BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION,	)	
Complainant,	)	
vs.	)	Case No. EC-2002-1
UNION ELECTRIC COMPANY d/b/a AMERENUE,	)	November 12, 2001
Respondent.	)	Jefferson City, Mo

DEPOSITION OF RONALD L. BIBLE,

a witness, sworn and examined on the 12th day of November, 2001, between the hours of 8:00 a.m. and 6:00 p.m. of that day at the Capital Plaza Hotel in the City of Jefferson, County of Cole, State of Missouri, before

PATRICIA A. STEWART, RPR, CSR, CCR
Registered Merit Reporter
ASSOCIATED COURT REPORTERS
714 West High Street
P.O. Box 1308
Jefferson City, Missouri 65102
(573) 636-7551

within and for the State of Missouri, in the above-entitled cause, on the part of the Respondent, taken pursuant to notice.

APPEARANCES

FOR THE COMPLAINANT:

NATHAN WILLIAMS
Legal Counsel
PUBLIC SERVICE COMMISSION
P. O. Box 899
Jefferson City, Missouri 65102
(573) 751-3234

FOR THE RESPONDENT:

ROBERT J. CYNKAR
GORDON T. TODD
Attorneys at Law
COOPER & KIRK
1500 K Street, N.W.
Suite 200
Washington, D.C. 20005
(202) 220-9655

AND

JAMES J. COOK
Managing Associate General Counsel
AMEREN
One Ameren Plaza
1901 Chouteau Avenue
P. O. Box 66149, MC 1310
St. Louis, Missouri 63166-6149
(314) 554-2237

ALSO PRESENT: Johannes P. Pfeifenberger
Suedeen Kelly
Jerry Birdsong
Greg Meyer
David Murray

SIGNATURE INSTRUCTIONS:

Obtain signature; waive presentment.

EXHIBIT INSTRUCTIONS:

Attached to the deposition.

I N D E X

E X H I B I T S

(EXHIBIT NO. 1 WAS MARKED FOR IDENTIFICATION BY THE COURT REPORTER.)

RONALD L. BIBLE, having been sworn, testified as follows:

DIRECT EXAMINATION BY MR. CYNKAR:

Q. Good morning, Mr. Bible. This is your deposition in Case No. EC-2002-1. My name is Bob Cynkar, as I said before, representing AmerenUE.

I'm here with several other colleagues.

To my right is Mr. Gordon Todd from our firm, and various other hangers-on who I won't necessarily bother to introduce. We've all met before here.

MR. WILLIAMS: Why don't we go ahead and do that.

MR. CYNKAR: You want to go ahead and do that?

MR. WILLIAMS: Sure.

MR. CYNKAR: All right. Well, I'll tell you what, for simplicity sake, why don't we just go around the table and everyone just say your name and affiliation.

Johannes, I think you're next.

MR. PFEIFENBERGER: My name is Johannes Pfeifenberger. I'm with The Brattle Group in Cambridge, Mass.

MR. COOK: Jim Cook, AmerenUE.

MR. BIRDSONG: Jerry Birdsong from AmerenUE.

MS. KELLY: Suedeen Kelly from the University of New Mexico School of Law.

MR. MEYER: Greg Meyer, Missouri Public Service Commission.

MR. MURRAY: Dave Murray, Missouri Public Service Commission.

MR. WILLIAMS: Nathan Williams, Missouri Public Service Commission.

MR. BIBLE: Ron Bible, Missouri Public Service Commission.

BY MR. CYNKAR:

Q. Mr. Bible, have you ever been deposed before?

A. Yes.

Q. And how many times?

A. Two other times.

Q. All in cases for the Public Service Commission?

A. Yes.

Q. And what were those cases?

Do you remember the names?

A. One was a rate case for St. Joe Light & Power. Another was a civil/criminal case involving Southwest Gas, Southern Union and ONEOK.

Q. Thank you.

Since you have experience in testifying in depositions, the ground rules you probably know, but let me just go over a couple of them.

One very practical one is that all of your answers have to be oral since we're taking down the testimony. And so shaking your head and nodding -- normal means of communication outside of a deposition don't work here. So you have to say yes or no to questions.

Do you understand that?

A. Yes.

Q. In addition, it's very important -- and I will try to observe this myself -- that we not cut each other off or try to speak over each other, because the court reporter can only take down one person at a time. So we have to try to hold back and let the other fellow take a breath before we talk.

Do you understand that?

A. Yes.

Q. Okay. During the course of the deposition, your counsel has the right to object to any question that I may pose to you, and he certainly has the right to do that.

But in the context of a deposition where there is no one to rule on those depositions -- those objections -- excuse me -- you have to answer my question after he lodges his objection unless he explicitly instructs you not to answer the question because of grounds of privilege.

Do you understand that?

A. Yes.

Q. Okay. We've scheduled this deposition to go for most of today. How long it will actually go during the day I can't anticipate, but this is not designed to be any kind of endurance contest. And we'll try to take regular breaks.

However, if we are going on and you want to take a break, just let me know and we'll do that. We've got coffee here and so forth, and the facilities are down the hall.

In addition, are you taking any medication that would interfere with your ability to understand the questions here or answer them?

A. No.

Q. During the course of my questioning I may ask you a question that may be confusing. I may be mixing up terms of art that you're very familiar with and probably are second nature to you but are not to me. And that is purely unintentional.

And if I ask you a question that you don't understand or in your view I'm confusing something, please just say so, and I'll be happy to try to rephrase the question or be clearer in whatever question I'm going to ask you.

Okay?

A. Yes.

Q. Now, in starting out, I think one sort of rule of thumb that I'm going to use in terms of definitions is that when I'm using the word "Ameren," I'm referring to sort of the whole Ameren, involving the consolidated company of UE and CIPS and so forth.

And that the convention I'll follow is that when I refer to UE, that is Union Electric here in Missouri which is the subject of the rate case that is before us.

Is that okay with you? Is that a good rule of thumb?

A. Yes.

Q. I think what I'd like to do first, we have already marked as Exhibit 1. This is your revised testimony, and I just want to give you a copy.

MR. CYNKAR: And, Nathan, here is a copy for yourself.

MR. WILLIAMS: Okay.

BY MR. CYNKAR:

Q. And this is the testimony that you are sponsoring in this case. Is that true?

A. Um, assuming that it is the one I filed, yes.

Q. Yeah. I mean, you certainly can check it later, and if it in any way doesn't conform to the revised one that was served on us, we can correct that.

Now, the subject of your testimony is the rate of return that should be afforded to UE going forward. Is that correct?

A. Yes.

Q. Okay. And that is a subject that is very important in the setting of the rates for UE. True?

A. I would assume it is, yes.

Q. And the allowed return on equity can have a great effect on UE's rates. Correct?

A. The allowed return on equity can have a greater or not so great effect on anybody's rates.

Q. In this case does the rate of return that you're proposing have a great effect on the ultimate level of rates that the Staff is proposing?

A. That would depend on what you would define as "great."

Q. How would you define "great"?

A. I really don't have a specific definition of "great."

Q. Do you know how your analysis of rate of return fits into the overall Staff case proposing level of rates for UE?

A. What do you mean by "fits in"?

Q. Well, what role it plays in ultimately determining the rates that are being proposed by the Staff.

A. When I determine rate of return, it is calculated against rate base to come up with a revenue figure, and that is worked into the rates that the company is allowed to charge.

Q. And in the context of that being worked in, do you know the impact the rate of return you're calculating has on the ultimate rate being proposed by the Staff?

A. What do you mean by "impact"?

Q. Well, when your rate of return is being worked in, that affects the ultimate number that is being proposed by the Staff for UE's rates. Correct?

A. That's correct.

Q. And there are a number of different variables that the Staff is considering that affects the rate proposal of the Staff. Correct?

A. That's my understanding.

Q. Okay. Do you know how your rate of return variable compares to the other variables that make up the Staff's ultimate rate proposal?

A. When you say "compare," what do you mean?

Q. Well, do you know what the other variables are that the Staff considered in proposing the rates that the

Staff has proposed in this case?

A. I know some of them.

Q. But you really have not examined them all?

A. No.

Q. When were you assigned to this case?

A. Are you looking for the date?

Q. In general terms. Not a specific date.

A. It would be earlier this year.

Q. January, February, that time frame?

A. If you're talking about EC-2002-1, it was probably after that.

Q. I'm talking about the earnings audit of UE that was started before, and I think it was started towards the end of last year, if memory serves.

Were you involved in that?

A. You were referring to EC-2002-1. That's what I thought you were talking about.

Q. Okay. So you were assigned to EC-2002-1 a little later than January, February of this year?

A. That's my guess.

Q. Okay. Now, not referring specifically to that case number but to the Staff's earning audits that led up to the complaint that was filed by the Staff, were you involved in that work?

A. I wasn't involved in the earnings audits.

Q. Were you involved in any way in work that led up to the filing of the complaint in this case?
A. Yes.
Q. And what was that involvement?
A. I did some rough estimates of rate of return.
Q. And when about did you do those?
A. Earlier this year.
Q. Would that have been before you were actually officially assigned to EC-2002-1?
A. Yes.
Q. So is the January, February time frame for that involvement accurate?
A. It could have been even before that. I don't recall exactly.
Q. It couldn't have been before January if it was earlier this year.
Do you think it was before 2001?
A. It could have been.
Q. Okay. Now, after you were actually assigned to this case, what was your specific assignment for your work in this case?
A. To determine an estimate of the rate of return.
Q. And what information in general terms did you review to prepare to calculate that rate of return?
A. Well, the stuff that is in my testimony.

I looked at historical information on the company's book value, earnings, dividends per share, looked at analyst projections, historical stock prices, dividends, interest rates, those things in general.

Q. Okay. In response to our discovery earlier, you-all produced this document to us --

MR. CYNKAR: And, Nathan, this is one of the documents that I don't have copies of.

BY MR. CYNKAR:

Q. If you'll just take a look at that, that was what we were given.

And does that pretty much capture the documents and the material that you looked at?

A. Do you want me to look at all of that?

Q. Well, I just want to --

A. It looks familiar.

Q. It looks familiar?

A. Yes.

Q. As I explained to your counsel earlier in the grand scheme of things, Fed Ex did not deliver certain things here. So we are going to get you copies of that. But I'll give you a copy of that as soon as I can, and I apologize for not having one here right now.

I'm not going to ask you a lot of questions about all of those pieces of paper.

Does that pretty much look like the material you produced in response to our request?

A. It looks pretty much like it, yes.

MR. CYNKAR: Okay. I'm going to have this marked as Exhibit 2.

(EXHIBIT NO. 2 WAS MARKED FOR IDENTIFICATION BY THE COURT REPORTER.)

BY MR. CYNKAR:

Q. When did you start drafting your testimony in this case?

A. This is a guess. I'd say April of this year.

Q. And in the context of developing your rate of return analysis, you considered all of the factors that you believed important?

A. Yes.

Q. And, basically, so I don't have to go through this, all of those important considerations are recounted in your testimony that is Exhibit 1 here. Correct?

A. Are you asking me, did everything that I thought about, did I write down in my testimony?

Q. No. I'm asking you, everything that you thought was significant in terms of calculating the rate of return you have recounted in your testimony, your written testimony here. Correct?

A. Everything that I thought was significant I wrote down in my testimonv. Is that the question?

Q. Yes.

A. I can't -- I can't say that -- that that's true.

Q. And is there any reason why you would leave out something that you thought was significant for calculating rate of return?

A. I wouldn't say I left anything out. If I didn't feel it was appropriate to document it in my testimony, I wouldn't have put it in there.

Q. What do you mean by feel appropriate to document in your testimony?

A. Well, people have thoughts all of the time and conceptual ideas, that they don't necessarily write them down. So, I mean, I may have had some thought processes that might have influenced my thinking, but I didn't write all of those thoughts down.

Q. But for our purposes here -- because we certainly wouldn't want to know all of those thought processes necessarily -- but in terms of all of the -- what you felt to be were the important factors for calculating the rate of return, so we could know, you know, what the basis of your testimony is, those are recounted here. Is that fair?

A. Yes.

Q. Okay. Now, why didn't you use any Missouri companies in your comparables for your analysis?

A. Because I didn't feel it was appropriate to use them.

Q. Why?

A. There is an argument that there is circularity, in that if the Commission sets the rates for a company, then the circularity of influencing your decision or your thoughts as far as what the rates should be in a specific case.

Q. Do you agree with that argument?

A. I accept it.

Q. And so it obviously was a building block of your analysis?

A. It was something that I took into consideration when I did my analysis.

Q. As a result, then, is it fair to say that you believe that the performance of companies outside of Missouri is relevant to the analysis of rate of return?

A. In general or specifically this case?

Q. Well, specifically to this case.

A. It has a relevance.

Q. I mean, you're using that performance to evaluate the reasonableness of your own analysis. Correct?

A. To evaluate the reasonableness, yes.
Q. So to that extent it has a relevance?
A. Yes.
Q. Okay. And those companies outside of Missouri are in turn regulated by public service commissions in their jurisdictions. Correct?
A. Well, with deregulation I'm not familiar with all of the states that are deregulated. So I can't say for sure that, you know, all companies that would be included in the comparable analysis would be regulated.
Q. What about your comparable analysis?
A. I did not check to see if they were regulated or deregulated.
Q. So, then, in the context of your analysis, you did not take a look at the practices or principles governing other commissions regulating companies in their jurisdiction?
A. That's correct.
Q. Some of the comparable companies you chose -- now, you ended up with three comparable companies. Correct?
A. The final group was three, yes.
Q. Okay. Now, do some of those companies earn revenues through interstate transmission of electricity?
A. I don't know.

Q. Do you know when the first experimental alternative regulation plan -- which we can call an EARP for short -- was negotiated?
A. No.
Q. Do you know when it began?
A. No.
Q. Have you ever reviewed the EARP?
A. Parts of it.
Q. Do you know how long Union Electric has been operating under the EARP?
A. If I recall, it's been, like, five years.
Q. Would it sort of refresh your recollection if I said that the first EARP started in 1995?
Does that sound right to you?
A. I don't recall. I mean, I wasn't here.
Q. Okay. Taking 1995, what is your view of how interest rates have moved since 1995 to the present?
A. Which interest rates?
Q. Well, what do you think are the most important interest rates for purposes of your analysis?
A. Risk-free rate, utility bond yields.
Q. And how have those rates moved since 1995?
A. Down.
Q. Consistently down?
A. Rates never move consistently in one direction

or another.

Q. I'm going to ask you a few questions about your background, so I'm going to be referring to this, but I'm not going to obviously get into all of this.

Now, you graduated from Colorado State in 1976. Correct?

A. Yes.

Q. And according to your testimony, you have a degree in social science from that university?

A. Yes.

Q. Okay. Did you study economics at all when you were there?

A. Yes.

Q. Did you have any finance courses?

A. Yes.

Q. Do you recall how many?

A. At Colorado State?

Q. Yes.

A. No, I don't recall. It would be a guess.

Q. Do you know the subject matter of the finance courses? Do you recall those?

A. Yes.

Q. Could you just briefly summarize those?

A. Financial theory, analysis of financial statements, determination of the cost of capital, there is investment theory included, those kind of things.

Q. I see.

Do you happen to recall what were the major course books you used in that time?

