

Schallenberg Public

Schedule 5 (Part II)

1 PUBLIC SERVICE COMMISSION
 2 STATE OF MISSOURI
 3 THE STAFF OF THE MISSOURI)
 4 PUBLIC SERVICE COMMISSION,)
 5 Complainant,)
 6 vs.) Case No. GC-2006-0378
 7 MISSOURI PIPELINE COMPANY,)
 8 LLC, et al.,)
 9 Respondents.) June 18, 2006
 10 Jefferson City, Missouri

11 VOLUME II
 12 DEPOSITION OF DAVID (B.J.) LODHOLZ,
 13 a witness, produced, sworn and examined on the 18th day of
 14 June, 2006, between the hours of 8:00 a.m. and 6:00 p.m.
 15 of that day at the offices of the Missouri Public Service
 16 Commission, 200 Madison Street, 8th Floor Conference Room,
 17 in the City of Jefferson, County of Cole, State of
 18 Missouri, before

19 KELLENE K. FEDDERSEN, RPR, CSR, CCR
 20 MIDWEST LITIGATION SERVICES
 21 3432 West Truman Boulevard, Suite 207
 22 Jefferson City, MO 65109
 23 (573) 636-7551
 24 and Notary Public within and for the State of Missouri,
 25 commissioned in Cole County, Missouri, in the
 above-entitled cause, on the part of the Complainant.

2 FOR THE COMPLAINANT:
3 LERA L. SHEMWELL
4 Senior Counsel
5 P.O. Box 360
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7 Jefferson City, MO 65102
8 (573) 751-3234

6 FOR THE RESPONDENT:

7 PAUL DeFORD
8 Attorney at Law
9 LATHROP & GAGE
10 2345 Grand Boulevard
11 Kansas City, MO 64108
12 (816) 292-2000

10 FOR AMEREN (VIA TELEPHONE):

11 DAVID KURTZ
12 Attorney at Law
13 SMITH LEWIS, LLP
14 111 South 9th Street, Suite 200
15 P.O. Box 918
16 Columbia, MO 65205-0918
17 (573) 443-3141

15 ALSO PRESENT: David Ries
16 Janis Fischer

16 SIGNATURE INSTRUCTIONS:

17 Presentment waived; signature requested.

18 EXHIBIT INSTRUCTIONS:

19 Attached to original.

20

21

22

23

24

25

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1 I N D E X

2 Direct Examination (Continued) by Ms. Shemwell 137

3

EXHIBITS INDEX

4

Exhibit No. 6 Gateway Pipeline 11/30/04 Statement,

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8 Mr. Paul DeFord of Lathrop & Gage representing
9 Mr. Lodholz, or representing the company anyway, would
10 that be correct, Paul, Missouri Pipeline Company?

11 MR. DeFORD: That's correct.

12 MS. SHEMWELL: David Ries, Janis Fischer of
13 the Staff. I will note that some of the other attorneys
14 on the case may come and go today. I don't know.

15 Mr. Lodholz, I'm going to hand you Missouri
16 Pipeline Company's general ledger. It is stamped highly
17 confidential, and a copy of the bank statement.

18 Paul, since this occurred during the time
19 that Mr. Lodholz was employed, I have assumed no problem
20 with highly confidential information with him seeing that,
21 since he's no longer employed, but he is being paid by
22 them today, right?

23 MR. DeFORD: Right. The highly
24 confidential should be no problem here.

25 BY MS. SHEMWELL:

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1 Q. Okay. Are you familiar with these
2 documents, Mr. Lodholz?

3 A. Yes.

4 Q. And the first sheet in what I handed you is
5 a copy of your checking account transactions; is that
6 correct?

7 A. Correct. The second sheet I'm not familiar
8 with. I shouldn't say I'm familiar with everything. The
9 rest I've seen.

10 Q. The second page is a summary of the revenue

11 for 2005 that Mr. Ries had provided us, and then the last
12 is a copy of the general ledger, several pages there. I
13 think six -- no, there's more than six pages. Can we look
14 at the page 5 of 6, please?

15 MR. DeFORD: Lera, did you want to mark
16 this?

17 MS. SHEMWELL: I'm sorry. I did want to
18 mark this, and this will be 6.

19 (EXHIBIT NO. 6 WAS MARKED FOR
20 IDENTIFICATION BY THE REPORTER.)

21 BY MS. SHEMWELL:

22 Q. Do you see page 5 of 6?

23 A. Yes. Yes.

24 Q. It says, as of December 31st, 2005, and the
25 top -- well, they're all invoices. Let's look at the top

139

1 half of that page. Okay. This is the October 2005
2 labeled invoices, right?

3 A. At the top says -- or yeah. At the top it
4 says general ledger as of December 31st. And your
5 question is?

6 Q. It says invoices on the left?

7 A. Right. There's invoices for October and
8 November, it looks like, on there.

9 Q. Let's look at the October ones. When is
10 that entry made into the general ledger?

11 A. On the first or second of the following
12 month.

13 Q. So the invoices represent bills sent to

14 customers; is that right?

15 A. Correct.

16 Q. Or invoices sent to customers?

17 A. Correct. For the previous month, that's

18 correct.

19 Q. So that would be for October or for

20 September?

21 A. The ones that say October 31st in the date

22 column would be for October.

23 Q. Okay.

24 A. That's when they'd be recognized on an

25 accrual basis.

140

1 Q. And do you recognize these as MPC

2 customers?

3 A. Yes.

4 Q. Or are these Omega customers?

5 A. MPC customers.

6 Q. We will go on to page 4 of 5. Okay. So

7 we're going back to Account 142, which is later in the set

8 of documents that I sent you. I'm sorry. It's in front

9 of. So the section that says payment on that sheet.

10 A. I'm sorry, which?

11 Q. I'm sorry. On page 4 of 5.

12 A. Page 4 of 5.

13 Q. At the bottom where it starts invoice

14 10/31/2005, are you there?

15 A. Yes. On page 4 of 5?

16 Q. Yes.

17 A. Yes.

18 Q. What do those represent? I believe there
19 are about ten of them that say invoice?

20 A. They represent invoices for the month of
21 October.

22 Q. And how does that list correlate to the
23 list that we looked at earlier, in terms of your general
24 ledger and your bookkeeping, is what I'm asking?

25 A. Well, it's invoiced and it's done once a

141

1 month. I'm not sure what the difference is between these
2 two -- these two reports. Looks like they're pretty much
3 the same information.

4 Q. Are they different accounts? Have you
5 listed these into different accounts? I believe on the
6 very first page 1 of 5, the third page of the documents
7 that I handed you, it identifies, the top left, 142,
8 customer accounts receivable?

9 A. Oh, this is by account. That's why. It's
10 by account. I thought this was a GLD. So what is your
11 question? The first set of documents is showing
12 transactions in the -- on the receivable side. The second
13 document is showing transactions on the revenue side.

14 Q. And then the second set of documents listed
15 page 1 of 6, it starts there, I believe in the upper
16 left-hand corner it's labeled 489, revenues from
17 transportation?

18 A. Correct.

19 Q. And so how do the -- how does the listing

20 in 142 customer accounts receivable relate to the 489
21 list?

22 A. The 142 represents the postings to AR, and
23 the 489 is the revenue side of the transactions.

24 Q. In the 142 -- the 142 documents, page 4 of
25 5, at the bottom we see a listing, the bottom two, and

142

1 then go into the next page, it says payment. How do those
2 relate to the list above?

3 A. On the 142s, you have both the invoice, the
4 debit that's caused by the actual invoicing, with the
5 credit going to the 489. On the -- on the 142 account,
6 when the payment comes in, what that reflects is the
7 receivable, receivable being relieved, which would be a
8 credit to accounts receivable and a debit to cash. That's
9 why there's two sides of an entry on the 142 and only one
10 side on the 489. Does that make sense?

11 Q. I'm sure it does to her.

12 A. I don't know what you're asking.

13 Q. But yes. Yes. Let's look at the very
14 front sheet. And can you lay that side by side with sheet
15 No. 2, which is the summary?

16 A. And remember, I haven't seen this sheet
17 before.

18 Q. I understand. Do you want to take a minute
19 to look at it?

20 A. Sure.

21 Q. The bank statement is from October, and if
22 you pull up the October list --

23 A. The bank statement's from November.
 24 Q. Okay. I'm sorry. November.
 25 A. Just want to make sure we have the same --

143

1 Q. But it will be the deposits from what you
 2 billed in October; is that correct?
 3 A. That's correct.
 4 Q. And looking at the deposit of ** _____ **,
 5 11/8, we find that over on this document (indicating)
 6 listed as ** _____ **; is that correct?
 7 A. Let me look.
 8 Q. It's the third from the right and down
 9 almost to the bottom. You see 4414, the ** _____ **?
 10 A. No, it doesn't --
 11 Q. They're paying September's bill, aren't
 12 they? That correlates to the September bill?
 13 A. Correct. Correct.
 14 Q. Okay.
 15 A. ** _____ ** from time to time would be late,
 16 and I would call them and remind them.
 17 Q. So they were paying their September bill on
 18 11/8?
 19 A. Correct.
 20 Q. And the ** _____ ** that says ** _____ ** on
 21 here relates to -- is that the ** _____ ** one?
 22 A. Correct.
 23 Q. And ** _____ **, it says
 24 Ameren Corp right after it, but how did we -- do you know
 25 how we get to ** _____ ** for that ** _____ ** from this

NP

1 from October?

2 A. Yeah. It actually looks like somebody
3 summarized it down below. ** _____ **, we would receive one
4 check for on behalf of ** _____ **

5 Q. So Ameren paid on behalf of those --

6 A. Correct.

7 Q. -- customers in a single check?

8 A. Correct.

9 Q. Okay.

10 A. And as I said, it's summarized below on the
11 bank statement.

12 Q. All right. Okay. How do we get -- where
13 it says ** _____ **, the ** _____ **, do you know how we arrive at
14 that?

15 A. Yeah. Again, it's summarized down below on
16 the bank statement. ** _____

17 _____
18 _____ **

19 Q. Okay. So that's the alliance. All right.
20 The 164,138 -- oh, we know that's a wire transfer because
21 it says that, wire transfer. How do you know who that's
22 from?

23 A. Say the first part.

24 Q. The ** _____ **, which is the second entry, it
25 says wire transfer deposit. How do you know who made that

1 wire transfer?

2 A. Well, again, it's summarized below. I
3 would make that transfer on the first or the second of
4 each month. I would make the transfer from Omega to the
5 pipeline, to Missouri Pipeline.

6 Q. And you reach that amount when you look at
7 the other sheet that's a combination of Cuba and Omega; is
8 that correct?

9 A. When you say the other sheet, you're
10 referring to this sheet again (indicating)?

11 Q. The second sheet, yes. The summary.

12 A. It should be.

13 Q. And it, again, has been summarized at the
14 bottom?

15 A. Yes. That's correct.

16 Q. So we add the Cuba ** _____ ** and the
17 Omega --

18 A. Yes.

19 Q. -- ** _____ ** to come up with ** _____ **

20 A. Correct.

21 Q. And that was a single wire transfer; is
22 that correct?

23 A. That's correct.

24 Q. Okay. I'm done with those documents,
25 Mr. Lodholz, and that was Exhibit 6, for your records.

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1 I'm going to hand this to the court reporter and to
2 Mr. DeFord before I hand it to you, Mr. Lodholz, because
3 there is some highly confidential information that was

NP

4 received by us, I believe after you left the company, and
5 I'm going to check with Mr. DeFord and see if this is
6 okay.

7 MR. DeFORD: Yes.

8 MS. SHEMWELL: Keep looking. I'm sorry.

9 MR. DeFORD: To the extent the witness
10 knows anything about the documents, he's, of course, free
11 to answer.

12 MS. SHEMWELL: I'll ask the court reporter
13 to mark this as Exhibit 7. Is that correct?

14 (EXHIBIT NO. 7 WAS MARKED FOR
15 IDENTIFICATION BY THE REPORTER.)

16 BY MS. SHEMWELL:

17 Q. Will you look through that, Mr. Lodholz?

18 A. Should I look through, look for anything in
19 particular or just glance through it?

20 Q. Have you seen the documents?

21 A. I don't recall seeing this, no.

22 Q. The third sheet starts a facilities
23 agreement, which my understanding was between MRT and MPC
24 -- I'm sorry -- and MIG dated September 29, 2002, and the
25 second is a letter from Mr. Ries to ** _____

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1 _____ ** - MRT Corporation dated November 11, 2002.

2 MR. DeFORD: I believe it's a letter from

3 ** _____ ** to Mr. Ries.

4 MS. SHEMWELL: Yes. Thank you.

5 BY MS. SHEMWELL:

6 Q. If you look at page 11 of the first

NP

7 document, which is just two pages in front of the letter,
8 that was signed by David J. Ries, correct, and Robert
9 Trost, T-r-o-s-t --

10 A. Correct.

11 Q. -- of MRT, correct?

12 A. Correct.

13 Q. Do you know who Mr. Ries would have been
14 signing for?

15 A. No.

16 Q. Right above his name, though, it says
17 Missouri Interstate Gas, LLC; is that correct?

18 A. Correct.

19 Q. And beneath his signature it says
20 president, correct?

21 A. Correct.

22 Q. Next is what is called Exhibit A that is
23 within this particular exhibit, and the document itself is
24 labeled Exhibit A, scope of work, and under scope, if
25 you'll follow along with me, install 12-inch tap

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1 measurement and regulator station with six-inch bypass,
2 flow control and cav-electronic flow measurement, open
3 parentheses, quote, capital EFN, close quote, close
4 parentheses, on MRT's Alton loop east line, correct?

