

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
  
TRANSCRIPT OF PROCEEDINGS  
  
Hearing  
  
December 5, 2000  
Jefferson City, Missouri  
Volume 5

In the Matter of the Application of )  
City of Rolla, Missouri, for an )  
Order Assigning Exclusive Service ) Case No. EA-2000-308  
Territories and for Determination of )  
Fair and Reasonable Compensation )  
Pursuant to Section 386. 800, )  
RSMo 1994. )

KEVIN THOMPSON, Presiding,  
DEPUTY CHIEF REGULATORY LAW JUDGE.

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

REPORTED BY:  
  
KELLENE K. FEDDERSEN, CSR, RPR  
ASSOCIATED COURT REPORTERS, INC.

ASSOCIATED COURT REPORTERS, INC.  
Jefferson City - Columbia - Rolla  
(888) 636-7551

1 APPEARANCES:

2 GARY W. DUFFY, Attorney at Law  
Brydon, Swearngen & England, P.C.  
3 P.O. Box 456  
Jefferson City, Missouri 65102-0456  
4 (573) 635-7166

5 FOR: City of Rolla.

6 MARK W. COMLEY, Attorney at Law  
Newman, Comley & Ruth  
7 601 Monroe, Suite 301  
P.O. Box 537  
8 Jefferson City, Missouri 65102  
(573) 634-2266

9 EDWARD D. HOERTEL, Attorney at Law  
10 Hoertel & Hoertel  
P.O. Box 4  
11 Suite 207, Scott Bldg.  
Rolla, MO 65402  
12 (573) 364-4103

13 WILLIAM E. GLADDEN, Attorney at Law  
205 North Grand Ave.  
14 P. O. Box 217  
Houston, MO 65483  
15 (417) 967-3520

16 FOR: Intercounty Electric Coop. Assn.

17 MICHAEL DUNBAR, Attorney at Law  
Smith, Dunbar & Turley  
18 266 Marshall Drive  
St. Robert, MO 65583  
19 (573) 336-5222

20 FOR: Southside Neighbors.

21 M. RUTH O'NEILL, Senior Public Counsel  
P.O. Box 7800  
22 Jefferson City, Missouri 65102-780

23 FOR: Office of the Public Counsel  
and the Public.  
24  
25

ASSOCIATED COURT REPORTERS, INC.  
Jefferson City - Columbia - Rolla  
(888) 636-7551

1 DENNY L. FREY, Assistant General Counsel  
2 P.O. Box 360  
3 Jefferson City, Missouri 65102

4 FOR: Staff of the Missouri Public  
5 Service Commission.  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

ASSOCIATED COURT REPORTERS, INC.  
Jefferson City - Columbia - Rolla  
(888) 636-7551

1 P R O C E E D I N G S.

2 JUDGE THOMPSON: Okay. Mr. Watkins, you're  
3 still on the stand under oath, and Mr. Comley, you are still  
4 cross-examining. Let's proceed.

5 MR. COMLEY: Thank you, your Honor. As a  
6 preliminary manner, I think the Bench asked me to prepare an  
7 8 1/2 by 11 rendering the chart which was discussed during  
8 opening remarks, and I have prepared that. I did it like  
9 this. I have the chart that shows the \$4.5 million figure  
10 at the front of this, and then concerning the offer of proof  
11 on the second page.

12 JUDGE THOMPSON: Okay.

13 MR. COMLEY: Would you prefer to have it  
14 marked as an exhibit?

15 JUDGE THOMPSON: I think I would. Why don't  
16 we go ahead and mark this one and make it Exhibit No. 21.

17 (EXHIBIT NO. 21 WAS MARKED FOR IDENTIFICATION  
18 BY THE REPORTER.)

19 MR. COMLEY: I'd offer that into evidence.

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

22 MR. DUFFY: I'm assuming it's only being  
23 received on the basis that it's an illustration and not  
24 necessarily for the truth of the contents, unless they're  
25 already somewhere else in evidence?

1 JUDGE THOMPSON: That is true. Simply a piece  
2 of demonstrative evidence that will be available to us. Do  
3 you have copies for the Bench?

4 MR. COMLEY: I certainly do.

5 JUDGE THOMPSON: Hearing no objections,  
6 Exhibit No. 21 is received and made a part of the record in  
7 this proceeding.

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

9 JUDGE THOMPSON: Proceed with your  
10 cross-examination, Mr. Comley.

11 MR. COMLEY: Thank you very much, your Honor.  
12 DAN WATKINS testified as follows:

13 CROSS-EXAMINATION (RESUMED) BY MR. COMLEY:

14 Q. Mr. Watkins, I think as we left last evening  
15 we were talking about the matter of capital credits that are  
16 available through Intercounty, and one of my questions was  
17 about the discounts in patronage, whether the patronage  
18 would be something that was separately calculated by  
19 Intercounty. Do you recall that question?

20 A. I remember the discussion, yes.

21 Q. And is it true that you said that you believe  
22 that the patronage was bundled into the rate?

23 A. I believe I said capital credits and patronage  
24 are bundled.

25 Q. All right. And what did you base your answer

1 on?

2           A.       Based on my own experience as a member of the  
3 coop, as well as information that's been provided through  
4 the Data Requests.

5           Q.       Through Data Requests. I'm going to hand you  
6 what I'll identify for you as Intercounty's response to Data  
7 Request 183. Could you review that and see if you recognize  
8 that document, and its attachments?

9           A.       This is referring to a definition that's out  
10 of Data Request 192. Do you have that also?

11          Q.       I can get that for you, yes. Let the record  
12 reflect I'm handing Mr. Watkins Data Request 192 and  
13 Intercounty's response.

14          A.       Thank you.

15          Q.       Mr. Watkins, let me interrupt you just a  
16 moment. I don't want to -- I want to make sure you  
17 understand my question. Do you recognize Intercounty's  
18 responses to Data Requests 183 and 192?

19          A.       I haven't got to 192 yet, but yes on 183.

20          Q.       183, you do recognize it. Let me ask you this  
21 question: Is this the Data Request upon which your answer  
22 in part is based concerning your understanding of how the  
23 patronage is handled by Intercounty?

24                   I'll ask it again. Is Data Request -- is  
25 Intercounty's response to your Data Request 183 the material

1 which you based your answer in part concerning your  
2 understanding of how patronage is calculated by Intercounty?

3 A. Yes.

4 Q. It is?

5 A. Yes.

6 Q. And with respect to 192, let me ask that same  
7 question. Do you recognize the response to 192?

8 A. I do recognize it.

9 Q. Was that also used by you in part as a basis  
10 for your answer concerning your understanding of how  
11 patronage is calculated by Intercounty?

12 A. If you give me just a moment to finish, I'd  
13 appreciate it.

14 Would you restate the question for me?

15 Q. Is the Intercounty response to Rolla's Data  
16 Request 192 part of the material you used in your  
17 understanding of how patronage is calculated by Intercounty?

18 A. My understanding even after reviewing this is  
19 not any different than what I said before.

20 Q. I understand that, but were these documents  
21 involved in -- were the documents that we've just  
22 identified, Data Request 183 and 192 and Intercounty's  
23 responses, were those documents and Intercounty's responses,  
24 were those the basis for your understanding of how patronage  
25 is calculated by Intercounty?

1           A.       Yes.

2                   MR. COMLEY: Your Honor, on the strength of  
3 what Mr. Watkins has said, I would move for the admission  
4 into evidence of Intercounty's responses to Rolla's Data  
5 Requests 183 and 192.

6                   JUDGE THOMPSON: Let's go ahead and have them  
7 marked. So there's two Data Requests?

8                   MR. COMLEY: Yes, your Honor.

9                   JUDGE THOMPSON: What are the numbers?

10                  MR. COMLEY: 183.

11                  JUDGE THOMPSON: And 192?

12                  MR. COMLEY: 192.

13                  JUDGE THOMPSON: Data Request 183 will be  
14 marked as Exhibit 22. Data Request 192 will be marked as  
15 Exhibit 23.

16                  MR. COMLEY: Your Honor, I'll ask leave of the  
17 court reporter to have appropriate copies made for her  
18 office.

19                  JUDGE THOMPSON: Very well.

20                  MR. DUFFY: Your Honor, I'm going to object to  
21 the offer of both of those documents because they are not --  
22 I don't think a proper foundation has been made for the  
23 admission of all of that material.

24                  At the most, what I understood was that  
25 Mr. Watkins testified he might have relied on parts of those



1 things, and on that basis I certainly would not object to  
2 the particular portions of those things that Mr. Watkins can  
3 identify as relying on as coming into evidence.

4                   But all the rest of that material,  
5 Mr. Watkins -- there's been no foundation made that  
6 Mr. Watkins produced that material, that he had anything to  
7 do with that material. So I don't think an appropriate  
8 foundation has been laid for all of the contents that, from  
9 this distance, appear to be fairly voluminous.

10                   JUDGE THOMPSON: Do you need an opportunity to  
11 examine?

12                   MR. DUFFY: No. I think I would like a ruling  
13 on my objection at this point.

14                   JUDGE THOMPSON: Mr. Comley?

15                   MR. COMLEY: One response, Judge. I asked the  
16 witness upon what documents he may have relied in stating  
17 his understanding about how patronage is calculated by  
18 Intercounty. He replied that this morning he used his own  
19 experience and also information that was supplied to him  
20 through Data Request responses.

21                   He has identified the Data Request responses  
22 upon which he relied in making his understanding about how  
23 patronage is calculated, and he has not made any  
24 qualifications about which documents did not lead him to  
25 that understanding.

1                   Because he has relied on it in making his  
2 answer, I think it is appropriate for the Commission to  
3 review and for the parties to discuss it. And Mr. Duffy can  
4 discuss this with his witness on redirect to make sure that  
5 there's any needed clarification.

6                   MR. DUFFY: But I'd like to -- at that point  
7 I'd like to voir dire the witness as to whether he relied  
8 upon the entire contents of those Data Requests in making  
9 his response or not, because this is an inappropriate way to  
10 get Intercounty Data Request responses into evidence. We  
11 don't know what all the stuff is in those Data Request  
12 responses, and there may be inappropriate material in there.

13                  JUDGE THOMPSON: You may voir dire, Mr. Duffy.  
14 You may also examine the proposed exhibits.

15                  (EXHIBIT NOS. 22 AND 23 WERE MARKED FOR  
16 IDENTIFICATION BY THE REPORTER.)

17 VOIR DIRE EXAMINATION BY MR. DUFFY:

18           Q.       Mr. Watkins, did you rely on all or portions  
19 of these Data Request responses in making your previous  
20 response to Mr. Comley?

21           A.       If I could see it again, I think I can show  
22 you the -- in this instance, on Data Request 183, this page  
23 essentially is the information that I would have relied on.

24           Q.       And when you say "this page", that's the first  
25 page?

1           A.       Yes.

2           Q.       I notice that inside there are several

3 photocopies of what looks like ads from newspapers. There

4 is a press release of some sort. There is a resolution of

5 the board of directors of the cooperative, more ads.

6                   Did you rely on any of these ads or newspaper

7 clippings or resolutions?

8           A.       The information that I needed is on the first

9 page.

10          Q.       Okay.

11          A.       And the same is true with this document

12 (indicating).

13                   MR. DUFFY: Mr. Comley, if you would

14 stipulate or modify your request to just have the first or

15 the cover pages contained in the response and not the

16 attachments, I would withdraw my objection to the

17 introduction of those documents.

18                   MR. COMLEY: I will amend my offer of those

19 exhibits to just the cover page of 183 and the cover page of

20 192, your Honor.

21                   JUDGE THOMPSON: I'm sorry, Mr. Comley. Could

22 you repeat that?

23                   MR. COMLEY: I certainly can. Mr. Duffy and I

24 had a moment there. Apparently the witness did not rely

25 upon the attachments to 183, and I will amend my offer of

1 these exhibits to the cover page of 183, I'll call it the  
2 cover page, and the cover page of Data Request 192.

3 JUDGE THOMPSON: Very well. So the cover  
4 page, then, of Data Request 183 has been marked as  
5 Exhibit 22. The cover page of Data Request 192 is marked as  
6 Exhibit 23. The objection is withdrawn as to both exhibits.  
7 And hearing no further objections, Exhibits 22 and 23 as  
8 redescribed are received into the record of this proceeding.

9 (EXHIBIT NOS. 22 AND 23 WERE RECEIVED INTO  
10 EVIDENCE.)

11 JUDGE THOMPSON: Please proceed, Mr. Comley.  
12 CROSS-EXAMINATION (RESUMED) BY MR. COMLEY:

13 Q. Mr. Watkins, let me direct you to page 25 of  
14 your surrebuttal at the top of the page, and as I understand  
15 it, you are talking there about the data you received from  
16 Intercounty about the customers who were paying revenue, the  
17 customers in the annexed area and the revenue they were  
18 paying; is that correct?

19 A. Yes.

20 Q. And you state that the data that you received  
21 was poorly organized and confusing; is that correct?

22 A. That's correct.

23 Q. Are didn't Intercounty supply this information  
24 at your request?

25 A. Yes, sir.

1           Q.       They did. And wasn't it possible for you to  
2 simply -- strike that.

3                   Intercounty could have told you to come to  
4 their offices to look at that material; isn't that correct?

5           A.       I assume they could. I don't know that.

6           Q.       But instead it just decided to send this  
7 material to you, right?

8           A.       They did send this information to us.

9           Q.       Now, is it safe to say you ultimately were  
10 able to organize the records to your satisfaction?

11          A.       Ultimately, yes.

12          Q.       Let's go to page 26. Excuse me. I think it's  
13 page 27. On that page, you're talking about Intercounty's  
14 office building on South Bishop, and I think in your  
15 question, the question that starts on page 26, you're  
16 stating that you think this is a notion that RMU should be  
17 forced to buy Intercounty's office building; is that  
18 correct? Is that a correct reading of your testimony?

19          A.       If you'll show me the line, I'll either agree  
20 to that or not, but I don't think I said that.

21          Q.       Let's look at page 26. The question is,  
22 Please explain your disagreement with the notion that RMU  
23 should be forced by the Commission to buy Intercounty's  
24 office building. Is that the question that's there?

25          A.       That's the form of the question that I was

1 asked. I don't know that that says that I think it's a  
2 notion.

3 Q. Well, you don't think it's a notion, then, do  
4 you?

5 A. I think what I said here is how I felt about  
6 it.

7 Q. But would you -- you don't think it's a  
8 notion, do you?

9 A. I don't --

10 MR. DUFFY: Objection, irrelevant.

11 BY MR. COMLEY:

12 Q. It's in the question, isn't it? Do you think  
13 it's a notion or not?

14 JUDGE THOMPSON: Mr. Comley, would you respond  
15 to the objection, please?

16 MR. COMLEY: This is a question that was posed  
17 to the witness by his attorney.

18 MR. DUFFY: But why are we arguing about  
19 whatever the definition of the word "notion" is? That  
20 doesn't tend to prove or disprove anything relating to the  
21 issues in the case.

22 MR. COMLEY: I think it's appropriate  
23 cross-examination to find out what the witness meant in his  
24 answer.

25 MR. DUFFY: Well, then, you can ask him what

1 he means in his answer. The word "notion" appears in the  
2 question.

3 JUDGE THOMPSON: I'll allow you to explore  
4 this a little bit further.

5 BY MR. COMLEY:

6 Q. Let me ask you this: This is one of  
7 Intercounty's main points in this matter. It's just not a  
8 notion; isn't that correct?

9 A. I'll agree with the first part of what you  
10 said but not the second part.

11 Q. So you think it's just a notion that it should  
12 be part of this case?

13 A. I didn't say it was a notion.

14 Q. In your answer you say the basis for your  
15 disagreement with RMU's payment for the building is that you  
16 don't want it and don't need it; is that correct?

17 A. In part.

18 Q. What's the other -- do you have other reasons  
19 for that?

20 A. If you'll continue to read, it says, Unlike  
21 poles and wires and transformers actually serving the  
22 customers in the annexed area, the office building is not  
23 essential to the actual provision of service to those 286  
24 customers.

25 Q. Isn't it true that you do need office

1 facilities to serve people; isn't that correct?

2           A.       Are you asking if RMU needs office facilities?

3           Q.       You need them. Other utilities need office

4 facilities to help serve customers; isn't that correct?

5           A.       Yes, that's correct.

6           Q.       The building is in the annexed area; isn't

7 that correct?

8           A.       It is.

9           Q.       And it is not being used for any other purpose

10 but supplying service or helping people for service in that

11 area; is that correct?

12          A.       I would not even begin to testify as to what

13 Intercounty is using their office facilities for or not

14 using them for.

15          Q.       But you have been to that office, haven't you?

16          A.       I have been in that facility.

17          Q.       At the bottom of the page, of page 27, you

18 state that Intercounty could just as easily have located a

19 building several miles farther south. If so, it would not

20 be an issue in the case. Is that a fair reading of your

21 testimony?

22          A.       That is an accurate reading.

23          Q.       Now, I'll pose this to you. Couldn't it have

24 been just as easy for the City to have followed its Plan of

25 Intent?



1           A.       As easy as what? I mean, that -- I mean, I  
2 know what the difference is here. I don't know what the  
3 difference is that you're referring to.

4           Q.       Well, this issue concerning the building  
5 certainly would not be an issue if the City had followed its  
6 Plan of Intent; isn't that correct?

7           A.       In what regard?

8           Q.       In the regard of following its Plan of Intent.  
9 The Plan of Intent said that the coop would continue to  
10 serve its customers in the annexed area; isn't that correct?

11          A.       If that were the case, this would not be an  
12 issue.

13          Q.       Let's talk about the polychlorinated  
14 biphenals, the PCBs that come up in the testimony. On  
15 page 33, at the bottom of the page, you state that, A  
16 reasonable utility would have already tested its facilities  
17 and be knowledgeable of their status. Is that a fair  
18 reading of your testimony?

19          A.       It is.

20          Q.       Now, isn't it true that it's not a violation  
21 of any rule or regulation for Intercounty to wait until it  
22 removes its transformers to check for PCB contamination?

23          A.       That's correct.

24          Q.       And it's obviously worked for Intercounty to  
25 wait until removal to examine the transformers, hasn't it?

1           A.       I have no opinion about that.

2           Q.       You have no idea. You say that you have  
3 checked all of your transformers yourself; is that correct?

4           A.       Yes, we have.

5           Q.       Now, have you checked the transformers that  
6 are certified as not containing PCBs?

7           A.       Obviously not. They are certified  
8 noncontaminated.

9           Q.       And you wouldn't check equipment that has been  
10 certified as non-PCB; is that correct?

11          A.       I'm sorry?

12          Q.       You wouldn't check for PCB contamination in  
13 any transformer or any other piece of equipment that's been  
14 certified as non-PCB-containing; is that correct?

15          A.       Assuming, of course, that I know its origin,  
16 that's correct.

17          Q.       On page 36 you discuss the 113 customers that  
18 are located within the City of Rolla, and these are the 113  
19 Intercounty customers that are located within the City of  
20 Rolla that are not within the annexed area; is that correct?

21          A.       Would you give me the line you're beginning  
22 with?

23          Q.       I think it's on line 21 where you start -- the  
24 questioning starts.

25          A.       Could you restate the question for me?

1 Q. These are the 113 customers that are receiving  
2 service from Intercounty but who are not within the annexed  
3 territory; is that correct?

4 A. That's what we -- the discussion is, yes.

5 Q. And these customers are within the city limits  
6 of Rolla; is that right?

7 A. Yes.

8 Q. Isn't it true that if the application is  
9 approved in this case, the reintegration Intercounty's  
10 system must be configured to continue the same level of  
11 service to these customers?

12 A. Yes.

13 Q. On page 38, at the top of the page, you talk  
14 about Intercounty's efforts in forming a water district that  
15 was an area much larger than the annexation, and you go down  
16 and you talk until line 10 about your understanding of the  
17 reasons why Intercounty did that and Intercounty's  
18 investment in that. Tell me, what do you base your  
19 statements on?

20 A. Comments that were made directly to me by  
21 Mr. Strickland.

22 Q. Mr. Strickland talked to you about this?

23 A. Yes.

24 Q. And when was that?

25 A. I don't know the date. It was just -- it was

1 just comments that were made.

2 Q. And you're saying that Mr. Strickland told you  
3 how much the Intercounty people paid to form this water  
4 district?

5 A. No, I didn't say that.

6 Q. How do you know how much money was paid?

7 A. It was obtained through the discovery process  
8 when the City of Rolla intervened in the court hearing  
9 regarding the formation of the Public Water Supply District  
10 No. 3.

11 Q. And we don't have those documents here, do we?

12 A. No, sir.

13 Q. You don't have any documents to support that  
14 part, do you?

15 A. I do have the documents.

16 Q. Are they here today?

17 A. No, sir.

18 Q. They're not here today. So your statement  
19 about Intercounty providing tens of thousands of dollars in  
20 that endeavor is based upon documents that were in a court  
21 hearing case, as you understand it, in a court case; is that  
22 right?

23 A. Yes, sir.

24 Q. And they're not here today?

25 A. No.

1                   MR. COMLEY: Your Honor, I'm going to renew my  
2 objection to the material in this section of Mr. Watkins'  
3 testimony.

4                   JUDGE THOMPSON: What section is that exactly?  
5 Give me a page and line cite.

6                   MR. COMLEY: I think that I'll renew my  
7 objection to lines 9 and 10 of this section.

8                   JUDGE THOMPSON: Page?

9                   MR. COMLEY: 38.

10                  JUDGE THOMPSON: Okay. Is this the  
11 surrebuttal?

12                  MR. COMLEY: Surrebuttal, yes. I'm going to  
13 renew my objection to particularly that clause -- that  
14 sentence that reads, Intercounty provided tens of thousands  
15 of dollars in that endeavor.

