in the
25 State of Missouri that has that you've ever done

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1 any analysis on that's ever had a .4 market to book
2 ratio?

3 A. I'm not aware of one.

4 Q. Are you aware of any utility in any other
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5 jurisdiction that has a .4 market to book ratio?

6 A. I'm not aware of one.

7 Q. Okay. And did you read Mr. Wagner's
8 testimony in this case where he talked about
9 utilities, gas distributors having a 1.8 market to
10 book ratio?

11 A. I do recall that number from his
12 testimony.

13 Q. Okay. And if we were to go ahead and
14 assume that there's this concern about market book
15 going down below one, to be equivalent to that it
16 would have to be a .2 market to book ratio,
17 wouldn't it?

18 A. Well, instead of its .6 increase is in the
19 case of Laclede, we've had a .8 increase, and so
20 you're taking 1.0 minus .8?

21 Q. Right.

22 A. That would be .2.

23 Q. Right. And once again, are you aware of
24 any historical experience of a utility having a .2
25 market to book ratio?

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1 A. No, I'm not aware of that.

2 Q. Okay.

3 JUDGE DIPPELL: Mr. Pendergast?

4 MR. PENDERGAST: Yes.

5 JUDGE DIPPELL: Are you about near the end
6 of your cross-examination?

7 MR. PENDERGAST: I'd say I probably have
8 about 20 more minutes.

9 JUDGE DIPPELL: Okay. Let's go ahead and
10 break again as much as I hate to, but let's go
11 ahead and go to lunch. Let's be back here at
12 1:30. Off the record.

13 (A LUNCH BREAK WAS TAKEN.)

14 JUDGE DIPPELL: Mr. Pendergast, would you
15 like to continue with your cross-examination?

16 MR. PENDERGAST: Thank you, Judge.

17 CONT'D CROSS-EXAMINATION BY MR. PENDERGAST:

18 Q. Mr. Broadwater, when we broke off, I think
19 you were explaining whether or not you thought the
20 use of the DCF methodology was responsible for the
21 increase in market value and the stocks, and I'm
22 not sure I got exactly what your answer was on
23 that.

24 A. Excuse me. I believe the point I was
25 making was that DCF hasn't been solely responsible

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1 for driving market to book ratios where they are
2 anymore than if they would in the future drop the
3 DCF model and that case wouldn't be the sole reason
4 to explain the reason that it dropped. There's too
5 many other factors that play into that.

6 Q. Okay. So it would be fair to say then
7 that there are other factors that have contributed
8 to the rise in market book -- the market value and
9 stocks other than the use of DCF analysis?

10 A. Yes.

11 Q. And just so we get a sense of what impact,
12 if any, the DCF analysis has had, we discussed
13 earlier that, you know, Laclede has market to book
14 ratio of about 20.6 times. And just to put it in a
15 simple example, that means that if a utility has a
16 1.6 times market to book ratio for a \$10 book
17 value, it would have a \$16 market value; is that
18 right?

19 A. Correct.

20 Q. So that would be \$6 over the \$10 book
21 value cost?

22 A. Yes.

23 Q. Okay. And you're familiar with
24 Ms. McShane's testimony where she says that the
25 Standard and Poor's 500 are trading at an average

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1 market to book value of about six times?

2 A. I'm not sure. Let me -- do you mind if I
3 grab her testimony?

4 Q. Sure.

5 A. Do you know the page that that was on?

6 Q. Oh, I used to have the page, but --

7 A. Because I know on page 3 she talks about
8 the S and P 400 being over 800 percent -- or 800
9 times the market to book ratio, I believe is what
10 she's talking about there.

11 Q. I'll use that. What that would mean is

12 that the S and P 400 for a \$10 market price for the
13 companies that -- or book price for the companies
14 that are in their book cost, they would have a
15 market value of about \$80; is that correct?

16 A. Yes.

17 Q. Okay. So we'd be comparing a utility
18 that's had a \$6 appreciation in value with an
19 unregulated company on average that's had a \$70
20 appreciation from that value; isn't that right?

21 A. Since when?

22 Q. Well, I'm just saying based on where
23 companies are today in their market to book
24 ratios.

25 A. The competitive company is that much

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1 greater than its book value, but book value to a
2 competitor -- or to a company from the S and P 400
3 a non-utility company -- excuse me -- is my opinion
4 from an investor's prospective less important.

5 Q. Well, that's fine. But whether it's
6 important to the investor or not, I think you made
7 the point in your testimony that with the DCF
8 analysis, utilities have justifying its evidence by
9 the fact that they have had an increase in their
10 market to book ratios of up to 1.6 times. And we
11 just ran through the example, and that would
12 suggest that for a \$10 book cost, that would mean a
13 \$16 market value, which would mean an appreciation
14 of \$6 over book value, and we're talking about an

15 unregulated basis an increase of \$70 on that \$10
16 book cost.

17 And I'm just saying that when you compare
18 the \$70 to the \$6, and you look at those variations
19 and appreciation, do you, you know, still take the
20 position that employment of the DCF analysis has
21 not had a drag on the appreciation of utility stock
22 values?

23 A. I don't think I said that wasn't a drag,
24 but my position is the same as I stated in my
25 direct testimony.

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1 Q. Okay.

2 A. What you just said hasn't convinced me to
3 change what I said in my testimony.

4 Q. Okay. But you would say that given the
5 fact that unregulated companies have seen increases
6 in their market values or at least had market
7 values that are 10 times greater than their book
8 value than what utilities have, that that's some
9 kind of indication to you that maybe there's been a
10 drag because of the DCF analysis being employed?

11 Q. Are you asking me if there has been a
12 drag?

13 A. Yes.

14 Q. I don't think from what you just said is
15 evidence in and of itself that the DCF model has
16 been a drag.

17 Q. Okay. So the fact that they are only
18 appreciated by 1/10 of the market values of
19 unregulated terms, in your view is not evidence of
20 that?

21 A. Correct.

22 Q. If I could, please, have you turn to
23 page 4 of your surrebuttal testimony. And I'd like
24 to direct your attention, if I could --

25 A. I'm sorry. Page 4 of my surrebuttal?

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1 Q. Yes.

2 A. Okay. I apologize.

3 Q. And if you could turn your attention to
4 line 18, and there you reference a quote -- well,
5 actually you reference Ms. McShane quoting you in
6 your 1998 testimony where you stated that Staff
7 does not feel comfortable recommending the
8 Commission the adoption of the return on common
9 equity range that the DCF model has produced. Do
10 you see that?

11 A. Yes.

12 Q. Okay. And that was, in fact, a quote from
13 your testimony in our last rate case; is that
14 right?

15 A. Correct.

16 Q. And you go on to state that you did not
17 mean to say or you did not say and it was not your
18 intent to imply that Staff was not comfortable with
19 the output of the DCF model; is that right?

20 A. Correct.

21 Q. And you just weren't comfortable in
22 recommending the output of the DCF model to the
23 Commission?

24 A. Yes. That's what it states.

25 Q. So you thought the output of the DCF model

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1 was reasonable, but you didn't feel comfortable
2 recommending that reasonable output to the
3 Commission?

4 A. Yes.

5 Q. Can you explain why you would feel
6 uncomfortable about recommending a reasonable
7 output to the Commission?

8 A. What I was -- what the difference why I
9 didn't make that recommendation in the last case is
10 because Staff was trying to -- we have -- we had
11 entered, and I believe we are still in a time that
12 what investors are requiring, required ROEs are
13 lower than they traditionally have been. And we
14 just wanted to make sure that we felt confident
15 that the economic environment that was at that time
16 would continue, and so we were slow.

17 we proceeded slowly with adopting the
18 output of the DCF model when it was in -- when it
19 was making recommendations or the output was in the
20 range like they are now of 9 to 10 percent. Just
21 as it's my understanding that when interest -- or

22 when times the economic conditions were different,
23 the output of the DCF model was 15, 16, 17 percent,
24 staff was slow to get to those numbers.

25 we were slow to get to these numbers,

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1 again, when we're at extremes or what appears
2 extreme originally. We just wanted to use caution,
3 proceed slowly and going to recommend the output of
4 the DCF model.

5 Q. well, I appreciate your candor in
6 characterizing the approach's extreme, and I guess
7 I'm just asking you what, in your view, has changed
8 since last year at around this time when you say
9 you were uncomfortable recommending these results
10 to the Commission?

11 A. well, I don't think I said that the way
12 you said what you said. I was using extreme as the
13 output. I don't think that was quite correct of
14 the way you characterized my use of that. But the
15 staff -- excuse me -- it's been a process over a
16 couple of years that the staff has moved slowly in
17 accepting the output or recommending the output of
18 the DCF model to the Commission. To ensure that
19 the environment, the economic environment that's in
20 place now will continue, and the only thing that's
21 changed is staff feels comfortable that the current
22 economic environment will continue.

23 Q. So is it your testimony that you feel
24 comfortable now whereas you didn't feel comfortable

25 a year ago because nothing has changed in the

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1 environment and that's what's made you comfortable?

2 A. We've had more -- the environment that
3 we're in has continued, so, yes, things have stayed
4 relatively stable, and we believe it was
5 appropriate to recommend the output of the DCF
6 model as it was coming out of the model.

7 Q. Okay. Let me ask you a few questions
8 about your short-term debt testimony, if I could.

9 A. Okay.

10 Q. Now, you have recommended how much
11 short-term debt in this proceeding?

12 A. 79,231,000.

13 Q. Okay. Would you turn to your direct
14 testimony, please?

15 A. Where?

16 Q. And in particular page 22.

17 A. Okay.

18 Q. And there starting at line 4, you indicate
19 it's the Staff's opinion that it's appropriate to
20 include the balance of short-term debt that exceeds
21 the balance of the construction in progress and
22 utility company's capital structure because these
23 funds are being used to fund utility activities.
24 In this specific case, the Staff's capital
25 structure includes short-term debt, because these

□

1 funds are supporting certain rate base items; is
2 that correct?

3 A. Correct.

4 Q. And the rate base I have supported in my
5 short-term debt include the natural gas of propane
6 inventories and cash working capital; is that
7 correct?

8 A. Correct.

9 Q. Okay. And are you aware of testimony that
10 was filed by Mr. Buck in this proceeding?

11 A. Yes.

12 Q. And are you aware that while he said he
13 didn't agree with your characterization of all
14 these uses, that the total amount that the company
15 has of these particular items that you've
16 identified was \$48 million?

17 A. I believe I remember reading that.

18 Q. Okay. And that's a little bit over
19 \$30 million less, isn't it, than your 79 million?

20 A. Yes. 79 minus 48, yeah.

21 Q. Okay. And is it also your understanding
22 that in his rebuttal testimony, Mr. Buck included
23 some schedules that showed what the proceeds of our
24 recent stock issuance and our recent bond issuance
25 were to be used for?

□

1 A. I believe. I don't recall the details of
2 that, but I think I remember seeing some
3 schedules.

4 MR. PENDERGAST: If I could approach the
5 witness?

6 JUDGE DIPPELL: Certainly.

7 BY MR. PENDERGAST:

8 Q. Mr. Broadwater, can you identify the
9 document I've handed you?

10 A. The rebuttal testimony of Glenn W. Buck.

11 Q. And can I direct your attention to his
12 Schedule 1-1 there?

13 A. Okay.

14 Q. And what does that schedule -- does that
15 Schedule 1-1 have an excerpt from an SEC disclosure
16 showing what the proceeds of our stock issuance
17 would be used for?

18 A. It appears as if what it is, it doesn't --
19 I don't see right off where it says on the schedule
20 that that's what it is, but --

21 Q. Would you like to read through Mr. Buck's
22 testimony where he references it or --

23 A. Do you happen to know that page where that
24 happens? I believe it started at the bottom of
25 page 10?

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□

1 Q. Great. Thank you. Okay.

2 And if those are the proceeds from the

3 stock issuance -- first of all, what does it say
4 those proceeds are?

5 A. In the testimony?

6 Q. In the testimony -- well, how about first
7 in the testimony?

8 A. It says attached to Schedule 1, page 1 and
9 2 to this testimony are the appropriate pages from
10 the prospectus supplements for both our recent
11 common equity offering and the debt financing.
12 This is clearly demonstrated by the these
13 documents, which are also on file with the SEC.
14 The issues were marketed and proceeds were used to
15 pay down short-term debt.

16 Q. Okay. And if you turn to the two
17 schedules that he is referring to. What does it
18 say about the amount of the proceeds and what they
19 are going to be applied to?

20 A. The net proceeds from the sale of the
21 shares excluding the over allotment option will be
22 approximately \$21 million. We will use the net
23 proceeds to repay short-term debt.

24 Q. And if you were to subtract that
25 21 million from your 79 million, that would give

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□

1 you a figure of about, what, 58 million? Is my
2 math correct there?

3 A. Yes.

4 Q. And if you look at the second document
5 that talks about the proceeds from our other

6 issuance, what does that say it will be used for?

7 A. We will use the net proceeds from the sale
8 of the bonds to repay short-term debt.

9 Q. And what were those proceeds, do you know?

10 A. I don't see where it states the amount
11 here, and I believe the issuance with \$25 million
12 in the proceeds would be less in any issuance cost
13 that the company incurred.

14 Q. So approximately 25 million?

15 A. It's going to be slightly less than that.
16 Yeah, it's in the ballpark.

17 Q. And if we subtract that 25 million from
18 the 58 million that we just talked about, what
19 number would that give you?

20 A. 33.

21 Q. Okay. 33 million?

22 A. Yes.

23 Q. And what's your understanding of what a
24 capital structure is supposed to do? Is it
25 supposed to finance the rate base?

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1 A. Capital structure of a company finances
2 its operations. And in this proceeding the capital
3 structure of Laclede is supporting rate base.

4 Q. Right. And do you know what the
5 difference is between the overall value or cost of
6 the capital structure you're recommending and what
7 staff's rate base is?

8 A. I don't know what that amount is.

9 Q. Okay. Would you be surprised that there
10 is a substantial difference between the two?

11 A. No.

12 Q. Okay.

13 A. It's my belief that there's other -- that
14 capital structure supporting all the operations of
15 Laclede and not just its regulated rate base.

16 Q. Not just its regulated rate base. Well,
17 let me ask you this: Are you familiar with the
18 matching principal, Mr. Broadwater?

19 A. The matching?

20 Q. When it comes to capital structure and
21 rate base? Would you like some water?

22 A. I can wait a little. It's not --

23 COMMISSIONER MURRAY: Here's some.

24 THE WITNESS: Thank you. Sorry.

25 I'm familiar with what you're referring

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□

1 to, yes.