A. You mean the titles of them?

Q. Even if you don't remember the exact title, do you remember the authors or anything about them?

A. No.

Q. So those aren't the sort of things you've kept on your shelf since college days?

A. No.

Q. Okay. I still have a lot of my law books. That's why I ask. I'm a pack-rat.

After graduating from Colorado State, did you go directly to Southern Illinois University or did you have a gap there?

A. No. I had a gap there.

Q. What did you do?

A. I was in the Air Force.

Q. And what did you do in the Air Force?

I'm sorry. You did statistical analysis there.

A. Yes.

Q. And how long were you in the Air Force?

A. Six years.

Q. And were you in the Air Force while you were attending SIU?

A. Yes.

Q. And why did you decide to leave the Air Force?

A. I finished my MBA and decided that I'd like to see what the civilian world had to offer.

Q. In your MBA, your testimony recounts that you had an emphasis on finance and investments. Is that correct?

A. Yes.

Q. Do you recall the kind of finance courses you had when you were doing your MBA?

A. In general.

Q. Could you just generally summarize those for me?

A. Very similar to undergraduate courses. A lot of it emphasizes more to managerial, the concept of it.

Q. Okay. Do you happen to recall any of the major treatises or course books that you used in the context of studying for your MBA in finance?

A. No.

Q. So you didn't keep any of those on your shelf either?

A. No.

Q. Now, you're not a lawyer?

A. No.

Q. And never had any legal training?
A. Business law classes.
Q. Okay. But you never started to go to law school and decided it was a waste of time or anything like that?
A. No.
Q. Many of us think we should have.
Now, have you ever been an investment advisor?
A. What do you mean by "investment advisor"?
Q. Well, have you ever as a matter of earning your living advised other people on how to invest in stocks or bonds?
A. Yes.
Q. When was that?
A. When I was with American Express.
Q. And what did your role as an analyst planner there have you do?
A. Help individuals and companies develop portfolios, investment portfolios.
Q. Did you specialize in any particular segment of the market?
A. As far as investments, asset allocation.
Q. What does that mean?
A. Helping individuals and couples determine the proper assets to allocate their resources to.

Q. Have you ever written any articles in professional journals or publications?
A. Yes.
Q. How many?
A. I don't recall. Five or six.
Q. Now, do you recall the subjects?
A. One of them was on capital investment for Industrial Engineer Magazine. One of them was on productivity enhancement measurement for the Health Care Management Information Systems Society.
Q. How long ago was that article written?
A. Mid '80s.
Q. Do you recall any of the other articles?
A. Not specifically as far as the titles or subject.
Q. Okay.
In response to our interrogatories -- and I know a number of the folks on the Staff were involved in responding to our discovery -- there were a couple of different treatises that were cited.
One is called the Cost of Capital - Practitioners Guide by Parcell.
Are you familiar with that work?
A. Yes.
Q. And the other is Regulatory Finance, Utilities

Cost of Capital by Roger Morin.
Are you familiar with that work?
A. Yes.
Q. And do you think that those two are reliable authorities?
A. Yes.
Q. In addition, I think they both refer to Brealey and Myers Principles of Corporate Finance.
Are you familiar with that work?
A. In the context of those works I am, yes.
Q. Okay. Are you familiar with another work called Corporate Finance by Ross, Westerfield and Jaffee?
A. Not specifically.
Q. I don't know if that would ring any bells, but that is used as a standard text at SIU's college of business administration. I didn't know if that rings any bells with you, Ross, Westerfield and Jaffee.
A. (Shakes head.)
I guess it would depend on when they started using it.
Q. I think it's been around for a while. But that's all right.
Now, if I understand not only your testimony but the responses to interrogatories, is it fair to say that ratemaking doesn't set the revenue a utility will

actually earn. Is that fair?

A. Say that again.

Q. Ratemaking does not set the revenue a utility will actually earn?

A. That's correct.

Q. And that's because it only sets a rate that it may -- that may produce revenues that it may earn, depending upon a lot of other factors in the marketplace. Correct?

A. That's correct.

Q. Okay. Now, is it fair to say that the discounted cash flow method which you use -- which, again, I'll just call DCF for shorthand -- in part tries to measure investors expectations of future cash flows?

A. The DCF model is an expectation model.

Q. Right.

And what does that mean?

A. What the model measures is given the dividend and the estimated growth, it shows what investors are willing to pay for that, and imparts their expectation as far as the return they would get from that investment.

Q. Okay.

The rate of return that is set by the Commission obviously does greatly affect the revenue that will be earned?

A. It depends on what you mean by "greatly affect."
Q. Well, why don't you describe for me how you believe it affects the revenues that will be ultimately earned.
A. The rate of return is one factor that is used in determining the rates that the company is allowed to charge.
Q. Right. That's the fact.
And so how significant is that in terms of the revenues that the company can ultimately achieve?
A. It's hard to say. It depends on the level the rate is set at, what other factors that go into setting the rates, what kind of volume of commodity the company sells. I mean, there is a lot of other factors involved.
Q. In your view is there any way of ranking the significance in terms of ultimate impact of those range of factors?
A. Not in general. It's just specific to the case.
Q. Well, in the case of UE in this case, is there a way of doing that?
A. Again, it depends on what you mean by "significance."
Q. Well, if I understand you correctly, there is a

range of factors that will affect the revenue that a company ultimately can achieve. Is that fair?

A. Yes.

Q. Okay. And one of those is the rate of return that is set by the Commission. Correct?

A. It can, yes.

Q. Okay. And there are many other factors too. Correct?

A. Yes.

Q. And in this particular case, is it your view that all of those factors are equal in terms of their ultimate effect on UE's revenues?

A. If you say equal as far as on a numerical sense, I couldn't say.

Q. I mean, that's fine. If you don't know, that's a perfectly respectable answer. I'm not trying to ask you to say something that you don't know the answer to.

So you haven't analyzed the significance of the rate of return calculation on UE's ultimate revenues in any way?

A. I haven't compared what rate of return in this case means numerically versus what depreciation means numerically versus what cost of service means numerically versus what volume of commodity the company is going to sell based on those rates to be able to determine --

Q. Okay.
A. -- what the revenue is going to be for Ameren. And I don't think anybody has.
Q. Okay.
Have you done any comparison -- we were just talking about rate of return versus other factors, and you were talking about the volume of the commodity that UE can sell and how no one has done an analysis of those factors to each other.
Have you done any analysis of how your rate of return could ultimately affect the commodity that the company can sell?
A. Have I analyzed my rate of return against the commodity?
Q. Well, you used the phrase "commodity." By that I presume you meant electricity?
A. No. I'm talking about any commodity the company sells.
Q. Okay.
A. That's what generates the revenue.
Q. Right.
But for purposes of this case, the focus is on electricity. Correct?
A. Okay.
Q. Okay. So let's agree on that just to simplify

things.

So you, if I understand you correctly, said there are a number of factors in the rate setting process, including rate of return, that ultimately affects the amount of electricity that UE can sell.

Do I understand you correctly?

A. No, I didn't say --

Q. Okay. I'm sorry. I don't mean to be thick, but why don't you explain to me what you mean.

A. A rate of return doesn't determine how much a company sells.

Q. What does it do?

A. Rate of return goes into the rates that the company can charge.

Q. And what does rate of return affect?

A. It's a component of the rates.

Q. Right. What does it stand for? What does rate of return mean?

Is it --

A. It's the rate of return on rate base.

Q. So how is it related to the cost of equity?

A. Well, the cost of equity is the component of cost of capital. Cost of capital are used -- is used synonymously with rate of return.

Q. And so the return that the Commission sets, is it fair to say that that would greatly affect the access to capital of a company?

A. I can't say that it would or it wouldn't.

Q. Is it your -- does it have any relationship to the access to capital?

A. There is a lot of factors that go into determining and actually resulting in a company's access to capital.

Q. Okay. What are some of the other factors besides the rate of return set by the Public Service Commission?

A. A company's credit rating, investors perceptions as far as the prospects for the company, investors alternative, investment opportunities, the amount of capital that the company would need.

Q. Let me ask you, just so I understand it, if the Commission sets a rate of return that is comparatively high, is it fair to suggest that that would attract investors, all other things being equal?

A. I don't know what you mean by "comparatively high."

Q. Well, compared to other similar investments.

A. Are you asking me if the Commission set a high rate of return compared to other investments, that that would enhance the company's access to capital?

Q. Yes.

A. It's possible, but then it's possible it may not.

Q. And that's because of factors other than the rate of return?

A. That's correct.

Q. But is it fair to say as a practical matter, keeping those other factors equal, just so we're comparing the same thing, if you have companies where -- if you had two investment opportunities as an investor -- let's say they are two utilities and all of the other factors we're going to assume are the same.

If the Commission over here for Company A sets a rate of return -- let's just pick a number. We'll call it ten. And for Company B the Commission sets a rate of return of five.

If I understand the operation of rate of return, wouldn't it be fair to say in that hypothetical that an investor would want to invest in Company A because that investor would get more return on his or her money?

Is that fair?

A. If you unrealistically said everything else being equal?

Q. Uh-huh.

A. Yes.

Q. Okay.
On page 2 -- starting on page 2 of your testimony -- and maybe if we could refer to it. And this goes on -- I guess it goes on pages 2 to 7. You discuss the economic and legal rationale for regulation.
Now, we earlier were talking about you're not a lawyer and haven't had any legal training. Correct?
A. Yes.
Q. Okay. Now, I'm going to ask -- the next group of questions I'm going to ask you about focuses on these pages.
So I understand that you're not a lawyer, and if there is something you can't answer, just say so. I'm not going to belabor the point.
Now, in this section you quote -- or cite and quote from a number of initially United State Supreme Court cases, articulating what you believe to be the legal basis that you must use when determining a fair and reasonable return for a public utility. Correct?
A. Yes.
Q. Okay. And you also cite a case from the Pennsylvania Supreme Court, correct, on page 6, I believe it is?
A. Yes.
Q. Okay. Now, given that you don't have any legal

training, how did you happen to select these four cases for your testimony?

A. Through review of the published documents that document the results of those cases and pulling out what seemed appropriate for rate setting.

Q. And is there a reason why you didn't choose any case after 1944?

A. No.

Q. Have you ever read Munn versus Illinois?

A. Yes.

Q. When was the last time you read it?

A. Last week.

Q. Good preparation.

A. I didn't memorize it. I read it.

Q. Don't worry. I won't give you a law school class kind of quiz on it.

Had you ever read it before you submitted this testimony?

A. Yes.

Q. What was the occasion for that?

A. It would have been for a rate case.

Q. Okay. And I'm just going to go through these cases briefly.

Have you read Bluefield?

A. Yes.

Q. The same answer, both in preparation for today in the context of earlier testimony?
A. Yes.
Q. The same thing with the Natural Gas Pipeline case?
A. Yes.
Q. And Hope also?
A. Yes.
Q. What was the statute the Supreme Court was construing in Hope?
A. I don't recall.
Q. Do you think that was significant in terms of the legal principles there?
A. I would imagine it is.
Q. Did you take that into account when you prepared your testimony, even if you can't recall it now?
A. No.
Q. If I understand you correctly, you surveyed more Supreme Court cases than just these and selected these for purposes of your testimony.
Did I understand that correctly?
A. Are you saying did I read more Supreme Court cases than these?
Q. Yes.
A. No.

Q. Why not?
A. No particular reason.
Q. Isn't it a fact that these are the four cases that have been cited by the Staff repeatedly in rate of return testimony for a long time?
A. Yes.
Q. So is it fair to say as a practical matter that you just used that as a guide for choosing the cases?
A. Yes.
Q. And in preparing this testimony you did not read Duquesne Light Company versus Barasch?
A. No.
Q. Have you ever read Duquesne Light Company versus Barasch?
A. No.
Q. Why didn't you cite any Missouri Supreme Court cases?
A. No reason.
Q. Have you ever read a Missouri Supreme Court case?
I don't recommend it as fun reading.
A. No, I don't recall that I have.
Q. Have you ever read the Takings Clause to the Fifth Amendment to the United States Constitution?
A. No.

Q. Have you ever read the Takings Clause in the Missouri Constitution?
A. No.
Q. I'm going to show you this. I'm just going to ask you about one phrase.
I'm referring to the document that is Staff's responses to Union Electric Company's first set of interrogatories.
MR. CYNKAR: I don't necessarily feel a need to make this an exhibit, but, Nathan, if you want, we can do that. It's really a matter of practice, if you'd prefer.
BY MR. CYNKAR:
Q. That underlined phrase over there, and I'm just going to ask you a question about that.
In that answer, which I think is the answer to Interrogatory No. 49, the answer is, Utility regulation acts as a substitute for the, quote, economic control of market competition, close quote.
Have I read that correctly?
A. Yes.
Q. Now, are you familiar with that answer?
A. Yes.
Q. Okay. Do you agree with that statement?
A. Yes.
Q. Could you explain what the economic control of

market competition means?

A. It acts as a substitute for competition.

Q. Okay. And what are the aspects of that?

A. Of acting as a substitute or just --

Q. Yes, yes.

What does competition do that utility regulation is also trying to do?

A. My understanding of competition in a business environment would be more than one provider of a good or service, with the potential for competition as far as level of service, prices that would be charged, those kind of things.

Q. Okay. I'm holding in my -- well, I've got resting in front of me a book that is called Principles of Public Utility Rates by Bonbright, Danielsen and Kamerschen.

Are you familiar with Bonbright?

A. No.

Q. Have you ever heard of Bonbright before?

A. No.

Q. Let me ask you a question.

What I'm trying to understand -- and what I want to talk to you about a little bit -- was this notion of economic control of market competition and the relationship of regulation and competition. So that's the subject of my next couple of questions.

What role does competition have in setting prices?

Could I have my -- if you want to keep that in front of you for reference, you can. I want to keep it moving.

A. Typically when you have competing companies, there is the opportunity for one or more company to sell their good of service for less in order to attract market share.

Q. And if they sell it for less, there is a good chance that they could get a bigger market share?

A. That's potentially true.

Q. And if they do that, they could make more money?

A. That's potentially true.

Q. And that, of course, is their goal?

A. Yes.

Q. Okay. And how would a company in your example go about being able to sell product for less?

A. By pricing it lower than their competitors.

Q. And what would allow them to do that?

A. Well, they control the prices they would charge, so they would just do it.

Q. That's purely a matter of discretion on the part of a company?

A. Yes.

Q. There is no practical things that constrain them?

A. There could be.

Q. What could they be?

A. What their costs are.

Q. And do you have a view of how significant the costs of production are in terms of setting prices?

A. In general, no.

Q. In terms of the market?

A. Not in general, no.

Q. Do you have any judgment about the relationship of production costs to the price of a good or service?

A. Yes.

Q. And what is that?

A. If you have lower production costs, it would afford you the opportunity -- or could afford you the opportunity to lower your prices.

Q. And is achieving lower production costs for the same amount of output one measure of efficiency?

A. It could be construed as a measure of efficiency.

Q. How would it not be construed as a measure of efficiency?

A. It would depend on what your definition of "efficiency" is.

Q. What is your definition of "efficiency"?

A. I don't have one.

Q. Does efficiency play any role in your analytical work at the Commission? Not the whole Commission but your particular portfolio. Does that concept play any role?

A. I don't have a portfolio.

Q. I mean, but in terms of your responsibilities that you're assigned to. I mean, you don't do everything that the other members of the Staff does. Correct?

A. That's correct.

Q. And would it be fair to say that you -- that one of your areas of expertise is rate of return analysis and calculation. Is that fair?