16                  JUDGE THOMPSON: And the basis of your  
17 objection is?

18                  MR. COMLEY: It is hearsay. It is strictly  
19 hearsay. There is no document, no way in the world that we  
20 can establish that, no way to cross-examine that, no way in  
21 the world can it be cross-examined through this witness. He  
22 relies exclusively on a document that's not present in  
23 court.

24                  MR. DUFFY: Your Honor, are you ready for my  
25 response?

1 JUDGE THOMPSON: I certainly am, Mr. Duffy.

2 MR. DUFFY: Thank you. I don't believe it's  
3 hearsay. Mr. Watkins testified that the basis for his  
4 comment, or at least part of them, are admissions of the --  
5 I don't know whether he's the -- I guess he's the general  
6 manager of the party opponent. So it's admissions of a  
7 party opponent, so it's an exception to the hearsay rule.

8 My further response is that this was -- this  
9 information was provided in prepared surrebuttal testimony  
10 that was filed on the 18th of October.

11 If Intercounty wanted to discover the basis  
12 for these statements, it had the ability to notify us  
13 within, I think, seven days and take Mr. Watkins's  
14 deposition if they wanted to inquire further into these  
15 things. They could have sent us Data Requests and asked for  
16 the production of these documents, as they did with lots of  
17 other things that we did.

18 So I think Intercounty has sat on its rights  
19 and waited until the last minute to raise this objection and  
20 it's, therefore, inappropriate.

21 MR. COMLEY: Your Honor, I don't think Data  
22 Requests can cure a problem in direct testimony, and I don't  
23 think I have a duty to make this testimony admissible. I  
24 think that Mr. Duffy has the burden to show that these  
25 statements are supported and can be established in this

1 body. This court can -- this body cannot rely on hearsay  
2 testimony that's objected to.

3 MR. DUFFY: Well, if the Commission is  
4 concerned about the documents, we can certainly produce the  
5 documents as a late-filed exhibit, but this will be the  
6 first time that we've been asked to produce the documents.

7 JUDGE THOMPSON: First of all, as I read the  
8 prepared testimony, Mr. Watkins is not, in fact, providing  
9 hearsay. Rather, he's stating that he knows this. On  
10 cross-examination you have explored how he knows this, and I  
11 think that goes to weight. Therefore, I'm going to overrule  
12 your objection.

13 Please proceed.

14 BY MR. COMLEY:

15 Q. Let's go to page 38, line 12 of your  
16 testimony. You state there that you discussed  
17 Mr. Strickland's testimony on construction of Intercounty's  
18 office building based on the verbiage of the City's Plan of  
19 Intent; is that correct?

20 A. I'm not sure I understand your question.  
21 There's a quote here.

22 Q. On line 10, you're saying that Mr. Strickland  
23 is discussing -- you're discussing Mr. Strickland's  
24 testimony about construction of Intercounty's office  
25 building based on the verbiage in the City's Plan of Intent;

1 is that correct?

2           A.       I guess I would read what I've said here. I  
3 said, Mr. Strickland is crying foul, saying Intercounty made  
4 decisions about building their office building and did not  
5 participate further in the annexation process -- that was a  
6 quote, starting at did, ending at process -- because of the  
7 verbiage in the City's Plan of Intent.

8           Q.       Is it your testimony that the City's Plan of  
9 Intent and its revisions were just verbiage?

10          A.       I would think any words that are contained in  
11 the Plan of Intent are verbiage.

12          Q.       Is it fair to say that the City took the Plans  
13 of Intent, not as just mere verbiage, but as declarations of  
14 its official policy?

15          A.       I don't know that there were policies  
16 established there. I will tell you that the Plan of Intent  
17 was formulated in compliance with the law.

18          Q.       So this was in compliance with the law.  
19 Didn't it represent the City's intentions?

20          A.       Absolutely, yes, sir.

21          Q.       And they were the official intentions of the  
22 City; isn't that correct?

23          A.       That's correct.

24          Q.       Let's look at line 12. You say there if what  
25 Mr. Strickland says is true, then you think it was poor



1 management that Intercounty built the building on assumption  
2 they would continue to serve 286 customers?

3 A. On that assumption alone, yes.

4 Q. Isn't Mr. Strickland's testimony that he based  
5 the building's construction on the Plan of Intent?

6 A. I believe his testimony is that he did not  
7 participate further in the annexation process based on the  
8 Plan of Intent.

9 Q. Didn't he also say that the building was built  
10 on the assurances in the Plan of Intent?

11 A. I don't -- I don't have that in front of me.

12 Q. Are you suggesting -- let me ask, is it your  
13 testimony that it was poor management to rely on the City's  
14 Plan of Intent?

15 A. It is my testimony, as I've stated here, that  
16 if Intercounty relied alone on the Plan of Intent to  
17 construct a million-dollar facility, that that was probably  
18 poor management, associated with 286 customers.

19 Q. Is there anything else in the Plan of Intent  
20 that people shouldn't rely on that we should know about?

21 A. You're asking me to speculate about this?

22 Q. If you know of anything about that Plan of  
23 Intent that's not accurate, I'm asking you to tell me what  
24 it is.

25 A. I guess I don't profess to be all

1 knowledgeable about everything that's in the Plan of Intent  
2 as I sit here. So I don't really think I can answer that  
3 for you.

4 Q. You also talk about the prospect that  
5 Intercounty could have intervened in the lawsuit involving  
6 the annexation.

7 Are you testifying, then, even though the Plan  
8 of Intent stated that the cooperative could continue to  
9 serve the area, it should have intervened to make certain  
10 that's what the City meant?

11 A. You're asking me to draw a conclusion on  
12 something that they should or should not have done?

13 Q. I'm asking you about your testimony. You said  
14 that Intercounty could have intervened in the lawsuit  
15 involving the annexation.

16 A. I did say that, yes.

17 Q. Are you saying, then, that even though the  
18 Plan of Intent stated that the cooperative would continue to  
19 the serve the area, it should have intervened to make sure  
20 that what the Plan of Intent meant?

21 A. I don't think I said that.

22 Q. Well, why would they want to intervene?

23 A. Again, you're asking me to speculate about  
24 their interests.

25 Q. Wouldn't it be true that if the Plan of Intent

1 said the cooperative is going to serve the area, that there  
2 was very little reason for them to intervene in any case  
3 involving that?

4 A. That's half of the truth, yes.

5 Q. There's other reasons for them to have  
6 intervened?

7 A. No. The other half of the truth is the  
8 assurances that the City had that led them to formulate the  
9 Plan of Intent in the manner that they did.

10 Q. You're saying that someone at Intercounty led  
11 the City to prepare a Plan of Intent in a certain way?  
12 You're saying that somebody at Intercounty led the mayor or  
13 you or other people in a certain way so that that Plan of  
14 Intent was structured in the way it was; is that correct?

15 A. I'm saying again that there was an  
16 understanding, and that is why the verbiage in the Plan of  
17 Intent reads the way that it does, yes.

18 Q. As I understand your testimony, Mr. Watkins,  
19 sometime after the annexation but before you started  
20 exercising the procedures under 386.800, somebody at  
21 Intercounty made it clear that the understanding or  
22 assurances you talk about weren't going to be complied with;  
23 is that right?

24 A. You're asking about when something happened,  
25 is that the question?

1           Q.       My understanding of your testimony is that,  
2                    sometime between the annexation and the date RMU started the  
3                    provisions, started exercising the provisions under 386.800,  
4                    somebody from Intercounty made it clear to you or the people  
5                    at RMU that the assurances and understanding you and I just  
6                    talked about a second ago wasn't going to be complied with.  
7                    Is that your testimony?

8           A.       With one correction.  You're saying from the  
9                    time of the annexation, and I'm going to say from the time  
10                   of the annexation election.

11          Q.       So that would be June 8th?

12          A.       That would be April the -- the first Tuesday  
13                    after the first Monday in April, an election day.

14          Q.       So the election was April the 8th, and the  
15                    annexation was effective June 8th; is that right?

16          A.       It could be right.  I don't have the  
17                    calendars.

18          Q.       Well, in your testimony we've been presuming  
19                    all along that the annexation was effective on June 8th; is  
20                    that correct?

21          A.       The effective date was June 8th.

22          Q.       On page 25 of your rebuttal -- rather your  
23                    surrebuttal -- that's not the page.  On page 15, I think it  
24                    is, lines 16 through 18, It was only after the annexation  
25                    when the City discovered the understanding it had was not to

1 be honored, which left the City no recourse but to utilize  
2 the provisions of Section 386.800, RSMo. Is that a correct  
3 reading of your testimony?

4 A. It is.

5 Q. So after the annexation, June 8th, but before  
6 you filed the notices under 386.800, someone made it clear  
7 that that understanding wasn't going to be honored; is that  
8 your testimony?

9 A. I don't believe my testimony says what you're  
10 saying it says there. You're assuming that whenever I refer  
11 to the annexation, that it's -- that's narrowly defined as  
12 the effective date.

13 I think that what I've written there is  
14 sufficiently broad enough to include what I'm trying to tell  
15 you, that I was referring to the election date, the outcome  
16 of the election which set this in motion.

17 Q. And that was April the 8th. So sometime  
18 between April the 8th and the time you filed the notices, is  
19 that when you're saying? That's when someone from  
20 Intercounty made it clear that that understanding wasn't  
21 going to be honored?

22 A. That's correct.

23 Q. Sometime between April the 8th -- okay.  
24 Mr. Watkins, wasn't your testimony yesterday that the first  
25 time you had contact with Intercounty was after June 8th,

1 1998?

2           A.       I don't know if that's what I said at the time  
3 or not. I don't know. I think I referred to my memory, and  
4 I said I do at least remember that.

5           Q.       Do you remember -- I think you mentioned you  
6 had a phone call with Intercounty's general manager,  
7 Mr. Strickland. Do you remember when that phone call was?

8           A.       The phone call that I remember us discussing  
9 yesterday was after the notices went out, and it was for the  
10 purpose of setting up the meetings associated with  
11 compliance to 386.800.

12          Q.       I remember during your testimony that you  
13 couldn't recollect when those meetings occurred. Let me  
14 show you some things. I'm going to hand you what appears to  
15 be a copy of a letter to Vernon Strickland over your  
16 signature dated July 24th, 1998. Do you recognize that  
17 letter?

18          A.       I do.

19          Q.       Does this refresh your recollection about the  
20 approximate dates of when you and Mr. Strickland discussed  
21 the meetings that would come after the notices?

22          A.       Does it refresh my recollection?

23          Q.       About the dates that you -- or I'll strike  
24 that.

25                   Does this refresh your recollection about the

1 time at which you and Mr. Strickland discussed the notices  
2 that you had submitted about extending your territory?

3 A. Yes. The telephone conversation was the week  
4 of July the 13th.

5 Q. And July the 13th was the date when you issued  
6 the notice to Intercounty?

7 A. I believe that's correct.

8 Q. Let me show you a letter to you over  
9 Mr. Strickland's signature dated August 3rd, 1998. Do you  
10 recognize that letter?

11 A. I do recognize the letter, and I would also  
12 note that it was in response to a letter that passed  
13 sometime between the date of that one and this one.

14 Q. Okay. But you said that letter -- does that  
15 refresh your recollection about the date when your first  
16 meeting with Intercounty was?

17 MR. DUFFY: I object to the form of the  
18 question with regard to the terminology of the first meeting  
19 with Intercounty. I think previous testimony has been that  
20 Mr. Watkins met with Intercounty in 1992, 1994.

21 If the first meeting with Intercounty means  
22 after the notices went out on July 13th, then I remove my  
23 objection to the form of the question. So I'd ask you to  
24 clarify.

25 BY MR. COMLEY:

ASSOCIATED COURT REPORTERS, INC.  
Jefferson City - Columbia - Rolla  
(888) 636-7551

1           Q.       I'll amend my question to include Mr. Duffy's  
2 qualification there, the first meeting after the notices  
3 were sent to Intercounty.

4           A.       Okay. Yes, this does refresh my memory to a  
5 certain extent, and it appears that the first meeting,  
6 official meeting, and this was with the RMU board, City  
7 administration and the Intercounty board, was Monday,  
8 September 28th.

9           Q.       Now, let's go back to this understanding that  
10 the City had one more time. Is it your testimony that  
11 sometime between the election, which I understand was in  
12 April of '98, and July 13th, which is the date you sent out  
13 the notices to Intercounty customers within a period of time  
14 for the newspaper, someone at Intercounty made it clear to  
15 you that that understanding and that assurance that you had  
16 about how things were going to be done after annexation was  
17 not going to be honored?

18          A.       That's correct.

19          Q.       Who was it that led you to believe that?

20          A.       The conversations that I had with Mr. Duane  
21 Cartright, and also there were conversations with someone at  
22 Intercounty and city administration. It was this  
23 decision -- this understanding was also communicated to me  
24 by City administration.

25          Q.       So Mr. Cartright, you're talking about



1 Mr. Cartright. Do you know his position with Intercounty?

2 A. I believe he is a manager of member services.

3 Q. He's not the general manager; is that correct?

4 A. That's correct.

5 Q. And you also got information from city

6 officials about whether this understanding was to be

7 honored; is that correct?

8 A. That's correct.

9 Q. On page 38 of your testimony -- we'll go back

10 to page 38 of your surrebuttal, lines 17 through 19. You

11 say you have witnessed Mr. Strickland making such threats on

12 more than one occasion, which serves to confirm that

13 Intercounty was aware of their options at the time and must

14 ultimately hold themselves accountable for the decision they

15 make. Is that a correct reading of your testimony?

16 A. Yes, it is.

17 Q. Now, with respect to the threat you have

18 referred to in your testimony, are you referring to

19 statements such as, We intend to intervene in your lawsuit?

20 A. Similar type statements, yes.

21 Q. Is it your testimony that RMU feels as if

22 they're threatened, it is threatened when people try to

23 intervene in their lawsuits?

24 A. I don't know that I feel like that RMU feels

25 threatened. I think people are exercising their rights and

1 that's their prerogative.

2 Q. So you don't feel threatened by people  
3 exercising their rights; is that correct?

4 A. Me personally?

5 Q. RMU does not feel threatened by people  
6 exercising their rights; is that correct?

7 A. RMU is a utility. I don't know how they would  
8 have feelings.

9 Q. Basically, you do not think it's a threat for  
10 someone to state that they would prefer -- they intend to  
11 intervene in a lawsuit which RMU is a part of?

12 A. I think it's a threat of an action that they  
13 may take.

14 Q. So you're using it as a statement of their  
15 intention as a threat? Is that the way you're using the  
16 word?

17 A. If they've stated their intention as something  
18 that they might do, it could a threat, yes.

19 Q. On that same line, you talk about the options  
20 that Intercounty had. Really, the options were to believe  
21 what was said in the Plan of Intent or to intervene and make  
22 sure that it said what it meant exactly. Isn't that exactly  
23 what they had as options?

24 A. Again, you're asking me to speculate on what  
25 all of their options are, and I don't think I would want to

1 do that.

2 Q. Well, you say that Intercounty was aware of  
3 its options. So you must have some options in mind when you  
4 say that.

5 A. In particular, the option that I was referring  
6 to here.

7 Q. And that option was?

8 A. To intervene in the process.

9 Q. And the other option was?

10 A. I would not even begin to speculate what their  
11 other options are.

12 Q. To intervene or not intervene; isn't that  
13 correct?

14 A. I don't know.

15 Q. All right. On page 39, you talk about the  
16 historic problems that Mr. Strickland raises in his rebuttal  
17 testimony. On page -- on that same page, I think at  
18 line 14, you talk about a case involving your largest  
19 customer; isn't that correct?

20 A. At the time, yes.

21 Q. It was your largest customer at the time?

22 A. Yes.

23 Q. And that was the University of Missouri at  
24 Rolla; isn't that correct?

25 A. That's correct.

1 Q. Was it true that, under the facts of that  
2 case, the University of Missouri asked Intercounty to  
3 provide service to the University?

4 A. I don't know about the communications that  
5 went on between Intercounty and the University.

6 Q. You don't know about the facts of the case,  
7 then?

8 A. I don't know about that fact that you're  
9 asking me to testify to.

10 Q. On page 44 of your surrebuttal at lines 18  
11 through 19, you state that there was no reason why  
12 Intercounty could not have agreed to a PILOT and then passed  
13 it through to the customers if it had wanted to. Is that a  
14 correct reading of your testimony?

15 A. Through to the customers in the annexed area  
16 if it had wanted to do that, is a more correct reading, yes.

17 Q. I didn't mean to misread your testimony there.  
18 So you're saying what now?

19 A. I said, There is no reason why Intercounty  
20 could not have agreed to a PILOT and then passed it through  
21 to the customers in the annexed area if it had wanted to do  
22 that.

23 Q. And in those discussions, isn't it true that  
24 Intercounty pointed out that its legal authority to pay a  
25 PILOT was in question?

1           A.       I don't know that they really said that about  
2 the PILOT, no.

3           Q.       They didn't tell you that they doubted the  
4 legal authority to do that?

5           A.       I'm sorry. They didn't tell me --

6           Q.       Intercounty did not tell you that Intercounty  
7 doubted the legal authority to pay a PILOT to you?

8           A.       I don't -- I don't think they doubted the  
9 PILOT option.

10          Q.       What was your reason for not indemnifying  
11 Intercounty if the PILOT were challenged?

12          A.       I don't believe that any public official can  
13 obligate a city to indemnify another corporation.

14          Q.       So you have no legal authority to do that;  
15 that's your position?

16          A.       That's the basis of my position, yes.

17          Q.       Let's go to your prepared rebuttal testimony.  
18 I think that -- I don't have the exact reference handy. I'm  
19 sorry. But on page 2 --

20                   JUDGE THOMPSON: Exhibit 6.

21                   MR. COMLEY: Thank you, your Honor.

22 BY MR. COMLEY:

23          Q.       At the bottom of page 2 through the top of  
24 page 3, you're talking about a survey that was conducted by  
25 Don Priest; is that correct?

1           A.       I believe that's correct.

2           Q.       Now, you state there that you believe that the  
3 survey was conducted apparently at Intercounty's request.  
4 On what do you base your statement that the survey was done  
5 by Mr. Priest at Intercounty's request?

6           A.       The comment that Mr. Priest made in his  
7 testimony at the public hearing.

8           Q.       At the public hearing. Okay. Now, are you  
9 saying that Intercounty gave Mr. Priest a copy of the names  
10 and addresses of Intercounty's customers and how much they  
11 paid during the 12-month period?

12          A.       I think that's what Mr. Priest said.

13          Q.       You got a copy of what was paid?

14          A.       Of the list of meters and customers, not how  
15 much was paid.

16          Q.       Not how much was paid. You got a list of the  
17 customers and the meters.

18          A.       I don't know that he got -- he didn't get how  
19 much they paid. I just know that that's -- that he did get  
20 a list of the meters and customers.

21          Q.       He did get a list of the meters and customers?

22          A.       Yes.

23          Q.       Now, that's public information, isn't it? A  
24 list of the names is public, isn't it?

25          A.       It could be, yeah.

1           Q.       I think it's on the back of your application;  
2 isn't that correct?

3           A.       The back of what application?

4           Q.       Your application in this case. Aren't the  
5 names of the customers in the annexed area on the back of  
6 your application?

7           A.       Yes, I believe you're correct about that.

8                   MR. COMLEY: Judge, Mr. Watkins raises the  
9 question about whether or not we have given material that we  
10 raise as proprietary in this case, proprietary with the  
11 assistance of Mr. Duffy's office.

12                   I want to make it clear to the court that we  
13 do not know of any breach of that and continue to hold fast  
14 to the classification that the members and addresses and the  
15 amounts that they paid for the 12-month period that we're  
16 talking about in this case, they have not been disclosed  
17 outside the scope of the protective order.

18                   As far as we know, there's been no public  
19 disclosure of that information. As far as the names and  
20 addresses of those customers, we think that has been  
21 publicly known for some time.

22                   JUDGE THOMPSON: Thank you, sir.

23 BY MR. COMLEY:

24           Q.       I was talking to Mr. Bourne in his  
25 cross-examination about the construction of line extensions,

1 I think, in south Rolla. You were here during the course of  
2 his cross-examination, weren't you?

3 A. I was here.

4 Q. And I think Mr. Bourne has been with you just  
5 a little over a year or 18 months, and he was not familiar  
6 with the circumstances of that extension.

7 Regarding that extension, do you know whether  
8 RMU prepared a cost estimate for that extension in advance  
9 of the construction?

10 A. I don't believe that was quantified as a  
11 single project and quantified in that manner, no.

12 Q. There's also a line extension along  
13 Highway 72. That was a recent line extension; is that  
14 correct?

15 A. Recent being?

16 Q. Do you know when the construction was?

17 A. I don't remember when it began. In some  
18 respects it's still going on.

19 Q. It's still under construction?

20 A. Yes.

21 Q. Is it true that the construction started in  
22 February of 1996 and continued through August of 1999?

23 A. As I've already said, I don't really remember  
24 when it began.

25 Q. It's still continuing, though?



1           A.       Yes.  There's highway construction going on,  
2 and we're working there.

3           Q.       Is there -- now, has RMU put that into its  
4 inventory, that line?

5           A.       Yes.

6           Q.       And is there any cost estimate that you have  
7 now of how much it cost?

8           A.       There is no work order or a job description  
9 specifically for that line that I'm aware of; I mean, no  
10 engineering quantification of the cost of that.

11          Q.       And right now, there's no information  
12 available to tell us how much that line would have cost to  
13 construct?

14          A.       If you're asking me if I can go back through  
15 the records and try to determine how much the line cost, I  
16 think we can get pretty close.

17          Q.       You can get pretty close, but you couldn't say  
18 exactly?

19          A.       Not to the penny, no.

20          Q.       And would the same thing be -- could you say  
21 the same thing about the line extension on Rolla Street  
22 that's in the annexed area?