5 A. Correct.

6 Q. Do you know when that connection was
7 completed?

8 A. I don't recall.

9 Q. Were you aware that it was completed?

10 A. Yes.

11 Q. Do you have any estimate as to when it
12 would have been?

13 A. Late 2002.

14 Q. If we could look at the second document,
15 which is the November 11th, 2002, under paragraph 2 in
16 this letter to Mr. Ries, it says, notwithstanding anything
17 to the contrary contained in the facilities agreement, the
18 parties will implement a look back -- with look back in
19 quotes -- payment arrangement which will require: And
20 then indented and in parentheses, small A, payment to --
21 payment by MIG to MRT of ** _____ ** --

22 A. ** _____ **

23 Q. ** _____ ** less, small I in parentheses, any
24 revenues from base transportation rates received by MRT or
25 ** _____ **, open paren,

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1 quote, CEGT, close quote, close paren, for firm or
2 interruptible transportation services during the period
3 commencing with the completion of all facilities set forth
4 in the facilities agreement and ending at March 31st,
5 2006. And then the last part of the sentence it has, open
6 paren, quote, look-back period, close paren, for
7 deliveries to MIG; is that correct?

8 A. That's correct.

9 Q. Mr. Lodholz, during your tenure, do you
10 know if MIG was required to pay MRT the ** _____ ** in March
11 2003?

12 A. Not to my recollection.

NP

13 Q. Do you think you would recollect an ** _____
14 _____ **
15 A. Yes.
16 Q. Would you be the only person posting
17 transactions to the MIG general ledger?
18 A. That's correct.
19 Q. So if that were made, would you have been
20 the one to post it?
21 A. That's correct.
22 Q. And then endorse the check as well?
23 A. That's correct.
24 Q. And did you or were you instructed by
25 Mr. Ries to set up in the MIG general ledger an account

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1 payable or a note payable to reflect that future
2 obligation?
3 A. Not that I recall.
4 Q. Do you think you would remember an ** _____
5 _____ **
6 A. Yes.
7 Q. As a CPA, would a posting of that sort have
8 been typical or common or even expected?
9 A. I don't know. In this type of situation, I
10 don't know. I'm not -- again, I'm not aware of -- I don't
11 remember this document.
12 Q. If there's an outstanding obligation,
13 however, future obligation, by one company to, let's say,
14 an outside vendor -- is that the word, an outside?
15 A. Yeah, vendor.

NP

16 Q. -- company, would you record that --
17 A. As a liability.
18 Q. -- on the books?
19 A. Sure.
20 Q. As a liability where?
21 A. On the balance sheet, an expense on the
22 income statement.
23 Q. Are you familiar with the issuance of a
24 representation letter by the client to an external
25 auditor?

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1 A. Yes.
2 Q. That a representation letter describing
3 what is to be done --
4 A. Right.
5 Q. -- is common?
6 A. Uh-huh.
7 Q. Do you know why a representation letter is
8 done, what the purpose of it is?
9 A. I haven't worked as a CPA for 30 years, but
10 I know the general purpose of it.
11 Q. Can you say what that is?
12 A. To represent what -- what an obligation or
13 an arrangement between two companies is.
14 Q. If I say that you --
15 A. There's different types of representation
16 letters. There's management representation letter, which
17 says the management -- the CPA usually has a boilerplate
18 representation letter that says we represent that

19 everything that we present to you is accurate.

20 Q. If I say to you that it would be defining
21 the expectations of the parties, would you agree with that
22 statement?

23 A. Yes.

24 Q. Do you know if Gateway management issued a
25 representation letter to the external auditors?

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1 A. I don't know if the letterhead was Gateway,
2 but I -- I know we issued representation letters to the
3 auditors each year.

4 Q. So who might it be if it weren't Gateway?

5 A. MoGas. It probably was Gateway.

6 Q. Who would sign that letter?

7 A. Myself and/or Dave.

8 Q. So you have signed some --

9 A. Uh-huh.

10 Q. -- possibly?

11 Okay. And he may have signed some as well?

12 A. Sure.

13 Q. Do you have any idea who would have signed
14 which letters?

15 A. Depends on who was available and who they
16 sent it to. I mean, if Dave was in town and they had a
17 rep letter available, they would give it to him.

18 Q. Are you aware of whether or not the MIG,
19 what I'm going to describe as the future obligation to MRT
20 was disclosed in the Gateway representation letter?

21 A. I don't recall. I don't think it was

22 disclosed.

23 Q. How would an external auditor discover this
24 potential future obligation?

25 A. Several ways. They would maybe talk to

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1 existing vendors, talk to you, talk to any legal counsel
2 you have.

3 Q. When you say talk to you, are you meaning
4 the company?

5 A. Me personally, right, or Dave Ries in our
6 case. They usually come to you because for GAAP purposes
7 you have to state any contingent liability, and they would
8 say, are you aware of any contingent liabilities?

9 Q. Is that a standard question?

10 A. Yes.

11 Q. Who would be interviewed by the outside
12 auditors besides yourself?

13 A. David Ries.

14 Q. Anybody else?

15 A. As far as questions pertaining to future
16 obligations, it would just be Dave and myself.

17 Q. Okay. Let's talk about just in general
18 when they come in to audit, who would they talk to besides
19 you and Mr. Ries?

20 A. They might talk to Dave Wallen a little bit
21 about the operation. They might even talk to Patty, the
22 person who opens the mail, but related to this type of
23 stuff, it would just be myself or Dave Ries.

24 Q. Because you would be the ones who would

25 know about it; is that correct?

154

1 A. Right.

2 Q. In 2003, which company would have been your
3 outside auditor? Is that Rubin Brown --

4 A. Correct.

5 Q. -- in 2003?

6 I'll note that Rubin Brown is known as RBG,
7 correct?

8 A. Correct.

9 MS. SHEMWELL: I'd like to turn to some
10 other documents now. We'll mark this as Exhibit 8.

11 (EXHIBIT NO. 8 WAS MARKED FOR
12 IDENTIFICATION BY THE REPORTER.)

13 MS. SHEMWELL: And we will mark these
14 Exhibit 9.

15 (EXHIBIT NO. 9 WAS MARKED FOR
16 IDENTIFICATION BY THE REPORTER.)

17 BY MS. SHEMWELL:

18 Q. Does Exhibit 8 look familiar to you,
19 Mr. Lodholz, or can you identify the information on that?

20 A. I've never seen the front page. The
21 following pages I have seen.

22 Q. The remaining four pages?

23 A. Correct.

24 Q. Which is 2 through 5?

25 A. Correct.

1 Q. You are familiar with those pages?

2 A. Correct.

3 Q. And the other document, which is Exhibit 9,
4 have you seen any of these? Are you familiar with any of
5 these contracts?

6 A. No.

7 Q. They're titled Omega Pipeline. The cover
8 sheet says Omega contracts.

9 A. No, I'm not.

10 Q. I would note that these are Bates stamped
11 at the bottom starting with 0000102. If you would look at
12 the -- in this Exhibit 9, page Bates stamped 112.

13 A. That's this exhibit (indicating)?

14 Q. Yes, sir. I'm going to say that this is
15 titled at the top Omega Pipeline Company, LLC, and it says
16 seller on the left, Omega Pipeline Company, buyer on the
17 right, it says buyer, City of Cuba. You indicated that
18 you had not ever seen this contract; is that correct?

19 A. That's correct.

20 Q. Let's look at the Cuba invoices, if we
21 could, which is page 2 of Exhibit 9, and 2 through 5. Do
22 you know if the City of Cuba --

23 MR. DeFORD: Excuse me. Is it page 2 of
24 Exhibit 9 or 2 of Exhibit 8?

25 MS. SHEMWELL: The invoices.

1 MR. DeFORD: I think that's Exhibit 8.

2 MS. SHEMWELL: Exhibit 8. Okay. Yes. It
3 is Exhibit 8.

4 BY MS. SHEMWELL:

5 Q. And at the top it says 007/027, indicating
6 7 of 27. Are you familiar with this invoice?

7 A. Yes.

8 Q. Do you know, Mr. Lodholz, if the City of
9 Cuba has a separate contract with MPC and MGC?

10 A. I don't know.

11 Q. For transportation, do you know that?

12 A. I don't know.

13 Q. As I look at the contract between Omega and
14 the City of Cuba, I see it's dated May 17th, 2003. Do you
15 see that at the bottom right-hand corner?

16 A. Yes.

17 Q. As we look up the term of the contract,
18 it's ** _____

19 _____

20 _____

21 _____ ** Have I read that
22 correctly?

23 A. I'm sorry. Where did you read it?

24 Q. The term.

25 A. Yes, you read that correctly.

157

1 Q. And the quantity is ** _____

2 _____

3 _____ **

4 A. Correct.

NP

5 Q. Do you have any way of knowing how the
6 quantity of gas recorded as purchased for Cuba is
7 determined?

8 A. No.

9 Q. As you look at the invoice, though, the
10 quantity of gas is a part of the invoice; is that correct?

11 A. That's correct.

12 Q. And on this particular month service period
13 is October, and the invoice date is 1/NOV-05 or the first
14 of November '05, correct?

15 A. Correct.

16 Q. And it shows the quantity under delivery
17 charges of ** _____ ** D small th, standing for
18 decatherm; is that correct?

19 A. That's correct.

20 Q. And that's the total volumes delivered to
21 the city gate station?

22 A. Correct.

23 Q. You said you don't know how that quantity
24 is determined, correct?

25 A. That's correct.

158

1 Q. And then right below that it says, ** ____
2 _____ ** Do
3 you know how that's determined?

4 A. No.

5 Q. Right below that it says, all
6 transportation and agent fees, correct?

7 A. I'm sorry.

NP

8 Q. And reference.

9 A. Where are you looking?

10 Q. Under reference, the third line it says,

11 all transportation and agent fees, right here in the

12 middle.

13 A. Yeah.

14 Q. And then the price was ** _____ **, correct?

15 A. Correct.

16 Q. If we look down below the middle of the

17 page, it shows numbers in parentheses right before the

18 decatherm, correct?

19 A. Correct.

20 Q. Then up to the right of that, it has either

21 long or short, with short in parentheses, correct?

22 A. Correct.

23 Q. It says current month-end imbalance,

24 correct?

25 A. Right.

159

1 Q. Do you know who maintains the information

2 about the imbalances?

3 A. No.

4 Q. Do you know who does the calculations for

5 those?

6 A. No.

7 Q. Do you know who reviews that?

8 A. No.

9 Q. Do you know whose job it would be to

10 calculate --

NP

11 A. No.

12 Q. -- maintain and review those documents?

13 A. No.

14 Q. Do you know how often the imbalances are

15 reviewed?

16 A. No.

17 Q. Do you receive any information from anyone

18 about imbalances on the pipeline?

19 A. This position, no.

20 Q. Do you know who would receive that?

21 A. I don't want to guess, but no, I do not.

22 Q. Are you -- I understand you don't want to

23 guess, but is that more the operational side, then, since

24 you don't get it?

25 A. Correct. Correct.

160

1 Q. Do you know what that line reference, only

2 dash capital N-Y-M-E-X, NYMEX first of the month price,

3 what that means?

4 A. I'm sorry. Which line?

5 Q. Reference only.

6 A. Okay.

7 Q. NYMEX first of the month price, do you know

8 what that means?

9 A. No, no.

10 Q. Do you know where Omega buys the gas that

11 is sold to the City of Cuba?

12 A. No.

13 Q. But we have determined from this invoice

14 that the City of Cuba does receive gas and is instructed
15 to remit the payment to Omega Pipeline; is that correct?

16 A. That's correct.

17 Q. Do you pay the bills from gas suppliers on
18 behalf of Omega?

19 A. I did.

20 Q. Do you remember in general who the gas
21 suppliers were?

22 A. There were -- there were several.

23 Q. Do you remember?

24 A. Laclede. I'm drawing a blank, but there
25 was more than one. It wasn't just one.

161

1 Q. Is ** _____ ** one of them?

2 A. No. I don't recall buying gas from ** _____ **

3 Q. Did you sign the checks?

4 A. Yes.

5 Q. Who else would sign those checks, anyone?

6 A. Dave. The two Daves. Dave Wallen and Dave
7 Ries.

8 Q. Both would sign or one?

9 A. Two of the three of us had to sign it.

10 Q. Do you recall anyone else at this time --

11 A. No.

12 Q. -- that would have paid?

13 At the bottom of the Omega invoice we see
14 transportation credits. Do you see that? It's the last
15 underlined item.

16 A. Yes.

NP

17 Q. And it says quantity, ** _____ **,
 18 resulting -- it says distribution transportation to ** ____ **
 19 and then in parentheses it has ** _____ ** Do you see that?
 20 A. Yes.
 21 Q. And that represents a negative number; is
 22 that correct?
 23 A. That's correct.
 24 Q. Do you know why that's a negative number?
 25 A. No.