A. Yes.

Q. Is that your primary one, would you say?

A. No, I wouldn't say it's the primary one.

Q. What other kinds of tasks are you assigned to?

A. I'm the manager of the department and I supervise the employees. We do mergers, finance cases.

Q. In terms of -- let me focus a little bit.

Beyond the kind of administrative responsibilities and so forth you might have, in terms of your analytical tasks that would go into testimony to the Commission on either a rate case or other matters, what besides rate of return calculations are you involved in?

A. Evaluating finance cases, evaluating mergers.

Q. Okay. Now, in the context of all of that work, the concept of efficiency doesn't play a role?

A. I try to be as efficient as I can when I do that work.

Q. No, I know. I'm sure we all try to.

But in the context of -- well, actually let me ask you: When you're being efficient in your work, what do you mean?

A. In that context, I try not to waste time. I try to get things done as soon as I can. We're usually under a deadline, so I have to meet the deadline.

Q. But besides managing your own time and own activity, if I understand your testimony earlier, the concept of efficiency doesn't play a role in your analysis in any of those other subjects that you mentioned?

A. Yes, it does.

Q. It does.

But yet if I understood you -- and I may be confused and I really do apologize.

I thought you testified that you don't have a definition of efficiency.

A. Not a general definition.

Q. Well, for purposes of your work in calculating rate of return, do you have a definition of efficiency?

A. Yes.

Q. What is that?

A. It's the efficient market hypothesis that postulates that all known information is readily available in the marketplace and is known by investors, pretty much everybody.

Q. I see.

So that's part of the premise of the DCF calculation really?

A. It's part of the modern portfolio theory.

Q. In terms of your work in terms of calculating the appropriate rate of return, however, if I understand what you just said, that efficiency refers to access to information. Correct?

A. Yes.

Q. Okay. Is there a concept of efficiency with respect to the actual performance of a utility that plays a role in your analysis?

A. Yes.

Q. And what is that?

A. The efficient market hypothesis, in that all information about a company is public and known by investors, analysts, everybody who might be looking at the company.

Q. I'm sorry. I may have been unclear.

With respect to a utility producing electricity, in that task is there any concept of efficiency that relates to your work?

A. Yes.

Q. What is that?

A. As I just said, the efficient market --

Q. Okay. I may be confused. I really do apologize.

A. It's going to be the marketplace's interpretation of whether or not a company is efficient.

Unless it's a secret, people will know whether or not the company is efficient, and they will factor that into the price they're willing to pay for the dividend that they expect to get and the growth they expect to get from the investment in that company.

Q. Okay. In your testimony on page 3, on line 5, you refer to -- you say there, quote, For services that operate efficiently and have the ability to achieve economies of scale, a monopoly is the most efficient form of market organization.

Now, we'll talk about monopoly and so forth later.

But in terms of that phrase, "operate efficiently," how do you define "operational efficiency"?

A. Well, in the context of this, if you'll look further, basically, if you have that kind of situation where you have a marketplace and you have providers of goods of services in that marketplace who are competing for whatever volume of goods and services are out there, it would be more efficient for a single provider to provide that -- those goods and services because they can get the economies of scale.

Q. Right. But I think we were sliding into the discussion of monopoly, which we'll get there.

But as I've understood your testimony -- and what's confusing me -- is you've described the access to information of investors being able to make a judgment about whether Utility A was operating efficiently.

And that is sort of the efficiency of investors getting that information, which is part of portfolio theory as you're educating me here.

But the part that I don't think you've addressed yet is that if investors have an impression that the company is operating efficiently, what in your mind does the company operating efficiently mean?

A. Well, I don't know what investors perceptions of a company operating efficiently means.

Q. Well, what do those words mean to you?
I'm not trying to ask you -- I don't want you to stand in the shoes of investors.
But there is this fact that a utility will either behave efficiently or not efficiently. Correct?
A. (Nods head.)
Q. And all I'm trying to understand is, what is a utility doing when it is behaving efficiently in your view?
A. It would be operating in a manner where investors would perceive them operating efficiently, and that would be reflected in the price that the investors are willing to pay.
Q. So is it fair, if I understand you then, that the concept of efficiency as it relates to your work is a matter of investors judgment and expectations?
A. In relation -- in relation to what you've asked me, yes.
Q. Well, I'm not sure how I've limited it, so I'm not -- I'm confused by your last response.
In your mind how have I limited the question? I was trying to be fairly broad to understand the building blocks here.
A. Well, the way I understand you asking it is, the investors expectation as far as efficiency.

Q. No. I'm sorry. I'm not making myself clear.
Take investors expectations away.
A company can operate efficiently or not. Correct?
A. Yes.
Q. Regardless of whether there is going to be an investor or not, it could be, you know, privately held. It doesn't matter. It could be a mom and pop store, could be whatever, a company could behave efficiently or not.
When any company is behaving efficiently, what does that mean in your mind?
A. I still have to take it back to the investors perceptions.
Q. Okay. Because I wasn't trying to limit it to the investors perceptions.
Would we agree, then, that your perception of the bottom line concept of efficiency is inherently related to investors perceptions?
A. For purposes of rate of return and the DCF model, yes.
Q. Okay. I apologize. I don't mean to be thick. I wish I'd taken more economics in college myself.
Okay. This is where I wish I had our copies.
MR. CYNKAR: Excuse me for one second.
I think it's a little early for a break, but is

everybody okay? I thought we'd go maybe for about another half an hour or so and then take a break. Is that okay?

MR. WILLIAMS: Unless you want to take one now to discuss them.

MR. CYNKAR: No. I just wanted to ask him to pick something out of here.

Okay. I'll let him do that.

Okay. Oh. Great.

I want to make sure I have these in the exact way that they're . . .

All right.

BY MR. CYNKAR:

Q. I have in my hand the Cost of Capital - Practitioner's Guide by David Parcell, a 1997 edition. And we have xerox copies of those. And I'm happy to make those part of the record or not. This is the volume that you folks cited in your response.

Do you recognize it?

A. Yes.

Q. Now, I don't have them written down exactly the way they're listed here, but just for sort of ease of reference, this is page 2-12 and 2-13.

And there are five criteria that -- there are five criteria that, I guess, Professor Morin uses there for setting a fair rate of return.

There is capital attraction, and then I think it's rate level stabilities they have there next.

Do I have that? Correct. I'm reading from my own crib sheet here.

And then I think there is management efficiency. Is that correct?

And the consumer rationing and fairness -- there we go. Thank you -- and fairness to investors.

Now, first of all, do you agree that those are basic criteria of a fair rate of return?

A. That these are the basic criteria?

Q. Yes.

A. I would say they are factors to consider. I wouldn't call them criteria.

Q. So Professor Morin calls them five major criteria.

A. I thought we were dealing with Parcell's book.

Q. Parcell. I'm sorry. You're right. Not enough coffee this morning.

Parcell cites these as five major criteria of a fair return.

So --

A. No. Actually, he says Bonbright suggests --

Q. Okay.

A. -- five major criteria.

I don't take that as him citing these are the criteria for a fair rate of return.

Q. So it is your view that Mr. Parcel does not embrace these as the criteria for a fair rate of return?

A. I don't see anywhere in here where he says that.

Q. Okay. From your perspective, though -- from your perspective, is it fair to say that these are factors that should be considered?

A. I think it would be fair to take these into consideration, yes.

Q. Okay. We were talking about it -- since we're spending some time on it, why don't we wrap it up.

There is a reference here to management efficiency criteria.

A. Are you referring to this?

Q. Yes, I am, exactly.

So it's written there as criteria, but I understand from your perspective that that's a factor.

And from your perspective, this book here says from Mr. Parcell, quote, This strives to reward management efficiency and discourage inefficiency, close quote.

Would you agree with that description of this factor?

A. That's what it says.

Q. That's what it says.

But would you agree that that's what you should do in taking into account this factor of management efficiency?

A. You're asking me here now if I agree with this?

Q. Yes.

A. I -- I can't say whether I agree with it or not. I mean, I haven't evaluated this with regards to what they mean by reward or discourage inefficiency.

I mean, I haven't evaluated this or studied it. So I couldn't say one way or the other whether I would agree with that or not.

Q. So in terms of your analysis in this case, is it fair to say that you have not tried to set a fair rate of return that would discourage inefficiency?

A. Say that again.

Q. I said, so in the context of this case, if I understood what you just said, that you didn't necessarily agree or disagree with this statement that the management efficiency factor strives to reward management efficiency and discourage inefficiency; you haven't really considered it. Is that correct?

A. Well, I said I haven't evaluated this statement.

Q. Okay.

Well --

A. I mean, you're presupposing that this is the criteria.

Q. Well, no.

I'm saying, if you haven't evaluated this statement, the concept that one factor to go into -- or let me ask it this way. This may be more straightforward.

In setting a fair rate of return, should one factor that you consider be discouraging inefficiency?

A. If you're asking me if I set rates of return to discourage inefficiency, I would say, no --

Q. Okay.

A. -- not specifically.

Q. In any way.

A. No.

Q. Okay. And then I'm just going to ask you the corresponding question then.

Is it fair to say that you don't in any way set rates to reward management efficiency?

A. In the context of a rate case, whether a management acts efficiently or inefficiently is something that management is going to do, and they're going to do that irrespectively of what rate of return is suggested, set, authorized.

Q. So does that mean the answer to my question is, no, that you do not consider rewarding management efficiency in proposing a fair rate of return?

A. No.

Q. Okay. Now, if you'll turn to your testimony -- I'll take that back.

In the context of your testimony on page 6, on lines 26 to 28, I'm going to read this and ask you a few questions.

It says, quote, Pennsylvania -- which is the Supreme Court of Pennsylvania case that we talked about -- is included in my testimony to illustrate the following point: Captive ratepayers of public utilities should not be forced to bear the brunt of poor or inept management that results in unnecessarily higher costs, close quote.

In light of the exchange we just had, I'm a little confused if it's your view that in setting a fair rate of return you're not trying to discourage inefficiency.

I read this sentence in your testimony as suggesting that you feel that that is indeed something you should consider.

Would you explain --

A. All I'm saying here is captive ratepayers of public utilities should not be forced to bear the brunt of poor and inept management that results in unnecessarily higher costs.

Q. Okay. Then is it fair to say that that proposition that captive ratepayers should not be forced to bear the brunt of poor and inept management, that that policy goal is achieved elsewhere, not in setting rate of return.

Is that fair?

A. What this is saying here is, if a company has unnecessarily higher costs, you shouldn't set rates to allow them to capture unnecessarily higher costs and just pass that -- arbitrarily pass that on to ratepayers.

Q. Well, unnecessarily higher costs can occur because of inefficiency. Correct?

A. It can.

Q. Okay. And to the extent that inefficiency is the cause of unnecessarily higher costs, your rate of return analysis is not intended to address that problem?

A. What do you mean by rate of return, address that problem?

Q. Well, I'm harkening back to what you said was that the factor of rewarding or discouraging -- well, in this context, discouraging inefficiency was not part of your calculation of a fair return in this case. It was not part of your consideration. That was your earlier testimony.

A. Not directly. But if my rates come in at a certain level and the company's costs exceed that because they're inefficient, then I'm certainly not going to adjust my rates up just because they're inefficient. Their costs are excessive.

Q. No. I understand that.

But you did not get -- in your hypothetical just now, you did not get to the particular number you proposed because of any conscious judgment on your part that the company was being inefficient?

A. No.

MR. CYNKAR: Why don't we take a five-minute, ten-minute break. I've got -- it's ten to ten, I guess it is. So let's come back at ten o'clock.

(A RECESS WAS TAKEN.)

BY MR. CYNKAR:

Q. All right. Just finishing up a little bit of what we were talking about and then we'll move on to another subject.

If I understand you correctly then, when we were talking about efficiency and investors, an investor's judgment about whether a company is well managed will ultimately affect the cost of equity?

A. It can, yes.

Q. Turning the corner to sort of a higher level subject, generality here, would it be fair to say that you have concluded that it is appropriate for UE's rates to be cut?

A. I haven't made that determination or a judgment on that.

Q. Do you believe that UE is earning excessively?

A. I haven't made a determination or a judgment on that.

Q. Do you know how the rate of return you are proposing compares to the rate of return UE has achieved over the last six years?

A. No, not specifically.

Q. Well, have you looked at it?

A. No, not specifically. I haven't done any comparison of those rates of returns.

Q. Do you know what they are?

A. I don't recall. I mean --

Q. Did you consider them in formulating your testimony?

A. When you say "consider them," what do you mean by "consider them"?

Q. Well, the Staff has filed a complaint saying that UE's rates should be cut. Correct?

A. That's my understanding, yes.

Q. Okay. And it is the Staff's view that the premise for that is that UE has excess earnings.

Isn't that true?

A. That's my understanding, yes.

Q. Okay. And you don't disagree with that, I wouldn't think?

A. No.

Q. You have no independent basis to disagree with that?

A. No.

Q. Now, on page 16 of your testimony, starting at line 13, you refer to AmerenUE's ROE, return on equity, from 1996 to 2000.

And I guess that illustrates my question.

You refer to this past ROE in your testimony, and so, therefore, is it fair to conclude that you considered it in formulating your recommended rate of return?

A. It depends on what you mean by "considered it."

Q. Well, what role did it play in your analysis of a correct rate of return for UE?

A. I didn't use it in any fashion to determine the correct rate of return for UE. I used it as a reference point.

Q. What does using as a reference point mean?

A. Just for reference, to see what it was.

And just to be technically accurate, that's not rate of return. It's return on equity.

Q. Return on equity. I'm sorry. You're right.

Now, there is, I believe -- and I don't think -- you testified earlier about your familiarity with the EARP. You indicated that you weren't really that familiar with either the first or the second EARPs.

Is that fair?

A. It's all relative. You know, I don't consider myself to be very familiar with it.

Q. If I recall your testimony, you said you hadn't read all of it?

A. That's correct.

Q. And to what extent are you familiar with it?

A. I'm familiar that it's an experimental alternative rate plan. I'm familiar with it's an alternative to rate base regulation, traditional regulation. I understand that it was implemented prior to my employment at the Commission.

Q. And when did you start at the Commission?

A. 1997.

Q. So it has been in place since before you got there?

A. That's my understanding, yes.

Q. Are you familiar with the report that the Staff filed on February 1, 2001 entitled Report Regarding the Experimental Alternative in Regulation Plans of Union Electric Company d/b/a AmerenUE?

And this was filed in Case No. EM-96-149.

Are you familiar with this document?

A. Somewhat.

Q. How are you familiar with it?

A. I provided estimates as far as rate of return that other Staff used in preparing that report.

Q. Okay. So you evaluated -- you analyzed UE's ROE under the EARP, is that correct, as part of this report?

A. When you say analyze their ROE, what are you referring to?

Q. Well, I was just using my own words. I wasn't trying to mischaracterize it. I was just trying to describe the work that you just said you did on UE's ROE for this purpose, for the purpose of this report.

A. Well, like I said, I provided an estimate of rate of return for purposes of the report.

MR. CYNKAR: Okay. I'll tell you what, we will have more copies of this, but I would like to have this marked as Exhibit 3.

(EXHIBIT NO. 3 WAS MARKED FOR IDENTIFICATION BY THE COURT REPORTER.)

BY MR. CYNKAR:

Q. I'm going to show this to you, but just for purposes of the record, on page 12 I have highlighted two sentences which read, quote, UE has consistently earned over a 12.61 percent ROE. UE's present rates are excessive even though UE's customers receive half of the excess earnings between a 12.61 percent ROE and a 14.00 percent ROE for UE, and a larger percentage, about 14.00 percent ROE.