23          A.       I believe so, yes.

24          Q.       Let me take you back to some questions about  
25 the time period between the annexation election and the time

1 when RMU sent its notices under 386.800.

2           As I recollect your testimony, you said that  
3 you had a statement -- you had a conversation with Duane  
4 Cartright, and can you tell me what Mr. Cartright said  
5 during that conversation?

6           A.     Not really. Mr. Cartright and I met on  
7 several occasions. We had very -- several very informal  
8 conversations. I believe that he was trying to explore any  
9 common ground that the City, RMU and Intercounty might have,  
10 and so there were several conversations in that regard.

11          Q.     I take it that you did not keep a memo of any  
12 kind about that conversation?

13          A.     No, I did not.

14          Q.     And again, the understanding that you're  
15 talking about, it was never reduced to any formal writing;  
16 isn't that correct?

17          A.     That is correct.

18          Q.     You understood that Mr. Cartright did not have  
19 authority to speak for Intercounty, didn't you?

20          A.     I think I understood that Mr. Cartright would  
21 not sign any declarations or documents on behalf of  
22 Intercounty.

23          Q.     Did you believe he had authority to speak on  
24 behalf of Intercounty at that time?

25          A.     I believe that he was a messenger from

1 Intercounty, yes.

2 Q. And why did you believe that?

3 A. Because --

4 Q. Why did you believe he was a messenger from  
5 Intercounty for that purpose?

6 A. Because of the subject matter which we were  
7 discussing.

8 Q. Did you follow up the conversation with  
9 Mr. Cartright with Mr. Strickland?

10 A. No.

11 MR. COMLEY: Thank you, Judge. I've finished  
12 my inquiry of Mr. Watkins.

13 JUDGE THOMPSON: Thank you. Mr. Dunbar?

14 MR. DUNBAR: Thank you, Judge.

15 CROSS-EXAMINATION BY MR. DUNBAR:

16 Q. Good morning, Mr. Watkins. How are you doing  
17 today?

18 A. Good morning, Mr. Dunbar. I'm fine, thank  
19 you.

20 Q. What I'm going to do is, I'll try to not go  
21 over the same territory that's been gone over for the past  
22 few hours and try to direct you to your testimony, rebuttal  
23 and surrebuttal. So you have all three of those in front of  
24 you; is that correct?

25 A. Yes, sir.

1 Q. If we can turn to your direct testimony, if  
2 you'll pull that out first. Turning to page 10, line 21, in  
3 that section you're discussing when the City first published  
4 notice to the customers that were affected in the annexed  
5 area of RMU's intent to take over services; is that correct?  
6 You published it in the paper on July 15th, 1998; is that  
7 correct?

8 A. That's correct.

9 Q. And would that be the first time the people  
10 within the annexed area, and I'm talking about the 286 or so  
11 customers of Intercounty, would have known of RMU's intent  
12 to try to take over their services?

13 A. Yes.

14 Q. So you would agree that prior to July 15th,  
15 1988, that the customers of Intercounty, those 286 within  
16 the Southside area, had no knowledge that RMU ever intended  
17 to take over their services?

18 A. With one correction. It's '98.

19 Q. '98. I'm sorry.

20 A. Yes, that's correct.

21 Q. So with regards to Intercounty -- well, let me  
22 back up.

23 The decision to start annexing the Southside  
24 area started back in the 1993 time frame; is that correct?

25 A. It could be.

1 Q. I'm not trying to hold you to an exact date,  
2 but that's about the year it started; is that correct?

3 A. It was over several years, yes.

4 Q. So in 1993, 1994, 1995, 1996, 1997 and until  
5 July 15th, 1998, the public, those people within the  
6 Southside area, had no idea that RMU was planning to take  
7 over those services provided by Intercounty?

8 A. RMU had no plan to take over those services  
9 during 1993, '94, '95, '96 and et cetera.

10 Q. And would you also agree that the customers  
11 within there --and by that the people that live in the  
12 Southside. I'm excluding Intercounty. I'm talking about  
13 just the customers -- were never made aware of any potential  
14 agreement between Intercounty and RMU or the City about a  
15 franchise tax or a PILOT, a payment in lieu of tax; would  
16 that be correct?

17 A. I'm sorry. State your question again. I  
18 actually had a -- I was thinking about something else that I  
19 said. I apologize.

20 Q. That's okay. The public, the customers, those  
21 286 or so within the Southside area, had never been informed  
22 of a potential for a franchise tax or a PILOT, a payment in  
23 lieu of tax, by Intercounty to the City of Rolla?

24 A. That's true.

25 Q. It was never discussed in public hearings; is

1 that correct?

2 A. That's correct.

3 Q. And would it be fair to say that there were at  
4 least four or five public hearings during the course of this  
5 process of the annexation?

6 A. That's correct. I need to recant a little bit  
7 on something I said earlier that I agreed with you that --

8 Q. Well --

9 A. -- July 15 was the first time that any of  
10 the --

11 MR. DUNBAR: Your Honor, I'd ask him just to  
12 respond to my questions. I'm sure if there's something that  
13 he needs to correct, that can be done through redirect. I'd  
14 request that the witness be instructed to respond to my  
15 questions.

16 JUDGE THOMPSON: Mr. Watkins, please limit  
17 yourself to responding to the questions posed.

18 THE WITNESS: Yes, your Honor.

19 BY MR. DUNBAR:

20 Q. Then referring to page 11 --

21 A. Are you still in the direct?

22 Q. Yes, still in direct. I'll try to remind you  
23 when we go from direct to redirect. Starting at page 11,  
24 starting at line 11 and continuing through line 22, the  
25 meetings that you are referring to in that section are those

1 meetings that took place, would have been since the April  
2 1998 annexation election; is that correct?

3 A. That's correct.

4 Q. So from the April 1998 election until  
5 Intercounty was given notice and the customers were given  
6 notice in July of 1998, there were several meetings in the  
7 evenings held between representatives of the City and  
8 Intercounty?

9 A. Between what time frame again?

10 Q. The April election and the July notice of  
11 1998.

12 A. No, that's not true. The meetings between the  
13 City and Intercounty were after that time.

14 Q. Were after that time. Okay. I'm sorry.

15 From the April election until the effective  
16 date, June 8th, 1998, were there any meetings between RMU  
17 and Mr. Strickland or the board of directors of Intercounty  
18 concerning this process?

19 A. I do not recall that.

20 Q. So it would be correct, your testimony is  
21 there would have been no meetings?

22 A. I believe that's true.

23 Q. With regards to telephone conversations, did  
24 you have any telephone conversations between you and  
25 Mr. Strickland between the April 1998 election and the

1 June 8th, 1998 effective date of the annexation?

2 A. I don't recall any.

3 Q. During that period of time, did you ever  
4 publish a notice of anything to Intercounty members within  
5 the Southside area that you believed that Intercounty was to  
6 pay a franchise tax or a payment in lieu of tax to the City  
7 of Rolla?

8 A. No notice about a franchise tax or payment in  
9 lieu of tax.

10 Q. Prior to April, the April election in 1998 for  
11 the annexation, did you ever provide notice to the public  
12 that your belief that Intercounty should pay a franchise tax  
13 or payment in lieu of tax to the City of Rolla?

14 A. No.

15 Q. Now, referring still in your direct, on  
16 page 13, and starting with line 1 and going down through  
17 line 18. From that direct testimony, it's my understanding  
18 that -- and tell me if this is correct -- that if there --  
19 if you had worked out a payment in lieu of tax or a  
20 franchise tax with Intercounty, that the customers would  
21 continue to be served by Intercounty, these 286?

22 A. Not necessarily. That was -- first of all,  
23 let me read what I've said here.

24 Q. Take your time.

25 A. Then I'll get to it.



1 JUDGE THOMPSON: Let's go ahead and take five  
2 minutes while Mr. Watkins is reviewing his testimony.

3 (A BREAK WAS TAKEN.)

4 JUDGE THOMPSON: Let's get started.

5 BY MR. DUNBAR:

6 Q. Mr. Watkins, do you recall my last question  
7 and that we were referring to -- now I've lost my place.  
8 What page were you referring to?

9 A. Page 13, lines 1 through 18, and I have now  
10 reviewed those.

11 Q. And in that regard, that was discussing  
12 Intercounty and RMU coming up with a territorial agreement;  
13 is that correct?

14 A. Yes.

15 Q. And some of that had to do with whether  
16 Intercounty would pay a franchise or a PILOT to RMU; is that  
17 correct?

18 A. That's correct, to the City of Rolla.

19 Q. To the City of Rolla. I wasn't trying to  
20 trick anything up.

21 A. Okay.

22 Q. But the franchise tax or the PILOT would have  
23 been paid directly to the City of Rolla; is that correct?

24 A. That's correct.

25 Q. And if Intercounty had agreed to pay the

1 franchise tax or the PILOT, the payment in lieu of a tax,  
2 then the 286 people within that area would have continued to  
3 be served by Intercounty?

4       A.       Not necessarily. That was -- that was part of  
5 the overall negotiations, which it also included territorial  
6 agreement, services supplied without charge to the City,  
7 like street lighting and those sorts of things. All of that  
8 was being discussed.

9       Q.       And what I'm talking about is those people  
10 within the 286 receiving, I guess, their electric power  
11 would have continued to be served by Intercounty?

12       A.       Not necessarily, because if there had been an  
13 agreement on territory, some of those customers may have  
14 voluntarily been changed by Intercounty.

15       Q.       Well, so I guess what it boiled down to, this  
16 is a money issue more than anything with RMU?

17       A.       You're saying RMU. You mean the City?

18       Q.       I mean the City. Right now we're talking --

19       A.       It is money, territory and services supplied  
20 to the City without charge, I think those three basic  
21 categories.

22       Q.       And once --

23       A.       And I think I would quantify that as saying  
24 it's services.

25       Q.       With regards to the 286, the Southside

1 annexation area, the present customers of Intercounty, was  
2 there a discussion between RMU and Intercounty about  
3 Intercounty paying a franchise tax or a payment in lieu of  
4 tax to retain those 286 customers?

5 A. I don't think in whole that was ever the case.

6 Q. Was there a discussion in part that that was  
7 the case?

8 A. Other than the understanding with regard to  
9 the Plan of Intent. Essentially the City's position was we  
10 weren't interested in making any kind of a change had those  
11 services and the PILOT been worked out.

12 MR. DUNBAR: May I approach, your Honor?

13 JUDGE THOMPSON: You may.

14 BY MR. DUNBAR:

15 Q. I'm showing you what has been attached to Don  
16 Priest's testimony, the cover page. You've reviewed Don's  
17 testimony; is that correct?

18 A. Yes.

19 Q. Don Priest's testimony. And attached to it is  
20 the City of Rolla's Revised Plan of Intent?

21 A. Yes.

22 Q. And for the record, actually, there were three  
23 Plans of Intent developed by the City of Rolla; is that  
24 correct?

25 A. I believe that's correct.

1 Q. There was the initial Plan of Intent that was  
2 done, oh, 1994 to 1995 time frame; is that correct?

3 A. That sounds correct.

4 Q. And within that initial Plan of Intent there  
5 was -- it wasn't addressed who would supply the utility  
6 services for the Southside Annexation Area; is that correct?

7 A. I don't remember.

8 Q. Okay. Then the next Plan of Intent, if you'll  
9 turn back to this one, was the Plan of Intent that's  
10 attached to Don Priest's testimony?

11 A. Are you saying this is the second one?

12 Q. The second one: It's dated November 26th,  
13 1996; is that correct?

14 A. This one is, yes. That's correct.

15 Q. And then there was also another one that  
16 followed in October of 1997; is that correct?

17 A. I believe that's correct.

18 Q. With regards to those two Plans of Intent,  
19 the verbiage, as you say, was the same with regards to  
20 utility services in both Plans of Intent; is that correct?

21 A. Without sitting down and actually comparing  
22 them word for word, I mean, I couldn't testify that that's  
23 absolutely correct.

24 Q. Well, all right. Let's back up. With regards  
25 to the Plan of Intent language on page 9 that says

1 electricity, who was responsible for developing the Plan of  
2 Intent for the electricity?

3       A.       My office had input to the planning department  
4 in that regard.

5       Q.       And when you say your office, you're talking  
6 RMU?

7       A.       Yes.

8       Q.       Now, the last paragraph on page 9, if you  
9 could read that paragraph for the record. That means read  
10 it out loud.

11       A.       The areas within the proposed annexation that  
12 are now receiving electric service from a rural electric  
13 cooperative would continue to do so. RMU would not be  
14 allowed to serve any of these properties. Any new  
15 development within this area would receive electric service  
16 from RMU. It is the policy of RMU to absorb the cost of any  
17 electric extension, and this would continue to be the case.  
18 The proposed financing of electric extensions into the  
19 proposed annexation area is to use electric reserve funds to  
20 install any new lines.

21       Q.       Where in the Plan of Intent does it say  
22 provided Intercounty will pay franchise tax or a PILOT?

23       A.       I don't know that it does.

24       Q.       Does it -- is there a condition on this Plan  
25 of Intent? Is there a condition in the Plan of Intent that

1 says, We have this understanding with Intercounty that  
2 there's going to be a franchise tax or a payment in lieu of  
3 tax?

4 A. A condition of what? I mean --

5 Q. A condition that this will be applied, this  
6 will apply unless Intercounty pays a franchise tax.

7 A. I can attest to the fact that this was the  
8 City's intent.

9 Q. And where does it say that the City's intent  
10 was conditioned upon a franchise tax or a payment in lieu of  
11 tax? Where does it say that in that document?

12 A. I don't think that it states any of the City's  
13 rights or conditions in that regard.

14 Q. The second sentence, RMU would not be allowed  
15 to serve any of these properties.

16 A. That was the intent.

17 Q. That doesn't sound like intent to me. It  
18 sounds like RMU would not be allowed. Does it say RMU's  
19 intent or does it say RMU would not?

20 MR. DUFFY: The document speaks for itself.

21 JUDGE THOMPSON: I believe this is appropriate  
22 cross-examination. I'm going to overrule the objection.

23 THE WITNESS: The sentence is, RMU would not  
24 be allowed to serve any of these properties.

25 BY MR. DUNBAR:

ASSOCIATED COURT REPORTERS, INC.  
Jefferson City - Columbia - Rolla  
(888) 636-7551

1 Q. That's a statement of fact, isn't it?

2 A. It is a statement.

3 Q. It does not use the word "intend," does it?

4 A. It is also the second document; is that

5 correct?

6 Q. The Plan of Intent dated November 26th, 1996

7 does not use the word intend, does it?

8 A. In the very name of the document, it says Plan

9 of Intent.

10 MR. DUNBAR: Your Honor, I'd request that the

11 witness be instructed, again, to answer the question and not

12 to ad lib or add extra words, but to answer the question.

13 JUDGE THOMPSON: Well, I believe, Mr. Dunbar,

14 on that occasion he was attempting to answer the question.

15 BY MR. DUNBAR:

16 Q. I'll repeat my question. In this sentence is

17 the word intend used?

18 A. Show me the sentence.

19 Q. RMU would not be allowed to serve any of these

20 properties.

21 A. It does not occur in that sentence.

22 Q. Referring to page 16 -- this is still your

23 direct -- at line 3, that starts out, in your direct

24 testimony, starting at line 3, Another reason is that there

25 would not be any deterioration in the quality of services to

1 the customers. To the contrary, RMU has been providing  
2 dependable electric service for 55 years.

3 My question is, has RMU experienced outages  
4 over the past -- over the past three years?

5 A. Certainly.

6 Q. Did RMU experience an outage that required a  
7 school to be canceled within the City of Rolla?

8 A. Yes, they did.

9 Q. And I take it that RMU has in the past three  
10 years had more than five outages?

11 A. Define outage for me.

12 Q. Well, where people lose power.

13 A. The entire city or an individual?

14 Q. An individual.

15 A. Sure.

16 Q. And it's also true that buildings have lost  
17 power, business buildings within the City of Rolla, in the  
18 past three years; is that correct?

19 A. That's correct.

20 Q. Now referring to page 18, line 13, you're  
21 responding to a question about what you think about their  
22 positions as you understand them, correct? And these people  
23 are the people that have -- that are known as the Southside  
24 Neighbors; is that correct?

25 A. Yes, that's correct.



1 Q. And you're basically just giving your own  
2 opinion, is that correct, in your response on page 18 of  
3 your direct, starting at line 13, going down through line 22  
4 and continuing over to page 19, line 1?

5 A. I'm sorry. Beginning on what line?

6 Q. 13. That's just your answer. That goes  
7 through the rest of that page and continues over on one line  
8 onto page 19.

9 A. It is -- there are facts included with my  
10 opinion, yes.

11 Q. You would agree that cheaper is not always  
12 better, wouldn't you?

13 A. If you would give me a specific answer, I  
14 would judge that.

15 Q. Well, my question to you is, would you agree  
16 that cheaper is not always best?

17 A. I don't know that I would agree with that.

18 Q. Does RMU always when -- let's say you have a  
19 construction project. Does RMU always take the cheapest  
20 bid, the least cost? Does RMU always do that?

21 A. Not always.

22 Q. Because sometimes you look at the total  
23 package; is that correct?

24 A. That's correct.

25 Q. You're looking at what is the best price that

1 you can receive and receive the best quality; is that  
2 correct?

3 A. That's true.

4 Q. So just because something costs less does not  
5 necessarily mean it's the best?

6 A. For an expressed purpose, yes.

7 Q. Then on page 20, starting at line 4 and going  
8 down to line 10, do you want to take a moment and read that?  
9 Have you had the opportunity to review that?

10 A. Are you wanting to include line 10?

11 Q. No. Line 9, down to 9.

12 A. Yes, I've read it.

13 Q. So is it true, then, if the Commission were to  
14 order a price paid to Intercounty that was greater than what  
15 the City believed was fair, then RMU would not want to  
16 proceed with this takeover?

17 A. I believe that's true.

18 Q. So your application, then, would be  
19 conditioned upon the City ordering -- I mean the Public  
20 Service Commission ordering an amount which the City of  
21 Rolla believes is fair and reasonable?

22 A. I believe that's true.

23 Q. So in that regard, your application is  
24 conditioned upon not what the Public Service Commission  
25 believes is fair and reasonable, but what Rolla would

1 believe is fair and reasonable?

2           A.       Say the first part of that again for me.

3           Q.       Your application basically is conditioned upon  
4 not what the Public Service Commission believes is fair and  
5 reasonable for the price to be paid, but what Rolla believes  
6 is fair and reasonable?

7           A.       The application was filed not knowing what the  
8 amount would be. So that's why it's the way it is.

9           Q.       But if the Commissioners were to agree with  
10 Intercounty that the price is in the 4.5 million range, then  
11 the City of Rolla may not want to proceed with the takeover  
12 of this territory; is that correct?

13          A.       I don't know that that's true or not true. I  
14 mean, the amount will be the amount, and it will be judged  
15 by the City officials at that time.

16          Q.       So basically, the City of Rolla and RMU's  
17 position is that the Public Service Commission should not  
18 have the ultimate say on what the price is, the City of  
19 Rolla does?

20          A.       I'm sorry, but my understanding is they do  
21 have the ultimate say.

22          Q.       You just may not go along with it?

23          A.       The City may not pay that price.

24          Q.       Because then it comes back to it's an economic  
25 issue, a money issue? Is that kind of the bottom line?

1 Would you agree with that?

2           A.       The acquisition would be a money issue, yes.

3           Q.       And that is an issue that only addresses the

4 City of Rolla, RMU; it does not address what is in the

5 public interest, does it?

6           A.       No. I think money is in the public interest

7 as well.

8           Q.       Okay. Now if you'll look at your rebuttal

9 testimony.

10          A.       Prepared rebuttal?

11          Q.       Yes. Referring to page 1 and page 2,

12 specifically starting on page 2, lines -- well, for you to

13 review it and have an understanding of my questions, you

14 probably need to start at line 14, page 1, and then continue

15 through page 2, line 4. Did you have time to look at that?

16          A.       Yes, I have.

17          Q.       With regards to that, the City of Rolla

18 retained an attorney with regards to the water district

19 issue; is that correct?

20          A.       That's correct.

21          Q.       And that attorney was Gary Duffy; is that

22 correct?

23          A.       That's correct.

24          Q.       And Union Electric's attorney was Gary Duffy

25 also; is that correct?

1           A.       Not to my knowledge.

2           Q.       But it could have been; is that correct?

3           A.       Not to my knowledge.

4           Q.       So you don't know?

5           A.       I would be surprised to find that Mr. Duffy

6 was working for Union Electric at the time in that regard.

7           Q.       So Mr. Mauller may have been correct?

8           A.       Not to my knowledge.

9           Q.       Do you know if Gary Duffy has represented

10 Union Electric in the past?

11          A.       I'm sure he has.

12          Q.       So Mr. Duffy could have been representing the

13 City of Rolla and also been representing Union Electric?

14 I'm not talking with regards to the water district issue,

15 but he could have been representing the City of Rolla and

16 also been representing Union Electric?

17          A.       Not in that matter. The City of Rolla was on

18 its own.

19          Q.       I'm not saying that they weren't. My question

20 is, Gary Duffy has represented Union Electric; is that

21 correct?

22          A.       I think he used to work for them.

23          Q.       Now referring to page 2, starting at line 6,

24 you're responding to Julian Harrison's testimony at the

25 public hearing that was held in Rolla by this Commission; is

1 that correct?

2 A. Yes.

3 Q. And again, you're stating what the City's  
4 intent was at the time the Plan of Intent was formed; is  
5 that correct?

6 A. Was what?

7 Q. What you're responding to Julian Harrison is  
8 that he advised the Commission basically that the City of  
9 Rolla had advised those people within the Southside area  
10 that they would continue to have services by Intercounty; is  
11 that correct?