2 BY MR. PENDERGAST:

3 Q. And what is that principal?

4 A. Excuse me. That rate base and capital
5 structure in the case of a company, those two
6 should match each other in the case of a company
7 that is entirely a regulated utility company.

8 Q. Okay. And do you know what our regulated
9 utility assets are as a part of our overall rate
10 base for capital structure?

11 A. I'm sorry. Could you repeat that?

12 Q. Yes. You mentioned something about
13 unregulated activities, and I'm asking you, can you
14 tell me what Laclede's -- what percentage of its
15 capital structure or a rate base is regulated in
16 jurisdictional?

17 A. I think all of its rate base is under
18 regulated. I think we allow on rate basis to
19 regulated assets. It's at least my understanding.

20 Q. Okay. And if I could just show you a copy
21 of -- if I could approach the witness? I
22 apologize.

23 JUDGE DIPPELL: Yes.

24 BY MR. PENDERGAST:

25 Q. Is this Schedule 1 to Ms. McShane's direct

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1 testimony, the document I've just handed you?

2 A. Yes.

3 Q. And can you tell me what generally is
4 reflected on Schedule 1?

5 A. Net Revenues and percentage utility assets
6 for selected local natural debt natural gas
7 distribution companies.

8 Q. Okay. And can you tell me what's in the
9 far right column there?

10 A. 1997 percentage of utility assets.

11 Q. And does it give various percentages from
12 the various companies that are listed on that

13 schedule?

14 A. Yes.

15 Q. Okay. What's the percentage for Laclede
16 Gas Company?

17 A. 100 percent.

18 Q. Just very quickly, just a few more
19 questions, Mr. Broadwater. You indicated in
20 addition to doing your company-specific analysis,
21 you had done a number of other analyses as well; is
22 that correct?

23 A. Correct.

24 Q. Okay. And can you tell me what the full
25 range of all your analyses suggested from the

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1 lowest of the low to the highest of the high?

2 A. If you want me to go through and look, I
3 can. I don't have that range right off the top of
4 my head, but I can look.

5 Q. If you wouldn't mind. If it wouldn't take
6 too long.

7 A. In the quick run through goes from 9 to
8 10.8.

9 Q. 9 to 10.8. And is the -- what's the 10.8?

10 A. Sorry. I believe -- let me just check.
11 Excuse me. The 10.8 is the average of the -- the
12 average risk premium analysis, the average of the
13 risk premium analysis for the comparable
14 companies.

15 Q. And that's an analysis that did not
Page 134

16 include Laclede; is that correct?

17 A. Yes.

18 Q. And we had a discussion earlier with
19 Mr. Burdette about this circularity concern. And
20 like Mr. Burdette, when you're doing a comparable
21 company analysis, you exclude Missouri companies;
22 is that correct?

23 A. Yes.

24 Q. And once again, it's because of this
25 circularity concern?

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□

1 A. Yes.

2 Q. Okay. If the Commission were to go ahead
3 and have the same circularity concerns that lead
4 you to exclude those companies when you're doing
5 your comparable analysis and extend it to the
6 theory that -- or the point where they say maybe we
7 shouldn't be doing a company-specific analysis that
8 looks only at a Missouri company, your risk premium
9 analysis would provide that with an opportunity to
10 adopt an analysis that you performed that doesn't
11 have any Missouri companies in it; isn't that
12 right?

13 A. Is your question that my risk premium
14 analysis doesn't have any Missouri companies in
15 it?

16 Q. Right.

17 A. That is correct.

18 Q. Okay. And the Commission would not need
19 to be concerned about that kind of analysis, any
20 circularity concern, would it?

21 A. There isn't any Missouri companies in my
22 comparable company group, so I assume that any
23 circularity argument would be mitigated.

24 Q. Well, okay. Mitigated is fine.

25 And you did indicate in your deposition,

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1 did you not, that while you prefer your DCF and you
2 think its results are reasonable, and that sort of
3 thing, that if the Commission decided that it ought
4 to be concerned about this circularity concern that
5 you've expressed before, that it would be fine for
6 the Commission to rely on these alternative
7 analyses that you've done; is that correct?

8 A. I believe I stated that the Commission had
9 that authority.

10 Q. Did you use the words, It would be fine
11 for them to do that?

12 A. To be honest, I don't remember my exact
13 words from the deposition. I mean, if you point me
14 to the page, I can look at it and find out, but I
15 don't remember my exact words from the deposition.

16 Q. How about page 91?

17 A. Page 91?

18 Q. Uh-huh.

19 A. Okay.

20 Q. And if you could just read from line 5 to
Page 136

21 line 8?

22 A. Anywhere specific on line 5 I should
23 start?

24 Q. Well, page 9 -- in fact, I'll tell you
25 what, why don't you read line 1 down to line 8?

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1 A. Given all the assumptions that -- excuse
2 me -- it's an answer. Given all the assumptions
3 that have been built up to this point. Question,
4 Right. Answer, which I believe there's many. I
5 think I have done a good job with my comparable
6 company analysis. So if the decision has been made
7 to disregard all company specific analyses, that
8 would be fine to look at.

9 Q. Okay. And when you say, That would be
10 fine to look at, did you mean for the Commission to
11 look at?

12 A. From what you're -- I believe that's the
13 case. We used a lot of theys in there, but I went
14 back. I believe we were referring to the
15 Commission.

16 MR. PENDERGAST: Okay. If I could just
17 have two seconds.

18 Thank you very much, Mr. Broadwater. I
19 have no further questions.

20 JUDGE DIPPELL: Okay. There are some
21 questions from the Bench. Since the Chair and Vice
22 Chair stepped out for the moment, Commissioner

23 Murray, do you have any questions for
24 Mr. Broadwater?

25 COMMISSIONER MURRAY: I have some, yes.

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1 Thank you.

2 QUESTIONS BY COMMISSIONER MURRAY:

3 Q. Good afternoon.

4 A. Good afternoon.

5 Q. On page 6 of your direct testimony --

6 A. Yes.

7 Q. -- you site some language from the Supreme
8 Court of Pennsylvania?

9 A. Uh-huh.

10 Q. And I'd like to ask you if by citing that
11 language that you're indicating that you think
12 Staff's recommended rate of return is not
13 sufficient to ensure the continued financial
14 integrity of Laclede?

15 A. No. The Pennsylvania case is in there in
16 all the testimony that I have done, at least and I
17 believe most of the other members of my department
18 include that in there. It's just to illustrate the
19 point that under extreme circumstances it may be
20 appropriate to set a return that wasn't enough --
21 wasn't high enough for them to -- excuse me -- for
22 the utility because of wrongful management or
23 something like that that ratepayers shouldn't have
24 to bear all the costs associated with that.

25 And I no mean and way am trying to say
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1 that Laclede has been wrongful in their management
2 or anything else. It's just standard language that
3 is in our testimony.

4 Q. Okay. If you were -- so you're not saying
5 that they have poor management?

6 A. Correct.

7 Q. If you were to take -- if you were able to
8 take the cost to the ratepayers and the rate of
9 return to the shareholders as two totally separate
10 items and just isolate them, would you have
11 recommended a different rate of return if you
12 looked at that in isolation?

13 A. So if I was just looking at what return
14 shareholders wanted or were requiring?

15 Q. Was there fair and adequate return to the
16 shareholders?

17 A. I believe from the analyses that I've
18 performed, the range that I'm recommending is what
19 the -- what investors are requiring currently for
20 Laclede.

21 Q. Okay. I'll ask you some more specifics
22 about that on page 2 of your surrebuttal
23 testimony. You state at lines 12 and 13 that the
24 DCF model is designed to determine the return that
25 investors are requiring the company to earn, not

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1 the return that investors want to earn. Don't they
2 choose investments based upon what they want to
3 earn?

4 A. Investors are balancing the risk and
5 return on the investments that they make.

6 Q. And they choose them based upon what they
7 think they can earn in the marketplace?

8 A. What I was getting at is the DCF model is
9 designed -- was derived to come up with what return
10 shareholders wanted the company -- believe the
11 company should earn. Okay. And their return is
12 based upon --

13 Q. By the company to earn, not the return the
14 investors are to earn?

15 A. Right. Their return -- excuse me -- is
16 based upon any dividends that they receive and
17 capital appreciation and the price of the stock.

18 Q. Okay. On page 6 of your rebuttal
19 testimony, you speak of Mr. Olson's analysis, and
20 you say that it is irrelevant because it's a
21 superficial look at the earned return of the
22 Standard and Poor's 500 versus what he says gas
23 utility stocks have earned. Why is the earned
24 return of the Standard and Poor 500 irrelevant to
25 what should be the required return of Laclede?

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1 Q. Well, what I was trying to go out at is,
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2 when we look at returns, what a company actually
3 earned may be more or less than what was required
4 by investors, and it's my opinion that as a whole
5 the S and P 500 has earned substantially more than
6 investors were requiring. They had a positive
7 economic value added is the term, and the concept
8 of economic value added goes to how much return did
9 the company earn in excess of what the investors
10 were requiring. How much extra was the company
11 able to give its investors in whatever given
12 period.

13 And it's my belief that they have -- the
14 S and P 500 as a whole has been, over the last
15 several years, has been very good at -- done a good
16 job at giving investors returns that are in excess
17 of what they were requiring.

18 Q. So you think it's irrelevant what the
19 market was giving on their return?

20 A. Yeah. I think that what -- excuse me --
21 what I think his analysis -- well, when it comes
22 down to it, I don't think he did an analysis of
23 what investors' expectations are for Laclede. And
24 I believe in the context of setting rates here what
25 we're supposed to be looking at is what investors

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1 are requiring of Laclede.

2 Q. Okay. I'd like you to try to answer
3 some -- a couple of related questions here. If

4 Laclede were granted a 12.5 percent return on book
5 value --

6 A. Okay.

7 Q. -- what would be the rate that investors
8 would actually receive on their investment?

9 A. I mean, I would have to make an assumption
10 as far as what the investors purchased the stock
11 at. And are you wanting us to assume a current --

12 Q. Yes.

13 A. I believe there was -- well --

14 Q. You can approximate it. I'm sure you
15 don't know exactly what the current is of this
16 minute but --

17 A. I mean, what I was saying is, I believe
18 one of the company's witnesses did an analysis
19 along those lines, and I don't it was
20 mathematically incorrect. And I think the return
21 came out to be somewhere around 10 percent.

22 Q. Okay. And you don't disagree with that?

23 A. The math, no. I think the . . .

24 Q. Okay. Then what is your -- what do you
25 think that the investors would receive if the

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1 company were granted Staff's low-end recommendation
2 of 9 percent on book value?

3 A. I think the math that we went through with
4 the -- well, I went through in my deposition, the
5 company showed us the big chart --

6 Q. Okay. I don't have that before me
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7 anymore.

8 A. I think I've got it. They showed a low --
9 this is what you're --

10 Q. I don't recall the number of this exhibit
11 that we're talking about.

12 JUDGE DIPPELL: It was in the opening
13 statement.

14 MR. MICHEEL: It's Exhibit No. 110,
15 Commissioner.

16 THE WITNESS: I believe it comes out to be
17 around 60 percent is their return.

18 BY COMMISSIONER MURRAY:

19 Q. And you don't disagree with those numbers?

20 A. The mathematics of the way it was, no.

21 Q. And do you think that those returns are
22 adequate to ensure continued investment in Laclede?

23 A. Yes.

24 Q. And that would include the dividend, is
25 that true, at 6 percent? The dividend would be

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1 included in that 6 percent; is that correct?

2 A. Right. This is what the company would be
3 allowed to earn, and then what their dividend
4 policy was -- would be going forward.

5 Q. So that if they were paying at 9.75
6 percent dividend. That would be .25 percent
7 growth?

8 A. Well, I don't -- if they were paying

9 that -- let me think about that. Excuse me.
10 Sorry. I'm assuming you're talking about they are
11 paying a five and three quarter percent dividend on
12 their current market value, which is somewhere
13 close to what their current dividend of \$1.32, I
14 believe is what their -- \$1.32 or .34. Last year
15 their dividend was \$1.32. So if they kept,
16 sustained -- you're assuming that they sustained
17 that level of dividend?

18 Q. I'm assuming that, yes.

19 A. Okay. Correct. Then what they would have
20 available for the growth component -- excuse me --
21 was one point -- a dollar -- just over \$1.40 plus a
22 \$1.32 or about 8 -- a little over 8 cents.

23 Q. And your opinion on that is that adequate?

24 A. I believe, yes, from the -- and I'm
25 getting that based upon my belief that investors

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1 are intelligent and rational people. They are
2 aware that utilities operate, what type of
3 environment utilities operate in and how their
4 rates are set. And according to their behavior,
5 this is what they're telling us, investors are
6 saying this.

7 Q. That they are less concerned with what
8 they earn than they are with the fact that they
9 understand why the company isn't earning so much?

10 A. I'm sorry? I don't understand.

11 Q. Strike that.

12 I had a couple of other questions. I'm
13 just having trouble locating them. Can I pass to
14 Commissioner Schemenauer and possibly ask another
15 question later?

16 JUDGE DIPPELL: Sure.

17 Commissioner Schemenauer, did you have
18 some questions?

19 COMMISSIONER SCHEMENAUER: Just one or
20 two.

21 QUESTIONS BY COMMISSIONER SCHEMENAUER:

22 Q. And as long as we're talking about how the
23 stock market works, I would just like to follow
24 along that vein. Right now the utility stocks are
25 looked at as investments much like bonds are.

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1 Investors look at a safe investment to yield a less
2 than volatile return so that they have some
3 stability in their earnings, would you agree with
4 that?

5 A. I believe, yes. I agree that generally
6 they trade.

7 Q. And generally the dividend on Laclede's
8 stock right now is yielding -- looking at the
9 market price of their stock around \$23. It's
10 yielding around 5 and a half to 6 percent --

11 A. Yes.

12 Q. -- in that area?

13 A. Yes.

14 Q. What would happen to the price of
15 Laclede's stock if all of the sudden the dividend
16 yield was 10 percent of the market value of that
17 \$23 stock? What would happen to the price of their
18 stock?

19 A. What would happen to the price of their
20 stock if their yield was 10 percent on that same,
21 so they went from paying a \$1.30 to --

22 Q. \$2.30.

23 A. More than likely it would go up.

24 Q. Investors wouldn't buy it, and it would
25 drive it up until that yield dropped back down to

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1 with the expense; is that correct?