The 12.61 to 14.00 percent ROE range represents a substantial amount of excess earnings, of which only half must be shared by UE with its ratepayers, close quote.

And that's the stuff that I highlighted there.

And my question is, is did your rate of return work in the context of preparing that report form the basis for those statements?

A. I would assume it did.

Q. Okay.

Would you agree with those statements?

A. I have no reason not to.

I didn't prepare them.

Q. Okay. If I could have that back. I'm sorry. That's the only one we have.

On the same page there is another sentence that

I'm going to just read in the record and then show you.

And it's, quote, The significant difference between UE's ROE customer credit beginning sharing point of 12.61 percent ROE and what UE's authorized ROE would likely be if currently determined by the Commission represents earnings that UE is allowed under the EARP to retain in entirety that otherwise would not be considered reasonable for retention by UE under traditional regulation, close quote.

That's in the brackets right there.

Did your work with respect to this report provide the basis for that statement?

A. I would say the section that said what UE's authorized ROE would likely be would have.

Q. Your work --

A. Yes. The estimates that I gave for rate of return --

Q. Okay.

A. -- yes.

Q. And did you review a draft of this report before it was filed with the Commission?

A. I don't recall.

Q. Would it be normal that you would have reviewed it?

A. Not necessarily.

Q. Okay. I'm sorry. If I could have that back.
One more sentence -- I think it will be actually two more sentences -- I don't want to make myself into a liar here -- and then we'll move on.
The first sentence that I wanted to talk about is this one, quote, The Staff, however, would argue that the protection which the EARPs have provided UE from rate changes resulting from Staff excess earning complaint cases has continually put UE in a protected earnings position that has not necessarily benefited UE's ratepayers greater than traditional regulation would have, close quote.
And, again, I've read the red ink in brackets there.
And my question will be the same, Mr. Bible.
Did your work on this report provide the basis for that statement in any way?
A. It could have.
Q. Could you explain how it would have?
A. The part of excess earning?
Q. Yes.
A. They used my rates of return to determine if the company could potentially be in a position of excess earning.
Q. Okay. Now, your work in this context, your

work on the rate of return that -- let me back up.
You don't in any way disagree with that statement in that report?
A. I have no reason to disagree with it.
Q. Okay. Did your work on rate of return in the context of that report that possibly led to the statement about excess earnings, did that work play any role in your work on your rate of return proposal and your testimony in this case?
A. No.
Q. How come?
A. Why should it? It's two different cases.
Q. The same company though.
A. Two different cases.
Q. In your view does the level of earnings of a utility in prior years not bear on your calculation of what the proper rate of return is going forward?
A. In a sense of using the models, the company's prior earnings would have an influence on its dividend, and that would be factored into the model.
A company's prior earnings would be evaluated by investors, and that would be factored into the price they're willing to pay.
A company's historical earnings would be evaluated by analysts, and that could potentially have an

impact on their estimate of the growth of the company.
So from that aspect, yes.
Q. Do you have any sense from your perspective of when the Staff became aware that UE was achieving excess earnings under the EARP?
A. Do I have a sense of when?
Q. Yes.
A. I don't really recall, because I have been approached from time to time in the past and asked to come up with an estimate. And I can't say it's necessarily true that anybody shared with me or anybody came to me and said UE is overearning.
So I really can't say that I have a good sense of when somebody or Staff made the determination outside of this report and in filing the complaint case.
Q. In terms of those requests for you to do some calculations on rate of return, could those requests have started relatively soon after you came on board with the Staff in '97?
A. Well, it's my understanding that the review is ongoing of the EARP.
I believe I did some calculations in 1999. If anybody else on my Staff was asked for an estimate prior to that, I don't recall.
Q. Okay. If I could -- thank you.

MR. CYNKAR: I'd like to mark -- and this I do have copies of -- this would be 4.

(EXHIBIT NO. 4 WAS MARKED FOR IDENTIFICATION BY THE COURT REPORTER.)

BY MR. CYNKAR:

Q. What has just been marked as Exhibit 4 is entitled Replacement Pages to Direct Testimony to Direct Testimony, Red Text and Strikethrough, Ronald L. Bible in this case, and if you could just take a brief moment to look at this document to make sure that it seems complete.

Okay.

Now, as you know, the Staff has moved to correct your prefiled testimony, and the version of the testimony that we've been using as Exhibit 1 is the revised testimony, with these revisions incorporated in there.

And the Staff's motion basically says that there are various corrections that you needed to make due to erroneous inputs.

And what were the erroneous inputs that led you to make these changes?

A. There were some transcription errors as far as labeling schedules. There were some transcription errors with regard to input of some capital structure numbers.

Q. By "transcription," what do you mean?

A. It was typed in wrong.
Q. Okay. Now, if you turn to what is now Exhibit 4 to Schedule 29, at the bottom is several lines of a chart that's entitled ROE Estimates, and then it describes DCF, company specific and so on, and it has low, mid, high and various numbers and so forth, and then it takes an overall average of those numbers.
Why was this taken out?
A. It wasn't supposed to be in there.
Q. Why not?
A. It doesn't apply to this case.
Q. In what sense it doesn't apply to this case?
A. That it doesn't apply to this case.
Q. Well, these numbers are not your -- like, your CAPM calculations and so forth?
A. Not for this case.
Q. How did it get in here from a totally other case? I'm confused.
A. I don't know. It's a transcription error.
Q. Okay. In your testimony -- let's go back to your testimony, page 17 -- referring to lines 3 to 5, there is the following sentence which I'm just going to read for the record purposes: A weighted cost for each capital component is determined by multiplying each capital component ratio by the appropriate embedded cost

or the estimated cost of common equity, close quote.

Is it fair to say that from your perspective the computation of a fair rate of return rests on cost figures?

A. Again, you're using cost in a general sense. I'd have to say no.

Q. Well, are there noncost elements that come into the calculation?

A. For what?

Q. For purposes of computing a fair rate of return.

A. Well, for the cost of equity component, you have dividends and price and growth. Those are not cost components.

Q. Numerical components then. This all relies on basically numerical components, whether it's dividends --

A. The dividend is a numerical component. The price of the stock is a numerical component. The growth is a numerical component. They're not costs.

Q. So is it fair to say, then, that your understanding of the appropriate approach to calculating a fair rate of return relies on numerical components?

Is that fair to say?

A. Yes.

Q. Okay. If we turn to Schedule 11 of your testimony, now, Schedule 11 shows dividends per share, earnings per share and book value per share for Ameren Corporation from 1990 to 2000. Is that correct?

A. Yes.

Q. Okay. And these are numbers for Ameren Corporation, not Union Electric. Correct?

A. That's correct.

Q. Now, at the bottom, in terms of coming up with a growth rate, you basically used the average of 1990 to 2000 for dividends per share to come up with your 1.92?

A. Yes.

Q. So you used that number, $2.10 and $2.54, as the basis for your computation of the 1.92 percent.

Is that correct?

A. That's correct.

Q. Okay.

And you did the same for your earnings per share and book value per share calculations?

A. That's correct.

Q. And that gave you your growth rates for 1990 to 2000. Correct?

A. I used those in my calculations to derive those, yes.

Q. Okay. And then you did the same thing for the period 1995 to 2000. Correct?

A. Yes.

Q. Okay. Now, in the material in Exhibit 2, you included the Value Line for Ameren dated April 6, 2001, which is one of the cites at the bottom of Schedule 11.

A. Okay.

Q. And that Value Line then, along with the Value Line from January 5, 2001, were the source for your numbers for this schedule. Correct?

A. Yes.

Q. Okay. Now, when did UE and CIPS merge?

A. I believe it was prior to when I came to the Commission. It actually occurred, like, in '97, is my guess.

Q. Now, in Value Line -- I'll read this for the record and then show it to you.

Value Line says, quote, Pre-merger data are for Union Electric only and are not comparable to Ameren data, close quote. That's this.

A. That's what it says.

Q. Okay. Now, you did not feel it was appropriate to make any distinction between the pre- and post-merger data?

A. No.

Q. In your view is that data comparable?

A. In my view it is, yes.
Q. Do you know how many natural gas-fired turbines UE has built in the last ten years?
A. No.
Q. Okay. Is it fair to say that natural gas turbines are a major investment?
A. I guess it would depend on how much they cost.
Q. But you don't know how big of an investment they are?
A. No.
Q. Okay. I'm going to give this right back you to. I just wanted to read this one thing for the record.
In the Value Line that you referred to, the Value Line says, quote, Faced with a 2 percent yearly growth in electricity usage and a low reserve margin, it is obvious that the company will need new peeking units shortly. Accordingly, it has begun building 35 natural gas-fired turbines in Illinois, close quote.
That's this paragraph right there.
And then it goes on to say -- and you'll see it's highlighted right below there -- the cost of the package is estimated at $1.1 billion, close quote.
A. Okay.
Q. Do you think that that kind of an investment will affect Ameren's growth in the future?

A. It's possible.

It also says they're doing it in Illinois, and we're setting rates for Missouri.

Q. So that wouldn't affect your conclusions at all?

A. If Ameren is going to build units for Illinois or for use somewhere else, I don't see why it should.

Q. Does the data that is recounted there that provides the basis for your dividends per share, earnings per share and book value per share calculation, does that distinguish between Illinois and Missouri?

A. No.

Q. So you didn't make any judgment in doing your calculations between Missouri and Illinois, did you?

A. Yes, I did.

Q. But these numbers come right from that chart. Correct?

A. That's right.

Q. And those numbers include both Missouri and Illinois. Correct?

A. Right.

Q. And so you didn't make any distinction here on Schedule 11 in calculating growth rates between Missouri and Illinois?

A. Yes, I did.

Q. How so?

A. In my mind, since 91 percent of the revenues come from Missouri, I think it's a fair representation to use those numbers.

Q. How do you know 91 percent of the revenues come from Missouri?

A. That comes from the company's annual report, and I think it's in an S&P report also.

Q. And does that also mean that 91 percent of the company's costs are borne in Missouri also?

A. No, not necessarily.

Q. Is growth purely a matter of revenue?

A. No.

Q. So earnings or revenues minus costs is a basic way of looking at growth. Isn't that fair?

A. No. Earnings minus cost equals growth, no, I don't think you can say that.

Q. I didn't say that.

But just because a company has a certain level of revenues doesn't determine what the company's growth would be. Correct?

A. When you say "growth," what growth are you referring to?

Q. The growth that you're referring to on Schedule 11.

A. Okay. So growth in dividends per share, book value per share and earnings per share?
Q. Right.
A. Now, ask me the question again.
Q. Revenues by themselves do not determine that growth?
A. That's correct.
Q. Okay. And that's because costs affect that growth too. Correct?
A. They can have an effect on it, yes.
Q. Is there any way in which they wouldn't have an effect on growth?
A. If they were nonexistent, they wouldn't have an effect on it.
Q. Okay. So if there are costs, they do have an effect on growth?
A. Yes, they can.
Q. Okay. Do you know how much of Ameren's revenues comes from CIPS?
A. No. I would imagine it would be some part of that 9 percent that's not coming from AmerenUE Missouri.
Q. I'm sorry. Which percent?
A. Well, 91 percent of revenues comes from AmerenUE. The other 9 percent would come from the other things.

Q. I see.
Have you considered how much of Ameren's stock price relates to its Missouri operations?
A. I haven't done any calculations. I don't need to.
Q. Why not?
A. It's not necessary to.
Q. Why?
I understand that's your judgment, and I just want you to explain that for me.
A. Well, it's not my judgment. Investors -- unless it's a secret -- and, you know, if the company is keeping any secrets, they run afoul of Rule FD, the Fair Disclosure law.
Investors are well aware of the specifics with regards to AmerenUE versus CIPS versus the nonregulated versus whatever else Ameren is involved in.
Q. So revenues and costs both affect growth rates?
A. They can, yes.
Q. And the percentage of Ameren's costs that are in Missouri is not necessarily going to be equal to the percentage of Ameren's revenues that arise from Missouri. Correct?
A. I'm not sure I understand what you're saying.
Q. Well, you said that you have figured that

91 percent of Ameren's revenues comes from Missouri. Correct?

A. That's what I've read, yes.

Q. But that's only one part of the factors we're talking about now that affect the growth that is the subject of Schedule 11. Right?

A. That's correct.

Q. Okay. Costs is another one.

And if there are costs, they do affect growth?

A. They can, yes.

Q. Well, again, the only way they would not, if there are no costs. That's your testimony?

A. That's correct.

Q. Okay. Now, do you know what percentage of Ameren's costs arise out of Missouri as opposed to Illinois?

A. No, I don't.

Q. You have no way of knowing, do you, how that -- those percentages could change over time. Correct?

A. That's correct.

Q. Okay. So right now Ameren could have the lion share of its costs being incurred in Missouri, and that could change over time?

A. It depends on what your definition of lion share is, but that's possible, yes.

Q. Now, you don't think -- if I understand your testimony -- that it is not really important from an investor's perspective to understand the percentage of revenue that Ameren gets from Missouri as opposed to Illinois.

Do I understand you correctly on that?

A. I don't recall saying that.

Q. I'm sorry. What did you say?

When I asked you the question about how much of Ameren's stock price relates to its Missouri operations, you said that was a judgment, a distinction you didn't have to make. Right?

A. Yeah. I don't feel compelled to do any calculations to try to determine for purposes of this analysis here on growth separate calculations for AmerenUE, separate calculations for CIPS, separate calculations for nonregulated or whatever and try to make those determinations.

Q. And you don't think that those entities are -- well, let's put it this way: Different companies can have different growth rates. Correct?

A. That's correct.

Q. Okay. And CIPS is different from UE. Correct?

A. That's my understanding, yes.

Q. And the consolidated company of UE and CIPS is different for growth purposes from UE by itself. Correct?

A. That's possible, yes.

Q. But you haven't done that analysis?

A. The growth rates between the different entities?

Q. Yes.

A. As far as these calculations, no.

Q. In any way, have you done that calculation?

A. Not any calculations.

Q. Now, I'm sorry. I want to get back to the one observation that you made which I'm not sure that I understand.

The fact that Ameren's stock price -- Ameren's stock price is an important component in the DCF calculation, isn't it?

A. It's a component, yes.

Q. It is a basic measure of investor expectations, isn't it?

A. No.

Q. What is its role in the DCF?

A. It is the price that investors are willing to pay for the dividend and the expected growth.

Q. Okay. And in evaluating that in your analysis, you believe that you do not have to relate Ameren's Missouri operations to its stock price?

A. Missouri operations doesn't have a stock price.
Q. I know.
But those operations are different than their Illinois operations. Correct?
A. I would assume they would be, yes.
Q. Well, I mean, you pointed out that the turbines that we were talking about are investments being made in Illinois.
A. That's what the Value Line sheet says.
Q. Right.
And if I understood the thrust of what you were saying, it's your view that that is not a relevant consideration in evaluating future growth of a company?
A. It's not a relevant consideration for the growth in AmerenUE. I don't think anything that is going on in Illinois should be relevant to the growth situation at AmerenUE.
Q. I see.
But the stock price doesn't relate to AmerenUE by itself, does it?
A. No. It relates to Ameren overall.
Q. And -- sorry. One second there.
The distinction between -- you capture the distinction between UE and Ameren by applying your 91 percent figure in the context of these calculations on

Schedule 11.