12 A. I'm sorry, Mr. Dunbar. I've got lost in the  
13 questions here.

14 Q. That's fine. You're responding to  
15 Mr. Harrison who testified at the public hearing; is that  
16 correct?

17 A. That's correct.

18 Q. And it's also correct that Mr. Harrison  
19 advised at the public hearing that the City of Rolla had  
20 told him through the Plan of Intent that the Southside area  
21 would continue to be serviced by Intercounty, those that  
22 were receiving it at the time of the annexation?

23 A. I believe that's what he said, yes.

24 Q. Now, can you point to anywhere within any  
25 public hearings, any City of Rolla council meetings, Plan of

1 Intent, court trial testimony, where the City of Rolla or  
2 RMU ever said that that Plan of Intent was conditioned upon  
3 a franchise tax or a payment in lieu of tax being paid?

4 A. No.

5 Q. At the bottom of that you give an example of  
6 two people who agree to meet in ten minutes and that there's  
7 a car accident and so things change. Is that the gist of  
8 your example?

9 A. The circumstances change so that the one could  
10 not fulfill their original intent, yes.

11 Q. And you agree that, in your example, that the  
12 one that could not fulfill the intent was basically because  
13 somebody else hit him with a car, caused an accident?

14 A. He could have had an accident for any reason.  
15 It doesn't matter. For the purpose of my illustration, it  
16 didn't matter.

17 Q. But when comparing that with what the City of  
18 Rolla and RMU did, you didn't advise the public of any  
19 potential agreement between RMU and Intercounty, did you?

20 A. We advised the public of our intent.

21 Q. Did you advise the public of any agreement  
22 between -- potential agreement between RMU and Intercounty?

23 A. No.

24 Q. Now referring to page 3, lines 1 through 7,  
25 you're responding to Don Priest's testimony at the public

1 hearing held in Rolla; is that correct?

2           A.       I'm saying what now?

3           Q.       You're responding to Don Priest's testimony at

4 the public hearing held in Rolla?

5           A.       That's correct.

6           Q.       You would agree that names and addresses of

7 Intercounty's members within this Southside area were

8 published in the annexation proceeding, they were published

9 in your application for the takeover of services, wouldn't

10 you?

11          A.       I don't know that it would be an exclusive

12 list of Intercounty's customers. Some of them were on those

13 lists, yes.

14          Q.       As a matter of fact, the vast majority of them

15 would have been on those lists; is that correct?

16          A.       That could be correct, yes.

17          Q.       Because in the annexation process, Rolla was

18 required to give notice to all of those people that resided

19 within the annexed area; is that correct?

20          A.       All of the voters, I believe.

21          Q.       And most of the voters would have been

22 residents that resided within the Southside area; is that

23 correct?

24          A.       I believe that's correct.

25          Q.       So the information you're talking about here



1 has been made public for a long, long time; is that correct?

2           A.       That could be correct, yes.

3           Q.       So the list of meters and customers that were

4 classified by Intercounty as highly confidential or

5 proprietary is really an inaccurate statement, isn't it?

6           A.       It may be, yes.

7           Q.       Then looking at page 3, specifically lines 18

8 through 22, your comments are just your opinions in those

9 lines; is that correct?

10          A.       It is my analysis, yes.

11          Q.       And basically, that is your opinion, correct?

12          A.       Yes. Uh-huh.

13          Q.       You would agree that the people who were there

14 at the public hearing were people within the Southside area

15 who did not want -- who do not want RMU to take over their

16 services, wouldn't you?

17          A.       I don't think I would agree with that

18 necessarily, no.

19          Q.       You were present when Mr. Comley asked the

20 question at the conclusion of how many people here are

21 opposed to RMU taking over your services, weren't you?

22          A.       I understood that question to be, How many of

23 you here are currently receiving service from Intercounty?

24 I don't know that the other question was ever framed to the

25 people.

1 Q. Did you see everybody raise their hands?  
2 A. To the question that I just stated, yes.  
3 Q. Actually, people raised their hands twice  
4 during that public hearing, didn't they?  
5 A. Not to my recollection. I understood the  
6 Judge prevented that question from being put to the people.  
7 Q. With regards to the transcript, you're  
8 correct. But my question is, when Mr. Comley asked that  
9 question, almost everyone in that room raised their hands  
10 being opposed to RMU taking over their services, didn't  
11 they?  
12 A. I didn't see it that way. I don't remember it  
13 that way.  
14 Q. When you make the comment at line 21 on page 3  
15 that it's just people who are frustrated with the successful  
16 annexation, is it also just not as likely that people were  
17 frustrated that they were told that their services would be  
18 continued with Intercounty and now, 38 days after the  
19 annexation is approved or goes into effect, they're told the  
20 game has changed by RMU?  
21 A. I would agree that's possible.  
22 MR. DUNBAR: May I approach again, your Honor?  
23 JUDGE THOMPSON: You may approach.  
24 BY MR. DUNBAR:  
25 Q. Referring back again to Don Priest's

1 testimony, he had attached the Auditor's Report of the State  
2 of Missouri dated March 23, 1998; is that correct?

3 A. That's correct.

4 Q. Now, on page 19, the Auditor's -- the Auditor  
5 addressed an expenditure related to a ballot issue; is that  
6 correct? I'll point to where I'm referring to.

7 A. Do you want me to read this?

8 Q. Well, is that what -- on paragraph 5, it says,  
9 Expenditures related to ballot issue; is that correct?

10 A. That is the title, yes.

11 Q. And this is dealing with expenditures of money  
12 concerning the establishment of rural water district in the  
13 area of the Southside area; is that correct?

14 A. Yes, that's correct.

15 Q. And this is the same water district that was  
16 previously referred to at this point in time -- I don't  
17 remember if it was your prepared rebuttal or surrebuttal,  
18 but that's the water district we're referring to, correct?

19 A. That's the same issue, yes.

20 Q. With regards to what the Auditor said, and  
21 tell me if I'm reading this correctly, Prior to the  
22 election, the RMU expended over \$1,200 related to this  
23 ballot issue on paid advertisement and informational packets  
24 that were mailed to voters in the proposed water district.  
25 Section 115.646, RSMo 1994 prohibits the expenditure of

1 public funds to advocate, support or oppose a ballot  
2 measure. The materials that were reviewed appeared to  
3 promote arguments exclusively against the establishment of  
4 the water district.

5                   That was the Auditor's comments concerning  
6 that \$1,200 that RMU had spent; is that correct?

7           A.       That is how they viewed it.

8           Q.       Now going to your surrebuttal, starting at  
9 page 7, you had basically put in that Mr. Priest did not  
10 have the authority to speak for the Southside Neighbors; is  
11 that correct?

12          A.       Yes.

13          Q.       And I believe you acknowledged at the time  
14 that you had received a supplemental Data Request and that  
15 he did have the authority to speak for those individuals  
16 that had supplemented their Data Request; is that correct?

17          A.       When this testimony was filed, yes.

18          Q.       And you -- so basically you said, Now we have  
19 received additional information; is that correct?

20          A.       That's a fact.

21          Q.       Now, referring to page 8, that starts out  
22 where you're still basically providing surrebuttal starting  
23 there to Don Priest's rebuttal testimony; is that correct?

24          A.       What page are you on line?

25          Q.       Page 8.

1           A.       What line are you on?

2           Q.       I guess it would be line 9. Line 9 says

3 system reliability; is that correct?

4           A.       Yes.

5           Q.       And you are making, starting there, making

6 comments about the reliability of RMU service concerning

7 Mr. Priest's rebuttal testimony; is that correct?

8           A.       Yes.

9           Q.       And it is true that RMU has suffered outages

10 over the past three years?

11          A.       That's true.

12          Q.       It is true that RMU suffered an outage to a

13 school that was required to be -- was not allowed to go to

14 school because of lack of electricity; is that correct?

15          A.       That's correct.

16          Q.       And it is true that what Mr. Priest said in

17 there, that RMU has suffered -- not suffered -- RMU has had

18 several outages over the past years; is that correct?

19          A.       I believe he says many outages.

20          Q.       It is true that you have had more than five

21 outages over the past three years; is that correct?

22          A.       That's correct.

23          Q.       So what Mr. Priest says is that RMU has had

24 many outages over the past several years is true, isn't it?

25          A.       I don't know that it would qualify as many. I

1 think it's normal.

2 Q. But it is true what he says is RMU has had  
3 outages?

4 A. That's true.

5 Q. And these outages are reported in -- most of  
6 the time they're reported in the newspaper; is that correct?

7 A. Many times.

8 Q. Okay. And often people -- it's a conversation  
9 that people have throughout the day when there's an outage  
10 of electricity, isn't it? Don't people talk about it when  
11 you lose power?

12 A. Sure.

13 Q. Now, referring to page 11, line 10 -- I'll let  
14 you get your water.

15 A. Sorry. Thought I could sneak it in.

16 Q. Page 11, line 10 starts out as management; is  
17 that correct?

18 A. Yes.

19 Q. And again, you're referring to -- your  
20 surrebuttal is directed toward the rebuttal testimony of  
21 Mr. Priest; is that correct?

22 A. Yes.

23 Q. Now, with regards to Intercounty, there is a  
24 board of directors for Intercounty and then there is a  
25 general manager; is that correct?

1           A.       Yes.

2           Q.       With regards to the City of Rolla and the  
3 control of RMU, you have the general manager of RMU, which  
4 is you; is that correct?

5           A.       That's correct.

6           Q.       And then you have the RMU board of directors?

7           A.       That's correct.

8           Q.       And then you have the mayor who appoints the  
9 board of directors or the board of public works for RMU; is  
10 that correct?

11          A.       He appoints the board. He is not involved in  
12 the process with the utility.

13          Q.       But that board is -- the board of public works  
14 or the board of directors of RMU is not elected; is that  
15 correct?

16          A.       That's correct.

17          Q.       They are appointed by the mayor?

18          A.       Yes.

19          Q.       And once the mayor appoints, then you have to  
20 go through and they get the consent of the city council for  
21 Rolla; is that correct?

22          A.       The approval of the council, uh-huh.

23          Q.       And then also you have a city manager for the  
24 City of Rolla; is that correct?

25          A.       City administrator.

1 Q. City administrator?

2 A. That is correct.

3 Q. So with regards to RMU, the potential is

4 you've got five different people you have to work through

5 with regards to a complaint about RMU; is that correct?

6 A. That's incorrect.

7 Q. Can a citizen go to the mayor concerning a

8 complaint of RMU?

9 A. They can.

10 Q. Can a citizen go to the city administrator?

11 A. They can.

12 Q. Does a citizen within the Southside area,

13 within Rolla, have any direct input as to who the directors

14 of -- the board of directors of RMU would be? That was a

15 terrible question. Let me back up.

16 MR. DUFFY: Would you please quit referring to

17 them as a board of directors. By statute they are the board

18 of public works.

19 MR. DUNBAR: I should do that. Thank you,

20 Mr. Duffy. I appreciate that.

21 BY MR. DUNBAR:

22 Q. The board of public works for RMU, a citizen

23 has no direct vote on who that will be; is that correct?

24 A. I don't see it that way, no.

25 Q. Does a citizen get to vote on who is on the



1 board of public works for RMU?

2           A.       They do not elect them, no.

3           Q.       Do they get to elect you?

4           A.       No.

5           Q.       The person that appoints them is the mayor,

6 for the board of public works for RMU; is that correct?

7           A.       That's correct.

8           Q.       Now, on page 11, starting at line 15, your

9 answer to the question, What is your response to the

10 assertions about management, quality and access? Your

11 answer is, I don't think he has any factual basis for his

12 opinion. He indicates on page 3 at line 10 that he is

13 pleased with the management of Intercounty but indicates he

14 will get a bureaucratic runaround if he deals with RMU.

15                   Did I leave his testimony up there with you?

16           A.       I don't believe so.

17                   MR. DUNBAR: May I approach, Judge?

18                   JUDGE THOMPSON: You may.

19 BY MR. DUNBAR:

20           Q.       I'm going to refer you to page 5 of

21 Mr. Priest's rebuttal testimony. Starting at line 47, what

22 Mr. Priest actually says is, Management for Intercounty

23 gives answers which are easily understandable and does not

24 consist of a bureaucratic runaround. That's what he

25 actually says; isn't that correct?

1           A.       That's correct.

2           Q.       Now, referring to page 13, starting at line 9,  
3 and again, we're still referring to your response to  
4 Mr. Priest's rebuttal testimony; is that correct?

5           A.       That's correct.

6           Q.       Starting at line 9, I don't think his  
7 criticism is valid on any level. He says on page 5 at lines  
8 55 through 58 that RMU often spends money on non-utility  
9 items such as economic development.

10                   Isn't it true that RMU does spend money on  
11 economic development?

12           A.       It depends what you're talking about. If  
13 you're talking about payments to the City, they are  
14 literally payments to the City. The City expended those  
15 funds on economic development.

16           Q.       It's true that the City would make a request  
17 to RMU for moneys to be spent on certain items, such as a  
18 police station; isn't that correct?

19           A.       They make requests of money of RMU. What the  
20 council decides to do with it is really their business.

21           Q.       Well, isn't it true that the city council  
22 requested from RMU sufficient moneys to build a police  
23 station?

24           A.       I think -- in part, I think they used some of  
25 the money that RMU gave them for the construction of a

1 police station.

2 Q. Does the police station have anything to do  
3 with utility services?

4 A. Not really.

5 Q. So Mr. Priest is correct when he says that RMU  
6 spends money on things that are non-utility; isn't that  
7 correct?

8 A. Not if you're talking about the police  
9 station, because that's something that the council spent the  
10 money on.

11 Q. Well, let's go back to what bureaucratic  
12 runaround is. Isn't that exactly what it is? The City of  
13 Rolla requested money from RMU to help construct a police  
14 station. RMU gave the City money to do that, didn't they?

15 A. They gave the City money.

16 Q. And the purpose of that money was to help  
17 build or construct a police station, wasn't it?

18 A. It was one of the projects that the City cited  
19 as to their need, yes.

20 Q. And one of the reasons that RMU gave that  
21 money was so the City could construct the police station?  
22 Wasn't that the reason that RMU gave the money to the City  
23 on that occasion?

24 A. It was one of the projects that was cited as  
25 to the need, yes.

1 Q. And so that's why RMU gave -- on that  
2 particular project, that's why RMU gave the money to the  
3 City, isn't it?

4 A. Yes.

5 Q. It's also true that the City requested money  
6 from RMU to build a city recycling center, isn't it?

7 A. In the sense that you're asking me, yes.

8 Q. And RMU honored that request by the City of  
9 Rolla and gave the City of Rolla money for the purpose of  
10 constructing a city recycling center; isn't that true?

11 A. The money was given to the City's general  
12 funds. What they do with it is their business.

13 Q. Did they make a request on the City recycling  
14 to give us money for the general fund?

15 A. That was the project that was cited that they  
16 used to show the need, yes.

17 Q. It's also true that RMU contributed 775,000  
18 with regards to the City purchasing a building in which a  
19 private corporation was to be located for a new factory,  
20 isn't it?

21 A. That's true.

22 Q. And again, the City of Rolla called RMU and  
23 said, We need 775,000 to purchase this building, and RMU  
24 took a vote and agreed, fine, and transferred that money,  
25 didn't you?

1           A.       That's true.

2           Q.       And it's still true the way that it's  
3 practiced now, if the City of Rolla sees a need, they make a  
4 request to RMU, RMU votes on it and may transfer the money?

5           A.       It may.

6           Q.       And those transfers of money are not always  
7 for utility services; isn't that correct?

8           A.       It is always deemed in the utility's best  
9 interests, yes.

10          Q.       But it is not always for utility services;  
11 isn't that correct?

12          A.       I don't know how you can separate the two  
13 issues.

14          Q.       Well, building a building, a police station, a  
15 factory, a recycling has really nothing to do with Rolla  
16 Municipal Utilities, does it?

17          A.       I don't agree with you about that.

18                   JUDGE THOMPSON: Mr. Dunbar, I'm going to  
19 interrupt you at this time. The Commissioners have some  
20 questions from the Bench, and because of some other  
21 appointments, they will not be able to be here to ask them  
22 later. So I'm going to interrupt your cross-examination and  
23 allow the Commissioners to pose their questions to  
24 Mr. Watkins, and then we'll pick back up with your  
25 cross-examination.

1                   Any objection as to the method of procedure  
2 that I've announced?

3                   MR. DUNBAR: No.

4                   JUDGE THOMPSON: Please proceed, Commissioner  
5 Schemenauer.

6                   COMMISSIONER SCHEMENAUER: Thank you, your  
7 Honor. I'll be as brief as I can.

8 QUESTIONS BY COMMISSIONER SCHEMENAUER:

9           Q.       Mr. Watkins, in your surrebuttal testimony on  
10 page 26, lines 15 and 16, you're referring to rebated  
11 revenues in the amount of 78,000 for 1998. Do you know --  
12 you're talking about patronage dividends here?

13          A.       Yes, sir.

14          Q.       Do you know what year those patronage  
15 dividends were attributable to? Was it 1978, 1988?

16          A.       In the analogy that I've made here, sir, I  
17 assumed it was for the year 1998.

18          Q.       Patronage dividends are generally 10 or 15 or  
19 20 years after the fact, aren't they, on coops?

20          A.       The refunds, generally speaking, are the time  
21 lag, my understanding.

22          Q.       So you don't what year this \$78,000  
23 represents? I mean, the patronage may have been for ten  
24 years previous?

25          A.       If you'd give me just a moment here to review

1 where I am.

2 Q. Okay.

3 A. What I've done is I've analyzed the Form  
4 EIA-861 that is required by all utilities to report to the  
5 Department of Energy for the year of 1998.

6 Q. Okay.

7 A. And so the data, the \$78,000 is the disparity  
8 between those two numbers.

9 Q. So you estimated for the year 1998 if the  
10 Intercounty Electric Coop paid patronage dividends, that's  
11 the amount those customers would have gotten for that year  
12 1998?

13 A. Yes, sir.

14 Q. But these patronage dividends are voted on  
15 many years after the fact, correct?

16 A. Yes.

17 Q. So they didn't actually receive this money,  
18 then?

19 A. No.

20 Q. And then I have just one more -- one more  
21 line. On page 19 of your direct testimony, on lines 20 and  
22 subsequent lines, you're kind of outlining a payment  
23 schedule in case the Commission rules in your favor of how  
24 you would pay Intercounty Electric Coop?

25 A. Yes.

1 Q. Is this a unilateral decision by RMU or did  
2 Intercounty agree to this?

3 A. Intercounty did not agree to it. It was just  
4 something that we proposed.

5 Q. Okay. And you're aware that the statute says  
6 that the payment and the facility had to be turned over and  
7 the operation had to be turned over and the payment had to  
8 be executed within 90 days after the Order is final or the  
9 appeal is final, unless the Commission orders otherwise?

10 And my question to you is, are you requesting  
11 that the Commission order otherwise if you do prevail in  
12 this?

13 A. I'm requesting that the Commission consider  
14 the time frame of when the assets will actually be turned  
15 over and the payments to match that. It's simply a request  
16 on our part, yes.

17 Q. Okay. So you haven't talked to Intercounty?

18 A. No. And I am aware of the 90 days unless  
19 otherwise ordered, yes.

20 COMMISSIONER SCHEMENAUER: That's all I had.  
21 Thank you.

22 JUDGE THOMPSON: Thank you, Commissioner  
23 Schemenauer. Commissioner Murray?

24 COMMISSIONER MURRAY: Thank you. And I  
25 apologize to whoever's examination that we're interrupting



1 here, but I think both Commissioner Schemenauer and I did  
2 need to get some questions asked before each of us had to  
3 leave today for something else.

4 QUESTIONS BY COMMISSIONER MURRAY:

5 Q. I would like to ask you, Mr. Watkins, if --  
6 can Intercounty lawfully operate in the city limits without  
7 a franchise?

8 A. Yes, they are.

9 Q. And is it your position that the City should  
10 be able to prevent them from doing so?

11 A. It's my position that the provisions of the  
12 statute 386.800 anticipates that the City may request the  
13 territory for their exclusive use.

14 Q. All right. I'd like to go to page 15 of your  
15 surrebuttal testimony, under the Annexation Plan of Intent.  
16 You seem there to be indicating that the City was originally  
17 willing to allow Intercounty to continue to provide services  
18 within the annexed area; is that correct?

19 A. Assuming there was a level playing field  
20 between the city-owned utility and the other utility, yes.

21 Q. Was it your intent at that time to allow  
22 Intercounty to serve all of the customers within the area or  
23 just those that they were currently serving?

24 A. The City's approach would have been current  
25 customers. They would have been grandfathered, so to speak.

1           Q.       Okay.  So is it fair to say, then, that the  
2 City did not believe that there would be any problems with  
3 duplication or safety which would be against the public  
4 interest?

5           A.       I don't think that's necessarily a fair  
6 statement.  I think the City was willing to deal with the  
7 issue, assuming that there was a level playing field between  
8 the two entities.

9           Q.       When you talk about level playing field, are  
10 you talking about the concern for receiving payments in lieu  
11 of taxes?

12          A.       In part, talking about that.  I'm also talking  
13 about services that are supplied by the Rolla Municipal  
14 Utilities to the City at no charge; for example, street  
15 lighting, signal lighting and that type of thing.

16          Q.       So what would be the financial impact to the  
17 City, have you calculated that, if Intercounty continued to  
18 serve its existing customers in the annexed area without the  
19 City being able to collect from Intercounty taxes or payment  
20 in lieu of taxes?

21          A.       I'm not sure I understand what you're getting  
22 at.

23          Q.       Well, there must be some financial impact that  
24 the City is trying to avoid by either allowing Intercounty  
25 to continue to be serve -- to be grandfathered to continue

1 to serve its customers or to have those customers  
2 transferred to the City. Is there not some financial impact  
3 you're looking at?

4       A.       I don't know that it's been quantified, but  
5 there are things like use of right of way and things that  
6 the City does in the way of infrastructure that supports the  
7 utility and ultimately the area.

