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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

HEARING

March 5, 2002

Jefferson City, Missouri

Volume 7

ZOLTEK CORPORATION,)
Complainant,)
vs.) Case No. EC-2001-345
UNION ELECTRIC COMPANY,)
d/b/a AMERENUE,)
Respondent.)

BEFORE: KEVIN A. THOMPSON, Deputy Chief
Regulatory Law Judge

REPORTED BY:
TRACY L. CAVE, CSR
ASSOCIATED COURT REPORTERS

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1 JUDGE THOMPSON: We're here for the continued
2 hearing in the matter of Zoltek Corporation, Complainant,
3 versus Union Electric Company, doing business as AmerenUE,
4 Respondent, Case No. EC-2001-345.

5 I think the first thing we have to take up is
6 the matter of some motions that I have here. I have a
7 motion to file Supplemental Rebuttal Testimony of Jeffrey V.
8 Hackman filed by Ameren. I have a motion to file
9 Supplemental Rebuttal Testimony of James B. Hulse filed by
10 Ameren. I have objections with respect to the Supplemental
11 Testimony of Mr. Hackman filed by the Staff.

12 Mr. May?

13 MR. MAY: Your Honor, I also have response to
14 those motions in which I object to the filing of
15 supplemental testimony. If I may approach?

16 JUDGE THOMPSON: You may.

17 MR. MAY: If you need more copies, I have some
18 more.

19 JUDGE THOMPSON: Now, these have not been
20 filed with the data center; is that correct? Perhaps at
21 lunch time you can go down and file them down there.

22 Mr. Vitale, would you like to step to the
23 podium and tell me why I ought to grant your motions?

24 MR. VITALE: Yes, your Honor. First, with
25 respect to the supplemental testimony of Mr. Hackman,

1 questions were asked during the first portion of the hearing
2 by the Commission and by yourself, your Honor, and there was
3 testimony given by several Zoltek witnesses, in particular
4 Mr. Rummy, which was not in his Direct Testimony, about the
5 manner in which service was provided to Zoltek's facility in
6 Missouri Research Park.

7 Mr. Hackman does testify about that to some
8 extent in his direct -- or I'm sorry -- his Rebuttal
9 Testimony that was filed last year. We are file-- asking
10 leave to file supplemental not so much testimony as drawings
11 that just clarify the written testimony and respond to
12 issues raised for the first time by Zoltek in the
13 proceedings here, and also to answer questions that the
14 Commission raised to just explain maybe a little better for
15 the Commission's understanding and your Honor's
16 understanding about how service was provided to the park.

17 It's not anything new, it's just clarifying.
18 And the drawings, I think, just illustrate what's in the
19 written testimony that's already been filed of Mr. Hackman.
20 And, again, also to clarify and respond to questions that
21 were asked by the Commission and your Honor when the Zoltek
22 witnesses were testifying.

23 JUDGE THOMPSON: Thank you, Mr. Vitale.

24 Mr. May?

25 MR. MAY: From here, your Honor, or from the

1 podium?

2 JUDGE THOMPSON: Why don't you step up to the
3 podium?

4 MR. MAY: Yes, sir. Your Honor, Complainant
5 had filed the response to the motion to file supplemental
6 testimony of Jeffrey Hackman this morning with his honor.

7 Your Honor, the Respondent relies upon a few
8 sections of the rules, specifically Subsection 8, Subsection
9 17, neither which I believe provide support for their motion
10 to file supplemental.

11 Your Honor, the information that is being
12 asked to -- the Respondent's asking to supply today, they're
13 suggesting it's designed to clarify some statements that
14 were made by Zoltek witnesses.

15 I first would say that those responses were
16 given to questions posed by responding in cross-examination.
17 Clearly these are things that were contemplated by the
18 Respondent, thus would have had an opportunity at the
19 rebuttal stage.

20 Secondly, and I'm not that familiar with the
21 procedure here, but it would seem to me a little unusual to
22 have a break in the proceedings. We've had -- I don't
23 recall -- about a month break in the proceedings. I don't
24 think that that break should be -- it should be advantage
25 given to Respondent with respect to the break to allow them

1 now, in essence, to go back and respond to the
2 cross-examination testimony.

3 It would seem to me that that would be similar
4 to me, your Honor, based on the cross-examination testimony
5 today of the Union Electric witnesses to come back a month
6 from now and say, your Honor, I want some guys from Zoltek
7 to supply some more information. Your Honor, I don't think
8 that's what Section 8 240.2 -- I'm sorry -- dash 2.1308,
9 that is what that's designed to do.

10 It says that a party shall not be precluded
11 from having a reasonable opportunity to address matters not
12 previously disclosed which arise at the hearing. Clearly
13 the electrical system was the subject of much discovery from
14 both sides, was the subject of deposition testimony and it
15 was the subject of cross-examination by Mr. Vitale, so
16 clearly it was not something that's new.

17 And No. 17 240-2.13017, that simply, as I
18 recall, deals with the manner in which additional testimony
19 would be filed, the number of copies, what have you.
20 Clearly it does not serve as a basis for support for this
21 motion. So I would ask the Commission to deny the motion to
22 file supplemental testimony with respect to Mr. Hackman.

23 JUDGE THOMPSON: Now, Mr. May, when was the
24 proposed supplemental testimony provided to you?

25 MR. MAY: Your Honor, I was provided that -- I

1 opened my mail at about 10:50 on Friday morning and that's
2 when I first saw it, first had any idea about it.

3 JUDGE THOMPSON: And if this testimony were to
4 be admitted, and let's refer specifically to the testimony
5 of Mr. Hackman, in what way do you believe your client would
6 be prejudiced?

7 MR. MAY: Your Honor, I'm glad you brought
8 that up. I should have mentioned that. The way I've
9 understood this process and the way it has operated was that
10 each side would either -- I would provide Direct Testimony,
11 the Respondent was given the opportunity to cross-examine
12 via deposition my folks, and on that make the Rebuttal
13 Testimony.

14 And I also -- with the Rebuttal Testimony, I
15 would be able to review it, I was able to take depositions
16 if I so choose and then provide surrebuttal.

17 In this opportunity I'm basically going to
18 have to cross-examination these folks, if you allow this in,
19 cold. I have not had an opportunity to do any discovery
20 with respect to it.

21 And, again, this is pretty complicated
22 information that he's trying to put into evidence here. I
23 would love to have the opportunity to have Mr. Park, my
24 expert witness, your Honor, or Zoltek's expert witness, to
25 allow him to review this and possibly respond in some

1 fashion.

2 Now, Judge, I'm not asking to do that because
3 I think that just complicates the process and runs counter
4 to what this process is about, but I'm saying under the
5 normal way things were done in this case, that's what I
6 would have done with this testimony.

7 JUDGE THOMPSON: Is Mr. Park available?

8 MR. MAY: Your Honor, I've not had a chance to
9 even speak to Mr. Park.

10 JUDGE THOMPSON: He's not here today?

11 MR. MAY: He's not here today.

12 JUDGE THOMPSON: Now, with respect to the
13 proposed testimony of Mr. Hulse, in what respect do you
14 believe the admission of his testimony would prejudice your
15 client?

16 MR. MAY: Your Honor, I'll go get my copy, if
17 I may.

18 JUDGE THOMPSON: You may.

19 MR. VITALE: Your Honor, if I may, I did not
20 speak to the motion with respect to Mr. Hulse. I thought we
21 were just going to take one at a time.

22 JUDGE THOMPSON: I apologize. Why don't you
23 go ahead then, Mr. Vitale, and tell us why we should let
24 Mr. Hulse's testimony in. And then we'll let Mr. May tell
25 us why we should not. And then we're going to let

1 Ms. Shemwell speak with respect to both areas.

2 MS. SHEMWELL: Just Mr. Hackman, thank you.

3 JUDGE THOMPSON: You're only opposed to
4 Hackman; is that correct?

5 MS. SHEMWELL: That's correct.

6 MR. VITALE: Your Honor, Mr. Hulse's testimony
7 is being offered to respond specifically to a question
8 raised by Commissioner Lumpe. I believe you asked the
9 question, but it was her question directed to you at the
10 last hearing that we provide further evidence or evidence of
11 statements, representations, etc., that were made directly
12 to Zoltek by either Missouri Research Park or Union Electric
13 Company. And that's what this affidavit or supplemental
14 testimony is designed to do.

15 I note also that Mr. May has filed a similar
16 type of affidavit for Mr. Rummy, which I didn't get until
17 yesterday afternoon at three o'clock by e-mail just before I
18 left for Jeff City. And I have no objection to that
19 testimony subject -- if he objects to Mr. Hulse's, I guess I
20 object to Mr. Rummy's, but I think they're both designed to
21 respond to the question of Commissioner Lumpe, so I don't
22 think that really should be an issue, but I gather he does
23 have some objection based on what I saw on my desk when I
24 got here.

25 JUDGE THOMPSON: Thank you, Mr. Vitale.

1 Mr. May?

2 MR. MAY: Thank you, Judge. It may just be
3 a -- with respect to Mr. Hulse, I'd also filed with you this
4 morning a response to the motion to file supplemental
5 testimony of James B. Hulse.

6 Your Honor, maybe it's a question of
7 misunderstanding, but the day we were here and that question
8 was supposed, it was my interpretation of the question that
9 Zoltek had a burden with respect to that particular question
10 to demonstrate, you know, via the previous testimony or new
11 testimony what representations were made to it by either
12 Union Electric or Missouri Research Park.

13 I did not understand that question to mean
14 that Union Electric in some way had to deny that any kind of
15 representations were made to it.

16 And I would say with respect to the affidavit
17 of Mr. Rummy, you will see he references his
18 cross-examination testimony as well as his Direct Testimony.
19 And, again, if you look at -- I'll call it Subsection 8,
20 I'll reference that again, it talks about new things that
21 have come up.

22 There is nothing in this affidavit in response
23 to Commissioner Lumpe's question that is new material. I
24 just don't think that under either any of the sections that
25 were cited, No. 8, 14 or 17, none of those provide a basis

1 for this affidavit to be filed.

2 JUDGE THOMPSON: Okay. Ms. Shemwell?

3 MS. SHEMWELL: Thank you, your Honor. The
4 Staff is not opposing Mr. Hulse's testimony, because it may
5 be in response to Commissioner Lumpe's question that you
6 presented to the parties and certainly we'll leave that
7 decision to you.

8 But in terms of Mr. Hackman, the Commission
9 has rules regarding supplementation of testimony. I would
10 say that this is, in fact, testimony. There are two
11 exceptions to the rule. If it addresses -- it says that the
12 parties should not be prohibited from addressing issues that
13 arise at the hearing, but this is not an issue that arose at
14 the hearing, because Mr. Hackman has some testimony about
15 this issue in his filed testimony.

16 I've listed a number of policy reasons that I
17 think that this should not be permitted and that it
18 encourages people to be sloppy in their original work and
19 then to supplement it later, which impairs the ability of
20 the Commission to review it ahead of time as well as other
21 parties.

22 And it creates a problem that the filing of
23 testimony might be able to be supplemented indefinitely.
24 For example, I do feel out of fairness that Mr. May, if he
25 wants to supplement testimony in response to the testimony

1 here today, should be permitted to do so.

2 In addition, I don't think that the fact
3 there's been a delay in the hearing should be a reason for
4 filing of supplemental testimony. Mr. Hackman's
5 supplemental information does not fall within the two
6 exceptions allowed under the rule under Rule 8 and, in fact,
7 if this were necessary to the Commission's understanding,
8 Mr. Hackman would have filed it with his pre-filed
9 testimony.

10 JUDGE THOMPSON: Does that conclude your
11 remarks?

12 MS. SHEMWELL: It does. Thank you, your
13 Honor.

14 JUDGE THOMPSON: Thank you.

15 Now, Mr. May?

16 MR. MAY: Yes, your Honor.

17 JUDGE THOMPSON: We interrupted you in the
18 middle of a question as to just how you believe your client
19 would be prejudiced admitting the second of these. And I
20 forget which one that was exactly, but perhaps you could
21 come to the podium and remind me.

22 MR. MAY: Your Honor, is this with respect to
23 Mr. Hulse?

24 JUDGE THOMPSON: I don't know. We covered one
25 and not the other.

1 MR. MAY: I would say with respect to
2 Mr. Hulse, I think the same comments, your Honor, being
3 given what is supplemental testimony. And today especially
4 if Mr. Hulse were to testify and testimony to be offered and
5 I have an opportunity to cross-examine him, I did not have
6 an opportunity to really review this material. I was just
7 given it Friday morning. Nor did I have an opportunity to
8 take his deposition or, you know, digest in some way, be in
9 a position to ask intelligent cross-examination questions.
10 I should say informed probably more appropriate, your Honor.

11 JUDGE THOMPSON: I'm sure your questions would
12 be intelligent.

13 MR. MAY: Yes, sir. I should say more
14 informed. But, nonetheless, I think the same way it's
15 prejudiced and hopefully that addresses it.

16 JUDGE THOMPSON: Okay. Now, Mr. Vitale --

17 MR. VITALE: Yes, sir.

18 JUDGE THOMPSON: -- with respect to
19 Mr. Hackman, what issues does the testimony go to?

20 MR. VITALE: Well, your Honor, it goes to a
21 couple things. Well, it goes to one primarily and that is
22 how service was provided to the park over the years.

23 JUDGE THOMPSON: Do you mean the physical
24 arrangements?

25 MR. VITALE: The physical arrangement. Which

1 contrary to Mr. May's representation, I did not ask
2 questions of Mr. Rummy about that. Mr. Rummy volunteered that
3 information well beyond -- if your Honor recalls, he was not
4 answering the questions, there was some instructions given.

5 But he went beyond the issue of reliability in
6 his direct testimony and started talking about feeders and
7 other things and how service was provided, which was not in
8 his written testimony, not even in Mr. Park's written
9 testimony, but those issues arose.

10 Mr. Hackman does address that to some extent
11 in verbal form, if you will -- or in written form, in his
12 written testimony. We're just asking that the -- that
13 testimony be supplemented with drawings which Mr. Hackman
14 can very well, I guess, draw on the board here in redirect.

15 This is not anything that's a surprise or new
16 to Mr. May. Mr. May asked these questions during the
17 deposition. Mr. Hackman offered during his deposition to do
18 the same drawings for him. I think he may have even done
19 one at the time. I'm not quite sure. I wasn't at the
20 deposition.

21 But this isn't anything new or a surprise to
22 Mr. May. And, again, it was also some question from the
23 Commission when we were here in January about this precise
24 issue, about how things were tied and how lines came into
25 the park.

1 So, again, we just feel the pictures are maybe
2 a little more illustrative than the words that were already
3 in the written testimony that was previously filed. So it's
4 really not a surprise and there's no prejudice involved.

5 JUDGE THOMPSON: Okay. And with respect to
6 Mr. Hulse, what issues are his testimony directed to?

7 MR. VITALE: Well, your Honor, I can pull out
8 the transcript from the first time, but I very clearly
9 understood the question to be from your Honor again, but the
10 question was from Commissioner Lumpe as to what evidence is
11 there from the parties. Not that Zoltek was the only one
12 allowed to come in and talk about what testimony --

13 JUDGE THOMPSON: This was representations,
14 promises --

15 MR. VITALE: Representations, statements, what
16 was said directly to Zoltek. Because a lot of the testimony
17 was Zoltek's reading of this contract that they weren't a
18 party to.

19 So as I understood it, the parties were to
20 respond with evidence about what that statement -- what
21 those statements were and representations, however the
22 question was phrased, and what evidence is it from both
23 sides. I don't think it's fair for one side to come in and
24 say, Here's the evidence of what there was and not for me to
25 be to respond to the same question.

1 JUDGE THOMPSON: Okay. Mr. May?

2 MR. MAY: Your Honor, just to -- briefly if I
3 may just do this from here, with respect to my alleged
4 representations about questions posed to Mr. Rummy by
5 Mr. Vitale, I never made that representation.

6 I was simply looking at the motion to file
7 Supplemental Rebuttal Testimony of Mr. Hackman. It says in
8 the paragraph 2, During the first three days of the hearing
9 testimony was offered by various witnesses on behalf of the
10 Complainant.

11 I assumed that these answers or this
12 supplemental testimony was to address apparently the
13 responses of these various witnesses. So I never made the
14 representation that this was being filed indirectly in
15 response to Mr. Vitale's questions of Mr. Rummy.

16 The other thing, your Honor, is that there was
17 some comment about this is not a surprise. And, your Honor,
18 exactly right. To the extent that I did ask questions in
19 cross-examination, these are things that were at the
20 disposal of the Respondent. They could have easily included
21 this in the Rebuttal Testimony.

22 And it gets us back, I think, to
23 Ms. Shemwell's point about whether you need to get a second
24 chance, in other words, to include things that you may not
25 have put in when you knew they might be relevant at the

1 time.

2 JUDGE THOMPSON: Okay.

3 MR. VITALE: And, your Honor, I've just pulled
4 out the transcript from -- this is now back to Mr. Hulse.
5 This is on page 849 from January 24. Your question -- and
6 you say, She's given me -- her question, I'm going to
7 address it generally because I don't know if this witness
8 can answer this question, but she wants an answer to the
9 question and I don't care who provides it, but I'd sure like
10 to see it and so would she.

11 And you then ask the question. Perhaps
12 counsel would do best to deal with that question and bring
13 us an answer when you come back on the 14th. Everyone's got
14 a good chance to look through all the thousands of sheets of
15 papers.

16 JUDGE THOMPSON: What was the question asked?

17 MR. VITALE: The question was, What is the
18 evidence, if any, of promises, representations, agreements,
19 whatever you want to say, made directly to Zoltek, whether
20 by Ameren or by the University, with respect to the
21 reliability of the power supply?

22 And I certainly understood that, your Honor,
23 as being addressed to all the parties, not just Zoltek.

24 JUDGE THOMPSON: Very well. I'm going to
25 grant the motion.

1 MR. VITALE: And -- and -- I'm sorry. Go
2 ahead.

3 JUDGE THOMPSON: If you want to interrupt me
4 now --

5 MR. VITALE: No.

6 MR. MAY: Let him go, Judge.

7 MR. VITALE: It said more on the next page,
8 but --

9 JUDGE THOMPSON: I'm going to grant the motion
10 to file Supplemental Rebuttal Testimony of James B. Hulse.
11 It is, as you say, a matter of fundamental fairness that
12 both sides, all parties get to address the issue of what
13 representations, promises and agreements and the like there
14 were. Of course, you'll still have to offer it when the
15 time comes through your witness and you'll get it into the
16 record at that point.

17 With Mr. Hackman, it seems to me the matter is
18 somewhat different. I'm concerned because the testimony is
19 highly technical and Mr. May has not had an opportunity to
20 review it with his expert to determine whether it's accurate
21 or inaccurate, anything of that sort. And so, consequently,
22 I believe at this point I have no option but to deny the
23 motion to file the Supplemental Rebuttal Testimony of
24 Mr. Hackman.

25 Now, if through cross-examination, questions

1 from the Bench or redirect you get into these areas, that's
2 obviously free territory. We don't know where these cases
3 are going to go with respect to these things, so this
4 information in part or completely may yet find its way into
5 the record, but I am going to have to deny the motion to
6 file Supplemental Rebuttal Testimony at this time.

7 Sir?

8 MR. MAY: Yes, sir.

9 JUDGE THOMPSON: Do you have anything else to
10 take up at this time?

11 MR. MAY: Yes, your Honor. I have a letter
12 dated March 4, 2002 directed to you. And it's a cover
13 letter in regard to the affidavit of Mr. Rummy, which is
14 directly in response to Commissioner Lumpe's question we've
15 previously discussed.

16 JUDGE THOMPSON: Has this been provided to
17 Mr. Vitale?

18 MR. MAY: It has.

19 JUDGE THOMPSON: When was that?

20 MR. MAY: It was provided yesterday via e-mail
21 and a hard copy today.

22 JUDGE THOMPSON: And I'm trying to
23 understand -- obviously we're not supplementing testimony.
24 Mr. Rummy has already testified.

25 MR. MAY: Yes, sir.

1 JUDGE THOMPSON: So exactly what is it we're
2 doing? Adding an exhibit to the record?

3 MR. MAY: Well, your Honor, this is a cover
4 letter that I had e-mailed to you as well yesterday.

5 JUDGE THOMPSON: Correct.

6 MR. MAY: The affidavit of Mr. Rummy, again, in
7 response to Commissioner Lumpe's question, I simply point
8 out the places in his Direct Testimony which he believes is
9 responsive to her inquiry.

10 And I also point out page 132 of the
11 transcript in this matter, which was heard last month,
12 where -- during his cross-examination testimony where he
13 discusses this as well. This is the hard copy of the actual
14 original affidavit signed by Mr. Rummy and notarized.

15 And then, lastly, under the cover letter of
16 March 4th to you, I've included a chart that was prepared by
17 Mr. Moran. This is, in essence, a continuation of his
18 previous chart that he had -- I believe was Exhibit 19, as I
19 recall.

20 JUDGE THOMPSON: Okay.

21 MR. MAY: This is a continuation, but going
22 backwards.

23 JUDGE THOMPSON: But isn't this chart, in
24 fact, the late-filed exhibit that I requested --

25 MR. MAY: Yes, your Honor. It's directly

1 responsive --

2 JUDGE THOMPSON: -- the effect on production?

3 MR. MAY: Yes, it is. It's directly
4 responsive to your inquiry, so I was simply letting you know
5 that we've complied with both your request as well as
6 Commissioner Lumpe's.

7 JUDGE THOMPSON: Very well. Let's take up the
8 late-filed exhibit first, which was specifically requested.
9 Do we have any objections to the late-filed exhibit?

10 MR. VITALE: I guess I would, your Honor, just
11 to the extent that this was a request made over a month ago.
12 I spoke to Mr. May -- I don't know if it was Wednesday or
13 Thursday of last week and he told me he wasn't going to be
14 preparing the exhibit and filing it, so I was kind of
15 surprised yesterday afternoon at two o'clock or so to get
16 the exhibit, which I didn't think was going to be coming.
17 So I really haven't had an opportunity to really look at it
18 very closely since I left my office shortly after.

19 Secondly, I specifically recall discussing
20 with Mr. May -- and it may be on the record, I haven't had a
21 chance to go back to the transcript. When the request for
22 the exhibit was made, we talked a lot about the supporting
23 documents and I asked Mr. May to provide when he provided
24 the exhibit -- this is back in January -- I asked him to
25 provide the supporting material so that we could see what it

1 was, because we both agreed there's been a lot of documents
2 produced in the case and we're both somewhat latecomers.
3 Both of us got into this case after it had proceeded.

4 When I got the exhibit yesterday, as I said, I
5 was surprised to even get it. There's a reference to a
6 study of some sort, a 1997 impact analysis. As soon as I
7 got the e-mail and saw it, I e-mailed Mr. May back and asked
8 him to identify the underlying documents and bring them with
9 him today.

10 I don't know if he even got my e-mail or not
11 late yesterday afternoon when I got his, but I have not seen
12 the underlying documents, so I'm a little bit at a loss
13 because I understand the exhibit was requested by the
14 Commission and we even reserved, I think, a number for it.

15 JUDGE THOMPSON: That's correct. Number 24.

16 MR. VITALE: But getting it at 2:00 or so
17 yesterday afternoon by e-mail when I understood, as late as
18 the end of last week, that it wasn't going to be prepared is
19 kind of a surprise. And I haven't had a chance to see the
20 underlying documentation, which would have given me a chance
21 to maybe provide something else today. I don't know. I
22 just haven't had a chance to really look at it.

23 JUDGE THOMPSON: I understand, Mr. Vitale.

24 Mr. May, do you want to respond?

25 MR. MAY: Yes, your Honor. I would say that

1 apparently there's a misunderstanding with respect to this
2 exhibit. Mr. Vitale and I had a conversation, I'd have to
3 look at my notes at work, my billing sheets, to see when it
4 occurred. But in that conversation we discussed -- I
5 discussed with him the manner or the method by which I would
6 comply with your request.

7 I explained to him that I had some found
8 documents, there were a lot of documents, and that it would
9 be difficult for me alone to compile those. I just don't
10 have the time. We're a small firm, I'm one person.

11 However, he had mentioned that Mike Moran had
12 done, he thought, a commendable job with respect to the
13 creation of Exhibit 19. And, as I recall, he didn't have
14 any problem with Mr. Moran doing that. I contacted
15 Mr. Moran, he said yes, I can do that, I can work backwards.
16 It took him a few days obviously to compile the information.

17 So as to his surprise, I mean, obviously I'm
18 saying there must be a miscommunication or misunderstanding
19 that I never represented I was not going to file such a
20 document. I told him, in fact, I was going to have some
21 trouble getting some of that together.

22 With respect to the supporting documents, and
23 if you check the transcript from the previous hearing, your
24 Honor, I responded to data requests. These things -- this
25 information was requested, I sent it. And I don't really

1 understand why I have to be --

2 JUDGE THOMPSON: Mr. May, if Mr. Moran was
3 here, for example, he could be cross-examined as to what did
4 he look at in preparing the exhibit, why did he rely on
5 it --

6 MR. MAY: Sure.

7 JUDGE THOMPSON: -- that sort of thing.
8 Correct?

9 MR. MAY: That's correct. Like I say,
10 Mr. Vitale has the information from which it was derived. If
11 there wants to be -- if he wants a continuance and Mr. Moran
12 to come testify, he can go over those documents with him,
13 but Mr. Moran's not on the schedule today, your Honor.

14 JUDGE THOMPSON: I understand that.
15 Here's what we're going to do. This is an
16 exhibit that the Commission asked for. And we only asked
17 for it because we thought it was important and most helpful
18 towards determining this matter.

19 First of all, let me say that when I was on
20 the other side of the bar practicing law, that there was a
21 judge who had occasion to tell me that thank God there were
22 deadlines or no lawyer in the world would ever do anything.

23 Clearly when you're submitting something to
24 the agency, the later that you supply it to your opponent,
25 then the more likelihood there is of prejudice. When

1 someone tells me, Well, I just received this, I haven't had
2 a chance to review it with my expert, haven't really had a
3 chance to look at it, then that raises serious concerns
4 about fairness, notice, things of that sort. So I would
5 urge the parties in the future to try to do things sooner
6 rather than later regardless of when the deadline might
7 actually be.

8 We will put off until later the receipt of
9 this late-filed exhibit.

10 Now, Mr. Vitale, do you have experts with you
11 today?

12 MR. VITALE: Not retained experts.

13 JUDGE THOMPSON: Not retained. What I'm
14 getting at is do you have anyone with you of sufficient
15 expertise that you can review the late-filed exhibit and see
16 if it at least passes what we call the straight-face test?

17 MR. VITALE: Probably. Again, your Honor,
18 though I guess the more important thing for me was getting
19 the underlying documents. And to just say there's been a
20 lot of data requests --

21 JUDGE THOMPSON: I understand.

22 MR. VITALE: If I had that, which is I think
23 the source, it's not the summary that just reports on what
24 the source document is. I believe it's just one document.

25 JUDGE THOMPSON: Okay.

1 MR. VITALE: But to say I've got a lot of
2 documents and I should have been able to find it, I don't
3 even know what it is.

4 JUDGE THOMPSON: Well, I'm going to give you,
5 as I say, some time to review it. We're scheduled to be
6 here tomorrow as well. Perhaps you can review it this
7 evening.

8 MR. VITALE: And, again, your Honor, I've
9 looked at the exhibit. It's the underlying document.

10 Do you have that?

11 MR. MAY: I don't have those documents, your
12 Honor --

13 JUDGE THOMPSON: Okay.

14 MR. MAY: -- with me.

15 MR. VITALE: Do you know what the volume -- if
16 I may, your Honor? I'm sorry. I didn't mean to --

17 JUDGE THOMPSON: Why don't we take 10. I need
18 some more coffee anyway.

19 (A RECESS WAS TAKEN.)

20 JUDGE THOMPSON: What I'd like you to think
21 about, Mr. Vitale, is what is necessary to purge the
22 unfairness, the prejudice that you perceive in the receipt
23 by the Commission of late-filed Exhibit 24.

24 As I said, we're going to put off the actual
25 receipt of that, give you a chance to look it over, talk

1 about it with the folks you have here with you. But it
2 strikes me that you might very well want a chance to
3 cross-examine Mr. Moran or perhaps depose him or something
4 of that sort. I will allow you to come up with what it is
5 you'd like to do and then you can just present that as a
6 motion. Is that acceptable?

7 MR. VITALE: Yes, your Honor.

8 JUDGE THOMPSON: Okay. Very good.

9 MR. MAY: Your Honor, if I may just point out
10 that Mr. Moran would be more than happy to be deposed with
11 respect to the production of this document. I have to
12 caution Mr. Vitale that Mr. Moran was not -- I don't even
13 believe was employed by Zoltek during this time, but he was,
14 to me, the best source as far as knowledge.

15 JUDGE THOMPSON: I understand.

16 MR. MAY: Also, your Honor, this came from
17 information -- and I will reiterate this. I'll be glad when
18 I get back to the office, to go through and provide it
19 again, but the information here was provided previously.

20 JUDGE THOMPSON: Very well.

21 MR. MAY: I just want to be clear about that.

22 MR. VITALE: And I can respond right now, your
23 Honor, to what I would need. And this is what we've been
24 trying to hash out unsuccessfully during the break. To say
25 you've got a lot of documents, it's in there, frankly -- I

1 don't want to take Mr. Moran's deposition. I understand
2 he's just summarizing other documents. I just want to know
3 specifically what those other documents are so I can
4 understand them. These are Zoltek's documents and that's
5 all I ask for.

6 JUDGE THOMPSON: I understand. Perhaps you
7 can address a data request to Mr. Moran. At any rate, I'll
8 leave it to you to tell me what it is exactly you want to do
9 and if you so request, we can leave the record open at the
10 conclusion so that we can undertake whatever that might be.
11 Okay?

12 MR. VITALE: Thank you, your Honor.

13 JUDGE THOMPSON: You know, a difficult thing I
14 think for any litigator here to deal with are the exhibits
15 that the Commission requests, because you don't know what
16 they're going to be and certainly you have to have an
17 opportunity to review those and to make whatever response
18 you think is necessary.

19 Okay. Now that we have all that taken care
20 of --

21 MR. MAY: Your Honor --

22 JUDGE THOMPSON: -- we're still dealing with
23 the affidavit, I believe, of Mr. Rummy.

24 MR. VITALE: And I have no objection to that,
25 your Honor.

1 JUDGE THOMPSON: In that case --

2 MR. VITALE: You weren't offering the letter.

3 MR. MAY: I'm not offering it. It's just a
4 cover letter.

5 JUDGE THOMPSON: We don't need the letter.
6 That's just telling me attached please find the affidavit of
7 Mr. Rummy. Right?

8 MR. MAY: Yes, your Honor. Your Honor, is it
9 marked as an exhibit in light of the fact it was response to
10 a question from the Commission?

11 JUDGE THOMPSON: We will mark the affidavit of
12 Mr. Rummy as Exhibit No. 31. And I understand that you are
13 offering that exhibit, Mr. May.

14 Do I hear any objections to the receipt of
15 Exhibit 31, the affidavit of Mr. Rummy?

16 MR. VITALE: No, your Honor.

17 JUDGE THOMPSON: Ms. Shemwell?

18 MS. SHEMWELL: No, your Honor. Thank you.

19 JUDGE THOMPSON: Exhibit 31 is received and
20 made a part of the record of this proceeding.

21 (EXHIBIT NO. 31 WAS MARKED FOR IDENTIFICATION
22 AND RECEIVED INTO EVIDENCE.)

23 JUDGE THOMPSON: Do we have copies of
24 Exhibit 31 for the Commission?

25 MR. MAY: Your Honor, I will provide it. I

1 have to unstaple them.

2 JUDGE THOMPSON: Okay. Very well.

3 In that case, are we ready for Mr. Carr?

4 MR. VITALE: Yes, your Honor.

5 JUDGE THOMPSON: William J. Carr.

6 (Witness sworn.)

7 JUDGE THOMPSON: Thank you, sir. Please take
8 your seat and say your name for the reporter

9 THE WITNESS: My name is William J. Carr,
10 C-a-r-r.

11 JUDGE THOMPSON: Thank you, sir.

12 You may inquire, Mr. Vitale.

13 MR. VITALE: Thank you, your Honor.

14 WILLIAM J. CARR testified as follows:

15 DIRECT EXAMINATION BY MR. VITALE:

16 Q. Mr. Carr, by whom are you employed?

17 A. I'm employed by Ameren Corporation.

18 Q. And in what capacity?

19 A. I'm vice president energy delivery in the
20 customer services function.

21 MR. VITALE: Off the record.

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

23 BY MR. VITALE:

24 Q. Mr. Carr, you have your Rebuttal Testimony
25 before you and that's marked as Exhibit 11, is that correct,

1 on the bottom right? I think I handwrote that. That's not
2 the official copy, but it's Exhibit 11.

3 MR. VITALE: I think we can stipulate to that,
4 Mr. May, Exhibit 11?

5 MR. MAY: Yes. Sorry.

6 BY MR. VITALE:

7 Q. And is that your signature on the affidavit to
8 that testimony?

9 A. Yes, it is.

10 Q. Okay. Do you have any corrections or changes
11 to make to the testimony you signed and prepared in
12 September 2001?

13 A. I do not.

14 Q. Okay. And are the answers true and complete,
15 to the best of your knowledge?

16 A. Yes, they are.

17 Q. If I were to ask you the same questions here
18 today, would your answers be the same?

19 A. Yes, they would.

20 MR. VITALE: I'd offer Exhibit 11, your Honor.

21 JUDGE THOMPSON: Do I hear any objections to
22 the receipt of Exhibit No. 11?

23 MR. MAY: No objection, your Honor.

24 MS. SHEMWELL: No objection.

25 MR. VITALE: I tender the witness for

1 cross-examination.

2 JUDGE THOMPSON: Thank you. Exhibit 11 is
3 received and made a part of the recording of this
4 proceeding.

5 (EXHIBIT NO. 11 WAS RECEIVED INTO EVIDENCE.)

6 JUDGE THOMPSON: Mr. May, you may inquire.

7 MR. MAY: Thank you, Judge.

8 CROSS-EXAMINATION BY MR. MAY:

9 Q. Morning, Mr. Carr.

10 A. Good morning.

11 Q. Good to see you again.

12 A. Thank you. Same here.

13 Q. With respect to your Rebuttal Testimony, did
14 you prepare this testimony?

15 A. Yes, I did.

16 Q. These are the questions you posed or were they
17 posed to you?

18 A. I provided a narrative of information
19 connected with the Zoltek issue and questions were formed
20 with the support of legal counsel.

21 Q. Okay. So what you're saying is -- if I
22 understood your answer then, the attorney actually took your
23 narrative and broke it down to question/answer form?

24 A. That's correct.

25 Q. On page 2 of your testimony, line 14, if I

1 could direct your attention to that, please, do you see that
2 there?

3 A. Yes, I do.

4 Q. With respect to the answer, you mention that
5 despite AmerenUE's best efforts. What were those best
6 efforts that AmerenUE made? And, again, this is in response
7 to a question about resolving Zoltek's complaints. Do you
8 see that?

9 A. Yes, I see it. Since the time frame of the
10 early '90s when I first became aware of complaints from
11 Zoltek, there was on occasion dialogue between myself and
12 the district manager and some of the support staff in the
13 Wentzville district involving, for example, a review of the
14 information supplied by Zoltek as to occurrences in their
15 plant, comparisons to our substation equipment, trying to
16 match those activities.

17 I had numerous discussions off and on over a
18 period of about, I guess, eight, nine years with Mr. Hulse
19 generally informing me of a variety of meetings at different
20 times with Zoltek people.