Is that what I understand your testimony is?

A. I didn't apply the 91 -- I didn't do any calculations to apply the 91 percent figure to --

Q. These numbers here relate to Ameren. Correct?

A. Yes.

Q. Okay. And the investment in turbines in Illinois will affect the growth of Ameren. Correct?

A. I would assume it would, yes.

Q. And in calculating these numbers here, you did not consider that investment as affecting the ultimate growth of Ameren. Correct?

A. In doing these calculations right here, no. They haven't built them yet. I mean, these are historical numbers.

Q. Right.

But DCF is a forward-looking methodology. Correct?

A. Yes. It's a prospective methodology.

Q. Right.

Are you familiar with the sharing grids in the first and second EARPs?

A. You know, I don't recall. I looked at a sharing grid. I don't know if it was for a first EARP, a second EARP.

Q. Okay. Well, let me -- since we all probably have more copies of those documents than we care to keep, let me -- what I'm referring to here is the first EARP, which was in 1995.

And just for all practical purposes, I'm putting page 4 from the stipulation and agreement from that case, just so you can see the sharing grid, just to refresh your recollection.

MR. WILLIAMS: Would you mind putting in the case number?

MR. CYNKAR: The case number is ER-95-411. And the issue date of the report and order is July 21, 1995.

MR. WILLIAMS: Thank you.

BY MR. CYNKAR:

Q. Now, the sharing grid for the first EARP starts at 12.61 percent. Correct?

A. No.

Q. Well, where does sharing start?

A. Something in excess of 12.61. It says up to and including 12.61 there is no sharing.

Q. Okay. Sharing starts after 12.61?

A. Yes.

Q. I stand corrected.

And then between something above 12.61 percent to 14 percent, there is a 50/50 sharing.

Do I have that correct?

A. That's correct.

Q. Okay. And then above 14 percent there is a sharing formula which has zero percent for the company, 100 percent for its customers. Correct?

A. That portion, yes.

Q. Okay. Now, would you agree that the maximum effective return that UE could earn under that sharing grid is 13.3 percent?

A. I don't see that in here anywhere.

Q. No. But if you -- have you ever done any calculations to figure out what the maximum effective return would be in light of the sharing that is provided for there?

A. Maximum effective return?

I don't recall doing any calculations on maximum effective return.

Q. Well, under the EARP you're familiar with the fact that UE would pay credits based on its ROE. Correct?

A. I don't know all of the specifics of what it's based on.

If that's what it's based on, then that's what it's based on.

Q. Well, under the EARP, UE's earnings involves a plan to share those earnings with its customers. Is that fair to say?

A. That's my understanding.

Q. So when sharing is done, the effective amount of money that the company has earned is its earnings minus the credits that go back to customers. Correct?

A. That's correct.

Q. Okay. Now, let me show you -- I think that I'm going to make an exhibit.

MR. CYNKAR: This will be Exhibit 5.

(EXHIBIT NO. 5 WAS MARKED FOR IDENTIFICATION BY THE COURT REPORTER.)

BY MR. CYNKAR:

Q. This is -- and you certainly can check this with the transcript, which I did not burden us with here.

But I will read this just for purposes of the record. It's, quote, Commissioner Crumpton, colon, and then quote, On page 4 of the stipulation and agreement there is a chart, and then ellipsis.

According to this chart, assuming that the company is sharing its overearnings with its customers, it, in effect, can earn up to 13.3 percent return on equity, is that correct, close quote?

Quote, Mr. Dottheim, colon, quote, Yes, close quote.

Mr. Moore, quote, That's correct, close quote.

Now, Mr. Dottheim here is Mr. Steven Dottheim from the Staff. Correct?

A. Yes.

Q. And Mr. Moore was also a Staff member at that time, if I recall?

A. I wasn't here then. If he was, he was.

Q. I understand.

So you have no reason to doubt, then, that 13.3 percent effective return on equity under the sharing grid is correct, do you?

I mean, that's what the Staff represented to the Commission.

A. Yes, I do.

Q. Oh, really. What is that?

A. Well, as I pointed out in my testimony -- and you pointed out to me -- on page -- what? Is it 16?

Q. This is of your testimony --

A. They earned 14.6 in the year 2000.

Q. Where did you get that number?

A. Well, let's see.

Schedule 8 of the -- it's from your annual report.

Q. Right.

Well, first of all, do you know whether the year 2000 was in the first EARP?

A. No.

Q. Well, the first EARP ended in 1998.

A. Okay. Well, in 1997 they earned 13.98.

Q. Okay. Now, do you know whether that number is net of the sharing credits for that year?

A. It's what they represented to shareholders.

Q. Are you --

A. So that's -- well, if it's in their annual report, that's what they told their shareholders they earned. So if they didn't net it out per credits, then I guess if I was a shareholder, I might be a little upset if they misrepresented that.

Q. That's fine.

DCF is your primary method of calculating return on equity here?

A. Yes.

Q. Okay. Now, do you think the stock market has been in equilibrium over the last ten years?

A. It depends on what you mean by "equilibrium."

Q. Well, what do you mean by equilibrium since, if I recall, that's the phrase you used in your testimony.

A. I assume that the models come from the modern portfolio theory, and one of the underlying assumptions is the efficient market hypothesis, that all known information is available and reflected in stock prices, and that would be an indication that the market is in equilibrium.

Q. You're saying that the availability of information is what -- is what market equilibrium means?

A. What I'm saying is, is that the availability of that information, people who use that information make the determination of the prices they're willing to pay for stocks in the market.

Q. So in your view, market equilibrium has nothing to do with the actual prices in the stock market going up and down?

A. Yes, it does.

Q. And have prices in the stock market been in equilibrium over the last ten years?

A. Based on what I said, yes.

Q. From the perspective of the DCF calculation, is it important that stock prices in the past not be relatively volatile?

A. Say that again.

Q. From the perspective of the DCF calculation, is it important that stock prices in the past not be relatively volatile?

A. I don't know what you mean by "relatively volatile."

Q. Well, moving up and down a lot, to make it sound less highfalutin.

A. What is moving up and down a lot?

Q. Well, the constant, even.

A. Stock prices are never constant.

Q. Right.

And is it important from the perspective of the DCF calculation that stock prices not vary up or down by significant amounts over time?

A. The model has certain assumptions that it's based on, that it's generally accepted throughout the industry that those assumptions are rarely met.

So from that aspect, no. That there is volatility in the stock market, no.

Q. So from your perspective, based on your testimony, if I understand you, the market equilibrium assumption is meant because of the assumption that there is perfect information among investors?

Did I understand you correctly?

A. It's based on the assumption that publicly available information is known and reflected in the stock price.

Q. Have you done any research into the actual movement of stock prices over the last ten years?

A. No.

Q. Is it fair in trying to understand how the DCF model works, that DCF in a sense relies on a trend line going from the past and essentially hypothesizes a trend line going out to the future?

A. A trend line of what?

Q. Cash flow.

A. Of the DCF as we use it, it depends on the dividend, the stock price and growth.

Q. Right.

And those variables exist in the past and they exist in the future. Correct?

A. That's correct.

Q. And this is a method for predicting a dividend stock price in growth that you don't know in the future. Correct?

A. It doesn't predict those.

Q. It estimates them?

A. No, it doesn't estimate them.

Q. What does it do?

A. What it does is represents the price that investors are willing to pay for the dividend and anticipated dividend and the growth.

Q. Well, that represented price is not the actual price in the future. Correct?

A. In the model as it's applied, no.

Q. Because you can't know what the price will be as you sit here?

A. That's correct.

Q. So the purpose is trying to figure out what that might be?

A. No. The purpose is not to try to figure out what it might be.

Q. I'm sorry. I'm confused then.

What is the purpose?

I mean, if it's representing a number, if I understand you correctly, the --

A. The number it represents is investors expectations as far as return.

Q. And that is expectations that are in the future. Correct?

A. That's correct.

Q. And so as we sit here, even with this model, you can't absolutely be sure that you know what those expectations will be?

A. That's correct.

For example, an analyst may predict 5 percent growth and the company may only experience 2 percent growth. So that happens.

Q. Now, in doing the calculations to represent a number for dividend and growth and price that we were talking about, the DCF model relies on certain assumptions of constant economic activity, constant growth and uniform information and all of that sort of thing.

Do I understand that correctly?

A. Some of the assumptions underline that, yes.

Q. Do you know if UE or Ameren is likely to be taken over by a company from outside Missouri?

A. They're probably as likely as anybody else is to be taken over.

I know -- I don't know of any specific circumstances where they're pending that.

Q. Is it fair to say that in recent years there has been a fair number of utility company mergers?

A. It depends on what you mean by "a fair number".

Q. Well, more than the usual.

A. I -- I don't know what would be usual.

Q. So in your normal work there would be no reason why you would know how many utility company mergers there might be going on around the country?

A. No.

Q. Okay. Are you familiar with the acquisition of Louisville Gas and Electric by a British company?

A. No.

Q. And I just clipped this from the Post this Saturday.

Dynegy is buying out Enron. Were you familiar with that merger?

A. No, I'm not familiar with the merger. I mean, I've seen it in the news.

Q. So based on your work, you're really not in a position to make the judgment about the vulnerability of Ameren to acquisition by an outside company. Is that fair?

A. I don't know what you mean by "vulnerability."

Q. Well, how likely Ameren is to be acquired by an outside company.

A. Like I said, they're no more or less likely than any other company.

Q. On what do you base that judgment?

A. Just in general. There are mergers and acquisitions going on --

Q. But --

A. -- and they could or could not be a candidate for one of those.

Q. But if I understand correctly from your testimony, though, it is not part of your work to really be informed about mergers and acquisitions in utilities occurring throughout the country. Correct?

A. I have worked on merger case.

Q. Right.

But, I mean, in terms of what is going on in

the country in the electricity industry, with respect to the mergers of utilities, if I understood your testimony, it's really not part of your work to keep informed of mergers occurring around the country.
Is that fair?
A. It's not necessary for me to track mergers on a regular ongoing basis.
Q. Right.
And so you weren't familiar with the Louisville Gas Merger example?
A. That's correct.
Q. Or the Enron one, for example?
A. Other than what I saw in the news.
Q. I see.
So, then, isn't it fair to say that you're really not in a position to make a judgment about whether Ameren is more or less likely to be acquired by another company?
A. I can make a judgment that they're no more or less likely to be acquired than any other company.
Q. But that's not based on any study of what's been going on?
A. No. No. Not based on a study.
MR. CYNKAR: Why don't we take a break. Why don't we take about -- it's 12:07 or so. Actually, 11:07.

Sorry. I have East Coast time on. Until 11:15. Great.

(A RECESS WAS TAKEN.)

BY MR. CYNKAR:

Q. Do you have an opinion about whether UE is well managed?

A. No.

Q. Do you know by how much your rate of return proposal would lower UE's current rate of return?

A. No.

Q. Do you know how much your rate of return would ultimately affect UE's revenues?

A. No.

Q. Do those revenues, those future revenues, ultimately affect how the stock market perceives the company is in investment?

A. When you say "those future revenues," which one are --

Q. The revenues of the company.

A. They could.

Q. And the ratings of a company by ratings like Moody's and S&P's and so forth is also a function of expected future revenues in part. Isn't that fair?

A. Well, ratings are typically a function of qualitative and quantitative factors.

The quantitative factors are typically things like earnings before interest and taxes, funds flow from operations and those kind of things, and it's not just revenues.

Q. Okay. But earnings are obviously based on revenues. Correct?

A. That's one factor.

Q. Well, I mean, you have costs, but if you don't have revenues -- if you have zero revenues, you have zero earnings. Correct?

A. Well, if you have investments, that that's not necessarily a revenue, but it would be spinning off --

Q. Well, if you take all forms of income, that obviously is the basis for earnings. Correct?

A. Yes.

Q. And for purposes of UE, its earnings are more primarily based on revenues. Correct?

A. I wouldn't say it's primarily based on that. Again, there is costs.

Q. Right.

But in terms of a plus side, you have to have money coming in?

A. Yes.

Q. And most of the money coming in to Ameren comes in from revenue. Correct?

A. That's correct.

Q. Okay. Therefore, revenues play a large role -- or a significant role in the earnings of the company. Correct?

A. It depends on the company. It can.

Q. When would earnings -- when would revenues not have a significant -- I'm sorry. Let me back up. I think I'm just repeating myself.

The earnings of a company, then, play a key role in the evaluation of the rating agencies of the company. Is that fair?

A. Say that again.

Q. The earnings of a company -- the expected future earnings -- if you want to put it that way -- of a company play an important role in the ratings set forth by various rating companies like Moody's and S&P and so forth?

A. I wouldn't -- you know, I couldn't say that it's a very important role, the most important role. It certainly would be a factor.

Q. What other factors affect those ratings?

A. Well, there is quantitative and qualitative factors.

The rating companies evaluate management, the prospects for the company, competitive, qualitative types of things that are not numerical.

Q. Which is not part of your analysis on rate of return?
A. Yes, it is.
Q. I thought you testified earlier that nonnumerical factors are not part of your rate of return calculation.
A. Well, I read what the rating agencies say.
I mean, I don't have to do that separately to be able to incorporate that into my thought process and my analysis.
Q. I see.
So is it fair to say, then, for those nonnumerical factors, you've relied on the rating agencies?
A. Among others, yes.
Q. Who else besides the rating agencies?
A. Value Line, what the company says in its own annual report.
Q. And do you come to your own independent judgment concerning those nonnumerical factors, or do you just embrace what those sources say?
A. I would say it would be a combination of all.
Q. Okay. But yet you said you didn't have an opinion of whether Ameren was well managed.
A. No, I don't.

Q. I don't understand how that fits with what you just said, because you just said the quality of management wasn't part of what the rating agencies did in nonnumerical factors.
A. Say that again.
Q. You just said that the quality of management was one of the nonnumerical factors that affected the ratings set by any rating agency.
A. Yes.
Q. You also said that you take that into account in calculating rate of return.
A. What the rating agencies say?
Q. Right.
A. But I don't do any numerical adjustments because of this.
Q. Well, how do you take it into account?
A. As far as what the rating agencies say?
Q. As far as calculating your rate of return.
A. Well, if a rating agency says that a company as a low-cost producer has good prospects, whatever positive things they might say, then I would perceive that as being a relatively low-risk company from that perspective.
Q. And how would that affect your rate of return calculation?
A. Um, I would use it to crosscheck whatever

perceptions that would come from investors as far as the price that would be used to input to the model.

Q. So, ultimately, that would affect the number of the price that you're putting into the model?

A. No. An investor's perceptions and a crosscheck to the price.

Q. Well, what role does an investor's perception have except as a number somewhere in your calculation?

A. It's reflected in the stock price.

Q. Now, the pay-out ratio is dividends per share divided by earnings per share. Is that correct?

A. Generally, yes, that's correct.

Q. I mean, is it ever not correct?

A. Not to my knowledge.

Q. So it's always correct, but that's a description of what pay-out ratio means?

A. I don't know every situation, so my understanding would be --

Q. For purposes of your work in this case, pay-out ratio equals dividends per share divided by earnings per share. Correct?