8       Q.       But you've not quantified that?

9       A.       No. If I may go a little farther here, the  
10 duplication of facilities in and of itself is a financial  
11 burden in that we would not be able to fully use those  
12 facilities to a hundred percent of their potential.

13       Q.       Okay. So when you talk about being concerned  
14 about duplication of facilities, you're talking more in  
15 terms of financial impact to the City rather than in terms  
16 of aesthetics and safety?

17       A.       I'm talking about all three actually. I  
18 wouldn't want to eliminate any one of those.

19       Q.       Why would aesthetics and safety not be a  
20 problem if Intercounty were allowed to continue to serve  
21 their customers so long as the financial aspects were taken  
22 care of?

23       A.       Assuming that they were allowed to continue  
24 and we had been successful in the provisions of the 386.800  
25 negotiations, there would have been a territorial agreement,

1 and that would have in part separated the systems to a  
2 certain extent.

3 Q. Would there not be duplication?

4 A. Not in the event of a territorial agreement,  
5 not much.

6 Q. Okay. You may have to refer to something in  
7 order to recall this, but what was the date -- and listen  
8 carefully because it may be confusing, what I'm asking --  
9 but what was the date that the governing body of the  
10 municipality approved the beginning of the negotiations with  
11 Intercounty?

12 And before you answer, I want to be clear, I'm  
13 not referring to the date that the City notified Intercounty  
14 or the date that it published notice, but rather to the date  
15 that the City voted to approve the beginning of  
16 negotiations.

17 A. I can't give you the exact date, but I can  
18 tell you it would have been in the previous board meeting of  
19 the Rolla Municipal Utilities prior to giving the notices.

20 Q. And do you know approximately when that was?

21 A. Generally speaking, it would have been the  
22 third week of June.

23 Q. So it was very close to the time that the --  
24 of the effective date of the annexation?

25 A. Of the effective date, yes. The City knew the

1 outcome of the election, obviously, prior to that in April.

2           Q.       And the reason I wanted to know that was  
3 because I was looking at the statute, and the fact that it  
4 requires, when you're looking at calculating the customers  
5 for the 400 percent calculation, that those customers had to  
6 have been or were being served 12 months prior to the date  
7 of the vote to approve rather than 12 months prior to the  
8 date of the actual annexation.

9                   That's the way the statute reads, and I was  
10 wondering if there was a difference in terms of whether  
11 those customers were being served 12 months prior to the  
12 date that the board voted to approve negotiations. And  
13 since we're only talking about two or three weeks there, I  
14 doubt if there is a difference. Do you know?

15           A.       My opinion is there is no difference.

16           Q.       On page 9 of your direct testimony, you speak  
17 about the 113 customers that are in an area that was annexed  
18 prior to 1991. Do you see that?

19           A.       I'm familiar with that, yes.

20           Q.       And it's my understanding that those customers  
21 are continuing to be served by Intercounty; is that correct?

22           A.       They are. I would like to clarify that that's  
23 not an area. There are -- they are scattered various places  
24 throughout the city.

25           Q.       Okay. Has Intercounty's continuance of

1 service to those customers resulted in any duplication of  
2 facilities?

3 A. Yes.

4 Q. Okay. Has that resulted in any of the cost,  
5 safety or aesthetic problems that you claim would occur here  
6 if we denied your application?

7 A. Obviously the cost issue stands. The safety  
8 concerns are something that we deal with, and we're  
9 governed -- we use the National Electric Safety Code that we  
10 build by, and so even though there is some congestion, it's  
11 something that we're aware of and that we work around.

12 Q. Would it be possible to work around those same  
13 concerns in the newly annexed area if we denied your  
14 application here?

15 A. It is possible. I would say that working  
16 around these kinds of things typically causes additional  
17 cost, whether it's taller poles or whatever it is that  
18 you've got to do in order to maintain the clearances.

19 Q. And have those costs been quantified?

20 A. No.

21 Q. On page 15 of your direct testimony, you  
22 indicate that residential customers' rates would be  
23 approximately 25 percent, and you say cheaper than  
24 Intercounty's; is that correct?

25 A. That's correct.

1           Q.       Would that benefit to residential customers be  
2 offset by increased rates to industrials or other commercial  
3 users?

4           A.       No.

5           Q.       Why?

6           A.       Because it is the residential rate base. The  
7 industrial load profile is not changing. So it would stay  
8 the same.

9           Q.       Okay. I need to understand what it is you're  
10 saying there. Are there no commercial or industrial  
11 customers within the newly annexed area?

12          A.       There actually are a couple of commercial  
13 customers, I think, in the annexed area. And I think  
14 ultimately you're asking me the comparison of the rates  
15 between Intercounty and Rolla on commercial, is that what  
16 you're --

17          Q.       And industrial, more particularly industrial,  
18 but also commercial.

19          A.       I'm unaware of any customers that would be on  
20 an industrial rate. The commercial rate, I think there --  
21 depending on the year that you look at the analysis, there  
22 may be one mil difference between the average cost of  
23 commercial customers for RMU and the average cost for  
24 Intercounty Electric.

25          Q.       And that is one mil higher for RMU; is that

1 correct?

2           A.       Over the historical data that I've seen, it  
3 sometimes is, it's sometimes even, and it's sometimes the  
4 other way.

5           Q.       And is there any possibility that the newly  
6 annexed area will at some point have industrial customers?

7           A.       That's always a possibility, yes. Those would  
8 be RMU customers regardless.

9           Q.       So you're telling me that in the newly annexed  
10 area, any new industrial customers would continue to be --  
11 would be served by RMU and not -- well, let me think this  
12 through. Well, that's right, because they would be new  
13 customers.

14          A.       Yes, ma'am.

15          Q.       I think that's just about it, but I just want  
16 to tell you and give you a chance to respond to something  
17 that I have a problem with here, and that is with the City's  
18 representation in the Plan of Intent prior to the residents  
19 voting on whether or not to annex the area.

20                   And it seems to me that if we were to grant  
21 this application, that we would be sending a message that  
22 it's okay to misrepresent things to the voters before you  
23 present it to them, and that appears that that would not be  
24 in the public interest, and I'd like you to address that.

25          A.       That is a tough situation. I guess I would



1 start out by saying that the annexation that the City did, I  
2 think the Plan of Intent included the best available  
3 information to the City at the time. I think the -- there  
4 was no intent to misrepresent anything.

5                   And certainly when the circumstances changed,  
6 I think the first thing that the City did was they sent out  
7 survey cards, and there was some interest from the people.  
8 I won't say it was overwhelming. I would say about a third  
9 of the people said yes, they would like to have service from  
10 the City.

11                   So all of those things went in to the Board of  
12 Public Works pursuing this filing and ultimately the council  
13 giving the utility the permission to do that.

14                   COMMISSIONER MURRAY: Just one second. I  
15 believe that's all, your Honor, but I just want to double  
16 check. That's all. Thank you very much.

17                   JUDGE THOMPSON: Thank you, Commissioner  
18 Murray. Mr. Dunbar, if you would pick up where you stopped.

19                   MR. DUNBAR: Thank you.

20 CROSS-EXAMINATION (RESUMED) BY MR. DUNBAR:

21           Q.       Just to follow up, Mr. Watkins, with regards  
22 to the question about the Plan of Intent, with regards to  
23 providing the best information possible, the one simple  
24 solution the City had in the Plan of Intent was to put,  
25 Provided Intercounty will pay a franchise or a PILOT; is

1 that correct?

2           A.       It just wasn't assumed that it wasn't going to  
3 happen.

4           Q.       But you're saying --

5           A.       I would have to -- the City would have had to  
6 have anticipated a circumstance like we're in in order to  
7 have put that provision in the Plan of Intent.

8           Q.       But you didn't tell the public about that, did  
9 you?

10          A.       It's because it never -- it never -- the  
11 information wasn't available.

12          Q.       But you just told us that the information was  
13 available between RMU and Intercounty, or the City.

14          A.       There was -- I told you there was an  
15 understanding.

16          Q.       Okay. But you didn't tell the public about  
17 that understanding, did you?

18          A.       No. It never occurred to me the need to.

19          Q.       In the annexation process, your deposition was  
20 taken, wasn't it?

21          A.       I'm sorry?

22          Q.       In the annexation process, your deposition was  
23 taken, wasn't it?

24          A.       I don't know.

25          Q.       Didn't I take your deposition, where I asked

1 you questions about the Plan of Intent, the municipality,  
2 what services were going to be provided? Didn't I ask you  
3 questions?

4 A. Yes, I did. I had forgotten that. I  
5 apologize.

6 Q. There were public hearings about this  
7 annexation, weren't there?

8 A. Yes, there were.

9 Q. There was a trial about this annexation,  
10 wasn't there?

11 A. A trial?

12 Q. Where we went before a circuit judge and the  
13 City of Rolla was asking the court to approve there to be  
14 placed on the ballot the annexation question.

15 A. Yes.

16 Q. In any of that process that basically went  
17 over three or four years, did RMU or the City of Rolla ever  
18 say to anyone that there has -- for all this to happen, for  
19 Intercounty to keep these customers, there has to be a  
20 franchise tax or a payment in lieu of tax?

21 A. The City assumed there was an agreement, and  
22 so they did not address that other than to say what the  
23 outcome of the agreement was, which was that they would  
24 continue to be Intercounty customers.

25 Q. The City never told any of the residents of

1 the Southside area or the residents of the City of Rolla  
2 about this alleged franchise tax or payment in lieu of tax;  
3 isn't that a correct statement?

4 A. That is a correct statement.

5 Q. And if the City of Rolla had done that, or RMU  
6 had done that, then the public would have been informed of  
7 what you believe was a true arrangement between the City and  
8 Intercounty?

9 A. They would have been informed of the fact that  
10 it might not work out.

11 Q. And that would have been an easy process to  
12 inform the public about that, isn't it?

13 A. Looking back, it looks easy.

14 Q. And it's true, then, that it only took the  
15 City just a few weeks after the approval of the annexation  
16 to make the decision we're going to proceed and now we want  
17 to serve the whole annexed area to include these customers?

18 A. I believe there were -- between giving the  
19 notice, the published notice and the election, I think, is  
20 75 days, something close to that.

21 Q. The election was --

22 A. April 8.

23 Q. -- April 8th, 1998; is that correct?

24 A. I believe.

25 Q. The effective date was June 8th, 1998; is that

1 correct?

2           A.       That's correct.

3           Q.       And I believe you told us there were no  
4 official meetings between the City of Rolla, RMU or  
5 Intercounty between the April and the June 8th deadline -- I  
6 mean the June 8th effective date. Isn't that what you told  
7 us?

8           A.       I told you there were no meetings with regard  
9 to the 386.800 filing, that's true.

10          Q.       And there were no meetings between the RMU  
11 Board of Public Works and Intercounty's Board of Directors;  
12 isn't that correct?

13          A.       That's correct.

14          Q.       And there were no meetings between you and  
15 Mr. Strickland, the general manager of Intercounty; isn't  
16 that correct?

17          A.       That's correct.

18          Q.       So then the effective date comes about, and  
19 then the city council approves this takeover by its June  
20 city council meeting, which would have been the third -- is  
21 it the third Monday you have your meetings, city council  
22 meetings?

23          A.       I don't know.

24          Q.       You don't know typically when you have your  
25 city council meetings?

1           A.       I don't always go to the council meetings.

2           Q.       Did you go to the council meeting when it

3 was -- the City gave its approval to provide the notice?

4           A.       Yes, I did.

5           Q.       And that would have been at the June meeting,

6 June 1998 meeting?

7           A.       No. I believe that came sometime after that.

8 According to the statute, I think, we have to give notice,

9 and then there's like a -- I think there's -- I'd have to

10 look it up to be perfectly correct, but I think there's like

11 60 days that the council has to approve what the utility is

12 doing, and so I think that happened something like 45 days

13 later.

14                   Actually, there is a six-month window. If you

15 look at 386.800, paragraph 2, sub 2 -- actually, it's

16 paragraph 3, sub 2. Says, Within six months after the

17 effective date of the annexation receive the approval of the

18 municipality's governing body to begin negotiations pursuant

19 to Section 394.312, RSMo with any affected electric

20 supplier.

21           Q.       So you're saying you had six months to do

22 that?

23           A.       Had six months to get the council's approval.

24 So it happened sometime after the notices were sent out.

25           Q.       You had to get the council's approval to send

1 out the notices, didn't you?

2           A.       No.

3           Q.       RMU did that on their own?

4           A.       Yes, as a -- in being in compliance of the

5 386.800.

6           Q.       So then would it be true that the council did

7 not approve the sending out the notices before they were

8 sent out?

9           A.       That's true.

10          Q.       With regards to the Plan of Intent, the plan

11 was that the 286 -- and we keep using that number. That's

12 an approximate number, isn't it? That's pretty close.

13 There were 286 people receiving services from Intercounty

14 within the Southside Annexation Area; is that correct?

15          A.       That's correct.

16          Q.       And the plan was that these 286 people would

17 continue to be served by Intercounty; is that correct?

18          A.       Yes.

19          Q.       And at the time the Plan of Intent was

20 informed, the plan was that the City of Rolla would then

21 provide services to new structures within the annexed area;

22 is that correct?

23          A.       Yes.

24          Q.       And you knew you were going to have to go and

25 build new facilities for these new structures?

1           A.       Yes.

2           Q.       So you knew all along -- and this goes back to  
3 194, '95, '96, '97 and most of 1998 -- that you were going  
4 to have to go and build duplicate facilities all this time,  
5 didn't you?

6           A.       Subject to all of the other things that we've  
7 talked about.

8           Q.       Okay. And that subject to is this franchise  
9 tax or this payment in lieu of a tax?

10          A.       And territorial agreement and services  
11 supplied with no charge to the City and those sorts of  
12 things. It's all part of one thing.

13          Q.       But in your Plan of Intent, it was not all  
14 part of one thing; it was part of these people are going to  
15 be continued to be served by Intercounty?

16          A.       That was the understanding, yes. That was the  
17 intent.

18          Q.       That was the intent. That's what the Plan of  
19 Intent said. There was nothing in there about territorial  
20 agreements. There was nothing in there about franchise tax.  
21 There was nothing in there about payment in lieu of tax. It  
22 was these 286 people will be served by Intercounty?

23                 MR. DUFFY: Your Honor, this is about the  
24 fourth or fifth time that Mr. Dunbar has asked this same  
25 question, and I've tried to be patient, but I think we're



1 getting into repetition.

2 JUDGE THOMPSON: Objection is sustained.

3 Please proceed.

4 BY MR. DUNBAR:

5 Q. Referring to page 17 of your surrebuttal,  
6 starting at line 4, Question: Can you summarize your  
7 responses to Mr. Priest's criticism? Your answer is, Yes.  
8 Line 6, Mr. Priest is dead wrong when he says RMU will react  
9 slower to outages in the Southside area than the rest of the  
10 town. Mr. Priest's testimony, rebuttal testimony was  
11 basically he believed that because they were the last one  
12 annexed into the City. Is that correct?

13 A. That's what I understood him to say.

14 Q. And he also stated that that was based on  
15 services that they were now receiving from the City; is that  
16 correct?

17 A. I don't know.

18 Q. With regards to Mr. Priest's dead wrong when  
19 he says RMU's electric service is less reliable than  
20 Intercounty's, you're referring to outages; is that correct?

21 A. That's correct.

22 Q. And you agree that RMU has had several outages  
23 during the past three years?

24 A. Yes.

25 Q. With regards to he's dead wrong when RMU will

1 raise electric rates as a result of acquisition of 286  
2 customers and facilities in the Southside Annexation Area,  
3 it is true that RMU said in their Plan of Intent they intend  
4 to use their reserves to construct the new facilities going  
5 into the Southside area; is that correct?

6 A. That's correct.

7 Q. It is also true that RMU has never given a  
8 capital credit or a refund to its customers within the City,  
9 isn't it?

10 A. We only collect what we need to operate.

11 Q. Well, but you also collect enough that if the  
12 City of Rolla wants additional money to build police  
13 stations, recycling and buy a factory, that's part of it,  
14 too, isn't it?

15 A. We have a reserve account, yes.

16 Q. And you charge your customers so you will have  
17 reserve account, don't you?

18 A. That's part of the rate base, yes.

19 Q. With regards to you say street lighting at no  
20 charge, there is a -- while there's not an individual charge  
21 to the customers, you have that built into all the rates  
22 that you're going to supply street lighting, don't you?

23 A. That's correct.

24 Q. So, in effect, the customers do pay for street  
25 lighting, don't they?

1           A.       The customers pay for that, yes.

2           Q.       So it's not free?

3           A.       It's free to the City.

4           Q.       With regards to you say Mr. Priest is dead

5 wrong when he argues that RMU's management is less

6 responsible and accessible than Intercounty, Mr. Priest's

7 testimony was talking about the ease of access to

8 Intercounty, wasn't he?

9           A.       Yes, he was.

10          Q.       And he believed he had ease of access to them

11 at their present location, didn't he?

12          A.       That was his position as I understand it.

13          Q.       And that he -- the ease of access was there

14 was one board of directors and there was one manager; is

15 that correct?

16          A.       I think that's what he stated.

17          Q.       So basically, the things that he stated were

18 exactly true?

19          A.       Not from my perspective.

20          Q.       But when you read his testimony, the things he

21 said were exactly true?

22          A.       When you're making a comparison about

23 management, RMU's management and Intercounty, just because

24 it's true that there's a manager and a board doesn't mean

25 that RMU's management is less accessible.

1 Q. And we can let his testimony speak for itself,  
2 but that's what he said, that the management of Intercounty  
3 was easily accessible, isn't it?

4 A. And this is my response to what he said.

5 Q. There was some testimony about generators.  
6 RMU has purchased generators?

7 A. We have a lease purchase.

8 Q. Lease purchase. And are these generators  
9 intended to supply power to the Southside area?

10 A. The use will be as the board decides. So I  
11 guess that's part of a closed record, the product of those  
12 generators, and we've objected to answering questions about  
13 where the power will go from those.

14 Q. Well, the interveners are concerned. You have  
15 just entered into a new power contract; is that correct?

16 A. That's correct.

17 Q. And within that power contract is something  
18 called a wheeling contract?

19 A. That's probably a generic term for a  
20 transmission agreement.

21 Q. And is there a written agreement to that?

22 A. There is an application process that you go  
23 through, yes.

24 Q. So is there a written agreement?

25 A. Is there a written agreement? I don't

1 understand what you mean.

2 Q. On this wheeling arrangement.

3 A. What are you asking me?

4 Q. Well, what I'm getting at is, is this going to  
5 affect the customers within this area and their rates?

6 A. I guess the best way to answer that is to say  
7 that RMU had an opportunity to extend their current  
8 wholesale arrangement, and they opted for what we consider  
9 to be a better one, and so there will be no effect with the  
10 new power supply and transmission agreement associated with  
11 it.

12 Q. So the purchase of these generators is not to  
13 help supply power for RMU to these particular customers?

14 A. We're -- I haven't really told you what the  
15 purpose of the generators were.

16 Q. And that's why I'm asking you. Was the  
17 purpose of it to help supply power to the customers that are  
18 being affected here?

19 A. The wholesale agreement meets all of the  
20 requirements of the Southside area.

21 Q. What I'm trying to get at is to find out about  
22 what's going to happen to the rates with the people within  
23 the Southside area.

24 A. I understand that, and I want to help you with  
25 that by saying that we have an all-requirements wholesale

1 power supply contract and associated transmission  
2 agreements, and there whether be no effect on the Southside  
3 annexation customers' rates.

4 Q. And are there documents to support your  
5 conclusion that there will no effect?

6 A. I've provided a copy of the wholesale  
7 agreement.

8 Q. And within that wholesale agreement does it  
9 take into account what keeps being referred to as this  
10 wheeling agreement, the transmission of the power?

11 A. I don't know that it's part of the contract  
12 that I've provided. That's a separate tariffed agreement  
13 through -- from AmerenUE that's, you know, it's regulated by  
14 FERC. So it is what it is. It is what it has been. So  
15 there's no change.

16 Q. And so will that affect the rates of these  
17 individuals?

18 A. No.

19 Q. The rate is not going up and it is still with  
20 AmerenUE?

21 A. No.

22 Q. Who is it with?

23 A. I'm sorry?

24 Q. Who is this wheeling arrangement with now?

25 A. The transmission agreement will be with

1 AmerenUE.

2 Q. And is that going to be with Union Electric  
3 starting December 31st, 2000 or January 1st, 2001?

4 A. It will continue as it has been.

5 Q. There'll be no change?

6 A. No change.

7 MR. DUNBAR: That's all the questions I have.

8 JUDGE THOMPSON: Thank you, Mr. Dunbar.

9 Questions from the Bench, Chair Lumpe?

10 QUESTIONS BY CHAIR LUMPE:

11 Q. Just a couple, Mr. Watkins. In your direct  
12 testimony you give a figure of a million nine, which then I  
13 think you correct to a million three. Is that in your  
14 surrebuttal of a million three, a million two three,  
15 somewhere in there?

16 A. Yes, ma'am.

17 Q. All right. In your testimony you talk about  
18 that you'd rather buy facilities than build. However, if  
19 the price is more than, at this point, the million three as  
20 opposed to the million nine, you would reevaluate, and  
21 that's what I need to know. Are you reevaluating if it's  
22 the million three as opposed to the million nine?

23 A. I guess I'd like to clarify the situation here  
24 with regard to the price. Any price, whatever it is,  
25 whether it's what the City has proposed or if it's a price

1 that the Commission comes up with on their own, if it's  
2 Staff's recommendation or if it's ultimately Intercounty's  
3 price, must be approved by the City's board in order to  
4 continue with the transaction.

5 Q. So potentially if we were to approve a figure,  
6 whatever figure that might be, the City could reevaluate and  
7 decide it didn't want to pay that price?