21 Q. Well, let me if I may interrupt you for a
22 second. Let's go to the bottom of page 2, because one of
23 the -- your next question was, What actions --

24 MR. VITALE: Your Honor, if I may --

25 JUDGE THOMPSON: Excuse me.

1 MR. VITALE: I'm going to object. Mr. May
2 asked a question, the witness was in the course of
3 responding to it, didn't finish his answer and then Mr. May
4 wants to move on or change his question and I think
5 Mr. Carr's entitled to finish his answer.

6 JUDGE THOMPSON: Okay. Hang on a moment.

7 MR. MAY: I believe he was finished, your
8 Honor, but if I'm wrong, he may finish. I have no problem
9 with that.

10 MR. VITALE: I believe he was in mid-sentence,
11 but if he says he's finished, that's fine.

12 THE WITNESS: No, I wasn't finished.

13 JUDGE THOMPSON: Please finish your answer,
14 sir.

15 THE WITNESS: I commented over a period of
16 years discussions with district people, Mr. Hulse
17 specifically, people in St. Louis, engineering people,
18 support people talked about ways in which we could try to
19 identify some of the differences between our records and
20 Zoltek's records over the years that that log had been
21 accomplished. Those were some of them, not all. It's not
22 all inclusive, but at least some of those were ways in which
23 we tried to identify, discuss and implement things that
24 might tend to alleviate the condition.

25 BY MR. MAY:

1 Q. On page 2, line 21 you see that there in your
2 answer, Actions taken included?

3 A. Yes. Uh-huh. Yes, sir.

4 Q. You mention many meetings with Zoltek. Do you
5 see that?

6 A. Yes, sir.

7 Q. Would that be the meetings you just referenced
8 in your previous answer?

9 A. That is correct.

10 Q. Okay. And, again, though what was done at
11 those meetings to specifically, as you say, identify the
12 root cause of their complaints?

13 A. Well, I don't have the letters in front of me
14 to make reference, but there were a number of different
15 discussions evolving around the outages, their cause, how to
16 get at identifying them. You heard from Mr. Bradley earlier
17 and he was brought on board or asked to do some
18 investigative activity for this problem in the industrial
19 park.

20 There were additional activities that we went
21 through with respect to meeting with the park owners, looked
22 at our facilities, generally took an engineering perspective
23 and tried to identify ways in which we could first identify
24 the problem and how to resolve it.

25 Q. Okay. And did you identify the problem?

1 A. No.

2 Q. So you're saying there was not a problem?

3 A. No. I didn't say that. I said there

4 obviously was a problem from the customer's perspective. We

5 had difficulty ascertaining whether it was from us or within

6 the company itself.

7 Q. You had mentioned there on page 2, line 22

8 talking about advancing the upgrade of the Weldon Springs,

9 it goes on to the next page, substation?

10 A. Yes.

11 Q. When was that done?

12 A. I'm going to guess somewhere in the 1994 time

13 frame, without --

14 Q. Well, if I were to tell you February '95, does

15 that sound accurate?

16 A. That could very well be.

17 Q. Okay. And isn't it true that, in fact, though

18 the advancement of that upgrade was nothing more than an

19 appeasement move to Zoltek?

20 A. That's correct.

21 Q. In fact, you didn't believe it would have any

22 effect on their problem at all, did you?

23 A. The effect would have been minimal at best.

24 Q. So when you, in your response, say what

25 actions were taken, your question on page 2, by AmerenUE in

1 an effort to improve the quality and reliability of
2 service -- you see your question there, line 18 through 20?
3 You see that?

4 A. Yeah.

5 Q. You then say, Actions taken included, one of
6 which was, advancing the upgrade of Weldon Springs. You see
7 that?

8 A. Yes.

9 Q. So that's not entirely accurate. In fact, the
10 advancing of the upgrade was not designed to improve the
11 quality or reliability of service, but, in fact, was
12 designed simply to appease Mr. Rummy and/or Zoltek?

13 A. Not totally. I disagree with that
14 characterization only to Mr. Rummy and Zoltek.

15 Q. Okay. Well --

16 A. Upgrading that substation had the impact of
17 putting us in a position of serving all of our customers
18 served out of the Weldon Springs substation. And when we do
19 that, of course, in my judgment, that makes the station far
20 more capable of dealing with growth and activities that if
21 were unattended, would have some impact on reliability as a
22 whole.

23 Q. You recall when I took your deposition on
24 May 25th of 2001?

25 A. I remember the deposition. I can't tell you I

1 remember the date.

2 MR. MAY: Your Honor, may I approach the
3 witness?

4 JUDGE THOMPSON: You may approach.

5 Thank you.

6 BY MR. MAY:

7 Q. Mr. Carr, I've handed to you what is a copy of
8 your -- certified copy of your May 25th, 2001 deposition; is
9 that correct?

10 A. Uh-huh. Yes, sir.

11 Q. I'm sorry. And I believe you said you recall
12 the deposition being taken. Correct?

13 A. Yes.

14 Q. Turn on page 37, if you would, please,
15 specifically line 21.

16 JUDGE THOMPSON: What page did you say?

17 MR. MAY: Page 37, Judge, line 21.

18 JUDGE THOMPSON: Thank you.

19 THE WITNESS: I see that.

20 BY MR. MAY:

21 Q. The question there on line 21, Now, on the
22 Weldon Springs substation, has that work been completed, the
23 updating of that station?

24 Your answer on line 23, I think Weldon Springs
25 has been fully updated yes.

1 Question: Do you know -- in your letter you
2 talk about February of '95. When actually was that work
3 completed?

4 This is on page 38 at the top. Do you see
5 that?

6 A. Yes, sir.

7 Q. Okay. On page 38, line 2 the answer, I can't
8 answer that question specifically. The substation was ready
9 for upgrade and was to be in, like, mid-'95 which meant that
10 all the orders placed for the equipment to go into that
11 station in that close-end date was already on order and we
12 expedited.

13 And I did request the expediting of some of
14 that equipment since it was already in the production stage
15 to try to put that station into an early time frame of
16 upgrade, but, frankly, three or four months, if you want my
17 honest opinion, that it was appeasement move because the
18 production was already coming off the production line and we
19 had already had a plan to start that work in mid-1995, I
20 think. It was not a big stress to try to accommodate that.

21 It ends on 10 15. Do you see that?

22 A. Yes, sir.

23 Q. And that was your testimony that day. Right?

24 A. Yes, sir.

25 Q. I believe in your answer on page 38 you talk

1 about this equipment. Weldon Springs was already planned
2 for an upgrade; is that correct?

3 A. Yes, sir.

4 Q. And it was not in response to Mr. Rummy or
5 Zoltek's problems, was it?

6 A. I think -- my recollection is the revamping of
7 that substation was commonly known and we were asked whether
8 or not we could expedite that to an earlier date. And I
9 believe we did that merely by trying to push the date of the
10 in-service, so the beginning of that job from mid-year to
11 February of that year.

12 MR. MAY: Your Honor, I'm going to ask his
13 response be stricken. It wasn't responsive to the question
14 I asked him.

15 MR. VITALE: The question's been asked and
16 answered. He answered it before Mr. May read the deposition
17 testimony. The deposition testimony he read is not
18 inconsistent with his earlier testimony. And then he's
19 asked the question really a third time. He got his
20 deposition question in. There's no inconsistency here.
21 He's already answered the question.

22 MR. MAY: Your Honor, I was simply going to
23 say that I've read that. I think it sufficiently impeached
24 his testimony with respect to the appeasement move. I'm now
25 asking him specifically about the Weldon Springs substation,

1 whether the actual implementation of that was done in
2 response to Zoltek's problem. Not the speeding up of it,
3 but the actual implementation of the upgrade.

4 JUDGE THOMPSON: Objection's overruled.
5 Please proceed.

6 BY MR. MAY:

7 Q. Let me rephrase the question. That was kind
8 of confusing. But with respect to the upgrading of the
9 Weldon Springs substation, again, looking at your response
10 on page 38, isn't it true that that work had been planned
11 for some time?

12 A. Yes.

13 Q. And isn't it also true that that work, the
14 upgrading, was not directly in response to Zoltek's
15 problems?

16 A. The advancement was in direct response to
17 Zoltek's inquiry about advancing the station.

18 MR. MAY: Your Honor, again, I object. The
19 answer's not responsive. It was a yes or no question,
20 Judge.

21 JUDGE THOMPSON: Objection overruled. Please
22 proceed.

23 BY MR. MAY:

24 Q. Now, again, with respect to the upgrading of
25 the Weldon Springs substation, was there any advantage to

1 customers with respect to reliability, any distinct
2 advantage?

3 A. No. I don't believe there would be.

4 Q. Let's continue on. And, again, we're on
5 page 3 of your testimony, line 1, which is still in response
6 to the question on the previous page about what action was
7 taken. And this is your testimony.

8 A. Page 3?

9 Q. Yes.

10 A. Line?

11 Q. Line 1. And, again, we're talking about what
12 actions that you allege were taken by Union Electric to
13 respond to Zoltek's problems. And on page 3 you talk about
14 attempting numerous upgrades on our systems -- system. You
15 see that?

16 A. Yes, sir.

17 Q. Okay. What were those numerous upgrades?

18 A. Well, I believe one, if I remember correctly,
19 was a recloser installation that came up, which would have
20 been a piece of equipment on our system outside of Weldon
21 Springs substation, which would allow for sensing faults on
22 our system in an attempt to merely quicken whatever response
23 time we could make in the event such a fault would occur, if
24 it occurred.

25 I also made mention in here the power quality

1 engineering team, which is a service at no charge to the
2 customer that we encourage our customers to utilize when we
3 are seeing problems and we can't exactly identify the
4 particular reason for the problem, but we know there is one
5 or the customer tells us there is one.

6 And we bring people in to investigate with the
7 engineering people of the company, looking at the problem,
8 trying to identify how equipment is or is not working up to
9 its capacity or lack of it and trying to develop a response
10 to answer why those things are occurring.

11 Q. Okay. With respect to the upgrades, let's
12 focus on that for a minute. You had mentioned, I believe in
13 your answer, the 400-amp recloser?

14 A. That's correct.

15 Q. And was that designed to minimize exposure to
16 the feeder serving the Research Park?

17 A. It was certainly designed to help cut down any
18 fault on our system that would affect the service to the
19 Research Park, yes.

20 Q. I don't want to argue with you, because I'm a
21 little confused. My question was, was that designed to
22 minimize exposure to the feeder serving the Research Park?

23 A. No, it would not minimize the exposure. It
24 would merely allow for a more rapid restoration of service.

25 MR. MAY: May I approach your Honor?

1 JUDGE THOMPSON: You may.

2 MR. MAY: Your Honor, I'd like to have this
3 marked as an exhibit, if I may.

4 JUDGE THOMPSON: You may. Letter of Mr. Carr
5 to Mr. Rummy?

6 MR. MAY: Yes, sir. I'll have him identify
7 it, if you'd like, first.

8 JUDGE THOMPSON: Sure.

9 BY MR. MAY:

10 Q. Mr. Carr, I've handed to you what appears to
11 be a May 27th, 1994 letter from you to Mr. Rummy. Do you
12 have that in front of you?

13 A. Yes, I do.

14 JUDGE THOMPSON: We'll go ahead and mark that
15 as Exhibit No. 32.

16 BY MR. MAY:

17 Q. Look at No. 2 -- what is identified as
18 paragraph 2. Do you see that?

19 A. Yes, sir.

20 Q. I'm going to read from that and you tell me if
21 it's an accurate reading. We will install a 400-amp
22 recloser just outside the substation serving the Research
23 Park to minimize exposure to the feeder serving the Research
24 Park.

25 Do you see that?

1 A. Yes, I do.

2 Q. Is that accurate what I just read?

3 A. Bad choice of words on my part.

4 Q. So what you're saying is that -- if I'm
5 understanding this, are you saying that your letter to
6 Mr. Rummy, May 27 , '94, was inaccurate with respect to that?

7 A. I did not put the right connotation on the use
8 of that equipment, correct.

9 Q. Now, was that done -- the 400-amp recloser,
10 was that done in an effort to increase reliability?

11 A. I believe it was, but I cannot say that for
12 absolute assurance.

13 Q. In fact, wasn't it simply an effort to again
14 appease Mr. Rummy?

15 A. I thought it would have minimal impact, but at
16 the point that those discussions were taking place, it
17 seemed that anything we could do that might have any impact
18 at all would be worth making a serious attempt at
19 accomplishing.

20 Q. Okay. Let's look at your deposition again,
21 page 42.

22 JUDGE THOMPSON: Before we go too much
23 farther, Mr. May, do you have copies of Exhibit 32 for the
24 Commissioners?

25 MR. MAY: Yes, sir, I do.

1 JUDGE THOMPSON: You can just hand them all to
2 me. Thank you, sir.

3 (EXHIBIT NO. 32 WAS MARKED FOR
4 IDENTIFICATION.)

5 BY MR. MAY:

6 Q. Okay. Mr. Carr, I had asked to you look at
7 page 42 of your deposition testimony. Do you see line 19
8 there?

9 A. Yes, I do.

10 Q. I'm going to read this and you tell me if I've
11 read it correctly.

12 Question: Was this an attempt by you to
13 increase the reliability of the service to the park?

14 Answer: No. It was an attempt to appease
15 Mr. Rummy.

16 Do you see that?

17 A. Yes, I do.

18 Q. Okay. Now, on page 3 of your testimony,
19 line 20, do you see that?

20 A. Yes, sir.

21 Q. I guess I should step up to 13. The question
22 there that you're answering pertains to Zoltek's
23 cooperation; is that correct?

24 A. You're on page 3?

25 Q. Yes, sir. Line 13 is the question.

1 A. All right.

2 Q. And is that correct, it's about Zoltek's
3 cooperation?

4 A. Yes, sir.

5 Q. Okay. Your answer on line 20, With Zoltek,
6 our access to their plant was extremely limited. In fact,
7 it took a court order to ultimately get the access we are
8 usually given voluntarily.

9 Do you see that sentence?

10 A. Yes, I do.

11 Q. Okay. Again, I want you to look at Exhibit
12 No. 32, which is the May 27th, 1994 letter. Do you see
13 that, sir?

14 A. Yes.

15 Q. Look at No. 1. It mentions that we will
16 reinstall the power monitor at the plant location. Do you
17 see that?

18 A. Yes, sir.

19 Q. So I'm assuming by your use of the word
20 "reinstall," that it had previously been installed.
21 Correct?

22 A. Yes.

23 Q. So do you know when this court order occurred?

24 A. Sometime late in the late '90s. I don't have
25 the exact date, no.

1 Q. Would 2000 be accurate, if I were to represent
2 that to you?

3 A. I -- I have no idea if it's accurate or not.

4 Q. Okay. But even if you go with your suggestion
5 the late '90s, in fact, in 1994 and prior to that time
6 monitoring had been done by Union Electric; is that correct?

7 A. Yes.

8 Q. Let's look at page 4 of your testimony. The
9 question is, Despite Zoltek's lack of cooperation, has
10 AmerenUE continued to attempt to address Zoltek's
11 complaints?

12 You see the question there?

13 A. Yes, sir.

14 Q. And your answer is, Yes. AmerenUE has taken
15 all reasonable steps it knows of in an effort to address
16 Zoltek's complaints.

17 Do you see the answer?

18 A. Yes, sir.

19 Q. By your answer are you saying that AmerenUE's
20 done everything it possibly could do?

21 A. Well, in the -- since 1991 when I became
22 involved with this situation through the decades of the
23 '90s, I certainly think that we have taken all reasonable
24 steps in an effort to address the complaints, yes.

25 Q. Okay. The question there seems to suggest

1 that AmerenUE has continued to attempt to address, yet your
2 answer seems to suggest that it's done everything possible.

3 A. My answer doesn't seem to suggest anything.
4 It says, We believe we've taken all steps it knows in an
5 effort to address the complaints.

6 Q. Okay. What are those steps?

7 A. I think I just alluded to them since the early
8 '90s on the things that we've tried to do both in the way of
9 discussion, equipment, offering services to the company that
10 transgress almost, what, 10, 12 years.

11 Q. So this would be, for instance, the 400-amp
12 recloser that we've discussed today?

13 A. Yes. The upgrade of the station, the ongoing
14 discussions with engineers at Zoltek for which there were
15 numerous meetings, discussions, attention given.

16 Q. And despite the fact though that you did not
17 believe that, for instance, the 400-amp recloser would, in
18 fact, help the situation, in fact, it was an appeasement
19 move; is that correct?

20 A. I didn't believe there was reliability --
21 reliability problems at the park to begin with, but --

22 Q. Okay. So you didn't even think Zoltek had a
23 problem, did you?

24 MR. VITALE: Your Honor, I'm going to object.

25 THE WITNESS: I believe --

1 JUDGE THOMPSON: Just a minute. We have an
2 objection.

3 MR. VITALE: I believe it misstates what his
4 testimony's been. He asked him before. He already
5 testified he believed there was a problem. The issue is he
6 did not believe it was a reliability problem from UE's
7 standpoint of the power being supplied. Two different
8 things.

9 MR. MAY: Your Honor, we just heard a response
10 wherein the witness just stated that he didn't believe there
11 was a reliability problem at all.

12 MR. VITALE: That's right. And that's not the
13 same thing as saying there was not a problem at Zoltek's
14 plant. He's saying there was no problem with UE's -- the
15 reliability of Union Electric's service, and they're two
16 different things.

17 JUDGE THOMPSON: I'm going to sustain the
18 objection. Please proceed.

19 BY MR. MAY:

20 Q. Let's go back to your comment you just made
21 before that question. You had said that you didn't believe
22 that there was a reliability problem with Union Electric's
23 service. Am I correct in that?

24 A. Yes, I did.

25 Q. So if you did not believe that there was a

1 reliability problem, in fact, there was nothing Union
2 Electric could do; is that correct?

3 A. Yes, sir.

4 Q. So when you indicated to Mr. Rummy, for
5 instance, in your May 27th, '94 letter that you were going
6 to do certain things, you didn't believe at that time that
7 those things would do anything to benefit Mr. Rummy or
8 Zoltek, did you?

9 A. Perception is everything, Mr. May. If the
10 customer felt he had a problem, then we were going to work
11 at trying to solve that problem regardless of whether I
12 thought the problem was a real problem for us or not.

13 MR. MAY: Okay. One second, your Honor, if I
14 may.

15 JUDGE THOMPSON: Certainly.

16 MR. MAY: May I approach, your Honor?

17 JUDGE THOMPSON: You may approach.

18 (EXHIBIT NO. 33 WAS MARKED FOR
19 IDENTIFICATION.)

20 BY MR. MAY:

21 Q. Mr. Carr, I've handed to you a copy of what
22 appears to be a May 9, 1994 letter from you to Mr. Rummy. Do
23 you see that before you?

24 A. Yes, I do.

25 Q. And is that correct? That, in fact, is what

1 it is?

2 A. That's what it is.

3 MR. MAY: Your Honor, just as an aside, I
4 believe Exhibit 32 was admitted into evidence; is that
5 correct?

6 JUDGE THOMPSON: No. Hasn't been offered or
7 admitted.

8 MR. MAY: At this time I'd like to move for
9 the admission of Exhibit 32 in evidence.

10 MR. VITALE: No objection.

11 JUDGE THOMPSON: Hearing no objections,
12 Exhibit 32 is received and made a part of the record of this
13 proceeding.

14 (EXHIBIT NO. 32 WAS RECEIVED INTO EVIDENCE.)

15 MR. MAY: Thank you, Judge.

16 BY MR. MAY:

17 Q. With respect to Exhibit 33, Mr. Carr, let's go
18 to what appears to be the last paragraph on the first page
19 beginning with the words, At this time.

20 A. Yes, sir.

21 Q. Okay. I'm going to read that sentence. At
22 this time, your facility continues to be served by an
23 express feeder for the Research Park as we promised.

24 Do you see that?

25 A. Yes, sir.

1 Q. Okay. Now, you go on to talk again -- and
2 stop me if I'm wrong here, but you go on to talk about the
3 Weldon Springs substation upgrade. Do you see that --
4 A. Yes, sir.
5 Q. -- in that same paragraph?
6 And you say that this new installation will
7 permit us to serve the Weldon Springs Park with an express
8 feeder continuously. Do you see that?
9 A. Yes, I do.
10 Q. And I assume by Weldon Springs Park you meant
11 the Missouri Research Park?
12 A. That's correct.
13 Q. Okay. You talk about in that sentence though
14 an express feeder continuously. Do you see that, sir?
15 A. Yes, I do.
16 Q. Now, by that sentence you are saying that
17 prior to what was going to be the upgrade in February of
18 '95, that the express feeder serving Zoltek, in fact, was
19 not continuous; is that correct?
20 A. That's my understanding.
21 Q. Okay. So they were given express -- I'm just
22 trying to be clear -- express feeder service part of the
23 year, part of the time?
24 A. Well, I think I had told you in my deposition,
25 Mr. May, that the letters that transpired between the

1 district people responsible for this customer and that park
2 carried with them some indication of different times of the
3 year load requirements on our system and things that we did
4 electrically within that Wentzville system, especially
5 around the Research Park.

6 I am not technically competent to identify all
7 of them, but there are people here today that can do that.
8 But it was my understanding from talking to the manager of
9 the Wentzville district, that the express feeder did have
10 times during the course of the year -- and I believe they
11 were explained to the Zoltek people as well -- where certain
12 things occurred electrically on our system by switching and
13 redirection of loads that were for engineering reasons.
14 That's the best I can tell you.

15 Q. That's fine. And, in your estimation, would
16 the switching -- did that work against the definition of an
17 express feeder?

18 A. I don't know as it worked against it. It
19 merely provided a good mechanism for us to deal with the
20 load requirements on our system in the Weldon Springs area.

21 Q. And that was something that was promised to
22 Zoltek; is that correct?

23 A. I cannot answer that. I did not -- I do not
24 know of what was promised to Zoltek.

25 Q. Okay. Well, let's look at your letter again.

1 You wrote though on May 9, 1994 to Mr. Rummy, At this time
2 your facility continues to be served by an express feeder
3 for the Research Park as we promised.

4 Do you see that?

5 A. Yes.

6 Q. So you had sufficient information on or before
7 May 9, 1994 to write that sentence?

8 A. I had information from the district manager of
9 Wentzville, who assisted me in writing the response to this
10 letter. And that was his instruction to me, that that park
11 would be served in this way and that's why it appeared in
12 the letter.

13 Q. And, Mr. Carr, in your position were you
14 familiar with the 1988 agreement between the University of
15 Missouri and Union Electric with respect to the Missouri
16 Research Park?

17 A. Familiar with it? Yes.

18 Q. And, in fact, wasn't your position at the
19 company such that you would have some oversight over this
20 contract?

21 A. I did not have any oversight. My
22 responsibility in the regional west area, of which
23 Wentzville is a part of, took effect on October 1 of 1988.

24 In the transition that occurred at that time
25 with the prior vice president, I was made aware of the fact

1 that there had been for some number of months discussions
2 with people representing the Missouri Research Park, the
3 development. And documents and agreements were made and
4 entered into that would require a signature when they became
5 permanent.

6 And I think my recollection is I signed that
7 document as a company officer on, like, October 15th or 16th
8 of 1988, which carried over into my term as the company
9 officer responsible and that signature represents that. I
10 did not have anything to do with the discussion, the detail
11 or the lead-up for working those details out with Missouri
12 Research Park people.

13 MR. MAY: Your Honor, may I approach the
14 witness?

15 JUDGE THOMPSON: You may.

16 MR. MAY: Your Honor, this will be Exhibit 34?

17 JUDGE THOMPSON: This will be Exhibit 34.

18 MR. MAY: Your Honor, I'm falling down on the
19 job here a little bit. I also want to move for the
20 admission of Exhibit 33.

21 JUDGE THOMPSON: Do I hear any objections to
22 the receipt of Exhibit 33?

23 MR. VITALE: No objection, Judge, except I
24 would note I think some of these exhibits are already
25 scheduled to Mr. Rummy's testimony so they're in the record

1 twice. But I guess this probably doesn't matter as it is
2 the agreement that was marked as 34.

3 JUDGE THOMPSON: Thank you. Hearing no
4 objections, Exhibit 33 will be received and made a part of
5 the record of this proceeding. Please proceed.

6 (EXHIBIT NO. 33 WAS RECEIVED INTO EVIDENCE.)

7 (EXHIBIT NO. 34 WAS MARKED FOR
8 IDENTIFICATION.)

9 MR. MAY: Thank you.

10 BY MR. MAY:

11 Q. Mr. Carr, I've handed to you what you just
12 discussed for a moment there. This would be the October 18,
13 1988 agreement between the University of Missouri Curators
14 and Union Electric Company; is that correct?

15 A. Yes, sir.

16 Q. And is that your signature that appears on the
17 second page?

18 A. Yes, it does.

19 Q. Okay. And look on page 1, if you would,
20 within the context of paragraph No. 1. If you'll look at
21 the last sentence, I'm going to read from that if you could
22 read along. The service will be looped to provide a more
23 reliable system to serve the University tenants.

24 Do you see that?

25 A. Yes, I do.

1 Q. And you're familiar with that change?

2 A. I'm familiar with the words in the agreement.

3 Q. Well, let me step back then. You notice that

4 "uninterrupted service for" appears to have been scratched

5 out. Do you see that sir?

6 A. Yes, I do.

7 Q. Were you familiar with that scratching out,

8 that changing of the document?

9 A. It was done on September 28 of 1988. I had no

10 knowledge of it other than seeing it on the document that I

11 signed. I assume, typical in contracts, that people who

12 work on these things do make changes by scratching out and

13 initially for purposes of legal identification, and I saw

14 these contained in the document.

15 Beyond that, what they were intended to

16 purport to do or give to the parties was something that had

17 taken place in the months of discussion preceding this

18 document.

19 Q. Okay. But, nonetheless, when you signed it,

20 you were aware there was a change to the document. Correct?

21 A. Yes, I was.

22 Q. And you saw the language reliable -- I'm

23 sorry -- "a more reliable system to serve," that insertion,

24 did you see that?

25 A. Yes.

1 Q. Okay. Now, with respect to a looped system,
2 isn't it true that you believe a looped system offers a more
3 reliable system?

4 A. It does offer a more reliable system in that
5 the outages that occur in a looped system are much shorter
6 duration. And that has an impact on the reliability, yes.

7 Q. Okay. Thank you, sir.

8 MR. MAY: Thank you, Judge.

9 JUDGE THOMPSON: Thank you, Mr. May.

10 And, Ms. Shemwell? And let me apologize,
11 Ms. Shemwell. I notice that you should have gone first in
12 your cross-examination.

13 MS. SHEMWELL: That's quite all right. Thank
14 you.

15 CROSS-EXAMINATION BY MS. SHEMWELL:

16 Q. Good morning, Mr. Carr. My name is Lera
17 Shemwell. I'm an attorney representing the Staff of the
18 Public Service Commission.

19 A. Good morning.

20 Q. Sir, you had said something earlier about you
21 weren't qualified to answer a particular question. I don't
22 remember exactly, but I looked at your testimony and you had
23 not included education. Are you an engineer, sir?

24 A. No, I am not.

25 Q. So I won't ask you to define looped system

1 then.

2 A. That I would appreciate.

3 Q. There will be other people.

4 What about recloser? We've talked about that
5 and from the discussion -- let me just see if I'm
6 understanding it, because I probably put it -- is it like a
7 circuit breaker, but it recloses without someone having to
8 manually go out and --

9 A. Excellent.

10 Q. Okay. Thank you.

11 A. In my laymen's approach, that's exactly what
12 it does. It automatically recloses after a short time
13 duration allowing the service to be restored without having
14 to go out and physically or manually switch.

15 Q. So it shortens the duration then?

16 A. Yes, ma'am.

17 Q. Okay. You seem to say in your testimony that
18 Zoltek's lack of cooperation was a problem. But would you
19 have been able to solve their problems had they cooperated
20 fully?

21 A. That's a very good question. There's not
22 a 100 percent guarantee that we'd have been able to do that.
23 However, we were never allowed to do the kind of
24 investigation that my testimony alludes to.

25 It's been pointed out frequently that the

1 monitoring that was done was done in the utility room, which
2 is where the incoming services come into the plant. In my
3 experience over years with dealing with power quality
4 people, is that the way you investigate complaints is you go
5 where the equipment is.

6 Q. Do we have power quality people who are going
7 to speak later?

8 A. Yes, we do. And they will be glad to refer to
9 your questions and answer them.

10 MS. SHEMWELL: Thank you very much, sir.

11 THE WITNESS: You're welcome.

12 JUDGE THOMPSON: Let's see. Redirect -- no,
13 questions from the Bench now. An opportunity that I
14 certainly don't want to miss.

15 QUESTIONS BY JUDGE THOMPSON:

16 Q. Mr. Carr --

17 A. Should I be excited, Judge?

18 Q. Certainly I am.

19 A. Then I am too.

20 Q. Could you explain to me exactly what the
21 functions, the duties of your position are with respect to
22 Ameren's supply of power to Zoltek?

23 A. I'd be glad to. My responsibilities deal with
24 running a function that is comprised of six districts that
25 are located outside the metropolitan St. Louis area. And

1 they run from Kirksville on the north to Cape Girardeau on
2 the south and from Excelsior Springs near Kansas City to
3 Louisiana, Missouri.

4 Each of those districts are fashioned in a way
5 that we provide a manager, an engineering department, we are
6 responsible for construction, maintenance and operation of
7 Ameren facilities as it takes care of service to 385,000
8 customers in that system, and that includes both electric
9 and natural gas.

10 Q. So you are in charge of the transmission
11 system?

12 A. Distribution would be more accurate.

13 Q. Distribution system?

14 A. Yes, sir.

15 Q. Thank you. Both electric and gas?

16 A. Yes, sir.

17 Q. And how many similar positions are there
18 within Ameren?

19 A. There's a vice president in the metropolitan
20 area for the metropolitan operation and for the distribution
21 side of the business and myself. We handle the state of
22 Missouri.

23 Q. So you're one of two people that handle the
24 state of Missouri?

25 A. On a distribution basis, yes, sir.

1 Q. And you do the out-state and someone else does
2 metropolitan?

3 A. Correct.

4 Q. Very good. So naturally you would be in
5 charge of seeing that a customer complaints of this nature
6 are mended?

7 A. Yes, sir.

8 Q. Now, you have indicated that Ameren, in your
9 opinion, was not permitted to do the sort of investigation
10 it wanted to do or would normally do in a case like this; is
11 that correct?

12 A. I believe that truly, yes, sir.

13 Q. Could you please explain to me exactly what it
14 is that Ameren was not allowed to do?

15 A. I believe what we should have and what we
16 requested to do early in the game was to get some of our
17 people familiar with the intricacies of our system, our
18 distribution delivery system into the company premises and
19 be able to ascertain from what is happening whether the
20 cause is coming transient from our system into the plant or
21 are there contributing factors inside the plant that may
22 be -- if found and resolved, may cure the problem.

23 We were never allowed to do that. And that
24 request was made many times at the level of the plant
25 engineering people and the people that represented me, that

1 will testify later, in the ongoing dialogue that occurred
2 over many months.

3 Q. So it was a request that was made repeatedly?

4 A. Yes, sir. It was made repeatedly.

5 Q. And denied repeatedly?

6 A. It was denied repeatedly, because we never got
7 access to the plant, which I have to tell you is unique. My
8 experience over many customers similarly having problems,
9 we've had good success with identifying the real issues.
10 And some were on our system and some were happening within
11 the confines of the plant.

12 Q. So you've had similar sorts of problems with
13 other customers?

14 A. Yes.

15 Q. And you have worked with them to resolve them?

16 A. Yes.

17 Q. And sometimes you've found that it's on
18 Ameren's side and sometimes on the customer's side?

19 A. And you will have testimony later that will
20 demonstrate things specifically of that nature, yes.

21 Q. And perhaps sometimes a mix?

22 A. I would be surprised if it did not happen that
23 way on occasion, yes.

24 Q. Okay. So, as of today, to your satisfaction,
25 has the source and nature of the problem experienced by

1 Zoltek ever been satisfactorily identified?

2 A. Apparently not.

3 Q. And you indicated it's unusual in your
4 experience for the customer not to cooperate with Ameren's
5 investigative procedure?

6 A. Judge, it's extremely usual for me to get
7 complaints from a large industrial customer of this nature.
8 In the 14 years I've been a function head for this company,
9 I can't think of five or six in 14 years that have gotten to
10 the point where this customer has progressed to.

11 Q. Okay. Now, you may not be able to tell me
12 this, but about how many large industrial customers does
13 Ameren have within the area you're responsible for?

14 A. If you deal with large and small industrial
15 types, well over 300.

16 Q. And, to your knowledge or in your experience,
17 is a significant number of those customers sensitive to
18 fluctuations in the power?

19 A. I would expect to varying degrees they
20 certainly could be. But the framework of my operation is
21 that the local district has all of the resources and
22 expertise and technical ability to deal with things
23 electrically impacting our system or the customer or both.

24 And I fully expect those people to perform
25 that job. That's what we're paying them to do. So to see a

1 significant amount of attention to ongoing complaints that
2 walk across years, I'd say, is relatively unique.

3 Q. Have you ever received any explanation for why
4 Zoltek has not cooperated with Ameren's investigation?

5 A. No, I have not.

6 Q. Have you had occasion to discuss it with
7 Mr. Rummy?

8 A. No, I have not.

9 Q. Is it unusual for this kind of problem to
10 reach your level?

11 A. No, it is not. You said is it unusual or
12 usual?

13 Q. Yes, sir. Is it unusual?

14 A. It's unusual for them to get to my level.

15 Q. Because you have, I think you said, six
16 different districts?

17 A. Six districts out in the out-state Missouri
18 area with full capability and authority to deal with the
19 full range of problems that occur on our system.

20 Q. And, in fact, is it your expectation that they
21 will resolve these matters at the district level?

22 A. Absolutely.

23 Q. Okay. And are you satisfied that the people
24 you supervise have done everything you would expect them to
25 do to work to resolve this problem?

1 A. 99.100th's percent of the time, yes. This
2 one, frankly, has gotten away from that and I'm not sure
3 exactly at this point why.

4 JUDGE THOMPSON: Okay. Do we have any recross
5 based on questions from the Bench? And, Mr. May, we'll let
6 Ms. Shemwell go first this time.

7 MS. SHEMWELL: No, your Honor. Thank you very
8 much.

9 JUDGE THOMPSON: Thank you. Mr. May?
10 RE CROSS-EXAMINATION BY MR. MAY:

11 Q. Mr. Carr, you just indicated to his honor in
12 response to his questions that there were many requests made
13 of Zoltek for cooperation with regard to an investigation;
14 is that correct?

15 A. That's my understanding.

16 Q. Okay. Well, I think you represented to the
17 Judge that definitely was the case. Now, are you saying
18 it's your understanding that occurred or you --

19 A. We --

20 Q. Let me finish. Do you have personal knowledge
21 about requests being made?

22 A. Let me be specific. In discussions with
23 Mr. Hulse starting in '92, '93, progressing into the late
24 '90s, I am aware of requests being made to deal with the
25 internal mechanisms in an attempt to get our power quality

1 people in there to look at the problem and we were not
2 successful.

3 Q. Did you make a request?

4 A. That is not my job to make a request. It's
5 the -- it is the job of the local district people dealing
6 with the customer --

7 MR. MAY: Your Honor, I would object. It's
8 not responsive. The simply question, did he make a
9 request --

10 THE WITNESS: No, I did not.

11 BY MR. MAY:

12 Q. So, sir, in 1993 you didn't make a request.
13 Correct?

14 A. No, I did not.

15 MR. VITALE: For the record, your Honor, the
16 he -- or you, I'm sorry, is not being used generically. You
17 meaning it's Mr. Carr personally, just so there's no
18 question on the record.