2 A. Yeah.

3 Q. I mean, those that had the stock to start
4 with would pick up the appreciated gains, but those
5 new coming in, they're going to try to achieve that
6 10 percent yield, and they will bid the price of
7 that stock up until it drops back down to
8 somewhere, 5 and a half, 6, 7 percent, something
9 like that? I mean, that's how the market works,
10 and the only people who can really regulate how
11 much that dividend is each year is the company?

12 A. That is correct.

13 Q. And it's incumbent on the company to earn
14 as much money as the company can so they can pay
15 the dividends?

16 A. That's correct.

17 Q. And that's what they're trying to do here,
18 I mean, they are trying to --

19 A. Yes.

20 Q. -- establish a rate of return on their
21 equity that would increase their earnings so they
22 can increase their dividends and drive the price of
23 their stock up? I mean, that's -- I realize they
24 want a fair rate of return, and they want to stay
25 in business, but they also want to be successful?

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1 A. That's correct.

2 Q. You don't have any argument with what
3 their mission here is?

4 A. No. I believe that they are representing
5 their shareholders, which is what their duty is to
6 do.

7 Q. And the task of the Commission is to look
8 at everything and come to some kind of a balance
9 between public interest and the public good and the
10 ability of that company to stay in business and
11 investors to make some money?

12 A. Correct. Yeah.

13 COMMISSIONER SCHEMENAUER: That's all I
14 have. More commentary, I guess, but thank you.

15 JUDGE DIPPELL: Commissioner Murray, did
16 you have another question?

17 COMMISSIONER MURRAY: I still haven't
18 located it.

19 BY COMMISSIONER MURRAY:

20 Q. It was related to the bond rating --

21 A. Yes.

22 Q. -- and the fact that with your revised
23 schedules, you determined that with Staff's
24 recommendation that was not sufficient to maintain
25 the -- I think it was the double A?

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1 A. They are currently rated double A minus,
2 and I did state that the interest coverages that I
3 calculated from my revised schedule were below what
4 the financial means were for a double A and A rated
5 utility. But, there's a but, since my -- excuse
6 me -- my direct testimony has come out, Standard
7 and Poor's has issued revised targets for LDCs or
8 for utilities in general -- excuse me -- it isn't
9 specific to LDCs. And that current target is 3.4
10 to 4.0 times pre-tax interest coverage for a
11 utility with a business position that Laclede has.
12 And the high end of my range is at 3.46 calculation
13 that I had.

14 Q. So are you saying that the range is where
15 Laclede could still maintain its current credit
16 rating, current bond rating?

17 A. There's a -- I had that sheet somewhere,
18 and I can't find it right now. What I'm saying is
19 that those -- whether they could maintain their
20 credit rating depends on a lot of things that are
21 outside the control of this Commission, and I don't

22 necessarily think it's appropriate for us to set a
23 rate. So that's a target for a -- so a company can
24 have a certain credit rating, because if, you know,
25 a double A, you know, what is that appropriate

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1 rating and all that.

2 But based on the revised targets that have
3 been issued by Standard and Poor's, Laclede -- what
4 I'm recommending at the high end is at the low end
5 of what would be within the targets.

6 Q. Okay. On page 5 of your direct testimony
7 you quote from Federal Power Commission et al.
8 versus Natural Gas Pipeline Company of American et
9 al.

10 A. Okay.

11 Q. And the Court stated in the middle of that
12 quote, the return should be reasonably sufficient
13 to assure confidence in the financial soundness of
14 the utility and should be adequate, under efficient
15 and economical management, to maintain and support
16 its credit and enable it to raise the money
17 necessary for the proper discharges of public
18 duties. Don't you think that we need to make sure
19 that as a part of our regulation, that we look at
20 the ability of a utility to maintain and support
21 its credit?

22 A. Correct. I just believe -- I don't
23 necessarily think that means a certain credit

24 rating by support and maintain its credit. The
25 debt that the company has outstanding, it has to be

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1 able to support that and maintain that -- excuse
2 me -- comply with all the criteria that's within
3 its bond indenture, you know, the interest
4 coverage, the requirements that are stated there,
5 you know. So there's no threat of bankruptcy, that
6 type of thing.

7 Q. So you're not -- you don't think that it's
8 particularly important that we not create a
9 situation in which their rating would drop to a
10 triple B, for example?

11 A. Correct. There are utilities in the State
12 that are rated triple B and have the ability to
13 attract capital and maintain and support their
14 credit, you know, like it's stated in here. So a
15 triple B rating or a double A or a triple A rating
16 for that matter isn't inherently, in my opinion,
17 necessarily better -- one be better than another.

18 COMMISSIONER MURRAY: I believe that's all
19 of my questions. Thank you.

20 JUDGE DIPPELL: Okay. Mr. Broadwater, I
21 know that some of the other Commissioners have
22 questions for you.

23 THE WITNESS: Okay.

24 JUDGE DIPPELL: I'm going to go ahead and
25 ask for recross based on the questions from the

1 Bench thus far. And then when those Commissioners
2 come in, they will have some additional question,
3 and then we'll have recross on those when they are
4 asked.

5 THE WITNESS: Okay.

6 JUDGE DIPPELL: Okay. I'm sorry. Did you
7 have a question?

8 THE WITNESS: No. I was just going to ask
9 if -- I still have got some stuff of the Company's
10 here.

11 JUDGE DIPPELL: Is there recross based on
12 questions from the Bench from Ameren UE?

13 MS. KNOWLES: No, no questions.

14 JUDGE DIPPELL: Public Counsel?

15 MR. MICHEEL: Yes, I have some questions.

16 RECROSS-EXAMINATION BY MR. MICHEEL:

17 Q. Mr. Broadwater, I believe it was
18 Commissioner Murray who asked you about Exhibit
19 110, which has been marked, but not admitted as
20 evidence to the best of my knowledge. And you
21 indicated that you agreed with the math on that
22 exhibit; is that correct?

23 A. Yes.

24 Q. Do you agree with the underlying theory of
25 what that exhibit is attempting to show?

1 MR. PENDERGAST: I think I'm going to
2 object. I think, you know, it's been kind of the
3 practice around here that we don't engage in
4 friendly cross. It seems to me that that's what
5 we're starting down the road for.

6 JUDGE DIPPELL: Do you have a response
7 Mr. Micheel?

8 MR. MICHEEL: I think it's directly
9 relevant to what Commissioner Murray asked, and I
10 just didn't know that there was any sort of
11 prohibition from friendly cross. And I think
12 under -- I think it's 536.520, I'm entitled to ask
13 any cross-examination questions. And I also think
14 that it's wholly appropriate for cross-examination
15 based on Commission questions to ask. I mean, I
16 think I'm entitled to ask all the questions, your
17 Honor.

18 JUDGE DIPPELL: I just have one other
19 question to Mr. Pendergast. Exhibit 110 was also
20 contained in one of the other witness's testimony,
21 wasn't it?

22 MR. PENDERGAST: I believe it was. It
23 just didn't have the red next to the 6 percent.

24 JUDGE DIPPELL: I'm going to allow the
25 witness to answer question.

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1 THE WITNESS: As far as the theory that is
2 embedded in there, I don't believe -- or I haven't
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3 had time to really dig through the whole schedule.
4 I didn't take the -- I haven't taken the time as of
5 yet to really tear it apart and consider all the
6 theory that went into it, so I would hesitate on
7 making a judgment on it one way or the other.

8 BY MR. MICHEEL:

9 Q. Okay. Commissioner Schemenauer asked you
10 some questions about your DCF analysis and what
11 investors expect. Do you recall those questions?

12 A. Yes.

13 Q. Does your analysis balance, in your
14 opinion, the shareholder interest and the public
15 interest?

16 A. I believe they do.

17 Q. Commissioner Murray asked you a line of
18 questions about bond ratings. Do you recall those
19 questions?

20 A. Yes.

21 Q. And specifically she asked you about the
22 interest coverage ratios. Do you recall those
23 questions?

24 A. Yes.

25 Q. Are interest coverage ratios only one

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1 factor that Standard and Poor utilizes in rating
2 bonds?

3 A. That's correct.

4 Q. Are there other factors?

5 A. Yes. Both quantitative and qualitative
6 factors go into the overall bond rating.

7 Q. And are you aware of whether or not those
8 guidelines, if you will, are strictly adhered to or
9 sometimes are utilities below certain guidelines
10 and above others and it comes out to a wash or bond
11 rating?

12 A. My understanding that a lot of the
13 quantitative targets do fall in line. So if a
14 company is below or at the low end on one, most of
15 the others fall in line, but the company can have
16 numbers that are below what they say is the target
17 for a certain credit rating, and yet the company --
18 the rating agency hasn't yet issued a downgrade or
19 anything like that because of presumably
20 qualitative attributes of the company that they
21 believe still support that credit quality.

22 Q. In fact, isn't it correct that currently
23 Laclede has some objective number of standards that
24 are below double A and yet their bond is still
25 rated double A?

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1 A. I know at the time of our writing direct,
2 that was the case. Like I said, these new targets
3 came out the very end of June, and I haven't poured
4 over those yet to see where Laclede's currently
5 stacks up versus the new targets.

6 Q. Let me ask you this with respect to
7 interest coverage ratios in general. Is the

8 company's return on equity the only item that
9 affects the interest coverage ratio?

10 A. No. The interest coverage ratio basically
11 takes a look at what income the company has
12 available to pay interest expense divided by what
13 that interest expense is. So earnings are one
14 component, but there are others.

15 Q. Okay. Let's assume for me that there is
16 some -- let me ask you this: Is it a triple B bond
17 rating investment grade bond ratings?

18 A. Yes, it is.

19 Q. And what does it mean if a bond is an
20 investment grade bond?

21 A. When bonds are -- have a credit rating of
22 an investment grade, there are -- what it boils
23 down to is the supply of people who buy those bonds
24 is much greater because several -- let me say that
25 investors in fixed-income type securities,

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1 insurance companies, banks, pension funds, that
2 kind of thing, many of them have clauses that they
3 are only to invest in investment grade securities,
4 debt securities, that type of thing. And so if you
5 drop below investment grade, generally speaking,
6 the supply of investors to purchase your securities
7 drops, so given supply and demand usually have to
8 issue a much higher interest rate.

9 MR. MICHEEL: I think that's all I have.

10 JUDGE DIPPELL: Okay. I'm going to go
11 ahead then and let Commissioner Drainer ask her
12 questions before we continue with the recross. So
13 I'm kind of getting us out of order a little bit
14 here, but I think in the lime light it will make it
15 smoother.

16 COMMISSIONER DRAINER: It's my fault. I'm
17 sorry for getting us out of order.

18 QUESTIONS BY COMMISSIONER DRAINER:

19 Q. well, good afternoon.

20 A. Good afternoon.

21 Q. Do you have some water? It looks like you
22 have two pitchers now.

23 A. I think it had to be people before me
24 drank it all.

25 Q. Okay. I just have a few things I want to

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1 understand. Your discounted cash flow model
2 analysis --

3 A. Correct.

4 Q. -- what was the return on equity
5 percentage that you ended up with?

6 A. I came up with a range of between 9 and 10
7 percent.

8 Q. Okay. That was as was shown in your
9 direct testimony on page 28, correct?

10 A. That sounds correct, yes.

11 Q. Okay. what was the discounted cash flow
12 model rates in the 1998 case?

13 A. They were, I believe below that. Let me
14 see if I have them. I have that testimony here.
15 8.25 to 9.15.

16 Q. All right. And in your direct testimony
17 after you gave your discounted cash flow range, on
18 page 29, I guess what would be considered a
19 reasonable analysis or comparison by looking at the
20 lines 6 through 8, the Moody's Bond Record --

21 A. Yes.

22 Q. -- by adding 355 basis points --

23 A. Yes.

24 Q. -- you came up with 10.66?

25 A. Correct.

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1 Q. Okay. Now, so by using that analysis, are
2 you also saying that that would have been a
3 reasonable rate?

4 A. What I'm saying is that I believe that the
5 DCF model is the most appropriate, and I looked at
6 the risk premium analysis as applied to Laclede,
7 the capital assets, the pricing model as applied to
8 Laclede, and then I looked to the group of
9 comparable companies and applied the DCF analysis,
10 the risk premium and all those -- and took all
11 those other results as a whole and compared it to
12 the 9 to 10 percent to see if that appeared
13 reasonable.

14 Q. Okay. I understand that. But what is the

15 purpose of lines 6 through 8 on page 29 of your
16 direct testimony? Is that to show that that is
17 also in the ballpark or would be considered a
18 reasonable rate of return or return in equity?

19 A. Yes.

20 Q. Okay. And then now I really want a
21 clarification on the companies that you used for --
22 you said another method you use is looking at
23 comparable companies?

24 A. Correct.

25 Q. And the eight companies that you used, are

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1 those the same eight companies that are in your
2 surrebuttal testimony, Schedule 1?

3 A. Yes. It was my intent at the time and I
4 just double checked to make sure.

5 Q. Okay. Those are the --

6 A. Those are the same companies.

7 Q. That seven companies plus Laclede?

8 A. Yes.

9 Q. All right. Ms. McShane --

10 A. Yes.

11 Q. -- you used different LDCs even when she
12 did her comparison on, what, return equity, but she
13 did use one Missouri base company, Atmos?

14 A. Yes. I believe that --

15 Q. Why don't we use Missouri companies?

16 A. Because of what Mr. Pendergast was talking
17 about, we've tried to --

18 Q. What was Mr. Pendergast talking about?

19 A. Circularity was what he was going to was
20 the argument, and that when we're looking at
21 comparable companies, we want to get rid of any
22 companies that we would happen to regulate, so
23 there wouldn't be any argument that we set their
24 return, and that's what investors are using to come
25 up with their growth estimates or anything else.

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1 And then whether in that circular argument you
2 can -- the argument goes that you will drive a
3 particular utility's return to an unreasonable
4 level only looking at what a Commission does to a
5 specific company. And by excluding that and
6 Missouri companies and looking at those comparable
7 companies, we believe that if those results are
8 comparable to what we get on a company-specific
9 basis, we believe that shows that we haven't at
10 least reached that point yet as far as
11 circularity.

12 Q. Okay. Mr. Broadwater, and please forgive
13 me for being dense, but I don't understand what we
14 mean by the circularity. So let me ask you, I am
15 asked to regulate utilities here in Missouri --

16 A. Correct.

17 Q. -- and I, in other utilities, look at
18 their rate structure and even in this case under
19 rate design there was a discussion about the \$12

20 monthly rate as the highest, and the highest in
21 this State, and they do those comparisons. And it
22 seems that it would behoove us if we're going to in
23 other areas not just with this company, but with
24 all our utilities, look at comparisons and saying
25 that if there's any homogeneity in trying to hold

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1 all things similar, looking at the State of
2 Missouri would be the first place we'd start.