162

1 Q. Do you know how this bill is calculated?
 2 A. No.
 3 Q. Physically how is the transportation bill
 4 for Cuba calculated?
 5 A. Say that again.
 6 Q. Physically in your office?
 7 A. How is it calculated?
 8 Q. Yes.
 9 A. It wasn't done by this position.
 10 Q. We're recalling that there's an Excel
 11 spreadsheet that calculates the bills?
 12 A. That's correct.
 13 Q. So that's what I'm asking. That would be
 14 calculated in your Excel spreadsheet?
 15 A. Not my Excel spreadsheet.
 16 Q. Patty's?
 17 A. Correct.
 18 Q. Do you know how much of the transportation
 19 cost being charged to Cuba by Omega is reimbursed to

NP

20 Missouri Pipeline Company?

21 A. All of it.

22 Q. So Omega would remit the transportation
23 cost charged to Cuba to MPC?

24 A. That's correct.

25 Q. And where would you record that?

163

1 A. When you say where would I record it, you
2 mean --

3 Q. On the general ledger under?

4 A. It would be cash to MPC.

5 Q. And would it show from Omega or from Cuba?

6 A. From Omega.

7 Q. And would that be a monthly --

8 A. Yes.

9 Q. -- payment?

10 Would it go just to MPC or would some also
11 break out and go to MGC?

12 A. I believe both.

13 Q. You would break it out and it would go to
14 both companies?

15 A. Right.

16 Q. Cuba sends its payment by check or wire to
17 Omega, correct?

18 A. Correct.

19 Q. Would you record any portion of that
20 payment on the books of Omega?

21 A. Yes.

22 Q. And do you know what portion, what

23 percentage, is what I'm asking?

24 A. All of it. It would be recorded as a
25 transportation cost.

164

1 Q. So when the Cuba check came in, it would
2 all be posted to the Omega books?

3 A. Correct.

4 Q. Is this posted on the Excel spreadsheet
5 or --

6 A. No, in QuickBooks.

7 Q. QuickBooks. And how is the portion that's
8 recor-- you said it was all recorded to Omega; is that
9 correct?

10 A. Right. Right.

11 Q. ** _____ ** has a contract with Omega that is
12 included in here, and as I recall, it's the first page
13 Bates stamped 103. Could you turn to that?

14 Were you aware of this contract?

15 A. No.

16 Q. Would you have had any reason to see the
17 contract?

18 A. No.

19 Q. Will you agree with me that it's signed by
20 Mr. Ries at the bottom as president of Omega, correct?

21 A. Correct.

22 Q. And ** _____ ** was signed by a
23 Mr. Charles Raymond, correct?

24 A. Correct.

25 Q. Do you know where ** _____ ** is located on

NP

1 the pipeline system?

2 A. No.

3 Q. If we looked at the pipeline system map of
4 that, would that refresh your recollection?

5 A. I don't recall ** _____ ** That name does
6 not ring a bell.

7 Q. Do you recall seeing payments from ** ____
8 _____ **

9 A. No. No.

10 Q. If you would look at the invoices that I
11 handed you, that five-page document, which I believe is 8,
12 the third sheet back.

13 A. Uh-huh.

14 Q. It's an invoice, and it says bill to ** _____ **

15 A. Uh-huh. Yes.

16 Q. -- ** _____ **

17 Are you familiar with that invoice?

18 A. I don't recall this invoice. Yeah, I don't
19 recall that invoice.

20 Q. Do you recall ever seeing ** _____
21 _____ **

22 A. No. No.

23 Q. So if they remitted the payment which is
24 shown at the bottom of ** _____ **, do you know where that
25 payment would go?

1 A. To Omega.

2 Q. Would you then have posted that to Omega's
3 books?

4 A. Yes.

5 Q. Okay. But it's your recollection that you
6 don't recall sending out the invoice?

7 A. I just don't remember ** _____ ** I don't
8 remember that name right now. It's not ringing a bell.
9 But Omega did a lot of one -- you know, one-time projects
10 with different entities, so it's possible that I don't
11 recall it.

12 Q. If we look at the contract I'm reading,
13 under term it says beginning August 1, 2003 for a
14 ** _____ ** You don't
15 recollect if it was just two months?

16 A. No.

17 Q. Okay. I will note that that contract was
18 signed August 14th, 2003, and the invoice that we're
19 looking at, the date on the invoice is 1-NOV, for
20 November-05. Who would have mailed these invoices?

21 A. Patty Hawkins.

22 Q. Do you have any information as to whether
23 or not -- first let me ask you this: Do you know the
24 difference between a firm customer and an interruptible
25 customer?

167

1 A. Yes.

2 Q. And a firm customer has firm or -- I
3 hesitate to use the word guaranteed, but essentially they

NP

4 will get their service?

5 A. Right.

6 Q. An interruptible customer in contrast, if

7 there's a need, may be interrupted --

8 A. That's correct.

9 Q. -- correct?

10 Is there anything you want to add to that

11 discussion --

12 A. No.

13 Q. -- about your knowledge about them?

14 A. (Witness shook head.)

15 Q. Do you have any information or do you know

16 how the transportation costs for ** _____ ** is calculated?

17 A. No.

18 Q. Or how the bill for ** _____ ** was

19 calculated?

20 A. No.

21 Q. What about reimbursements for

22 transportation costs, would you -- if ** _____ ** paid

23 Omega, would you have received that information to post in

24 Omega's books?

25 A. Yes.

168

1 Q. And would you have posted it to the Omega

2 books?

3 A. Yes.

4 Q. Do you know how much of the amount was

5 posted?

6 A. No.

NP

7 Q. Or how the amount was determined?

8 A. No.

9 Q. Or who performed the calculation?

10 A. No.

11 Q. Or how ** _____ **

12 A. No.

13 Q. -- sent their payments?

14 A. I know how they send. If they pay, they

15 would send it either wire or check.

16 Q. Let's try not to talk over each other.

17 A. Okay.

18 Q. Do you have any way, when you look at the

19 invoice, of knowing to which bank account the ** _____ **

20 payment would go? If you look at the invoice for ** _

21 _____ **, do you know?

22 A. It would go to the number listed above.

23 Q. And you're referring to the line up by wire

24 or capital ACH colon?

25 A. Correct.

169

1 Q. And then under that is a capital ABA,

2 transit routing number, correct?

3 A. Correct.

4 Q. And it would go to that account?

5 A. Correct.

6 Q. And this would post, then, on Omega's books

7 under?

8 A. Revenue.

9 Q. Have you already said that 100 percent of

NP

10 that would go to the Omega general ledger account?

11 A. Correct.

12 Q. Were you aware of any curtailments on the
13 system where someone had to be notified to interrupt?

14 A. I wasn't aware of any.

15 Q. If we could look in the Exhibit 9 for Omega
16 contracts, I would like to point you to the ** _____

17 _____ ** Do you remember ** _____ ** --

18 A. Yes, I do.

19 Q. -- as a customer?

20 A. Yes.

21 Q. And that name, ** _____ **

22 A. Yes, I do.

23 Q. What do you know about Willard Asphalt?

24 A. That they were a customer of Omega.

25 Q. I'm going to read under the term part of

170

1 that section just what it says beginning ** _____

2 _____

3 _____ ** I haven't read the whole thing, but is that
4 correct?

5 A. That's correct.

6 Q. This is again signed by Mr. Ries, correct?

7 A. Correct.

8 Q. On April 6, 2004, correct?

9 A. Correct.

10 Q. And the buyer's signature for ** _____

11 _____ ** appears to be ** _____ **, correct?

12 A. Correct.

NP

13 Q. I will say the signature says ** _____
 14 _____ **, but underneath it just says ** _____ **, for the record.
 15 If you would look at, I believe, page 4 of Exhibit 8, it
 16 is the invoice to ** _____ **. Are you there?
 17 A. Yep. This page is what you're referring to
 18 (indicating)?
 19 Q. Yes. Just to make sure we have the right
 20 page, it's handwritten at the bottom post OCT, correct?
 21 A. Correct.
 22 Q. And who issued this invoice?
 23 A. It would be issued by us, by Omega
 24 Pipeline.
 25 Q. And again, would you have issued the

171

1 invoice yourself?
 2 A. No. It would -- I would get copies of the
 3 invoice, but it would actually be sent by Patty.
 4 Q. Do you know if they are a firm or
 5 interruptible customer?
 6 A. I don't recall.
 7 Q. Can you tell by looking at this what gas
 8 transportation charge was posted?
 9 A. Sure. The ** _____ **
 10 Q. As I'm looking under gas supply charges, it
 11 shows natural gas used for the month, correct?
 12 A. Correct.
 13 Q. ** _____ ** decatherms, right?
 14 A. Correct.
 15 Q. And then a NYMEX price, and you have

NP

16 already mentioned the ** _____ ** charge. Is charge the
17 word you would use, bill?

18 A. Bill, invoice.

19 Q. Looking at this, can you tell what part is
20 for the actual commodity itself and what part is for the
21 transportation?

22 A. It looks like it's all for the commodity,
23 but I'm not that familiar with how the prices are
24 established.

25 Q. So my next question would be if the

172

1 transportation's built in. Would you know that?

2 A. No.

3 Can we take a short break, please?

4 MS. SHEMWELL: This is a fine time to take
5 a break and we'll go off the record.

6 (A BREAK WAS TAKEN.)

7 BY MS. SHEMWELL:

8 Q. We're kind of in the middle of ** _____
9 _____ **, as I recall, so I'm just going to kind of start
10 back in. Who prepared the bill for Willard?

11 A. When you say -- this bill (indicating)?
12 It's generated by the system just like any other bill, and
13 then the invoices are printed off by Patty and mailed.

14 Q. On our break, did you have any conversation
15 with Mr. Ries about your answers?

16 A. No.

17 Q. Anyone else besides your attorney about
18 your answers?

NP

19 A. No.
20 Q. What about conversations last evening when
21 your attorney was not present?
22 A. No.
23 Q. Any conversations with your attorney about
24 your answers?
25 A. Last night?

173

1 Q. Yes.
2 MR. DeFORD: I'd object.
3 MS. SHEMWELL: I'm not going to ask the
4 content.
5 MR. DeFORD: There weren't any.
6 BY MS. SHEMWELL:
7 Q. All right. We're back on ** _____ **
8 Would you yourself enter any of the natural gas usage for
9 the month information or the quantities?
10 A. No. I just enter the total amount
11 that's -- that was invoiced into QuickBooks.
12 Q. Would this invoice then come to you
13 prepared by someone else for mailing by Patty?
14 A. That's correct.
15 Q. And do you know who prepared it?
16 A. It's generated by the system. This is the
17 cover page from the system.
18 Q. Okay. And who would figure the quantities
19 and that sort of thing? Who would input that information
20 into the system?
21 A. The daily reports are inputted by Patty

NP

22 or -- Patty Hawkins or Dave Wallen.

23 Q. So the quantity and the unit price would be
24 input by them?

25 A. Right.

174

1 Q. And where would Patty get the information
2 to do that, do you know?

3 A. I believe the SCADA system would provide
4 that.

5 Q. I still haven't found out what SCADA means.
6 Where does ** _____ ** send its check or wire?

7 A. To Omega.

8 Q. And is that the same as the prior bill
9 under wire, it is to that ABA transit routing number?

10 A. When you say the prior bill?

11 Q. The ** _____ ** bill. Let me go back.
12 ** _____ ** bill went to Commercial Federal Bank, didn't it?
13 If you look at the ** _____ ** fee from that payment, that
14 was Commercial Federal Bank, correct?

15 A. I'm not seeing where you -- oh, yes.
16 That's correct.

17 Q. And then if we go back to ** _____ **,
18 that's Capital UMB Bank, correct?

19 A. Correct.

20 Q. Different account numbers, correct?

21 A. That's correct.

22 Q. Would you post the ** _____ ** payments
23 to --

24 A. Yes.

NP

25 Q. -- the books?

175

1 And where would you post that?

2 A. To QuickBooks, to the revenue account.

3 Q. Revenue account?

4 A. Well, actually the payment, the posting of
5 the payment would be receivable.

6 Q. And would you have done that?

7 A. Yes.

8 Q. Do you recognize -- and you recognized

9 ** _____ ** as a customer, correct?

10 A. Yes.

11 Q. Do you know if ** _____ ** is an interruptible
12 or a firm customer?

13 A. I don't know.

14 Q. Under what circumstances would you need to
15 know that?

16 A. I wouldn't.

17 Q. For example, let's just, as an example, if

18 ** _____ ** were interrupted for a month and would have no
19 invoice for that month, would you then question that you
20 hadn't received an invoice from them? Is that something
21 you would go looking for?

22 A. Well, it never happened, but if it did
23 happen, yeah, I would ask.

24 Q. I guess that's what I'm getting to. In
25 general, if you were expecting to see an invoice for a

NP

1 customer and you didn't see it for that month, would it be
2 your procedure to follow up?