19 JUDGE THOMPSON: I understand that,
20 Mr. Vitale. Thank you.

21 Please proceed.

22 BY MR. MAY:

23 Q. Mr. Carr, you had testified in response to the
24 Judge's questions about investigations. Correct?

25 A. Yes, I did.

1 Q. And you had represented to this court that on
2 numerous occasions, efforts were made on the part of Union
3 Electric to do monitoring, testing, investigation; is that
4 correct?

5 A. Yes, I said that.

6 Q. And you made representations that those
7 requests were denied; is that correct?

8 A. We didn't achieve the objective, so I assume
9 they were denied.

10 Q. You don't know though for sure?

11 A. We didn't go there.

12 Q. Okay. So, sir, in 1994, was it your job to
13 request some sort of monitoring?

14 A. No, it wasn't my job.

15 Q. Well, let's look at Exhibit 32. You were
16 dealing with Mr. Rummy, weren't you, on May 27th, 1994?

17 A. I don't have numbers on these exhibits so tell
18 me which one is 32.

19 Q. I'm sorry. May 27th, 1994 letter to
20 Mr. Carr -- I'm sorry -- Mr. Rummy from you.

21 A. All right.

22 Q. If I understood your testimony, you said it
23 wasn't your job when it comes to investigations. Were you
24 not taking on that task in May of '94?

25 A. I was conveying a message to Mr. Rummy about

1 the letter written to me prior to this and trying to tell
2 him what we could do, yes.

3 Q. Okay. Looking at your May 27th letter, the
4 third paragraph, last sentence before you go into -- on
5 No. 1 and 2 you say, As a result of that discussion, I offer
6 the following.

7 Do you see that?

8 A. I did. This was my letter. It's in the -- in
9 the present tense, yes. I offered. But you'll also note
10 "we" repeatedly throughout this letter. We meant the
11 district people. Those people representing Ameren
12 Corporation working with the customer.

13 Q. Well, sir, I'm talking about, again, your
14 representations to the Judge with respect to these requests
15 for investigations, authority to do investigations and being
16 denied allegedly by Zoltek. Did you not in paragraph 1 talk
17 about installing -- I'm sorry -- reinstalling monitoring
18 equipment?

19 A. I said we will reinstall, yes. We will
20 reinstall, that's what I said.

21 Q. Now, sir, is that, in fact, a type of
22 investigation of the power quality at Zoltek's facility at
23 the Missouri Research Park?

24 A. It's an attempt.

25 Q. Sir, is it, in fact, a type of investigation?

1 A. Yes, it is a type of investigation.

2 Q. Okay. Now, when you represented to the Judge
3 that there were all these requests and denials, can you
4 detail for the court when such requests occurred? Can you
5 give us some dates?

6 A. No, I can't. I can merely tell you that in
7 the paragraph of the letter I make mention of a meeting with
8 people at Union Electric dealing with Zoltek problems in an
9 attempt to identify steps to be taken. That's what this
10 letter represents.

11 Q. Okay. Well, let's put aside the letter for a
12 minute and let's talk about -- again, you had made
13 representations. I'm asking you, when were such requests
14 made?

15 A. Throughout the time frame from '93 through
16 late '90s.

17 Q. And did you make those requests personally?

18 A. No. I did not make all those requests
19 personally. Some of the items contained in the letter
20 obviously do make direct comment to Mr. Rummy from me since I
21 authored the letter.

22 Q. Okay.

23 A. The content of that letter was there because
24 of cooperation from people within the district responsible
25 for Zoltek.

1 JUDGE THOMPSON: I think Mr. Vitale has an
2 objection.

3 MR. VITALE: Mr. Carr answered the question
4 already before I had a chance to object, but these questions
5 have been asked and answered. We're going down the same
6 path. He's asking them again. You asked the question, he
7 said that's not his job, that was the district people,
8 that's why they hired them.

9 MR. MAY: Your Honor, if I may, Mr. Vitale
10 does an excellent job of testifying. Maybe I should
11 cross-examine him.

12 He said it wasn't his job. I think we
13 sufficiently established that maybe it was his job or he
14 took it upon himself in May of '94. And I think, your
15 Honor, this is cross-examination and I believe I have the
16 right to ask these questions.

17 JUDGE THOMPSON: Yes, you do. Absolutely you
18 do. However, I notice that we're becoming a little heated
19 and, consequently, we will take a 15-minute break at this
20 time. Let me remind you that vigorous cross-examination is
21 nonetheless courteous.

22 MR. MAY: Yes, sir.

23 JUDGE THOMPSON: So if everyone will relax,
24 take some time to gather themselves, we'll reconvene why
25 don't we say a quarter of. Thank you.

1 (A RECESS WAS TAKEN.)

2 JUDGE THOMPSON: Mr. May, you were inquiring.

3 MR. MAY: Yes, sir.

4 BY MR. MAY:

5 Q. Mr. Carr, to try to pick up where we left off,
6 again, I'm focusing on the Judge's questions to you and
7 those questions pertaining to the -- we'll call it the
8 investigations done at Zoltek or lack of cooperation.

9 And just to be clear, you don't have any
10 letters or any documents that support the idea that you made
11 some requests? Do you have anything with you today? Did
12 you make requests?

13 A. I don't understand. Make requests?

14 JUDGE THOMPSON: We have a compound question
15 now. Let's take the last one, first. Sir, did you
16 personally make any such requests?

17 BY MR. MAY:

18 Q. Requests with respect to investigations to be
19 done at the Zoltek plant.

20 A. The one I was most intricately involved in was
21 the modem set-up, the second one -- no, I think it was the
22 first one. I believe it was the first one where we set the
23 modem up and we tied that to our dispatch office in
24 St. Louis with instructions to the operating people at the
25 plant that when you saw incidents that affected your

1 operation, you were to dial in and call the dispatch office
2 and they could dial that modem up immediately and they could
3 see what was going on.

4 I was involved in that because it needed to be
5 done promptly. And I talked to the manager of the operating
6 department and we worked together to get that done
7 posthaste. So in that case, I was personally involved.

8 Q. Yes, sir.

9 JUDGE THOMPSON: Now, we had a second part to
10 our compound question.

11 MR. MAY: I'll strike the first part, your
12 Honor.

13 BY MR. MAY:

14 Q. With respect to the investigation you just
15 talked about, would that be the investigation that's
16 referenced in your May 27th, 1994 letter, which is
17 Exhibit 32?

18 A. Yes. That is referencing that specific
19 installation.

20 Q. And, again, there's talk in that letter about
21 reinstalling. So I believe your answer previously was it's
22 safe to assume it had been installed prior to that?

23 A. It was the re-- it was a reinstallation as the
24 letter points out.

25 Q. Yes, sir. Were there any other requests that

1 you made to either Mr. Rummy or anyone at Zoltek Corporation
2 in regard to any type of investigation?

3 A. Not to my knowledge, no, sir.

4 Q. And, again, I believe you had answered that
5 you did not know, but correct me if I'm wrong, when did
6 other people -- or strike that.

7 Did other people at Union Electric make
8 requests to do monitoring or some sort of investigation at
9 the Zoltek plant?

10 A. Yes, they did.

11 Q. And when were those requests made?

12 A. I cannot answer that question. There are
13 people coming on board later that should be able to
14 enlighten that.

15 Q. Okay. Now, in your testimony on page 3,
16 lines 20 and 21 --

17 A. Yes, sir.

18 Q. -- do you see that?

19 You talk about this court order and you talk
20 about getting the access that you're usually given
21 voluntarily. Do you see that?

22 A. Yes, I do.

23 Q. So, in fact, in 2000 you were given the access
24 that you had previously described to the Judge that you're
25 granted at other places; is that correct?

1 A. Yes, sir.

2 Q. And as a result of that access, were you able
3 to solve Zoltek's problem?

4 A. Since I didn't do the testing, I'm not aware
5 of a solution to the problem, no.

6 Q. Okay. But you just don't know either way
7 whether a solution was gathered or created as a result of
8 that access?

9 A. I do know the outcome, but it's in the form of
10 a verbal report to me about that visit. So the gentleman
11 that was there will be on later on.

12 Q. Did you relay that information to anyone at
13 Zoltek, that you had received this verbal information?

14 A. No. I was consistent about everything
15 connected with Zoltek. It goes through the district and
16 contacts with that customer come through the district. So
17 that reference is made repeatedly by me in terms of what
18 Ameren is doing with that customer directly.

19 Q. Well, I don't want to belabor the point. I'm
20 a little confused by your last answer. You wrote to
21 Mr. Rummy not only on May 27th of '94, but on a few other
22 occasions; is that correct?

23 A. Yes.

24 Q. So were you part of the district at that time?
25 Is that what you're saying?

1 A. No, I'm not. The letters that I wrote to
2 Mr. Rummy were a result of Mr. Rummy's letters to me and in
3 many cases responses to things that he said to me.

4 In my -- in my May 27th letter, for example,
5 at the bottom of the letter I talk about notifications need
6 to be made to the local district. I was trying to put a
7 focus on responses. And I will tell you without fear of
8 contradiction, much of the response in these letters came
9 from dialogue with the local district people about what
10 Ameren was doing for that customer.

11 Q. Well --

12 A. And those people are going to be on here later
13 on. You can chat with them about that.

14 Q. With respect to the response, we talked about
15 the year 2000, the monitoring that was done, the access that
16 was given --

17 A. Yes, sir.

18 Q. -- correct?

19 I asked you, did you relay any information
20 based on that investigation to anyone at Zoltek?

21 A. No, I did not.

22 MR. MAY: Okay. Nothing further, Judge.

23 Thank you.

24 JUDGE THOMPSON: Thank you, Mr. May.

25 MR. MAY: Thank you, sir.

1 JUDGE THOMPSON: Redirect, Mr. Vitale?

2 MR. VITALE: One moment, your Honor.

3 REDIRECT EXAMINATION BY MR. VITALE:

4 Q. Mr. Carr, let me direct your attention to
5 Exhibit 33, which is your May 9, 1994 letter to Mr. Rummy.

6 A. All right.

7 Q. And so I can understand, this letter and the
8 other letter Mr. May has asked you about, Exhibit 32, you
9 weren't taking the initiative to deal with Zoltek here, you
10 were just responding to Mr. Rummy's direct correspondence
11 with you?

12 A. That's correct.

13 Q. And you were relying on your district people
14 and the engineers to deal with the personnel and the people
15 directly at Zoltek concerning the problems they were having?

16 A. That's correct.

17 Q. Now, in this letter of May 9, 1994 there's a
18 discussion about the in-service date of the Weldon Springs
19 substation. Do you see that at the bottom?

20 A. Yes, sir.

21 Q. And to your understanding, the substation
22 issue was discussed with Zoltek between UE personnel and
23 Zoltek personnel. Correct?

24 A. Yes, it was.

25 Q. Okay. And when you say in that last

1 paragraph, Also, as was discussed in the December meeting,
2 at your suggestion we have expedited the in-service date of
3 our new Weldon Springs substation.

4 Who was the your suggestion? Who was the
5 "your" or "you" you're referring to there?

6 A. I'm referring to Mr. Rummy's letter to me --
7 no, take that back. That suggestion came up in the
8 discussion in December with my representatives from the
9 district and Zoltek people talking about issues connected
10 with service and the problems they were having.

11 And the suggestion was made in the context of
12 that meeting that we could advance -- and I think that was
13 asked for by Mr. Rummy. It came to me in the form of a
14 request from Mr. Hulse, I believe, who was in that meeting.
15 And came to the conclusion in our general discussion that if
16 that could be done, the manufacturer was willing, we'll make
17 every effort at advancing the in-service date of that
18 equipment.

19 Q. Okay. So when Mr. May asked you about
20 appeasements to Mr. Rummy, that was a request Mr. Rummy made,
21 at least as you understood it, so you complied with his
22 request?

23 MR.MAY: Objection, your Honor. Leading the
24 witness.

25 JUDGE THOMPSON: Could you please rephrase

1 your question?

2 BY MR. VITALE:

3 Q. Did UE have any plans to operate -- strike
4 that -- to expedite or move up the date of upgrading the
5 substation?

6 A. No. Originally we did not. It was set for
7 mid-1995.

8 Q. Now, if you'll look on the next page on
9 Exhibit 33, second page of your letter, why were you
10 responding to -- or what were you telling Mr. Rummy about why
11 the substation -- you use the word "replace." Was it being
12 replaced or upgraded?

13 A. Some of the equipment was being replaced with
14 newer pieces of equipment, greater capacity involved within
15 the new equipment.

16 Q. Okay. And what was the purpose of your
17 statement there beginning in that paragraph, This substation
18 is being replaced? Why did you write that to him?

19 A. Well, I believe there were discussions even in
20 the December meeting about the fact that our equipment was
21 obsolete. Somehow because of so-called older equipment, it
22 was not doing its job or was not meeting the operating
23 requirements of our system design.

24 And I took issue with that, you know. The
25 fact that it was an older piece of equipment did not in and

1 of itself mean the equipment was inoperative or faulty. It
2 just meant that as the geographical area around Weldon
3 Springs grew, we needed to constantly look at the demands on
4 our system.

5 And one of the ways to do that was to look at
6 the capacity of our equipment, determine when to replace it,
7 upgrade it or enlarge it to handle that particular activity.

8 Q. Mr. May asked you some questions about the
9 2000 monitoring that was done. You didn't do that
10 monitoring. Correct?

11 A. No, I did not.

12 Q. Was that monitoring done at your direction?

13 A. The power quality people in our company today
14 are in an operating department, not directly responsible to
15 me, but my operation has access to those people to provide a
16 resource on request for any customer in our system. And we
17 have been using that service and resource for many years
18 with our customers.

19 Q. But specifically the 2000 monitoring at
20 Zoltek, that wasn't done under your watch?

21 A. No.

22 MR. VITALE: Nothing further, your Honor.

23 JUDGE THOMPSON: Thank you, Mr. Vitale.

24 MR. VITALE: One moment, I'm sorry. One or
25 two more questions. I'm sorry, your Honor.

1 BY MR. VITALE:

2 Q. Mr. Carr, Mr. May asked you some questions
3 about what's marked as Exhibit 34, the agreement between the
4 park?

5 A. Yes, sir.

6 Q. Did you ever have any discussions with
7 Mr. Rummy about that contract?

8 A. Never.

9 Q. And did Mr. Rummy ever say anything to you that
10 UE's not living up to the terms of that contract for some
11 reason?

12 A. Never. Never received a call from Mr. Rummy.

13 Q. Or did he ever say that -- you've never spoken
14 to him personally?

15 A. No, I have not.

16 Q. It's all been correspondence?

17 A. That's correct.

18 Q. In any of the letters that you received from
19 him did he say, Hey, this contract says what it says, how
20 come you haven't complied with it?

21 A. Not that I'm familiar with, no, sir.

22 MR. VITALE: Nothing further, Judge.

23 MR. MAY: Your Honor, with respect to
24 Exhibit 34, I would move for its admission, although I do
25 believe it's attached to Mr. Rummy's Direct Testimony.

1 JUDGE THOMPSON: Any objections to the receipt
2 of Exhibit 34?

3 MS. SHEMWELL: No your Honor.

4 MR. VITALE: No, your Honor.

5 JUDGE THOMPSON: Hearing no objections,
6 Exhibit 34 is received and made a part of the record of this
7 proceeding.

8 (EXHIBIT NO. 34 WAS RECEIVED INTO
9 EVIDENCE.)

10 FURTHER QUESTIONS BY JUDGE THOMPSON:

11 Q. Mr. Carr, before I let you get away, I have an
12 additional question.

13 A. All right.

14 Q. I noticed that you signed this agreement on
15 behalf of Union Electric Company. And so the question I
16 have for you is whether or not the service at the Research
17 Park is, in fact, looped?

18 A. My understanding, your Honor, is that it is.

19 Q. Okay.

20 A. Today.

21 Q. Today. And do you have any idea as to when it
22 became looped?

23 A. I cannot give you that date without the
24 district people being able to provide me that information.

25 Q. And as far as you know, are there people that

1 are going to testify later today that would probably have
2 that information?

3 A. Not probably. Absolutely.

4 Q. Very well. Thank you. Are you planning to be
5 here all day today?

6 A. I wasn't, but I could be.

7 Q. Well, the reason I ask that is the
8 Commissioners are tied up in the agenda session right now
9 and they should be joining us -- well, maybe not until after
10 the lunch break and if any of the Commissioners have
11 questions for you, it would probably be easier to keep you
12 here for a while today then have to ask to come you back.

13 A. I can accommodate that.

14 Q. If you can just wait until we get the
15 Commissioners here and find out if they have questions, that
16 would be great.

17 JUDGE THOMPSON: Thank you, Mr. Carr, very
18 much for your testimony.

19 THE WITNESS: You're welcome.

20 JUDGE THOMPSON: I believe we're ready now for
21 Mr. Hulse.

22 (Witness sworn.)

23 JUDGE THOMPSON: Thank you, Mr. Hulse. Please
24 take your seat, state your name for the reporter and spell
25 it, if you would.

1 THE WITNESS: My name is James B. Hulse,
2 H-u-l-s-e.

3 JUDGE THOMPSON: Now, let's see. We have your
4 Rebuttal Testimony here, which is Exhibit 15, and then we
5 have Supplemental Rebuttal Testimony, which we will go ahead
6 and mark at this time as Exhibit 35.

7 I guess I should also ask you, Mr. Vitale, I
8 did not do that earlier, whether you would like the proposed
9 supplemental of Mr. Hackman to be preserved as an offer of
10 proof.

11 MR. VITALE: We were going to do that, Judge,
12 when Mr. Hackman testified later today, but yes.

13 JUDGE THOMPSON: Very well. We'll take that
14 up then at that time.

15 MR. VITALE: Thank you, Judge.

16 May I approach the witness?

17 JUDGE THOMPSON: You may.

18 DIRECT EXAMINATION BY MR. VITALE:

19 Q. Mr. Hulse, by whom are you employed?

20 A. I'm employed by Ameren Corporation.

21 Q. Okay. And in what capacity?

22 A. I'm a business development executive.

23 Q. And where is your office located?

24 A. My office is located in Jefferson City,
25 Missouri.

1 Q. And you have before you your Rebuttal
2 Testimony, which as the court stated, has been marked as
3 Exhibit 15. The copy you have isn't marked that, but is
4 that your Rebuttal Testimony?

5 A. Yes, it is.

6 Q. Okay. And that's your signature on the
7 affidavit at the end of that exhibit?

8 A. Yes, it is.

9 Q. Okay. And do you have any corrections or
10 changes to make to that testimony as you sit here today?

11 A. No, I do not.

12 Q. And are the answers true and complete, to your
13 best knowledge?

14 A. Yes, they are.

15 Q. Okay. And if I was to ask you the same
16 questions today as were asked in this written testimony,
17 would your answers be the same?

18 A. Yes, they would.

19 Q. Now, let me direct your attention to the
20 Supplemental Rebuttal Testimony that's before you that's
21 marked Exhibit 35. Do you see that?

22 A. Yes, I do.

23 Q. Okay. And is that your signature on the
24 affidavit that's affixed to that Supplemental Rebuttal
25 Testimony?

1 A. Yes, it is.

2 Q. And do you have any corrections or changes to
3 make to that testimony?

4 A. No, I do not.

5 Q. And are the answers you've given there true
6 and complete, to the best of your knowledge?

7 A. Yes, they are.

8 Q. Okay. And if I were to ask you the same
9 questions today as are in the written testimony, would your
10 answers be the same?

11 A. Yes.

12 MR. VITALE: Your Honor, we'd offer Exhibits
13 15 and 35 at this time.

14 JUDGE THOMPSON: Do I hear any objections to
15 the receipt of Exhibit 15?

16 MS. SHEMWELL: No, your Honor.

17 MR. MAY: No, your Honor.

18 JUDGE THOMPSON: Hearing no objections,
19 Exhibit 15 is received and made a part of the record of this
20 proceeding.

21 (EXHIBIT NO. 15 WAS RECEIVED INTO EVIDENCE.)

22 JUDGE THOMPSON: Do I hear any objections to
23 the receipt of Exhibit 35?

24 MS. SHEMWELL: No, your Honor.

25 MR. MAY: Your Honor, I would simply restate

1 our previous objections to Exhibit 35.

2 JUDGE THOMPSON: Very well. The objections
3 are overruled. Exhibit 35 is received and made a part of
4 the record of this proceeding.

5 (EXHIBIT NO. 35 WAS MARKED FOR IDENTIFICATION
6 AND RECEIVED INTO EVIDENCE.)

7 MR. VITALE: Before I tender the witness, your
8 Honor, I have copies of the Supplemental Rebuttal, if you
9 need them.

10 JUDGE THOMPSON: I think that would be a good
11 thing.

12 MR. VITALE: Tender the witness for
13 cross-examination.

14 JUDGE THOMPSON: Ms. Shemwell?

15 MS. SHEMWELL: Thank you, your Honor.

16 JUDGE THOMPSON: You're going to have to give
17 me just a moment here to mark these.

18 MS. SHEMWELL: Certainly. That's fine.

19 JUDGE THOMPSON: Do you have a copy? I assume
20 you do.

21 THE WITNESS: Yes, I do.

22 JUDGE THOMPSON: Great. Please proceed.

23 MS. SHEMWELL: Thank you, your Honor.

24 CROSS-EXAMINATION BY MS. SHEMWELL:

25 Q. Sir, my name is Lera Shemwell. I'm an

1 attorney for the Staff of the Public Service Commission.

2 Do you have a copy of the agreement, which is
3 Exhibit 34, there with you, sir?

4 A. Yes, I do. It's on my Supplemental Rebuttal
5 Testimony.

6 Q. Thank you, sir. The JBH on the bottom
7 right-hand side of the first page, is that your initials?

8 A. Excuse me. I retract that. I do not have it.
9 I thought this is the EDR contract. I do not have a copy of
10 that.

11 Q. This is the one titled Agreement.

12 A. Right. I do not have that.

13 MR. VITALE: Your Honor, if I may approach. I
14 thought Mr. Carr had it and I don't know what --

15 JUDGE THOMPSON: You may.

16 BY MS. SHEMWELL:

17 Q. If I could direct your attention to the bottom
18 right-hand corner of the first page, are those your
19 initials, JBH?

20 A. Yes, they are.

21 Q. And, sir, how would you define a more reliable
22 system? I guess my question is, more reliable than what?

23 A. Well, a more reliable system is -- what I was
24 referring to there is that we cannot guarantee 100 percent
25 continuity all the time to a customer.

1 Q. What does a more reliable system mean?

2 A. More reliable system just means that we would
3 put in a state-of-the-art system that -- you know, that
4 would provide a service just like we do to all classes of
5 our customers that we serve in Missouri.

6 Q. So my question comes back to more reliable
7 than what? If it's just like everybody else, what's it more
8 reliable than?

9 A. Well, I don't know what you're --

10 Q. Well, you've put in the phrase a more reliable
11 system to serve. And my question is, what does that phrase
12 more reliable system mean?

13 A. Since this happened such a long time ago, a
14 more reliable system I guess would be considered as a looped
15 system.

16 Q. And are you the one we should ask about what
17 looped system means?

18 A. A looped system, I would refer that to the
19 district engineer.

20 Q. Who is?

21 A. Which is Jeff Hackman.

22 Q. Thank you. It's my understanding that there
23 is an underground system in the Research Park, that the
24 lines are underground as opposed to above ground; is that
25 correct?

1 A. That's correct.

2 Q. Is the agreement to provide an underground
3 system somewhere other than in what we're seeing as
4 Exhibit 34, or is that what's covered on page 2 under
5 paragraph 3?

6 A. That's correct.

7 Q. Was that also done to provide a more reliable
8 system?

9 A. No. That was at the request of -- of the
10 Missouri Research Park. The people specifically Mr. Edison,
11 James Edison.

12 Q. Do you have an opinion as to why people would
13 pay extra to have an underground system installed?

14 A. My opinion is just for aesthetic purposes. We
15 are an overhead line distribution company and it's really
16 for aesthetics, in my opinion.

17 Q. So appearances?

18 A. Appearances.

19 Q. You say in your testimony at page 2,
20 line 16 -- in your Rebuttal Testimony, page 2, line 16 that
21 this would be a high-tech park. Do you see that, sir?

22 A. Yes, I do.

23 Q. What input did Ameren give to I guess the
24 developers of the park about what would be necessary or
25 appropriate for a high-tech park?

1 A. Well, what we did when we were considering
2 taking on service to this park, we had a gentleman named
3 Mr. John Cobb, which was the district engineer at that time,
4 and he visited the Research Triangle Park out in Raleigh,
5 North Carolina. And he looked at Duke's underground system,
6 because that was considered the premiere high-tech park, you
7 know, in the nation at that time to my understanding.

8 And he spent -- I don't know -- two or three
9 days out there reviewing that. And so we were going to
10 fashion our park and we did, as -- as their system was laid
11 out.

12 Q. And what did that involve? You said "fashion
13 our park," so what does that mean?

14 A. Well, he reviewed their underground system and
15 their -- and their switch gear, all the infrastructure to
16 the park itself and how it was served.

17 Q. And when you say "switch gear," is that the
18 circuit breakers and reclosers or something else?

19 A. No. That is the underground switch gear that
20 is located at the lot lines inside the park itself, in the
21 loop itself, the underground loop. And also it would
22 include, you know, any -- any infrastructure whatsoever,
23 substation, whatever it took to actually serve the facility
24 or a park such as that.

25 Q. And, again, specifically what did you do for

1 this area as a result of his reviewing the North Carolina
2 park?

3 A. Well, to my -- to my knowledge -- and, of
4 course, it would be more appropriate for him to answer that
5 question. But to my knowledge, he came back and -- and he
6 relayed to our engineering underground people, you know,
7 what he had found, what he had seen and they discussed how
8 they would lay out the park accordingly.

9 Q. He's not going to be a witness here today
10 though, is he, Mr. Cobb?

11 A. Not to my knowledge.

12 Q. Do you have any information about the
13 satisfaction of customers in the North Carolina Park with
14 the service that they received?

15 A. No, I do not.

16 MS. SHEMWELL: That's all I have. Thank you,
17 sir.

18 THE WITNESS: Thank you.

19 JUDGE THOMPSON: Thank you, Ms. Shemwell.

20 Mr. May?

21 MR. MAY: Thank you.

22 JUDGE THOMPSON: And before we get started,
23 let me point out something that I've noticed here.
24 Paragraph No. 3 of the agreement that's marked as Exhibit 34
25 incorporates by reference two letters.

1 And I don't think I've seen a copy of this
2 agreement that actually has those letters attached. So
3 there's a homework assignment for counsel, which is to find
4 those two letters and let's get them into the record as
5 well, or at least explain what's become of them.

6 You may inquire, Mr. May.

7 MR. MAY: Thank you.

8 CROSS-EXAMINATION BY MR. MAY:

9 Q. Mr. Hulse, I'm Brian May. Good to see you
10 again.

11 A. Same to you.

12 Q. Thank you. Sir, looking at your prepared
13 testimony, I would ask you first about Exhibit 15, which was
14 your Rebuttal Testimony. How was this prepared? Did you
15 prepare this testimony?

16 A. No, I did not. Questions were prepared for me
17 and I answered them accordingly.

18 Q. Okay. So you had no hand in the preparation
19 of the actual questions?

20 A. Well, I gave a narrative here, I guess on the
21 first part, you know, through lines 32 and on page second,
22 but after that -- after line 8 on page 2, the questions were
23 posed to me by our attorney.

24 Q. And then you simply answered those questions?

25 A. Yes, I did.

1 Q. The answers on the pages after that, 2, 3, 4,
2 5 and 6, are those your verbatim answers or were those
3 adjusted or cleaned up?

4 A. No. They were my -- they were my verbatim
5 answers.

6 Q. Okay. And, sir, what is your -- it may be on
7 here, forgive me, but what is your educational background?
8 You have a bachelor of science degree in electrical power
9 engineering technology; is that correct?

10 A. Correct. From Oklahoma State University.

11 Q. Now, your position -- let's go back to 1988,
12 for instance, at the time of the agreement that is contained
13 in Exhibit 34. What was your position with the company at
14 that time?

15 A. At that time I was an industrial sales
16 advisor.

17 Q. Okay. And in that position as industrial
18 sales advisor, what are your duties or what are you doing?

19 A. Well, my duties were to put together proposals
20 for new and existing expanding businesses and also to
21 work -- and those proposals would include rate analysis,
22 incentives, if we were providing any, also assisting the
23 communities or park developers, you know, in trying to
24 attract industry into our service area.

25 Q. Is it accurate to say then that you, in

1 essence, were in sales? You were selling the products of
2 Union Electric?

3 A. Yes. That's correct.

4 Q. And follow me on this, but as a salesman, you
5 were trying to entice the University of Missouri to use
6 Union Electric's services; is that correct?

7 A. That's correct.

8 Q. So in 1988 there were other options then for
9 the Research Park with respect to electrical service?

10 A. Yes, there was.

11 Q. Okay. And as part of that, you made a pitch
12 to the folks at the University of Missouri, the Research
13 Park. Correct?

14 A. That's correct.

15 Q. And you then had a hand in the preparation of
16 this agreement. Correct?

17 A. That's correct.

18 Q. Okay. And I know that Mr. Carr's already
19 testified as to his signature. Were you in a position at
20 the time to sign agreements like this?

21 A. No, I was not.

22 Q. Okay. But is it accurate then to kind of
23 summarize your job was to make the sales pitch, you know,
24 get the customer, work with them in the creation of an
25 agreement and then if it was to everyone's satisfaction, you

1 would present it to, in this case, Mr. Carr for his
2 signature?

3 A. That's correct.

4 Q. Okay. So on page 1 -- and there's been some
5 discussion about specifically paragraph 1. And you have
6 this in front of you, Exhibit 34, the '88 agreement?

7 A. Yes, I do.

8 Q. I know Ms. Shemwell asked you some questions,
9 but there's a notation about the service will be looped to
10 provide a more reliable system to serve the University's
11 tenants. You see that?

12 A. Yes, I do.

13 Q. So obviously the reliability of the service
14 was contemplated by the parties, meaning by the Research
15 Park folks and Union Electric people?

16 A. Yes, they were.

17 Q. Okay. And, again, Union Electric -- and it
18 was your job, I guess, to try to get the University of
19 Missouri Curators as a customer. Correct?

20 A. That's correct.

21 Q. And there was some discussion obviously about
22 the need for reliable service at the park?

23 A. Yes, there was.

24 Q. And was there also some discussion about the
25 nature of the business that was going to be conducted at the

1 park?

2 A. Yes, there was.

3 Q. And isn't it true that there was a discussion
4 about we'll call it a high-tech-type business that would be
5 attracted to the park?

6 A. That was -- that was referred to me by
7 Mr. Rick Finholt, yes, it was. I'm sorry. I strike that.
8 The -- the communication I had with this agreement was
9 between myself and Jim Edison. Mr. Finholt did not come on
10 the scene until about 1988, sometime in that area.

11 We originally obtained permission to serve
12 this park in 1986 and Mr. Edison and I though -- that was
13 implied -- actually, at that time there's very little
14 movement in trying to promote the growth of the park. They
15 did not have anybody on board doing that type of work until
16 1988.

17 Q. With respect to, again, the looped service --
18 I don't know if this has been asked of this particular
19 witness, but is the system presently looped at the Research
20 Park?

21 A. Yes, it is. But I don't know exactly when it
22 was done.

23 Q. Okay. And is it -- let me strike that.

24 Isn't it true that by delaying the
25 installation of the loop system, there was a delay in

1 introducing a more reliable electrical supply system to the
2 park?

3 MR. VITALE: Your Honor, let me object that
4 there's no foundation for the question about delay and was
5 there a delay, how long was the delay. I mean, to just jump
6 into the question, I think he should lay a little bit of
7 foundation.

8 MR. MAY: I'll be glad to do that, Judge.

9 JUDGE THOMPSON: Please proceed.

10 BY MR. MAY:

11 Q. This agreement was signed in 1988. Correct?

12 A. Correct.

13 Q. And I believe your testimony was that today
14 you believe there is a looped system serving the park; is
15 that correct?

16 A. There was -- there was a looped system.
17 Again, I would refer this to the district engineer, but
18 there was a looped system very shortly thereafter as the
19 park was being -- as our -- as our cables were being
20 installed, our underground system.

21 Q. When you say "shortly thereafter," can you
22 give us a time frame?

23 A. No, I cannot.

24 Q. Now --

25 A. Mr. Hackman could probably.

1 Q. -- in your position as a -- did you say sales
2 advisor, I believe?

3 A. Industrial sales advisor.

4 Q. Yes, sir. In your position as sales advisor,
5 did you continue to work with the folks at the Research
6 Park -- I'm talking about the University of Missouri --
7 after the signing of this agreement?

8 A. Yes, I did.

9 Q. Were you sort of a liaison between the company
10 and Union Electric -- or I'm sorry -- and the Research Park?

11 A. Yes, I was.

12 Q. Okay. So do you know, was the looped system
13 installed in 1993, do you know?

14 A. I really can't answer that.

15 Q. Well --

16 A. I really don't have -- I don't have any
17 recollection of exactly when it was done. I would -- my
18 best guess and -- my best guess would be probably prior to
19 Zoltek coming into the park.

20 Q. But you have no information to go on either
21 way with that?

22 A. No, I do not. That would have to come from
23 the district.

24 Q. Well, let me ask you this. It's safe to
25 assume that in November of 1988 the looped system had not

1 been installed; is that correct?

2 A. That's correct.

3 Q. And do you know when Zoltek came to the park?

4 A. Sometime in mid-'91.

5 Q. Okay. Well, was there a delay in the
6 installation of the loop system?

7 A. I don't know that.

8 MR. VITALE: Again, your Honor, let me object.
9 There's been no establishment as to when it was supposed to
10 be put in, which you have to I think get before you get to
11 the point of whether there was a delay.

12 JUDGE THOMPSON: Mr. Vitale, I believe he can
13 say there was no delay if he knows that or if he doesn't
14 know the answer, he can say that. I'm going to allow the
15 question. Please proceed.

16 MR. MAY: Let me have one moment, your Honor.

17 JUDGE THOMPSON: You may.

18 BY MR. MAY:

19 Q. Let's go to your testimony, Exhibit 15, your
20 Rebuttal Testimony, page 4.

21 A. I'm there.

22 Q. Okay. Lines 17 through 19 you make a
23 statement that we ask David -- or Dave Spahn, then Zoltek's
24 plant manager, several times if our personnel could conduct
25 a power quality, slash, reliability investigation inside the

1 plant, but Mr. Spahn refused.

2 Do you see that statement there?

3 A. Yes, I do.

4 Q. Now, when did you first learn of Zoltek having
5 problems?

6 A. I don't recall specifically, but sometime in
7 1993.

8 Q. Okay. Well, let me direct your attention back
9 up to line 12 on page 4 -- or lines 10 through 12. The
10 question was, When did you first learn of Zoltek having
11 problems? And your answer was you were first notified by
12 Mr. Rummy in August of '93. Do you see that written there?

13 A. Yes, I do.

14 Q. So does that refresh your memory?

15 A. Yes, it does.

16 Q. Were you here during the first days of this
17 case when Mr. Spahn testified?

18 A. No, I was not.

19 Q. Do you have any reason to dispute that
20 Mr. Spahn became the plant manager in 1993?

21 A. No, I do not.

22 Q. Okay. Now, in fact, monitoring occurred at
23 the Zoltek plant in 1993; isn't that true?

24 A. That's correct.

25 Q. And the first monitoring was in November of

1 '93; is that correct?