3 So why when it comes to return on equity,
4 why don't we first of all, at least tell the
5 Commissioners about what's happening to the
6 utilities here in the State of Missouri, if for no
7 other reason than for just information?

8 A. So you're talking about informing or
9 taking a look at what other Missouri companies
10 required returns are?

11 Q. Uh-huh. Why would we not use them for
12 comparison? You know, it's kind of like in real
13 estate they say it's three things, location,
14 location, location. Well, why don't we -- I mean,
15 what would it harm to tell me about Atmos and MGE
16 and UE? I mean, they all have gas business and are
17 regulated here in Missouri.

18 A. Well, if we just put it in there for
19 informational purposes alone, I'm not sure it would
20 harm anything to put down what required returns are
21 on other gas companies within the State. The only
22 thing I -- what my initial thought is that the

23 companies that you have listed there at least like
24 Atmos, MGE, Ameren UE and Laclede are all very
25 different animals -- excuse me -- Atmos has a very

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1 small percentage of it operating here in Missouri.
2 They are very diversified among jurisdictions.
3 Ameren UE is mostly an electric company
4 and most of its risks and that's going to be
5 reflective of its electric operations as opposed to
6 its gas operations. MGE, just from a financial
7 point of view, is a much more -- doesn't have
8 anywhere near the equity and the risk is much
9 different between MGE and Laclede from a financial
10 prospective.

11 Q. But couldn't you tell me about that when
12 you do a comparison?

13 A. Yes. I mean, right. I would imagine that
14 if we would go through and do an analysis and show
15 a quick number, there would be some kind of
16 disclaimer or whatever you want to put that these
17 are other Missouri companies, but they may be
18 different in these ways or something like that.
19 But by all means it would be -- we would be able to
20 do that type of analysis. If you would like to see
21 that, we can do that even in this case or in future
22 cases going forward.

23 Q. I would like to see that, if it could be
24 done and presented in the record in a timely

25 fashion so that if any parties needed to address

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1 it, they could. But it just seems to me that when
2 you say you can give it to me for information that
3 that's what the cases are about is to provide the
4 Commission that all parties try to provide us with
5 as much information as possible in making our
6 decision. And that might -- we can get it the
7 weight it deserves, but I would appreciate any
8 information we can have on Missouri-base
9 companies.

10 A. Okay. I can put a schedule together very
11 similar to the comparable company analysis, but
12 have the Missouri companies in there and go through
13 that --

14 Q. All right.

15 A. -- and get that to you.

16 Q. Thank you. And if it's not appropriate in
17 this case because someone objects, I will not be
18 personally offended. I obviously understand that,
19 but I would appreciate having that information, and
20 I thank you very much. And let's see. I think
21 that probably pretty much takes care of everything,
22 other than when you talk about the discounted cash
23 flow, and please correct me if I am wrong, but it
24 does seem to me that that seems to be the model
25 that has been most heavily relied upon by this

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1 Commission and others through the years; is that
2 correct or not?

3 A. It is correct.

4 Q. If you had to pick a model because you did
5 different comparisons, you know, the comparisons
6 between companies like you said the discount cash
7 flow, which one are you the most comfortable
8 relying on in the short time frame if you had to do
9 one?

10 A. The DCF model.

11 COMMISSIONER DRAINER: Okay. well, thank
12 you very much. I appreciate your answers.

13 THE WITNESS: Thank you.

14 JUDGE DIPPELL: Commissioner, let me make
15 sure that I'm clear on what you were requesting
16 from Staff. Did you want the rate of return on
17 other Missouri gas companies or a comparison
18 similar to --

19 COMMISSIONER DRAINER: The eight company
20 comparisons he did.

21 THE WITNESS: I believe it should be
22 return on equities?

23 COMMISSIONER DRAINER: Right.

24 THE WITNESS: Return on equity, not rate
25 of return.

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1 JUDGE DIPPELL: Okay. So similar to
2 Schedule 1 for Missouri companies, and I'll reserve
3 Exhibit No. -- I'm sorry.

4 THE WITNESS: Schedule 1 to my surrebuttal
5 was a historical look, and I think it was my
6 understanding that what she was wanting was
7 something akin to, like, Schedules 22?

8 COMMISSIONER DRAINER: 29.

9 THE WITNESS: 29 you said?

10 COMMISSIONER DRAINER: No, wait. Excuse
11 me.

12 THE WITNESS: It would probably be shorter
13 than that, but a DCF analysis of the other Missouri
14 companies similar to what I go through on Schedules
15 22, 23, 24 and some up on 25, that's --

16 JUDGE DIPPELL: Okay. So return of equity
17 of other Missouri gas companies?

18 THE WITNESS: Correct.

19 JUDGE DIPPELL: It sounds like the witness
20 understands what he's --

21 COMMISSIONER DRAINER: And it would also
22 have Schedule 29.

23 THE WITNESS: 29?

24 COMMISSIONER DRAINER: Yes.

25 JUDGE DIPPELL: And we'll address late

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1 filed exhibits and times for objections and so
2 forth at the end of the hearing, but I'm going to
3 reserve Exhibit No. 117 for that.

4 Chair Lumpe, did you have questions for
5 Mr. Broadwater?

6 CHAIR LUMPE: I have a feeling they have
7 all been asked, so I'll pass.

8 JUDGE DIPPELL: Okay. Then I'm going to
9 go back then for recross based on questions from
10 the Bench.

11 Ameren UE, did you have any questions?

12 MS. KNOWLES: No questions.

13 JUDGE DIPPELL: Public Counsel, did you
14 have additional questions?

15 MR. MICHEEL: No.

16 JUDGE DIPPELL: Laclede?

17 MR. PENDERGAST: Thank you, your Honor.

18 RECROSS-EXAMINATION BY MR. PENDERGAST:

19 Q. You were asked a number of questions about
20 the impact of your recommendation on Laclede's
21 credit rating. And first of all, are you aware,
22 Mr. Broadwater, of whether or not you filed
23 recommendations in the past in relationship to the
24 Laclede's sale of first mortgage bonds expressing
25 concern over a significant weakening of our bond

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1 rating and that that was a concern to Staff. Does
2 that sound familiar?

3 A. Excuse me. Vaguely so.

4 Q. Okay. Why would you be expressing concern
5 about significant weakening of Laclede's bond

6 rating? Why would that be a matter of concern to
7 you?

8 A. I'd have to -- I mean, do you mind if I
9 look at what you proposed that you had there?

10 JUDGE DIPPELL: If you would like to show
11 that to Mr. Poston first?

12 MR. PENDERGAST: Oh, excuse me.

13 MR. POSTON: Thank you.

14 THE WITNESS: I believe what I'm -- well,
15 let me read some of the details a little closer. I
16 don't have attachment 1 here, but I would guess
17 from the comments where we say, Company's indicated
18 that they are working to maintain a capital
19 structure of an investment grade natural gas
20 distribution company as defined by Standard and
21 Poor. I believe we were making some comment that
22 we would have some concerns if the Company was
23 downgraded below investment grade is what our
24 concerns were that were brought up in that.

25 BY MR. PENDERGAST:

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1 Q. Your specific words were that you would
2 have a significant -- you would have a concern
3 about any significant downgrade; is that right?

4 A. The potential of the Company to
5 significantly weaken its bond rating is a concern
6 to the Staff.

7 Q. And my question to you is, why would a
8 significant weakening of our bond rating be a

9 concern to the Staff?

10 A. I would go back to wanting the Company to
11 maintain its financial integrity.

12 Q. Okay. Did you recall Mr. -- you have had
13 some discussion of your schedule, and you indicated
14 that if you look at some additional factors and
15 some additional ratings criteria that perhaps were
16 just at the cusp of sliding into a downgrade, do
17 you recall in Mr. Fallert's rebuttal testimony that
18 in addition to the problem that we discussed
19 earlier where you only included one-twelfth of the
20 short-term debt in your interest coverage
21 calculation, that Mr. Fallert said that you also
22 incorrectly used the marginal tax rate rather than
23 the effective tax rate to calculate income taxes?

24 A. Yes, I read that.

25 Q. Okay. And he also said that you had

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1 excluded some utility interest charges such as
2 interest on customer deposits which should be
3 included?

4 A. Yes, I read that.

5 Q. And that both of these items or your
6 failure to take them into account artificially
7 inflated the calculated interest coverage ratio?

8 MR. POSTON: I object to these questions.
9 These aren't related to anything that the
10 Commission asked.

11 MR. PENDERGAST: He was cross-examined
12 extensively, and he pulled out his sheet, and he
13 said, well, based on some new criteria I don't
14 think maybe it's bad a situation as we thought, and
15 I'm trying to probe that a little bit.

16 JUDGE DIPPELL: I think it's within the
17 extent of the questions from Commission Murray.

18 You can proceed.

19 BY MR. PENDERGAST:

20 Q. Do you recall reading that?

21 A. Yes, I did read that.

22 Q. And did you take any issue with that in
23 your surrebuttal testimony?

24 A. No.

25 Q. And have you filed any kind of schedule or

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1 anything of that nature to make those corrections?

2 A. No.

3 Q. You were also asked a number of questions
4 by Mr. Micheel about other analyses that are done
5 by rating agencies and what a particular credit
6 rating should be for a particular company?

7 A. Is there an analysis?

8 MR. POSTON: Can I see those, your Honor?

9 MR. PENDERGAST: I'm sorry. I apologize.

10 BY MR. PENDERGAST:

11 Q. Mr. Broadwater, could you please identify
12 the document I've just handed you?

13 A. It's a Staff recommendation for approval

14 of authorization and sale of common stock.

15 Q. And could you look at the last -- well, by
16 the way, who authored that recommendation?

17 A. It was from myself.

18 Q. Okay. Could you turn to the last page
19 there, and tell me what's reflected on that last
20 page?

21 A. Selected proforma financial ratios for
22 Laclede Gas Company.

23 Q. Okay. And what are those -- well, do you
24 have ratings alongside of those ratios?

25 A. Yes. We list Standard and Poor's

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1 financial medians there for both the A and triple B
2 rating.

3 Q. Okay. And can you tell me in your
4 testimony and the thing that we went through, the
5 lengthy exercise with correcting, that just had to
6 do with interest coverages, right?

7 A. Correct.

8 Q. And these have to do with other types of
9 criteria that are used for rating purposes; is that
10 right?

11 A. Yes. The ones that we have financial
12 medians for the pre-tax interest coverage ratio,
13 which we've discussed funds from interest coverage,
14 funds from an operation to total debt and total
15 debt to total capital.

16 Q. Okay. And whenever somebody does a bond
17 issuance or an equity issuance and asks Commission
18 approval for that particular financing, you do all
19 of these analyses in order to determine what the
20 impact might be on their bond rating; isn't that
21 correct?

22 A. Well, like, I don't know who I was talking
23 to at the time, but someone that we talked about
24 that these are the financial or the quantitative
25 criteria that Standard and Poor publishes. There

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1 are many other qualitative factors that go into a
2 bond rating that we can't assess, but we do --
3 excuse me -- list the potential, what the ratios
4 will do on a proforma basis as compared to some
5 standard that's put out by Standard and Poor.

6 Q. Okay. Well, if we look at funds from
7 operations total debt, and you were to do an
8 analysis to determine what the impact of Staff's
9 recommended return would be similar to the one you
10 did for interest coverages, would that suggest that
11 Staff's low end is a BB rating?

12 A. Correct. That's where it falls out in this
13 based upon the medians that were at this time.

14 Q. Okay. And what would a -- you talk about
15 investment grades, is BB considered an investment
16 grade?

17 A. Triple, BBB or triple B is investment
18 grade, yes.

19 Q. Well, I'm asking you under your
20 recommendation at the low end, have you done an
21 analysis to show what your recommended return would
22 imply as far as that particular criteria is
23 concerned and would it not imply a BB, not a BBB,
24 but a BB?

25 A. So you're asking if I've looked at what

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1 the funds from operation to total debt ratio would
2 be for Laclede assuming a 9 percent --

3 Q. Yes.

4 A. No. I have not done that analysis.

5 Q. Have you done it for a 9.5 percent?

6 A. No.

7 Q. Would you accept subject to check that if
8 you're 9 percent it would suggest a BB?

9 A. If that's the analysis you done, that's
10 fine. And that's based upon these medians here
11 that are listed?

12 Q. Would you like to go over the figures?

13 A. No. No. I just meant your -- I didn't
14 know where you were getting a BB. Are you saying
15 it's just less than 14, or are you saying that you
16 have what the published target or median is for a
17 double B rated gas distribution company?

18 Q. I guess I'm saying -- I better not
19 testify, Mr. Broadwater. I might get myself in
20 trouble. But when you, subject to check, that's

21 entirely possible?

22 A. Standard and Poor doesn't publish what the
23 targets are for double B, at least that I've seen,
24 let me qualify my statement.

25 Q. Okay.

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1 A. I'm going to come back and say they have
2 got them here. And the new rating, the previous
3 that didn't, I apologize. And you're talking about
4 funds --

5 Q. From operations to total debt.

6 A. For a double B rated utility with a three
7 business position, which I believe is what Laclede
8 was slotted at by Standard and Poor's, it comes in
9 at between 14 and 9 and a half.

10 Q. And that would imply what?

11 A. That's the revised utility group financial
12 targets for a double B rated company.

13 Q. Okay. And that assumes that we retain our
14 status as what did you say, number three position
15 or --

16 A. Yes. I believe that's where the business
17 position that Standard and Poor has slotted Laclede
18 at.

19 Q. You start getting down to BB territory,
20 are you in danger of losing that number three
21 average business position, Mr. Broadwater? Is that
22 a possibility?

23 A. I would imagine it would be possible, but
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24 I don't know exactly all that goes into a -- into
25 their business position criteria. I don't know

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1 what they would do.

2 Q. Are you aware that the qualitative
3 measures used by Standard and Poor are used in
4 determining the business position?

5 A. I wasn't specifically aware of that.

6 Q. Okay. Well, let me ask you another
7 question. You answered some questions by
8 Commissioner Murray, and it had to do with she was
9 asking you to go through the example of how much
10 money would be left over after a payout of our
11 normal dividend based on current market prices, and
12 you indicated that there would be 8 cents left over
13 if we maintained our dividend at its current level;
14 is that right?