3 A. Yes.

4 Q. The final page in Exhibit 8 is ** _____
5 _____ ** invoice. Do you see that?

6 A. Yes.

7 Q. And if you will look in the packet of
8 Exhibit 8, the ** _____ ** contract should be in there.
9 MR. DeFORD: Excuse me. I think that's
10 Exhibit 9.

11 MS. SHEMWELL: Exhibit 9. I'm sorry.

12 BY MS. SHEMWELL:

13 Q. The packet of Exhibit 9. It's Bates
14 stamped 108. Are you there?

15 A. Yes.

16 Q. Do you have any familiarity with this
17 contract?

18 A. No.

19 Q. Do you know where ** _____ ** is located
20 on the pipeline system?

21 A. No.

22 Q. If I hand you a map, would that refresh
23 your recollection?

24 A. No.

25 Q. Do you see on the contract that they're

1 located in Owensville --

2 A. Yes.

3 Q. -- Missouri?

4 Do you know if that's MPC or MGC? Does it

5 go on MGC?

6 A. I don't know.

7 Q. Do you know if ** _____ ** has a separate

8 contract with MPC and/or MGC?

9 A. I don't know.

10 Q. Can you tell from this if they're a firm --

11 or I should just ask you, are you aware of whether or not

12 they are a firm or interruptible customer?

13 A. I'm not aware.

14 Q. Under the term of the contract, I'm going

15 to read just the first part, and it says, beginning

16 December 1, 2004 through May 31st, 2005, and month to

17 month thereafter. Have I read that correctly under term?

18 A. Yes.

19 Q. And the contract is signed by Mr. David

20 Ries --

21 A. Yes.

22 Q. -- as the seller, and ** _____

23 _____ **, for the buyer, correct?

24 A. Correct.

25 Q. November 2nd, 2004, correct?

178

1 A. Correct.

2 Q. And Mr. Ries had signed on November 16,

3 2004, correct?

4 A. Correct.

NP

5 Q. If we look under point of delivery, it says
6 it shall be the Missouri Gas Company's city gate delivery
7 to AmerenUE's Owensville meter station, correct?

8 A. Correct.

9 Q. Point of delivery on the contract, right?

10 A. Correct.

11 Q. According to Mr. Ries' revenue summaries,
12 are you aware that ** _____ ** is no longer included in
13 revenue after this year?

14 A. No.

15 Q. Were you aware of that?

16 A. No.

17 Q. This is part of Exhibit 6. If it's all
18 right with your attorney, I'm just going to hand you
19 this page so it's easier to look at. That is out of
20 Exhibit 6. Can you tell that after March ** _____ ** is
21 no longer --

22 A. Yes.

23 Q. -- shown as revenue?

24 You had indicated if you were expecting an
25 invoice and didn't see one, that you would most likely go

179

1 looking for it. Do you recall looking for --

2 A. No.

3 Q. -- any further invoices?

4 Do you know why you wouldn't have been
5 expecting or looking for their name?

6 A. I don't recall.

7 Q. Do you recall receiving payments from

NP

8 Emhardt prior to that?

9 A. Yes.

10 Q. And you would have posted them, correct?

11 A. Correct.

12 Q. To what company's account?

13 A. Whatever company was listed on the invoice.

14 Q. And if we look back at the invoice, that

15 would be Omega Pipeline Services, correct?

16 A. Correct.

17 Q. And where would you post that, under what

18 account?

19 A. The original invoice would go to the

20 revenue account.

21 Q. And as we note looking at the invoice for

22 ** _____ **, it was to the Commercial Federal Bank

23 account number, correct?

24 A. Correct.

25 Q. Do you know why they're no longer included

180

1 in the revenue summaries or why you haven't been getting

2 invoices from them?

3 A. No, I do not.

4 Q. Did you record any invoices from them after

5 March?

6 A. No, not that I recall.

7 Q. Do you expect that you would recall that?

8 A. Not necessarily.

9 Q. Why?

10 A. Because I've been gone for two months and

NP

11 I'm trying to wash the company out of my brain. No, I
12 don't know why I would recall that ** _____ ** stopped
13 paying.

14 Q. I guess that leads me to the question,
15 then, of did you have a physical checklist that you went
16 through for the invoices or did you keep that mentally?

17 A. Well, we had -- I had a cash receipts page
18 that I sent to Dave Ries every week that showed status of
19 collections, and I had all the customers listed on that,
20 and I obviously wouldn't change that each month. So if I
21 saw something there that I thought needed to be addressed,
22 I would ask.

23 Q. But you don't recall asking anything about

24 ** _____ **

25 A. No, I don't recall.

181

1 Q. So it would have gone off of your list at
2 some point?

3 A. Which happened with a couple of customers
4 had dropped off that list.

5 Q. And what other customers do you recall that
6 dropped off?

7 A. I don't recall. I recall dropping some
8 off, but I don't recall their names. I just recall that
9 we did drop some off.

10 Q. Do you recall when that would have been?

11 A. No.

12 Q. Do you recall if it would have been before

13 2005 --

NP

14 A. Yeah.

15 Q. -- that you would have dropped some other

16 customers off?

17 A. Yes.

18 Q. After the revenue from ** _____ ** was

19 posted to the Omega, do you know if Omega paid MPC or MGC?

20 A. I don't recall.

21 Q. If they did, would you have posted that to

22 MGC or MPC's ledgers?

23 A. Yes.

24 Q. And if so, where?

25 A. To the revenue account.

182

1 Q. Is that a particular account number?

2 A. I think it's 489. The payment actually,

3 obviously, offset the receivable. The original invoice

4 would hit 489.

5 Q. As we've gone through these documents,

6 we've seen two different bank accounts, correct, UMB?

7 A. Correct.

8 Q. And Commercial Federal Bank?

9 A. Correct.

10 Q. Is the Commercial Federal Bank, do those

11 receipts get posted to the Omega general ledger?

12 A. I have no idea. I've never seen Commercial

13 Federal Bank.

14 Q. So you would not have posted them to any

15 ledger; is that correct?

16 A. I don't recognize this Commercial Federal

NP

17 Bank.

18 Q. So does that mean that you wouldn't have
19 posted them if you're the only one posting?

20 A. That's correct.

21 Q. Who reconciles the UMB Bank account?

22 A. I did.

23 Q. And did you reconcile the Commercial
24 Federal Bank bank account?

25 A. No, I did not.

183

1 Q. Did you issue checks on that bank account
2 number?

3 A. The Commercial Federal Bank?

4 Q. Yes.

5 A. No.

6 Q. Did you issue checks on the UMB account?

7 A. Yes.

8 Q. When Patty would mail out the invoices, do
9 you know if she mailed ** _____ **?

10 A. If we had an invoice, yeah.

11 Q. So would you look at those before they went
12 out or --

13 A. No. She would just give me a copy of them,
14 put them in my in basket.

15 MS. SHEMWELL: Mark this Exhibit 10.

16 (EXHIBIT NO. 10 WAS MARKED FOR

17 IDENTIFICATION BY THE REPORTER.)

18 BY MS. SHEMWELL:

19 Q. Again, I'm going to note for the record

NP

20 that we're discussing a lot of highly confidential
21 information, and the deposition will be maintained as
22 highly confidential until the company has had the
23 opportunity to review it.

24 I've handed you copies of Missouri Pipeline
25 Company general ledger as of December 31st, 2005. Do you

184

1 agree with that?

2 A. Yes.

3 Q. And the date in the upper left-hand corner
4 is February 24th, '06, correct?

5 A. Correct.

6 Q. And at the top of the first sheet it
7 shows -- I guess that's an account number, 1499,
8 undeposited funds, correct?

9 A. Correct.

10 Q. What are undeposited funds?

11 A. It's a receivable. It's the offset --
12 offsetting entry when the -- when we do -- when we did the
13 invoicing. It would debit a customer account and credit
14 revenue.

15 Q. Does undeposited mean it hasn't gone to the
16 bank yet, hasn't been through the bank yet?

17 A. Correct.

18 Q. When they ask for a copy of the MPC general
19 ledger for 2004-2005, what did you need to do to produce
20 those documents?

21 A. Run a general ledger.

22 Q. Does that mean that you printed it out off

23 of Patty's computer?
 24 A. No. I had the QuickBooks, so I would
 25 export the QuickBooks information into an Excel

185

1 spreadsheet.
 2 Q. And then print it off and --
 3 A. I rarely printed. I just sent it.
 4 Q. You sent the electronic version?
 5 A. Right.
 6 Q. Okay. Did you send this document to anyone
 7 for review prior to providing it to the Staff?
 8 A. Yes, Dave Ries.
 9 Q. Anyone else?
 10 A. No.
 11 Q. Did you alter this document in any way
 12 before sending it to the Staff?
 13 A. No, but I never sent it directly to the
 14 Staff.
 15 Q. Okay. You sent it to Mr. Ries?
 16 A. Correct.
 17 Q. Who provided it to the Staff?
 18 A. Correct.
 19 Q. As you look through this, does it look as
 20 though it has been altered in any way?
 21 A. No.
 22 Q. Have you had satisfactory time to look
 23 through it to make that determination?
 24 A. Well, it's hard. I mean, glancing at it,
 25 I -- it looks like the original document, but I don't

1 know. I don't know.

2 Q. Let me hand you another document. I
3 believe this will be Exhibit No. 11.

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

6 BY MS. SHEMWELL:

7 Q. And this is also the Missouri Pipeline
8 general ledger as of February 24th, '06; is that correct?

9 A. Correct.

10 Q. And this is customer accounts receivable
11 142 in the upper left-hand corner, correct?

12 A. Correct.

13 Q. Tell me what the payment columns represent.

14 A. Represents when a check or a wire came in
15 on behalf of the customer.

16 Q. And over under split, it says undeposited
17 funds and UMB-revenue for the first approximately ten
18 companies listed there, correct?

19 A. Correct.

20 Q. All of the numbers under amount are
21 negative. Would you explain that to me, please?

22 A. Because it's showing what the effect on
23 customers' accounts receivable, which is a receivable
24 account. So when we received a payment, a payment coming
25 in, it would credit the customer accounts receivable.

1 Does that make sense?

2 Q. Yes. And under balance, what do those
3 numbers represent?

4 A. The balance as of a particular date.

5 Q. The balance of what?

6 A. Of the customer accounts receivable.
7 Customer accounts receivable.

8 Q. So that number goes down each day as you
9 receive these payments; is that correct?

10 A. Correct. And then it goes up as you do the
11 monthly invoicing.

12 Q. Do you know why Laclede Gas Company payment
13 where it says account 131.2 UMB-revenue, why that goes to
14 UMB revenue as opposed to undeposited funds?

15 A. Because Laclede was solely a customer of
16 MPC. It wasn't a -- the undeposited funds represented
17 money that was paid on behalf of both MPC and MGC.

18 Q. The same thing would then be true for
19 Fidelity?

20 A. That's correct. I believe there were three
21 customers that were just strictly MPC customers.

22 Q. And we had discussed yesterday that Laclede
23 Gas, in fact, purchased Fidelity, correct? You don't know
24 if Laclede Gas purchased Fidelity?

25 A. I don't know.

188

1 Q. If you'd turn to page 2 of 5, please. At
2 the bottom, about five lines up, you'll see a payment of
3 June 7, 2005 from the City of Cuba, correct?

4 A. Correct.

5 Q. For undeposited funds. I guess that's

6 Account No. 1499 undeposited funds, correct?

7 A. Correct.

8 Q. And you have a negative ** _____ **?

9 A. Correct.

10 Q. And then the balance of the accounts

11 receivable would have been reduced by that amount over in

12 the far right-hand column, correct?

13 A. Correct.

14 Q. If you look on the next page, right after

15 general journal, it starts invoices?

16 A. Yes.

17 Q. City of Cuba is not listed there. Do you

18 know why the City of Cuba would not be listed in the

19 June 30th, 2005 invoices?

20 A. No. Oh, it looks like there's two Omegas.

21 The first one should have been City of Cuba.

22 Q. So where it says OME 0605 Omega --

23 A. Right.

24 Q. -- that was the City of Cuba invoice?

25 A. Correct.

189

1 Q. You have a number code to the right of the

2 date for the invoices; is that right?

3 A. That's right.

4 Q. And for example Laclede is LAC 0705?

5 A. Correct. That's just to distinguish the

6 invoices from month to month.

NP

7 MS. SHEMWELL: Off the record.

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

9 MS. SHEMWELL: I'm going to hand you
10 another document that I am describing as a revenue
11 summary, and this will be Exhibit 12.

12 (EXHIBIT NO. 12 WAS MARKED FOR
13 IDENTIFICATION BY THE REPORTER.)

14 BY MS. SHEMWELL:

15 Q. Do you recognize this document?

16 A. No.

17 Q. As you look through, do you recognize the
18 information on it?

19 A. No.

20 Q. Laclede's monthly billing in January and
21 Ameren's monthly billing in January of '04, the amounts
22 or --

23 A. I don't recognize any of the information.

24 Q. Do you have any reason to doubt that the
25 Laclede monthly billing for January is ** _____ **

190

1 represented under January, 2004?

2 A. I have no reason to dispute, if that's your
3 question.

4 Q. That is my question. Do you know what type
5 of reports or information MPC, MGC and Omega produce to
6 provide the customer with the revenue information for that
7 month? I guess more simply my question is, what do you
8 attach to the invoice that backs up the amount of the
9 invoice?