2 A. That -- to my understanding.

3 Q. Okay. Now, just so I understand your
4 testimony, you said that you asked Mr. Spahn several times
5 to conduct such a study. Would you not agree that these
6 requests would have had to occur between August of '93 and
7 the actual monitoring, which was November of '93?

8 MR. VITALE: Your Honor, I'm going to object
9 to the form of the question. It assumes facts in evidence.
10 When he says "such a study," he's equating what Mr. Hulse
11 says in his written testimony to what happened in 1993 and I
12 don't think there's any evidence to that effect. In fact, I
13 think the evidence is to the contrary.

14 MR. MAY: Well, your Honor, if I may --

15 JUDGE THOMPSON: You may.

16 MR. MAY: -- I'll withdraw the question and
17 we'll move on.

18 BY MR. MAY:

19 Q. Do you see your statement, Mr. Hulse, on
20 page 4, line 19 saying that, Finally, in 1993, Zoltek agreed
21 to allow us to conduct limited monitoring at the plant?

22 A. Yes, I do.

23 Q. And was that monitoring that you reference
24 there, was that done in November of 1993?

25 A. I believe so, yes.

1 Q. So just to be clear then, you first learned of
2 this problem in August of '93. Correct?

3 A. Correct.

4 Q. The monitoring was done in November of '93.
5 Correct?

6 A. Correct.

7 Q. Now, let's go back to your statement on
8 lines 17 and 18, You asked on several times -- you asked of
9 Mr. Spahn on several times if you could conduct such a
10 study. How many times did you ask between August of '93 and
11 November of '93?

12 A. I really don't know, but it was discussed
13 multiple times with Mr. Spahn.

14 Q. Okay. Did you write to Mr. Spahn and request
15 this?

16 A. No, I did not. It was during phone
17 conversation.

18 Q. Well, how many times did you ask him?

19 A. I really can't answer that. At least two or
20 three times.

21 Q. Well, obviously you asked him one time,
22 correct, because he agreed to do it?

23 A. To my recollection, in August '93, when I
24 was -- when I asked Mr. Spahn if we could do this power
25 quality study, he first refused me.

1 Q. And when was that that you asked him, did you
2 say?

3 A. That was in a phone conversation we had in
4 August.

5 Q. Do you recall the date of that?

6 A. No, I do not.

7 MR. MAY: May I approach?

8 JUDGE THOMPSON: You may.

9 (EXHIBIT NO. 36 WAS MARKED FOR
10 IDENTIFICATION.)

11 BY MR. MAY:

12 Q. Mr. Hulse, I handed to you a letter dated
13 August 10th, 1993. It's been marked as Exhibit 36. Do you
14 see that before you?

15 A. Yes, I do.

16 Q. And that is a letter from you to Mr. Rumsfeld; is
17 that correct?

18 A. That's correct.

19 Q. And it's regarding, according to your letter,
20 electric service interruption. Do you see that?

21 A. That's correct.

22 Q. Now, in this letter, could you point out to
23 me, if at all, where you asked Mr. Rumsfeld if you could do
24 monitoring in the plant?

25 A. I didn't ask specifically about monitoring,

1 but on the second page, I did say that I was -- I assured
2 him that our people were doing everything possible to
3 rectify the situation.

4 We were -- the district had assigned an
5 engineer to -- to the Zoltek case and he was -- he was
6 communicating on a regular basis with them in order for us
7 to try to solve what their problems may be. At that time we
8 did not know whether the problem was on our system or on
9 theirs.

10 Q. Had you asked Mr. Spahn as of August 10th,
11 1993 as to whether you could do any monitoring?

12 A. That's probably around the time that I did ask
13 him.

14 Q. Okay. But you didn't reference any discussion
15 with Mr. Spahn in this letter; is that correct?

16 A. Not specifically.

17 Q. Okay. Did you request of Mr. Rummy that you do
18 some sort of monitoring at the plant in this letter?

19 A. No, I did not.

20 MR. MAY: Okay. Your Honor, I'd move for the
21 admission of Exhibit 36.

22 JUDGE THOMPSON: Do I hear any objection to
23 the receipt of Exhibit 36?

24 MS. SHEMWELL: No, your Honor.

25 MR. VITALE: No objection, your Honor.

1 JUDGE THOMPSON: Hearing no objection,
2 Exhibit 36 is received and made a part of the record of this
3 proceeding.

4 (EXHIBIT NO. 36 WAS RECEIVED INTO EVIDENCE.)

5 MR. MAY: Thank you, Judge.

6 BY MR. MAY:

7 Q. Mr. Hulse, let's go to the third paragraph of
8 this particular letter. You state that, After further
9 investigation with Wentzville district, I found three
10 reasons for some of the interruptions.

11 Do you see that sentence?

12 A. I see that sentence, but that's a poor choice
13 of words on my part.

14 Q. Let me ask you one more time. Did I read that
15 accurately from your letter?

16 A. Yes, you did.

17 Q. You then proceed to list what appears to be
18 one, two, and three on this letter; is that correct?

19 A. That's correct.

20 Q. Okay. Now, No. 1, you discuss the 12.5-kV
21 circuit breakers in the Weldon Springs substation; is that
22 correct?

23 A. That's correct.

24 Q. And you note that they are up -- I'm sorry --
25 they're scheduled for an upgrade in the future; is that

1 right?

2 A. That's correct.

3 Q. When was that done?

4 A. That was done in February of '95.

5 Q. Okay. And so in August of '93 the upgrade to
6 the Weldon Springs substation, that had already been
7 planned; is that correct?

8 A. I would have to refer that to the district for
9 a definite yes or no answer.

10 Q. Okay. Nonetheless, your letter states that
11 you had found as a reason for some of the interruptions the
12 fact that the 12.5-kV circuit breakers in that substation
13 were near full load capacity; is that correct?

14 A. Well, again, you're saying found reasons
15 for -- for these -- for some of these interruptions. And it
16 should have been stated that this may have been some of the
17 reasons for the interruptions. So I, again --

18 Q. So you're saying that you have the wrong
19 choice of words here?

20 A. Yes, I do.

21 Q. When did you note that you had used the wrong
22 choice of words?

23 A. Only when we had gotten to the point of where
24 we are today or our first testimony.

25 Q. Did you ever write to Mr. Romy after this

1 letter and inform him you'd used the wrong choice of words?

2 A. No, I did not.

3 Q. So you left the impression with Mr. Rummy that,
4 in fact, you had found three reasons?

5 A. That wasn't my intention.

6 Q. Well, I'm asking though. You did nothing to
7 change that; is that correct?

8 A. No, I did not.

9 Q. Okay. Let's go to paragraph 2. Within the
10 next two weeks additional single-phase reclosers will be
11 installed on the north feeder leading to Weldon Springs
12 substation. This installation should help reduce line
13 exposure to the Missouri Research Park.

14 Did I read that correctly?

15 A. Yes, you did.

16 Q. Now, with respect to those things, were those
17 done within the next two weeks?

18 A. I don't know specifically. It's been too
19 long. The district will be able to answer that question.

20 Q. I'm going to hand to you a copy of your
21 deposition.

22 MR. MAY: If I may, your Honor.

23 JUDGE THOMPSON: You may.

24 BY MR. MAY:

25 Q. And if you would look at page 34 of your

1 deposition dated May 23, 2001 that I've handed to you --

2 JUDGE THOMPSON: Do you have a copy of that
3 for me?

4 MR. MAY: Yes, I do, your Honor.

5 JUDGE THOMPSON: Well, don't give me the one
6 you're using.

7 MR. MAY: No. I've got mine. That's okay.
8 If you can bear with me a second, Judge.

9 JUDGE THOMPSON: Certainly.

10 BY MR. MAY:

11 Q. Mr. Hulse, do you recall me taking your
12 deposition in May of 2001?

13 A. Yes, I do.

14 Q. Okay. And have you had a chance to look at
15 page 34 of your deposition?

16 A. Yes, I have.

17 Q. All right. Specifically line 19, do you see
18 the question there?

19 A. Yes, I do.

20 Q. And I'll read that to you. These reclosers
21 you reference in your August 10th letter, were those ever
22 removed? I should step back. Were they ever installed,
23 first of all?

24 Answer on line 22, Yes, they were installed.

25 Question: Do you know when they were

1 installed? Your letter says --

2 Answer: It was late -- it was in late '93.

3 Do you see that?

4 A. Yes, I do.

5 Q. So if I understand that correctly, you're
6 saying those reclosers referenced in your letter were, in
7 fact, installed in late 1993; is that correct?

8 A. That's what I testified, yes.

9 Q. Yes, sir. So it would not have been within
10 the two weeks that you had mentioned in your letter?

11 A. That's correct.

12 Q. Now, let's move on to page 5 of your
13 testimony. I'm sorry. Let's go to page 4 on line 21.

14 You're referencing a meeting that was held in December of
15 1993. Do you see that on line 21 of page 4?

16 A. Yes, I do.

17 Q. Okay. And then the last sentence on there, We
18 discussed existing electric loads of the park and, turning
19 over to page 5, what possible strategies should be pursued
20 when additional loads came on the system.

21 Do you see that? And then you go on to say,
22 We discussed the upgrade to the Weldon Springs substation
23 and how another 12.47-kV feeder would be installed when the
24 electric load warranted.

25 Do you see that?

1 A. Are you referring to page 21 of the
2 deposition?
3 Q. I'm sorry. Page 5 of your testimony.
4 A. Page 5.
5 Q. Yes. It begins on page 4, continues to
6 page 5.
7 A. Still haven't found it. Are you referring
8 to --
9 MR. MAY: May I approach, your Honor?
10 JUDGE THOMPSON: You may.
11 THE WITNESS: Are you talking about rebuttal?
12 Oh, okay.
13 BY MR. MAY:
14 Q. Again, on page 4, line 21 you reference a
15 meeting that was held in December of '93. Do you see that?
16 A. That's correct.
17 Q. Okay. And then on page 5 at that meeting, if
18 I understand your testimony, that there was a discussion
19 with respect to the upgrade to the Weldon Springs
20 substation. Do you see that?
21 A. Yes, I do.
22 Q. Okay. Now, those things that are referenced
23 in your August 10th letter, specifically the 12.5-kV, No. 1,
24 do you see that?
25 A. The 12.5-kV --

1 Q. Circuit breakers in the Weldon Springs
2 substation --
3 A. Yes.
4 Q. -- on the letter --
5 A. Yes, I do.
6 Q. -- is that what you're referencing in your
7 testimony?
8 A. Yes, it is.
9 Q. And that would include another 12.47-kV. Is
10 that the same as 12.5-kV in your letter?
11 A. Yes, that's correct.
12 Q. So in December of '93, that work had yet to be
13 done; is that correct?
14 A. That's correct.
15 Q. On line 7 of your testimony on page 5, this is
16 your Rebuttal Testimony. Do you see that line 7?
17 A. Yes, I do.
18 Q. We had -- I'm sorry -- We purchased additional
19 equipment for the Weldon Springs substation upgrade four
20 months ahead of schedule.
21 Do you see that?
22 A. Yes, I do.
23 Q. Is it your testimony today then that the
24 equipment needed for the Weldon Springs substation was
25 purchased four months ahead of schedule?

1 A. No. That's not -- no. What happened was is
2 that the equipment had already -- had been purchased much
3 earlier and it just so happens it was available for us at
4 that time. And they shipped it on in and then we went ahead
5 and -- knowing we had to upgrade that substation for future
6 load considerations, we went ahead and installed the
7 equipment earlier.

8 We were trying to be receptive. This was an
9 attempt for us to be receptive to Mr. Zoltek to -- or
10 Zoltek, I should say, Corporation, to clearly tell them that
11 we are trying to do everything we can to upgrade our system
12 and make certain that we are not providing -- he's not
13 getting any problems from our system. This was just to keep
14 him updated that we were trying to do everything we could in
15 order to assist him.

16 Q. So just to be clear then, so I understand you,
17 you're saying that the equipment was not purchased ahead of
18 schedule?

19 A. The equipment was -- no, it was not purchased
20 ahead of schedule. It was available for us.

21 Q. And it, in fact, had been ordered and
22 purchased prior to this -- you know, prior to 1993 even;
23 isn't that correct?

24 A. Well, I can't answer that. I don't know about
25 prior to 1993. I don't know.

1 Q. Okay. You heard Mr. Carr's testimony earlier
2 this morning, did you not?

3 A. Yes, I did.

4 Q. And did you believe that installing this
5 equipment or upgrading this substation would be of a benefit
6 to Zoltek?

7 A. Any time you upgrade any system, it's always a
8 benefit, you know. But, again, we were -- we were upgrading
9 this -- this system because of the continual growth in that
10 area.

11 Q. So the upgrade was because of the growth, it
12 was not because of the problems Zoltek was experiencing?

13 A. That's correct.

14 Q. On page 5 still of your testimony, the
15 question on line 9 is, Did there come a time when Zoltek's
16 treatment of AmerenUE -- I assume that should say make
17 cooperation impossible.

18 Do you see that?

19 A. Yes, I do.

20 Q. And in your answer, lines 11 through 20, you
21 reference a meeting that was held in December of '93. Do
22 you see that?

23 A. That's correct.

24 Q. And at that meeting you allege that Mr. Rummy
25 became irate and verbally abusive and walked out of the

1 meeting. Is that what your testimony says?

2 A. That's correct.

3 Q. And then you state, and I'm quoting, on line
4 19, In my opinion, after this meeting, our relationship
5 deteriorated quickly.

6 Do you see that?

7 A. Yes.

8 Q. So are you suggesting that this meeting -- it
9 didn't go well?

10 A. No, it did not go well at all.

11 Q. Okay. Now --

12 A. Mister --

13 Q. I'm sorry.

14 A. Mr. Rummy was insistent that he felt like he
15 deserved 100 percent continuity of service. And we
16 explained to him that is not possible due to acts of God or
17 people hitting a pole, which would cause -- which caused
18 incidents to occur on our system. And we tried to explain
19 that and he wasn't satisfied with our responses.

20 Q. Did this meeting occur on December 15th of
21 1993?

22 A. I believe that's correct, yes.

23 Q. And was Mr. Thaxton, district manager,
24 present?

25 A. Yes, he was.

1 Q. Mr. Flanagan from your company, Mr. Hunt?
2 A. Yes.
3 Q. Mr. Bradley?
4 A. Yes.
5 Q. And obviously you were present at the meeting.
6 Correct?
7 A. Correct.
8 MR. MAY: Your Honor, may I approach?
9 JUDGE THOMPSON: You may.
10 (EXHIBIT NO. 37 WAS MARKED FOR
11 IDENTIFICATION.)
12 BY MR. MAY:
13 Q. Mr. Hulse, I've provided to you an exhibit --
14 what's been marked Exhibit 37. This is a copy of a document
15 that says at the top Memo to the File; is that correct?
16 A. That's correct.
17 Q. And it's regarding, according to the memo,
18 meeting with Zoltek, 9:00 a.m., December 15th, 1993. Do you
19 see that?
20 A. Yes.
21 Q. And this was drafted by you. Correct?
22 A. Yes.
23 Q. And on the second page, I don't want to say
24 you signed it, but you put your name -- assigned your name
25 to this memo; is that correct?

1 A. That's correct.

2 Q. And I believe you listed those people that had
3 received copies?

4 A. Yes.

5 Q. I want you to turn to page 2, the last
6 paragraph. I'm going to read from this. I was personally
7 very appreciative of efforts that Art, Jim, Randy and Ed
8 demonstrated in this meeting. Without their participation,
9 I feel we would have had an even tougher time trying to
10 explain our position to Mr. Rummy.

11 He's a very persistent individual and combined
12 efforts of parties involved helped improve our relationship
13 with Mr. Rummy. Also, this meeting provided Mr. Rummy with a
14 better insight to today's problems faced by utility company
15 in providing quality service.

16 Is that what your memo says, sir?

17 A. Yes, it does.

18 Q. Look on the first page, if you would, please.
19 The third paragraph on page 1. Near the bottom there's some
20 discussion about the express feeder. Do you see that at the
21 end of paragraph 3 on page 1?

22 MR. VITALE: Which paragraph -- you're using
23 the attending as a paragraph?

24 MR. MAY: Paragraph No. 3 would be Mr. Rummy's
25 letter to Mr. Bill Carr.

1 BY MR. MAY:

2 Q. And go to the last two sentences or three
3 sentences. Do you see that, sir?

4 A. I see that, but I don't see anywhere where it
5 says anything about express feeder.

6 Q. Let's look at this then. Go to the sentence
7 there in the third paragraph, Alternative to the 34.5-kV
8 feeder serving the Weldon Springs substation was
9 accomplished in late October '93.

10 Also, during light load conditions, other
11 loads fed off the 12.5-kV serving the Missouri Research Park
12 can be switched to other 12.5-kV feeders, thus reducing the
13 line exposure. However, during the heavy winter and summer
14 load conditions, this cannot be done.

15 Do you see that in your memo?

16 A. That's correct.

17 Q. Is this referencing the express feeder
18 service?

19 A. No. That's not referencing express feeder.
20 That's referencing what we can do to reduce line exposure to
21 the -- to customers beyond the circuit that's serving the
22 Missouri Research Park.

23 Q. So during the heavy winter and summer load
24 conditions, there was no switching done; is that correct?

25 A. That's correct.

1 Q. So the switching, if I understand your memo,
2 reduced line exposure; is that correct?

3 A. That's correct.

4 Q. And reducing line exposure, does that improve
5 the reliability of the service?

6 A. It could.

7 Q. Let's continue on to page 2. There's
8 discussion there in the middle of that paragraph about the
9 service being provided to the Weldon Springs substation. Do
10 you see that?

11 A. Yes, I do.

12 Q. And there's discussion about changing from a
13 switch from -- I believe that's supposed to be McClay; is
14 that right?

15 A. I believe that's correct.

16 Q. I think your memo may have been incorrect in
17 that regard; is that correct?

18 A. I believe so.

19 Q. McClay to -- I'm sorry -- switch from McClay
20 from Point Prairie. Do you see that?

21 A. Yes, I do.

22 Q. And was that designed to improve the
23 reliability?

24 A. All that was -- all that was designed to do is
25 to reduce the line exposure.

1 Q. Okay. Well, look at your memo there. I'm
2 going to read from it. Correct me if I'm wrong. The
3 sentence beginning with, This will result in less 34.5-kV
4 line exposure to the Weldon Springs sub and should improve
5 the quality of service to the Research Park.

6 Do you see that?

7 A. Yes, I do. But that is no guarantee.

8 Q. Let's go to page 6 of your testimony.

9 A. Now, are you back to the rebuttal?

10 Q. Rebuttal Testimony, yes, sir.

11 A. Okay. I'm there.

12 Q. Yes. The question on page 6 is regarding
13 whether you believed or believe AmerenUE has made its best
14 efforts to assist Zoltek and provide superior electrical
15 service; is that correct?

16 A. That's correct.

17 Q. And on line 5 you state that, Ultimately,
18 Zoltek and specifically and Zsolt Rummy decided to take an
19 adversarial position and file suit against AmerenUE.
20 Needless to say, this made further cooperation virtually
21 impossible.

22 Do you see that?

23 A. Yes, I do.

24 Q. So do you know when Mr. Rummy and Zoltek
25 decided to file suit against AmerenUE?

1 A. I don't know specifically. Somewhere around,
2 I believe, in '96 so.

3 Q. So are you saying that after '96, cooperation
4 between Zoltek and AmerenUE was impossible since 1996?

5 A. Well, what I was saying is it definitely
6 hampered our efforts. As we have done with a lot of
7 customers, which you'll hear the testimony later from
8 Mr. Wakeman, we were only -- to my knowledge, only able to
9 monitor up until this point inside the motor load control
10 center of his facility, which is right where our service
11 comes into his building.

12 With other power quality investigations that
13 we have done, we have -- we have always had the full
14 cooperation of the customer and we've been able to go in and
15 they've been able to communicate to us what specific piece
16 of equipment they're having problems with. And then we
17 would, in turn, install monitoring equipment on those pieces
18 of equipment and try to determine, you know, what the
19 situation is.

20 Q. Was such monitoring done in the year 2000?

21 A. I can't answer that. I -- I have no knowledge
22 of what the exact monitoring was done in 2000.

23 Q. Do you know of any monitoring that might have
24 been done in 1997?

25 A. No, I do not.

1 Q. Or 19--

2 A. But it was not -- but it was not -- I know
3 that we did not -- we were not allowed inside the facility
4 in 1993 when we asked to do so.

5 Q. Well, you're not familiar with any monitoring
6 that might have been done in 1997, for example; is that
7 correct?

8 A. That's correct.

9 Q. Yet you know what kind of monitoring wasn't
10 done. Is that what you're saying?

11 A. I know what was done up through 1995
12 specifically.

13 Q. Okay. Do you know what monitoring was done in
14 1994?

15 A. No, I do not.

16 MR. MAY: I don't think I have anything else
17 at this time, Judge.

18 JUDGE THOMPSON: Thank you.

19 MR. MAY: Oh, I do. One other question,
20 Judge. I'm sorry.

21 BY MR. MAY:

22 Q. I'd like to ask you questions about Exhibit
23 35, which is your Supplemental Rebuttal Testimony.

24 MR. MAY: And, your Honor, just for the
25 record, I'm not waiving my objections in any way by asking

1 those questions.

2 JUDGE THOMPSON: I understand. Please
3 proceed.

4 MR. MAY: Thank you.

5 BY MR. MAY:

6 Q. I've not had a lot of time to look at your
7 Supplemental Rebuttal Testimony. I wanted to ask you a few
8 questions about it, if I may. Do you have that before you?

9 A. Yes, I do.

10 Q. Okay. These are questions regarding -- that
11 are asked here -- first of all, who prepared this particular
12 document?

13 A. Well, it was -- it was prepared -- it was
14 prepared by our attorneys.

15 Q. And are these your answers?

16 A. Yes, they are.

17 Q. And were you present during the hearing the
18 last time we were up here?

19 A. No, I was not.

20 Q. Okay. Now, but these are questions that are
21 asked about your knowledge or your discussions with someone
22 at Zoltek; is that correct?

23 A. That's correct.

24 Q. You don't have any knowledge about others at
25 Union Electric, whether they had discussions?

1 A. Be more specific. What are you saying?

2 Q. Well, again, let me just -- I'll rephrase the
3 question. You were asked about your discussions with the
4 folks at Zoltek; is that correct?

5 A. That's correct.

6 Q. Okay. You've also attached to this
7 Schedule 1, which you've identified as information
8 concerning Zoltek's electric load requirements --

9 A. That's correct.

10 Q. -- correct?

11 So this is Zoltek telling Union Electric
12 through you what its load requirements were; is that
13 correct?

14 A. What their estimated loads were, yes.

15 Q. And you received that in April of '91?

16 A. That's correct.

17 MR. MAY: Okay. Nothing further, Judge.

18 JUDGE THOMPSON: Thank you. Let's see. We're
19 at about seven minutes to noon, so I think we will continue
20 with you, Mr. Hulse, after the lunch break. We will be in
21 recess until 1:30 p.m.

22 (A RECESS WAS TAKEN.)

23 JUDGE THOMPSON: Go back on the record.

24 Remind you that you're still under oath. Come to order,
25 please. Get a quick message out to the Commissioners that

1 we're about to recommence here. All right. Now we're ready
2 for questions from the Bench, I believe.

3 QUESTIONS BY JUDGE THOMPSON:

4 Q. Now, Mr. Hulse, your background, I believe, is
5 engineering; is that correct?

6 A. Well, I have a technology degree in
7 engineering from Oklahoma State University.

8 Q. Okay. And since you've been working for
9 Ameren -- how long have you worked for Ameren?

10 A. Total, I've been -- for Ameren since 1984.
11 Prior to that, I worked for Missouri Power and Light. I
12 began -- I began work -- employed in 1977.

13 Q. All right. And that was with Missouri Power
14 and Light?

15 A. Correct.

16 Q. A subsidiary of Ameren?

17 A. A subsidiary of Ameren.

18 Q. All right. And my understanding is you've
19 been involved with the service to Zoltek from the very
20 beginning?

21 A. That's correct.

22 Q. So were you involved in discussions with --
23 first of all, you were clearly involved in discussions with
24 the University; is that correct?

25 A. That's correct.

1 Q. Because your initials appear on that
2 agreement. Now, are you familiar with the two missing
3 letters that are referenced in that agreement in which
4 evidently we've not seen?

5 A. I see it referenced, sir, but I'm -- I'm not
6 familiar -- I'm not familiar of what those letters actually
7 pertain to.

8 Q. These are letters from a James Edison -- or
9 to a James Edison. Correct?

10 A. That's correct. That's what it refers to.

11 Q. And who is James Edison?

12 A. James Edison was the architect for the
13 University of Missouri at the time negotiations began.

14 Q. But are you able to tell me that you at least
15 did not write those letters?

16 A. No, I can't even tell you that, sir.

17 Q. You may have?

18 A. I may have.

19 Q. Okay. And given your engineering background,
20 were you involved in designing the system?

21 A. I only had some discussions, you know, with
22 the district engineer at that time. Because, again, as I
23 referred to in my earlier testimony, that he was responsible
24 for going out to the Research Triangle Park and looking at
25 how Duke had their system installed at a high-tech park and

1 then coming back and talking to myself as well as to the
2 district manager and others about recommendations and how it
3 would be designed.

4 Q. Okay. So what exactly was your role in the
5 transaction?

6 A. My role in the -- my role in the transaction
7 was -- as far as the agreement, sir?

8 Q. Well, yeah. We're talking now about the
9 transaction between the University of Missouri and Ameren
10 with respect to this Research Park. What was your role in
11 that transaction?

12 A. Well, my -- my role was simply to convey to --
13 as a PR and liaison person, to convey to the Missouri
14 Research Park individual, which in this case was Mr. Edison
15 that AmerenUE or Union Electric at that time was -- was
16 capable of providing adequate electric service to the fa--
17 to the park.

18 Q. So you were essentially sort of -- it was your
19 job to be the go-between between personnel at the district
20 and the customer; is that correct?

21 A. Correct.

22 Q. You were something of a salesman?

23 A. Correct.

24 Q. And your job was to gather specific and
25 detailed information about what the customer wanted, carry

1 that back to the district, discover whether or not that
2 could be provided and, if so, at what cost and that sort of
3 thing; is that correct?

4 A. That's correct.

5 Q. And then convey that back to the customer.
6 Okay. So if there were any representations to the
7 University or any requests by the University for power that
8 was a power supply that was particularly reliable, you would
9 have been aware of that, isn't that so?

10 A. That's correct.

11 Q. And do you recall whether or not there was a
12 request by the University for power that was more reliable
13 than normal?

14 A. No. I -- no, not to my knowledge.

15 Q. Okay. And in return, coming from the other
16 side, are you aware as to whether or not there was any
17 representation by Union Electric to the University that the
18 power would be more reliable than normal?

19 A. No.

20 Q. Okay. And I'm looking at that agreement,
21 which is marked as Exhibit 34, and I'm looking at paragraph
22 No. 1 and the last sentence, The service will be looped to
23 provide a more reliable system to serve the University's
24 tenants.

25 Clearly at some point a provision for a more

1 reliable system did become part of the agreement. Would you
2 agree with me?

3 A. Yes, I would.

4 Q. And do you know how that happened?

5 A. Well, at the -- at this time, you know, we
6 first started these negotiations, I do refer to it as a
7 looped -- looped -- a loop feed or service and, you know, we
8 had either radial feed or you have a loop feed. And it was
9 an understanding that as the park was growing -- would grow,
10 we would provide, you know, whatever it took as far as the
11 loop -- the loop feed to handle the park's needs.

12 Q. Okay. And a looped service, I assume, was
13 believed to be more reliable than a radial?

14 A. The -- again, a loop feed -- the principal
15 reason for a loop feed is for you to shorten your duration
16 of your outages.

17 Q. Okay. And if you know, was the Triangle
18 Research Park in the Carolinas, did that have a looped
19 service?

20 A. Yes, it did.

21 Q. And that served as something of a model for
22 this park?

23 A. That's correct.

24 Q. Okay. Now, again, if you know, was this
25 looped service the most reliable that was possible or was it

1 simply one alternative?

2 A. Well, it would be -- in my opinion, it would
3 be one alternative.

4 Q. Okay. In other words, if Zoltek had been --
5 or if the University had been willing to pay more, and maybe
6 they were, I don't know, but let's say -- was there a more
7 reliable alternative available for a higher price?

8 A. Well, there always is if the price is -- if
9 the customer's willing to pay the price. I mean, you
10 could -- you could -- you could install a generator, you
11 know, right there -- a combustion turbine right there beside
12 the plant and serve them directly off of that, I mean,
13 but --

14 Q. But the price would be quite high?

15 A. That's correct.

16 Q. And Ameren wouldn't undertake to do that
17 unless the customer's willing to front some portion of the
18 cost; isn't that correct?

19 A. That's correct.

20 Q. And, in fact, what proportion did Ameren want
21 the customer to front, 100 percent?

22 A. In something like that?

23 Q. Yes, sir. If you know.

24 A. Well, I would -- I can only speculate, but I
25 would think so, yes.

1 Q. Okay. For example, the fee that the
2 University paid for this loop service that's referred to in
3 Exhibit 34, to your knowledge, if you know, was that
4 100 percent of the additional cost over a normal service?
5 A. No. That -- the cost that they paid was a
6 difference between overhead versus an underground system.
7 Q. So they paid to have it installed underground?
8 A. Correct.
9 Q. If they asked for an overhead service, Ameren
10 would have bore the cost of bringing that service to the
11 park --
12 A. Well --
13 Q. -- as far as you know?
14 A. As far as I know, yes.
15 Q. Okay. So the extra was for the particular
16 configuration they wanted?
17 A. Correct.
18 Q. Very well. Now, do you know details of
19 exactly how the service was provided in terms of
20 transformers and that sort of thing, weight of cable and --
21 A. No, I do not.
22 Q. You do not. Is there anyone who will testify
23 who you believe does know that sort of information?
24 A. I believe if will be bored out by the district
25 people.

1 Q. Okay. Now, I understand that when this deal
2 began, there was a different district engineer; is that
3 correct?

4 A. That's correct.

5 Q. What was his name again?

6 A. Fred Hampton.

7 Q. Have there only been two district engineers or
8 have there been more than two since this thing started?

9 A. Well, there's been another. There were two
10 engineers in the district when this was initially started.
11 Fred Hampton was the supervising district engineer and then
12 Randy Hunt, which was an engineer also.

13 Q. And there's now someone yet again; isn't that
14 correct?

15 A. That's correct. Mr. Jeffrey Hackman is now
16 the supervising engineer.

17 Q. And --

18 A. Which will testify.

19 Q. -- other than those three names, has there
20 been anyone else as an engineer?

21 A. Well, there's Serin Meta (phonetic spelling),
22 which is now a district engineer that also works in
23 Wentzville district.

24 Q. Okay. Now, we've talked about representations
25 and agreements between the University and Ameren. And I

1 guess I have one follow-up question there. To your
2 knowledge, was there any other agreement in addition to the
3 one in Exhibit 34?

4 A. Not to my knowledge, no.

5 Q. There was not any other verbal agreement that
6 you know of?

7 A. No.

8 Q. Okay. Now, speaking with respect now to
9 Zoltek and Ameren, are you aware of any -- were you involved
10 in the beginning when Zoltek first began thinking about or
11 investigating the possibility of moving their plant to this
12 Research Park?

13 A. Yes, I was.

14 Q. And did you have conversations with Zoltek
15 representatives at that time?

16 A. Yes, I did.

17 Q. And do you recall whether any kind of
18 representations were made by Zoltek as to the reliability or
19 quality of the power that they expected?

20 A. Not to my knowledge. Not -- not as far as any
21 other customer would expect as far as service.

22 Q. So would I be correct that in these
23 discussions with Zoltek, that you revealed to them the
24 specifics of the power supply that did exist?

25 A. That's correct.

1 Q. And did they ever say -- do you recall them
2 saying to you that that wouldn't be sufficient?
3 A. No, I do not.
4 Q. Do you recall any concerns that were expressed
5 to you about the reliability?
6 A. No, I do not.
7 Q. Prior to first locating, did they ask Ameren
8 to improve the power supply in any way?
9 A. No, they did not.
10 Q. And if they had, would you know?
11 A. I would have thought the district would have
12 communicated that to me, had there been additional
13 conversations.
14 Q. Did you serve as the salesman --
15 A. Yes, I did.
16 Q. -- representative in that transaction too?
17 A. Yes, I did.
18 Q. Okay. So you would expect to know the details
19 of what the customer wanted?
20 A. That's correct.
21 Q. Okay. And you've been involved in this ever
22 since? You're still involved in it now; is that correct?
23 A. Yes, I am.
24 Q. So do you recall when you first became aware
25 of some lack of satisfaction on the part of Zoltek?

1 A. Well, it had to be around in -- in late -- mid
2 to late '93 is when I got a call from Mr. Zoltek --
3 Mr. Zsolt, Zsolt Rummy.

4 Q. And do you remember what the substance of that
5 call was?

6 A. Just that he was dis-- dissatisfied with our
7 electric service, and he had mentioned he'd had several
8 incidents. And I told him in the conversation that I was
9 unaware of the situation and encouraged him to contact me in
10 the future if this -- if this continued. And I told him I
11 would talk to the district and we would see what we could do
12 to help remedy his situation.

13 Q. Now, when you say "incidents," in fact, was he
14 complaining about outages?

15 A. He was determin-- he was stating that they
16 were outages.

17 Q. Okay. And did you carry on any kind of
18 investigation as to whether outages had occurred?

19 A. I contacted the district and talked to them
20 about -- about the -- about the situation. And they relayed
21 to me that they were not aware of anyone else having --
22 having problems such as this.

23 Q. So through this whole period when there were
24 ongoing discussions, I gather further complaints from Zoltek
25 and efforts by Ameren to improve the service, you were

1 involved throughout?

2 A. I was involved at least up through '95 to '96,
3 somewhere in that area, yes.

4 Q. Did your duties change then?

5 A. Well, my -- actually, the district assigned an
6 engineer to directly communicate with Zoltek Corporation.

7 Q. Now --

8 A. Because they were much closer. I was located
9 here in Jefferson City and, of course, they were located
10 right there in Wentzville district.

11 Q. To your knowledge and in your experience, is
12 it unusual for Ameren to assign an engineer directly to a
13 customer in that way?

14 A. In my opinion, yes. But, again, it was a
15 further attempt by -- by Union Electric to try to do
16 everything that we possibly could do to determine why these
17 incidents were occurring.

18 Q. Are you personally aware of any other
19 occasions when an engineer was directly assigned to a
20 customer in that way?

21 A. No, I'm not.

22 Q. So, to your knowledge, it's a unique
23 arrangement?

24 A. Yes, I would say so.

25 Q. And do you recall the identity of the engineer

1 that was assigned?

2 A. His name?

3 Q. Yes, sir.

4 A. It was Randy Hunt.

5 Q. Randy Hunt. Okay. And I believe you
6 indicated -- is Mr. Hunt still employed by Ameren now?

7 A. Yes, he is.

8 Q. And what's his capacity now?

9 A. I'm not certain specifically. I know he's a
10 district engineer in Berkeley district, but I --

11 Q. So he's been promoted and transferred?

12 A. Yes.

13 Q. Okay. Very well. And do you happen to know
14 whether some other engineer has been assigned to Zoltek in
15 his place?

16 A. No. I'd have to refer that question to the
17 district.

18 Q. Now, I think you've indicated that there was a
19 meeting at some point, perhaps 1993, where Mr. Rummy became
20 extremely upset and walked out of the meeting?

21 A. That was in December of '93.

22 Q. Of '93?

23 A. Uh-huh.

24 Q. So it was prior to the time that an engineer
25 was assigned?

1 A. Yes.

2 Q. And I'm sorry if this repeats your testimony,
3 but do you recall specifically what it is Mr. Rummy became
4 upset about?