15 A. I believe that was from the schedule that
16 the company had put together.

17 Q. Okay. And you didn't take that
18 calculation, did you?

19 A. No. I believe I stated that. I believe
20 the math flowed through was correct.

21 Q. And in your analysis you're assuming 3 and
22 a quarter to 4 percent growth for Laclede; is that
23 correct?

24 A. That's what the -- yes. In my DCF
25 analysis.

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1 Q. Okay. And can you tell me what a 3 and a
2 half to 4 percent growth would be on the current
3 market value of our stock, and I think we've been
4 using \$23 quite a bit here in the last several
5 hours?

6 A. It would translate to a stock price close
7 to \$23.70.

8 Q. Okay. So we'd be talking about your
9 estimating growth of 70 cents in our stock?

10 A. Let me make sure. Did you say 3 percent?

11 Q. 3.25 to 4 percent. I think that's your
12 growth rate.

13 A. Yeah. I'm sorry. I just used 3 percent
14 to come up with that 23.70 number. I could use
15 4 percent. It would be 23.92.

16 Q. Okay. 92 cents. So after we pay out the
17 dividend, and I'm saying let's assume we keep that
18 constant, no growth, just the same dividend, we
19 have 8 cents to go in and generate 92 cents worth
20 of growth?

21 A. That was a question?

22 Q. Yes.

23 A. Yes.

24 Q. Okay. Would you agree with me that many
25 institutional investor can only invest in A rated

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1 bonds and above?

2 A. No, I'm not -- wasn't aware of that.

3 Q. For those investors that have purchased
4 outstanding debt of Laclede, do you know if any of
5 them did it on the expectation that we would remain
6 double A?

7 A. I can't specifically speak to what their
8 expectations, any individual bondholders'
9 expectations were.

10 Q. Vice Chair Drainer asked you a number of
11 questions about comparisons with Missouri
12 utilities, and I think you had a little discussion
13 about maybe Missouri Gas Energy and Ameren UE. Is
14 Missouri Gas Energy a triple B company?

15 A. Southern Union.

16 Q. Southern Union, their parent?

17 A. Yes. I believe MGE is a division of
18 Southern Union.

19 Q. And would you agree with me that -- and
20 I've got Mr. Bible's direct testimony from the last
21 case -- that their cost of imbedded long-term debt
22 is significantly higher than Laclede's?

23 A. I'm not -- I don't know what their
24 imbedded cost of long-term debt is.

25 MR. POSTON: Your honor, I'm going to

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1 object. There was no real questions being asked

2 about any specifics about MGE. They were just
3 questions about perhaps Staff putting together some
4 schedules.

5 JUDGE DIPPELL: Where is your question
6 heading, Mr. Pendergast?

7 MR. PENDERGAST: I just wanted to
8 illustrate the impact of the downgrade in our bonds
9 by pointing to the higher cost debt that the
10 utilities that don't have the kind of rating we
11 have incurred in past long-term customers.

12 JUDGE DIPPELL: I don't think that that
13 was contained in the scope of Commissioner
14 Drainer's question. I think it was a more general
15 question as to Missouri companies and the
16 information that was or wasn't provided, so I'm not
17 going to allow that question.

18 MR. PENDERGAST: That's fine, your Honor.
19 I have no further questions.

20 Thank you, Mr. Broadwater.

21 JUDGE DIPPELL: Is there redirect from
22 Staff?

23 MR. POSTON: Yes. Thank you.

24 REDIRECT EXAMINATION BY MR. POSTON:

25 Q. Mr. Broadwater, does the Commission

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1 regulate for a specific market to book ratio?

2 A. No.

3 Q. Does the Commission regulate to a specific
4 credit rating?

5 A. No.

6 Q. On page 31 of your direct testimony you
7 made some changes this morning, and should you
8 update those interest coverage ratios for the most
9 recent S and P anointment on coverage ratios?

10 A. Again, like I talked about with
11 Commissioner Murray, I believe Standard and Poor
12 has issued what they call utility financial targets
13 are revised and is a part of that. They show --

14 MR. PENDERGAST: All right. Your Honor,
15 I'm going to object at this point. We raised an
16 issue of the impact of Staff's rate of return
17 recommendation on our bond ratings in
18 Mr. Broadwater's deposition. We filed rebuttal
19 testimony indicating that it was consistent with a
20 triple B credit rating. We had no response
21 whatsoever from Staff in the surrebuttal testimony
22 disputing that in any manner. And now, what I see
23 is Staff trying to somehow change what its
24 schedules are for the third time maybe, and all I'm
25 suggesting is, if this is allowed to continue, we'd

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1 like the opportunity to put a sur surrebuttal
2 witness who will go ahead and go through all the
3 interest criteria, will go ahead and show precisely
4 what the Standard and Poor criteria of today would
5 produce under Staff's recommended returns be it BB,
6 BBB or whatever.

7 JUDGE DIPPELL: I kind of lost your
8 objection in there. Was it --

9 MR. PENDERGAST: My objection is, I think
10 at this late date, Staff is trying to get in new
11 information that they had an opportunity to get,
12 the surrebuttal testimony, more importantly it
13 would be information that would not give the
14 Commission, in our view, an accurate presentation
15 of what the impact of Staff's recommendations are.

16 And all I'm suggesting is if they are
17 allowed to continue to do that, then we'd like the
18 opportunity to do sur surrebuttal testimony to give
19 the Commission the complete picture.

20 JUDGE DIPPELL: Mr. Poston?

21 MR. POSTON: Your Honor, this data is
22 already in the record. Commissioner Murray asked a
23 question and the witness responded, and all my
24 question is, is just a follow up on that, just
25 clarifying what it was that the witness said.

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1 JUDGE DIPPELL: I'm going to allow the
2 witness to answer the question.

3 THE WITNESS: The revised utility group
4 financial targets for pre-tax interest coverage
5 ratio business position three, double A runs from
6 4.0 to 3.4 times, which in my direct testimony
7 where we were changing that, but tell me again what
8 page that was on.

9 BY MR. POSTON:

10 Q. It was on page 31 of your direct
11 testimony.

12 A. 31. That 3.4 to 4.0 would replace the 3.8
13 to 4.12 and instead of calling them Standard and
14 Poor's financial mean for an A and double A rated
15 gas distribution utility, it would be their
16 Standard and Poor's revised utility financial group
17 targets for a double A rated gas distribution
18 company.

19 Q. Mr. Broadwater, based on questions from
20 Commissioner Schemenauer about dividend yield, I'm
21 going to get this question in. Which is more
22 risky, a dollar of dividends today or a dollar of
23 capital gain received in the future?

24 A. Potential gain -- a dollar in capital
25 gains is -- potential dollar gain and capital gains

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1 is more risky than a dollar today.

2 Q. Do you believe Staff's recommendation in
3 this case will allow Laclede to maintain its
4 current dividend?

5 A. Whatever Laclede's dividend is that's
6 their management decision. I don't know what their
7 management will decide going forward.

8 Q. Do you believe anything that you've
9 recommended will damage Laclede's ability to
10 maintain its current dividend?

11 A. Can you say that again?

12 Q. Do you believe anything that you have
13 recommended will damage Laclede's ability to
14 maintain its current dividend?

15 A. No.

16 Q. Mr. Pendergast asked you questions
17 regarding market to book ratios. Would you say
18 that based on the market to book ratio investors
19 are currently requiring returns that are less than
20 those authorized by the Commission?

21 A. No.

22 Q. Laclede maintained -- or has Laclede
23 maintained a market to book ratio in the range of
24 1.5 even though the company complains that earnings
25 have suffered because of warmer than normal

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1 temperature?

2 A. Their market to book ratio over the past
3 five years have been in excess of one and a half.

4 Q. And Mr. Pendergast asked you about UE's
5 12.61 ROE threshold. Do you remember that?

6 A. Yes.

7 Q. Is that rate used as part of the
8 experimental alternative regulated program?

9 A. Yes, it is.

10 Q. And was that rate established in a
11 traditional rate case?

12 A. No.

13 Q. And with regard since we've just -- excuse
14 me -- we've just discussed that UE is currently

15 operating under an alternative regulation. With
16 regard to non-gas cost, are any LDCs in Missouri
17 operating under alternative regulation?

18 A. No.

19 Q. Are all Missouri LDCs currently operating
20 under a traditional regulation with regard to
21 non-gas costs?

22 A. That is correct.

23 Q. Can you explain the concept of the dead
24 band with regard to alternative regulation?

25 MR. PENDERGAST: I'm going to object. I

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1 don't know if that's responsive to questions asked.

2 MR. POSTON: Well, all of

3 Mr. Pendergast's questions on the 12.61 ROE, this
4 goes directly to that, and as the witness answers,
5 I think that will be clear.

6 MR. PENDERGAST: Are you referring to a
7 dead band for UE?

8 MR. POSTON: Under the alternative
9 regulation, yes.

10 MR. PENDERGAST: Oh, okay.

11 JUDGE DIPPELL: You may answer the
12 question.

13 THE WITNESS: The concept of a dead band
14 and as it relates to the experimental regulation
15 plan that UE is under, basically whatever the Union
16 Electric's authorized return would have been at the

17 time that was set, was set at a -- was less than
18 12.61, and there's some dead band range between
19 what number that the Staff would have authorized or
20 recommended as far as a authorized return on
21 equity. And the 12.61, there's an area in there
22 where the company gets to retain all the profits
23 that they earn in excess of what would have been
24 allowed.

25 Q. So with the use of a dead band explain the

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1 difference between a recommended rate of return of
2 12.61 sharing threshold?

3 A. Yes.

4 Q. And you responded to Mr. Pendergast that
5 UE has to start sharing the 12.61 percent. would
6 you turn to Schedule 9 in your direct testimony?

7 A. Okay.

8 Q. What did Laclede earn on common equity in
9 1996 and 1997?

10 A. In 1996 they earned 13.59, and in 1997
11 they earned 12.93.

12 Q. Did Laclede have to share any of the
13 earnings in 1996 and 1997 above 12.61?

14 A. No. They retained all those profits for
15 their shareholders.

16 Q. Mr. Pendergast asked you about the uses of
17 short-term debt. would you please turn to page 22
18 on your direct testimony?

19 A. Okay.

20 Q. Page 22 of your testimony states that
21 short-term debt supported gas inventories and cash
22 working capital. I think Mr. Buck is confusing the
23 use of the term cash working capital. Would your
24 use of this term include materials and supplies,
25 prepayments as well as cash working capital?

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1 A. Yes, I believe so.

2 MR. POSTON: May I approach the witness,
3 please?

4 JUDGE DIPPELL: Yes.

5 BY MR. POSTON:

6 Q. I'm going to show you a part of Staff's
7 accounting schedules on Accounting Schedule 2.

8 A. Okay.

9 Q. And make sure I'm showing you the right
10 thing here. Okay.

11 I'm showing you the Staff's fixed rate
12 base. Based on that schedule, isn't the amount of
13 those items included in the Staff's case -- let me
14 start over again.

15 And I just pointed to you Staff's rate
16 base, and based on that schedule, isn't the amount
17 of those items included in the Staff's case
18 approximately \$90 million?

19 MR. PENDERGAST: I'm going to object
20 because I just don't understand what this is
21 supposed to illustrate. I guess I don't understand

22 the relevancy of the question.

23 JUDGE DIPPELL: Response to the relevancy
24 objection, Mr. Poston?

25 MR. POSTON: I'm sorry. It was in

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1 response to a comparison that Mr. Pendergast made
2 regarding testimony of Mr. Buck and testimony of
3 Mr. Broadwater.

4 JUDGE DIPPELL: Okay.

5 MR. POSTON: Concerning short-term debt.

6 JUDGE DIPPELL: Okay. Objection
7 overruled.

8 You may answer the question.

9 THE WITNESS: I believe you're referring
10 to the \$95,328,000 of total additions to net plant
11 and service that would --

12 BY MR. POSTON:

13 Q. Yes.

14 A. Yes.

15 Q. Okay.

16 JUDGE DIPPELL: I'm sorry. Mr. Poston,
17 the accounting schedules that you're referring the
18 witness to, those are what's been premarked as
19 Exhibit 99?

20 MR. POSTON: I believe that is correct,
21 yes. That's all the questions I have.

22 JUDGE DIPPELL: Okay. Mr. Broadwater, I
23 believe then you may be excused.

24 THE WITNESS: Thank you.
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25 (WITNESS EXCUSED.)

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1 JUDGE DIPPELL: Let's go ahead and take a
2 10-minute break and come back at 3:30. Off the
3 record.

4 (A BREAK WAS TAKEN.)

5 JUDGE DIPPELL: Okay. I just wanted to
6 clarify, because I'm not sure that it was very
7 clear on the record. When we had the discussion
8 about the deposition, and we argued that I said
9 that, and I said I would let it in, Mr. Pendergast
10 would you like to formally offer that?

11 MR. PENDERGAST: I certainly would.

12 JUDGE DIPPELL: I just wanted to kind of
13 clarify so we didn't go through all that for
14 nothing.

15 MR. PENDERGAST: Yes, your Honor. At this
16 time on behalf of the Company, I would like to
17 offer, I believe it was Exhibit 116 --

18 JUDGE DIPPELL: That's correct.

19 MR. PENDERGAST: -- into evidence.

20 JUDGE DIPPELL: Okay. And I know that
21 Staff has the objection that we argued. That's
22 definitely taken and on the record. Are there any
23 other objections that you know of at this time? I
24 mean, we're going to -- I'm going to give you an
25 opportunity to make your objections to the contents

1 of the deposition as we discussed on the record.

2 MR. SNODGRASS: Well, Judge, the Staff
3 would just say that we feel that excerpts of the
4 deposition were referred to the case law submitted
5 by the Company, not the entire deposition. We're
6 not willing to say -- and we're still not willing
7 to say that it's proper to admit an entire
8 discovery deposition. I believe the rule and the
9 case law talks about admitting excerpts of the
10 deposition, not the entire deposition itself. We
11 want to state that on the record.

12 JUDGE DIPPELL: And that is on the record,
13 and I've already ruled on that. Okay. For now
14 then I'm --

15 MR. SNODGRASS: No other objections.

16 JUDGE DIPPELL: -- receiving Exhibit 116
17 subject to objections to be made at a later date in
18 writing by Staff, and then I will rule on each of
19 those objections. And, again, I'll set the time
20 for when those are due before we're finished here.

21 (EXHIBIT NO. 116 WAS RECEIVED INTO
22 EVIDENCE AND MADE A PART OF THE RECORD.)

23 MR. PENDERGAST: Thank you, your Honor.

24 JUDGE DIPPELL: Okay. Mr. Pendergast, are
25 we ready to go ahead and begin the next issue,

1 which is weather?