NP

10 A. There's -- depending on how much volume
11 they have, there's a couple pages that shows -- and I
12 don't recall the categories off the top of my head, but I
13 think shows the daily usage. Like I said, it's usually a
14 page or two, and it's an Excel-produced spreadsheet that
15 just shows day by day what their usage was.

16 Q. Who produces that spreadsheet?

17 A. It's produced by either Dave or Patty
18 entering daily information into an Excel spreadsheet.

19 Q. And that's maintained on Patty's computer
20 and Mr. Ries' computer?

21 A. Not Mr. Ries.

22 Q. Dave Wallen?

23 A. Right. That's correct.

24 Q. Do you use that information posting
25 revenues?

191

1 A. I use the summary page, the front page, but
2 not -- I don't look at the detail behind it.

3 Q. And when you say the summary page, are you
4 talking about the invoice sheet?

5 A. Right. There's an invoice sheet that we've
6 looked at. It's just what I would call the summary sheet,
7 the front page.

8 Q. Do you know if this document, labeled
9 Exhibit 12, is something that is regularly produced by
10 anyone in the company?

11 A. I don't know.

12 Q. Did you maintain the attachments to the

13 invoices in hard copy in your office?

14 A. Yes.

15 Q. And how long are they kept?

16 A. Forever. I had the ones from when I
17 started.

18 Q. So on the first date of -- were you there
19 the first date of operation of the pipelines?

20 A. No. I started in July of '02.

21 Q. And they started when?

22 A. In early '02. January '02.

23 Q. Since you haven't seen this, I am then
24 assuming that you did not review this before it was sent
25 to the Staff?

192

1 A. That's correct.

2 MS. SHEMWELL: I'm handing the court
3 reporter a document that I'm asking to be marked as
4 Exhibit 13.

5 (EXHIBIT NO. 13 WAS MARKED FOR
6 IDENTIFICATION BY THE REPORTER.)

7 BY MS. SHEMWELL:

8 Q. I will note that at the top it says,
9 Amended and Restated Consulting Agreement. Are you
10 familiar with this document, Mr. Lodholz?

11 A. Yes.

12 Q. And can you say a little bit about what it
13 is, please?

14 A. It's a consulting agreement between R2
15 Development and the company -- and Missouri Pipeline.

16 Q. And who works for R2 Development?
17 A. Dave Ries.
18 Q. Anyone else?
19 A. Not that I'm aware of.
20 Q. Would either Patty or Mr. Wallen have spent
21 time doing work for R2 Development?
22 A. No.
23 Q. We noted yesterday I believe a number of
24 employees submit expense reports. Does Mr. Ries --
25 A. Yes.

193

1 Q. -- submit an expense report?
2 A. R2 Development, yes.
3 Q. Does Mr. Ries sign on behalf of R2
4 Development when he signs the expense report?
5 A. Yes.
6 Q. And is that the reimbursement from MPC or
7 MGC or both?
8 A. It's MPC originally, but then it's
9 allocated at the end.
10 Q. How do you make that allocation?
11 A. Based on throughput.
12 Q. In the general ledger, where do you post
13 these expense reimbursements?
14 A. To -- there's a -- actually, I posted all
15 his under consulting.
16 Q. Does that include travel expenses, as
17 opposed to salary or whatever?
18 A. Yes.

19 Q. Is there a salary portion of this that's
20 separate from the expense account?

21 A. Yes. It's not salary. It's a fee.

22 Q. Consulting fee?

23 A. Right.

24 Q. Does R2 Development submit any expense
25 reports that would be reimbursed by Omega?

194

1 A. I don't recall. I don't believe so, no.

2 Q. So if R2 Development does work for Omega,
3 you would be aware of that?

4 A. Yes.

5 Q. And would you review all of the expense
6 accounts for both Omega and MPC?

7 A. That's correct.

8 Q. Is any of -- are any of the expenses
9 actually assigned to Omega?

10 A. From R2?

11 Q. Uh-huh.

12 A. I don't recall any being assigned to Omega.

13 Q. Again, these are marked as highly
14 confidential, and I will note that this document has at
15 the top a number, 11982, correct?

16 A. Yes.

17 Q. And this will be the first document we
18 discuss.

19 (EXHIBIT NO. 14 WAS MARKED FOR
20 IDENTIFICATION BY THE REPORTER.)

21 MS. SHEMWELL: The next document is

22 Exhibit 15, and it's marked 12586. That will be the
23 second. 12051 will be Exhibit 16. Handing you another
24 document labeled at the top 12152. That will be
25 Exhibit 17. And 13013, that will be 18.

195

1 (EXHIBIT NOS. 15 THROUGH 18 WERE MARKED FOR
2 IDENTIFICATION BY THE REPORTER.)
3 BY MS. SHEMWELL:

4 Q. Starting with the document that I've
5 identified as 11982, which is Exhibit No. 14; is that
6 correct? Do you have that in front of you?

7 A. Yes.

8 Q. Take a look at the expense report that's
9 attached to the cover sheet. Does this look like the
10 standard --

11 A. Yes.

12 Q. -- expense report?

13 A. Yes.

14 Q. Would others use the same form?

15 A. Not -- not just like this, but similar.

16 Q. On this is -- at the bottom middle with no
17 date is the United Airlines Pass Plus for ** _____ **. Do you
18 see that?

19 A. Yes.

20 Q. How would you record this on the general
21 ledger?

22 A. As part of his consulting fee.

23 Q. For R2?

24 A. Correct.

NP

25 Q. Is there a particular account number on

196

1 which that would appear? Is there a travel account?

2 A. Yeah. I don't recall the account number
3 right off the top of my head.

4 Q. So do you know which expense treatment was
5 used for this?

6 A. Again, I don't recall the number, but there
7 was one account for his fee and another account number for
8 his other expenses.

9 Q. I only see a signature on the approval
10 line. Would anyone have approved this for payment from
11 MPC or MGC?

12 A. No.

13 Q. Do you have any way of knowing whether the
14 United Airlines Pass Plus, for what term that was that
15 expense would apply?

16 A. Only if I looked at the support behind it.
17 But if you're asking did I look at it, no.

18 Q. So you didn't look at the Pass Plus
19 contract or any supporting documentation?

20 A. No, I did not.

21 Q. Did you discuss this with Mr. Ries
22 before --

23 A. No, I did not.

24 Q. -- the expense came through?

25 A. No, I did not.

1 Q. Do you know how United Pass Plus works?

2 A. No.

3 Q. Did you reconcile the airline tickets to
4 the Pass Plus available miles?

5 A. No, I did not.

6 Q. Do you have any way of knowing whether or
7 not all of the mileage put on the Pass Plus was related to
8 MPC?

9 A. No.

10 Q. Do you have any way of knowing if it was
11 related to Omega?

12 A. No.

13 Q. The second item behind expense report is an
14 electronic ticket issued by United Airlines, correct?

15 A. Correct.

16 Q. And then the next page we have receipts,
17 correct?

18 A. Correct.

19 Q. Do you know what the receipts for the Ken
20 Carroll Ranch Branch were for?

21 A. No.

22 Q. As I look at it, it appears to be postage.
23 Would you agree with me?

24 A. Yes.

25 Q. The next document is a Hampton Inn receipt.

1 That is St. Charles, from the St. Charles location; is

2 that correct?

3 A. Correct.

4 Q. Do you know if this is where Mr. Ries might
5 stay if he was visiting the office in St. Peters?

6 A. Yes.

7 Q. Do you have any way of breaking out the
8 expense between MPC, MGC and Omega?

9 A. No.

10 Q. On the telephone receipts on the next page,
11 again, do you have any way of breaking out the costs of
12 these between MPC, MGC and Omega?

13 A. No.

14 Q. When you look through these expense
15 reports, you would review them but you would not sign
16 them, correct?

17 A. For his?

18 Q. Yes.

19 A. That's correct.

20 Q. There is no employee signature on this?

21 A. That's correct.

22 Q. If you saw airline fares under the United
23 Pass Plus, would you ask if those were business related?

24 A. I believe I did the first -- I didn't ask
25 if they were business related. I didn't understand what

199

1 that ** _____ ** payment was. I believe at the time I said,
2 what is that, and he explained it was a pre-payment for
3 miles, which makes sense.

4 Q. And then as later you saw invoices come in

NP

5 that decreased the amount of that account, did you ask if
6 those were business related?

7 A. No, I did not.

8 Q. Did you see the contract for the United
9 Pass Plus?

10 A. No, I did not.

11 Q. If we could turn to the next expense
12 report, 12586, Exhibit 15 again, you didn't sign this
13 document, correct?

14 A. Correct.

15 Q. But you would have reviewed it?

16 A. I would have paid it.

17 Q. You would have reviewed and paid it?

18 A. Right.

19 Q. Did you question any of these bills?

20 A. No.

21 Q. Under Omega, where it says the Kansas City
22 trip and explanation or description of work, Omega, would
23 that have been paid out of any different account than MPC
24 or MGC?

25 A. I don't believe so, but I don't recall this

200

1 particular invoice. I don't believe it would have been
2 paid on Omega. It would have been paid out of MPC.

3 Q. Do you recall making payments out of the
4 Omega account for --

5 A. R2.

6 Q. -- expenses?

7 Yes, for R2.

8 A. I don't recall.

9 Q. You don't recall ever making any?

10 A. I don't recall ever making any.

11 Q. I need to go back to the prior document for

12 a moment and ask you, where it says the very last entry --

13 this is the 11982 document. Looking at the expense

14 report, the bottom one says Denver lunch with E. Burneka.

15 Do you know who E. Burneka is?

16 A. I don't see where you're talking about,

17 but --

18 Q. The very bottom line on the first where it

19 says Denver.

20 A. No, I don't know what that is.

21 Q. So you don't know who he might work for or

22 his relationship to any of the companies?

23 A. No. No, I do not.

24 Q. If we could turn to Exhibit 15, which is

25 labeled at the top 12586. Are you there?

201

1 A. Yes.

2 Q. As we look at the expense account, again,

3 it's R2 Development from 10/25/04 through 12/3/04. Is

4 there anything unusual about getting more than a month on

5 an expense account?

6 A. No.

7 Q. As we look down below the what I'm assuming

8 are travel expenses at the top to 10/21/04 payment to

9 Bradley Bean, do you know anything about that payment for

10 ** ____ **?

NP

11 A. No.

12 Q. Do you know where the computer software

13 upgrade was installed?

14 A. No.

15 Q. Do you know what the software was for?

16 A. No.

17 Q. What about Plats Daily? It's annual

18 subscription is ** _____ **. Do you know anything about Plats?

19 A. No.

20 Q. Where the publication would go?

21 A. No.

22 Q. Did you have access to that publication?

23 A. No.

24 Q. Are you even aware that it's a publication?

25 A. No.

202

1 Q. Again, if you saw something unusual on this

2 expense report, let's say the Plats that you don't really

3 know what that is, would you have made a phone call?

4 A. No.

5 Q. Was there a dollar amount limit for which

6 you might have made a phone call?

7 A. No.

8 Q. How did you pay this bill to R2?

9 A. By check, which is the cover page.

10 Q. If we look at the cover page, it has an

11 ** _____ ** amount at the top, right under the 12586 number.

12 What is that ** _____ **?

13 A. His monthly consulting fee.

NP

14 Q. And then below that's the expense report?
15 A. Correct.
16 Q. Paid out of the MPC operating account?
17 A. Correct.
18 Q. What money goes into the operating account?
19 Is it payment to customers?
20 A. No. We had a monthly draw, if you will,
21 from our bank out of New York, which was based on a budget
22 that we submitted every year.
23 Q. Is that Hudson Bank?
24 A. That's correct.
25 Q. Turn to the next document, 12051, that is

203

1 Exhibit 16. The first line is airfare for Ryan. Do you
2 recall how often you said that Mr. Ryan Ries came into the
3 St. Louis office?
4 A. Oh, boy, if I had to guess, I would say
5 maybe once every four -- four or five months. That's just
6 a rough guess.
7 Q. How did you know to -- or would you
8 consider that being charged to Gateway would make any
9 difference in how you would post it to the accounts
10 receivable or accounts payable, any of the account numbers
11 that it says Gateway-airfare for Ryan?
12 A. Oh, no, it would just be paid out of MPC.
13 Remember, Gateway's the parent of MPC.
14 Q. Ed Berneka is on here again. Do you know
15 who Ed Berneka is?
16 A. No.

17 Q. What he does for the companies?
18 A. No.
19 Q. Was his paid out of a similar consulting
20 account as Mr. -- as R2 Development would be?
21 A. No. I would have lumped that in with --
22 with the travel.
23 Q. Have you seen a contract between
24 Mr. Berneka and any of the pipelines?
25 A. Not that I recall.

204

1 Q. Have you seen any basis for these payments?
2 A. No.
3 Q. Do you have any idea what the nature of the
4 services he provided would be?
5 A. No.
6 Q. Have you seen a document or report
7 indicating what work he performed?
8 A. No.
9 Q. Would you go through all of the invoices
10 that were attached?
11 A. I'd browse through them, especially if
12 there was a large item or an unusual item.
13 Q. How would you classify an unusual item?
14 A. Such as the mileage, miles that -- the
15 ** _____ **.
16 Q. We're still looking at Exhibit 16. Okay.
17 Let's move to 52, which is Exhibit 17. Would you consider
18 the bottom line of the grid, 4/30/04 donation, would you
19 have looked at that particular item as something unusual?