5 A. Well, in my opinion?

6 Q. Yes, sir, in your opinion.

7 A. Mr. Rummy expected or felt that Ameren -- or I
8 should say Union Electric would provide 100 percent
9 continuity of service.

10 Q. In other words, service that was never
11 interrupted?

12 A. Never interrupted.

13 Q. Okay. And -- and --

14 A. And we went ahead and explained to him about
15 incidents of acts of God, incidents of pedestrian -- someone
16 hitting a pole, you know, and explaining to him that there
17 would be sags, fluctuations as a result of this -- of these
18 occurrences and that that was just part of how an electrical
19 system operates and functions. And he just, in my opinion
20 and in the people there from the company, was not willing to
21 accept that and became very irate about it.

22 Q. And your testimony with respect to Mr. Rummy,
23 is that essentially a summary of various things you heard
24 him say?

25 A. Yes, it is.

1 Q. Now, there was testimony from the witness who
2 preceded you, Mr. Carr, about multiple requests by Ameren to
3 Zoltek to permit access for an investigation to determine
4 the cause of the problem. Were you here for that testimony?

5 A. Yes, I was.

6 Q. And you heard that testimony?

7 A. Yes, I did.

8 Q. Did you personally make any such requests to
9 Zoltek?

10 A. I -- I made -- I made some -- I made the
11 request and -- in a phone conversation with a Mr. David
12 Spahn back in '93 saying that we would be -- we would be
13 willing to come and to evaluate his system. Now, it was in
14 a phone conversation.

15 Q. I understand. But, nonetheless, you did make
16 it to Mr. Spahn?

17 A. Yes. Yes, I did.

18 Q. And do you recall what Mr. Spahn's response
19 was?

20 A. Mr. Spahn was not willing at that time to
21 allow us to do that because of concerns of confidentiality
22 issues with their plant.

23 Q. In other words, there were things going on in
24 the plant that he didn't want you to know about?

25 A. That's correct. I think it -- in my opinion,

1 I think it was -- it was because of patents. I mean, it was
2 a -- it was a new process that they were designing and
3 constructing and beginning to operate, yes.

4 Q. So based on your experience with Zoltek, did
5 they seem very concerned about the security confidentiality
6 of their processes?

7 A. That was my opinion, yes.

8 Q. Okay. And other than that one occasion when
9 you had a conversation with Mr. Spahn, did you have any
10 other -- did you at any other time request access to their
11 facility?

12 A. Did I specifically ask, is that what you're
13 saying?

14 Q. Yes, sir. Did you personally do so?

15 A. Well, I just recall that I know it -- I
16 mentioned it to them at least on those two or three times,
17 you know, during that time frame. And -- and then we were
18 at least allowed to provide some monitoring at their service
19 entrance and their utility room finally in November.

20 Q. And is it possible that there were other Union
21 Electric employees also making similar requests?

22 A. I would rather doubt it.

23 Q. You were the contact person?

24 A. Yes, I was.

25 Q. Okay. And did Mr. Carr ultimately supervise

1 you in your activities?

2 A. Yes, he did.

3 Q. So he would have received reports of what you
4 were doing with respect to Zoltek?

5 A. That's correct.

6 Q. Okay. Now, eventually, as I understand it,
7 Zoltek did permit some sort of monitoring?

8 A. That -- yes, he did.

9 Q. Do you recall what the nature of this
10 monitoring was?

11 A. Which incident? November of '93 or later on?

12 Q. Let's take November of '93 first.

13 A. Well, November of '93 Mr. Ed Bradley, which
14 has testified earlier, did -- was allowed in their utility
15 room and did -- and did some monitoring on the secondary bus
16 of their system, the 480-volt bus.

17 Q. Now, if you know, the monitoring that Ameren
18 was permitted to do -- what did you say, September of '93?

19 A. November.

20 Q. November of '93, was that as extensive as
21 Ameren chose; in other words, was Ameren permitted as much
22 access as Ameren wanted or was Ameren permitted only partial
23 access?

24 A. We were only permitted -- my understanding, we
25 were only permitted to monitor inside the utility room. We

1 were not permitted to go out inside the plant, again, to
2 monitor on specific pieces of equipment that continued to --
3 to shut down.

4 Q. Now, were you present when this hearing began,
5 I believe in January, the first couple days of the hearing?
6 Were you present for those?

7 A. No, I was not.

8 Q. Okay. And if I were to tell you that it was
9 suggested by the least one witness that Zoltek's
10 machinery -- at least some of Zoltek's machinery was
11 over-sensitive to voltage fluctuations, would that be an
12 idea that you have heard before?

13 A. Well, yes. I mean, it was -- it was assumed
14 that that could be an issue here, but there -- since we did
15 not -- we were not allowed to monitor internally inside to
16 really determine that, you know, there's no way that that
17 could be proven.

18 Q. Okay. That would require access to the
19 machinery?

20 A. Absolutely.

21 Q. Now, was there a later incident of monitoring?

22 A. My understanding is there was -- there was
23 some monitoring done in 2000 by Mr. Wakeman's group, but I
24 can't --

25 Q. You don't know much about that?

1 A. I was not involved with that.

2 Q. You were not the contact person in that?

3 A. No, I was not.

4 JUDGE THOMPSON: Okay. Thank you very much
5 for your testimony, Mr. Hulse. I think we're ready for
6 recross based on questions from the Bench.

7 Ms. Shemwell?

8 MS. SHEMWELL: No questions. Thank you, your
9 Honor.

10 JUDGE THOMPSON: Mr. May?

11 MR. MAY: Thank you, Judge.

12 RE CROSS-EXAMINATION BY MR. MAY:

13 Q. Mr. Hulse, in response to one of the questions
14 posed by the Judge, you mentioned that there was an
15 understanding. And if I understood your testimony, were you
16 saying there was an understanding with respect to the loop
17 system being put in or -- explain to me what you meant by
18 your answer.

19 A. Well, what was -- what was the specific --

20 Q. There was a question posed by the Judge with
21 respect to, I believe, the loop system, the installation of
22 the loop system. Do you recall that question?

23 A. Yes, I do.

24 Q. Okay. And I think you -- again, I'm going off
25 memory, but you said you thought there was an understanding

1 amongst some folks about how the system would be phased in.
2 Is that what your testimony was?

3 A. Oh, between -- between -- between Union
4 Electric and Missouri Research Park. Is that what you're
5 referring to?

6 Q. Right, right.

7 A. I referred to that back here in No. 4 of the
8 agreement between Union Electric and the Missouri Research
9 Park or the University. And that was -- that was in
10 discussion of installation primary distribution as required.

11 Q. Okay. Was that understanding ever expressed
12 to Zoltek and/or Mr. Rummy?

13 A. I -- I -- not by me.

14 Q. Okay. Because, in fact, on page 2 of your
15 supplemental testimony lines 5 and 8 you, in essence, say
16 that these types of things were not communicated?

17 A. That's correct.

18 Q. Okay. Also, there was some questions about
19 what the customer was willing to pay for. Do you recall
20 that discussion in response to the Judge's questions?

21 A. Yes.

22 Q. And obviously by the wording of this agreement
23 the customer, the University of Missouri, was willing to pay
24 for a looped system; is that correct?

25 A. That's correct.

1 Q. Okay. And, in fact, the reliability was
2 something that you had discussed; is that correct?
3 A. With?
4 Q. With the University of Missouri.
5 A. Yes.
6 Q. Again, the Judge had mentioned that the system
7 was that you were kind of, as you said, the liaison, to
8 paraphrase, between the University of Missouri, the
9 customer, and the company, your company, Union Electric.
10 Correct?
11 A. Yes.
12 Q. So you communicated back to your company the
13 desires and wishes of the customer; is that right?
14 A. That's correct.
15 Q. And was one of those things you
16 communicated -- one of the desires or concerns of the
17 customer was the reliability of the system that would serve
18 the park?
19 A. Yes.
20 Q. Okay.
21 A. But keep in mind -- keep in mind though also
22 the other concern with the customer --
23 MR. MAY: Your Honor, I would -- never mind.
24 I'll withdraw.
25 BY MR. MAY:

1 Q. All right, sir. Now, you mentioned -- the
2 Judge had asked you a question about a December 15th, 1993
3 meeting?

4 A. That's correct.

5 Q. He said it was a December meeting and, again,
6 we believe that's the December 15th, '93 meeting?

7 A. Correct.

8 Q. And this is meeting that you had written a
9 memo, which is Exhibit 37. Correct? Which is your memo to
10 file --

11 A. Yes.

12 Q. -- regarding the 12/15/93 meeting.

13 That's the memo where you say that you thought
14 that this meeting helped improve the relationship with
15 Mr. Rummy; is that correct? I'll show you or reference you
16 page 2, the last paragraph there beginning with, I was
17 personally.

18 A. I think it did help improve --

19 Q. Okay.

20 A. -- Mr. Zoltek's -- Mr. Zsolt Rummy's
21 understanding of how an electrical system operates.

22 Q. Well, let's --

23 A. However -- however, I was trying to be very
24 kind when I said very persistent individual. I was
25 trying -- I was trying not to be --

1 Q. Were you --
2 A. -- to mention some of the -- some of the
3 verbatim that he provided to us.
4 Q. Well, sir, this is your memo. Correct?
5 A. Correct.
6 Q. And it's for your internal purposes. Correct?
7 A. Correct.
8 Q. A copy was not provided to Mr. Rummy, was it?
9 A. No, it was not.
10 Q. And, in fact, you state there that he is a
11 very persistent individual and combined efforts of parties
12 helped -- I'm sorry -- involved helped improve our
13 relationship with Mr. Rummy. Is that your writing?
14 A. Yes, it is.
15 Q. Okay. Now, you also had mentioned something
16 about -- the Judge asked you something about the requests
17 that were made to Mr. Spahn for the monitoring. Do you
18 recall those questions?
19 A. Yes, I do.
20 Q. And just to go over that briefly, again, you
21 first learned of this problem, according to your testimony,
22 in August of '93. Correct?
23 A. Correct.
24 Q. The monitoring occurs in November of '93.
25 Correct?

1 A. That's correct.

2 Q. So approximately a three-month period had
3 elapsed between when you first learned of the problem and
4 when the monitoring occurred; is that correct?

5 A. That's correct. That's because we were having
6 problems getting in, in order to do the monitoring.

7 Q. I'm asking you, when did you make a request to
8 do monitoring?

9 MR. VITALE: Your Honor, I'm going to object.
10 It's beyond the scope of recross and it's also been asked
11 and answered several times in the original cross.

12 MR. MAY: Your Honor, you asked questions, if
13 I recall, with respect to the monitoring, the requests that
14 were made and also you referenced Mr. Carr's testimony. I
15 would think it's within the scope to ask him more pointed
16 questions about that.

17 MR. VITALE: These are the very same questions
18 your Honor asked and the same questions Mr. May asked in the
19 first cross where he said, Did you make requests. We went
20 through that, and when they were made and who they were made
21 to. He's asking the same questions that have been asked and
22 answered.

23 JUDGE THOMPSON: Hang on just a moment,
24 please. I'm going to overrule the objection and permit the
25 testimony. Please proceed.

1 BY MR. MAY:

2 Q. I'll just ask you the question again. Again,
3 we're dealing with this time frame of 8/93 to 11/93. You'd
4 mentioned you had made requests to Mr. Spahn. I was
5 wondering, when did you make the first request?

6 A. Well, since it's been such a long time ago,
7 sometime -- in a phone conversation in August of '93 is when
8 I -- is when I made such a comment to him saying that we
9 were willing to assist in any way that we can to do a power
10 quality investigation.

11 Q. And eventually monitoring was done. Correct?

12 A. That's correct.

13 Q. How many other requests did you make during
14 this time frame?

15 A. To my knowledge, about two or three times. I
16 mentioned this too when I talked to Mr. Spahn.

17 Q. In your responses to the Judge's questions you
18 had used that phrase in this time frame and I just want to
19 be clear. Were you talking about the same time frame I am,
20 the August to November time frame?

21 A. That's correct.

22 Q. Okay. And last question, did you make any
23 written requests where you kind of detailed exactly what it
24 was that you had wanted to accomplish or what means by which
25 you wanted to conduct the investigation?

1 A. No, I did not.

2 MR. MAY: Okay. Thank you, sir.

3 Thank you, Judge.

4 JUDGE THOMPSON: Thank you, Mr. May.

5 Redirect?

6 MR. VITALE: Thank you, your Honor.

7 REDIRECT EXAMINATION BY MR. VITALE:

8 Q. In response, Mr. Hulse, to some questions from
9 Mr. May, he was referring you to Exhibit 37, your memo of
10 that December 1993 meeting. And I think you said you were
11 trying to be kind to Mr. Rummy. Could you explain that
12 testimony, because I don't think you were allowed to
13 complete your answer?

14 A. Well, what I was referring to is that I -- any
15 time when I try to write a memo, I try to always want to
16 give the benefit of the doubt, you know, that -- that, you
17 know, that we're -- the customer is trying to meet us
18 halfway, you know, in our -- in our further endeavors to --
19 to resolve the incidents or the issues that he has. And
20 that's why -- that's why I -- I wrote it as I did.

21 I do believe that -- that the district people
22 being there, Mr. Thaxton, Mr. Flanagan, the superintendent,
23 Mr. Thaxton being the manager and Mr. Hunt, the engineer,
24 and Mr. Bradley, which was the gentleman responsible for
25 monitoring -- the monitoring in November of '93, I -- we

1 were trying to explain to him how an electrical system
2 operates and the results of the information that Mr. Bradley
3 found after his two weeks of monitoring the system. And we
4 were also trying to encourage him that this was not near
5 enough monitoring, that we need to do further
6 investigations.

7 Q. Now, you said in response to Mr. May's
8 questions that you didn't put down verbatim in the memo what
9 Mr. Rummy said at the meeting. Do you recall what he said?

10 A. One term that he used is -- was that he -- he
11 said that we were -- when we started talking about the
12 100 percent of continuity of service, that -- I told him
13 that there was no way we could provide that due to -- as I
14 explained earlier in my testimony, you know, he called us --
15 he called us liars.

16 Q. Okay. Let me refer you to Exhibit 34 and this
17 is the agreement between the park and UE. And you were
18 asked some questions by the Judge, and I believe also
19 Mr. May, with respect to paragraph 4. UE shall complete the
20 installation of the primary distribution system on or
21 before -- and then the date September 30, 1988 is crossed
22 out and as required, is typed in; is that correct?

23 A. That's correct.

24 Q. And those are your initials?

25 A. Yes, they are.

1 Q. And could you explain how that change from
2 September 30, 1988 to as required came about?

3 A. Well, Mr. Edison originally had -- had put
4 that date in there. And after we further sat down and
5 discussed the issue, I explained to him we recognize that
6 there's no way that we can have definitive lot lines
7 initially in this park, because the lots were fluctuating
8 from 7 to 10 acres down to as small as 5 acres in the first
9 initial 28 lots that were laid out in phase one of this --
10 of the park.

11 And I -- and we both agreed that it would be
12 better to keep -- keep it flexible so that whoever was going
13 to promote the park, which eventually became Mr. Finholt in
14 '8-- in later on, the end of '88, that it would give him the
15 latitude to maybe sell 10 to 15 acres maybe for a particular
16 customer, maybe up to 20, whatever he needed. That's why
17 that as required was put in there.

18 Q. And who was to state that the time had come
19 where the installation of the primarily system was required?
20 Who was to make the call after that amendment?

21 A. Well, that amendment -- actually, the
22 University would be.

23 Q. Okay. And did the University ultimately make
24 that call?

25 A. They -- yes, they contacted us after our --

1 after -- after our meeting in '95 and did talk to us
2 about -- about completing the loop.

3 MR. VITALE: Nothing further, your Honor.

4 JUDGE THOMPSON: Thank you very much,
5 Mr. Vitale.

6 Are you planning to be here the rest of the
7 day, sir?

8 THE WITNESS: I could be if you want me to do
9 so.

10 JUDGE THOMPSON: You're kind of in the same
11 boat as Mr. Carr, and I apologize to both of you. The
12 Commissioners are engaged in other business and,
13 consequently, are not here to ask you whatever questions
14 they might have. So if you could stay a little longer until
15 the Commissioners get here so that I can see whether or not
16 they have any questions for you, it would, I think, save you
17 time and trouble in the event that they do. You would not
18 have to come back another day in that case.

19 So I will release you from the stand on the
20 understanding that you will remain at least for some period
21 this afternoon. Thank you very much for your testimony,
22 sir.

23 THE WITNESS: Thank you.

24 JUDGE THOMPSON: I believe we're ready for
25 Mr. Angeli. Am I saying that correctly?

1 MR. VITALE: Angeli.
2 JUDGE THOMPSON: Angeli. I apologize.
3 THE WITNESS: Quite all right, your Honor.
4 (Witness sworn.)
5 JUDGE THOMPSON: Please take your seat, state
6 your name for the reporter, spell it if you would.
7 THE WITNESS: My name is Bartholomew P.
8 Angeli, A-n-g-e-l-i.
9 JUDGE THOMPSON: And I see we're changing
10 here. You're Mr. Peters.
11 MR. PETERS: Yes, your Honor. Thank you.
12 JUDGE THOMPSON: I had to remind myself
13 quickly. I do apologize.
14 MR. PETERS: That's okay. Can I ask what
15 exhibit number Mr. Angeli's Rebuttal Testimony is?
16 JUDGE THOMPSON: You may. With some luck,
17 I'll be able to tell you. It is Exhibit 12.
18 MR. PETERS: May I approach, your Honor?
19 JUDGE THOMPSON: You may.
20 I have a deposition of yours up here, Mr. May.
21 Why don't you come take that back while I'm thinking about
22 it or you may never see it again. There you are.
23 MR. MAY: Thank you.
24 JUDGE THOMPSON: You may inquire.
25 MR. PETERS: Thank you.

1 BARTHOLOMEW P. ANGELI testified as follows:

2 DIRECT EXAMINATION BY MR. PETERS:

3 Q. Mr. Angeli, my name's Dan Peters, on behalf of
4 AmerenUE.

5 Could you please state your current employer?

6 A. It's Ameren Services.

7 Q. And what is your position with Ameren
8 Services?

9 A. I am an engineer in the distribution system
10 planning department.

11 Q. And I've handed you a copy of a document that
12 is titled Rebuttal Testimony of Bartholomew Angeli and
13 marked Exhibit 12. Have you seen that document before?

14 A. Yes, I have.

15 Q. And is that testimony that you have produced
16 for the Commission in this matter?

17 A. Yes, it is.

18 Q. And have you had an opportunity to review the
19 questions and answers set forth in Exhibit 12?

20 A. Yes, I have.

21 Q. And are there any changes or corrections that
22 you feel need to be made to Exhibit 12 since your
23 preparation of that document?

24 A. No, there is not.

25 Q. And is the testimony that's set forth in

1 Exhibit 12 your personal testimony?

2 A. Yes, it is.

3 Q. And is it true and accurate, to the best of
4 your knowledge and ability?

5 A. Yes, it is.

6 MR. PETERS: Your Honor, I'd offer Mr. Angeli.

7 JUDGE THOMPSON: Thank you, sir. Do I hear
8 any objections to the receipt of Exhibit No. 12 into the
9 record?

10 MS. SHEMWELL: No, your Honor.

11 MR. MAY: No, your Honor.

12 JUDGE THOMPSON: Thank you very much. Hearing
13 no objections, Exhibit No. 12 is received and made a part of
14 the record of this proceeding.

15 (EXHIBIT NO. 12 WAS RECEIVED INTO EVIDENCE.)

16 JUDGE THOMPSON: Cross-examination,
17 Ms. Shemwell?

18 MS. SHEMWELL: Thank you, your Honor.

19 CROSS-EXAMINATION BY MS. SHEMWELL:

20 Q. Mr. Angeli, my name's Lera Shemwell. I
21 represent the Staff of the Public Service Commission at this
22 hearing. Good afternoon.

23 A. Good afternoon.

24 Q. You said you do distribution system planning?

25 A. Yes.

1 Q. What does that mean?

2 A. My responsibility currently right now is I'm
3 responsible for several areas of all the sub-transmission
4 and distribution planning. The district people that we've
5 spoken often of are responsible for local poles and wires
6 and stuff.

7 My responsibility in the staff position
8 downtown is to provide assistance to them on planning on,
9 like, substation upgrades as well as the sub-transmission
10 circuitry to -- the power to the local distribution
11 substation.

12 Q. You also study lightning?

13 A. Yes.

14 Q. How do those two tie together? Let me be a
15 little more specific. Does your study of lightning assist
16 in the planning of, for example, placement of these
17 stations?

18 A. Not directly. My involvement in this and my
19 study of lightning is that in -- beginning in February of
20 1998 -- pardon me -- January of 1998 Union Electric at that
21 time purchased what's called the Fall System and that's the
22 owners of the Lightning Network. And we get this data, this
23 lightning data every year from that firm and we use that in
24 analyzing the performance of our circuits.

25 Prior to that, we also had been subscribers to

1 the Lightning Detection Network since February of 1989 and
2 I've been the caretaker of that system. And that's just
3 been a monitoring system, kind of monitoring the lightning
4 events.

5 So I've kind of been involved at Ameren
6 monitoring this real-time lightning system and then
7 beginning in 1998 we have a newer system that actually does
8 study and correlations of lightning of specific events
9 with -- with performance of our circuits.

10 Q. As a result of your study of performance of
11 the circuitry, does that lead to ideas about what Ameren can
12 do to control or mitigate the effects of lightning?

13 A. Well, we -- we can't really control lightning
14 at all. What the studies --

15 Q. My question was really the effects. Can you
16 control the effects?

17 A. We use the system that allows us to watch the
18 performance of our circuits -- and, as I said, this begins
19 in the beginning of 1998 -- where when we have a circuit
20 breaker operation and a lightning storm, let's say, we can
21 actually go in and plot on a geographical map our circuitry
22 and then we can pull up all the lightning that occurred and
23 compare the time of that lightning to the time our breaker
24 operated.

25 And actually it starts giving us very good

1 information about how well does that current protection
2 design -- how well is the line performing, if you will.
3 Because you can't just simply say, I've gone out and I've
4 done this or I've done that and the circuit behave itself
5 for the next 12 months.

6 Q. What you're looking at is the effect of the
7 lightning on the circuit and whether or not it continues to
8 operate effectively?

9 A. Yes.

10 Q. Does putting in an underground system provide
11 protection against the effects of lightning in that area?

12 A. Well, having an underground system certainly
13 probably -- the biggest advantage to an underground system
14 is it simply gets it out of the trees. While lightning
15 certainly impacts the circuitry, usually it's the severe
16 weather, the rain and the wind and either trees or debris or
17 whatever causing an interruption on the service --
18 circuitry.

19 So if the circuit is underground, obviously
20 the effects of lightning directly are not upon it. It's
21 still subject to some surges. Being underground, you don't
22 quite eliminate that.

23 Q. Is the purpose of your testimony to show that
24 during 1993 that a lot of the -- let's call them
25 interruptions, that Zoltek reported were likely due to

1 lightning?

2 A. The purpose of my testimony was -- is that
3 before we bought this system I spoke of called Falls in
4 1998, we had this real-time lightning system. In about 1996
5 we hired this company to do a regional state of Missouri
6 analysis for the years 1991 through 1995. And that is part
7 of the testimony that's included in here that I've
8 submitted.

9 That was merely just kind of an evaluation of
10 the density of lightning flashes. Again, this is
11 cloud-to-ground lightning in the state of Missouri over that
12 time period.

13 My testimony here is just to illustrate that
14 1993 was an unprecedented year for this state in lightning.
15 We did have a 500-year flood and I'm just trying to point
16 out that in some ways it's not coincidence that Zoltek saw a
17 lot of disturbances in 1993.

18 Was it due to lightning or what it was, I
19 can't say any of that, but I can say from my 20 years in
20 this business and 20 years dealing with a distribution
21 system, with the amount of lightning there was, there was a
22 lot of things going on.

23 And be it the lightning itself, be it the
24 effect that you had a lot of strong winds and rain and what
25 have you, that there is going to simply be -- by natural

1 number of occurrences, there's going to be more disturbances
2 noted by everybody through the electrical system. And that
3 1993 was just unprecedented for all the data that we have to
4 date.

5 Q. Is there anything that Zoltek could have done
6 to control the effects of the lightning on their particular
7 plant? First of all, let's say that the lightning did cause
8 some of these outages, blips, whatever you want to call them
9 in '93. Is there anything they could have done to control
10 the effects on their particular plant?

11 A. I really don't know. I've not been involved
12 in any of the power quality or been in their plant so I
13 really can't answer that.

14 MS. SHEMWELL: Thank you, sir.

15 JUDGE THOMPSON: Thank you, Ms. Shemwell.

16 MS. SHEMWELL: Thank you, your Honor.

17 JUDGE THOMPSON: Mr. May?

18 MR. MAY: Thank you, Judge.

19 CROSS-EXAMINATION BY MR. MAY:

20 Q. Good afternoon.

21 A. Good afternoon.

22 Q. Just a few questions for you. When was your
23 analysis prepared that's contained within your testimony?

24 A. Last year. It's a culmination of three
25 different sources so it was, what, in -- I forget the date.

1 Sometime last year I was contacted.

2 Q. In the year 2001?

3 A. Yes, sir.

4 Q. And I may have interrupted you, but at whose
5 request? You said you were contacted by someone.

6 A. Bill Carr.

7 Q. And was your analysis prepared then for the
8 purpose of this litigation?

9 A. I assembled the data, because I had -- at that
10 point I had the years 1991 through '95 previously. And I --
11 we had the information at our disposal that I was able to do
12 a similar study for '98, '99 and 2000. And we had to
13 contact the owners of the system for 1996 and '97, but I
14 started all that and I was pulling that information
15 together.

16 Q. And I've asked you some questions before. You
17 recall I took your deposition?

18 A. Yes.

19 Q. And at that time you had indicated to me that
20 it was correct to summarize your testimony as nothing more
21 than quantifying the amount of lightning that had occurred
22 in 1993; is that correct?

23 A. Relative to the years, right, '91 through
24 2000.

25 Q. Right.

1 A. Yes.

2 Q. And there was nothing in your testimony as far
3 as the situation that existed at Zoltek in 1993 or any other
4 year; is that correct?

5 A. That is correct.

6 Q. Right. And isn't it true you make no
7 correlation in your testimony between the problems that
8 Zoltek experienced with its power quality and these
9 lightning strikes; isn't that true?

10 A. Right. I have no correlation direct, no, sir.

11 Q. Okay. And you're just simply, in your
12 testimony, stating the amount of lightning?

13 A. Right.

14 Q. Okay. And what documents did you look at to
15 prepare your testimony other than -- we'll call them
16 lightning-related documents that you've already mentioned?
17 Did you look at any other documents?

18 A. No.

19 Q. Okay. No correspondence between the parties,
20 nothing of that sort?

21 A. No.

22 MR. MAY: Okay. Thank you, sir.

23 Nothing else, your Honor.

24 JUDGE THOMPSON: Thank you, Mr. May.

25 QUESTIONS BY JUDGE THOMPSON:

1 Q. I've just been looking over your testimony and
2 certainly 1993 does stand out. It looks like a bad year to
3 climb trees or poles in St. Charles County.

4 MS. SHEMWELL: Or live in Missouri.

5 BY JUDGE THOMPSON:

6 Q. Are you familiar with the effect of lightning
7 strikes on Ameren's distribution system?

8 A. Yes. I would say I'm very familiar with it.

9 Q. And what exactly, if you could summarize, and
10 I understand that I'm a layperson -- what are the effects of
11 lightning strikes on Ameren's distribution system?

12 A. Most of the time lightning strikes our system
13 and if it's a direct strike on the conductor, we have what's
14 called lightning arresters that try to, quote, clamp the
15 voltage, discharge that surge into the ground. And that all
16 happens in literally milliseconds, you know, a fraction of a
17 second.

18 Typically, you don't hardly see anything.
19 Once in a while those kinds of events will lead to a back
20 flash or something where there will literally be a flash
21 over of our facilities and a protective device, a circuit
22 breaker, at the source will open up for maybe a second or
23 two and reclose and that will be a, quote, blinking of the
24 lights type of thing. And I would say the vast majority of
25 the time that's what most of us see as an effect of

1 lightning.

2 Q. Is a blink of the lights?

3 A. Is a blink of the lights. Occasionally maybe
4 your VCR at home or something will, quote, get fried or get
5 destroyed. And maybe it's not so much lightning striking
6 the wires directly and running into your house.

7 It may just be the fact that as lightning hits
8 the ground, it's dissipating out through the ground and as
9 it does that, it sends surges like on your water pipe and
10 stuff, which your system is connected to.

11 So these kind of things may, quote, damage
12 sensitive electronic stuff, but most of the time most of us
13 don't see the dramatic effects. Occasionally you hear of
14 people who the outlet literally shot out of the wall in the
15 kitchen or something like that. That's a direct strike.
16 But most of the time --

17 Q. Okay. Are electric system distribution
18 facilities more likely to be struck by lightning than other
19 types of items or less likely or the same?

20 A. No more or no less than anything else.

21 Q. And is the effect then -- let's say you have a
22 direct strike by lightning upon some component of the
23 distribution system. Does that have the effect of adding a
24 large amount of additional electrical power to the system?

25 A. Actually, it does not. It's amazing while the

1 current may be in tens of thousands of amperes, it's just
2 for a brief period of time and the vast majority of the time
3 when lightning strikes our facilities, it's dissipated
4 through our equipment safely to the ground and there is no
5 physical damage.

6 In fact, most of the time when lightning does
7 strike even a home maybe or a tree, many, many times there
8 is not damage. It's the exception that there's physical
9 damage from it.

10 Q. So it is a large amount of power, but it
11 happens extremely quickly?

12 A. Yes, sir. Very, very quickly.

13 Q. And in many cases, if not most, it is grounded
14 very rapidly?

15 A. Dissipated to the earth and that's it, yes,
16 sir.

17 Q. Now, taking 1993, your map would suggest that
18 that was an unusual year for St. Charles County. Would you
19 agree?

20 A. Absolutely.

21 Q. And there were many more strikes per acre or
22 whatever your measurement is based upon than normal; isn't
23 that correct?

24 A. Yes.

25 Q. Would you expect -- and I realize you haven't

1 done a study, you haven't correlated this, with the
2 experience of Zoltek. Nonetheless, I'm asking you to
3 extrapolate, would you expect this to have had any kind of
4 effect on the service that Zoltek received?

5 A. Absolutely, I would.

6 Q. And what sort of effect would you expect that
7 to have been?

8 A. A lot of things that I've heard described in
9 the previous days. These blips or this equipment tripping
10 off line and things like that, yes.

11 Q. So, in other words, it's your belief as an
12 expert on lightning -- as Ameren's lightning expert, if
13 that's the proper term, that lightning strikes could cause
14 many of the sorts of things that were observed at Zoltek?

15 A. Certainly aggravate the situation, yes.

16 Q. And you were here for the testimony in
17 January?

18 A. The second day and a half or whatever. I
19 wasn't here for the entire amount, but I was here for the
20 last half of it.

21 Q. So you were here for part of it anyway?

22 A. Yes, sir.

23 Q. And did you hear anything described that
24 lightning could not have contributed to?

25 A. I mean, I've heard of things. I don't wish to

1 say that lightning -- I don't even want to guess how -- what
2 percentage, if will you, that disturbances were lightning
3 correlated. But just by the volume, it wouldn't surprise me
4 that there's a substantial portion or a significant portion
5 of that that we might be able to say had -- you know, it was
6 a lightning event somewhere.

7 Q. Okay. Now, are you familiar with the details
8 of how power is delivered to Zoltek?

9 A. Not -- not the real specific details. I'm
10 somewhat familiar with the area, I'm familiar with the
11 Research Park. I provided other engineering assistance to
12 that district out there, but --

13 Q. Okay. Within the limits of your familiarity
14 and your knowledge then, for example, how far away is the
15 generating source that serves that area?

16 A. Well, the -- the generating sources are all
17 over and it's all interconnected. The closest source would
18 be about Labadie, Missouri that I can think of. I don't
19 know as the crow flies, if you will, your Honor, how close.
20 I do know they're a mile or less from the substation, which
21 is pretty close to that source.

22 Q. So at any given time, you can't say which
23 generating source is serving which customer?

24 A. No, sir. It all goes into the grid and -- and
25 we can't tell you which power comes from which plant or goes

1 to which load, no.

2 Q. Okay. Is there any effect on reliability, if
3 you know, on the distance between the customer and say, the
4 substation?

5 A. It isn't so much that distance as it is the
6 distance of the entire circuit that serves that customer.
7 While a customer may be very close to the substation, let's
8 say a mile, and the circuit goes beyond that customer and
9 goes out into the countryside another 10 miles, that
10 customer is going to see some of the dips or exposure, if
11 you will, anywhere of that length. So it's really the
12 length of the entire circuitry needs to be looked at.

13 Q. Okay. And I think I heard the previous day,
14 during that period, that the longer the circuit, the more
15 exposed it is to events or interference?

16 A. Yes, yes. In very general terms, one would
17 expect longer circuits to have more incidents on them, if
18 you will, or outages than shorter ones.

19 Q. And I think you said that the Research Park's
20 about a mile from the substation?

21 A. Not even that. The substation, if my memory's
22 got me correctly, is on one corner of Highway 40 and 94 and
23 the Research Park's literally on the other. Again, the
24 district would be better, but we're talking, I don't know,
25 1,000 feet or so before the circuitry enters the park, so

1 it's not very -- as things go, it's not very far away.

2 Q. Do you know whether that particular circuit
3 that serves the park continues on?

4 A. I -- I do -- I know of -- heard of just --
5 just heard details, but I personally can't tell you that.

6 Q. Okay. But if, in fact, that circuit served
7 the park and didn't go any further, it would be less exposed
8 incidents than one that, as you say, went 10 miles in the
9 countryside?

10 A. Right. Again, it's going to be a question of
11 degree because there's -- that's that circuit. Again,
12 there's a few other circuits off that substation. So
13 sometimes, you know, I even see it at my house, the lights
14 dim or something in the storm and I get to work the next day
15 and I look at the records and find out it wasn't even my
16 circuit, it was another circuit on the same substation I'm
17 supplied from.

18 So you can kind of -- yes, that has an effect
19 on that circuit, but the other circuits out of that
20 substation, you're going to see incidences sometimes on
21 those.

22 Q. So, in other words, it's in addition to the
23 length of the circuit serving the customer, there's also
24 some exposure for that customer with respect to other
25 circuits originating in the same substation?

1 A. Yes.

2 Q. What about the distribution system between the
3 substation and the generating source?

4 A. It isn't so much the generating source as much
5 as it is from the substation back up to the transmission
6 system. It just -- has more and more of these things
7 happen, you know, more people see them and it depends.

8 Like on the transmission system, we had an
9 event yesterday at 2:08 in the afternoon and I'm downtown in
10 St. Louis, I saw the lights flicker. And this was an event
11 that occurred at a substation north of St. Charles County,
12 so --

13 Q. Do you happen to know how far the substation
14 that serves Zoltek is from the transmission system?

15 A. I don't know off my head, no, sir.

16 Q. Am I correct in understanding by transmission
17 system we mean high capacity wires that run directly from
18 generator to --

19 A. Yes, sir. It's the lines and -- usually
20 138-kV and higher are considered transmission.

21 Q. These are the things we see marching across
22 the countryside --

23 A. Right.

24 Q. -- in giant steel towers?

25 A. Yes.

1 Q. Okay.

2 A. And they not only bring the power from the
3 generation to various load centers, but also it's tied
4 across state lines. It's what has us tied to everything
5 from Oklahoma to Minnesota.