2 MR. SNODGRASS: Your Honor, there may be
3 another issue here. We're not trying to complicate
4 your life here today.

5 JUDGE DIPPELL: That's fine.

6 MR. SNODGRASS: Again, it deals with the
7 deposition issue. I believe Jerry McNeive for the
8 Company is going to admit a deposition that we feel
9 like there's an argument against it.

10 JUDGE DIPPELL: Is that for this next
11 witness or --

12 MR. MCNEIVE: No. If it pleases the
13 Commission, I believe that that deposition issue is
14 going to come up when we reach the Staff's
15 witnesses, which is likely since we have three
16 witnesses on our side, that will probably be
17 tomorrow morning, I believe so that's when I would
18 anticipate it, your Honor.

19 MR. SNODGRASS: I just wanted to let you
20 know that.

21 JUDGE DIPPELL: Okay. If you would still
22 go ahead and give me a copy of the case that you
23 read earlier.

24 MR. MCNEIVE: May I return to you the
25 one -- and I thank Staff's counsel for making me a

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1 copy.

2 MR. SNODGRASS: Well, you're welcome.

3 MR. MCNEIVE: I believe that's the one.

4 MR. SNODGRASS: It's the least I could do.

5 JUDGE DIPPELL: And I appreciate you
6 letting me know in advance of that dispute so that
7 I can be somewhat prepared for it.

8 MR. MCNEIVE: May we be off the record?

9 JUDGE DIPPELL: Let's go off the record.

10 (OFF THE RECORD.)

11 JUDGE DIPPELL: Okay. We will deal with
12 that discovery dispute then when we get to those
13 witnesses, but I appreciate your forewarning me.

14 So then are we ready to go ahead with
15 Ms. Krieger?

16 MR. MCNEIVE: Yes, your Honor. I'd like
17 to call Patricia Krieger to the stand, please.

18 JUDGE DIPPELL: Ms. Krieger, could you
19 spell your name for the court reporter?

20 MS. KRIEGER: K-R-I-E-G-E-R.

21 (WITNESS SWORN.)

22 JUDGE DIPPELL: You may go ahead and
23 proceed, Mr. McNeive.

24 MR. MCNEIVE: Thank you, your Honor.

25 PATRICIA A. KRIEGER, being first duly sworn,

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1 testified as follows:

2 DIRECT EXAMINATION BY MR. MCNEIVE:

3 Q. Would you please state your full name for
4 the record?

5 A. Patricia A. Krieger.

6 Q. Are you the same Patricia A. Krieger who
7 had caused to be filed in this proceeding direct
8 testimony, rebuttal testimony and surrebuttal
9 testimony, which has been identified for the
10 purposes of exhibits as Exhibit Nos. 14, 15, and 16
11 respectively?

12 A. Yes, I am.

13 MR. MCNEIVE: I would point out to the
14 Commission that those three exhibits contained more
15 than weather normalization issues, so we're only
16 offering her at this time for the weather
17 normalizations portions of her testimony, and to
18 the extent the other portions come before the
19 Commission, we will offer her at that time and then
20 offer the exhibit later in total, if that meets
21 your requirements?

22 JUDGE DIPPELL: I don't have any
23 objections to that as long as that's -- as long as
24 that's okay with the other parties. Then I'll just
25 remind you not to forget to offer your exhibits.

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1 MR. MCNEIVE: Remind me to offer
2 everything all over again at the end of the case, I
3 would appreciate it. Thank you.

4 BY MR. MCNEIVE:

5 Q. With that in mind, I'm going to turn to
6 your direct testimony. You've identified that --
7 do you have any changes or corrections to that

8 testimony this afternoon, Mrs. Krieger?

9 A. No, I don't.

10 Q. Now, I'm going to refer you to your
11 rebuttal testimony, and ask if you have any changes
12 to that particular document?

13 A. No, I do not.

14 Q. Finally, I'm referring to your surrebuttal
15 testimony, and ask if you have any changes to that
16 document?

17 A. No.

18 Q. If I were to ask you today the questions
19 that appear in your direct, rebuttal and
20 surrebuttal testimonies, would your answers be the
21 same?

22 A. Yes, they would.

23 MR. MCNEIVE: At this time I would tender
24 the witness for cross-examination, and I'll offer
25 the exhibits later, your Honor.

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1 JUDGE DIPPELL: All right. Then is there
2 cross-examination by Ameren UE on the weather
3 issue?

4 MS. KNOWLES: Not on this issue, no.

5 JUDGE DIPPELL: Public Counsel?

6 MR. MICHEEL: No, your Honor.

7 JUDGE DIPPELL: Staff?

8 MR. SCHWARZ: Yes, Staff has questions for
9 Ms. Krieger.

10 CROSS-EXAMINATION BY MR. SCHWARZ:
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11 Q. Ms. Krieger, I note that your educational
12 background doesn't specifically include anything
13 in -- list anything in climatology or meteorology.
14 Did you take any such courses during your academic
15 career?

16 A. No, I did not take any courses in those
17 subjects.

18 Q. I know from personal experience that
19 you've been involved in weather issues for Laclede
20 before. When did your experience along those lines
21 begin?

22 A. I filed the prefiled testimony in the
23 weather normalization adjustments beginning with
24 the 1994 case, so it's been the last four cases.
25 Prior to that I was responsible for accumulating

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1 degree days and doing weather normalization
2 adjustments within the -- for the management of the
3 company.

4 Q. So you were aware of the weather issue
5 even before 1994, some of the calculations
6 involved?

7 A. Weather issues being weather normalization
8 and degree days --

9 Q. Right.

10 A. -- and that type of thing, yes.

11 Q. Referring to your direct testimony, page
12 10 at line -- beginning at line 5, you say with

13 respect to reading degree days that this adjustment
14 is traditionally then calculated through a
15 comparison of actual number of heating degree days
16 and so forth. By whom has it traditionally been
17 calculated?

18 A. It's been traditionally calculated in that
19 manner by both the Company and the Staff.

20 Q. So you're not referring to the Commission
21 in this instance? Let me modify the question.

22 with respect to Laclede, the Commission
23 has never issued an order on heating degree days,
24 have they?

25 A. Not to my knowledge since I've been

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1 involved with it.

2 Q. Line 15 on that same page you state that
3 the heating degree day is a unit used to measure
4 the requirement for space heating due to the
5 coldness of the weather. Are you with me?

6 A. Yes.

7 Q. Does a heating degree day directly measure
8 that?

9 A. Heating degree day is a proxy for the
10 space heating requirements, and the change of those
11 requirements would be a change in degree of
12 temperature.

13 Q. Well, isn't it true that there is a
14 relationship between the parameter known as a
15 heating degree day and the amount of natural gas

16 required for space heating?

17 A. I'm sorry. Repeat the question.

18 Q. There is a correlation between the
19 measurement heating degree day and the amount of
20 natural gas required for space heating purposes --

21 A. Yes.

22 Q. -- is that correct.

23 A. There's a correlation, yes.

24 Q. So that the heating degree day is not
25 itself a unit of measure of space heating

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1 requirements?

2 A. No. It's a unit of measure used to
3 correlating space heating requirements.

4 Q. Turning to the next page, page 11, line
5 2. In the past the company's rates have been based
6 on various normals calculated by averaging actual
7 degree days. Are you with me?

8 A. Yes.

9 Q. Are you aware that for the past 20 years
10 that the Company's rate cases have all been
11 settled?

12 A. I believe that's true, yes.

13 Q. Are you aware of any settlement agreement
14 which contained any specification of heating degree
15 days in it?

16 A. As far as settlement?

17 Q. Yes.

18 A. No. Both cases have been settled in a
19 general settlement manner.

20 Q. Basically a dollar amount?

21 A. Yes.

22 Q. So that, in fact, there is no way to
23 specify whether any of the Company's rates for the
24 past 20 years have been tied to any particular
25 level of heating degree days; is that correct?

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1 A. I believe my reference in this particular
2 piece of testimony refers to the filings of both
3 parties where various normals have been filed
4 initially by both the Company and the Staff. Those
5 settlements have been on a dollar amount.

6 Q. So that the Company's rates have not been
7 set based on a particular number of heating degree
8 days; is that correct?

9 A. The Company's rates have been based on the
10 level of billing determinates that were derived
11 through settlement -- the settlement process.

12 Q. The cases have been settled, correct?

13 A. Yes.

14 Q. And the settlements did not specify a
15 particular --

16 A. No. Settlement did not specify the number
17 of degree days.

18 Q. So that the Company's rates have not been
19 based on heating degree days?

20 MR. MCNEIVE: I'm going to object to the
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21 question. I think he's asked it three times, your
22 Honor. I think she's answered the question. He's
23 arguing with my witness now. He keeps coming back
24 to the same thing, so I'd ask you to ask him to
25 stop this line of questioning in this manner.

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1 MR. SCHWARZ: I'm entitled to a yes or no
2 answer, and I've gotten various explanations, which
3 probably imply the answer that I'm looking to, but
4 I'm entitled to a direct answer to a direct
5 question and that's all that it takes.

6 JUDGE DIPPELL: I don't think the witness
7 has answered the question you've asked. She's
8 answered with an explanation of a similar question,
9 but she has not actually answered the questions of
10 Mr. Schwarz.

11 Could you ask the question again in a
12 direct phrase so she can answer it.

13 BY MR. SCHWARZ:

14 Q. Because the Company's rate cases for the
15 last 20 years have been settled, without reference
16 to a specific level of heating degree days, is it
17 not accurate to say that the rates have been based
18 on normal levels of heating degree days?

19 MR. MCNEIVE: I'm going to object to that
20 question because he mischaracterizes what the
21 witness has already said. She said those rate
22 cases have been settled with billing determinants.

23 They are partly correlation to heating degree days,
24 so he's saying what -- it's contrary to what she's
25 already answered, your Honor. That's why I was

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1 interested in stopping this, because I think she
2 answered his question.

3 JUDGE DIPPELL: I don't recall the witness
4 answering the question the way that you phrased it,
5 Mr. McNeive, so I'm --

6 MR. MCNEIVE: I'm not going to argue with
7 your Honor that's for sure so go ahead.

8 JUDGE DIPPELL: I'm going to overrule your
9 objection.

10 MR. MCNEIVE: Thank you.

11 THE WITNESS: There's been no set level of
12 degree days put in those settlements by both sides
13 agreed to a level of billing determinants based on
14 the level of degree days that they've perceived to
15 be in those settlements.

16 MR. SCHWARZ: I think I'm entitled to a
17 yes or a no. And I certainly accept the
18 explanation, but I think I'm entitled to a yes or
19 no in addition.

20 JUDGE DIPPELL: Ms. Krieger, do you
21 understand the question that Mr. Schwarz is
22 asking?

23 THE WITNESS: To the extent I presume that
24 you're saying in the stipulation and agreement has
25 there been a set level of degree days put in place,

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1 no, there has not been a stipulation agreed.

2 BY MR. SCHWARZ:

3 Q. And that's what sets rates, is it not?

4 The Commission approval of such settlements?

5 A. Yes, it does. That number has been in the
6 past settled in some correlation assuming the
7 agreement between the proper weather normal that
8 should be in that number for settlement purposes.

9 Q. For settlement purposes?

10 A. Yes.

11 Q. So the Commission has never set rates for
12 Laclede based on -- at least for the last 20 years
13 based on normal level of heating degree days?

14 MR. MCNEIVE: Object to the question,
15 again, your Honor. She's already indicated the
16 settlements have been based upon billing
17 determinants that are implicit in the settlement,
18 and he's talking about rates. He's not talking --
19 he's ignoring the fact that she said there's
20 billing determinants underlying that stipulation
21 and agreement that has been approved by the
22 Commission. So I think he's mischaracterizing her
23 testimony. He's coming back and doing it
24 repeatedly and that's why I'm objecting.

25 JUDGE DIPPELL: Okay. I would like

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1 Mr. Schwarz to ask his question directly, not --
2 just ask the question that you want her to answer
3 yes or no to. We've already heard the lead-up
4 questions, so ask that specific question and let's
5 see if we can get a yes or no answer and then move
6 on.

7 BY MR. SCHWARZ:

8 Q. Have the Commission orders setting
9 Laclede's rates for the past 20 years been
10 explicitly based on various normals calculated by
11 averaging actual degree days?

12 A. I don't find it to be a yes or no answer.
13 Obviously the number of degree days is not, you
14 know, been appeared anywhere in the stipulation,
15 but the billing determinants underlying those rates
16 have been based on some agreement of some
17 reasonable level that would be based on, and I
18 can't answer it yes or no. Do you want --

19 JUDGE DIPPELL: Yes, no or you don't
20 know.

21 MR. MCNEIVE: Could I suggest, your Honor,
22 if she would be allowed to answer the question yes
23 or no and then give her explanations and then we
24 can move on, if that's agreeable?

25 JUDGE DIPPELL: That's agreeable, yes.

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1 MR. MCNEIVE: Thank you.
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2 THE WITNESS: The Commission orders have
3 not stated a level of degree days, but the billing
4 determinants underlying those rates that are in
5 effect given the applied level of settlement degree
6 days.

7 BY MR. SCHWARZ:

8 Q. Such understandings are not specified in
9 the settlement, are they?

10 A. No, not in the stipulation and agreement.

11 Q. And they are not necessarily explicitly
12 agreed to by the parties, are they? That is it can
13 be just a dollar amount settlement for issues?

14 A. For revenue requirement, but billing
15 determinants need to be agreed upon by both of the
16 parties generally before moving into the rate
17 design or anything else.

18 Q. Fine. Turning to page 13 again in your
19 direct testimony, lines 13 and 14. Actually, I
20 guess beginning on line 7 there. Are you with me?

21 A. Yes.

22 Q. It seems to me -- are you suggesting there
23 that the purported \$23 million in earnings
24 shortfall is attributed to heating degree days set
25 too high?

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1 A. It's true both to my statement is that the
2 earnings have been depressed due to the -- I begin
3 on line 8 by saying, Sales levels have gone short

4 of those levels practically at long-term normals.
5 Now, that \$23 million amount can be -- is a
6 difference between degree days as well as billing
7 determinants really relate to the general service
8 rates.

9 Q. But it is the -- could you say it another
10 way that Laclede's earnings since 1985 would have
11 been \$23 million greater if Laclede's rates had
12 been higher or the weather had been colder?

13 A. Certainly if the weather had been colder
14 than they had actually experienced, Laclede's
15 earnings would have been higher.

16 Q. And if its rates had been higher and the
17 weather had remained as --

18 A. If its rates had been higher?

19 Q. Yes.

20 A. With the same amount of weather?

21 Q. Right.

22 A. The earnings would have also been higher,
23 yes.

24 Q. On page 13 at lines 22 through 24, you say
25 the weather experience in the St. Louis area in

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1 recent years coincides with this global climate
2 trend. Do you see that?