NP

20 A. No.

21 Q. Would you look at the very last attached

22 sheet. ** _____

23 _____ **?

24 A. ** ____ **.

25 Q. ** _____

205

1 _____ **?

2 A. ** ____ **.

3 Q. ** _____ **?

4 A. ** ____ **.

5 Q. ** _____ **?

6 A. ** _____ **.

7 Q. ** _____

8 _____

9 _____

10 _____ **?

11 A. ** ____ **.

12 Q. ** _____

13 _____ **?

14 A. ** _____ **.

15 Q. ** _____

16 _____

17 _____ **?

18 A. ** _____

19 _____ **.

20 Q. ** _____

21 _____ **?

22 A. ** ____ **.

NP

23 Q. ** _____
24 _____ **
25 A. ** _____

206

1 _____
2 _____
3 ____ **.
4 Q. ** _____
5 _____ **?
6 A. ** ____ **.
7 Q. ** _____ **?
8 A. ** _____ **.
9 Q. ** _____
10 _____ **?
11 A. ** _____ **.
12 Q. Turn to 13013, which is Exhibit 18. Do you
13 have that?
14 A. Yes.
15 Q. This is also a payment record of an expense
16 account, correct?
17 A. Correct.
18 Q. On the front and then the attached expense
19 account behind that?
20 A. Correct.
21 Q. Would you look at the last invoice there
22 from Office Max. Can you tell me what was purchased?
23 A. A copier.
24 Q. Do you know for whom?
25 A. For Dave.

NP

1 Q. And would have been delivered to what
2 address?

3 A. Looks like Morrison, Colorado.

4 Q. Were there other -- is there other business
5 equipment purchased by R2 that was charged to MPC?

6 A. Maybe. I don't recall, but probably.

7 Q. Would you review the hotel folios attached
8 to the expense accounts?

9 A. No.

10 Q. So if there was a charge for a night in New
11 York City, would you have questioned that?

12 A. Not necessarily. Not to reverse it. Maybe
13 in talking to him, but not to challenge his payment.

14 Q. So if there was a folio that said wedding
15 party guest, would you have questioned whether or not that
16 should be reimbursed by MPC?

17 A. That didn't happen.

18 Q. Did RBG review all of the expense reports
19 or did they pick a sample?

20 A. They picked samples.

21 Q. Do they have any recommendations for
22 internal controls for expense accounts?

23 A. We went through the internal control
24 procedures every year.

25 Q. And did they agree that it wasn't necessary

1 for anyone to approve Mr. Ries' R2 Development expenses?

2 A. I don't know if they addressed that in
3 particular, but they were aware of that arrangement.

4 Q. And didn't have any recommendations that
5 you recall?

6 A. No. We got an unqualified opinion every
7 year.

8 Q. Would Yvette Korb review the expense
9 accounts?

10 A. Who?

11 Q. Yvette.

12 A. No.

13 Q. Would anyone other than you review the
14 expense accounts for R2?

15 A. No. Dave Wallen might see them because we
16 both signed checks, but in terms of -- when you say you, I
17 assume you mean in order to approve them, and that didn't
18 happen.

19 Q. Were there ever any expenses submitted that
20 were not approved for reimbursement?

21 A. From R2?

22 Q. Yes.

23 A. No.

24 Q. Do you know if the R2 Development contract
25 provided for reimbursement of Ryan's travel expenses?

209

1 A. I don't recall.

2 Q. Okay. So you said earlier you didn't
3 question a New York City trip. Would you question a

4 Houston trip?

5 A. No.

6 Q. Do you ever discuss the expense account

7 with anyone besides your external auditors?

8 A. R2's?

9 Q. R2's.

10 A. No.

11 Q. That's all I have on that set of exhibits.

12 Mr. Lodholz, who prepared the annual reports for MPC and

13 MGC that are filed here at the Commission?

14 A. Me. The FERC forms, Form 2s, myself.

15 Q. I would qualify for the record that you

16 filed FERC Form 2s at this Commission, as opposed to any

17 different type of annual report.

18 A. When you say -- well, we also did an

19 audited annual report for the bank.

20 Q. I'm talking about for filing here at the

21 Commission --

22 A. Right.

23 Q. -- what you filed was the FERC Form 2?

24 A. Right, or Form 2A. I think we did the 2

25 for one and then the 2A for the following years.

210

1 Q. Were you responsible for preparing them?

2 A. Yes.

3 Q. And did you make a determination of the

4 income tax expense to record on the annual reports?

5 A. Yes.

6 Q. Was that done in association with your FERC

7 filing? You would make that determination for the FERC
8 filing?

9 A. Yeah. I consulted with the auditors and
10 said, what do you think is a reasonable -- or what's the
11 word -- I guess reasonable percentage to use for that, for
12 income tax expense.

13 Q. So RBG would have suggested --

14 A. Right.

15 Q. -- the amount?

16 A. Correct, the percentage.

17 Q. Did you get copies of the income tax forms
18 that were prepared?

19 A. Yes.

20 Q. Would RBG also get copies of those?

21 A. They prepared them.

22 Q. Did you receive copies of the Kls or income
23 distribution information related to entities other than
24 MPC or MGC, for example, Gateway, Kls for Gateway?

25 A. I believe so. I believe that the Kls, we

211

1 had the returns and the Kls, yes.

2 Q. And for Omega?

3 A. I believe so.

4 Q. Any other affiliated entities?

5 A. No.

6 Q. Would you have seen any income tax
7 information for R2 Development, for example?

8 A. No.

9 Q. Would you have used these documents to

10 verify the income tax reported on the MPC and MGC annual
11 forms?

12 A. The FERC forms, no.

13 Q. FERC forms?

14 A. No.

15 Q. Did you always ask Rubin Brown what they
16 would recommend to be reported on the annual reports?

17 A. For income tax, yes.

18 Q. For income tax?

19 A. Yes.

20 Q. Do you know what they relied on for making
21 that determination?

22 A. No.

23 Q. Did you rely upon the MPC general ledger to
24 determine that amount?

25 A. I don't understand the question. The

212

1 general ledger would not give you an amount. I mean, we
2 had a GAAP set of financials that we had that were not the
3 same as tax, and then we used a percentage based on GAAP
4 pre-tax income.

5 Q. Who besides you would have reviewed the
6 annual reports prior to their submission to the
7 Commission?

8 A. Dave Ries.

9 Q. Mr. Wallen?

10 A. Parts of it. There was a part that -- and
11 he got a copy of it, but he didn't review it per se.

12 Q. Anyone else?

13 A. No.

14 Q. Your attorneys?

15 A. No.

16 Q. If you had questions, who would you ask
17 about the annual reports?

18 A. Dave Ries, or Janis or Janis' predecessor.

19 Q. Janis Fischer of the Staff?

20 A. Yeah, Janis Fischer. And I don't recall
21 the first person I queried a lot. I can't recall. I
22 think it was a him. I don't recall his name. Because I'd
23 never done a FERC report before.

24 Q. Was it someone here at the Commission?

25 A. Uh-huh. Yes.

213

1 Q. Are you aware that the 2002, 2003 and 2004
2 annual reports for MPC and MGC have been amended?

3 A. I was aware that they were about to be
4 amended.

5 Q. Do you know why they were amended?

6 A. They were reviewed by somebody else.

7 Q. Who is that somebody else?

8 A. I believe it was several people.

9 Q. Who were those people?

10 A. Attorneys, different people that had
11 expertise in that area.

12 Q. Tax attorneys?

13 A. I believe FERC people, you know, people
14 that work for the Commission.

15 Q. People that work for the FERC Commission?

16 A. Correct.

17 Q. Do you know what documents were used that
18 led to the need to amend these annual reports?

19 A. Just the work papers that we had in-house.

20 Q. Can you be more specific?

21 A. The work papers that we had in-house and
22 previous -- the previous Form 2 filings by Aquila.

23 Q. What did the work papers tell the people
24 who were reviewing?

25 A. What assumptions I used in drafting the

214

1 original FERC documents.

2 Q. And was it those assumptions that led to
3 the need to amend?

4 A. It was the -- the review of those
5 assumptions by someone who actually had more experience in
6 FERC filings.

7 Q. And was that someone at the FERC, to your
8 recollection?

9 A. No. It was somebody who -- I believe he
10 had worked for -- I don't know if he worked for the FERC
11 or if he was familiar with FERC filings.

12 Q. Who did he work for at the time he made
13 these reviews?

14 A. I believe he's semi-retired. So he was an
15 independent person that was referred to the company by
16 somebody. I don't know how they --

17 Q. Is that Mr. Levinger?

18 A. I recognize that name, but no, that's not

19 the person.

20 Q. That's not who was reviewing?

21 A. No.

22 Q. Who paid them for their review?

23 A. I don't know.

24 Q. Did you participate in the activity to

25 amend?

215

1 A. While I was still there, yeah, but it was
2 ongoing after I left.

3 Q. And what was your participation?

4 A. I went over the work papers I used in
5 preparing the FERC forms when I prepared them.

6 Q. And discussed them with him?

7 A. With the representative. I'm trying to
8 think of his name. Tom McLaughlin, I think his name is.

9 Q. From the FERC? Semi-retired?

10 A. I believe he was retired, semi-retired.

11 Q. Who else participated in the project,

12 Yvette Korb, Mr. Ries, Dave Wallen?

13 A. No. In meeting with him? Just myself and
14 Mike Mertz, the person who has the job now.

15 Q. Did anyone else participate in the overall
16 amendment process?

17 A. I don't know. I don't know.

18 Q. Did Mr. McLaughlin visit the St. Peters
19 office?

20 A. Yes.

21 Q. Did he provide you a report at the end of

22 the project?

23 A. It was ongoing after I left.

24 Q. Do you know if he's produced any kind of
25 report?

216

1 A. I have no idea.

2 Q. And then who actually worked on the final
3 document as it was submitted, the amended document?

4 A. I'm sure Mike Mertz did.

5 Q. Would you be aware of anyone else?

6 A. No.

7 Q. Were any changes made to the general
8 ledgers as a result of --

9 A. I don't know.

10 Q. Who would know?

11 A. Mike Mertz and Dave Ries.

12 Q. Do you know if Staff's complaints played
13 any role in the decision to amend the annual reports?

14 A. I don't know.

15 Q. Who would know?

16 A. Dave Ries.

17 Q. Was the allocation of expenses between MPC
18 and MGC and MIG changed in the amended reports?

19 A. I don't know. I'm not familiar with the
20 amended reports.

21 Q. Would Mr. Mertz know?

22 A. Yes.

23 Q. What about Mr. Ries?

24 A. Yes.

25 MS. SHEMWELL: Off the record.

217

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

2 BY MS. SHEMWELL:

3 Q. I'd like to talk a little bit about rent
4 expense. We talked that MPC and MGC are officed in
5 St. Peters?

6 A. Correct.

7 Q. And Shawnee?

8 A. Yes.

9 Q. What office address does MPC use?

10 A. The Alegana Court. The St. Peters address.

11 Q. MGC as well?

12 A. Yes.

13 Q. Omega, as well?

14 A. Yes.

15 Q. Gateway, too?

16 A. Yes.

17 Q. Have you been to the 5425 Martindale,
18 Overland Park, Kansas office?

19 A. Yes.

20 Q. On business?

21 A. Yes.

22 Q. What entities use that office besides MPC,
23 MGC, Omega, and Gateway? Are there any other entities?

24 A. Not that I'm aware of.

25 Q. Do you know what business is carried out

1 there?

2 A. I'm not that familiar. I don't know all
3 their operations.

4 Q. I'm going to hand you a document that I
5 believe will be 19.

6 (EXHIBIT NO. 19 WAS MARKED FOR
7 IDENTIFICATION BY THE REPORTER.)

8 BY MS. SHEMWELL:

9 Q. This is a picture of the door of the
10 office.

11 A. I recognize that door.

12 Q. Do you recognize the names of any of the
13 businesses listed there for Suite 100?

14 A. Yes.

15 Q. And this is 5425 Martindale. That's what
16 the door says, correct?

17 A. Correct.

18 Q. Do you have any reason to question this is
19 a picture of that door?

20 A. No.

21 Q. MPC and MGC aren't listed there, correct?

22 A. Correct.

23 Q. Do you know if they would be listed, say,
24 on a different door?

25 A. I'm not aware. I don't know.

1 Q. Do MPC, MGC, Omega or Gateway have any

2 lease agreements for this building?

3 A. MPC does.

4 Q. Do you know the monthly --

5 A. Rate? Off the top of my head, I don't
6 recall what it is.

7 Q. Can you say approximately?

8 A. 5,500. I'm not sure.

9 Q. Did you approve the payment of the lease
10 checks?

11 A. I paid it, but I didn't -- when you say
12 approve it, I wrote the checks and signed the checks.

13 Q. And who would those payments go to?

14 A. To the landlord.

15 Q. Who is?

16 A. I don't recall.

17 MR. DeFORD: Lera, to clarify, can you tell
18 us about when this photograph was taken?

19 MS. SHEMWELL: Chuck Hyneman went by maybe
20 six weeks ago. Did we have a Bates stamp on that? A
21 couple months ago.