8 A. That's my understanding, that they could, yes.

9 Q. And so there is no bottom line with the City;  
10 it's still a perhaps fluctuating number that they would look  
11 at at some point after we issued our Order --

12 A. Yes.

13 Q. -- and then decide whether they want to go  
14 ahead?

15 A. Yes.

16 Q. So we really don't have a decision by the City  
17 as to what number they would approve?

18 A. No. There's no maximum amount that they've  
19 set, no.

20 Q. Okay. On page 34 of your surrebuttal, towards  
21 the bottom there, line 17, you say that we should not let  
22 coops or other utilities -- I assume that means municipals  
23 as well as privates -- build in disincentives to transfer of  
24 facilities under this statute by encouraging and rewarding  
25 bad business practices.



1                   Do we really have any authority to prevent  
2 these disincentives or bad business practices by coops and  
3 municipals? And secondly, have we done this? Are you  
4 suggesting that we have encouraged bad business practices?

5           A.       I make no assertions as to previous decisions  
6 that the Commission has made.

7                   What I was debating here in my testimony is  
8 the issue over PCB contamination, and I guess I was asking  
9 for the Commission to consider the liabilities associated  
10 with that before they make their decision, and, if it is  
11 within their power, then certainly that is the intent of the  
12 request.

13          Q.       I see. But you're not suggesting that somehow  
14 we have some authority out there to allow coops or  
15 municipals to build in disincentives?

16          A.       No, ma'am.

17          Q.       And the last -- I think the last one I have  
18 here is, the coop continues to serve in the annexed area and  
19 we were to draw a territorial line saying this is the coop's  
20 and this is the City's for service purposes. Then this  
21 issue of franchise taxes or payments in lieu of taxes,  
22 administrative fees, other kinds of transfers, all of those  
23 would not be relevant at that point; would that be right?

24                   It would only be relevant if the coop were  
25 providing the service but it was not within an exclusive

1 territory that they had, that then your level playing field  
2 was they should then pay franchise and PILOTs and  
3 administrative fees and give money to the City for other  
4 projects?

5           A.       From the City's perspective, I think it still  
6 enters into the equation inasmuch as the coop would then be  
7 operating within the territorial boundaries of the City, and  
8 conversely, the City would be bound within the corporate  
9 limits, so that you don't have a level playing field with  
10 regard to territory.

11                    You know, essentially, I think what you've  
12 proposed here is that the Commission would assert or assign  
13 an exclusive territory within the boundary of the city and  
14 the muni would -- municipal, excuse me, would still be  
15 confined within the corporate boundaries of the city as  
16 well.

17                    So to me, that's not a level playing field.  
18 You know, if you trade territory inside the city, then it  
19 needs to be balanced by territory beyond the corporate  
20 limits of the city.

21           Q.       For the customers that the coop is currently  
22 serving in the city as it exists now, the old territory, are  
23 they being requested now to give any kinds of PILOTs,  
24 franchise fees, administrative fees, dollars for projects?

25           A.       No. The only discussions about that is the

1 City has said we would certainly entertain purchase of those  
2 facilities, too, if that -- if the coop was agreeable to do  
3 that. They have indicated to us that they are not willing  
4 to discuss that.

5                   And so we've been confined in our request to  
6 the provisions of the statute only, and that only addresses  
7 the Southside Annexation Area.

8           Q.       And I guess what I'm trying to get at, no  
9 PILOTs or franchise fees have been requested of the coop for  
10 these other customers that have been served in the old  
11 boundaries of the city? They haven't said, Pay us this?

12          A.       It has been a -- I'm sorry.

13          Q.       Go ahead.

14          A.       It has been a topic of discussion, but without  
15 the coop voluntarily agreeing to pay a PILOT, I don't think  
16 the City has an avenue to extract it from them. And so  
17 because those are past annexation issues, those customers  
18 are -- with regard to past annexation issues, the City  
19 doesn't really have a standing to do anything with regard to  
20 those.

21          Q.       So it's sort of there under another law and  
22 this is a different law that you feel you do have the  
23 ability to ask for these kinds of payments under the new  
24 law?

25          A.       Yes, Commissioner.

1                   COMMISSIONER MURRAY:  Thank you.  That's all I  
2 have.

3                   JUDGE THOMPSON:  Thank you, Chair Lumpe.  
4 Commissioner Simmons?

5                   COMMISSIONER SIMMONS:  Thank you, Judge.

6 QUESTIONS BY COMMISSIONER SIMMONS:

7           Q.       I only have one question particularly.  You  
8 may have covered this already, and I apologize if I'm going  
9 back over this, but I'm going to ask you about the  
10 approximately 286 customers that we're dealing with with the  
11 annexation.

12                   You talk about in your direct testimony that  
13 the City can offer them a number of benefits, one including  
14 lower prices.  The basis for your statement of offering  
15 lower prices, is that what you have right now versus what  
16 they're getting with the coop?

17           A.       Yes.  That is a comparison of our entire  
18 residential rate base in the City, they would be -- they  
19 would be rolled into that, and if you compare that with the  
20 coop, it's that much cheaper.

21           Q.       Now, as it relates to -- we, of course, have  
22 cases that come before us which basically would take into  
23 consideration rate hikes, but as a municipality, your  
24 citizens actually vote on whether or not there's a rate  
25 hike?

1           A.       The rates are actually established by the  
2 Rolla Board of Public Works, and it's basically they try to  
3 operate -- provide the very best service at the very lowest  
4 cost.

5           Q.       But it's your board that actually determines  
6 whether a rate hike actually goes forward rather than the  
7 citizens itself?

8           A.       Yes, sir.

9           Q.       So with that, the 286 customers that we're  
10 talking about, they would basically have to deal with the  
11 board if there were going to be a rate increase should RMU  
12 take them over and they'd become customers of RMU?

13          A.       Yes.

14                   COMMISSIONER SIMMONS: Just a second here. I  
15 think that's all the questions I have right now. Thank you,  
16 sir.

17                   JUDGE THOMPSON: Thank you, Commissioner  
18 Simmons. Chair Lumpe?

19 FURTHER QUESTIONS BY CHAIR LUMPE:

20          Q.       Following up on that, when your board decides  
21 to increase a rate, does it have to go to a vote of the  
22 people?

23          A.       No, it does not.

24          Q.       Because it's a rate that matches what is  
25 necessary to function?

1           A.       Yes.

2           Q.       So it's considered like a fee for a service  
3 and it's not beyond that?

4           A.       That's my understanding, yes.

5           Q.       Given that, isn't it a little tricky, then, to  
6 have to provide funds to the City for other projects?

7           A.       At first glance, yes, but I would like to --  
8 and I appreciate the opportunity to set the record straight  
9 here. The decisions that the board makes are also in the  
10 best interests of the utility.

11                   For example, the corporation that we're  
12 criticized for contributing money to the City's general fund  
13 that the City, in turn, used for the purpose of bringing  
14 this corporation to Rolla, that corporation's presence is  
15 one of the reasons that the rate base in Rolla is so low.  
16 It's because we spread our fixed costs of operating over a  
17 much greater purchase than we would have done without them.

18                   So the board you might say is self-serving in  
19 that it does participate in those kinds of projects. Each  
20 and every one that has been mentioned has been a very good  
21 load for the utility, electric load for the utility.

22                   CHAIR LUMPE: Thank you.

23                   JUDGE THOMPSON: Thank you, Chair Lumpe.

24 Further questions, Commissioner Simmons?

25                   COMMISSIONER SIMMONS: No, thank you.

1 JUDGE THOMPSON: Commissioner Murray wanted me  
2 to straighten out a particular point.

3 QUESTIONS BY JUDGE THOMPSON:

4 Q. To the best of your knowledge, what was the  
5 date that the governing body of the municipality approved  
6 the beginning of negotiations with Intercounty?

7 A. To the best of my knowledge, I believe it  
8 would have been the third week in June.

9 Q. What year?

10 A. Of 1998.

11 Q. 1998. Okay.

12 A. Excuse me. I was responding with regard to  
13 my -- the utility governing board. Are you referring to the  
14 council?

15 Q. Well, if we've got two, let's take them both  
16 in turn. Let's talk about the City, first of all. What  
17 date did the governing body of the City approve the  
18 beginning of negotiations with Intercounty, to the best of  
19 your knowledge?

20 MR. DUFFY: Your Honor, that material is  
21 attached to the application that was filed in this case.

22 MR. COMLEY: I think the date is September 8,  
23 according to Appendix G of the application.

24 BY JUDGE THOMPSON:

25 Q. September 8th of what year?

1           A.       1998.

2           Q.       1998?

3           A.       Yes, sir.

4           Q.       And then, to the best of your knowledge, what

5 is the date that the governing body of RMU approved the

6 beginning of negotiations with Intercounty?

7           A.       That would have been approximately the third

8 week of June.

9           Q.       What year?

10          A.       1998.

11          Q.       Okay. 1998, is that the year that the

12 annexation election occurred?

13          A.       Yes.

14          Q.       So this would have been after the election?

15          A.       Yes.

16          Q.       After the effective date of the election?

17          A.       Yes.

18          Q.       Thank you. Now, as I understand it, there are

19 two customers at issue who are no longer being served; is

20 that correct?

21          A.       Yes, your Honor.

22          Q.       Could you remind me what they're called?

23          A.       I believe you're referring to CT Farm & Home,

24 and I believe the other one is the Charles Moreland

25 property.



1 Q. Okay. Now, with respect CT Farm & Home and  
2 the Moreland property, to your knowledge, were they being  
3 served at any time during the 12 months next preceding the  
4 date that the negotiations were approved?

5 A. I believe that -- I can answer to one. I  
6 think CT Farm & Home, I believe it was, yes.

7 Q. Okay. What about the Moreland property?

8 A. I do not recall what happened there or when.

9 Q. Do you think that the records of Intercounty  
10 would disclose that?

11 A. Presumably a termination on a meter, yes.

12 Q. Thank you. What is the reserve account that  
13 RMU maintains? What is its purpose?

14 A. It's -- I have used the -- if you don't mind  
15 me bringing this down on a really low level, I've used  
16 the --

17 Q. That would be helpful for me.

18 A. I've used the illustration of it's not unlike  
19 your own personal savings account. For example, if you know  
20 that sometime in the future you're going to need to buy  
21 another automobile, well, you may save over a period of five  
22 years so that you can go in and pay cash for that  
23 automobile.

24 Well, a reserve account is for those kinds of  
25 capital expenditures. It is also for the use in the event

1 of exposure under disaster-type situations. Let's say that  
2 a tornado wiped out the system. You know, we would use the  
3 reserve moneys to cover anything that the insurance did not  
4 cover. So it would be for those types of things.

5 Q. So is it fair to say that it is a reserve for  
6 contingencies and the like?

7 A. Yes. That would be the word that I was  
8 struggling for.

9 Q. Okay. And is there some sort of level, some  
10 sort of floor that is set by someone as to the level that  
11 that amount of money should not drop below?

12 A. No, not as such. Typically, most people in  
13 the municipal arena, I think, are more concerned with an  
14 amount that it doesn't exceed.

15 Q. Okay. So it's essentially subject to the  
16 discretion of the board of public works?

17 A. And the Rolla City Council. I would point  
18 out, your Honor, if you'll give me a little latitude here,  
19 that the board serves at the council's pleasure, and the  
20 council can actually vacate the board. They are there by  
21 ordinance, and so they can pass an ordinance and do away  
22 with the board of public works. The utility and the City  
23 essentially are one and the same.

24 Q. Okay. So tell me if I'm correct. The money  
25 is in the immediate custody or control of the board of

1 public works, but it is indirectly subject to the discretion  
2 of the Rolla City Council?

3 A. Yes, your Honor.

4 Q. Okay. Thank you. And then if that money --  
5 and you may not be able to answer this question. Just tell  
6 me that if that's the case.

7 If that money were not available to the City,  
8 how would the City have to fund a new police station or a  
9 recycling center or industrial building?

10 A. And you're right, I can't answer that.

11 Q. Okay.

12 A. I mean, I don't -- the City's budget is  
13 separate from RMU's.

14 Q. But it's at least possible, isn't it, that the  
15 City in the absence of that money would have to raise taxes?

16 A. Yes.

17 Q. Or perhaps seek approval of a bond issue?

18 A. Yes.

19 Q. Okay.

20 A. Or fees.

21 Q. To your knowledge, has the use of funds from  
22 the reserve for these projects ever caused any operating  
23 difficulties for the utility?

24 A. No, your Honor. And I would point out the one  
25 fact that has not been discussed, the reasonableness of the

1 level, including all of these special draws that everyone  
2 refers to from the RMU, over the previous five years from  
3 when that audit report was done, the average rate that RMU  
4 paid to the City was 5.8 percent, which is not unusual at  
5 all, and, in fact, may even be considered perhaps on the low  
6 side.

7 Q. And that's including those special draws?

8 A. Yes, your Honor.

9 Q. Are you a citizen of Rolla yourself?

10 A. I am not currently a citizen of Rolla.

11 JUDGE THOMPSON: Okay. And I'll address this  
12 to counsel to be addressed in the Briefs. Mr. Watkins has  
13 testified that it is his opinion that whatever the price  
14 might be that the Commission sets, that the City Council of  
15 Rolla would have an opportunity to determine whether or not  
16 it's going to go through with the transaction; is that  
17 correct?

18 THE WITNESS: Yes, your Honor.

19 JUDGE THOMPSON: And I would like to have  
20 counsels' views on whether or not the City has, in fact,  
21 lost that discretion by bringing this matter to the  
22 Commission.

23 And at this time we'll have recross based on  
24 questions from the Bench. Mr. Frey?

25 MR. FREY: No questions, your Honor.

ASSOCIATED COURT REPORTERS, INC.  
Jefferson City - Columbia - Rolla  
(888) 636-7551

1 JUDGE THOMPSON: Ms. O'Neill?

2 MS. O'NEILL: Just a couple, your Honor.

3 Thank you.

4 RECROSS-EXAMINATION BY MS. O'NEILL:

5 Q. Following up on -- Mr. Watkins, following up  
6 on a couple of questions from, I believe, Commissioner  
7 Simmons and Commissioner Lumpe, you indicated that when a  
8 rate increase is effected by RMU, that's not put to a vote  
9 by the citizens of Rolla; is that right?

10 A. Yes, ma'am.

11 Q. Is the mechanism for enacting that rate  
12 increase subject to public hearings or open meetings?

13 A. All of the RMU board meetings are open to the  
14 public. They're advertised and the agenda is advertised,  
15 and so, yes, all of the meetings are open to the public.

16 Q. And at those public meetings, are citizens  
17 allowed to state positions in favor or in opposition to the  
18 proposals?

19 A. Yes, they could.

20 Q. And is that part of the notice that's  
21 published, that there's an opportunity for citizens to  
22 express their views at those meetings?

23 A. I don't know that there's any special  
24 advertisement saying everyone come to discuss that, but it  
25 is a public published agenda.

1 Q. And as part of the agenda, is there a place  
2 for public comments?

3 A. Yes.

4 Q. Okay. And following up a couple other things,  
5 I believe that Commissioner Lumpe asked some questions about  
6 the hundred -- and some of the other Commissioners also --  
7 about the 113 customers from the -- from prior annexations,  
8 I take it; is that correct?

9 A. Yes.

10 Q. Does the City currently collect any type of  
11 franchise fee or payment in lieu of tax regarding those 113  
12 customers?

13 A. Not to my knowledge, no.

14 Q. Now, in connection with this -- with these  
15 contributions RMU makes to the City general fund, just to  
16 follow up on that, are the costs of making those  
17 contributions for funding, specifically I think we've talked  
18 about the police station, recycling center and this building  
19 for private -- a private business, were they part of  
20 providing -- the cost of providing utility service to the  
21 current Rolla customers when those transfers were made?

22 A. If I understand you correctly, are you  
23 asking -- I'm sorry. If you would, restate the question.

24 Q. Sure. Those contributions were made from RMU  
25 to the City with the understanding that, even though it was

1 going to the general fund, RMU knew why the transfers were  
2 being made; is that fair to say?

3 A. Yes, that's true.

4 Q. Was funding that police station, for example,  
5 to break the question up further, part of providing your  
6 cost of utility service to your customers?

7 A. In a sense, I guess I would say that it was a  
8 withdrawal on the reserve account. So it really was not  
9 part of the budget here, and it did not show that the  
10 utility went into the black or into the red for that year,  
11 you know, saying an abnormal operating expense.

12 Q. But as far as providing cost of providing  
13 electricity to your customers, that was not -- building the  
14 police station was not part of the costs that are factored  
15 into providing that service; is that correct?

16 A. That is correct. This was a withdrawal from  
17 the reserve account.

18 Q. And that would be the same with the other two  
19 projects that have been discussed, the recycling center and  
20 the other building?

21 A. Yes.

22 Q. And then one final thing that I wanted to  
23 follow up with you on is there's been some discussion about  
24 the dates when it became clear to RMU's board of public --  
25 the board of public works who govern RMU that there would

1 not be a franchise fee or a payment in lieu of tax as  
2 someone had -- as some members had previously anticipated;  
3 is that correct? At some time that became --

4 A. Yes.

5 Q. Your board became aware of that?

6 A. Yes.

7 Q. I'm sorry for maybe not phrasing that very  
8 well.

9 I want to refer you to pages 17 and 18 of your  
10 direct testimony. Are you there?

11 A. Yes, ma'am, I am.

12 Q. At line 17 on page 17 there's a question, Why  
13 didn't the City agree to grant a franchise to Intercounty  
14 and let it continue to operate and grow in the City?

15 And then if you would look with me over to  
16 page 18 for part of your answer, I refer you to line 1. At  
17 that point you state, It did not appear that there would be  
18 any lawful way to level an occupation tax on Intercounty  
19 since rural electric cooperatives are not listed as a  
20 statute -- in the statute as an entity that can be taxed in  
21 that manner. Do you see that?

22 A. Yes.

23 Q. At what time did you become aware of this  
24 potential problem? Was that before or after the vote for  
25 the annexation?



1           A.       I don't know when that surfaced, but it really  
2 doesn't negate the point that they could have paid what  
3 we -- our position is that they to have paid a voluntary  
4 PILOT.

5           Q.       But as far as when it became clear to the City  
6 of Rolla regarding annexation, you don't know whether or not  
7 the City of Rolla was aware that they couldn't impose this  
8 franchise tax or this franchise fee before or after the  
9 annexation vote?

10          A.       The chronology there I just can't put a finger  
11 on. I don't know when that happened. I would -- I could do  
12 some research maybe and come up with it, but --

13          Q.       Was it after the City discovered that this  
14 franchise idea may not work that it proposed to Intercounty  
15 that there be the payment in lieu of tax?

16          A.       I think the City was always willing to discuss  
17 the issue in part or in whole.

18          Q.       Was the issue of payment in lieu of tax  
19 discussed prior to the annexation vote?

20          A.       As a specific, I think it was all quantified  
21 as in territorial agreement, franchise fee or payment in  
22 lieu of tax and services supplied at no charge to the City.  
23 So I guess I don't -- my position is going to be that that  
24 was part of the City's position in negotiations all along.

25          Q.       Including the negotiations prior to the vote?

1           A.       Yes.

2           Q.       And prior to the -- and I want to ask you to  
3 follow along, still on page 18 of your direct testimony, at  
4 lines 7 and 8, starting, I guess, on line 6 about the board  
5 making a proposal to Intercounty to voluntarily make that  
6 payment in lieu of tax.

7           A.       Yes.

8           Q.       And Intercounty declining to agree to that.  
9 Was that before or after the election?

10          A.       That was after, and that was during the  
11 negotiation process under the statute requirements of  
12 386.800.

13          Q.       So you don't recall any proposal to  
14 Intercounty about a payment in lieu of tax prior to the  
15 election?

16          A.       Specifically or exclusively, it was not until  
17 the board met with the Intercounty board during that  
18 process.

19          Q.       Okay. And so your recollection is that it  
20 was -- it was during the 386.800 negotiations that this all  
21 happened?

22          A.       That that is when the board specifically  
23 eliminated the franchise fee issue and discussed the PILOT  
24 exclusively.

25               MS. O'NEILL: Okay. That was all I had.

1 Thank you.

2 JUDGE THOMPSON: Thank you, Ms. O'Neill.

3 Mr. Comley, I think it's time to break for lunch. So rather

4 than have you begin --

5 MR. COMLEY: I have no questions.

6 JUDGE THOMPSON: In that case, we'll move on

7 to Mr. Dunbar.

8 MR. DUNBAR: I have no questions.

9 JUDGE THOMPSON: Mr. Dunbar has no questions

10 either. Well, then, Mr. Duffy, do you have any redirect?

11 MR. DUFFY: I do, but it's time to break for

12 lunch.

13 JUDGE THOMPSON: We will start after lunch

14 with Mr. Duffy, and we will be back at one o'clock in order

15 to commence. We are in recess.

16 (A BREAK WAS TAKEN.)

17 JUDGE THOMPSON: Mr. Duffy, we're ready for

18 your redirect.

19 MR. DUFFY: Thank you, your Honor.

20 REDIRECT EXAMINATION BY MR. DUFFY:

21 Q. Mr. Watkins, you were asked some questions, I

22 think it was yesterday, by Mr. Comley about trailer-mounted

23 generation units. What I want to know is, will the

24 implementation or the use of those units change or cause any

25 change in RMU's retail rates?

1           A.       No.

2           Q.       You were asked a lot of questions about the  
3 recordkeeping that Rolla has on customer complaints for  
4 electric service. Do you recall that?

5           A.       Yes, I do.

6           Q.       To your knowledge, are there any unresolved  
7 electric complaints pending at this point?

8           A.       No.

9           Q.       If someone wants to take a complaint to the  
10 Rolla Board of Public Works about their electric service, do  
11 they have the ability to do that?