A. Yes.

Q. Since 1997 Ameren's dividends have been constant, haven't they?

A. That's what I've read.

Q. Do you have any reason to believe that's not so?
A. No.
Q. Let's see.
Do you have Exhibit 2? Here it is.
Now, since 1997 Ameren's earnings per share has risen. Isn't that true?
A. Um --
Q. And I can refer you to what I believe you relied on, which was the Value Line sheet.
A. Earnings per share?
Q. Yes. Since 1997.
A. Since 1997.
Well, this copy isn't that good.
Q. Well, I'll tell you what, I can make it easier for you. If you want to refer to Schedule 8 from your --
A. Schedule 8?
Q. Well, actually Schedule 11 is probably the easiest one.
A. Right.
Q. And it's gone from $2.44 and then it went up to $2.82 --
A. And then it went down to 2.81.
Q. -- and then it went down to 2.81 and then it went to 3.33.

So it's changed each year. Correct?

A. Yes. It hasn't risen every year.

Q. I'm sorry. I stand corrected.

It went down by a penny in 1999.

So the pay-out ratio has not been constant since 1997. True?

A. That's true.

Q. In Schedule 11, while we're there, if you look to 1997 again, in 1997 the dividends per share were $2.54. Is that correct?

A. Yes.

Q. And the earnings per share were $2.44?

A. Yes.

Q. And so in 1997 UE paid over 100 percent of its earnings, correct, and dividends?

A. Based on that calculation, yes.

Q. The relative PE ratio right here in Value Line over a period of time reported there, that has not been constant, has it?

A. That's correct.

Q. Both on Value Line -- but I think it's also shown clearly in your Schedule 11 -- there has been no growth in cash dividends since 1997?

A. That's correct.

Q. Okay. And if I could borrow the Value Line one more time.

I think that there -- I'll read this and just let you take a look at it.

It says, quote, We expect no dividend hike for another two years due to the need to preserve cash for the heavy capital program, close quote.

That's right down there.

You don't have any reason to disagree with that?

A. No, I don't have any reason.

Q. Now, do you know what Value Line is referring to here when it refers to the heavy capital program?

A. Does it specify in there the heavy capital program?

Q. I'm sorry.

A. Since it's all in the same section, you could assume that it's referring to the gas-fired turbines they're building in Illinois.

Q. But you don't know?

A. No.

Q. Okay.

A. I don't know if that's what they mean specifically.

Q. Okay. Now, you testified earlier that interest rates have gone down since 1995?

A. Yes.
Q. So they haven't been stable over time?
A. No.
Q. Now, do required returns and interest rates move together?
A. What do you mean by "required returns"?
Q. Well, the required returns set by a regulatory body. I mean, are those related to each other, so that if interest rates are going up, required returns will sort of track that, and if interest rates are going down, required returns will go down?
A. I'm not familiar with, I mean, regulatory bodies establishing required returns.
Q. Well, in terms of the ROEs that we've been talking about -- I'm sorry. I might not be using the right word. I apologize.
But ROEs and interest rates tend to track, don't they, over time?
A. Which ROEs are you talking about?
Q. Well, do any ROEs. Let me put --
A. I haven't done any studies to determine whether they track or not.
Q. Okay. Now, are you familiar -- my colleagues are helping me out here.
Would a company's cost of equity track interest

rates?

A. Would a company's cost of equity track interest rates?

What do you mean, track --

Q. Well, if interest rates are going up, would a company's cost of equity be likely to go up?

A. It could.

Q. Is there any way in which it wouldn't?

A. It would depend on which interest rates are going up. It would depend on alternative sources of investment for investors. It would depend on the company itself.

Q. Are you familiar with -- will return on equity tend to be higher or lower when interest rates are higher or lower?

A. Generally I have not -- I mean, that's a general question. I have not done a study comparing interest rates, any particular interest rates, with any particular returns on equity --

Q. So --

A. -- authorized, actual.

Q. Is there any interest rate -- I mean, the relationship of interest rates to cost of equity has never been a subject that you've considered?

A. I've never done a study comparing this.

Q. Well, what do you mean by "study"?
A. I've never taken interest rates -- any particular interest rates year by year or month by month and graphed them against any ROEs.
Q. Well, if interest rates are going up, do you know what a commission will authorize as a rate of return from the purposes of a ratemaking?
Will that tend to go up if interest rates go up?
A. Oh, I've seen that. I've seen where interest rates have gone up and commissions have authorized relative higher ROEs, yes, I've seen that.
Q. Now, I realize that you haven't -- you've been at the Commission only since '97.
A. Uh-huh.
Q. But over the course of a period of time, certainly since '97, but even before that, the Staff has made various cost of equity recommendations in various cases before the Commission.
In 1997, for example, there was the Missouri Public Service case, which was ER-97-394, and the Staff's witness was Hill. And the mid point of the Staff's cost of equity recommendation in that case was 10.75 percent.
Now, did you do any work on that case?
A. No.

Q. Do you recall? Are you familiar with it?
Do you recall that?
A. Basically familiar, very general.
Q. And in -- actually, in the following year you did the Missouri Gas case, where your mid point of your cost of equity recommendation was 11.01 percent.
Does that ring a bell with you?
A. If that's what you say it was. I don't recall the exact number, whatever.
Q. Okay. And then in '99 you had earlier mentioned the St. Joseph Light case, and the mid point of your cost of equity recommendation there was 9.89 percent.
Does that sound right?
A. If that's what it is, that's what it is.
Q. And is it fair to say, then, that required rates of return really haven't been stable over time?
A. Based on that?
Q. Yes.
A. No. I'd say those are all different cases and all different companies. There is no relationship with stability -- I mean, I don't see how one could draw an inference from that. Those are different cases. They have different rates of return, different returns on equity.
Q. And what makes them different from this case?

Those are all cases in Missouri. Correct?

A. Well, the MGE is a gas company. St. Joe Light & Power is not Ameren, and neither is MoPub.

Q. So is the notion of stability in terms of required rate of return, in your view, it focuses only on the particular company?

A. No.

What I was saying is I don't see how you could make an inference that -- anything about stability just by looking at returns on equity for different companies.

Q. The stability of earned returns over -- required earned returns over time, the ROE over time?

A. Well, then you'd have to look at the ROE over time for the same company.

Q. And has that been stable?

A. I -- I haven't done that. I don't know.

Q. Okay.

A. But to look at different companies and draw an inference that ROE is unstable, I don't see how you can do that.

Q. Okay. Now, in doing the DCF calculation, you look at historic growth rates. Correct?

A. That's one of the things I look at, yes.

Q. Okay. And it certainly is possible that future growth rate would be very different from past growth rate.

Correct?

A. It's possible.

Q. How likely do you think it is?

A. It's equally as likely it could be different, it's equally likely it could be higher, and it's equally higher that it could be lower. I don't know.

Q. And from your perspective, then, what role does the historic growth rate play in determining what the future growth rate is going to be for purposes of your calculations in this case?

A. I think that's something investors can rely on to know what the company is capable of doing in spite of what the company says they're going to do.

Q. So does that mean that -- what relationship does historic growth have in your calculation of rate of return in this case to future growth?

A. I average the historical growth rates with the projected growth rates.

Q. But you don't have any way of knowing whether the future growth rates will track the historic growth rates. Correct?

A. And I don't have any way of knowing that they won't.

Q. Fine.

But the answer to my first part was, yes, you have no way of knowing whether or not they will track it one way or another?

A. That's correct.

Q. Okay.

Now, it's possible, isn't it, that past growth rates may fail to capture known future changes?

A. That's correct.

Q. Okay. For example, assets may grow at a different rate?

A. It's possible.

Q. And the growth of assets can be affected by a change in economic conditions. Correct?

A. It's possible.

Q. In considering in investing in a company, would you think it's fair to say that investors take into account future developments that did not occur in the past?

A. I think it's fair to say that they could, yes.

Q. Okay. Now, in 1978 the enactment of PURPA, P-U-R-P-A, introduced competition into the generation of electricity in this country. Is that fair?

A. If you say so.

Q. You're not familiar with it?

A. I don't know.

I'm not familiar with the date.

Q. But you're familiar with PURPA?
A. Generally, yes.
Q. Okay. And would it be fair to say that PURPA introduced competition into the generation of electricity?
A. Um, if you say so.
Q. Well, I'm not the witness here. If you don't have an opinion, that's fine, but --
A. Okay. Then I don't have an opinion.
Q. So you don't know?
A. I don't have an opinion.
Q. Do you know?
A. No.
Q. Okay. Do you know whether the Energy Policy Act of 1992 expanded competition in the generation of electricity?
A. No.
Q. Do you know what FERC Order 888 does?
A. No.
Q. Do you know what FERC Order 2000 does?
A. No.
Q. Okay. Do you know how many states have introduced some form of retail competition?
A. No.
Q. Do you know whether it's fair to say that for all practical purposes the United States now has a

wholesale market for the purchase and sale of electricity?
A. I guess it would depend on what you would define as a wholesale market. I don't know.
Q. This may be far afield from some of the things that you worked on, so I'm going to just ask you a couple of questions, and it very well may be stuff that you don't know much about.
The wholesale market that you mentioned a second ago, what you mean by wholesale market, what to your mind are the -- could that mean?
I mean, people talk about wholesale market in electricity in the United States.
My understanding is, is that as a practical matter that refers to the interstate sale through interstate transmission of electricity.
Is that in your view an incorrect understanding?
A. I wouldn't comment either. I mean, if that's your definition.
Q. Do you have a different definition that you're more comfortable with?
A. I don't have a definition.
Q. So would it be fair to say that in terms of your responsibilities at the Staff, issues surrounding wholesale competition are not something that you work on?

A. That's correct.
Q. Okay. Now, are you familiar with FERC, F-E-R-C, all caps?
A. Somewhat, yes.
Q. You participated in a case in front of FERC, didn't you?
A. Actually, two now.
Q. Oh.
And do you know what approach FERC takes with respect to the use of historical growth rates in DCF?
A. What approach FERC takes?
Q. Yes.
A. I know FERC uses the DCF model and FERC uses a two-stage growth for its model.
Q. Does it use historical growth rates at all?
A. No.
Q. Why not?
A. You'd have to ask FERC. I don't know.
Q. So when you participated in those two cases in front of FERC, did you use historical growth rates in calculating DCF?
A. No. I did it the way FERC dictates it. They make it very clear that you do it their way or -- the burden is very much on you to sway them or they won't even basically accept your testimony.

They have very rigid requirements.

Q. Now, when an analyst projects growth rates into the future, would you say it's true that they take into account historic growth rates in making their projections?

A. I don't know that they do or they don't.

Q. Do you know whether in the last two years Ameren has made significant profits in the wholesale sale of electricity?

A. I guess it depends on what you mean by "significant profits."

Q. Well, are you aware of the level of profits they have made in wholesale sales?

A. The number, no.

Q. Do you have a sense that they have made more profits in wholesale sales in the last two years than they did in the prior two years?

A. No.

Q. No, you don't know or, no, they didn't?

A. I don't have a sense for that, no.

Q. Okay. I'm directing your attention -- let me get this here.

I'm directing your attention -- again, this is to Exhibit 2, which is the financial research you did in the context of doing your calculations.

And I'm going to read the sentence -- these three sentences into the record, and then I'll let you take a look at them.

It says, quote, The UE/CIPS merger created a bigger, more efficient utility that is better able to meet the challenges of a deregulated industry. UE and CIPS are relatively low-cost electricity producers with competitive rates. Importantly, prices will be even lower than if this transaction had not occurred.

And that's in brackets there.

Do you have any reason to disagree with that characterization?

A. No.

Q. Given that that was in the materials that were the basis of your research for your work on this case, did that characterization affect your work in any way?

A. When I read things like this, I do think about them. I don't do any specific calculations --

Q. Okay.

A. -- with regard to them.

Q. But you have no basis to disagree with that characterization?

A. No.

Q. After the UE/CIPS merger, in comparing Ameren to UE, the number of outstanding shares of Ameren were different than what had been the number of outstanding shares of UE before the merger. Right?

A. Again, I wasn't here, so --

Q. But that would be the case in any merger, wouldn't it?

A. Not necessarily. I mean --

Q. So you don't know whether that was the case?

A. No.

Q. So, again, given that you weren't here, the differences between UE before the merger and UE inside Ameren -- or Ameren, there would be no reason why you'd be familiar with that?

A. Say that again.

Q. Given that, as you just said, you came here after the merger -- that I was asking you about one difference between UE before the merger and Ameren after the merger.

Since you weren't here during the merger, is it fair to say that you really aren't familiar with the range of differences, like revenues, book value, earnings, dividends and so forth that changed with the merger?

A. That's true.

Q. Okay.

MR. WILLIAMS: Before you go on, I notice that you've been pointing to specific pages in Exhibit 2. There is a notation that appears on the right.

MR. CYNKAR: Has a Bates number. That's a good idea. I'm sorry.

The page number we're referring to in Exhibit 2 a second ago, the quote that I read, is DOC-005-00095.

And we'll provide you a copy of this.

MR. WILLIAMS: And I believe you've been referring before to a specific page also.

MR. CYNKAR: The page with the Value Line that we've been referring to is DOC-005-00080.

BY MR. CYNKAR:

Q. Do you have any judgment about whether we are in a recession?

A. No.

Q. Do you have any view of whether we are heading into a recession?

A. No.

Q. Are you familiar with the negative outlook that Moody's assigned to UE and Ameren on July 12, 2001?

A. I don't recall the date. I know that there has been a negative outlook.

Q. And what does that mean?

A. I don't recall the specific definition that S&P gives to negative outlook.

Q. That was --

A. Or Moody's.

A. No. I saw the S&P.
Q. Had you seen the Moody's?
A. No.
Q. So when Moody's assigns a negative outlook, you don't know what they mean?
A. I don't know what their definition is, no.
Q. Okay. Are you familiar with First Calls (phonetic sp.) daily ranking of the five highest and five lowest rated utility stocks?
A. No.
(OFF THE RECORD.)
(THE LUNCH RECESS WAS TAKEN.)
BY MR. CYNKAR:
Q. We're back on the record after lunch.
Let's start out by referring to your Schedule 12.
If I am reading this correctly, you've taken the average growth rates from '95 to 2000 and averaged them within the average growth rates between 1990 and 2000. Is that correct?
A. The compound growth rates for '95 to 2000 and the compound growth rates for '90 to 2000 were averaged.
Q. Okay. Right.
Now, could you explain why you did that?
A. To come up with an average of historical growth

rates.

Q. Well, why wouldn't the 1990 to 2000 do the trick?

1995 -- the segment 1995 to 2000 seems to be a smaller part of the whole. So I don't --

A. It's a more recent time period. It's more reflective of what the company has been experiencing more recently.

Q. Isn't that included in the 1990 to 2000?

A. Partially.

Q. Wouldn't that be double counting that?

A. No.

Q. Why not?

I mean, it's included in the first one and then you're averaging it in again. Just as a matter of the math, it seems like it would be double counting it.

A. It's two different time periods though.

Q. 1990 to --

A. One of them is a ten-year period and one of them is a five-year time period.

Q. And the fact that the five-year period is included within the ten-year period?

A. But the rate of growth is not the same during the two different time periods.

Q. Does that mean, then, that you've made a judgment that the rate of growth in the 1995 to 2000 period should be given greater weight?

A. No.

Q. Then I'm confused. I thought you earlier said that was important to have it in because it was a more recent time period.

A. Yes.

Q. So because of its recency then, do you think that it should be given more weight in this calculation?

A. Not necessarily.

Q. Do you know -- if you didn't put in the 1995 to 2000 calculation, do you know how that would affect your calculation of the cost of equity parameter?