22 THE WITNESS: The landlord was -- is RMW
23 Investments.

24 BY MS. SHEMWELL:

25 Q. Is that one of Mr. Langley's businesses?

220

1 A. I don't know. I don't know.

2 Q. Do you know if MPC pays the total rent
3 payment for this location?

4 A. I believe so.

5 Q. Did MPC ever receive any reimbursement from
6 any other renters of that building?

7 A. No.

8 Q. Is Yvette Korb in this location?

9 A. Yes.

10 Q. Do you know if she does any work for ** _____
11 _____ **?

12 A. I'm not aware of what she does.

13 Q. Do you know what Bishop Rink Holdings is?

14 A. No.

15 Q. Do you know who Tino Monaldo is?

16 A. Yes.

17 Q. Do you know what his role is with the
18 company?

19 A. Attorney and COO.

20 Q. Chief operating officer?

21 A. Correct.

22 Q. For what companies?

23 A. All of our companies.

24 Q. Do you know anything about his background
25 to be a chief operating officer?

221

1 A. No.

2 Q. Would that mean he was Dave Wallen's boss
3 in some way?

4 A. No.

5 Q. Do you know what kind of functions he
6 performed as COO?

7 A. No.

NP

8 Q. In terms of the RBG audits, what was your
9 role in terms of hiring RBG?

10 A. I, with Dave Ries' approval, selected them.

11 Q. And what was the basis for that selection?

12 A. Well, I met with some -- well, to back up,
13 our agreement with the bank called for us to meet with a
14 nationally recognized firm which they clarified as the big
15 eight, big six, whatever it is now. I met with a few of
16 those type firms. They basically said, you guys are too
17 small for us, we don't need you. So I knew of a couple of
18 local firms, them being one of them. I had prior
19 experience with them. Met with them. Dave met with them
20 and we selected them.

21 Q. So they're not a nationally recognized firm
22 per se?

23 A. No. They're a large regional firm.

24 Q. Did the bank agree with that choice?

25 A. Yes. Yes. After I explained to them

222

1 why -- you know, that I tried to get a nationally
2 recognized firm and explained why we didn't use one.

3 Q. How many opinion letters did they provide?

4 A. You mean how many audits did they do?

5 Q. I'm asking would they provide one for MPC,
6 a separate one for MGC, a separate one for Omega?

7 A. No. They did one for Gateway and MoGas.

8 Q. Under the Gateway audit, what companies
9 would be included?

10 A. MPC, MGC and MIG.

11 Q. And under the MoGas audit, what companies?
12 A. Gateway and MoGas.
13 Q. Under MoGas, though, what companies?
14 A. Gateway and --
15 Q. Gateway?
16 A. Right.
17 Q. Would they audit for affiliate
18 transactions, is that part of their audit?
19 A. Sure.
20 Q. And would they be familiar with the
21 Missouri affiliate transactions rules?
22 A. Sure.
23 Q. Would they be familiar with the FERC code
24 of conduct?
25 A. That's a question you have to ask them.

223

1 Q. Did you discuss the Missouri Commission
2 rules for affiliate transactions with them?
3 A. No.
4 Q. Did you provide them copies of the rules?
5 A. No.
6 Q. Do you know if they had copies of the
7 rules?
8 A. No, I don't know.
9 Q. Generally what were their duties under the
10 engagement letter?
11 A. To render an opinion on our financial
12 statements.
13 Q. Did you limit their review of any

14 documents?

15 A. No. If I had, they wouldn't have issued an
16 unqualified opinion.

17 Q. So anything they asked for you --

18 A. Yep.

19 Q. -- gave them?

20 How much time did they actually spend at
21 the St. Peters office?

22 A. They -- typically I had them do interim
23 work in December. That might be a week of field work, and
24 then maybe -- maybe -- I'm just guessing here, probably
25 eight days of field work, and then they would prepare the

224

1 statements after doing the field work, so...

2 Q. That was for an annual review, so about
3 eight days per year?

4 A. Annual audit. I only emphasize that
5 because there was a big distinction between audit and
6 review.

7 Q. What sorts of documents did you provide to
8 them?

9 A. Whatever they asked for, bank statements,
10 payroll registers from our outside payroll service, the
11 consulting agreements, anything they asked for.

12 Q. Customer contracts?

13 A. Yes, I believe they got some of those.

14 Q. Anything else that you can recall?

15 A. No.

16 Q. We didn't say all of the books, did we, but

17 would they have access to the general ledgers and all of
18 those?

19 A. Sure.

20 Q. And did they review all of them or would
21 they pull samples of months?

22 A. They would get a copy of the trial balances
23 for all the entities and then they would pull samples, do
24 random samples.

25 Q. Would that include Omega?

225

1 A. No.

2 Q. Who audited Omega?

3 A. Nobody.

4 Q. So you don't have any kind of statement or
5 anything for Omega?

6 A. Not an audit statement. Just an internal
7 statement.

8 Q. All right. So they -- did they not ask for
9 Omega or the engagement letter didn't include Omega?

10 A. The engagement letter didn't include Omega.

11 Q. I'm sorry. Did I just ask did anyone audit
12 Omega?

13 A. You did ask, and no, nobody did.

14 Q. So how did they verify expenses?

15 A. The same way any auditor does. They would
16 select samples. They would have to address it better than
17 I could, but they picked a dollar amount. I believe it
18 was -- maybe it was 10,000, 20,000, but whatever, they'd
19 get a list of all our expenses, and they select invoices

20 for all the amounts above that. And then they would also
21 identify, you know, however other many accounts based on
22 their random samples, and then they pulled I believe it
23 was two or three payrolls and tied the payroll registers
24 that we received from our outside payroll service to our
25 time sheets.

226

1 Q. Did they question any of the expenses?
2 A. When you say question --
3 Q. Question whether or not they should have
4 been paid?
5 A. No.
6 Q. So they didn't have any recommendations in
7 terms of --
8 A. Whether it's a valid expense, no.
9 Q. Correct.
10 A. I mean, they pulled the expenses, they
11 pulled invoices that supported them and, no, they never
12 said why did you pay this or -- no.
13 Q. What were their recommendations to the
14 company?
15 A. In terms of?
16 Q. Did they have a list of recommendations --
17 A. Sure.
18 Q. -- on internal controls or --
19 A. Sure. And we discussed this at length
20 about how, because of our size, some internal controls
21 couldn't be in place, but they said for what our size --
22 based on our size and what we did, we were solid, you

23 know, we were in good shape in terms of having people
 24 review different work on having checks and balances. They
 25 were really impressed with that.

227

1 Q. What other recommendations did they have
 2 for you?

3 A. None in terms of changing duties,
 4 functions.

5 Q. How documents were handled or --

6 A. No.

7 Q. Okay. I think I'm going back, but they
 8 provided just a single opinion letter?

9 A. They provided one for Gateway and MoGas.

10 Q. What do you know about the purchase of
 11 these properties from UtiliCorp, which is now known as
 12 Aquila?

13 A. You say what do I know about them in terms
 14 of the cost or --

15 Q. Yes.

16 A. We had a couple of closing documents that
 17 we used to record the assets and segregate them among the
 18 three entities.

19 Q. So they were -- these costs were initially
 20 recorded on the books of which three entities?

21 A. MPC, MGC, MIG.

22 Q. Separately?

23 A. Correct.

24 Q. What accounting principles were used?

25 A. GAAP initially. Then we decided -- the

1 auditors decided we should, to have some accuracy or to
2 have some consistency, we used FERC, and they footnoted
3 that in their statements.

4 Q. Was it Rubin Brown that made that
5 recommendation or the earlier auditors?

6 A. Rubin Brown.

7 Q. The differences between GAAP and FERC, are
8 there differences in terms of depreciation?

9 A. Yes.

10 Q. What are the differences?

11 A. That was -- that was the primary one, and
12 the other one -- yeah, that was the main one.

13 Q. Do you know if the purchase price for the
14 pipeline properties was in excess of the net book value of
15 the properties at the time of the transaction?

16 A. No, it was not. The purchase price and the
17 net book value were the same. They mirrored each other.

18 Q. Do you know if Utilicorp reflected any
19 acquisition adjustments on its books?

20 A. I don't recall.

21 Q. Would you have known at the time?

22 A. I'm not sure. I don't know why I would
23 need to know that.

24 Q. I'm just saying even if you didn't need to
25 know, might you have determined that?

1 A. No.

2 Q. Have you made any adjusting entries to the
3 initial plant accounts since your employ at the pipeline
4 company?

5 A. We had capitalized some additional
6 expenditures.

7 Q. What does that mean?

8 A. That means if we did some work,
9 construction-type work that would increase the value,
10 extend the useful life, we would capitalize instead of
11 expensing it, which means that the original book value
12 was, let's say, 62.2 million. If we had some expenditures
13 in a year that was 200,000, it would increase that
14 original book value.

15 Q. Would the sorts of things you're describing
16 include like meter replacement?

17 A. Sure. Or just major repair work or
18 additions to the line.

19 Q. Did you say major repair work to like a
20 pipeline; is that what you're talking about?

21 A. Correct.

22 Q. ** _____
23 _____ **?

24 A. ** _____
25 _____

1 _____ **.

2 Q. You don't recall making a payment to Omega
3 for the pipeline, for that pipeline?

4 A. No.

5 Q. Any other types of adjustments that made --
6 we talked about the maintenance and that sort of thing.
7 Any other type of capitalization?

8 A. No.

9 Q. The books reflect ** _____ ** plant that was
10 held for future use. Do you know what that was, what
11 property that was?

12 A. I'm not sure what you're referring to, a
13 million --

14 Q. ** _____ **. This was Gateway when Gateway
15 purchased the property in December '01. Do you know what
16 that property was that was held for future use?

17 A. No.

18 Q. Are you familiar with a transfer of that
19 amount to MPC?

20 A. No.

21 Q. Your MPC and MGC's 2004 plant in service
22 balances include amounts labeled as acquisition costs of
23 ** _____ ** respectively. Do you know what
24 that means?

25 A. Yeah. We looked at the total purchase

231

1 price, and we -- remember, the acquisition took place
2 before my time, and we tried to come up with as much
3 backup as we could. And with the auditors at the end of
4 2002, they made a breakout of that ** _____ ** between
5 different items, based on whether they were -- as
6 accounting defines whether they're acquisition costs,

NP

7 financing costs, organization costs and plant.

8 Q. Do acquisition costs include things like
9 legal fees?

10 A. It could, but legal fees could also come
11 under -- and this is my understanding of it -- legal fees
12 could also fall under organization costs. If they were
13 doing a document, drafting a document that outlined the
14 new arrangement, that would go under organization cost.

15 Q. So what would be an acquisition cost?

16 A. It could be a lot of things.

17 Q. Travel?

18 A. Yeah. Related to the closing of the deal,
19 and then again they broke -- they had three basic
20 components other than the fixed assets that I remember,
21 financing, organization and acquisition. Financing was
22 related to the meeting with bankers, obtaining the
23 financing. Organization was the legal drafting -- this is
24 my understanding -- the legal drafting of the documents.
25 Acquisitions I guess was a catch-all of everything else

232

1 related to the purchase.

2 Q. Do the FERC guidelines that you're using
3 for your accounting principles agree with shifting that?
4 Is that within those principles?

5 A. I'm not sure.

6 Q. Your outside auditors recommended a shift;
7 is that what you said?

8 A. That's correct. They didn't shift the
9 total number, understand. They didn't change the total

10 number. They just put it in different buckets, if you
11 will, and the significance of that is some costs are
12 depreciable and some were not.

13 Q. And those that were not depreciable, what
14 happens to those?

15 A. They stay on the balance sheet.

16 Q. Do you know what rate base means in terms
17 of setting utility rates?

18 A. Uh-huh.

19 Q. Do you know if these costs went into the
20 MPC and MGC's rate base?

21 A. That was the reason of making the
22 distinction because some costs were, as I said, were
23 depreciable and some were not. But that's what you're
24 referring to as rate base.

25 Q. And Mr. -- was it McLaughlin that we talked

233

1 about, did he compile the information that led to these
2 changes or who compiled them?

3 A. When you say changes --

4 Q. The --

5 A. -- the original changes?

6 Q. Uh-huh.

7 A. From way back, or the recent annual
8 changes?

9 Q. The recent annual changes.

10 A. I don't know.

11 Q. Do you have a definition for the term
12 transaction costs as it relates to the acquisition of a

13 company?
14 A. No.
15 Q. How did you differentiate between
16 transaction costs and acquisition adjustments?
17 A. I didn't.
18 Q. Who did?
19 A. I guess Tom. If you're referring to the
20 latest transaction, that would be Tom.
21 Q. Do you know why transaction costs might be
22 capitalized?
23 A. No.
24 Q. Do you know what entities incur transaction
25 costs related to the purchase of MPC, MGC and MIG

234

1 properties?
2 A. No.
3 Q. Do you have knowledge of what transaction
4 costs were included in Utilicorp's books for these
5 companies at the time Gateway purchased?
6 A. No.
7 Q. Were any of the transaction costs from
8 Utilicorp transferred to MPC and MGC after the purchase?
9 A. All the costs were transferred to MPC, MGC
10 and MIG.
11 Q. Were there any ACA costs?
12 A. I don't know what ACA is.
13 Q. Actual cost accounting for gas purchases.
14 A. I don't know.
15 Q. So what of the original transaction costs

16 are currently included on MPC, MGC and MIG's plant in
17 service account?