12          A.       Yes, they do.

13          Q.       Has anybody ever done that?

14          A.       Yes, they have.

15          Q.       Has the Rolla Board of Public Works resolved  
16 that complaint?

17          A.       Yes, they did.

18          Q.       If someone has a complaint about electric  
19 service, can they take that to the city council?

20          A.       Yes.

21          Q.       Has anyone ever done that, to your knowledge?

22          A.       Not to my knowledge.

23          Q.       Are you under the same set of regulations or  
24 requirements as to how you are required to keep records  
25 regarding customer complaints as Intercounty Electric

1 Cooperative?

2 A. No.

3 Q. Are you under any set of regulations or  
4 requirements as to how you are in particular to keep records  
5 of customer complaints or outages?

6 A. No.

7 Q. Mr. Comley asked you about wouldn't -- isn't  
8 it true that you would be able to go out, assuming the  
9 Commission granted this application, and canvass all of the  
10 customers in the Southside Annexation Area about granting  
11 them -- granting Rolla Municipal Utilities a new easement to  
12 deal with problems that have been identified in RMU's  
13 testimony?

14 A. I'm sorry. I missed the first part of your  
15 question.

16 Q. Well, you recall Mr. Comley asking you about  
17 that topic?

18 A. Yes.

19 Q. All right. Do you have an opinion as to  
20 whether going out and canvassing, as Mr. Comley suggested,  
21 would cause RMU to incur any expense in that regard? I  
22 mean, is that a free situation or is that going to cost you  
23 something?

24 A. No. You obviously have the cost of the  
25 efforts that you're talking about, going out and canvassing.

1 But assuming you were successful, even if the easement was  
2 given to you, you still have the cost of surveying and  
3 verifying where it is and all those type expenses that go  
4 along with it.

5 Q. And if the customer decided they -- or the  
6 landowner decided they didn't want to give you an easement  
7 after you asked, what is your remedy, if any?

8 A. I suppose ultimately you would have a  
9 condemnation option, which is a legal proceeding, and there  
10 would be some expenses involved with that.

11 Q. Do you have an opinion as to whether this  
12 would even be a problem if Rolla had obtained appropriate  
13 and recordable easements in the first place?

14 A. Correction there. You mean Intercounty?

15 Q. I'm sorry. Intercounty had obtained them in  
16 the first place.

17 A. Had they obtained recordable easements and  
18 recorded them, this would not be a problem.

19 Q. Why does Rolla Municipality -- why does Rolla  
20 Municipal Utilities and you in your testimony consider not  
21 testing equipment for PCBs to be a bad business practice?

22 A. Simply because EPA regulations require the  
23 owning entity to assume that that equipment, if it is not  
24 certified as PCB free, to assume that it is contaminated.

25 And so that if there is any kind of a spill or

1 an incident, then you've actually got to consider that as a  
2 contaminated site, and you actually have to go in and clean  
3 it up with the suits and aprons and that sort of thing, and  
4 it's a very costly situation.

5 Q. Has Intercounty at any time indicated to Rolla  
6 Municipal Utilities that the equipment they have in the  
7 Southside Annexation Area is certified PCB free?

8 A. No, they have not.

9 Q. You were asked some questions by Mr. Comley  
10 about a wheeling agreement, and I believe we established,  
11 did we not, that when we use the term wheeling agreement  
12 we're talking about transmission service?

13 A. Yes.

14 Q. Okay. Is there going to be any change, in  
15 your opinion, in transmission service when you switch to  
16 this new wholesale supplier?

17 A. No. AmerenUE will continue to provide that  
18 service to the City of Rolla.

19 Q. And is that service subject to the  
20 jurisdiction of the Federal Reg-- Federal Energy Regulatory  
21 Commission?

22 A. Yes, it is.

23 Q. Do you have any indication that AmerenUE can  
24 unilaterally decide not to provide you that service?

25 A. No, they cannot.

1           Q.       Do you have any indication that there's going  
2 to be any problems at all in regard to the transition to a  
3 new wholesale supplier on the first of the year?

4           A.       No.

5           Q.       Did you hire council to represent you in the  
6 proceedings involving these negotiations for the new  
7 wholesale agreement and transmission service with AmerenUE?

8           A.       We do have a professional consultant, yes.

9           Q.       And has that professional consultant indicated  
10 any potential problems to you?

11          A.       No, he has not.

12          Q.       You were asked questions by Mr. Dunbar about  
13 outages in the past three years.  Would you briefly discuss  
14 what major and minor outages have occurred in the City of  
15 Rolla in the past three years and their causes, if you know  
16 them?

17          A.       Yes.  In particular, the outage that  
18 Mr. Dunbar referred to was one where the school system  
19 dismissed school.  That was related to a failure of the  
20 transmission system of AmerenUE due to a tornado that  
21 damaged their facilities.  Some months prior to that, they  
22 had a similar occurrence in about a seven-mile different  
23 direction on the same line.

24                   And so RMU has experienced two city-wide  
25 outages in the three-year period that Mr. Dunbar was



1 referring to. Other than that, there have been what I would  
2 term as more like an incidental outage. In other words, it  
3 would be something related to either an animal getting on  
4 the lines, a squirrel or someone running over a pole, things  
5 like that. But typically the outages that everyone talks  
6 about are the major outages where the city was black.

7 Q. I believe you indicated that you're a customer  
8 of Intercounty at your home; is that correct?

9 A. That is correct.

10 Q. Do you experience outages at your home on  
11 Intercounty service?

12 A. Yes, I have. I had the opportunity to take a  
13 few days off here a couple of weeks ago, and while I was at  
14 home, my power went off once each day each of those three  
15 days. And I would also say that I don't necessarily  
16 consider Intercounty as bad service. It is just something  
17 that happens.

18 Q. You were asked several questions by Mr. Dunbar  
19 about advising the public with regard to the annexation and  
20 things like that.

21 My question is, did Rolla Municipal Utilities  
22 advise the public of everything that was required of it to  
23 advise them under 386.800?

24 A. Yes. To my knowledge, there was full  
25 compliance with that statute.

1 Q. Are you aware of any allegation in this  
2 proceeding that any of the public notices provided under  
3 386.800 were deficient?

4 A. No, not at all.

5 Q. Mr. Dunbar read to you -- or asked you,  
6 rather, to read some material out of the Auditor's report  
7 that has been attached to the testimony of Mr. Priest.

8 MR. DUFFY: Your Honor, I'd like permission to  
9 approach the witness with this document.

10 JUDGE THOMPSON: You may approach.

11 BY MR. DUFFY:

12 Q. First of all, do you recognize this, what I'm  
13 handing you, as the same document that Mr. Dunbar handed you  
14 previously? It's not the exact same thing, but it's a copy  
15 of the same document.

16 A. Yes, it is.

17 Q. And I believe he had you read some language  
18 into the record that appears at the bottom of page 19; is  
19 that correct?

20 A. Yes, that's correct.

21 Q. Now, did the City have an opportunity to  
22 respond to the Auditor's recommendations?

23 A. Yes, they did.

24 Q. And is that response included in the same  
25 document on the next page?

1           A.       It is.

2           Q.       Okay.  Would you read what's indicated there

3 as the auditee's response?  And do you understand the

4 auditee is who?

5           A.       It is the City or RMU.

6           Q.       Okay.  Would you read the response.

7           A.       The city council provided the following

8 response:  The City and RMU recognize it is inappropriate to

9 expend City funds to promote a vote for or against any

10 ballot issue.  Funds will be expended only to educate and

11 inform citizens on such election issues.

12                   The Rolla Board of Public Works provided the

13 following response:  As stated in response to 4A, the board

14 believes that RMU has the same powers generally as the City

15 and is permitted to expend funds in an effort to educate the

16 general public on the issues that may be voted.  The paid

17 advertisements and informational packets were deemed by a

18 cross section of the public to be a statement of facts

19 without bias to the voter.  The RMU board recognizes that it

20 is inappropriate to expend City funds to promote a vote for

21 or against a ballot issue.

22           Q.       To your knowledge, has the State Auditor

23 pursued anything about this with the City?

24           A.       No, they did not.

25           Q.       Would it be fair to say, then, that this is in

1 the same category as the management recommendations that  
2 were talked about in other parts of the record?

3 A. Yes, I believe it is.

4 Q. Is it fair, then, to say that this is not  
5 considered a violation of any law, as far as you know?

6 A. Yes.

7 Q. You were asked a question, a couple of  
8 questions by Commissioner Schemenauer about your approach  
9 and patronage amount, the calculation that you did, and  
10 whether that patronage amount applied to a particular year.

11 Would you just generally explain what your  
12 approach was in that situation, what your intention was?

13 A. Okay. My intention was to show what the net  
14 amount of revenues that would be received by Intercounty  
15 given the position that Mr. Strickland has taken saying that  
16 the rates between the City of Rolla or Rolla Municipal  
17 Utilities and Intercounty are very comparable. If they were  
18 comparable, then you would see that type of change in the  
19 revenues, the retained revenues, with Intercounty.

20 Q. And so what did you do -- what was your  
21 approach to accomplish that?

22 A. Well, my approach was to take the statistical  
23 data that was provided by APPA and a compilation related to  
24 Form EIA-861, calculate what the difference between the two  
25 rates is based on that report, and that is an average over

1 the entire residential class rate base for each utility, and  
2 whatever the disparity between those two was is what I  
3 applied to the gross revenues and reduced it by that amount.

4 Q. So you weren't implying or you didn't intend  
5 to imply that there were actual patronage dividends in that  
6 exact amount or that they related to any particular time  
7 period?

8 A. No, not at all.

9 MR. DUFFY: That's all I have, your Honor.

10 JUDGE THOMPSON: Thank you, Mr. Duffy. Do you  
11 rest at this time?

12 MR. DUFFY: We do.

13 JUDGE THOMPSON: Very well, then. Mr. Comley,  
14 call your first witness.

15 MR. COMLEY: Your Honor, we'd call Mr. Jim  
16 Krewson.

17 JUDGE THOMPSON: Do you anticipate any further  
18 need for Mr. Watkins?

19 MR. DUFFY: Me?

20 JUDGE THOMPSON: Anyone. Anyone at all.

21 (No response.)

22 Hearing none, you are excused, sir. Thank you  
23 very much.

24 THE WITNESS: Thank you, your Honor.

25 (Witness excused.)

ASSOCIATED COURT REPORTERS, INC.  
Jefferson City - Columbia - Rolla  
(888) 636-7551

1 (Witness sworn.)

2 JUDGE THOMPSON: Please take your seat and

3 spell your name for the reporter, if you would.

4 THE WITNESS: Jim, J-i-m, Krewson,

5 K-r-e-w-s-o-n.

6 JIM KREWSON testified as follows:

7 DIRECT EXAMINATION BY MR. COMLEY:

8 Q. Mr. Krewson, would you state again your full

9 name for the reporter, please.

10 A. Jim Krewson.

11 Q. And by whom are you employed?

12 A. Intercounty Electric.

13 Q. What's your position there, sir?

14 A. Manager of Operations and Maintenance.

15 Q. Are you the same Jim Krewson that caused to be

16 filed in this case a set of prepared testimony, prepared

17 rebuttal testimony, which has been previously marked by the

18 reporter as Exhibit 7?

19 A. Well, I thought they made it 8.

20 MR. COMLEY: Excuse me. Is it 7 or 8?

21 JUDGE THOMPSON: Looks like 8 to me.

22 BY MR. COMLEY:

23 Q. Excuse me. Which has been marked by the

24 reporter as Exhibit 8?

25 A. Yes.

1           Q.       Are there any additions or corrections to your  
2 testimony?

3           A.       No.

4           Q.       If I were to ask you the questions that are  
5 contained in your prepared rebuttal, would your answers be  
6 the same?

7           A.       Yes, they would.

8           Q.       And were those answers at that time that you  
9 gave them true and correct to the best of your information  
10 and belief?

11          A.       Yes, they are.

12                   MR. COMLEY: Your Honor, at this time I'd  
13 offer into evidence prepared rebuttal testimony of  
14 Mr. Krewson, Exhibit 8.

15                   JUDGE THOMPSON: Do I hear any objections to  
16 the receipt of Exhibit 8?

17                   (No response.)

18                   Hearing none, Exhibit 8 will be received and  
19 made a part of the record of this proceeding.

20                   (EXHIBIT NO. 8 WAS RECEIVED INTO EVIDENCE.)

21                   MR. COMLEY: I tender Mr. Krewson for  
22 cross-examination.

23                   JUDGE THOMPSON: Thank you, Mr. Comley.  
24 Mr. Dunbar?

25                   MR. DUNBAR: No questions.

1 JUDGE THOMPSON: Ms. O'Neill?  
2 MS. O'NEILL: No questions, your Honor.  
3 JUDGE THOMPSON: Mr. Frey?  
4 MR. FREY: No questions, your Honor.  
5 JUDGE THOMPSON: Mr. Duffy?  
6 MR. DUFFY: No questions.  
7 JUDGE THOMPSON: Questions from the Bench,  
8 Commissioner Schemenauer?  
9 COMMISSIONER SCHEMENAUER: No questions.  
10 JUDGE THOMPSON: Well, there's no  
11 cross-examination. There's no questions from the Bench. I  
12 don't think we get any redirect under these circumstances.  
13 You may step down, sir. Do we anticipate any further need  
14 for Mr. Krewson?  
15 (No response.)  
16 Hearing none, you are excused, sir. Thank  
17 you.  
18 (Witness excused.)  
19 Next witness, please.  
20 MR. COMLEY: Your Honor, we call Mr. James E.  
21 Ledbetter.  
22 (Witness sworn.)  
23 JUDGE THOMPSON: Please take your seat and  
24 spell your name for the reporter, if you would.  
25 THE WITNESS: My name is James E. Ledbetter,



1 L-e-d-b-e-t-t-e-r.

2 JUDGE THOMPSON: Please proceed.

3 JAMES E. LEDBETTER testified as follows:

4 DIRECT EXAMINATION BY MR. COMLEY:

5 Q. Mr. Ledbetter, once again, would you state  
6 your full name for the reporter, please.

7 A. It's James E. Ledbetter.

8 Q. And by whom are you employed, sir?

9 A. I'm employed by Ledbetter, Toth & Associates.  
10 It's a consulting engineering firm in Springfield, Missouri.

11 Q. Are you the same James Ledbetter who filed in  
12 this case a set of prepared rebuttal testimony which the  
13 reporter has previously marked as Exhibit 9?

14 A. Yes, I am.

15 Q. Do you have any additions or corrections to  
16 your testimony?

17 A. Yes. We have those that we went through on  
18 Exhibit JEL-11.

19 Q. And where is that attached to your testimony?  
20 Oh, I see. I know what you mean.

21 MR. DUFFY: I don't think there is a JEL-11  
22 attached to the testimony.

23 MR. COMLEY: I think he's referring to the  
24 Data Request.

25 THE WITNESS: Yes. It was revised JEL-11.

1 BY MR. COMLEY:

2 Q. Let me direct your attention to page 2 of your  
3 rebuttal testimony. Do you have a correction on page 2?

4 A. Yes. I started to say, the exhibit does carry  
5 corrections throughout the text on the tabulated totals. I  
6 believe the first one of those is on page 2, line 13. The  
7 corrected amount should be \$4,037,604.01.

8 JUDGE THOMPSON: \$4,037,604.01?

9 THE WITNESS: Yes.

10 JUDGE THOMPSON: Thank you.

11 BY MR. COMLEY:

12 Q. Is there any other page in your testimony  
13 where that correction needs to be made?

14 A. Yes. Just a second here. Also on page 9,  
15 line 9, the amount 150,000 should be corrected to 146,000.  
16 Then on page 10, line 4, that amount should also be  
17 corrected to \$4,037,604.01.

18 And then in Exhibit JEL-1, Item 4 should be  
19 corrected to 146,000, and the total at the bottom of the  
20 page should be corrected to \$4,037,604.01.

21 Q. Mr. Ledbetter, if I were to ask you the same  
22 questions that are contained in your prepared rebuttal  
23 testimony, would your answers be the same as you have  
24 corrected them today?

25 A. Yes, they would.

1           Q.       And were your answers at that time as you  
2 corrected them, are they -- and as you've corrected them,  
3 correct to the best of your knowledge, information and  
4 belief?

5           A.       Yes, they are.

6                   MR. COMLEY: Your Honor, I would offer Exhibit  
7 No. 9 into evidence and tender Mr. Ledbetter for  
8 cross-examination.

9                   JUDGE THOMPSON: Thank you, Mr. Comley. Do I  
10 hear any objections to the receipt of Exhibit No. 9?

11                   (No response.)

12                   Hearing none, Exhibit No. 9 is received and  
13 made a part of the record of this proceeding.

14                   (EXHIBIT NO. 9 WAS RECEIVED INTO EVIDENCE.)

15                   JUDGE THOMPSON: Mr. Dunbar?

16                   MR. DUNBAR: No questions.

17                   JUDGE THOMPSON: Ms. O'Neill?

18                   MS. O'NEILL: No questions.

19                   JUDGE THOMPSON: Mr. Frey?

20                   MR. FREY: Yes, thank you, your Honor.

21 CROSS-EXAMINATION BY MR. FREY:

22           Q.       Mr. Ledbetter, could you please turn to page 8  
23 of your rebuttal testimony and lines -- and I'm focusing on  
24 lines 17 and 18.

25                   JUDGE THOMPSON: Mr. Frey, could you please

1 move the microphone closer to your mouth?

2                   MR. FREY: I'm sorry. I was trying to push it  
3 out of my way before and I forgot to reorient it. Is that  
4 better?

5                   JUDGE THOMPSON: That's better. Thank you.

6 BY MR. FREY:

7           Q.       Page 8 of your rebuttal testimony, and, as I  
8 said, I'm looking at lines 17 and 18.

9           A.       Yes, sir, I found that.

10          Q.       And you state there, do you not, that the  
11 discounts and patronage capital have been deleted from the  
12 actual normalized revenue values as obtained from  
13 Intercounty billing records?

14          A.       I received that data from Intercounty  
15 Electric, and that was as represented to me. I've not  
16 audited it myself, but it's my belief that is correct.

17          Q.       What do you mean by the word deleted? Were  
18 those values in there originally and then they got deleted  
19 or what?

20          A.       I'm not sure about that. I just know that the  
21 data that was presented to me on request was indicated that  
22 those items have been deleted.

23          Q.       Okay. Are those numbers bigger or smaller as  
24 a result of deletion of those items?

25          A.       You'd probably have to direct that to

1 Mr. Strickland's testimony later. Like I say, I only went  
2 by the data they give me, and it was -- I didn't go back and  
3 audit exactly what they had.

4 Q. Okay. Just a couple more questions, sir. I'd  
5 like to go to your Schedule 2 and your Schedule 3. I'm  
6 trying to get a little bit better idea of this breakdown  
7 that I believe you had set forth at the end. Let's look at  
8 Schedule 2, if we could, page 5, JEL-2.

9 A. Yes.

10 Q. Got that? And where it says total labor of  
11 about \$673,000, do I understand, then, that that represents  
12 the sum of the unit labor times the quantity and also  
13 includes -- well, it wouldn't be any in -- yes, there would.  
14 That that represents the sum of the labor units times the  
15 quantity all the way down all those columns over five pages,  
16 including the last two entries, these engineering and  
17 clearing figures?

18 A. Yes. That's the intent of that number is to  
19 be the extended labor and material and unit labor times the  
20 quantity, estimated quantities.

21 Q. Okay. And so the same would be true of  
22 material; you'd take material units times all those units,  
23 only you don't have to bother with the last two entries  
24 there because there are no units, correct?

25 A. Correct.

1           Q.       Okay. Now, the difference between your number  
2 for reproduction or replacement costs and that of Rolla is  
3 about \$300,000; is that correct?

4           A.       I believe that's in the ballpark, yes.

5           Q.       And what I'm trying to do is try to get a feel  
6 for where that difference is. In terms of the labor there,  
7 that would include some overhead, would it not, those labor  
8 dollars, the \$673,000 that you have at page 5?

9           A.       Yes. Typically a contractor bidding to do a  
10 job like this would include -- he's got an option, I guess,  
11 of including some of the overhead as material overhead, but  
12 a lot of them traditionally put it in as labor overhead.

13          Q.       Can you state what overhead is in the labor  
14 figure? For example, I would assume there's employee  
15 benefits in there, is that -- would that be true?

16          A.       I assume, like I say, a contractor, he's got  
17 benefits. He's got his own accounting costs, cost of doing  
18 business.

19          Q.       Some services in there as well?

20          A.       Uh-huh.

21          Q.       Do you know how much, then, of the total labor  
22 dollars, or can you provide some sort of an estimate of how  
23 much of the total labor dollars is hard labor and how much  
24 is these add-ons or what they often call the loading for  
25 benefits or for overhead?

1           A.       That would be pretty hard to give a very  
2 accurate number for you. That depends, you know, contractor  
3 to contractor who would build this. I think you can, as a  
4 ballpark figure, assume somewhat most businesses run  
5 probably about a hundred percent overhead when you're  
6 talking benefits, cost of having equipment available and all  
7 the other things that go into it.

8                   It's the labor and materials, not all just  
9 labor. It includes gasoline for the vehicles. It includes  
10 the cost of providing the equipment to build it with.

11          Q.       But that's not in that labor figure, correct?

12          A.       Yes, it has to be somewhere.

13          Q.       It's in the material figure, I would assume?

14          A.       No. Material figure's traditionally just the  
15 insulators, poles.

16          Q.       The actual item that's --

17          A.       Correct.

18          Q.       -- installed?

19          A.       By overhead, labor, we would include the  
20 overhead associated with providing material, gasoline to  
21 operate the things.

22          Q.       Okay. Whatever that percentage is, it's the  
23 same for all of these entries, is it not? Let's say it was  
24 a 50/50 split between straight labor and whatever the  
25 overhead is.