6 Q. So if I wanted to design or create an
7 extremely reliable power supply for an industrial park or
8 even a single industrial customer, if I served that customer
9 with one circuit coming from a dedicated substation which
10 had no other circuits, would that not result in a much more
11 reliable system?

12 A. To some degree more reliable. I think it's
13 very careful -- what we're talking and what I've been
14 hearing discussed isn't so much what we in the utility
15 business view as outages as much as it is disturbances and
16 events.

17 And just short of literally running the
18 generator right next to the customer, these are just things
19 of the system that are going to occur and we're just not
20 going to, quote, eliminate it. So while we can build some
21 dedication, but -- feeders, that would certainly help some,
22 but to what extent can we do that practically.

23 Q. Well, that was my next question is whether
24 that sort of arrangement would be practical?

25 A. It kind of gets to the law of diminishing

1 returns. You know, you -- the cost of all that and the
2 space it takes up, I mean, you know, we have to build the
3 pole league down the road, be it underground or overhead,
4 and we have to serve a lot of customers off that. We can't
5 give everybody a dedicated circuit. So --

6 Q. So if you did give a customer something like
7 that, as far as you know, and if you know, you would expect
8 the customer to pay the difference, would you not?

9 A. Yes.

10 Q. And that's not the end of the business you're
11 in?

12 A. No. Not -- no, sir.

13 JUDGE THOMPSON: I think that's all my
14 questions. Mr. Angeli -- Angeli. Right?

15 THE WITNESS: Angel with an I. Whatever, sir.
16 That's close enough.

17 JUDGE THOMPSON: I apologize.

18 THE WITNESS: No. That's fine.

19 JUDGE THOMPSON: Recross based on questions
20 from the Bench, Ms. Shemwell?

21 MS. SHEMWELL: No questions, your Honor.
22 Thank you.

23 JUDGE THOMPSON: Mr. May?

24 RECROSS-EXAMINATION BY MR. MAY:

25 Q. Sir, in your testimony here you simply count,

1 in essence, the number of lightning strikes for a particular
2 year and where they're located, is that correct, around the
3 state?

4 A. Yes. That's a flash density map of
5 cloud-to-ground lighting --

6 Q. There's --

7 A. Yes, sir.

8 Q. I'm sorry.

9 A. No. That's correct.

10 Q. There's nothing within your testimony though
11 that indicates the number of these lightning strikes that
12 struck UE's distribution equipment or system?

13 A. I do not know where they struck, no.

14 Q. Okay. Now, also you had responded to the
15 Judge's question regarding the effects of Zoltek in 1993.
16 Do you remember the question --

17 A. Yes.

18 Q. -- and your response?

19 I had asked you though both in your deposition
20 as well as before on your initial cross-examination, that
21 you make no correlation between the problems at Zoltek as
22 experienced with its power quality and the lightning
23 strikes; is that correct?

24 MR. PETERS: Object to the form of the
25 question. It was posed in such a way that it was

1 inconsistent with the questions that you asked and his
2 answers. And I believe this question has already been asked
3 a couple times.

4 JUDGE THOMPSON: Well, let me --

5 MR. MAY: Your Honor, if I may.

6 JUDGE THOMPSON: You may respond.

7 MR. MAY: He provided an answer to me about a
8 question. You then asked him a similar question and he
9 proceeded to respond in a different fashion. I'm trying to
10 get straight as to what his testimony contains. And
11 obviously I prepared my cross-examination upon the
12 deposition and I'm hearing something different so I need to
13 deal with that.

14 JUDGE THOMPSON: I'll allow the question.
15 Please proceed.

16 BY MR. MAY:

17 Q. Okay. Again, just to be clear, you make no
18 correlation in your testimony between the problems at Zoltek
19 with respect to its power quality and these lightning
20 strikes; is that correct?

21 A. I make no direct correlation, that's correct.
22 I do not point to any specific lightning event and say that
23 this correlates with an event as reported by Zoltek or
24 AmerenUE, that is correct.

25 Q. Right. And when you responded to the Judge's

1 question then about whether this lightning might have had an
2 effect in 1993, you were speculating as to that?

3 A. Yes. I'm speculating -- I'm basing it upon my
4 experience, yes, sir.

5 Q. In other words, you didn't look at the
6 monitoring results from Zoltek?

7 A. No, I have not.

8 Q. You never analyzed their service quality
9 incidents list, have you?

10 A. No, sir.

11 Q. You never spoke to anyone at Zoltek?

12 A. No, I have not.

13 Q. You've never been to their plant?

14 A. No, I have not.

15 MR. MAY: Okay. Thank you.

16 Thank you, Judge.

17 JUDGE THOMPSON: Thank you, Mr. May.

18 Redirect, Mr. Peters?

19 REDIRECT EXAMINATION BY MR. PETERS:

20 Q. Mr. Angeli, I think we need to now go back and
21 clarify some things based on most recent questions. Could
22 you explain to the Commission your educational background,
23 please?

24 A. I have a bachelor of science in electrical
25 engineering from the University of Missouri-Rolla.

1 Q. And how long have you worked for AmerenUE?

2 A. Twenty years.

3 Q. And can you summarize your area of experience
4 in those 20 years with AmerenUE?

5 A. It's all been within the distribution system.
6 I spent the first four years in distribution in a district
7 similar to Wentzville, but in the metropolitan area. And I
8 spent some time in substations, maintenance and
9 construction, again, similar to the substation people who
10 take care of the substation that serves Zoltek.

11 Spent some three, four years in operating.
12 Spent some time in distribution standards, and now I'm
13 currently in planning. But I've spent all my 20 years in
14 the delivery system.

15 Q. Okay. And that describes kind of the
16 components of AmerenUE that you have worked within, but to
17 lay people, can you kind of explain just generally and
18 briefly what your job entails as far as observing or
19 evaluating the supply of power from AmerenUE to the
20 customers?

21 A. You mean in my current job?

22 Q. Well, whether currently or the past 20 years.
23 I'm trying to establish your experience and your level of
24 knowledge in regards to how electrical systems work, what
25 happens, what can negatively impact a system and have a

1 negative impact on a customer's receipt of power. So what
2 are some practical or --

3 A. Originally back prior to Ed Bradley being in
4 operating and doing this monitoring, before he got into that
5 department, I spent some time in there, about three years in
6 that department answering just these very same type of
7 questions.

8 Q. What type of questions are those?

9 A. Customers who are having -- experiencing
10 disturbances on their lines and whether or not it was
11 something that was originating with AmerenUE, whether it was
12 something we had anything to do with, or whether perhaps it
13 was something internal to the customer. I spent
14 considerable time in that part of our company, about three
15 years.

16 Q. Can I rephrase that?

17 A. Sure.

18 Q. Are you saying that you actually worked with
19 customers in evaluating problems that they were having with
20 their electrical service?

21 A. I spent three years doing that, yes.

22 Q. Okay. Go on.

23 A. And just that -- and all through these years
24 since 1989 I was the liaison or the caretaker of the
25 lightning monitoring system, so I attended conferences and

1 whatnot on lightning. That's how I kind of came into this
2 role of being the company expert on lightning with the
3 distribution system.

4 So even though I've been in standards or I've
5 been in operating or in planning, I have played a role with
6 other departments, other districts, other people who may
7 have had a circuitry that was giving them problems due to
8 lightning. So, yes, I've spent a lot of time working with
9 design people and operating people.

10 Q. Okay. You've mentioned supply, operating, and
11 design?

12 A. Yes.

13 Q. What do you mean by "design"?

14 A. I was speaking in terms of, like, our
15 standards people and stuff that say, okay, you build this
16 pole in this particular manner, the spacing of the wires,
17 the equipment that you use, lighting arresters, grounding,
18 shielding, those types of thing.

19 Q. Are you talking about designing a system to
20 supply electrical service to a customer?

21 A. Right. The distribution system that carries
22 power, you know, throughout your --

23 Q. And how much time have you spent in designing
24 electrical systems for customers of AmerenUE? Any kind of
25 reference point that you could give us?

1 A. When you say design, are you talking about in
2 terms of the actual -- I mean, I was in the standards
3 department several years, but I -- I was viewed as a --

4 Q. You were talking about designing a system.
5 You were saying what lightning arresters to use, what
6 different types of equipment to use. And I asked you if
7 that meant deciding what type of components should be used
8 by AmerenUE to supply electric to a customer.

9 A. Yes.

10 Q. In that type of capacity, how much time have
11 you spent on that type of work in the past 20 years?

12 MR. MAY: Your Honor, if I may -- excuse me --
13 object.

14 JUDGE THOMPSON: And your objection is?

15 MR. MAY: Your Honor, the relevancy of this
16 testimony. This witness has already testified that he
17 counted the number of lightning strikes.

18 I'm not sure the relevance of his 20 years of
19 looking at how power systems are put together exactly is
20 relevant to his qualifications with respect to counting
21 lightning. I think he's done a sufficient job of showing
22 he's qualified to count the number of lightning strikes and
23 work with that data.

24 MR. PETERS: Your Honor, with all due respect,
25 I've been a little bit concerned about the tone of some

1 questioning, which I think has been not respectful of the
2 witnesses, their knowledge and them coming to provide
3 information to the Commission, which I think Mr. Angeli is
4 one of those persons.

5 Furthermore, I think there's a false attempt
6 to characterize Mr. Angeli's testimony as unsubstantiated
7 speculation. And what I am doing, because we went into that
8 area, is to fully explore his experience in which he used to
9 come to his opinion. And I think he gave very informative
10 information to this Commission and explained what type of
11 correlation he was making, that it wasn't pure speculation.
12 And now I feel I have to go back and lay the foundation to
13 clear that up.

14 JUDGE THOMPSON: Well, certainly I believe I
15 opened the door to this line of questioning during my
16 questioning of Mr. Angeli and, therefore, I'm going to allow
17 you to proceed, and you may.

18 BY MR. PETERS:

19 Q. Okay. Now, Mr. Angeli, I'm not sure where we
20 stopped there, but I was asking you just kind of how much
21 time you spent on the design type of work where you helped
22 certain people design a system for Ameren to use for
23 customers. And I'm just -- any kind of ballpark reference,
24 whether it's years, months, period of time whatever.

25 A. Essentially beginning literally in about

1 February of 1989 forward, off and on at various times. I've
2 just played a role as the person in the company who is
3 responsible for the lightning machine, who is the one who
4 has kind of been the liaison from us to the National
5 Lightning Detection Network and just simply being kind of
6 the center point for us having the data, the studies or
7 whatever and preparing that data or any questions on
8 lightning and how it effects our facilities, I'm the person
9 that's typically consulted on that.

10 And I just -- no matter which job I've held,
11 I've done that. So I've been doing it for the last
12 10 years.

13 Q. To clarify, I think you've testified to these
14 things. You heard Mr. Hulse testify that he is kind of a
15 liaison between the company and the customer. And you've
16 heard references to the district people, I think you may
17 have used the term, and I think you referred to yourself as
18 being a staff person.

19 Would it be correct to say that you, as a
20 staff person, are using your knowledge and experience in
21 electrical distribution and supply to help the district
22 people in designing a system for a customer?

23 A. Yes. Absolutely.

24 Q. Okay. Now, again, you mentioned three
25 areas -- and I'm going to forget them -- design, supply, I

1 think, and consulting or something like that. Do you
2 remember what the three areas you talked about were?

3 A. I think it just sums up that not only did I
4 work in a district and work with overhead crews and am
5 familiar with that aspect, I'm just trying to say I also
6 spent time in the operations department --

7 Q. Operations.

8 A. -- you know, dealing -- working with people
9 not only with the problems day-to-day, but actually
10 switching and whatever, just literally operating our system
11 to as well as being in the staff position, okay, this is the
12 type of equipment that we purchase, this is the
13 specifications we have for it.

14 I'm just saying that my background is I've
15 been all around. Anything dealing with getting the power
16 from the substation to your home, you know, my 20 years I've
17 dealt with some facet of that, whatever it's been.

18 Q. And are you knowledgeable about how electric
19 is flowed or carried from an original source all the way to
20 a customer?

21 A. I would believe that I am, yes.

22 Q. And have you obtained that knowledge through
23 your 20 years of working at AmerenUE?

24 A. Yes, I have.

25 Q. And are you knowledgeable about what things

1 could interfere with the supply and flow of power from its
2 original source to a customer?

3 A. Yes.

4 Q. And would lightning and severe weather be one
5 of those things that could interfere with the supply of
6 power?

7 A. That's probably our biggest influencer, if you
8 will, in the delivery of power is the weather.

9 Q. And I think you were testifying earlier that
10 you're pretty much the person from AmerenUE to evaluate
11 lightning and weather on Ameren's system; is that correct?

12 A. With lightning, yes. I -- because I'm the one
13 who's very knowledgeable of how the lightning data is
14 gathered and what does it mean and how do we take that data
15 and look at the performance of our circuits, so yes.

16 Q. In what respects have you then actually
17 observed and evaluated what negative effects lightning has
18 had on AmerenUE's electrical systems?

19 A. Part of my responsibility in the areas that I
20 have sub-transmission responsibility, we evaluate our
21 sub-transmission, our 34- and 69-kV circuitry and those that
22 seem to be having a lot of interruptions on them in storms,
23 we literally -- as I said earlier, we go into our machine
24 and we literally say, okay, there was an operation of a
25 breaker at this date and time and we look at the lightning

1 data and say, okay, was there a lightning event.

2 So we correlate a lightning event to a
3 operation. And then we literally send someone out in the
4 field to see if we see some physical damage or some other
5 deficiency in our system that needs attention too. And the
6 system has allowed us to do that.

7 Q. And have you actually followed through, either
8 yourself or with someone else who actually goes out --

9 A. Yes.

10 Q. -- to observe the actual effect, the physical
11 effect of the lightning?

12 A. Yes. We currently do that today. And there's
13 many times we find a deficiency, we find a reason why was
14 there was a problem.

15 Q. Okay. And I believe in response to his honor,
16 you gave your opinion that there is some -- it would be
17 reasonable to expect a correlation between the inordinately
18 high number of lightning strikes in 1993 with the reported
19 effects that Zoltek has -- or incidents that Zoltek has
20 reported. Was that your testimony?

21 A. Yes. I was just saying that by the sheer
22 volume there is, we know that when there is lightning, you
23 know, usually there's severe weather accompanied with that.
24 And that weather is going to affect our system.

25 To what degree on any particular storm, I have

1 no idea. Again, I've done no direct correlation. But by
2 just the sheer nature of the volume of the lightning
3 suggests that some of this was probably -- again, this is
4 only my -- I'm inferring this, I've come to this conclusion,
5 that some of it was weather-related.

6 Q. So what you're -- in response to Mr. May's
7 questions, you're saying that you have not gone out and
8 evaluated and tied a particular lightning strike to a
9 particular problem reported by Zoltek. Right?

10 A. Correct.

11 Q. But you have given your opinion, and it's
12 solely your opinion, that it would be reasonable to expect
13 that the severe weather in '93 may have or could have
14 contributed to the reported incidences that Zoltek had in
15 '93. Correct?

16 A. Correct.

17 Q. And to come to that opinion that we just
18 discussed or went over, correlating generally the severe
19 weather in '93 to possibly some of the events at Zoltek, do
20 you base that opinion on your 20 years of experience at
21 Ameren and the areas that you said you've worked at --
22 worked in at Ameren as well as your educational experience?

23 A. Yes, I do. And if I just may add one other
24 thing, in 1993, the lightning in this area or in eastern
25 Missouri surpassed the amount of lightning that

1 St. Petersburg and Tampa, Florida received.

2 And that area of the country traditionally,
3 year after year, is the highest incidents of lightning. And
4 in 1993 many areas, St. Louis was one of them, Mid-Missouri
5 surpassed Tampa, Florida in lightning. So it's
6 unprecedented to say the least. And just -- it was a
7 500-year flood and I'm just -- from the fact there was so
8 much of that, yes. Yes.

9 MR. PETERS: I have nothing further your
10 Honor.

11 JUDGE THOMPSON: Thank you, Mr. Peters.

12 You may step down Mr. Angeli. Again, I will
13 ask you to remain in case the Commissioners should have any
14 questions for you.

15 THE WITNESS: Yes, I am.

16 JUDGE THOMPSON: Although it's looking less
17 likely we'll have any Commissioners.

18 I believe we're ready now for Mr. Hackman.

19 MR. VITALE: Your Honor, before Mr. Hackman,
20 can we go off the record for a second

21 JUDGE THOMPSON: No, we can't. But we can
22 discuss this on the record.

23 MR. VITALE: Just trying to understand
24 scheduling and you've asked -- Mr. Carr and Mr. Angeli have
25 to go back to St. Louis at some point. Do you think that --

1 JUDGE THOMPSON: I understand that.

2 MR. VITALE: They're rearranging schedules and
3 they're happy to do that. Do you think that may carry over
4 until tomorrow or do you think you'll be releasing them?

5 JUDGE THOMPSON: I'm trying to get information
6 from the Commissioners as to whether or not they're going to
7 be down here. As of now, I do not have any information.

8 MR. VITALE: Okay.

9 JUDGE THOMPSON: And I apologize, but that's
10 simply the nature of this business. I'm hopeful that we can
11 conclude the hearing today.

12 MR. VITALE: Well, that would be great.

13 JUDGE THOMPSON: Do you think there's a
14 possibility of that?

15 MR. VITALE: I'll shut up.

16 JUDGE THOMPSON: And we've got two hours and
17 10 minutes, two more witnesses. Maybe if I stop doing
18 45 minutes of questioning from the Bench, we can get through
19 a little more quickly. But let's take 10 minutes at this
20 point and then we'll proceed from 3:00 to 5:00 without any
21 further interruption. All right? Of course, we must give
22 our reporter a chance to recover.

23 (A RECESS WAS TAKEN.)

24 JUDGE THOMPSON: Who's our next witness?

25 Mr. Hackman? Let's get Mr. Hackman up here.

1 I'm going to go ahead and release the
2 witnesses who have been waiting.

3 MR. VITALE: Thank you, your Honor.

4 JUDGE THOMPSON: So you all can go on back to
5 St. Louis. It's not that I've heard anything from the
6 Commissioners, but if they want to ask you questions, we'll
7 just deal with that in the future.

8 MR. VITALE: Thank you, your Honor.

9 JUDGE THOMPSON: Thank you very much for your
10 testimony and your courtesy today. Yes, you may go,
11 Mr. Hulse. Mr. Wakeman cannot go. Where is he? You're
12 stuck, buddy, until we're done with you.

13 (Witness sworn.)

14 JUDGE THOMPSON: Please state your name for
15 the reporter, spell your last name, if you would.

16 THE WITNESS: My name is Jeffrey V. Hackman,
17 H-a-c-k-m-a-n.

18 JUDGE THOMPSON: Thank you.

19 You may inquire.

20 MR. PETERS: Thank you, your Honor.

21 JEFFREY V. HACKMAN testified as follows:

22 DIRECT EXAMINATION BY MR. PETERS:

23 Q. Mr. Hackman, my name's Dan Peters. I'm here
24 on behalf of AmerenUE. Who is your current employer,
25 please?

1 A. Union Electric, doing business as AmerenUE.
2 Q. And what is your current position?
3 A. I'm the supervising engineer of the Wentzville
4 district.
5 Q. And how long have you been employed by
6 AmerenUE?
7 A. Twenty-one-plus years full-time.
8 MR. PETERS: Okay. May I approach, your
9 Honor?
10 JUDGE THOMPSON: You may.
11 BY MR. PETERS:
12 Q. Mr. Hackman, I've handed you a document that
13 is marked Exhibit 13 entitled the Rebuttal Testimony of
14 Jeffrey Hackman. Have you seen that document before?
15 A. Yes, sir, I have.
16 Q. Does that contain the written testimony you
17 provided the Commission in this matter?
18 A. Yes, sir, it does.
19 Q. And if you could take a moment to review it,
20 if you'd like, and inform the Commission of whether that is,
21 in fact, your testimony in this matter?
22 A. Yes, sir, it is my testimony.
23 Q. And if you were asked those same questions
24 today, would you answer in substantially the same manner?
25 A. Yes, sir, I would.

1 Q. Any corrections that you feel need to be made
2 to Exhibit 13?

3 A. No, sir.

4 MR. PETERS: Your Honor, I'd like to make an
5 offer of proof at this point.

6 JUDGE THOMPSON: Okay. You may. Let's go
7 ahead and mark this. Is this Mr. Hackman's proposed
8 Supplemental Rebuttal?

9 MR. PETERS: Correct, your Honor.

10 JUDGE THOMPSON: Let's go ahead and mark that
11 as Exhibit 38. And I should note as well that Exhibit 37,
12 the memo of Mr. Hulse, evidently was never offered or
13 received, so do you want to take --

14 MR. MAY: If appropriate at this time, your
15 Honor, I'd move for its admission.

16 JUDGE THOMPSON: Do we have any objections to
17 the receipt of Exhibit 37, the memo of Mr. Hulse?

18 MS. SHEMWELL: No, your Honor.

19 MR. VITALE: No, your Honor.

20 JUDGE THOMPSON: Exhibit 37 is received and
21 made a part of the record of this proceeding.

22 (EXHIBIT NO. 37 WAS RECEIVED INTO EVIDENCE.)

23 (EXHIBIT NO. 38 WAS MARKED FOR
24 IDENTIFICATION.)

25 JUDGE THOMPSON: Please proceed Mr. Peters.

1 BY MR. PETERS:

2 Q. Mr. Hackman, I've handed you what has been
3 marked Exhibit 38 and appears to be Supplemental Rebuttal
4 Testimony of Jeffrey Hackman; is that correct?

5 A. Yes, sir, it is.

6 MR. MAY: Excuse me just one second, your
7 Honor. Just like to restate my objections with respect to
8 his Supplemental Rebuttal Testimony for the record, please.

9 JUDGE THOMPSON: Yes, indeed you may.

10 MR. MAY: Thank you.

11 MR. PETERS: And to clarify, your Honor, at
12 this time I'm making my offer of proof on AmerenUE's motion
13 to file the Supplemental Rebuttal Testimony of Jeffrey
14 Hackman.

15 JUDGE THOMPSON: Right. Your objections were
16 already sustained.

17 MR. MAY: Yes, sir.

18 JUDGE THOMPSON: And that was your objections
19 to the motion for leave to file supplemental. And since
20 they were not permitted to file the Supplemental Rebuttal
21 Testimony, then --

22 MR. MAY: I was just preserving it for the
23 record.

24 JUDGE THOMPSON: I understand. I understand.
25 Are you making an objection to the offer of proof? In other

1 words, do you feel that it is improper in some way to
2 preserve it as an offer of proof?

3 MR. MAY: Your Honor, I simply wanted to in no
4 way waive my previous ruling or the objection I had stated.
5 That's all.

6 JUDGE THOMPSON: I appreciate that, Mr. May,
7 and I understand.

8 Please proceed, Mr. Peters.

9 MR. PETERS: Thank you, your Honor.

10 BY MR. PETERS:

11 Q. Mr. Hackman, Exhibit 38 is a document that you
12 prepared?

13 A. Yes, sir, it is.

14 Q. And does that contain several what I will call
15 hand drawings?

16 A. Yes, sir, it's does.

17 Q. And were those drawings prepared by you?

18 A. Yes, sir.

19 Q. And what do those drawings -- how many of them
20 are there, by chance?

21 A. There are, I believe, a total of seven of the
22 sketches that I prepared.

23 Q. Okay. Those seven sketches that you prepared,
24 what do those seven sketches reflect?

25 A. They reflect my understanding of the

1 electrical supply to the Missouri Research Park from the
2 time period 1992 to 2001, plus or minus.

3 Q. Okay. And do those actually show your opinion
4 of where the electrical lines and other circuitry exist in
5 regards to service to the Research Park?

6 A. Yes, sir, they do. I was concerned through
7 some of the testimony heard in January that there was some
8 misunderstandings about what substations were which and what
9 function they had and what was switches and what were
10 circuits. One of the classic ones, someone was
11 talking -- I think it may have been Mr. May had asked about
12 the flow. I was just trying to get that information down so
13 everyone could speak the same language.

14 Q. Okay. So was it your purpose in submitting
15 the seven sketches to inform the Commission on the layout of
16 the electrical service to Research Park?

17 A. Yes. A simplistic view, yes, sir.

18 MR. PETERS: Okay. That would end my offer of
19 proof, your Honor. At this time I'd offer Exhibit 13 into
20 evidence if it hasn't already been moved.

21 JUDGE THOMPSON: Do I hear any objections to
22 the receipt of Exhibit 13?

23 MS. SHEMWELL: Yes, your Honor. I would raise
24 the same objections I raised this morning

25 MR. PETERS: 13 is his direct.

1 JUDGE THOMPSON: 13 is the original pre-filed
2 rebuttal of Mr. Hackman.

3 MS. SHEMWELL: I have no objection to that,
4 your Honor.

5 JUDGE THOMPSON: Thank you, Ms. Shemwell.

6 MR. MAY: None, your Honor.

7 JUDGE THOMPSON: Hearing no objections to
8 Exhibit 13, the same is received and made a part of the
9 record of this proceeding.

10 (EXHIBIT NO. 13 WAS RECEIVED INTO EVIDENCE.)

11 MR. PETERS: And I tender the witness.

12 JUDGE THOMPSON: Exhibit 38 has been tendered
13 not as evidence, but as an offer of proof. Do I have hear
14 any objections to the offer of proof?

15 Hearing none, the same is received and
16 preserved in the record of this proceeding as an offer of
17 proof and not as substantive evidence.

18 (EXHIBIT NO. 38 WAS RECEIVED AS AN OFFER OF
19 PROOF.)

20 JUDGE THOMPSON: The witness has been
21 tendered.

22 Cross-examination, Ms. Shemwell?

23 MS. SHEMWELL: Thank you, your Honor.

24 CROSS-EXAMINATION MS. SHEMWELL:

25 Q. Mr. Hackman, my name is Lera Shemwell. I

1 represent the Staff of the Commission.

2 I'd appreciate a definition. On page 2 at
3 line 9 you've used the term "harmonic propagation." Could
4 you tell me what that means, please?

5 A. Yes, ma'am. I'm trying to make it reasonable
6 for everyone to understand. During the normal course of
7 operations of some electrical equipment, it can cause the
8 sinusoidal wave that Ameren provides to be distorted.

9 And it -- that distortion can be described
10 as -- I'm trying to make this simple. I'm sorry. Let's
11 just say that it can cause the wave form that is normally
12 provided to be ugly looking. And the -- that wave form can
13 go through an electrical system much differently than the
14 regular power that everybody uses.

15 So a very small value of harmonic power can be
16 seen as a very large event someplace far and removed, more
17 than you would expect that to be seen on the fundamental
18 frequency.

19 Q. Thank you.

20 A. I'm sorry. I wasn't able to do it any better.

21 Q. That's fine.

22 A. You want pictures, I got lots of them.

23 Q. I'll pass. Thank you.

24 On page 3 you say the apparent need for
25 perfect power by Zoltek would be extreme cost. And I think

1 we've kind of covered that with some of the earlier
2 witnesses as well. Would you agree with me though that some
3 customers need a higher quality power than other customers
4 because of operations, medical needs, any variety of --

5 A. Yes, ma'am. I would certainly believe that.

6 Q. And for simplicity, someone who has a need for
7 medical equipment in their home and power to supply it, are
8 there steps that Ameren can take to assist them in getting a
9 higher quality of power? Are there some things you can do
10 to help them?

11 A. Yes, ma'am. Again, the amount -- I don't want
12 to confuse the issue. Let's do it in generalities. In
13 general, Ameren provides service -- electrical service based
14 on the rules and regulations and the tariffs.

15 And so as we deliver that power, if a customer
16 wants something in addition to what we would normally
17 provide all other customers, we may offer those other
18 options, but they would be classified as special service
19 facilities and they would be expected to contribute as a
20 contribution in aid of construction for those facilities.
21 So yes is the answer, but I hope that helps explain.

22 Q. So if I'm a residential customer and for
23 whatever reason I have special needs, let's say medical
24 equipment, you could provide, if I paid for it, some sort of
25 additional equipment, let's say, to get a better quality of

1 service?

2 A. I will -- again, quality is kind of one of
3 those really broad terms. If we're -- I will -- Ameren is
4 very technically qualified. And I believe that we could do
5 anything that you would ask and we could probably charge you
6 for that.

7 Typically what residential customers would be
8 interested in is not having the lights out so often. And if
9 they were going to contract with -- make a provision for
10 better supply, if you will, it would be geared towards
11 having the electric there more often. And that's clearly
12 something that we do routinely for commercial and industrial
13 customers. Residential customers generally don't do it
14 because they have alternatives like -- like back-up
15 generation.

16 MS. SHEMWELL: I think that that's all I have
17 at this time. Thank you.

18 THE WITNESS: Thank you very much.

19 JUDGE THOMPSON: Thank you, Ms. Shemwell.

20 Mr. May?

21 MR. MAY: Thank you.

22 May I proceed?

23 JUDGE THOMPSON: You may.

24 MR. MAY: Thank you.

25 CROSS-EXAMINATION BY MR. MAY:

1 Q. Good afternoon, Mr. Hackman.
2 A. Good afternoon.
3 Q. Good to see you again.
4 A. Thank you. Same to you.
5 Q. With respect to your Rebuttal Testimony,
6 Exhibit No. 13, I believe you have that before you.
7 Correct?
8 A. I do.
9 Q. How was that produced; in other words, did you
10 come up with the questions and answers or --
11 A. Yes, sir. I came up with -- let me back up.
12 We got into this confidential thing. The attorney told me I
13 had to state my name and occupation. And other than that, I
14 prepared every one of these questions and every one of the
15 answers and -- and typed them, but actually did the original
16 thought process also. I just want to make this -- we had
17 this in the deposition and I want to make sure we're
18 together on this.
19 Q. I was not trying to invade your
20 attorney/client privilege.
21 A. I'm just trying to make sure you understand.
22 That's my job here.
23 Q. I understand. With respect to your testimony,
24 if we can go into it now on page 3 of your Rebuttal
25 Testimony --

1 A. Yes, sir.

2 Q. -- I wanted to ask you about lines 1 and 2,
3 specifically your statement that the apparent need for
4 perfect power by Zoltek, and it goes on to talk about the
5 cost. Okay? You see that there?

6 A. Yes, sir.

7 Q. As you use that term "perfect power" there on
8 page 3, how would you define perfect power?

9 A. A power -- the way I'm defining it here is to
10 be a power that is absent of sags, interruptions or any
11 other electrical perturbations.

12 Q. None, you're saying. Correct?

13 A. That is correct, sir.

14 Q. Never? What I meant, never in time?

15 A. That -- that is correct.

16 Q. So let me ask you then. On what basis do you
17 assert that apparently Zoltek has such a need for perfect
18 power, as you describe it?

19 A. I am -- I was going on the basis of the
20 testimony, which I had in my hand at the time this was
21 prepared from the Zoltek witnesses that described these
22 277 -- I believe they termed them service quality incidents.

23 Q. Correct.

24 A. And that -- that each of those things -- at
25 least in my reading of their testimony, was that any one of

1 those things could cause terrible things to happen at the
2 Zoltek plant.

3 Of the events that we could match to an event,
4 some of those were sags. Okay? And I don't know a power
5 system that is absent of sags. So I would say that anybody
6 who says they can't live with sags needs perfect power.

7 Q. You have never seen any correspondence from
8 anyone at Zoltek where they were demanding perfect power as
9 you have defined it today?

10 A. Other than the testimony, sir? I mean, are
11 you saying did I ever see the word "perfect" or what are you
12 asking me, sir?

13 Q. Using your definition as you described today
14 of what perfect power constitutes, has anyone from Zoltek in
15 a letter or in some correspondence during the course of the
16 relationship -- did you ever see that demand be made?

17 A. I have only seen it inferred in their
18 testimony, sir.

19 Q. Meaning that you've inferred it from their
20 testimony?

21 A. Yes, sir.

22 Q. Okay. So the next question, no one's ever
23 communicated that to you from Zoltek, that they needed
24 perfect power as you've described it?

25 A. Other than Mr. Hulse's testimony just heard

1 here earlier today when he said that Mr. Rummy had told him
2 in that meeting that he wanted no interruptions of any kind
3 at any time ever, that -- that I heard today so I do know
4 that now.

5 Q. I'm asking you though. Has anyone --

6 A. I mean, I heard that today in testimony, sir.
7 I don't know what you're asking me.

8 Q. I'm asking you. Has anyone ever from Zoltek
9 communicated to you directly this need for perfect power as
10 you've described it?

11 A. No, sir. Not from Zoltek. I didn't hear you
12 say that first. I apologize.

13 Q. Yes, sir. Now, with respect to -- on page 3,
14 let's go to line 12. And this is the section where you're
15 talking about the service quality incidents log, is that
16 correct, starting on line 7 there on page 3?

17 A. Okay. Yes. Okay.

18 Q. Okay. Now, let's skip ahead to 12.

19 A. Okay.

20 Q. You say that this recording by the Zoltek
21 employees, you acknowledge that that's an excellent tool in
22 the investigation of electrical issues on line 12?

23 A. Yes, sir. It's an excellent starting point
24 for those investigations.

25 Q. Okay. Now, you go on to say on lines 13 and

1 14 obviously it is desirable that the employee recording
2 this have some knowledge of evidence of an electrical event.

3 You see that sentence there?

4 A. Yes, sir, I do.

5 Q. What would the knowledge -- strike that.

6 What knowledge would an individual have to
7 have, in your estimation, to record an electrical event?

8 A. They would have to know that whatever
9 equipment disturbance that they're seeing or hearing or
10 whatever was somehow related to the electrical supply. For
11 instance, a motor groaning could be a result of electrical
12 stuff, but it also could be an overload.

13 When we were in deposition, the person in the
14 next conference room turned off the lights in our room.
15 Someone might have perceived that to be a power quality
16 room, when, in fact, someone in the adjoining conference
17 room turned the lights off. It's important to be able to
18 distinguish what are electrical supply issues from issues
19 that are outside of the electrical supply, sir.

20 Q. But in order to record that, in your example
21 you just had given that the lights had flicked, you would
22 need no knowledge beyond the ability to see, for instance,
23 that the lights had flicked. Correct?

24 A. If all you're trying to record is times
25 something happens, you could sure do that. If you're trying

1 to say that those events are related to electrical supply or
2 to service quality incidents, I would think it very
3 advisable that the person know something and assume that
4 they were part of it. Because, otherwise, you would have
5 extraneous data included in your report which might lead you
6 on a wild goose chase as you try to solve the problem.

7 Q. Again, I just want to ask you that. With
8 respect to actually witnessing an event and recording it,
9 the only knowledge or ability one would have to have would
10 be, for instance, sight to be able to see that something's
11 occurred. Correct?

12 A. Again, I would like to repeat myself because I
13 believe you're asking the same question. If you're going to
14 report it on a service quality incident log which purports
15 to have something to do with electricity, the person should
16 know something about electricity.

17 If you're trying to just make a documentation
18 on the plant of any time something happens, I would agree
19 with you, sir, that just so long as you wanted to write down
20 something happened and call it a something happened log in
21 the plant, then I would say that what you said is true.

22 Q. Now, you also go on to say on lines 14 --
23 beginning with line 14 continuing on to 15 and ending on 16
24 that you didn't see the names of the employees and their
25 backgrounds listed so you cannot ascertain the quality of

1 the record. Do you see that?

2 A. Yes, sir.

3 Q. So, again, you looked at the service quality
4 incident chart where these events had been recorded, the
5 time, the duration, the nature of what had occurred.
6 Correct?