A. No.

Q. In the Parcell treatise -- it's probably right here. I have it.

And this may actually confirm what you were just telling me. Let me just read these two sentences and then I'll show it to you.

This is Parcell, The Cost of Capital - Practioners Guide, and I'm reading from page 8-24.

He says, first, quote, The selection of a time period over which to measure the historic growth rate is a third issue to be considered, close quote.

And then he talks about the importance of Value

Line and giving information and so forth.

And then he goes on to say, quote, Certain criteria should be employed in selecting a time period. First, the time period should be recent and end with the most recent period available, period, close quote.

I take it from our last interchange that you would agree with that proposition?

A. That's a reasonable proposition.

Q. Good. Okay.

If we could turn now to Schedule 13 and 14.

Now, if I understand the calculation you made here with respect to the stock price -- not the expected dividend part of these schedules -- you calculated an average high/low price, and as you said in your testimony, that was to minimize the effects of the daily volatility of the stock market.

Am I understanding this correct?

A. Yes.

Q. Okay. Now, is that -- why did you do it that way?

Were there other ways of doing that minimization of the volatility in the stock market that you were talking about?

A. It's possible.

Q. But you think this -- are you familiar with any other methods?

A. Am I familiar with any other methods to --

Q. For minimizing the effects on the volatility of the stock market as you were talking here.

I mean, that is, my understanding, is your justification for doing this average of a high/low price each month was because you felt it was appropriate to deal with the volatility of the stock market.

And all I was asking is, are you familiar with any other methods for achieving that same result?

A. Yes.

Q. And what would they be?

A. I've seen people use average daily prices over a time period.

Q. And is it fair to say that you think that this method is superior to that approach?

A. Yes.

Q. Now, I take it you are aware that for many years the 30-year treasury bond rate was used as a risk-free benchmark by financial analysts?

A. It's one of the risk-free rates that analysts have used.

Q. Okay. And in terms of the Staff's risk premium analysis for cost of equity calculations, that the Staff has in the past used the Moody's Aa utility bond rate.

Correct?

A. For what?

Q. For doing risk premium cost of equity analysis.

A. I can't say that that's what they've used in other cases.

Q. Are you familiar with the testimony that Ms. McKiddy filed in the case which was GR-2005-16?

Are you familiar with that testimony that she filed?

A. Yes.

Q. And she used the Moody's Aa bond rate there.

A. Okay.

Q. Now, do you recall that in the calculations for calculating UE's excess earnings under the EARP, which we talked about before, that February report -- and there is also responses in the discovery -- that one of the methods of calculation for determining the required equity returns was the risk premium method, was used by you, I think.

A. Yes, I recall that.

Q. Okay. And that in doing that risk premium analysis for the February report, as we were talking about, you used the Moody's Aa utility bond rate, if I recall correctly?

A. Okay. If you say so. I mean, I don't recall specifically.

Q. You have no reason to disagree?
A. No.
Q. Oh. I see.
Also, what was just handed to me was your testimony in the case you actually referred to earlier this morning, the St. Joe Light & Power case. In your risk premium analysis there you used the Moody's Aa.
I'll just show it to you so you don't have to take my word for it. You can look through this whole thing.
A. It doesn't say Aa.
Q. Well, okay. The Moody's A bond rather than the --
A. A is not Aa.
Q. Fine.
But in terms of -- you used the Moody's rating instead of the 30-year treasury?
A. Okay.
Q. Right. Great.
Now, is it fair to say that using a certain interest rate in risk premium analysis can be fine at one time but conditions can change, so you'd want to use a different one later on?
A. It's possible.
Q. Now, in your view has something changed to make

the Moody's either Aa or A utility bond rates inappropriate for risk premium analysis?

A. I don't recall exactly when we made the determination, but something happened to either the historical database or the going-forward database. I'd have to check.

But we decided we needed to move over to the 30-year. And now the 30-year has gone away. So we'll have to make a decision on the risk-free rate again.

Q. So is it your testimony that you -- I guess, meaning the Staff as a whole -- recently made a judgment not to use the Moody's rate?

Is that how I understand?

A. I don't recall. I know we had discussions about it.

Q. Okay. But you don't recall the basis for making that change?

A. Not exactly, no.

Q. What do you recall?

A. That something had happened where historical data wasn't available or wasn't readily available. So we wanted to use something that was readily available.

Q. Now, in moving to the 30-year treasury bond rate, are you aware that the Federal government has been retiring debt for the last four years?

A. The government retires debt on an ongoing basis and issues new debt on an ongoing basis.

Q. Well, you're aware that for the last four years the Federal government has been running a budget surplus?

A. For the last four years. I don't know how many years.

Q. But are you aware that at least in the recent past, the Federal government has been running a budget surplus?

A. Yes.

Q. And then are you aware that because of that budget surplus, or certainly in the context of that budget surplus, that they have been retiring debt at a faster rate than before there was a budget surplus?

A. I don't know what rate they were retiring it at before a budget surplus, and I don't know what rate they're retiring it at now.

Q. Okay. That's fine.

And within that debt that the Federal government is retiring, that 30-year bonds are included in that?

A. Yes. The government issues 30-year treasury bonds.

Q. Okay. Now, when there is an increase in demand for security, the price of security goes up. Is that fair?

A. I haven't done a study to determine if in every case, in every situation, if the demand for security goes up, that the price goes up, or if the demand of security goes down, the price goes down.

Q. Well, we don't have to take any case. But as a general proposition, isn't it sort of basic economics, that when you increase demand, that prices go up?

A. That's the theory.

Q. Is it in your experience that the real life diverges from theory significantly on that point?

A. I know real life diverges from theory.

Q. But would you say it's a reasonable proposition that by and large that if demand goes up for a scarce good, price of that good is going to go up?

A. Well, now you're saying for a scarce good.

Q. Take the word "scarce" out.

If demand goes up for a good, that the price is going to go up?

A. It can and it cannot.

Q. In the context of bonds, when the prices of bonds go up, does the interest rate go down?

A. On existing bonds it can.

Q. Are you aware that the interest rate for the 30-year bonds have been driven down by the Federal government's retirement of them?

A. I don't know that there is any definitive study or research that shows that the government's retirement of bonds has driven the price down.

Q. You realize that 30-year treasury bonds are becoming scarcer as they have been retired. Correct?

A. I don't know that I've seen any definitive study that shows that they're becoming scarcer.

Q. Well, as you alluded to earlier, isn't it true that the Treasury Department has announced it's discontinuing 30-year treasury bonds?

A. Yes.

Q. And isn't it true that the Wall Street Journal has stopped using 30-year treasury bonds as a benchmark in risk premium analysis?

A. The Wall Street Journal?

Q. Yes.

A. I wasn't aware the Wall Street Journal did risk premium analysis.

Q. Okay.

Well, are you aware -- let me back up then -- that the Wall Street Journal has stopped using 30-year treasury's-- the simplest point -- as a benchmark for risk-free interest rate?

A. I'm not -- I guess I don't understand what you're talking about as a benchmark. I don't know that they use anything for a benchmark. I know they publish different rates.

You're talking about on the first page of their money section they replace the 30-year with 10-year, publishing that rate, but they do publish 30-year rates further back in the money section.

And if you -- you know, I've never seen them refer to this is our benchmark.

Q. Let me go back. I may have made myself -- I may have confused things.

You're familiar with the notion of using 30-year treasury bonds as a benchmark for a risk-free rate of interest. Correct?

A. I am familiar with the notion of using 30-year bonds as representative of the risk-free rate.

Q. And would you say that that is -- that that was a pretty common practice among analysts at least until recently?

A. I -- I can't speak for other analysts. I don't know.

Q. You don't know whether other analysts would commonly use that?

A. I don't know if they would use that or the ten-year or the one-year.

Q. And so you don't know if analysts -- if the analytical community has decided not to use 30-year treasury bonds anymore for the very reason I was pointing out, the interest rates are dropping?

A. I don't know if they've decided to use it or not use it for any reason.

Q. Okay. We were talking a second ago about the calculations you did for required equity returns during the period that UE was under the EARP, and I'm going to refer you now to the request for admissions that you-all responded to, and particularly the request for Admission No. 33. And it's on page 19 of the document.

A. No. 33 or page 33?

Q. Page 19, No. 33.

A. Okay.

Q. Now, there is a chart where the request for admissions states that your calculation of excess revenues are based on your determined required equity returns which were set out below. This is just quoted from you-all. And you admitted that statement.

And if I understand from your earlier testimony this morning, that you calculated those equity returns that are set out there?

A. Yes.

Q. And as a result of that equity return that is calculated for the '95/'96 sharing period of 7-1-95 to 6-30-96, you-all calculated that UE had $172 million in excess revenues. Correct?

A. Well, Staff did. I didn't do the calculations.

Q. You calculated the equity return and then someone else did the actual excess revenues that flowed from that?

A. Yes.

Q. Okay. And does that mean that in '95 and '96, that sharing period, the first sharing period, that means that UE's rates were too high. Is that basically it?

A. I -- I made no determination on whether the rates were too high or too low. I was asked to do an estimate on return on equity and that's what I did.

Q. And from that your colleagues calculated that UE was realizing excess revenues. Correct?

A. That's what it would appear here, yes.

Q. Well, I don't think this is a point in dispute, since you-all admitted this statement.

A. Okay.

Q. And that means that at least your colleagues concluded that UE's rates were too high in that sharing period. Is that right?

A. You'd have to ask them what they concluded from that. I mean, excess revenue is $172 million. I make no interpretation of that, like I said. I provided the return on equity.

Q. Well, correct my understanding then.

Do you know in the world of utility ratemaking in Missouri, if the Staff says a utility has excess revenues, doesn't that mean that the Staff believes the utility has rates that are too high?

I don't think this is a complicated proposition.

A. I -- I don't know that it would be high rates that would cause the excess revenue. I -- I don't know all circumstances that would cause Staff or other parts of the Staff to make a determination that a company may have excess revenues that could potentially be for reasons other than rates being too high.

Q. In response to excess revenues, would it normally not be the appropriate response for the Staff to propose a rate case to reduce rates?

A. Say that again.

Q. In the face of excess revenues, when the Staff makes a judgment that a utility is achieving excess revenues, isn't the normal most appropriate response for the Staff to seek a rate reduction?

A. I -- I don't know what Staff's -- you know, I've been here since 1997. I can't speak for what actions

they would take in every case and what would be normal.
Q. Well, besides the rate reduction, what other things would remove the problem of excess revenues?
A. I don't know.
Q. Okay. Would you say that in our current market we have low interest rates and high market-to-book ratios for utilities?
A. I haven't done any studies to determine whether the interest rates are low for utilities and if utilities have high market-to-book ratios or not.
Q. Okay. I'm referring now to pages 201 to 202 of Dr. Morin's Regulatory Finance Utilities, Cost of Capital book. And if you see there, that page -- I'm not going to ask you questions precisely about that -- but he talks about why you should use comparable companies in doing DCF, and he gives four reasons which are set out in the headings of each of those paragraphs.
And number one is consistency with the notions of fair and reasonable return promulgated in the Hope and Bluefield cases which you cited in your testimony.
The second is added reliability, the third is abnormal conditions and then the fourth, which goes over into the next page, is the circularity problem.
A. Well, I don't -- I don't know that he says in here that costs of capital should be based on comparable

groups.

What I'm reading here is there are several reasons why the determination of cost of capital should not rest on a sample of one firm.

Q. Right.

A. That to me means your comparable group should not be one firm.

Q. Okay.

A. So --

Q. That's fair.

That's fine.

A. Okay. And your question related to why comparable companies should be used?

Q. Right.

Isn't that what he's saying there?

A. No, that's not the way I read it.

Q. Okay. But you do believe that you should check your DCF results through analysis of comparable companies, don't you?

A. That's correct.

Q. I mean, that flows from the Hope case pretty directly, doesn't it?

A. Well -- but I'm referring to your question of what you claim Morin is saying. And what he's saying is don't use just one firm in your comparable group.

This whole thing refers to comparable group.
Q. Right.
A. So he's saying, don't use one firm. Use more than one firm.
Q. I see. Okay. We don't need -- that's fine.
A. Okay.
Q. Now, as we sit -- I can take that book away from you. We're not going to ask you a question about it.
You did look at comparables, you explained in your testimony, and I wonder if you could just explain how all of the other calculations in addition to your DCF calculation confirmed in your view the DCF calculation for UE.
A. The results weren't so different to cause me to question any of the inputs that I used to the DCF model.
Q. What do you mean by "so different"?
A. They weren't so far removed from the results of the DCF model.
Q. How far is too far removed?
A. Far enough that would cause me to question the results of the DCF model.
Q. Tell me what difference in basis points would make the results too different in your view.
A. If it was twice as much, it would cause me to go back and take a look at the inputs to my DCF model and

reevaluate whether I correctly did the calculations.

Q. Now, when you say twice as much, if I understand you correctly, you calculated a low end and a high end, correct, for your DCF --

A. For what?

Q. For your DCF calculations.

A. Yes.

Q. And you did that for CAPM too. Correct?

A. Yes.

Q. Okay. Now, for risk premium you have one number?

A. Right.

Q. And then you obviously have a mid point for those two ranges. Correct?

A. Yes.

Q. Okay. Now, talking about DCF, when you say that to your way of thinking, that calculations for a comparable company would be far removed, and you've just said that if they were far removed by two times, does that mean that the whole range is too times above the range you calculate for the company you're focusing on?

A. What do you mean by "the whole range"?

Q. Well, for simplicity sake, let's say that for a sample company you have a range between three and five. Let's just keep it real simple.

And if I understand your testimony, your judgment for a comparable calculation being too far removed would be if your comparable calculation was twice that of the subject company -- so we just posited three to five, I think. So if that was six to ten, that might be too far removed in your judgment?

A. Yes.

Q. Now, your range for DCF for UE was 9.04 to 10.04 percent. Right?

A. Range for what?

Q. DCF for UE.

A. For?

Q. I'm sorry. I don't understand.

A. Return on equity?

Q. Yes.

A. Yes.

Q. The subject of your testimony here.

A. Well, DCF input has dividends, price, growth.

Q. You're absolutely right.

A. So you're referring to return on equity?

Q. I'm referring to the bottom line here.

A. Okay.

Q. Now, at the same time your CAPM range was 10.83 to 10.72 percent. Correct?

A. Subject to check, yes, that's fair.

Q. And then risk premium was 11.74 percent?
A. Subject to check.
Q. Sure. Absolutely.
Now, in terms of the judgment that you're drawing from these numbers, in terms of the range here, is there any reason why -- given that you have the CAPM, it's high end is 10.72 percent, the risk premium is above both of those, why you wouldn't make the judgment that maybe the upper end of the range should be closer to that 11.74 percent?
A. That's not the range. I used the DCF model.
Q. Right. But you didn't -- the DCF model is informed by your comparable analysis and your analysis of CAPM and risk premium for --
A. Are you saying those are the comparables or those are the --
Q. No. Those are the ones -- that's the CAPM for UE and risk premium for UE.
A. Okay.
Q. For Ameren.
A. Yeah, Ameren.
Q. Yes.
A. Yes. Because I relied on the DCF model.
Q. At the end of the day the point of this exercise is, though, to find what the required rate of

return should be. Right? Or cost of equity, however you want to put it.

A. It's the end of the day. The point of it is to determine the rate of return or cost of equity that would be input to rates that the company is charging the customer.