3 A. Yes.

4 Q. Coincides is the root word for coincident,
5 isn't it?

6 A. I don't know what a dictionary would say
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7 what that word is, but the context that it was
8 written in my testimony implies that the results of
9 the weather experience in the area mirrors the
10 global climate results that have been reported.

11 Q. Same page lines 26 to 28, you indicate
12 that the likelihood that this trend is the result
13 of natural weather variation diminishes each year
14 the trend persists. Do you see that?

15 A. Yes.

16 Q. What's your basis for that statement?

17 A. My basis for that statement if you had a
18 30-year normal, you would expect that some -- it
19 would not even out exactly but at least some
20 approximate amount would be above or below that
21 amount. The chances of it being always
22 consistently below that amount are in most cases
23 consistently below that amount would be without --
24 be outside the realm of probability that that would
25 happen on a natural basis. So there's likely that

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1 there's something more than chance causing that
2 result.

3 Q. So do I take it from your statement then
4 that it is your view that the weather is going to
5 continue to get warmer without interruption as we
6 proceed into the new millennium?

7 A. Not without interruption. There may be
8 colder -- extremely cold periods, but the

9 probability is that we will tend to see more
10 seasons warmer than the 30-year normal than above
11 the 30-year normal. And each year that we see
12 another warm year, that likelihood increases that
13 there's a trend toward that direction.

14 Q. But your statement can also be read that
15 the pattern has changed, can it not, that is that
16 whatever weather cycles there might be, are no
17 longer obtaining; is that correct?

18 A. Natural weather variability in the weather
19 cycles will continue to occur, but the effect of
20 those cycles will be dampened or lessened by the
21 impacts of global warming urbanization that will
22 continue to go in the same direction. So even if
23 you had a colder than warmer period coming into
24 play, those colder temperatures will be tempered by
25 the warming impacts of global warming urbanization.

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1 Q. Well, when did urbanization begin?

2 A. Probably in the '60s, the last few decades
3 with the construction in the suburban areas, the
4 St. Louis area.

5 Q. Well, now urbanization or
6 suburbanization? When did the --

7 A. The area around Lambert Field has
8 certainly become more developed in the last 30- to
9 40-year period.

10 Q. But Laclede's service territory certainly
11 comprehends more than the Lambert's Airport area?

12 I mean, are you aware that at the turn of the
13 century the City of St. Louis was the fourth
14 largest city in the United States?

15 A. No, I was not aware of that fact.

16 Q. Are you aware of the general migration of
17 population in the United States from farms to
18 cities beginning in the last decade of the 19th
19 century?

20 A. Not specifically.

21 Q. On page 12 of your direct testimony, you
22 have a graphical representation --

23 A. Yes.

24 Q. -- of some data. Can you tell me where a
25 trend lying on this data would fall?

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1 A. This representation is talking about a
2 statistical trend line. This is a chart that
3 supports the position taken on what we've just
4 previously spoke about, that each additional year
5 increases this likelihood that there is a trend.
6 And 11 out of the last 15 years have been warmer
7 than normal. So the trend in a sense that it's in
8 all likelihood not occurring from natural
9 probability around on the --

10 Q. Isn't it also true that for the last six
11 years shown or depicted on your graph have been
12 colder than normal?

13 A. No. Three over the last six years.

14 Q. I'm sorry. Four over the last seven?

15 A. Four over the last seven, correct.

16 Q. And isn't it also true that the last year
17 there is merely an estimate?

18 A. Yes, that is an estimate. At the time we
19 filed this testimony, the estimate actually is six
20 degree days higher than the actual for the year, I
21 believe.

22 Q. But that is, in fact, an estimate?

23 A. It is.

24 Q. If there is a relation among these data,
25 is it linear?

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1 A. This chart is not designed to determine
2 linear. It's a simple bar graph of the results of
3 the actual weather compared to the normal
4 established by NOAA.

5 Q. If you take a look at page 15 of your
6 direct testimony, do you see the little chart there
7 in the the middle of the page?

8 A. Yes.

9 Q. You indicate that 1991 and 1992 is the 5th
10 warmest since 1900, correct?

11 A. Correct.

12 Q. On your graph on page 12 it would appear
13 that the two years following that warmest year was
14 followed by two colder years; is that correct?

15 A. Yes, that's correct.

16 Q. And '94, '95 is the second warmest year,
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17 is that correct, on your chart on page 15?

18 A. Yes, it is.

19 Q. And flipping back to your chart on page 12
20 it again is followed by two colder than normal
21 years; is that correct?

22 A. That's correct.

23 Q. And '98, '99 is also on page 16 is the
24 sixth warmest year, but I notice that you're not
25 predicting colder than normal years in keeping with

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1 that particular pattern?

2 A. As I said earlier, there will be colder
3 than normal years, obviously. It's the number of
4 colder than normal versus the number of warmer than
5 normal is important by this chart.

6 Q. But if that particular pattern holds, you
7 would expect two colder than normal years, would
8 you not?

9 A. If that pattern were to hold. However,
10 the earlier pattern prior to that there was not
11 that pattern, so . . .

12 Q. At the bottom of page 15 and the top of
13 page 16 you talk about the effects of the eruption
14 of Mount Pinatubo in June of 1991, did you not?

15 A. Yes.

16 Q. Can you tell me how much material Mount
17 Pinatubo ejected into the atmosphere during its
18 eruption?

19 A. No. I don't recall specific amounts.

20 Q. Do you know how high up in the atmosphere
21 it got?

22 A. No, I don't recall.

23 Q. Do you know how high up in the atmosphere
24 and what volumetric amounts have to be before
25 there's a weather effect?

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1 A. I don't recall specifics of it. However,
2 there's much scientific literature that was
3 produced after that event that spoke to the cooling
4 effect that was in place over the atmosphere --

5 Q. But you're not --

6 A. -- specifically the United States.

7 MR. MCNEIVE: Pardon me, your Honor. I
8 wish you would instruct counsel to allow the
9 witness to answer the question and finish her
10 answer first.

11 MR. SCHWARZ: I apologize.

12 MR. MCNEIVE: Thank you.

13 BY MR. SCHWARZ:

14 Q. But you personally --

15 A. The specifics of the atmosphere
16 conditions, I don't recall. But certainly the
17 cooling effect that was introduced by that was
18 written up in a lot of scientific literature was
19 the point of putting this in here and that's
20 probably in all likelihood why we experienced those
21 two cooler than normal years that you spoke of

22 earlier in this trend between 1993 and '4, I
23 believe it was.

24 Q. Do you know if the continuing eruption of
25 the Kilawaya volcano in Hawaii since the mid '80s

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1 had such an affect?

2 A. To my knowledge I have not seen anything
3 written up in any scientific literature or anywhere
4 as to that, but there was several references to the
5 Mount Pinatubo eruption.

6 Q. What about the eruption of Mount St. Helen
7 in Washington State, do you know?

8 A. My recollection was in that period that
9 the carbon produced by that did not go to the right
10 scientific direction for whatever reason to produce
11 that same effect, and I don't remember the details
12 of it. But the Mount St. Helen's did not have the
13 same effect that Mount Pinatubo had as far as
14 cooling the atmosphere.

15 Q. So there may be some scientific
16 explanation for these phenomenon, but you're not
17 personally knowledgeable of them?

18 A. My knowledge is only through the
19 scientific literature that I've read.

20 Q. And what scientific literature do you
21 regularly read?

22 A. There's tons of literature out on the
23 Internet about most of these subjects, and that

24 would be where the source for many of the articles
25 that I read. There's also publications that I've

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1 gathered up over the years from various other
2 sources such as Nasta Goddert Institute (phonetic
3 sp) and other scientific publications that have
4 been out over the years that I've collected through
5 the last several years on these subjects.

6 Q. On page 17, line 20 of your direct
7 testimony, you say that the probability of warmer
8 than normal seasons is now greater than the
9 probability of colder than normal seasons. Did you
10 provide staff with any statistical study on the
11 determination of such probabilities?

12 A. No, I did not.

13 Q. Did you conduct such probability studies?

14 A. Not statistical probability studies, no.

15 Q. On page 17, line 12 you, again, talk about
16 the \$23 million in earning shortfalls. If I ask
17 you the same series of questions that I did earlier
18 on the \$23 million, would we get about the same
19 results?

20 MR. MCNEIVE: I'm going to object to the
21 form of the question. I don't think you should ask
22 a witness that. It was some time ago, and I'm not
23 sure which question, Mr. Schwarz, that you're
24 referring to, so I'd object to that question as
25 improper.

1 JUDGE DIPPELL: I'll sustain the
2 objection.

3 Go ahead and ask the questions again,
4 Mr. Schwarz.

5 MR. SCHWARZ: I don't know that I can.

6 BY MR. SCHWARZ:

7 Q. On lines -- same page 17, lines 17 to 19
8 you talk about the increased unlikelihood of being
9 able to achieve a 30-year degree date normal upon
10 which rates have been -- have traditionally been
11 set. Do you read that?

12 A. Yes.

13 Q. In the last 20 years has this Commission
14 issued an order setting Laclede rates based on the
15 Commission's specification of heating degree days?

16 MR. MCNEIVE: Asked and answered, your
17 Honor. He's already been over this ground. We've
18 had the explanation. We should move on.

19 JUDGE DIPPELL: That particular question
20 was asked and answered.

21 MR. SCHWARZ: Very well.

22 BY MR. SCHWARZ:

23 Q. Are there other expense elements in a rate
24 case other than weather that are normalized in the
25 rate-making process?

1 A. Yes, there are.

2 Q. What might some examples of those be?

3 A. I believe all of the expense levels are
4 evaluated in the context of a rate case.

5 Q. Well, specifically might injuries and
6 damages be issues that might be normalized?

7 A. The Company witness on those expense
8 levels could answer those questions.

9 Q. I'm not talking about this particular
10 case. I'm just talking about rate making
11 procedures generally.

12 A. Generally expense levels are looked at,
13 yes, in various areas.

14 Q. And is the -- what is the object of, in
15 your opinion, of the process of normalizations?

16 A. The normalization process is to determine
17 the current level of expect -- of conditions that
18 can be expected to be in the future as rates are
19 being set for the future based on known items at
20 the time rates are being established. It would
21 represent a condition of circumstances under which
22 a company would be operating under which the new
23 rates would be set.

24 Q. In the normalization process, do you
25 adjust the Company's test year experience either

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1 revenues or expenses?

2 A. Yes.

3 Q. On page 24 of your direct testimony you
4 talk about -- beginning on line 5 -- you talk about
5 base usage?

6 A. Yes.

7 Q. And in there you specify a factor of
8 1.35 --

9 A. Yes.

10 Q. -- do you see that?

11 That factor was developed by Laclede in
12 1992; is that your understanding?

13 A. This was the last time the study was
14 performed.

15 Q. Do you know, are you familiar with a Mark
16 Waltermeyer?

17 A. Yes.

18 Q. Could you identify him?

19 A. He's a Laclede employee.

20 Q. What about R. L. Sherwin?

21 A. He's a Laclede employee.

22 MR. SCHWARZ: May I approach the witness?
23 I'm sorry.

24 JUDGE DIPPELL: Yes, you may.

25 BY MR. SCHWARZ:

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1 Q. I hand you what was provided by Laclede to
2 Staff back in 1992, a DR response from
3 Mr. Waltermeyer through Mr. Sherwin to the Staff.
4 I'd ask you to look at the last page, if you

5 would. Is that the derivation of the 1.35 factor?

6 A. Actually this last page was an engineering
7 study that was designed to support the 1.3 factor.
8 The actual study that was performed by the Company
9 to determine this factor is the earlier -- the
10 earlier calculations presented in this data
11 request.

12 Q. Okay. But turning back to the last page,
13 if you would, does it specify a water heating
14 temperature?

15 A. Yes.

16 Q. And what is that temperature, please?

17 A. Says St. Louis County average water
18 temperatures.

19 Q. The temperature rise. I'm sorry.

20 A. 140 degrees.

21 Q. 140 degrees. And does it specify average
22 St. Louis County water temperatures?

23 A. Yes, it does.

24 Q. Thank you.

25 In turning to your rebuttal testimony, if

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1 you would, page 3, line 15, you talk about Staff's
2 claims of alleged measurements biases in the NOAA
3 official temperature data. What's your
4 understanding of the word bias in that regard?

5 A. Bias is due to changes in the censor and
6 in the environment around that censor.

7 Q. But I'm asking for what your understanding
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8 of the word bias is?

9 A. The deviation.

10 Q. To your knowledge does NOAA -- that's
11 N-O-A-A, National Oceanic and Atmospheric
12 Administration -- Does NOAA acknowledge bias when
13 either instrument type or instrument locations
14 change?

15 A. Knowledge of the possibility for a bias.

16 Q. On page 8, line 19, you talk about the
17 growing urbanization effect recognized at Lambert.
18 What is your understanding of the urbanization at
19 Lambert?

20 A. The urbanization implies the additional
21 growth around the Lambert area itself, not the
22 airport in general, but the entire metropolitan
23 area.

24 Q. So it's the effect of --

25 A. Effect of additional people,

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1 transportation and buildings. I'm sorry.

2 Q. No. I don't want to interrupt you.

3 So that growth in Chesterfield has a
4 measurable effect at the instrumentation at
5 Lambert?

6 A. MR. MCNEIVE: I'm going to object to the
7 question. I think the witness is around Lambert
8 Field, and I don't believe that Chesterfield is
9 around Lambert Field unless it's been moved, your

10 Honor. So I think it's a mischaracterization. I
11 object to the form of the question.

12 MR. SCHWARZ: Well, I think that the
13 witness is entitled to answer what the witness's
14 understanding is. Mr. McNeive's understanding of
15 what is urbanization around Lambert field is all
16 well and good, but it's Ms. Krieger who is
17 testifying.

18 JUDGE DIPPELL: I agree with Mr. Schwarz.
19 We'll let the witness answer what her
20 interpretation around what Lambert Field is.
21 Overruled.

22 THE WITNESS: Can you repeat the question,
23 please?

24 BY MR. SCHWARZ:

25 Q. Do you think that, say, growth in

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1 Chesterfield has an effect which can be measured by
2 the instrumentation at Lambert Field?