7 A. Yes. What I believed to be real durations,
8 but I learned in testimony were, you know, stopwatch
9 variety.

10 Q. Okay. With respect to that chart, however --

11 A. Yes.

12 Q. -- what would you need to know about that
13 person's background to determine whether that record was one
14 of sufficient quality in order to record the time, what they
15 had seen and the duration?

16 A. I would relate back to the things we had of
17 the previous question, sir. I think the person should know
18 the different -- if their evidence is a motor groan, that
19 they know what causes motor groans to determine whether or
20 not the motor groaning is a function of electrical supply or
21 an overload condition. They should have some knowledge
22 of -- of the electrical stuff, if will you.

23 Q. So you believe it's incumbent upon a customer
24 of Union Electric to have a sufficient electrical background
25 or knowledge in order for them to know whether they have

1 sustained an electrical event?

2 A. I don't believe I said that, sir.

3 Q. I'm asking you that question.

4 A. No. I don't think that's necessary.

5 Q. So --

6 A. But I think -- all I'm saying, I don't think
7 it's necessary to determine the process, but I think if
8 you're going to say you have 270 service quality incidents
9 and you're saying that those are things Ameren is doing, you
10 probably ought to.

11 Q. Let's talk about the chart. You've seen a
12 copy of the log of the service quality incidents. Correct?

13 A. Yes, sir. I have seen a copy.

14 Q. And I'm asking you in light of what you've
15 seen on there, which is the duration, the date, the
16 equipment, possibly affected, you're saying -- strike that.

17 Should that person that recorded that have had
18 some electrical background?

19 A. The person should know whether or not -- if
20 they're going to include it on a log that purports to say
21 these are things caused by electrical system, they may not
22 need an electrical background, but they have to understand
23 whether it was electrically caused or something
24 operationally caused. I mean, otherwise, like I said,
25 you're going to put extraneous data in the investigation.

1 Q. Did you see on that particular log at any
2 place that they had listed the cause?
3 A. I don't remember, sir.
4 Q. On page 3, lines 20 through 22, you talk
5 about -- and I'm going to paraphrase here -- Zoltek's lack
6 of cooperation made such efforts nearly impossible. Do you
7 see that?
8 A. Yes, sir.
9 Q. Now, you weren't involved with Zoltek during
10 this time, were you?
11 A. What time, sir?
12 Q. Between 1993 and 2000.
13 A. I've been at the Wentzville district since
14 mid-1996, sir.
15 Q. Okay. Were you involved with Zoltek during
16 that time?
17 A. Well, let's define "involved," please, sir,
18 and then I'll be able to answer.
19 Q. Well, did you have any contact with anyone at
20 Zoltek?
21 A. Plant manager, and I don't remember who it
22 would have been, would have called me on occasion.
23 Q. Okay. Have you visited the Zoltek plant?
24 A. I have seen the facility from the outside,
25 sir.

1 Q. You've never been inside the plant?
2 A. I have not been inside.
3 Q. Okay. Well, on what basis do you make the
4 assertion that Zoltek was uncooperative?
5 A. From my discussions with Mr. Wakeman.
6 Q. But you have no personal knowledge of them
7 being uncooperative?
8 A. That is correct. They've never said no to me.
9 Q. Okay. I'm going to skip ahead to page. 6 I'm
10 going to jump around on you a little bit. Okay?
11 A. That's fine.
12 Q. On page 6, you again talk about the service
13 quality incidents and you talk about a correlation to
14 AmerenUE's OAS records; is that correct?
15 A. Yes, sir.
16 Q. Okay. Now, have you looked at the monitoring
17 results for 1993?
18 A. No, sir.
19 Q. 1994?
20 A. No.
21 Q. 2000?
22 A. No.
23 Q. On page 7 -- now, you say on line 7 of
24 page 7 -- are you at that page?
25 A. Yes, sir.

1 Q. My belief is that Zoltek has service needs
2 that are unique from our other customers?

3 A. Yes, sir.

4 Q. And then on what basis do you make that
5 assertion?

6 A. I think the following line. It appears that
7 where other customers can ride out sags without any tangible
8 effects on their manufacturing process, Zoltek's plant shuts
9 down.

10 Q. Okay. So are you familiar with or do you have
11 any knowledge about incidents where there have been sags
12 that Zoltek has been able to ride out?

13 A. Other than the testimony, no, sir.

14 Q. Okay. Okay. Let's go on to line 9 through
15 11, those lines on page 7.

16 A. Okay.

17 Q. And we're continuing with this line of
18 questioning about your belief that their service needs are
19 unique. You say, This belief was affirmed by the monitoring
20 conducted in 2000 which showed that Zoltek's manufacturing
21 equipment was overly sensitive.

22 You see that?

23 A. Yes.

24 Q. I believe your earlier testimony was you have
25 not seen those results; is that correct?

1 A. I have not seen those results. This refers to
2 conversations that I've had with the people involved. And
3 Mr. Wakeman will be able to speak to that better.

4 Q. You also talk on lines 12 through -- let's say
5 lines 12 and 13 on page 7 you said, What also makes Zoltek
6 unique is that they did not install equipment to help them
7 mitigate these events; is that correct?

8 A. Yes, sir.

9 Q. Now, are you familiar with some of the UPS
10 equipment that Zoltek has installed?

11 A. I'm familiar that they have some UPS
12 equipment, yes, sir.

13 Q. Do you believe that those aren't designed to
14 help mitigate these events?

15 A. I believe they may be designed to, but
16 apparently they're not.

17 Q. Nonetheless, though, they did install some
18 equipment; is that right?

19 A. Well, they may have -- they have may not --
20 they may have installed, but it is not installed which helps
21 them mitigate. That's the point, sir. Whether they applied
22 a Band-aid or not, if they applied it in the wrong spot, it
23 didn't stop the bleeding.

24 Q. Is there some equipment that they should have
25 installed?

1 A. Without a power quality investigation, sir, I
2 wouldn't want to guess.

3 Q. Okay. Okay. Let's go to the bottom of
4 page 7, line 17 beginning there -- the question is whether
5 Ameren had made any changes to electrical system that feeds
6 Zoltek and the rest of the park. You see that question?

7 A. Yes, sir.

8 Q. Okay. And then let's start with in '93 you
9 talk about the transformer at Weldon Springs was changed
10 from 14 MVA of capacity to 22 MVA of capacity, lines 19 and
11 20. You see that?

12 A. Yes, sir.

13 Q. Was that done in response to Zoltek's problems
14 or concerns?

15 A. As we mentioned in the deposition, sir, if you
16 mean was it a -- was it a function of perhaps Zoltek talking
17 to the district staff at the time about increasing the load
18 additions or additional machines or some of the things,
19 carbonizers, those kinds of things that they've got, it may
20 have been. I don't know.

21 Was it directly related to the quote, unquote
22 service quality incidents? No. It was for capacity and
23 overall reliability of the area.

24 Q. And I would ask you again with respect to the
25 next sentence, 1994 to '95 you talk about some changes, the

1 reclosers?

2 A. Yes, sir.

3 Q. I would ask you the same question about that.
4 Was that done directly to assist Zoltek with its service
5 situation?

6 A. My answer will be the same, sir. It may have
7 been for the overall reliability of the area of which Zoltek
8 was a part of for capacity additions which Zoltek may or may
9 not have needed, but it was not done solely for the purpose
10 of service quality incidents.

11 Q. Not to put words in your mouth, but with
12 respect to '96 and '97 and the '98 changes you reference
13 here on pages 7 and 8, it would be your same answer?

14 A. Yes, sir. It sure would.

15 Q. With respect to 2000 as well?

16 A. Yes, sir. All of those, so we can save each
17 other some speaking.

18 Q. Yes, sir. Thank you, sir.

19 A. Thank you very much.

20 MR. MAY: I don't think I have anything else
21 at this time, your Honor.

22 JUDGE THOMPSON: Thank you, Mr. May.

23 QUESTIONS BY JUDGE THOMPSON:

24 Q. Now, Mr. Hackman, you are the engineer in the
25 district?

1 A. Yes, sir. I am the supervising engineer of
2 the Wentzville district.

3 Q. Are there other engineers that you supervise?

4 A. Yes. There are three engineers that work for
5 me.

6 Q. And are you personally familiar with the
7 facilities that deliver power to the Zoltek plant?

8 A. Yes, sir, I am.

9 Q. And you've inspected them yourself?

10 A. Yes, sir, I have.

11 Q. And are you satisfied in your professional
12 opinion that the Union Electric facilities are adequate for
13 the amount of power that Zoltek uses?

14 A. Yes, sir, I am.

15 Q. Now, have you had an opportunity to inspect
16 the facilities on the Zoltek side?

17 A. I have not, sir.

18 Q. So you have no knowledge as to whether or not
19 they are adequate?

20 A. No, sir.

21 Q. And your testimony suggests that there's been
22 a lack of cooperation by Zoltek; is that correct?

23 A. Yes, sir. What -- if I may expound, sir.

24 Q. Please.

25 A. I believe that the Zoltek are good people. I

1 believe that Ameren has good people. I think that the
2 biggest issue is that we haven't been able to do what we
3 really need to do to find out what's going on at the plant.

4 Q. So there is some sort of investigation or some
5 degree of investigation that you would recommend or that you
6 would want to see done in order to diagnose the cause of
7 these problems?

8 A. Yes, sir. I've been involved in many of these
9 kind of things since I was first in the district in 1988, I
10 believe. I've had many, many, many occasions like this.

11 And -- and the -- the way to do these studies
12 is to go all the way from start to finish and then find out
13 what comes out of them. To just -- to just monitor is not
14 good enough. You have to really find out what the choices
15 are. The things that our power quality people can do are
16 really important in solving these kinds of difficult issues.

17 Q. Okay. I think your testimony suggests that
18 it's your professional opinion that the Zoltek equipment may
19 be unusually sensitive; is that correct?

20 A. Yes, sir. Based on their testimony, which
21 indicates that many of these system sag generated events
22 cause them problems, yes, sir, I believe that.

23 Q. But in the absence of a more thorough
24 investigation, it's true you cannot be sure; isn't that
25 correct?

1 A. That is absolutely correct, sir. That is just
2 my considered belief at this point.

3 JUDGE THOMPSON: Okay. I have no further
4 questions. Thank you, Mr. Hackman.

5 THE WITNESS: Thank you, sir.

6 JUDGE THOMPSON: Time for recross based on
7 questions from the bench.

8 Ms. Shemwell?

9 MS. SHEMWELL: No questions. Thank you, your
10 Honor.

11 JUDGE THOMPSON: Mr. May?

12 MR. MAY: No questions, your Honor.

13 JUDGE THOMPSON: Redirect?

14 REDIRECT EXAMINATION BY MR. PETERS:

15 Q. Mr. Hackman, Dan Peters again. I'd like to
16 ask you a few questions.

17 You were asked some questions about your
18 Direct Testimony and it was in regards to the possibility
19 that Zoltek's equipment is unusually sensitive and that
20 other customers can ride out sags. Correct?

21 A. Yes, sir.

22 Q. Okay. I'd like to talk a little bit about the
23 system out there and maybe you can provide some information
24 to back this up, maybe it would be quicker, but it's my
25 understanding that there's a looped system or some type of

1 system within the Research Park and that there are different
2 customers, different tenants within the park that are
3 receiving the same electric as Zoltek; is that correct?

4 A. Yes. That's correct. The main supply or the
5 main circuits that come out of the Weldon Springs substation
6 that feed into the Research Park, there is no one circuit
7 that serves just Zoltek. Other customers are served with
8 the line that serves Zoltek.

9 Q. Where does the electric come from? There was
10 some testimony earlier about a substation, how close it is
11 to the park. Where does the electric come from as it goes
12 then into the park?

13 A. Yeah. The distribution substation, which
14 would take power from a sub-transmission level, which would
15 be like across a county line that steps it down to a voltage
16 that we can use to serve customers is the Weldon Springs
17 substation. And it's approximately a half a mile
18 circuit-wise from the Missouri Research Park.

19 Q. Okay. And what type of system then is within
20 the park as it comes from the substation to the park?

21 A. Within the park, there is -- there are
22 underground cables that go through the park in a looped
23 system to provide service to the customers such that if one
24 of the cables were to fail, the other -- excuse me -- the
25 other cut cable could pick up that load.

1 Q. Okay. Is it correct that if Zoltek
2 experienced a sag, that one or more customers -- other
3 customers within the park would experience a sag?

4 A. Yes, sir, absolutely.

5 Q. And why is that true?

6 A. Because they're all electrically connected.
7 In my testimony, I talk about the event -- and this is a
8 very real thing. Mr. Park in his testimony kind of made
9 light of it, but it's very true, and Mr. Angeli also
10 addressed it, that events anywhere on the transmission
11 system are seen by everybody. Depending on the extent of
12 the event, it depends on whether anyone sees them or not.
13 But if we have transmission lines that go down
14 in ice storms from Minnesota to Missouri, I guarantee you
15 everybody's going to see something, so that is the case.
16 Anything that's going to occur, everybody's going to see
17 something. Now, the extent they see it --

18 Q. But I'm speaking more particularly about the
19 people within the park.

20 A. Yes. Definitely. The closer that you are to
21 the same facility, the more you're going to see the same
22 impact. Thank you for clarifying -- keep me on track here.
23 The people that are next to Zoltek electrically are going to
24 see exactly the same extent. It's not mitigated by
25 impedance or anything like that.

1 Q. Well, just again for my layperson
2 understanding, I think you've kind of made some drawings for
3 me and Mr. May before, but isn't it that the substation --
4 could you take, like, a straight line from the substation to
5 the park and then draw a circle within the park? Would that
6 be a very layperson description of the underlying wires
7 within the park?

8 A. Right now, sir, there's two of those wires
9 that go into the cables and loop around. And up until we --
10 sorry, technical failure here. And up until we added the
11 second circuit, that was the case. We had one line with a
12 loop of cables around.

13 Q. One line -- I'm sorry?

14 A. I'm sorry. I apologize. The microphone
15 messed you up.

16 What we had up until the second circuit was
17 added because the capacity --

18 Q. Let's take them one step at a time.

19 A. Can I check my testimony so I don't mess this
20 up, Dan?

21 JUDGE THOMPSON: Let's everybody relax. We're
22 not in that big of a rush.

23 THE WITNESS: In 2000, sir, before the summer
24 peak of 2000, we added a second 12-kV distribution circuit
25 into the Missouri Research Park. I was sure that was right.

1 I just wanted to make sure.

2 BY MR. PETERS:

3 Q. Okay. So that's the straight line that we're
4 talking about --

5 A. Yes.

6 Q. -- from the substation?

7 A. Up until 2000 there was one straight line that
8 came from the Research Park. It went into two cables, it
9 went around inside the Research Park and served all the
10 customers in there.

11 So anything that happens on that line or that
12 substation or the sub-transmission circuit or the
13 transmission all the way back to the generating plants,
14 everyone that's in the park seen the same thing.

15 Q. Is that the loop that's inside the park, that
16 circle?

17 A. Yes. That circle thing of cables is the loop,
18 yes.

19 Q. Okay. And do you know when that was
20 installed?

21 A. Based on the evidence in the files, I believe
22 it was put in before Zoltek was in the -- in the park.

23 Q. Okay. So the loop system was put inside the
24 park before Zoltek was put in, to your understanding?

25 A. Yes, sir, that is correct.

1 Q. Okay. Now, and I think you just testified
2 that then because of that loop, that the customers within
3 the park are on that same loop system, they would be
4 experiencing the same electrical events that each other
5 experiences?

6 A. Yes, sir, that is correct.

7 Q. Okay. Now, you were asked questions on cross
8 about whether you have knowledge of other customers riding
9 through sags or whether you know of Zoltek riding through
10 sags. And you said you may have seen some evidence of that?

11 A. Of Zoltek, sir. In their previous -- in the
12 January testimony, and I don't remember which witness, I
13 believe there was some talk about a particular sag that
14 the -- that there was no apparent record that there was --
15 was an event.

16 I don't -- obviously, you know, I was just
17 listening so I really can't tell you. I didn't see all the
18 documentation. So we really don't know whether there was
19 any equipment running at the time, but there was at least
20 one time there was a quote, unquote service quality event
21 when there was not a plant -- perceived plant problem. So I
22 can't speak to that. I believe I -- I hope I said that the
23 same way.

24 Q. Okay. Now, I think it's been a little unclear
25 to me -- and I'm not suggesting that Zoltek is representing

1 this, but if -- you said you are familiar with the 277
2 service quality incidents. Correct?

3 A. Yes, sir.

4 Q. If, hypothetically, Zoltek was representing
5 that those 277 things were sags, would it then be true that
6 the other customers within the park on the same loop would
7 have experienced those same sags?

8 MR. MAY: Your Honor, I would object to the
9 form of the question, calls for speculation, also a lack of
10 foundation of the very nature of the question.

11 JUDGE THOMPSON: Objection's overruled. You
12 may answer, if you can.

13 THE WITNESS: Yes. The -- not only just sags,
14 sir. On the events --

15 BY MR. PETERS:

16 Q. Now --

17 A. -- on the 277 service quality incidents --

18 JUDGE THOMPSON: Mr. Peters, please allow him
19 to complete his answer. Thank you.

20 THE WITNESS: Maybe I didn't hear the
21 question, if he thinks I'm going wrong. Could I hear the
22 question repeated?

23 JUDGE THOMPSON: I realize that you and
24 Mr. Peters are on the same side, but we must nonetheless
25 preserve the appearance of you answering the questions that

1 he asks.

2 THE WITNESS: And I'd be glad to do that, sir,
3 but I really don't --

4 JUDGE THOMPSON: Ms. Reporter, would you
5 please read back the last question we had for Mr. Peters?

6 THE COURT REPORTER: Question: If,
7 hypothetically, Zoltek was representing that those 277
8 things were sags, would it then be true that the other
9 customers within the park on the same loop would have
10 experienced those same sags?"

11 JUDGE THOMPSON: May we have an answer,
12 please, to that question?

13 THE WITNESS: Yes, sir. I'm sorry. And the
14 answer is yes.

15 JUDGE THOMPSON: Thank you.

16 Please proceed, Mr. Peters.

17 MR. PETERS: Thank you, your Honor.

18 BY MR. PETERS:

19 Q. I'm sorry, Mr. Hackman, I've lost my place.
20 Did you find in your Direct Testimony where you were asked
21 those questions about Zoltek's ability to ride through sags?
22 I wrote it down line 7 through 9, but I didn't write the
23 page.

24 A. I think it's -- page 7, I believe was where
25 Mr. May had asked me -- or we talked about consequently if a

1 sag occurs, all customers should be seeing them.

2 Q. Okay. Correct. Thank you.

3 A. I believe it's line 5.

4 Q. Right. And page 7 of your Direct Testimony,
5 line 5 says, Consequently, if a sag occurs, all customers in
6 Missouri Research Park should be seeing them. Interesting
7 that Zoltek is the only one seemingly affected by these
8 things.

9 I guess maybe you were very clear in your
10 testimony there, but is it correct then to say that if
11 Zoltek is representing that those 277 incidents were sags,
12 that the other customers within the park would have
13 experienced those same sags. Correct?

14 A. Yes.

15 Q. And however far your knowledge takes you back,
16 are you aware of any other customers within Missouri
17 Research Park complaining about sags or service quality
18 incidents?

19 A. No, sir.

20 Q. And how many customers approximately are there
21 currently at Missouri Research Park?

22 A. Strictly as a guess, because they move in and
23 out of tenant spaces, I would guess on the order of 20, sir.

24 Q. Okay. Do you know how many there may have
25 been back in '93?

1 A. I would guess that to be on the order of eight
2 probably.

3 Q. So that the number has increased from '93 to
4 the present. Correct?

5 A. That is correct, sir.

6 Q. Okay. Now, given that I -- given the
7 acknowledgment that I don't know that Zoltek is saying that
8 those two 277 incidents are sags or what they necessarily
9 mean by service quality incidents, but I'm taking from the
10 testimony that someone observed something at Zoltek and they
11 then at some point voiced their complaints to AmerenUE about
12 the power. Is that your understanding?

13 A. Yes, sir. I don't believe that we ever saw
14 the 277 log prior to -- to some other action, but they would
15 have called us on those issues.

16 Q. Okay. Generally speaking, not limited to just
17 other customers complaining about sags or service quality
18 incidents, but has there been anyone else at the Missouri
19 Research Park that has had complaints anywhere near Zoltek's
20 complaints, in your understanding?

21 A. To my knowledge, sir, no. We've had customers
22 within the Research Park call and ask about -- if an
23 extended interruption occurs, they might say what happened
24 and we would relay that information, but no one has said we
25 have too many of them, to my knowledge.

1 Q. Okay. I think you made a distinction earlier
2 or were trying to testify that you haven't been able --
3 AmerenUE has not been able to do the full type of
4 investigation that it would take to determine the problems
5 out at Zoltek. Correct?

6 A. That's correct.

7 Q. But you are aware that there had been some
8 monitoring. Correct?

9 A. Yes, sir.

10 Q. Could you explain any difference in your mind
11 between the monitoring that was done and the investigation
12 that you're saying wasn't done?

13 A. Yeah. I would be glad to. And I believe
14 Mr. Bradley also alluded to this fact in his previous
15 testimony. There's a difference between just monitoring
16 and -- and capturing data and -- and going out and doing a
17 full investigation to look at that data in correlation with
18 what equipment is running in the plant, as well as what are
19 the electrical parameters of operation for that equipment so
20 that you can decide what needs to be done in these kinds
21 of -- in this kind of a study. I call that more of an
22 investigation than just monitoring.

23 Monitoring is -- is kind of like the
24 contemporaneous log of Zoltek. Those are good starting
25 points and those are the foundation on which we build, but

1 they're just steps in the process. They're not what really
2 has to be done.

3 Q. Okay. And, again, you were questioned about
4 your opinion that perhaps Zoltek's equipment is too
5 sensitive and then his honor asked you some follow-up
6 questions in that regard. And I believe you stated that you
7 can't definitively come to that conclusion without doing the
8 investigation and that's the investigation you just outlined
9 for us. Correct?

10 A. Yes, sir. That is correct.

11 Q. Okay. And does your opinion that Zoltek's
12 equipment may be too sensitive, is that based at all on what
13 you were telling us about -- that other customers within the
14 park would have experienced the same sags if, in fact, they
15 occurred?

16 A. Yes, sir. That it part of the foundation,
17 yes, sir.

18 MR. PETERS: Okay. Just one moment, your
19 Honor.

20 JUDGE THOMPSON: Certainly.

21 BY MR. PETERS:

22 Q. Just one final question, maybe a couple
23 questions. You heard the testimony earlier of Mr. Hulse and
24 a letter, I believe it was marked Exhibit 36. Did you hear
25 the testimony earlier where Mr. Hulse was questioned about

1 some changes to the system that he had represented in a
2 letter of August 10th, '93 that were going to be taking
3 place at the park?

4 A. Yes, sir.

5 Q. Let me hand you Exhibit 36. Have you seen
6 Exhibit 36 before?

7 A. Yes, sir, I have.

8 Q. Can you give an opinion as to whether anyone
9 could say that those items listed in Exhibit 36, if those
10 changes or improvements were actually made, if they would
11 address Zoltek's complaints as set forth in the list of 277
12 service quality incidents?

13 A. I'm going to answer the question I believe you
14 asked me. None of these three -- well, there's only two
15 things, one of them is excessive thunderstorms. But the two
16 things listed would not have addressed service quality
17 incident problems. Is that the question you asked, sir?

18 Q. Yeah. The two.

19 A. The two, yes, sir.

20 Q. Yeah.

21 A. Okay.

22 Q. They would not have addressed --

23 A. Would not have addressed service quality
24 incident problems. They would have been for capacity and
25 reliable reasons.

1 Q. And you're aware of a lot of improvements --
2 is that the correct word? Mr. May asked you about several
3 things that you've put forth in your testimony that were
4 done out at the Wentzville facility since '93, and you've
5 said that they were for overall capacity and reliability.
6 You're familiar with those items that have been changed or
7 improved. Correct?

8 A. Yes, sir, I am.

9 Q. If Zoltek is still complaining about those
10 things today, then would it be your opinion that those items
11 did not address Zoltek's concerns as far as service quality
12 incidents?

13 A. Yes. I would have to make that opinion. The
14 whole answer is that we may have helped them in some regard
15 because all those things tend to stiffen the system, which
16 makes it less saggy. I mean, that's just the way -- it's
17 part of the reliability process, the capacity process. So
18 the answer is they may have helped them a little bit.

19 Q. Okay.

20 A. But if they're still complaining in bulk, I
21 would say it did not address the issues.

22 Q. So we have a couple items listed on
23 Mr. Hulse's letter, Exhibit 36, and we have the items listed
24 in your Direct Testimony improvements that were made, and
25 then you've also testified about not being able to complete

1 an investigation that may have revealed some other things
2 that could have been done. Correct?

3 A. Yes, sir.

4 Q. Now, my question is, has anyone from Zoltek
5 ever told you or anyone at AmerenUE, as far as you know, of
6 something that AmerenUE should have done which would then
7 remedy their problems?

8 A. No, sir. I'm not aware of any such requests.

9 MR. PETERS: Okay. Nothing further, your
10 Honor.

11 JUDGE THOMPSON: Thank you.

12 FURTHER QUESTIONS BY JUDGE THOMPSON:

13 Q. You know, I have one more question for you and
14 this will probably start off a whole other round. The
15 question is this. The original service line that served the
16 Research Park before an additional line was added, do you
17 know if that line continued on beyond the Research Park to
18 serve other customers?

19 A. As it does today, yes, sir.

20 Q. Yes, it does. Do you know how long it is in
21 all?

22 A. At what time period, sir?

23 Q. Well, how long is it today?

24 A. There is approximately a one-mile single
25 phased tap on the line. And then -- and then what needs to

1 be remembered is that that circuit -- that one of the
2 circuits originally -- that same circuit originally
3 continues from its beginning -- it serves a subdivision -- a
4 housing development within the Research Park which is
5 overhead. So I don't know how you consider that -- whether
6 that's part of that tap or -- I mean, it's -- that's why I
7 wish you had my drawings, my sketches, because I think it
8 would help a little bit, but --

9 Q. All I'm trying to understand, from some
10 previous testimony it was indicated that a line was more
11 exposed depending on how long it was. So what I'm trying to
12 understand is how long this line is. And if you can't
13 answer the question, that's fine.

14 A. Today there's the -- the cables in the park on
15 each of the lines -- you want the -- there's -- I'm not
16 trying to be evasive.

17 Q. I understand.

18 A. I'm just trying to understand your question.
19 I apologize for my stupidity.

20 Q. I think it's probably my stupidity.

21 A. No. I'm sure it's not. I'm just not able to
22 explain it very well.

23 Let's talk about just the line that feeds
24 Zoltek.

25 Q. Let's talk about that.

1 A. Today in this very minute.

2 Q. Okay.

3 A. The line has approximately a one-mile single
4 phase tap, which has a fuse on it so that theoretically
5 anything that happens downstream would not cause an
6 interruption to Zoltek and that's the only exposure.
7 Prior -- if I may, sir.

8 Q. Yes, you may.

9 A. I think it may help clarify. Prior to that
10 second line being added, when there was only one line, there
11 was -- that same one-mile section existed. And -- and
12 within the park there was -- there is a subdivision that was
13 from the days when the Research Park was part of the Army's
14 ammunition area.

15 And that subdivision still exists and that's
16 overhead exposure also, but that is also behind a fuse.
17 When -- up until the reclosers, which is the 1994, 1995 item
18 in my testimony, the reclosers were replaced with circuit
19 breakers. Up until that time, so from '92, '3, '4,
20 somewhere in that range, there was a fairly long line
21 extension that went to a town called Defiance approximately,
22 I would say, between 10 and 15 miles long, but it also had a
23 fuse from where it -- from where it was common with the
24 Zoltek supply to where it left.

25 So, in other words, if a pole went down, a car

1 hit a pole on this windy road and took it down, that fuse
2 should blow, but everyone would see that slight dip while
3 the fuse -- before the fuse had a chance to operate. So I
4 hope that's the whole answer, sir.

5 Q. That was extremely helpful. Thank you.

6 JUDGE THOMPSON: Do we have any recross based
7 on that additional question, Ms. Shemwell?

8 MS. SHEMWELL: No, your Honor. Thank you.

9 JUDGE THOMPSON: Mr. May?

10 MR. MAY: No, thank you.

11 JUDGE THOMPSON: Any redirect based on that
12 additional question?

13 MR. PETERS: No, your Honor.

14 JUDGE THOMPSON: Thank you. You are excused
15 sir. You may step down.

16 We have a witness, Mr. Wakeman. You've had to
17 wait all day, Mr. Wakeman. I apologize.

18 (Witness sworn.)

19 JUDGE THOMPSON: Please take your seat, state
20 your name for the reporter and spell your name, if you
21 would.

22 THE WITNESS: David N. Wakeman, W-a-k-e-m-a-n.

23 JUDGE THOMPSON: You may proceed.

24 MR. PETERS: Thank you, your Honor.

25 DAVID N. WAKEMAN testified as follows:

1 DIRECT EXAMINATION BY MR. PETERS:

2 Q. Good afternoon, Mr. Wakeman. My name's Dan
3 Peters, and I'm representing AmerenUE this afternoon. I'd
4 like to ask you a couple questions.

5 Q. Could you please state your current employer?

6 A. I'm employed by AmerenUE.

7 Q. And how long have you been employed by
8 AmerenUE?

9 A. For approximately 20 years.

10 Q. And what is your current position with
11 AmerenUE?

12 A. I am a supervising engineer in reliability
13 support services group.

14 Q. And clarifying with Mr. Angeli, is that the
15 staff area as opposed to a district area?

16 A. Yes. It's in the operating department
17 actually.

18 Q. Downtown?

19 A. Yes. That's correct.

20 Q. Could you summarize your prior positions over
21 the past 20 years prior to your current position?

22 A. Okay. In the engineering area, which I assume
23 you're most interested in, I've been involved in the SCADA
24 engineer, which is the supervisor in control and data
25 acquisition system for substations. And I've been involved

1 in the area of power quality, radio and television
2 interference, voltage complaint, customer switchgear,
3 customer generation.

4 Q. Thank you.

5 MR. PETERS: May I approach, your Honor?

6 JUDGE THOMPSON: You may.

7 BY MR. PETERS:

8 Q. Mr. Wakeman, I've handed you Exhibit 14, which
9 is your Rebuttal Testimony. Is that your testimony which
10 has been filed in this proceeding?

11 A. Yes, it is.

12 Q. And does Exhibit 14 represent testimony that
13 you've prepared yourself to be provided to the Commission in
14 this proceeding?

15 A. Yes, it does.

16 Q. And is the testimony accurate, to the best of
17 your knowledge and ability?

18 A. Yes, it is.

19 Q. And if you were asked these same questions,
20 would you give any different answers today?

21 A. No, I would not.

22 Q. Do you feel there are any corrections that
23 need to be made?

24 A. Yes. There are a couple of areas I'd like to
25 correct.

1 Q. Okay.

2 A. One would be on page -- these pages -- oh,
3 they're just total line numbers. Okay. Page 1, line 27,
4 there's a reference to 1995. That should be changed to
5 1997.

6 Q. Okay.

7 A. And on the following page on line 1, the five
8 years later then would go to three years later.

9 Q. I'm sorry. Okay. Line 1 on page 2?

10 A. Right. And then line 4 again and line 6, both
11 those '95s go to 1997.

12 Q. Okay.

13 A. And there's one other area I'd like to clarify
14 just as listening to the testimony today that -- we talk
15 about monitoring, we talk about investigations and probably
16 to a lot of people it may seem like the same, but to
17 somebody it's your career, it's quite a difference. And so
18 on page 8, line 1 and line 3 both use the word
19 "investigation." And that would be more properly
20 characterized as monitoring.

21 MS. SHEMWELL: Can we have the reference
22 again, please?

23 THE WITNESS: Line 8 -- page 8, excuse me --
24 line 1 and line 3. The word "investigation" is used in each
25 one of those lines and it should be monitoring to be more

1 accurate.

2 BY MR. PETERS:

3 Q. Any other corrections?

4 A. No, sir.

5 Q. Just briefly let me hand you Exhibit 23.

6 A. Yes, sir.

7 Q. And is Exhibit 23 letters that you've
8 prepared?

9 A. Yes. That's correct.

10 Q. Do those letters reference the '95 versus '97
11 dates that --

12 A. Yes, that's correct. The date on this letter
13 is clearly 1997, which is when I had that meeting and
14 follow-up letters to Zoltek Corporation.

15 Q. And that's what you're referring to in your
16 Direct Testimony?

17 A. That is correct.

18 Q. Okay.

19 MR. PETERS: Your Honor, I'd tender the
20 witness at this point.

21 JUDGE THOMPSON: How about receiving 14?

22 MR. PETERS: Right. We'd move Exhibit 14 into
23 evidence.

24 JUDGE THOMPSON: Any objections to the receipt
25 of Exhibit 14?

1 MR. MAY: None, your Honor.

2 MS. SHEMWELL: No, your Honor. Thank you.

3 JUDGE THOMPSON: Hearing no objections,
4 Exhibit 14 as corrected is received into the record of this
5 proceeding.

6 (EXHIBIT NO. 14 WAS RECEIVED INTO EVIDENCE.)

7 JUDGE THOMPSON: I believe we're ready for
8 some cross-examination. Ms. Shemwell?

9 MS. SHEMWELL: Thank you, your Honor.

10 CROSS-EXAMINATION BY MS. SHEMWELL:

11 Q. Good afternoon, Mr. Wakeman. I'm Lera
12 Shemwell representing the Staff.

13 On page 7, the answer at the bottom, I think
14 about line 17, 18 you're talking about to avoid the effects
15 of outages, customers may elect to install back-up
16 generation.

17 But you're suggesting that generation would
18 not affect sags; is that correct?

19 A. That is correct. Would you like me to
20 elaborate on that or --

21 Q. Sure.

22 A. Okay. Well, generation is typically a device
23 used to mitigate outages. And on most generating
24 facilities, it takes about 10 seconds to get to a fully
25 running generator of plant.

1 So from the time an event occurred and the
2 generator was able to detect it, start up and begin to
3 generate power that is sufficient to supply the load, that
4 would take about 10 seconds. And so a sag is typically
5 measured in much shorter time frames than that, so the
6 generator can't react typically.

7 Q. Were you here for Mr. Burke's testimony --

8 A. Yes, I was.

9 Q. -- or are you familiar with it?

10 A. Yes, I was.

11 Q. I believe his estimates on the cost of
12 equipment that Zoltek would need to install to avoid some of
13 these problems was in excess of \$50 million. Would you
14 agree with that?

15 A. It depends how you wanted to take that
16 approach. And I think a lot of that would come out of the
17 results of an investigation. If you wanted to back up the
18 entire facility, yes, those -- those magnitudes and numbers
19 would be correct.

20 What's often done in facilities is to look
21 closely at the equipment that's -- typically it's not
22 everything that has a problem on a production line. And
23 many times it can be one small piece of a piece of
24 equipment, kind of similar to the weakest link in a chain
25 that people talk about.

1 So if you take a large piece of equipment,
2 which Zoltek's equipment is that, it's made up of many
3 components. And its sensitivity is ultimately governed by
4 the most sensitive piece of equipment that's critical in the
5 operation of this huge machine.

6 So you can take an approach of investigating
7 that piece of equipment to determine what is really the
8 sensitive piece within that and then mitigating that
9 sensitivity issue for that piece of equipment -- or that
10 component of the equipment.

11 And then maybe you fixed the problem, maybe
12 you've lessened the problem, maybe you've encountered
13 another problem. So you look at it that way a lot of times.
14 If you don't want to take that approach or you determine
15 there are so many pieces that that's impractical, then you
16 can look at a whole facility approach. Typically, a
17 recommendation that comes down the road because of the cost.