Q. That's true.

And the -- it's true also, isn't it, that the CAPM methodology can give you some insight into what that rate of return or cost of equity should be. True?

A. It's possible. It can give you some insight, and it's possible that it cannot give you some insight.

Q. Did it give you any insight in this case?

A. As a check?

It gave me some insight that supported the reasonableness of my DCF range.

Q. And the risk premium number was 174 basis points above the top number in your DCF range.

And could you explain how that confirmed your DCF calculations?

A. It wasn't twice as much.

Q. Now, that standard that you're using of twice as much to be far removed, where does that come from?

A. Probably the same place that is referring to 174 basis points is the standard.

In my judgment, if a range for another model was twice as much as the range for the model that I use and rely on, that would cause me to go back and question how I did the calculation with regards to double-checking the input and making sure my calculations were correct.

Q. Is there any published authorities that sort of give you that standard?

A. I'm not aware of any published authorities that dictate any standard with regards to that or 174 basis points or happen to use the CAPM or the risk premium as the upper end or having to use any particular model as the model to use to determine rate of return or cost of capital.

Q. In that judgment that we're talking about in terms of when you believe that the comparable calculations are too far removed, your judgment of twice the DCF results, is that your perspective or is that a practice that is followed by other members of the Staff?

A. That's my perspective.

Q. Do you know how other Staff members approach that same question?

A. Not offhand I don't, no.

Q. Have you ever talked to them about it?

A. Yes.

Q. And do you have any kind of recollection of how

other Staff members approach that?
A. As far as a specific number? No.
Q. Now, in the context of this case, you did not -- and in using these comparable calculations that -- these calculations you made -- excuse me -- for CAPM and for risk premium for Ameren, as we just said, you kept those distinct from each other.
By the look on your face, I know what your next observation is going to be. So --
A. What do you mean by "distinct"?
Q. I gathered that was going to come.
You didn't average those?
A. Those? The CAPM and the risk premium?
Q. Yeah. You didn't average the DCF results, the CAPM results and the risk premium results?
A. To come up with what?
Q. To come up with a different estimate of what the rate of return and cost of equity should be.
A. No.
Q. So you didn't weight them in any way?
A. Not in this specific case.
Q. Is that ever appropriate to do?
A. I have done it in the past in rough estimates.
Q. And why would you do that?
A. Because it's a rough estimate. To give the

company the benefit of the doubt of the higher numbers.

Q. And in doing a weighting then, would you give the method that produced the higher numbers more weight --

A. No.

Q. -- to give the company the benefit of the doubt?

A. No.

Q. Then why would you do weighting average at all? I'm not sure I understand what your logic is there.

MR. WILLIAMS: I'm going to object. I don't think he characterized it as a weighting average.

MR. CYNKAR: Well, I'll go back then, because I just want to be clear.

BY MR. CYNKAR:

Q. If I understand your testimony, you have in the past done a weighted average when you're doing rough estimates of --

A. Well, define weighted average then.

Q. Well --

A. I don't want to assume that I understand what you mean by weighted average.

Q. Okay.

MR. WILLIAMS: I think he said he averaged all three.

BY MR. CYNKAR:

Q. Okay. Well, there is -- we can agree, I think, from your testimony that in this case you did not average these three sets of results to come up with one particular --

A. No. I did not weight the other two outputs at all.

Q. Okay.

And so a different way of doing this would be to take these results and add them up and divide by three, which would just be a straight average?

A. A straight average.

Q. In addition, you could average these by giving each one of these numbers a different weight --

A. That's correct.

Q. -- so they'd have more significance in --

A. That's correct.

Q. And have you ever used that approach?

A. Yes.

Q. And where would that be?

A. In doing the estimates for the report that Staff filed on the EARP, January, February.

Q. Now, why did you do that?

A. Like I said, to give the company the benefit of the doubt of the higher numbers.

Q. On what do you base your judgment that doing

that produces higher numbers for the company?
A. Well, any time you weight a higher number, you're going to incrementally move the overall average up.
Q. What if you weight the lower number, though; then you move the incremental average down. True?
A. Well, if you start with the DCF model and it's the lower number, that would be the result you would use. And anything that you would weight that is higher than that would bring the overall result up.
Q. So any averaging in that situation would bring the result up if the other numbers were higher?
A. If the other numbers were higher.
Q. Now, let's turn to Schedule 20.
Now, I want to talk a little bit about the sample companies that you worked with to develop the comparables that you used in this case.
First of all, on Schedule 20 there is a list of utilities in the left-hand side of this chart. And how did you select those?
A. We subscribed to Value Line, and it's provided to us on a monthly basis on diskette. And it has the capability with filters to enter different criteria into it, and it will filter through the database and produce company names based on the criteria. And that's how I did it.

And what were the criteria that you used here?
A. There at the top of it, across the top.
Q. Okay. Now, if I recall -- does that total capital, the fourth criteria there --
A. Yes.
Q. -- does that refer to large cap stocks?
A. That's the way it comes out of the database in Value Line. Those would be included in large cap.
Q. And that was the criteria that you were looking, just to use large cap, and I think --
A. I used all of these criteria.
Q. But one of the filters, as you said --
A. One of them, yeah.
Q. -- was to exclude everything that was not a large cap stock. Correct?
A. No. The filter was 5 billion to 6 billion.
Q. Well, if you'd turn to page 27 of your testimony, on lines 14 to 15 you said, quote, Therefore, I searched the Value Line database for large cap electric utility companies, close quote?
A. Okay.
Q. So that's why I have it in my head that you were looking for large cap.
A. Well, you were saying the criteria as referring to what I put into the filter. So --

Q. True.

But the bottom-line criteria in your mind analytically was large cap stock?

For purposes of the Value Line filter, you had to put it in that way?

A. Yes.

Q. And now with respect to -- if I recall from your testimony here -- in fact, the sentence right before the one I read, to answer my next question, and what I'd like to know, is if there is any other thing.

Value Line characterizes Ameren as a large cap stock. So that's the genesis of that criteria?

A. Yes.

Q. Okay. On Schedule 23, could you briefly explain how you calculated the comparable companies growth rates for DCF?

A. I averaged the five-year growth out of I/B/E/S, Standard & Poors and Value Line, and then averaged that with the average ten-year annual compound historical.

Q. Okay. Now, as we were talking about before, a significant event that was going to occur in the future that hasn't occurred in the past would be quite relevant to your estimation of a future growth rate.

Would that be fair?

A. If you knew it was going to happen. But if you don't know a future event is going to happen, I don't see how you can incorporate it into your estimation of what the future is going to hold.

Q. Well, in the -- once again, in Exhibit 2, on Document 005-00032, with respect to Cinergy, and the highlighted portion right up there, identifies that retail competition began in Ohio on January 1st of 2001.

A. Okay.

Q. In your view is that not a significant event that is likely to affect future growth rates?

A. It could.

Q. Do you have any opinion of whether it will?

A. It may or it may not.

I mean, if this is a marketplace for Cinergy, certainly if there is more competition, then it could. If Cinergy happens to be a dominant low-cost provider, they may have higher growth because they'll capture market share.

Q. Well, in the context of this DCF calculation, you are in the process of calculating a future growth rate for Cinergy. Correct?

A. Yes.

Q. And what you just posed is essentially a reiteration of my question, much more elaborately done and sophisticatedly done, but you just posed the question, if there was this event that occurred, that may or may not affect future growth rates.

Is it your view that in doing this calculation of future growth rates, you don't have to answer the very question you just posed?

A. If I use Value Line's estimates or somebody else's estimates, I would assume that they're incorporating in their estimation of future growth if they're commenting on it.

Q. Okay.

A. So --

Q. If I could borrow it back.

Now, in the -- if I understand -- in calculating the growth of your comparable companies on Schedule 23, how far back did you go in looking at the historical growth rates?

A. It says in Column 1, ten year.

Q. Okay. Now, you just a second ago pointed out that you take the judgments that Value Line would make about, in the example we were talking about, the impact of retail electric competition in terms of reporting their numbers.

Am I understanding you correct on that, correctly?

A. I would assume that if Value Line is commenting on anything that is happening with a company, they have taken that into consideration in their projections.

Q. Okay. Now, Value Line also notes -- and I'll pass this to you in a second -- that Cinergy was formed on October 29th -- 24th -- excuse me -- 1994 through the merger of Cincinnati Gas & Electric and PSI Resources, and then it goes down to say that pre-merger data are for figures for Cincinnati Gas & Electric only and are not comparable to Cinergy data. That's up there.

So that Value Line is representing that those numbers before 1994 are not comparable to the ones afterwards.

A. Okay.

Q. And did you make any distinction between the pre '94 numbers and post '94 numbers in light of that representation from Value Line?

A. No.

Q. Now, why would you assume and follow Value Line's judgment concerning the impact of retail competition being introduced in Ohio, yet not follow Value Line's warning that the data is not comparable with respect to those rates for Cinergy?

A. Well, I wouldn't construe this as a warning from Value Line. And I would consider that Value Line has taken this into consideration when they've made their projections.

Q. When Value Line says that that data is not comparable, what do you understand Value Line to be saying?

A. That the data is for Cincinnati Gas & Electric and not for Cinergy --

Q. And --

A. -- on those dates.

Q. And Cincinnati Gas & Electric is a different company from Cinergy. Correct?

A. Yes.

Q. And earlier this afternoon, or this morning -- I forget when it was -- you corrected me when I was comparing rates from different companies, because you said that is important to keep different companies separate, they have different attributes and so forth.

So I'm a little confused.

Wouldn't the data for Cincinnati Gas & Electric be something that you'd want to keep separate from the data for Cinergy, being two different companies?

A. It's not two different companies in the same sense that I was referring to earlier.

Q. In what sense are they not different?

A. Well, you're talking -- when I referred to it earlier, was geographically separated, no-relationship companies.

These companies are related in that one of them exists -- well, they both existed and then they merged and formed one company.

Q. Okay.

A. And that happens all of the time, and that changes the financial situation and picture numerically for all of these companies.

Q. And it changed their growth rate?

A. I don't know that it changes their growth rate or not.

Q. Well, when Value Line says that the data is not comparable before and after the merger, and they are representing figures there that go to growth rate, that doesn't suggest a judgment from Value Line that the two entities are different for purposes of understanding what the growth rate is going to be?

A. No.

I would assume that Value Line is taken into consideration to merged companies when it gives an estimate of its future growth rate.

Q. Okay. Okay. Thank you.

I may be able to summarize a few questions into one question here, because the last exchange gave me a lot of insight, and I appreciate your patience.

Is it fair to say that in your view -- that in your view, that in the Value Line report, whenever Value Line is describing some event in any of this commentary it has on the bottom of the page or stuff over here, that at the end of the day Value Line has taken that into account in reporting these numbers?

MR. WILLIAMS: Can you be more specific? "These numbers" are pretty vague.

MR. CYNKAR: Okay.

MR. WILLIAMS: Are you talking about future numbers?

MR. CYNKAR: Maybe I just better go back and ask my original questions. It probably was trying to compress too much.

BY MR. CYNKAR:

Q. Let's take a look at Schedule 25 in your testimony.

With respect to the comparable companies expected annual dividends in the schedule --

A. Yes.

Q. -- could you just briefly explain how you calculated those?

A. Well, as it says in the note, estimated dividends declared per share represents the average actual and projected dividends for 2000 and 2001.

Q. Now, in that calculation where do you get the average actual dividend from?
A. It would be on the Value Line sheet.
Q. Okay. So with respect to Cinergy, could you show me a pre 1994 number that you're talking about?
Because I take it that average actual is an average of historic dividends that the company has paid.
A. What are you asking me to show you?
Q. Well, this component, average actual dividends for 2000 -- for 2000 through 2001 -- never mind. Never mind, actually.
A. Well, there is dividends declared per share of $1.80 for 2000.
Q. Uh-huh.
A. There is an estimate of $1.84 for 2001, and so the average of that is $1.82, and that's what I put down.
Q. Now, you did the CAPM cost of equity analysis on all of your comparable companies. Correct?
A. Yes.
Q. Okay. Now, you didn't do a risk premium analysis on your comparable companies?
A. That's correct.
Q. Why not?
A. Because I didn't want to.
Q. And why didn't you want to?

A. I just didn't want to.

MR. CYNKAR: All right. Let's take about a 15-minute break. I may be able to wind this up.

MR. WILLIAMS: Sure.

(A RECESS WAS TAKEN.)

BY MR. CYNKAR:

Q. Earlier in the day in your testimony about your work as an investment advisor -- you referred to the fact that you had worked as an investment advisor and so forth.

In advising people concerning investments in companies, what, if anything, would you tell investors to look at in evaluating the quality of management of a company?

A. Well, maybe I should clarify.

As a financial analyst planner, I wasn't an investment advisor in title. I did work with investment advisors.

As far as quality of management, you can pick that information up from Standard & Poor's and Moody's and their comments. Again, they do qualitative and quantitative evaluations. Value Line will make comments.

Q. Okay. That's fine. I don't need to belabor the point.

And what I think is going to be the last question: From your perspective, what do you think is the role of the Staff in a rate case like this one?

A. My understanding is, to determine just and reasonable rates and balance the shareholder and the ratepayers interest.

MR. CYNKAR: Colleagues, before I say close the curtain on this, speak now or forever hold your piece.

No worried looks.

All right. Thanks. That's it.

THE COURT REPORTER: Signature?

MR. WILLIAMS: Probably ought to do that.

THE COURT REPORTER: Waive presentment, obtain signature?

MR. WILLIAMS: Yes.

RONALD L. BIBLE

subscribed and sworn to before me this day of
, 2001.

Notary Public in and for
County
State of Missouri

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

I, Patricia A. Stewart, RPR, CCR, CSR, Registered Merit Reporter with the firm of Associated Court Reporters, Inc. do hereby certify that pursuant to notice, there came before me,

RONALD L. BIBLE,

at the Capital Plaza Hotel, in the City of Jefferson, County of Cole, State of Missouri, on the 12th day of November, 2001, who was first duly sworn to testify to the whole truth of his knowledge concerning the matter in controversy aforesaid; that he was examined and his examination was then and there written in machine shorthand by me and afterwards typed under my supervision, and is fully and correctly set forth in the foregoing pages; and the witness and counsel waived presentment of this deposition to the witness, by me, and that the signature may be acknowledged by another notary public, and the deposition is now herewith returned.

I further certify that I am neither attorney nor counsel for, nor related to, nor employed by any party to said action in which this deposition is taken; and further, that I am not a relative of employee of any attorney or counsel employed by the parties hereto, nor finally interested in this action.

Given at my office in the City of Jefferson, State of Missouri, this 13th of November, 2001.

Patricia A. Stewart, RPR, CSR, CCR
Registered Merit Reporter

November 13, 2001

Public Service Commission
P. O. Box 899
Jefferson City, Missouri 65102

ATTN: Nathan Williams

In Re: Case No. EC-2002-1

Dear Mr. Williams:

Please find enclosed your copy of the deposition of Ronald L. Bible taken on November 12, 2001 in the above-referenced case. Also enclosed is the original signature page and errata sheet.

Please have the witness read your copy of the transcript, indicate any changes and/or corrections desired on the errata sheet, and sign the signature page before a notary public.

Please return the errata sheet and notarized signature page to Mr. Cynkar for filing prior to trial date.

Thank you for your attention to this matter.

Sincerely,

Patricia A. Stewart

Encl:

CC: Robert J. Cynkar