18 A. Say that again.

19 Q. What of the transaction costs are included
20 in MPC, MGC and MIG's plant in service?

21 A. What other transaction costs?

22 Q. Uh-huh. As of when you made the change.

23 Do you know what's included in plant in service --

24 A. No. No.

25 Q. -- of the transaction costs?

235

1 A. No.

2 Q. Are you familiar with what structures and
3 equipment Gateway received from Utilicorp?

4 A. They received everything from Utilicorp.
5 It was just a straight transfer.

6 Q. Okay. What construction or equipment have
7 you added?

8 A. Nothing major. I mean, we capitalized some
9 work, but there was no structures that were added. It's
10 just in repair work that we did that we capitalized.

11 Q. Did they have things like vehicles, tools,
12 a shop?

13 A. Yeah.

14 Q. All of those things --

15 A. Yes.

16 Q. -- transferred, the propane plant, was that
17 part of that?

18 A. I'm not sure the propane plant, that wasn't

19 part of it.

20 Q. What equipment did Omega have in the
21 Alegana Court location?

22 A. None.

23 Q. Computers?

24 A. None.

25 Q. Nothing belonging to --

236

1 A. (Witness shook head.)

2 Q. How did you do Omega's books or --

3 A. I mean, I had my computer, but it wasn't
4 Omega's. There was nothing dedicated solely for Omega in
5 that office that I'm aware of.

6 Q. So it would just be a portion of --

7 A. Correct.

8 Q. -- a computer or whatever other equipment
9 you had?

10 A. Correct.

11 Q. Are you aware of the term general plant?

12 A. Yes.

13 Q. Which would include the pipeline and that
14 sort of thing, right?

15 A. Right. Right. Right.

16 Q. And what's been added? We talked about the

17 ** _____ ** line. You weren't really familiar with
18 that?

19 A. Right. And just any repairs that we had
20 done. The pipe wasn't extended during the time. It was
21 just -- there was nothing added to it.

NP

22 Q. No additional pipe added?
23 A. No, not that I'm aware of.
24 MS. SHEMWELL: For purposes of
25 identification, this has 121205 at the top, and it will be

237

1 Exhibit 20.
2 (EXHIBIT NO. 20 WAS MARKED FOR
3 IDENTIFICATION BY THE REPORTER.)
4 BY MS. SHEMWELL:
5 Q. Do you have that in front of you?
6 A. Yes.
7 Q. Does the top sheet indicate a check
8 payment?
9 A. Yes.
10 Q. Made --
11 A. Yes.
12 Q. -- to whom?
13 A. ** _____ **.
14 Q. Out of the MPC operating account, correct?
15 A. Right.
16 Q. And if you turn to the next page, this is
17 an invoice from ** _____ **, correct?
18 A. Correct.
19 Q. And do the payment amounts on the check
20 match the invoice amount?
21 A. Yes.
22 Q. Does this refresh your recollection about
23 any gas plant that was added?
24 A. Yes.

NP

25 Q. And does it indicate that the location was

238

1 the ** _____ **?

2 A. Yes.

3 Q. And now that you've seen this invoice, do
4 you recall making this payment?

5 A. I don't recall this particular payment, but
6 I know that we made payments on behalf of John
7 Mittelhauser for construction.

8 Q. And we've discussed that Mittelhauser is
9 one of the construction people for special projects; is
10 that correct?

11 A. He is the construction person. Was. Is.

12 Q. And, in fact, if we turn to the next page,
13 he is shown as -- on the April 19th letter as a
14 construction coordinator, correct?

15 A. Right.

16 Q. Do you know who entered into an agreement
17 to build that particular pipeline?

18 A. You mean what person or what company?

19 Q. Either.

20 A. John Mittelhauser was -- represented us.

21 Q. On behalf of Missouri Pipeline?

22 A. Correct.

23 Q. And if you go back, there's a ** _____
24 _____ ** (phonetic spelling) invoice, correct?

25 A. Correct.

NP

1 Q. Do you recall that payment for ** _____ **?

2 A. Not this particular payment.

3 Q. The check immediately preceding that
4 invoice does show a check was paid from the MPC operating
5 account, correct?

6 A. Yes.

7 Q. And this is the standard payment form,
8 there's nothing unusual about that?

9 A. Right. That's correct.

10 Q. Have we established that you did Gateway's
11 books?

12 A. Yes, we did, and yes, I did.

13 Q. And what accounting principles did you use
14 in booking those costs?

15 A. GAAP.

16 Q. And you did FERC accounting for Gateway?

17 A. When you say Gateway, are you talking about
18 Gateway solely or Gateway -- what's consolidated? Because
19 there's two -- there's a Gateway entity and then there's a
20 Gateway consolidated.

21 Q. Well, let me ask, for which entity would
22 you have used GAAP?

23 A. Both initially, and then we switched to
24 FERC, which pretty much mirrors GAAP, in 2003 or 2004.

25 Q. For both Gateway accounts you mentioned?

1 A. Correct. Correct.

2 Q. Do you know how the USOA defines plant in
3 service?
4 A. No.
5 Q. Are you familiar with the terms of Gateway
6 Pipeline's current senior secured term loan? Have you
7 reviewed that document?
8 A. Yes, but it's --
9 Q. It's a substantial document?
10 A. Right.
11 Q. We can agree, right?
12 A. Yes.
13 Q. Were you involved in any of the
14 negotiations?
15 A. No.
16 Q. Do you know who the current lenders are?
17 A. Unless they changed, it should be Hudson
18 United.
19 Q. Out of?
20 A. New York.
21 Q. Do you know who the administrative agency
22 is?
23 A. I'm sorry. That's who the administrator
24 is, is Darcy at Hudson United.
25 Q. Say that again, please.

241

1 A. There's -- the administrator is Hudson
2 United, and there's a person there that I always
3 contacted.
4 Q. Named Darcy?

5 A. Darcy.

6 Q. Is there a security agent?

7 A. Not that I'm aware of. I mean, there might
8 be, but I'm not aware.

9 MS. SHEMWELL: This would be 21, and I'm
10 representing to you that this is two pages from the much
11 larger document.

12 (EXHIBIT NO. 21 WAS MARKED FOR
13 IDENTIFICATION BY THE REPORTER.)

14 BY MS. SHEMWELL:

15 Q. Do you have any reason to question that
16 these are two pages from that document?

17 A. No.

18 Q. Do you know what the applicable margin is
19 on the senior secured term loan?

20 A. Ask that question -- it was ** ____ ** percent,
21 yes.

22 Q. ** _____
23 _____ **?

24 A. Correct.

25 Q. Do you know what that margin depends on?

242

1 A. The -- not prime, but I've been out of the
2 business, out of the European rate, whatever it's called.
3 I can't think of it right now. LIBOR.

4 Q. L-I-B-O-R, all in caps, right?

5 A. Correct. Which is an acronym for
6 something.

7 Q. Was there a credit rating opinion

NP

8 associated with that ** _____ ** as the correct
9 amount?

10 A. I don't know. That was before my time.

11 Q. So you don't know about the credit rating,
12 whether it applied to the loan or to Gateway, correct?

13 A. Correct.

14 Q. Do you know who determined that either
15 Gateway or the loan should be ** _____ **?

16 A. No.

17 Q. Do you see on page 2 where, under rating
18 condition, it has notes ** _____ **?

19 A. No.

20 Q. You don't see that?

21 A. On page 2?

22 Okay. Yes, I do see it.

23 Q. ** _____
24 _____ **?

25 A. I don't know.

243

1 Q. So you don't know if those ** _____ ** or not
2 rated ** ____ ** as shown there, whether or not they evaluated
3 creditworthiness of Gateway or the loan?

4 A. This was all done before my time.

5 Q. Okay. Do you know of any credit ratings
6 for Gateway?

7 A. No.

8 Q. Do you know what debt or preferred stock is
9 used for?

10 A. No.

NP

11 Q. Are you aware that a utility company is --
12 generally their operations are funded by both debt and
13 equity?

14 A. Yes.

15 Q. Are there any guarantees from any
16 downstream equity for the debt or preferred stock held at
17 MoGas or MoGas, LLC, do you know?

18 A. I don't know.

19 Q. Do you know how much cash was contributed
20 by any person towards the purchase of UPSI from Utilicorp?

21 A. No, I don't know.

22 Q. Do you know how many outstanding shares
23 Gateway has?

24 A. No.

25 Q. Do you know who owns any of the Gateway

244

1 shares?

2 A. No.

3 Q. Do you know how many MoGas, LLC, how many
4 shares of common stock they issued?

5 A. No.

6 Q. How many are outstanding?

7 A. No.

8 Q. Who owns them?

9 A. No.

10 Q. Do you know who got stock at all?

11 A. No.

12 Q. Have there been any dividends paid?

13 A. No.

14 Q. Do you know for sure there are no
15 dividends?

16 A. There were -- there were distributions. I
17 don't know if you'd classify them as dividends or return
18 on capital.

19 Q. Distributions of profit to whom?

20 A. To other entities. And I don't recall
21 which entities off the top of my head.

22 Q. Were they entities within the MoGas
23 umbrella?

24 A. No. Outside MoGas.

25 Q. If you'd take a minute to think about them,

245

1 may you come up with some of the names?

2 A. No.

3 Q. Do you know the amount of the distribution?

4 A. No.

5 Q. Does MoGas, LLC provide any guarantee for
6 the senior secured term loan?

7 A. I'm not sure.

8 Q. Do you have anything else you'd like to add
9 about the senior secured documents that we have discussed?

10 A. No.

11 MS. SHEMWELL: We'll go off the record. I
12 think we're done.

13 (PRESENTMENT WAIVED; SIGNATURE REQUESTED.)

14

15

16

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246

1 CERTIFICATE OF REPORTER

2 STATE OF MISSOURI)
3) ss.
4 COUNTY OF COLE)

5 I, KELLENE K. FEDDERSEN, RPR, CSR, CCR, and
6 Notary Public within and for the State of Missouri, do
7 hereby certify that the witness whose testimony appears in
8 the foregoing deposition was duly sworn by me; that the
9 testimony of said witness was taken by me to the best of
10 my ability and thereafter reduced to typewriting under my
11 direction; that I am neither counsel for, related to, nor
12 employed by any of the parties to the action to which this
13 deposition was taken, and further that I am not a relative
14 or employee of any attorney or counsel employed by the
15 parties thereto, nor financially or otherwise interested
16 in the outcome of the action.

17
18
19

KELLENE K. FEDDERSEN, RPR, CSR, CCR
Notary Public, State of Missouri
(Commissioned in Cole County)

SIGNATURE PAGE

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

I, David (B.J.) Lodholz, do hereby certify:

That I have read the foregoing deposition;

That I have made such changes in form and/or
substance to the deposition as might be necessary to
render the same true and correct;

That having made such changes thereon, I hereby
subscribe my name to the deposition.

I declare under penalty of perjury that the
foregoing is true and correct.

Executed the ____ day of _____, 2006, at

DAVID (B.J.) LODHOLZ

Notary Public:

My commission expires:

23 KF/David (B.J.) Lodholz
24 Staff of the MoPSC v. Missouri Pipeline Company, et al.
25

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1 ERRATA SHEET

2 Witness: David (B.J.) Lodholz
3 In Re: Staff of the MoPSC v. Missouri Pipeline Co., et al.

4 Upon reading the deposition and before subscribing
5 thereto, the deponent indicated the following changes
6 should be made:

7 Page Line Should read:
8 Reason assigned for change:

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Reason assigned for change:

24 Reporter: Kellene K. Feddersen, RPR, CSR, CCR
25

1 Midwest Litigation Services
2 3432 West Truman Boulevard, Suite 207
3 Jefferson City, MO 65109
4 Phone (573) 636-7551 * Fax (573) 636-9055

4 August 5, 2006

5 Paul DeFord
6 Lathrop & Gage
7 2345 Grand Boulevard
8 Kansas City, MO 64108

8 In Re: Staff of the MoPSC v. Missouri Pipeline Company

9 Dear Mr. DeFord:

10 Please find enclosed your copy of the deposition of David
11 (B.J.) Lodholz taken on September 17 and 18, 2006, in the
12 above-referenced case. Also enclosed is the original
13 signature page and errata sheet.

14 Please have the witness read your copy of the transcript,
15 indicate any changes and/or corrections desired on the
16 errata sheet and sign the signature page before a notary
17 public.

18 Please return the errata sheet and notarized signature
19 page to Ms. Shemwell for filing prior to trial date.

20 Thank you for your attention to this matter.

21 Sincerely,

22 Kellene K. Feddersen, RPR, CSR, CCR

23 Enclosure
24 cc: Lera Shemwell
25 David Kurtz