18 Q. And the 50 million would be a whole facility
19 approach?

20 A. That is correct.

21 Q. Okay. Do you know if Zoltek has analyzed
22 their equipment to find that weakest link?

23 A. I would expect they have not.

24 Q. Is Ameren in a position were they permitted
25 into the plant to analyze their equipment to determine that?

1 A. It's possible. It depends. It's not always
2 determinant. It also depends on, as we've spoken about --
3 well, I haven't, but other people have through us, the
4 cooperation level.

5 To get to those level of details and
6 understanding of equipment, there has to be a true
7 partnership between the person conducting the investigation
8 and the people in the facility. So if you could get there,
9 you might have a chance at it. I mean, it's not -- it's --

10 Q. You might or might not?

11 A. Right. It's not predetermined. I mean, you
12 don't know what you're going to find until you look for it
13 with any kind of an investigation. I kind of term it in my
14 testimony as detective work. And you really have to look at
15 everything and figure out what the critical issues are and
16 go from there. So you don't know what you're going to find.
17 It's hard to answer that.

18 MS. SHEMWELL: Thank you, sir.

19 JUDGE THOMPSON: Thank you, Ms. Shemwell.

20 Mr. May?

21 MR. MAY: Thank you, Judge.

22 CROSS-EXAMINATION BY MR. MAY:

23 Q. Good afternoon, Mr. Wakeman.

24 A. Good afternoon.

25 Q. With respect to your testimony, Exhibit

1 No. 14, who prepared your testimony?

2 A. I did.

3 Q. Okay. When you say you prepared it, were the
4 questions posed to you or did you create the questions as
5 well as the answers?

6 A. It was a combination of that with discussions
7 with our lawyer on questions that were given to me
8 essentially. Not verbatim, but concepts of questions and
9 then I provided the answers to those.

10 Q. Okay. Now, with respect to the correction
11 from 1995 to '97, that was just simply a mistake on your
12 part?

13 A. That is correct.

14 Q. But you clearly remembered the events of 1997
15 is what you're saying?

16 A. Absolutely.

17 Q. Okay. And with respect to this change in your
18 question and answer on page 8 about investigation and I
19 believe you wanted it changed to monitoring --

20 A. Yes.

21 Q. -- correct?

22 At what point did you realize that you'd used
23 what you term an inaccurate phrase or term?

24 A. Well, as I mentioned, as we went through the
25 proceedings here, I saw a lot of mixture of the word

1 monitoring and investigation.

2 And I want to make sure I'm -- it's clear on
3 what was performed in 2000 as opposed to what a power
4 quality investigation is. And I think it's -- was important
5 when I read through it, though I wasn't maybe careful enough
6 on the terms I used either -- because it was clear to me.
7 And so as I listened to the dialogue today, I thought it was
8 best to make sure that that's clear.

9 Q. Okay. Now, with respect to the equipment at
10 Zoltek, you've never examined that equipment, have you?

11 A. Well, I think we discussed this in the
12 deposition on the terminology "examined." What would you
13 mean by that exactly?

14 Q. Well, you've been in the plant at Zoltek?

15 A. Yes, I have.

16 Q. You've observed the equipment. Correct?

17 A. Yes, I have.

18 Q. By that I'm saying you've looked at it as you
19 walked by it?

20 A. Looked at.

21 Q. Have you looked at the diagrams for the
22 equipment?

23 A. No, I have not.

24 Q. Have you spoken with anyone from the
25 manufacturer of the equipment?

1 A. No. Huh-uh.

2 Q. Okay. And you've never obviously taken the
3 equipment apart?

4 A. Not to any great degree except for to install
5 the monitors. I was there when we installed the monitors in
6 2000.

7 Q. But that wouldn't entail what we call a
8 breaking down of the equipment?

9 A. No.

10 Q. Okay. With respect to the back-up generation
11 that was referenced on -- I believe it's page 7 of your
12 testimony?

13 A. Uh-huh.

14 Q. You talk about back-up generation. You don't
15 know though what type back-up generation Zoltek would
16 require?

17 A. Sure I would, yeah.

18 Q. Okay.

19 A. What do you mean what type? There's not that
20 many types of back-up generation. There a few prime movers
21 that occur which is, you know, the type of device that
22 drives the generator, a diesel engine or gas-fired, things
23 like that.

24 Q. Are there different sizes?

25 A. There are different sizes, yeah.

1 Q. Would you know what size?

2 A. Off the top of my head, no. It wouldn't be

3 very difficult to determine, but I don't know off the top of

4 my head.

5 Q. I assume the larger you get with a back-up

6 generation system in terms of the size, the more expensive

7 it becomes?

8 A. Yes. It's not linear, but yes, it's more

9 expensive.

10 Q. And then on page 8 in regard to the 2000, as

11 you've now termed it, monitoring, I believe you've made a

12 conclusion that Zoltek's equipment was over-sensitive?

13 A. That's what I believe, yes.

14 Q. Now, were the results of your 2000 monitoring

15 relayed to the folks at Zoltek?

16 A. Yes.

17 Q. They were?

18 A. Yes.

19 Q. Were there any suggestions provided to them?

20 A. No.

21 Q. Okay.

22 A. I don't believe so, no.

23 Q. Was there a reason for that?

24 A. We were ordered to go in and do monitoring to

25 investigate what happened -- or excuse me -- to monitor

1 power quality in the facility, and that's what we did.

2 We weren't really in a position -- and I
3 wouldn't want to make a specific recommendation to a
4 customer based on one month of just monitoring. If you want
5 me to make a recommendation, I need to do a power quality
6 investigation because I don't want to waste anybody's money.

7 Q. Were you -- and I mean you and the company.
8 Were you in the plant for the purpose of litigation then?

9 A. I'm not sure what that question means, to be
10 honest. If you could rephrase it, please.

11 Q. Obviously you were in there as a result of a
12 court order you're saying. Correct?

13 A. That's my understanding, yes.

14 Q. Was it your intent to determine what Zoltek's
15 problem was?

16 A. I would have liked to have had that
17 opportunity, although in that case when you're told to go in
18 and monitor for one month --

19 Q. All right.

20 A. -- go to the doctor and tell them you got five
21 minutes to figure out what's wrong with me. Well, is he
22 going to make it? I don't know.

23 Q. With respect to the one-month monitoring
24 you're discussing, what was the purpose of the monitoring?
25 Was it to find out what Zoltek's problem was and provide

1 them a solution?

2 A. It was -- no. It was in an attempt to gain
3 data on what was going on. And we did gain some data.

4 Q. And with respect to that data, was the effort
5 to gain it for the purpose of trying to solve Zoltek's
6 problem or --

7 A. If you would have asked me beforehand or even
8 now I'd say no. But if you would have asked people that
9 might have been trying to get that to happen, they might
10 have thought it was.

11 But the reality of it is it's not a power
12 quality investigation. And so if you had asked me before I
13 did it is it likely you're going to come out with a solution
14 for this customer, I'd say it's possible, but probably
15 unlikely.

16 Q. Let's go now to page 6 of your testimony,
17 please.

18 A. Okay.

19 Q. Specifically we'll start with line 9. The
20 words there, They list things like -- you see that sentence?

21 A. Yes.

22 Q. They list things like time, date and I suppose
23 the level from blips to time durations?

24 A. Uh-huh.

25 Q. This is not sufficient information to

1 determine what is going on?

2 A. That's correct.

3 Q. Okay. I'm going to continue on. It does not
4 list what they saw, what they experienced, what equipment,
5 if any, was affected and what was the effect. In my
6 opinion, some of these may have been interruptions, some may
7 have been voltage sags and some may not have been electrical
8 events at all.

9 Is that your testimony there?

10 A. Yes, it is.

11 Q. So are you saying then that the information
12 was insufficient?

13 A. Yes. To draw conclusions, absolutely.

14 Q. Okay. Then, however, do you not draw a
15 conclusion on lines 12 through 14 as to what was going on
16 with the interruptions?

17 A. What I'm using is a fairly extensive
18 experience base to know what customers report typically and
19 what those problems could be. So if you look at all the
20 cases of what causes equipment misoperation or the
21 perception of equipment misoperation, those are most likely
22 what it's going to be, interruptions, sags and things that
23 aren't electrical at all. So it's --

24 Q. So with respect to lines 12 through 14, you're
25 saying that's based on your experience?

1 A. Well, it clearly says on line 12 in my
2 opinion. It's my opinion, so my opinion --

3 Q. I understand that. I'm asking you now, sir,
4 for the basis of your opinion.

5 A. My opinion is based on my experience and my
6 training, absolutely.

7 Q. So it was not anything that you saw with
8 respect to the monitoring done at Zoltek?

9 A. No. Huh-uh.

10 Q. Now, look at page 8. I don't mean to jump
11 around so much on you.

12 A. That's okay.

13 Q. Lines 8 and 9.

14 A. Okay.

15 Q. And we're talking about the 2000 monitoring.
16 Correct?

17 A. That's correct, yeah.

18 Q. The results from that. You say on line 8,
19 Looking at the characteristics of the sags that caused the
20 Zoltek shut-downs leads me to believe that the Zoltek
21 equipment is overly sensitive.

22 You see that statement there?

23 A. Yes, I do.

24 Q. What is it about the characteristic of a sag?
25 What does that mean?

1 A. Characteristics -- or excuse me -- sags are
2 characterized typically by two ways and sometimes a third
3 way. They are characterized by their magnitude, the
4 duration, how long it lasts -- so how big it is, how long it
5 lasts, and sometimes on the point on wave that they actually
6 occur, but that's less used.

7 So what I was talking about here was looking
8 at characteristics, which we had the magnitude of the sag,
9 that's the variation in power, and how long it lasted. I
10 base my opinion on that.

11 Q. And there were some sags, isn't it true, that,
12 in fact, the Zoltek equipment did not shut down?

13 A. Yes. That's right. Yeah. And that would
14 depend heavily on what the equipment's doing at the time. I
15 mean, just because, you know, if -- if the equipment's not
16 in a certain operating mode or -- so you'll see variations
17 in equipment. The same sag would cause different results
18 from the same piece of equipment based on what that
19 equipment's doing, where in its cycle it is. That's how you
20 can maybe explain that.

21 Q. Again, just to be clear, you're basing your
22 characterization of the Zoltek equipment being overly
23 sensitive solely on the characteristics of the sags that you
24 saw in the 2000 monitoring?

25 A. That is correct.

1 Q. Okay. You're not judging their equipment
2 against any other particular equipment or any standards that
3 have been issued?

4 A. I'm basing it on -- well, there's some
5 standards out there on voltage sag characteristics. And
6 there's -- I think some of our experts have testified about
7 those in particular, the I-tech curve and there's some
8 SME-curves or semi-conductor manufacturing equipment.

9 And there's actually some new standards that
10 are trying to be generated to help characterize these. So
11 not really specifically against any standard, but based on
12 my experience, based on what electrical events are likely to
13 be imposed on equipment.

14 Q. Okay. Then also when you were in the plant,
15 did you find the people at the plant to be cooperative?

16 A. The ones I had access to, absolutely.

17 MR. MAY: Okay. Thank you.

18 Thank you, your Honor.

19 JUDGE THOMPSON: Thank you, Mr. May.

20 QUESTIONS BY JUDGE THOMPSON:

21 Q. Mr. Wakeman, your job is to do the
22 investigations?

23 A. Yes, sir.

24 Q. And to determine what the cause of the power
25 difficulty is, if possible?

1 A. That's correct. I really term it as equipment
2 misoperation issues, because --

3 Q. Okay. In your professional opinion, was an
4 adequate investigation ever conducted at Zoltek that would
5 permit the determination of what exactly the problem was?

6 A. Not to my knowledge, no, sir.

7 Q. And is it your opinion or your knowledge that
8 the reason is because of a lack of cooperation on the part
9 of Zoltek?

10 A. That's the difficulty I encountered, yes, sir.

11 JUDGE THOMPSON: I have no further questions
12 for you.

13 Recross based on questions from the Bench?

14 MS. SHEMWELL: No thank you, your Honor.

15 MR. MAY: None, your Honor.

16 JUDGE THOMPSON: Redirect?

17 MR. PETERS: Thank you, your Honor.

18 REDIRECT EXAMINATION BY MR. PETERS:

19 Q. Mr. Wakeman, you were just testifying about
20 the experience you had with Zoltek was perhaps
21 uncooperative. That was your experience?

22 A. Yes, sir.

23 Q. Do you have the letters that you wrote
24 regarding your '97 -- what period of time did you find
25 Zoltek to be uncooperative?

1 A. In -- let's see. It says here in April of '97
2 we went out and had a meeting with Zoltek and Mr. Spahn was
3 involved in that meeting. And we basically offered my
4 services as free of charge to come in and figure out what's
5 going on, you know.

6 And really the way that's posed, and I do this
7 all the time so it's very consistent in that regard, is that
8 I will come in and investigate to figure out what's going
9 on. And to me at that point it really doesn't matter --
10 it's important to even keep that in mind that it doesn't
11 matter if it's their problem, our problem, whose problem it
12 is. My job is to figure out what is the problem.

13 So we offer these services to you to come in
14 and get this situation under control. Let's understand it,
15 let's gather the data and move off the just finger pointing
16 kind of situation, let's get some real information.

17 That was in a meeting and they said they'd get
18 back to me in a couple days and they didn't. So I began to
19 call and call and call and could never even reach Mr. Spahn
20 for several months literally. I couldn't even begin to tell
21 you how many times I called, but it's a big number.

22 And, finally, at some point I sent him this
23 letter saying, I've been trying to get ahold of you since
24 April and you're not responding and -- but I -- I take that
25 back. I actually did talk to him one time and he said,

1 Well, we want more information about what a power quality
2 investigation is.

3 So I said, okay, well, I've never been asked
4 for that, but I'll write a document. So attached to this
5 letter is the document I sent I guess in June that details
6 what a power quality investigation is.

7 Q. What's the date of the letter? What's the
8 exhibit number?

9 A. Exhibit No. 23, and the letter is dated
10 June 4th, 1997. So from April 8th to June 4th I got this
11 far. I got a letter. I sent him another letter saying
12 here's what I do when I come in here.

13 And then still didn't hear anything back. And
14 finally in October I sent him this letter saying, you know,
15 haven't heard from you, I'm basically -- to be honest, I
16 don't want to continue to call for no reason, so if you want
17 us to do this, let's do it and I'd like to hear from you.
18 And that's what the letter says.

19 Q. Okay.

20 A. And I never heard anything.

21 Q. Now, I believe you have testified consistent,
22 I think, with Mr. Hackman that the monitoring you did was
23 not extensive enough to come up with a solution for the
24 things that Zoltek was complaining about; is that correct?

25 A. No. Yeah. You would be -- you'd be making a

1 mistake to make recommendations for a customer to spend
2 money based on what we did.

3 Q. And when I say the things that Zoltek's
4 complaining about, I'm including the list of 277 service
5 quality incidents.

6 A. Absolutely.

7 Q. And you're familiar with that list?

8 A. Yes, I am.

9 Q. Okay. Just to put this in context though,
10 when was the first time that you saw the list of 277
11 incidents?

12 A. I saw it sometime around, I'd say, '99, 2000,
13 right in that time frame.

14 Q. Okay. In the '96, '97 time frame or any time
15 did they come and say, here's a list of how many service
16 quality incidents we've --

17 A. No. I never saw that.

18 Q. Did anyone from Zoltek ever say to you that UE
19 needs to do -- fill in the blank, do a particular task or
20 install a piece of equipment or take a particular action
21 which will solve our problems?

22 A. No, sir.

23 Q. Did Zoltek give AmerenUE any suggestions as to
24 possible ways to solve or possible ways to find solutions to
25 their problems?

1 A. No, sir.

2 Q. And I think your testimony -- I'll just stop
3 here. Your testimony has been pretty clear that you feel
4 that the full power quality investigation would need to be
5 completed to solve their problems or determine if their
6 problems could be served?

7 A. Right. I think that would be the next step or
8 a step.

9 MR. PETERS: Okay. Nothing further, your
10 Honor.

11 JUDGE THOMPSON: Thank you, Mr. Peters.

12 You may step down, Mr. Wakeman. Thank you
13 very much for your testimony today.

14 THE WITNESS: Thank you.

15 JUDGE THOMPSON: Okay. Exhibit No. 1 has been
16 offered and received, No. 2, No. 3, No. 4, No. 5, No. 6,
17 No. 7, No. 8, No. 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19,
18 all offered and received. Exhibit No. 20 was received as an
19 offer of proof after an objection was sustained. 21,
20 offered and received; 22, objection sustained, received as
21 an offer of proof; 23, offered and received; 24, that's the
22 Commission's late-filed exhibit.

23 Mr. Vitale, have you had an opportunity to
24 review the exhibit?

25 MR. VITALE: Yes, I have, your Honor.

1 JUDGE THOMPSON: And do you have an objection
2 to the Commission's receipt of it?

3 MR. VITALE: I guess at this point under the
4 circumstances in which it's been presented I do. I talked
5 to Mr. May during a break and I guess what I would ask is if
6 I can just understand and be pointed to the underlying
7 documents -- there have been a lot of documents in the
8 case -- I likely will then have no objection.

9 I may want to put those in to back it up, I
10 may not, but getting it as I did yesterday afternoon and not
11 having had a chance to find the source document, I suspect I
12 will not, but that's all I want to know is see that.
13 Whereas, I've understood how Mr. Moran went through it and I
14 was able to question him, I just don't have any information
15 about this document.

16 JUDGE THOMPSON: I understand perfectly well.
17 What we'll do is we will allow you to file your written
18 objection, if you do have one. And we'll go ahead and set a
19 date when you need to do that. Okay?

20 MR. MAY: Your Honor, what I'd like to propose
21 is that this week or early next week Mr. Vitale and I will
22 speak and I'll try to point him in the direction or provide
23 copies or whatever needs to be done.

24 JUDGE THOMPSON: Very well.

25 MR. VITALE: I think that will resolve it,

1 Judge.

2 MR. MAY: I would assume that would resolve it
3 and then maybe we could just let the Judge know.

4 MR. VITALE: We'll let your Honor know that.

5 JUDGE THOMPSON: And you'll let me know next
6 week?

7 MR. MAY: Yes, sir.

8 JUDGE THOMPSON: We can just do that by --
9 how?

10 MR. VITALE: I can write a letter --

11 JUDGE THOMPSON: Letter, mail, phone call,
12 conference call?

13 MR. VITALE: I'll write a letter, Judge.

14 MR. MAY: Just send an e-mail message either
15 way to him. That's fine.

16 JUDGE THOMPSON: Okay. So we'll let me know
17 next week. Very good.

18 Exhibit 25 offered and received. 26, 27, 28,
19 29, all offered and received. Exhibit 30 neither offered
20 nor received, 31 offered and received. 32, 33, 34, 35, 36,
21 37, all offered and received. 38 received only as an offer
22 of proof. And Exhibit No. 30, I should mention was a
23 deposition and we've already been through that with a
24 previous exhibit.

25 MR. VITALE: I have some additional exhibits

1 to offer, your Honor, at this time.

2 JUDGE THOMPSON: Okay.

3 MR. VITALE: We have some deposition
4 designations from Mr. Rummy's deposition as the president of
5 Zoltek. It's admissions against interest.

6 JUDGE THOMPSON: Okay.

7 MR. VITALE: I guess this would be 39.

8 JUDGE THOMPSON: Very well. This is Exhibit
9 No. 39, admissions against interest by Mr. Rummy. Right?

10 MR. VITALE: These are the designations of the
11 deposition, and then I've got the deposition transcripts that
12 go with it. We've got two volumes of depositions itself.

13 JUDGE THOMPSON: Let's go ahead and mark
14 Volume 1 as Exhibit 40, Volume 2 as 41.

15 MR. VITALE: 39 is the designation, 40 is
16 Volume 1, and 41 is Volume 2?

17 JUDGE THOMPSON: That is correct.

18 MR. VITALE: And we'd offer those at this
19 time, your Honor.

20 JUDGE THOMPSON: If you'll just hang on a
21 moment while I get these marked.

22 (EXHIBIT NOS. 39, 40 AND 41 WERE MARKED FOR
23 IDENTIFICATION.)

24 JUDGE THOMPSON: Okay. Do I hear any
25 objections to the receipt of Exhibit No. 39?

1 MR. MAY: Yes, your Honor.

2 JUDGE THOMPSON: And what is your objection?

3 MR. MAY: Well, your Honor, if I understand
4 this -- I was just given this myself -- but if I understand
5 this, Mr. Vitale -- or I should say the Respondent's
6 alleging that these provisions of Mr. Rummy's deposition
7 impeach or somehow are used against his interest.

8 I would offer that there was cross-examination
9 of Mr. Rummy, ample opportunity to obviously impeach him via
10 his deposition testimony. I know, Judge, that there were --
11 some of those exhibits were the depositions of certain other
12 parties offered in evidence. I had stated a similar
13 objection to that. I would restate that objection with
14 respect to 40 and 41 as well as 39.

15 JUDGE THOMPSON: What was that objection
16 again?

17 MR. MAY: Your Honor, I think that the
18 deposition itself if it's used for the purpose of
19 impeachment, the record will reflect if there has been any
20 impeachment.

21 JUDGE THOMPSON: With respect to depositions,
22 the deposition of a main party, of course, comes in and can
23 be used for any purpose, whether or not the party's
24 available to testify.

25 When a party is a corporation and where the

1 notice of deposition has requested the corporation to
2 designate a representative, in other words, to speak as the
3 corporation, as the party, then that deposition also comes
4 in for any purpose.

5 Now, the question that remains here is whether
6 or not Mr. Rummy was deposed as the representative of the
7 corporation or not. I don't know the answer to that and I
8 will allow parties to speak to it.

9 MR. VITALE: I will admit, your Honor, he was
10 not. But if I may say so, the rule goes on to say that an
11 office of the corporation -- the deposition of an officer of
12 a corporation can also be used for any purpose. So --

13 JUDGE THOMPSON: You are correct.

14 MR. VITALE: -- while it's not being offered
15 as impeachment, it's being offered as substantive testimony
16 from Mr. Zoltek and not as impeachment the way the other
17 depositions were used. This is substantive testimony.
18 That's why we're offering it, your Honor.

19 MR. MAY: I would say that obviously Mr. Rummy
20 when he's testifying if, in fact, he's testifying in a
21 deposition in that capacity or testifying live here on
22 cross-examination, there was opportunity by Mr. Vitale to
23 say, Look at page 4, line 19, Mr. Rummy --

24 JUDGE THOMPSON: That's true. But this is a
25 different use. And I believe that Mr. Vitale has correctly

1 recalled the rule. Therefore, I'm going to overrule the
2 objection. I'm going to receive Exhibit No. 39 into the
3 record.

4 And I assume you have the same objection with
5 respect to 40 and 41?

6 MR. MAY: Yes, your Honor.

7 JUDGE THOMPSON: I'm going to overrule those
8 as well.

9 MS. SHEMWELL: Your Honor, may I ask for
10 clarification?

11 JUDGE THOMPSON: You may.

12 MS. SHEMWELL: Thank you. What is the use for
13 which these are being offered?

14 JUDGE THOMPSON: That the deposition of the
15 officer of the corporation is admissible for any purpose,
16 just as that of a named party.

17 MS. SHEMWELL: Thank you.

18 JUDGE THOMPSON: In other words, if you're
19 suing me, my deposition comes in for any purpose, whether
20 I'm available, unavailable, testify, don't testify. It just
21 comes in. Okay? Therefore, I will admit those three
22 exhibits over the objection.

23 (EXHIBIT NOS. 39, 40 AND 41 WERE RECEIVED INTO
24 EVIDENCE.)

25 JUDGE THOMPSON: Now, there was one additional

1 issue --

2 MR. VITALE: Just so the record is clear,
3 Judge, we're only offering the designated portions of the
4 latter two exhibits, not the entire depositions.

5 JUDGE THOMPSON: Thank you for making that
6 clear.

7 MR. MAY: Your Honor, just for the record --
8 to preserve the record, that I think it really the substance
9 of my deposition. I understand --

10 JUDGE THOMPSON: Substance of your objection?

11 MR. MAY: Of my objection. With respect to
12 the depositions being entered your comments that they come
13 in for the purpose of whatever purpose, I understand that.
14 But this designation -- to say we're going to pick out pages
15 of Mr. Rummy's deposition and use them against the
16 corporation, again, he testified live --

17 JUDGE THOMPSON: That's true, Mr. May. And
18 normally -- and I should point this out to you, we're doing
19 kind of a shortcut procedure here.

20 If I were a circuit judge, and thank God I'm
21 not, then Mr. Vitale and one of his assistants would
22 essentially read the designated portions and they would be
23 read into the record. But since I'm an administrative
24 hearing officer and I can do things a little bit differently
25 than a circuit judge, we're just going to have this list of

1 portions, pages and lines and the depositions and we're
2 going to accept them rather than have them read.

3 Now, it is very frequently an objection made
4 in circumstances like this that to take just these
5 designated portions is to take them out of context and to
6 understand it all, we've got to have the whole deposition.

7 And I have very, very frequently heard that
8 objection and that request. And if you want to make it at
9 this time, of course I'll grant, because it comes in for any
10 purpose, no matter who offers it.

11 MR. MAY: Well, without waiving my previous
12 objections, your Honor, I would state that obviously these
13 need to be taken in the appropriate context. And just for
14 the record, your Honor, I'm saying that --

15 JUDGE THOMPSON: I understand.

16 MR. MAY: -- I don't have -- I'm not objecting
17 to the idea of writing it on paper versus reading it. I'm
18 not arguing about that, trust me.

19 JUDGE THOMPSON: I did not think you were
20 objecting on those grounds.

21 MR. MAY: What I am trying to say is that
22 especially in this process, Mr. Vitale may have already done
23 it, I don't know, but he had an opportunity to use Mr. Rummy
24 as he was sitting there before this Commission and impeach
25 him with respect to the corporation.

1 JUDGE THOMPSON: Absolutely.

2 MR. MAY: That would have provided me an
3 opportunity under those circumstances to redirect testimony.
4 Under these circumstances, I'm not provided that
5 opportunity,

6 JUDGE THOMPSON: Which may explain why he
7 chose to do it the way he did. You see what I mean? He has
8 a tactical choice what use he wants to make of that
9 deposition. And perhaps he did not want to give Mr. Rummy an
10 opportunity to explain away these purported admissions
11 against interest -- and I say purported only because I
12 haven't read them so I don't know what they say. I don't
13 know if they're really against interest or not. That's for
14 the trier of fact to decide.

15 What can I say? You are still free to make
16 any motion you believe is necessary to protect the interest
17 of your client, which means you go back to your office, you
18 read the designated testimony and if you believe that
19 something has to be done, then you may make that motion.
20 All right?

21 Until the Commission has exhausted its
22 jurisdiction by rendering its decision in this case, the
23 record can be re-opened as fundamental fairness and due
24 process and those kinds of considerations require. So I
25 realize this is something of a surprise to you.

1 MR. MAY: Right.

2 JUDGE THOMPSON: I believe Mr. Vitale is
3 absolutely correct that this deposition comes in for any
4 purpose. Now, if you go home and do some research and
5 discover that's wrong, I assume you'll file an appropriate
6 motion. And if you read it and decide that something has to
7 be done to correct a misapprehension, whatever, you will
8 make the appropriate motion and I will be happy to receive
9 it. He'll get a chance to respond and the Commission will
10 rule and decide what to do.

11 And with that in mind, I suggest that perhaps
12 you withhold moving that the rest of the deposition come in
13 at this time because I think if you do that, you do waive
14 your objection.

15 MR. MAY: Well, your Honor, like I say, part
16 of it is because I'm at a loss because I was just given
17 this.

18 JUDGE THOMPSON: Absolutely. And I understand
19 that.

20 MR. MAY: I've not had an opportunity to read
21 it and research it.

22 JUDGE THOMPSON: In fairness, obviously we'll
23 entertain any motion you want to make. Okay? And we can go
24 ahead and talk now about a briefing schedule. And perhaps
25 as part of that, we'll set a date by which I want to hear

1 whatever anybody has to say about how the record has a
2 problem or it's flawed, it needs to be corrected. Okay?

3 MR. MAY: Your Honor, just for the record
4 then, I would withhold any objections in light of what you
5 just said until I've had an opportunity to review this. May
6 I put those objections in writing to you then, sir?

7 JUDGE THOMPSON: Yes, sir. File it as a
8 pleading, serve it on Mr. Vitale and Ms. Shemwell and I
9 don't know if OPC is opening their mail in this case or not
10 and we'll have it.

11 MR. MAY: Thank you.

12 JUDGE THOMPSON: Very well.

13 Now, the one last point has to do with the
14 letters that the contract expressly incorporated by
15 reference. And the reason I think that's important is
16 because the Commission has been asked to make certain
17 conclusions based on that contract. And so far it appears
18 to me that the entire contract is not before the Commission.

19 So I will ask counsel, as a homework
20 assignment, to at least advise us as to what the deal is
21 with those letters. If they exist, I'm going to ask for
22 them as a late-filed exhibit and, in fact, we'll call that
23 42. And if they don't exist or are unavailable, then I'd
24 like a pleading advising me of that point.

25 And I don't care which of you files. You can

1 both file. That contract came in twice, in fact. It came
2 in attached, I believe, to Mr. Rummy's testimony and you are
3 the proponent of a certain affect of the contract. And I
4 believe it came in as part of your case too, did it not?

5 MR. VITALE: It was cross-examination of
6 Mr. Hulse by Mr. May, I believe

7 JUDGE THOMPSON: Right. So as far as I'm
8 concerned, you both have an obligation to give the
9 Commission the entire contract. So either give me those
10 letters or tell me why you can't. Okay?

11 MR. VITALE: Yes, sir.

12 JUDGE THOMPSON: And we'll save No. 42 for
13 that.

14 Is there anything else we need to address at
15 this time? Briefing schedule.

16 MR. VITALE: Right.

17 JUDGE THOMPSON: Normally our transcripts are
18 available two weeks after the close of the hearing. We
19 don't have an operation of law date in this case; in other
20 words, we don't have some drop dead date by which we have to
21 have a decision out.

22 You guys tell me what you want to do with
23 respect to briefs. I will say Zoltek has the burden of
24 proof, so you may want to do the classic brief from Zoltek,
25 responsive brief from Union Electric, reply brief from

1 Zoltek, or you may want to use some sort of simultaneous
2 pattern, principal briefs and then reply briefs, which is
3 fairly common in Commission practice really. Whatever you
4 would rather do. Or maybe you would just like to do an oral
5 argument now.

6 MR. MAY: Your Honor, the form of it though,
7 are you looking for like findings of facts, conclusions of
8 law or do you want -- what do you mean by a brief? I'm just
9 not that --

10 JUDGE THOMPSON: This is not such a big record
11 that I can't find the facts. Chapter 536 guarantees to
12 litigants in an administrative proceeding in Missouri the
13 opportunity to make either a final argument or to file
14 briefs, written arguments.

15 It also requires that the members of the
16 Commission listen to those arguments or read those beliefs
17 and any portions of the record that you point out in those
18 briefs.

19 Given that we've had a whole day of hearing
20 here with no Commissioners present, I would think that you
21 might want to avail yourself of the opportunity to direct
22 their attention to certain portions of the record.

23 I think in the general course of events that
24 each Commissioner reads every piece of paper that comes
25 before him or her. I don't know how they do it given the

1 volume of paper involved, but they do. Nonetheless, you
2 have an opportunity here to say, Look at X, look at Y, look
3 at Z. You may want to avail yourselves of that.

4 In terms of what I expect in a brief, it's
5 really -- I have no expectations. It's your opportunity to
6 argue the facts and the law in order to tell me -- tell the
7 Commission why your side should prevail in this matter.

8 MR. VITALE: And a brief does not include the
9 proposed findings, so you're not looking for that from the
10 party?

11 JUDGE THOMPSON: I'm not going to require
12 proposed findings and conclusions in this case. If you
13 decide you want to do them, of course I will receive them.
14 I will find them useful, but I'm not going to require them.
15 Okay?

16 We have many cases where we require them.
17 Very, very large and complex cases where so much stuff is
18 filed, frankly, I want counsel to tell me what exactly they
19 think proves their point, because it's sometimes hard to
20 find.

21 In this case I think we've all been pretty
22 focused. In fact, I would compliment counsel on the
23 beautiful job you've done in trying this case and educating
24 me and the Commissioner's on power supply and this
25 particular manufacturer. And I know we're but a stepping

1 stone on the way back to circuit court, so --

2 MR. MAY: Your Honor, we haven't really talked
3 about this, but I guess I could write a brief and then you
4 could respond and I could reply.

5 JUDGE THOMPSON: You don't even have to do
6 briefs if you don't want to. What I'm saying is the statute
7 requires I give you the opportunity.

8 MR. VITALE: No, I would like to.

9 JUDGE THOMPSON: If don't want to file
10 anything, that's fine with me.

11 MR. MAY: No. That's not a problem.

12 JUDGE THOMPSON: Maybe you're comfortable
13 giving Mr. Vitale the last word. Little joke, little joke
14 here. It's been a long day.

15 MS. SHEMWELL: Some found it funnier than
16 others.

17 MR. MAY: Yes.

18 JUDGE THOMPSON: I seem to lose my ability to
19 be funny at the end of a hearing. I don't know why. You
20 guys are just tired of looking at me by now, I'm sure.

21 Do you have any idea for schedule how you want
22 to do it?

23 MS. SHEMWELL: 30 days, 30 days, 20 days.

24 MR. VITALE: From the transcript?

25 MR. MAY: From the date of the transcript,

1 30 --

2 MR. VITALE: 30, 30, 20.

3 MR. MAY: That will be fine.

4 JUDGE THOMPSON: 30, 30, 20. So I will do my
5 best to remember to do a notice for an order telling you
6 we're going to do 30, 30, 20.

7 Is there anything further at this time?

8 MR. VITALE: Just one moment, your Honor. Let
9 me see how 30, 30, 20 plays out.

10 MR. MAY: While he's looking, Judge, you said
11 you'll send us an order telling us the briefing schedule?

12 JUDGE THOMPSON: I will do my very best to
13 remember to do that. It's in the transcript though so if I
14 forget, it's in there. I have a CLE tomorrow that --

15 MR. PETERS: Giving or taking?

16 JUDGE THOMPSON: No. I'll be taking it and I
17 have to leave at about 4:00 in the morning to get there, so
18 my mind may be some kind of confused.

19 MS. SHEMWELL: It's a good thing we finished
20 today.

21 JUDGE THOMPSON: If we hadn't, I would have
22 gone the following day. This is a Kansas City, St. Louis,
23 you take your choice kind of thing.

24 MR. MAY: Judge, this is, I guess, a stupid
25 question. We talk 30, 30, 20 from the date of the

1 transcript. Is that when we receive it, when it's sent out?

2 JUDGE THOMPSON: There will be a filing date.
3 The transcript is provided to the Commission by the reporter
4 and it is actually filed.

5 MR. MAY: So from that date?

6 JUDGE THOMPSON: From the filing date. I have
7 no idea what that represents in terms of how soon you'll get
8 it. And you can talk to the reporter and make whatever
9 arrangements you want to in terms of how fast you want to
10 get your copy.

11 MR. MAY: Thank you.

12 JUDGE THOMPSON: Anything else?

13 MR. VITALE: I don't believe so

14 MS. SHEMWELL: No, thank you, your Honor.

15 MR. MAY: Thank you.

16 JUDGE THOMPSON: Thank you. You all did an
17 excellent job trying this case. I greatly enjoyed it. We
18 are adjourned.

19 (HEARING ADJOURNED.)
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I N D E X

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