3 A. I'm sorry. One more time. The
4 urbanization can be measured by the growth of
5 Chesterfield?

6 Q. Yeah. The growth in Chesterfield be
7 measured by a change in the temperature at Lambert
8 Field?

9 A. We're not trying to measure the growth in
10 Chesterfield. My understanding of urbanization,
11 though, is that it takes the entire metropolitan
12 area. It's a well-recognized phenomenon that's in

13 many large cities around the country. And it's a
14 metropolitan area. Weather extends to -- how many
15 miles it extends is not the relevancy and the
16 concept.

17 Q. Turning to page 19 of your rebuttal
18 testimony at line 9, you suggest that NOAA data
19 should only be adjusted when the argument to do so
20 is compelling. Could you expand on that for me a
21 bit?

22 A. In the past, I believe that both Staff and
23 the Company has relied on NOAA data as being a
24 source of data that was provided by an expert
25 source to go forward and adjust that data should

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1 have to have a very good reason to make an
2 adjustment to that data. There's a lot of factors
3 that can enter into a decision to adjust that
4 data.

5 Q. Because of your involvement in Laclede's
6 rate cases and particularly in the weather
7 normalization area, you've been aware since 1992,
8 1994 that Staff was concerned about the data set at
9 Lambert?

10 MR. MCNEIVE: Objection, your Honor. Is
11 that a question, counsel?

12 MR. SCHWARZ: Yeah, I think so.

13 JUDGE DIPPELL: Could you repeat your
14 question, Mr. Schwarz?

15 BY MR. SCHWARZ:

16 Q. Because of your involvement in Laclede
17 rate cases since 1992, you're aware of Staff's
18 concern with the temperature data from Lambert
19 Field, are you not?

20 A. I'm not aware that Staff had a concern in
21 1992 with the temperature data at Lambert Field.

22 Q. Did it surface in 1994?

23 A. No.

24 Q. Did it surface in 1996?

25 A. Yes.

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1 Q. So that at least since 1996 the Company
2 has been aware that Staff has had concerns about
3 the temperature data at Lambert?

4 A. Yes.

5 Q. When did the Company contact Mr. Turner
6 about providing testimony in this case?

7 A. Late spring, approximately.

8 Q. When did they first contact Mr. Waldron?

9 A. At the same time.

10 Q. Did the Company request them to
11 independently analyze the temperature data from
12 Lambert Field?

13 A. The Company requested their services in
14 evaluating the Staff filing, and also to look into
15 aspects of the data, yes.

16 Q. Did the Company request either Mr. Waldron
17 or Mr. Turner to investigate the need for

18 adjustments of the Lambert data?

19 A. The primary focus was on understanding the
20 adjustments and methodology that the Staff employed
21 on making those adjustments, and that's taking up
22 most of the time since the Staff's filing at this
23 point.

24 Q. Did the Company ask Mr. Turner or
25 Mr. Waldron to evaluate the need for adjustments to

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1 the Lambert weather data?

2 A. In the broader content with the initial
3 request was to evaluate the adjustments proposed by
4 the Staff and help us understand those adjustments.

5 Q. So my understanding is that the Company --
6 from your answer that the Company did request them
7 to evaluate the need for adjustments to the Lambert
8 weather series --

9 A. They were there to review the testimony of
10 the Staff and give us an evaluation of the
11 circumstances, yes.

12 MR. SCHWARZ: Judge, I don't believe that
13 answer is responsive to the question, and I think
14 I'm entitled to answers to my question.

15 MR. MCNEIVE: May I respond when he's
16 finished? I'm sorry.

17 JUDGE DIPPELL: Were you finished,
18 Mr. Schwarz?

19 MR. SCHWARZ: Yes.

20 MR. MCNEIVE: I think the reporter may be
21 the judge of this. I thought I heard the witness
22 say yes at the end of that last answer, but -- so
23 on that basis if I heard it right, I think there
24 was an answer, but I'd ask maybe the question --
25 the answer should be read back.

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1 JUDGE DIPPELL: Can you read the answer
2 back from the last question?

3 THE REPORTER: I do have yes.

4 MR. SCHWARZ: Pardon?

5 THE REPORTER: I do have yes.

6 MR. SCHWARZ: You do have yes?

7 THE REPORTER: Yes.

8 JUDGE DIPPELL: Thank you.

9 MR. SCHWARZ: Thank you. I'm sorry. I'm
10 old. My hearing is going.

11 BY MR. SCHWARZ:

12 Q. Did either Mr. Turner or Mr. Waldron
13 provide an analysis of the need for adjusting the
14 weather series at Lambert to the Company?

15 A. Mr. Waldron and Mr. Turner's findings are
16 in their testimony. And as far as a -- repeat the
17 question.

18 Q. I'm not sure I can.

19 Did Mr. Turner or Mr. Waldron submit a
20 recommendation or analysis to the Company of the
21 need to adjust the weather data at Lambert Field?

22 A. No, not specifically. We have -- their

23 services has been evolving with the amount of time
24 that's been available to analyze all the aspects of
25 this situation.

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1 Q. At the top of page 19 beginning at lines
2 24, you fault the Staff for pursuing adjustments to
3 the Lambert data without considering the effect of
4 global climate changes and urbanization; is that
5 correct?

6 A. I'm sorry. You said page 24?

7 Q. Page 19, lines 24. I'm sorry.

8 A. Yes. We think the entire weather issue
9 takes in more than temperature adjustments from the
10 thermometer. There's other issues to be evaluated
11 in this whole weather scenario.

12 Q. But you haven't sought, at least in the
13 last three years, any expert -- strike that
14 question. I'm sorry.

15 You did not seek from -- strike that.

16 You did not receive from Mr. Turner or
17 Mr. Waldron any specific analysis about the need
18 for adjusting the weather data in context of this
19 statement?

20 A. The recommendations from Mr. Waldron and
21 Dr. Turner have been the further analysis needed on
22 all of these issues. And there's not been a time
23 since the filing of the Staff's last case to
24 properly evaluate all these things. And if I

25 could, I'd like to add that --

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1 Q. Sure.

2 A. -- since 1996, we've really not been
3 trying to evaluate this entire situation, because
4 at that time it was our understanding that Staff's
5 concern was with the 1988 and '85 changes, not
6 specifically the 1996 change. And the fact that
7 adjusting NOAA data was even an option. That was
8 not something that we fully understood until the
9 last case where Staff had attempted to adjust that
10 data. In the past we've pretty much taken NOAA
11 data for face value that was provided, you know, by
12 an expert independent source, so that started
13 analyzing the effects of all these things until
14 just recently.

15 Q. Page 26 of your rebuttal testimony, line
16 13, you state that it's not been verified that
17 water heating requirements change if either the
18 river water or ambient temperature changes a few
19 degrees; is that correct?

20 A. Yes, that's what it says.

21 Q. Are you suggesting that if you're going to
22 heat water to 140 degrees, that there's no
23 difference in the energy requirement if that water
24 starts off at 70 degrees or 90 degrees?

25 A. There's a change in energy requirements at

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1 the point that the water enters the water heater in
2 the change in a few degrees. Now, whether a change
3 in the river temperature or river water temperature
4 equates to that same differential as the water
5 heater is the different -- is the differential I'm
6 trying to make here.

7 Q. well, is Staff contending that the ambient
8 temperature is the controlling factor -- I'll
9 withdraw that question.

10 Isn't it true that your 1.35 factor is
11 driven off St. Louis County average water
12 temperatures?

13 A. No, it's not. That factor is based on a
14 study of customer specif-- customer specific to our
15 service territory that uses gas for water heating
16 and not space heating.

17 Q. Are you -- I'm sorry. I didn't mean to
18 cut you off.

19 A. The data request that you showed me
20 earlier was as I said, an engineering study that
21 was in support of the -- what the truce of the
22 regular NAF study that we do, which is specific to
23 our own customer base. And was a data request from
24 a 1992 case. I did not prepare that.

25 There was also a response in the 1990 case

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1 on a data request in 134 in GR-91-20, which further
2 explains the Company's position on our NAF studies,
3 and that data request indicated that water heating
4 requirements in very extreme cold periods did not
5 vary to the same extent that heating degree days
6 would vary. And in that data request we -- and
7 that support is really what supports this sentence
8 here.

9 Q. And you're suggesting that Laclede
10 measured for its study the hot water heater intake
11 temperature of all the customers involved in the
12 study?

13 A. No. No. I'm stating that that's the
14 important factor in determining energy
15 requirements, which I believe was your initial
16 question. It's not river water temperature, is
17 my -- is the point. The important temperature is
18 the point in the water heater, not the river and
19 that temperature is as it's moved from the river to
20 the inland of the water heater has in some degree
21 changed. Our study -- the study that supports our
22 135 percent is based on seasonal pattern, the
23 seasonal relationship between winter and summer
24 usage based on the billings of customers in our --
25 in our Company that support winter and summer usage

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1 pattern for customers that don't use gas or space
2 heating.

3 Q. well, then -- are you done? I'm sorry.
Page 222

4 A. Yes.

5 Q. All right. So it's my understanding that
6 Laclede has never directly studied the criteria
7 that it considers controlling for the temperature
8 sensitivity of water heating either? That is, it's
9 never measured the intake temperature at the water
10 heater?

11 A. Of specific customers, no, it has not.
12 It's relied on billing -- the metered billing usage
13 of a certain group of customers that we felt that
14 could portray that relationship.

15 Q. Excuse me one minute. Have you examined
16 personally the daily or monthly time series of
17 temperatures at Lambert Airport from 1961 through
18 1998?

19 A. You said evaluated, just in -- I'm sorry.
20 Could you repeat the question?

21 Q. Have you examined the daily or monthly
22 time series of temperatures at Lambert Airport from
23 1961 through 1998?

24 A. We have that data, yes.

25 Q. Have you identified any significant shifts

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1 in the daily or monthly time series of temperatures
2 at Lambert from '61 through '98 that would lead you
3 to believe that one part of the time series might
4 not be consistent with another part of the time
5 series?

6 A. I have not evaluated that data for shifts
7 and changes over that 30-year period.

8 Q. Again, on your rebuttal testimony on page
9 26, line 21, you talk about quantifying the
10 difference in heating requirements between the
11 temperature reading of, say, 10 degrees Fahrenheit
12 versus 12 degrees Fahrenheit?

13 A. Yes.

14 Q. That is -- those are ambient temperatures,
15 are they not?

16 A. Yes. The point is that Staff's method
17 generates requirement on a per degree day type
18 basis in a change in temperature whether it be
19 river water or ambient has some impact for each
20 degree of change in temperature.

21 Q. Does Staff establish a relationship
22 between air temperature and gas use for water
23 heating?

24 A. My understanding of Staff's method is that
25 it correlates air temperature with river water

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1 temperature to determine the relationship. It
2 produces a water heating degree data that can
3 change with each change in degree.

4 Q. Does Laclede use a temperature reading
5 that Lambert Airport is a proxy for air
6 temperatures and heating degree days throughout its
7 service territory?

8 A. Yes.

9 Q. Has Laclede done any analysis to support
10 using Lambert temperatures in heating degree days
11 for gas use throughout its service territory?

12 A. No, it has not.

13 Q. In the Laclede's NAF study, the 1992 data
14 request response that I showed you, and
15 specifically with reference to the last page, where
16 was the water temperature measured that's labeled
17 at the St. Louis County Average Water Temperature?

18 A. I didn't prepare that data request or that
19 study for that matter, but it's labeled St. Louis
20 County Water Temperatures.

21 Q. So you don't know what the source was?

22 A. My recollection is back during that period
23 there were temperatures being reported from the
24 St. Louis County Water Plant as well as an office
25 location. One set of readings was comparable to

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1 the inlet of the plant, and the other set of
2 readings was a level of readings that was available
3 at their office that had come through subsurface
4 temperature readings.

5 Q. And did Laclede do any analysis to support
6 use of those water temperatures for water heating
7 throughout its surface territory?

8 A. The St. Louis County Water Office, Water
9 Company Office temperatures were used to support
10 the data request that I mentioned in our 1990 case,

11 but that was water temperatures that had
12 been -- that had actually gone through the ground
13 and was not coming right out of the river. And
14 there was so much chloride, I believe than what
15 river temperature water would be. So that the
16 impact would be that river water temperatures would
17 produce a much greater fluctuation in those
18 variations between readings than what readings
19 would be coming through temperatures that have been
20 through the ground.

21 Q. But my question was directed to did
22 Laclede do any additional studies to see if the
23 proxy at Ballas Road was representative of the
24 balance of its service territory?

25 A. No, we did not. Because like I said

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1 earlier, that analysis was only to further support
2 the study that we really do create a seasonal
3 impact, a seasonal relationship on usage, so that
4 particular piece of paper was only used as an
5 engineered look to support the study that was based
6 on our customer usage that provided the NAF factor.

7 Q. Isn't it true that Staff was so concerned
8 about the Lambert weather data that it used the
9 St. Charles weather station to develop its weather
10 adjustment in 1996?

11 A. Yes. Staff used the other weather station
12 in 1996 because of its concerns about changes in a
13 perceived in the late '80s at Lambert. The '96

14 change did not enter into at that point because it
15 touched here and that case was 12 months into
16 December '95, and it was not impacted by the change
17 in instrumentation at Lambert in 1996.

18 MR. SCHWARZ: I have nothing further.

19 JUDGE DIPPELL: Thank you. Merciful this
20 day has come to an end. I'm going to call it the
21 end of the day at five till 5:00.

22 Did you have something, Mr. McNeive?

23 MR. MCNEIVE: Only this, Judge, and
24 certainly it's your call, but I don't know how many
25 more questions there might be for this witness.

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1 Perhaps we can finish, if not, I'll just end that.

2 JUDGE DIPPELL: It is my call and I have
3 to leave, so --

4 MR. MCNEIVE: So be it.

5 JUDGE DIPPELL: -- we will not be doing
6 that. We will be starting at 8:15 in the morning,
7 our court reporter assures me.

8 Did you have something else?

9 MR. PENDERGAST: Yeah. Your Honor, I just
10 wanted to let you know that I think somebody
11 already has, I think we have a signed stipulation,
12 a partial stipulation agreement floating around
13 somewhere that we were going to go ahead and try
14 and submit it as an exhibit. We could do that
15 tomorrow morning, if that's okay, but I wanted to

16 let you know it's done.
 17 JUDGE DIPPELL: Is it here in the
 18 courtroom right now or --
 19 MR. SCHWARZ: Can we go off the record?
 20 JUDGE DIPPELL: Yes. Let's go off the
 21 record.
 22 (OFF THE RECORD.)
 23 (THE HEARING WAS ADJOURNED AND WILL
 24 CONTINUE ON SEPTEMBER 1, 1999 AT 8:15 A.M.)
 25

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