1                   It would be the same for all of these that  
2 built that number, all of these entries, over five pages?  
3 In other words, you're using a constant labor rate or  
4 constant, I guess we can call it labor rate?  
5           A.       I haven't looked at it that way, but you're  
6 probably correct. Normally the overhead is spread over the  
7 labor as a percentage.  
8           Q.       Okay. Can we turn now to the other one that I  
9 mentioned, which is JEL-3, and this is for the -- this  
10 relates to reintegration, does it not?  
11          A.       Yes, it does, sir.  
12          Q.       Okay. And again, here now we're talking about  
13 a difference somewhere in the ballpark between your number  
14 and Rolla's number of about \$200,000, is that --  
15          A.       I believe that's essentially correct, yes.  
16          Q.       Okay. Again, I'm interested in this factor  
17 that you use here for new lines. Each of these, at 102,850  
18 and 67,540 and so forth, each of those represents a  
19 different size conductor; is that true?  
20          A.       Each of these items on this page?  
21          Q.       Each of those, yeah.  
22          A.       Yes.  
23          Q.       The fact that we have four items means --  
24          A.       Correct.  
25          Q.       -- we have four different size conductors?



1                   And can you perhaps give me an idea what the  
2 breakdown is in that rate that's used, the 102,850, the  
3 67,540, that type of thing? Can you expand on that a little  
4 bit? Again, I'm interested in labor, material, overhead,  
5 that type thing.

6           A.       I believe that goes back to our methodology  
7 provided in the estimate or -- and I do that a lot in my job  
8 function, is a lot of what I do.

9                   We typically on one like this and it's outside  
10 the urban, more urban area, which the annexation area is,  
11 it's more rural, we generally go by what we call a typical  
12 mile of construction and figure, you know, what it would  
13 take to, say, build a typical mile of three-phase 477 ACSR.

14                   We would normally then adjust that figure for  
15 the terrain we're going to build it in. It makes a lot of  
16 difference in an estimate whether you're going to encounter  
17 a lot of rock that the contractor has to drill pole drills.

18                   Also the amount of traffic to be encountered,  
19 such as the annexation area, that makes a major difference  
20 that the contractor has to work around the traffic, provide  
21 signs and traffic control. Or if you've got to go down,  
22 say, backyard lines where you've got to remove the fence,  
23 put the fences back in and, you know, repair damage.

24                   So there's a lot of factors there, and it's  
25 hard to come up with a standard per-mile construction cost.

1 So that's kind of what we started from to base it on.

2 Q. So you not only looked at the fact that you  
3 were dealing with a different size -- a different size  
4 conductor, but also you looked at the actual terrain and so  
5 forth that you were dealing with in each case?

6 A. Yes. That is correct, sir.

7 Q. But then, again, when you come up with a  
8 number, so I guess what you're saying perhaps is that the  
9 ratio of labor, material and so forth will vary according to  
10 the terrain. Is that what you're telling me?

11 A. Yes, very much so.

12 Q. So is there any ballpark figure you can give  
13 me, then, for each of those, how much represents the  
14 material, which I assume would be the -- whatever the  
15 physical asset is, and then how much is labor and overhead?  
16 You can't come up with -- you're unable to provide some kind  
17 of a breakdown?

18 A. I believe in some of our Data Requests we did  
19 provide some information on typical mile costs broke down  
20 that way, though we've used those adjusted numbers here.

21 Q. Okay. Do you concur that the route that  
22 you're using in coming up with these numbers is the same as  
23 that used by Rolla, by RMU? Are the two parties in  
24 agreement at least in general as to the route we're talking  
25 about?

1           A.       I've not seen a proposed route from RMU. I do  
2 kind of read from their testimony they didn't really object  
3 to the route we were using here.

4           Q.       And with regard to Schedule 2, are you  
5 essentially in agreement with Rolla as to the level of the  
6 inventory that's at issue or that we're talking about here,  
7 or are there significant differences there as far as you  
8 know?

9           A.       I have not seen enough of their breakdown to  
10 really tell you that. I know in our case we took it from  
11 the actual inventory that Intercounty took from the  
12 facilities in question.

13                   MR. FREY: Thank you. I have no further  
14 questions, your Honor.

15                   JUDGE THOMPSON: Thank you, Mr. Frey.  
16 Mr. Duffy?

17 CROSS-EXAMINATION BY MR. DUFFY:

18           Q.       Mr. Ledbetter, I want to clarify a few things.  
19 I think most of them relate to what you called your  
20 Exhibit JEL-11, and that was a response to a Data Request  
21 that you -- I think I got a fax of that on Sunday, two days  
22 ago. It might be helpful for you to have that in front of  
23 you when I ask you these questions.

24           A.       I have it in front of me, sir.

25           Q.       I guess what I want to know, would you turn to

1 your, what you called Exhibit JEL-3, Sheet 1 of 2. Do you  
2 have that?

3 A. Yes, sir, I do.

4 Q. You've got -- under the heading New Line,  
5 you've got four different segments there. I want to direct  
6 your attention to the last one where it says 1.00 miles  
7 1 aught to 3 aught, single-phase to three-phase 1 aught  
8 ACSR. Do you see that?

9 A. Yes, I do.

10 Q. Is it still your testimony that that line  
11 should be one mile in length or did you intend to correct  
12 that to be a half a mile in length?

13 A. The proposed route that we're looking at is  
14 just that, a proposed route. We looked at it and thought we  
15 would get the right of way as best we can at that location.  
16 That's not assured.

17 If you look at the corner where this one aught  
18 line ties into, we don't currently have an existing line at  
19 that corner. Meaning, if right of way is too difficult to  
20 obtain to that corner, we may have to go back farther.

21 I guess on my exhibits I haven't included all  
22 the contingencies when we actually get down to getting right  
23 of ways. We have included it here as -- it may be likely  
24 that it will end up to being a mile. Mr. Bourne may be  
25 correct in the analysis that we get right of way and it is

1 only a half a mile. That's something that's hard to tell  
2 before we do all the engineering work to lay it out and get  
3 right of way easements.

4 I think you've got to look at our proposed  
5 line route in its entirety other than picking one small  
6 piece, because there are contingencies in there.

7 Q. You do recognize that this is the line that  
8 Mr. Bourne said he looked at and he said it's only a half a  
9 mile instead of a mile?

10 A. Yes, sir.

11 Q. And you don't dispute that?

12 A. No. I'm just saying there's contingencies in  
13 the way we get our right of ways. It at this point is just  
14 a proposed route. We generally think we can pretty  
15 successfully get right of way easements to build it as we've  
16 got it shown in the exhibit. Obviously if we went through  
17 it landowner by landowner we may have to make several  
18 contingencies and even move the line over.

19 Q. So you've added this additional half mile to  
20 deal with these contingencies you just talked about?

21 A. Correct.

22 Q. Okay. On your Exhibit JEL-11, the response to  
23 the Data Request, I want you to look at what you call Line  
24 No. 4, which you say is mapped in Section No. 12-24, and you  
25 see that as .50 miles of three-phase 477 ACSR. Are you with

1 me?

2           A.       Yes, I am, sir.

3           Q.       You've got an asterisk after that, and the  
4 asterisk means line already included in relocation cost of  
5 lines to maintain existing back feed capacity. See Exhibit  
6 JEL-3, which is the document we just talked about in your  
7 testimony.

8                    Tell me on JEL-3 where you've taken into  
9 account this half-mile three-phase 477 ACSR.

10          A.       I think that partly comes in at this same  
11 corner. This other line that Mr. Bourne is talking about  
12 comes into coming out of the street, and I guess I'm not  
13 that familiar with the street names, but I think it's South  
14 Rolla.

15                   We do have three-phase service, a three-phase  
16 line that goes down this street outside the annexation area.  
17 With the annexation area, that gets cut off. Whereas now  
18 Intercounty has three-phase service available to that  
19 particular area, it gets off.

20                   I think what I'm just recognizing here is to  
21 include that twice would be redundant. So it was built in  
22 as part of this proposed equivalent system. It's not needed  
23 to be added here a second time.

24          Q.       So which of the four lines on JEL-3 does this  
25 change address? The fourth one, is that what you're telling

1 me?

2           A.       Excuse me now?

3           Q.       Well, my understanding is you made this change  
4 on this revised response to a Data Request, and the asterisk  
5 said the line that you were making the change on was already  
6 located or already addressed on this JEL-3. So which of the  
7 four --

8           A.       I think Item 4 was already existing on the  
9 prior exhibit. Item 2 is the one that we changed, we  
10 deleted, I think.

11          Q.       Well, I'm still trying to understand. You  
12 made a change when you gave me the new -- when you gave us  
13 the new Data Request response, and you said it related to  
14 something on Exhibit JEL-3.

15                    You have not changed Exhibit JEL-3 in this  
16 proceeding, and so I'm trying to figure out -- you say  
17 you've made a change, but you haven't shown us where it  
18 appears on JEL-3. Tell me where it appears in JEL-3.

19          A.       We didn't change that part of the exhibit.  
20 It's still there.

21          Q.       Direct your attention to JEL-11 again, please.

22          A.       Okay.

23          Q.       On that document, which the Commissioners  
24 don't have in front of them, I realize that, you say on  
25 line 1 that you have included .03 miles of single-phase

1 No. 2 ACSR tie line for an estimated cost of \$1,500; is that  
2 right?

3 A. Yes.

4 Q. With this document you provided us a couple of  
5 colored maps, correct?

6 A. Correct.

7 Q. There appear to be two line segment ones.  
8 There's one on what you called Exhibit JEL-3 that's attached  
9 to JEL-11, and then there's another one on what you call  
10 JEL-11, and they're both designated as No. 1. Which one is  
11 No. 1?

12 A. Well, the No. 1 in JEL-11 goes with the  
13 exhibits for JEL-11, yes.

14 Q. So why don't we try to both get on the same  
15 page. Please look at the map that you attached to your  
16 Exhibit JEL-11, the map that reflects Oak Knoll Subdivision.  
17 That's right in the middle of the map. Do you see that?

18 A. Yes.

19 Q. Okay. And do you see the line in red below  
20 that that you've indicated is No. 1?

21 A. Correct.

22 Q. Is that the line No. 1 that's the .03 miles of  
23 single-phase No. 2 ACSR?

24 A. Yes.

25 Q. All right. Now, go to the page immediately



1 before that, and on that colored map in about the middle of  
2 the left-hand side you've got another indication of a No. 1  
3 there. Is that the same thing? Is that Oak Noll  
4 Subdivision?

5 A. No. If you look at the -- the map that you're  
6 looking at there says Exhibit JEL-3, and that goes with  
7 Exhibit JEL-3.

8 Q. So the No. 1 on that map relates to 1.7 miles  
9 three-phase to three-phase 477 ACSR that's on JEL-3, because  
10 that would be the line No. 1 on JEL-3?

11 A. I see your confusion, sir. My apologies.

12 Q. Help me out.

13 A. Item 1 on JEL-3 did not get corrected. We  
14 corrected JEL-11, but it appears that this Item 1 was put  
15 back in there and didn't get taken out.

16 Q. So do you need to change JEL-3 now to make it  
17 accurate?

18 A. Yes. We were just trying to show overall how  
19 these two exhibits tie together. On JEL-3, the Item 1 there  
20 didn't get relocated as we did in JEL-11.

21 Q. So what change do you need to take to JEL-3 to  
22 make it accurate?

23 A. We just need to move the Item 1 to the correct  
24 location as shown in JEL-11.

25 Q. And how do we do that?

1                   MR. COMLEY: Did you hear his question?

2                   THE WITNESS: Oh, excuse me.

3 BY MR. DUFFY:

4           Q.       I'm expecting you to tell me how you propose

5 to change -- you've indicated there's a problem, and I'm

6 asking you how do we change or how do you propose to change

7 Exhibit JEL-3 to your testimony --

8           A.       I would delete --

9           Q.       -- to correct the problem?

10          A.       -- the reference there to Item 1, is not in

11 the correct location. It should have been revised as shown

12 in JEL-11. We just didn't get that revised. We carried it

13 through.

14          Q.       Well, I'm looking at Sheet No. 1 of 2 sheets

15 on Exhibit JEL-3, and I'm asking you what change do you need

16 to make to that page to make it accurate?

17          A.       The Item 1 just needs to be erased off of

18 there because it's not -- it wasn't originally a part of

19 JEL-3 to start with. We're just trying to show where it was

20 at. If didn't get revised.

21          Q.       There isn't an Item 1 on Sheet 1 of 2 of

22 Exhibit JEL-3.

23          A.       That is correct, yes.

24          Q.       So how can I erase something that isn't there?

25          A.       The sheet you're looking at, JEL-11 --

1 Q. No. I'm looking at JEL-3 attached to your  
2 testimony.

3 A. I know you are, but you're asking me how I  
4 would do this, and I'm --

5 Q. Okay. Sorry to interrupt.

6 A. If you'll bear with me.

7 Q. Sure.

8 A. Exhibit JEL-11 we revised a couple of things  
9 that Mr. Bourne pointed out, which were correct. The third  
10 page of Exhibit JEL-11 shows a page in Exhibit JEL-3 which  
11 shows the Item 1 location there. That is simply incorrect.  
12 The Item 1 as shown in the fourth sheet where it shows  
13 Map 12-3 is the corrected Item 1.

14 Q. Okay. So are you finished at this point?

15 A. Yes.

16 Q. So what I understand, then, is the third page  
17 attached to the Data Request supplement contains a map  
18 that's incorrect?

19 A. Yes. That map did not get corrected along  
20 with the rest of it.

21 Q. And at this point, you do not wish to change  
22 what is shown as JEL-3 attached to your testimony; is that  
23 what you're saying?

24 A. Correct.

25 Q. You were asked a question by Mr. Frey about

1 the revenue calculation, and I believe you said you didn't  
2 audit or verify the accuracy of the data that was given to  
3 you by Intercounty; is that correct?

4           A.       That is correct. I did not make an audit.

5           Q.       So your testimony regarding those numbers  
6 would have to be qualified by the fact that you don't know  
7 whether the numbers are accurate or not?

8           MR. COMLEY: I'll object for clarification on  
9 what numbers the question's referring to.

10           JUDGE THOMPSON: Mr. Duffy, can you provide  
11 that clarification?

12           MR. DUFFY: I'm asking about the same set of  
13 numbers that Mr. Frey was talking to you about, the revenue  
14 numbers.

15           JUDGE THOMPSON: Specifically what schedule?

16           MR. DUFFY: I think they -- I don't know that  
17 there's a schedule attached to anybody's testimony in this  
18 case that reflects those numbers. I think the numbers --  
19 you think they're on JEL-2?

20           MR. FREY: I think --

21           JUDGE THOMPSON: So we're talking about JEL-2?

22           MR. DUFFY: We're checking on that. Bear with  
23 us.

24           MR. DUFFY: May we go off the record to  
25 straighten this out?

1 JUDGE THOMPSON: Let's go off the record.  
2 We'll take five minutes.  
3 (A BREAK WAS TAKEN.)  
4 JUDGE THOMPSON: Please proceed.  
5 BY MR. DUFFY:  
6 Q. Mr. Ledbetter, do you have in front of you  
7 your Exhibit JEL-4 attached to your Exhibit 9?  
8 A. Yes, I do.  
9 Q. Is that the revenue numbers that Mr. Frey was  
10 asking you questions about?  
11 A. I believe it is, yes.  
12 Q. And are those the numbers that you said you  
13 did not audit or verify?  
14 A. No. That is supplied by Intercounty Electric,  
15 I think, as part of the data they supplied me to make the  
16 analysis.  
17 Q. So you said no to my question, but are you  
18 saying that you did not audit or verify the numbers that are  
19 shown on Exhibit JEL-4?  
20 A. No.  
21 Q. You're agreeing with me that you did not audit  
22 them?  
23 A. No, I did not audit the numbers as shown.  
24 Q. Bear me with just a moment.  
25 Mr. Ledbetter, we sent you or we sent

1 Intercounty Data Request No. 132 where we asked for a  
2 breakdown of the \$150,000 estimate appearing on page 9 at  
3 line 9 showing the location of each new line and the cost  
4 associated with each, and the response we got, presumably  
5 from you, was see Exhibit JEL-11 which you provided to us.

6                   And now you've provided us with a new  
7 Exhibit JEL-11 within the last 48 hours, and my question to  
8 you is, your response was to give us a couple of maps and  
9 four lines, a description of the four lines. Can you give  
10 us any greater breakdown than what you show on  
11 Exhibit JEL-11?

12           A.       Not at this time, sir. Some of the  
13 preengineering and stuff would have to be done in order to  
14 get a better estimate, I think, if you're talking -- I  
15 believe it's Item 3 there, service to the school is very,  
16 very difficult to get to and even to get right of way to.  
17 At this point we really don't -- will be a very difficult  
18 one to build.

19           Q.       You gave us a very extensive breakdown on your  
20 Exhibit JEL-8. It's much more detailed than what you gave  
21 us on JEL-11. Can you explain to me why you gave us a  
22 detailed breakdown on your JEL-8 and you couldn't do it on  
23 JEL-11?

24           A.       I think a review of the area, the breakdown, I  
25 think you're talking JEL-3, is very much more in detail and

1 you can see what we have, whereas JEL-11 we have not  
2 obtained any of the right of way easements to get there, and  
3 obviously the cost it's going to require to build that line  
4 is going to depend a lot on what easements are available.

5 MR. DUFFY: That's all I have, your Honor.

6 JUDGE THOMPSON: Thank you, Mr. Duffy.

7 Questions from the Bench, Chair Lumpe?

8 CHAIR LUMPE: Very briefly.

9 QUESTIONS BY CHAIR LUMPE:

10 Q. The 4.3 million, that is the coop's figure,  
11 right?

12 A. Yes.

13 Q. Did you revise that or is that still 4.3? I  
14 think when I walked in I heard some four point something,  
15 and I just wondered if --

16 A. My testimony was like 4,037,000. My testimony  
17 only covers the first five items on this estimate, I think,  
18 and the rest of those are --

19 Q. So the 4,037,000 covers the first five?

20 A. Right. The rest of them are included in  
21 Mr. Strickland's and Mr. Nelson's testimonies.

22 Q. Okay. That's what I was trying to clarify for  
23 myself. The numbers are so very, very far apart on this.  
24 And we were talking about the revenue, the revenue times  
25 four in your testimony gives us 1.5 million, and that's more

1 than the whole kit and caboodle of revenue that the other  
2 two parties are presenting.

3           As I read or looked at your Exhibit 4, those  
4 numbers were given to you by the coop as actual numbers; is  
5 that correct?

6           A.     Yes, ma'am, that is correct.

7           Q.     All right. And while you said you didn't  
8 audit them, do you have any reason to believe they're not  
9 accurate and actual?

10          A.     No. I fully would believe that they are  
11 correct numbers. I have no reason to believe they're  
12 otherwise.

13          Q.     So that if that number alone is 1.5 million,  
14 then am I to assume that there's just lots of deductions all  
15 over the place that lower the other parties' numbers to even  
16 below 1.5 million?

17          A.     Yes. I believe you can find the big  
18 differences in determining an age of facilities out there.  
19 RMU's position is they're mostly depreciated to zero and  
20 that they have no value, even though they plainly are still  
21 there, they're very useful, the easements are in place and  
22 they're very useful easements.

23                 RMU has taken the position to subtract 400,000  
24 for what they -- easements aren't done the standard way they  
25 would do them, even though Intercounty's easements are done



1 as most utilities in the state do do them, that I'm aware  
2 of.

3           If you look at RMU's costs of the facilities,  
4 their depreciated values of the facilities in place are  
5 likes 66,000. They're subtracting 400,000 for the  
6 easements. It makes a net negative of 360-some thousand  
7 Intercounty would be paying RMU to take the facilities over.

8           Q.     But even if I accept the 1.5 million for  
9 revenue, and that's the revenue times four?

10          A.     Yes.

11          Q.     Well, I guess I'll have to ask the others how  
12 they -- how they even get below that for their  
13 recommendation.

14                 Okay. The other, I guess, comment I would  
15 make is, if Intercounty kept the 280-some customers that it  
16 has and served them, we wouldn't even need to discuss all  
17 this compensation, would we?

18          A.     I assume that's true, yes.

19                 CHAIR LUMPE: Okay. Thank you. That's all I  
20 have.

21                 JUDGE THOMPSON: Commissioner Schemenauer?

22                 COMMISSIONER SCHEMENAUER: No questions.

23                 JUDGE THOMPSON: Commissioner Simmons?

24                 COMMISSIONER SIMMONS: No questions, your  
25 Honor.

1 JUDGE THOMPSON: Mr. Comley, do you have a  
2 witness who is able to sponsor Exhibit JEL-4 and the data  
3 contained thereon?

4 MR. COMLEY: Yes.

5 JUDGE THOMPSON: Who is that?

6 MR. COMLEY: Vernon Strickland.

7 JUDGE THOMPSON: Very good.

8 QUESTIONS BY JUDGE THOMPSON:

9 Q. I have one question for you about that,  
10 Mr. Ledbetter. Did you perform any normalization with  
11 respect to those numbers or did you receive them exactly as  
12 they're set out in that schedule?

13 A. I received them. I was very privy to what we  
14 were doing and was in agreement with it, but they were  
15 already in the figures, because I did question how that was  
16 done and I'm in agreement with what was done.

17 Q. So in other words, if I asked you how  
18 normalization was performed, you would be able to explain  
19 that to me?

20 A. Yes.

21 Q. Please do.

22 A. Normalization was taken in, like, the  
23 apartments that may only have been occupied for two or three  
24 months or a vacant property that's up for sale due to death  
25 of a homeowner or whatever. They are seen as being valuable

1 services, and it's reasonable to assume that the times four  
2 number is intended for future revenue of those services.

3           And despite what's transpired, just because a  
4 service is vacant for a year doesn't make it an invaluable  
5 service. It is still -- so we have adjusted those to  
6 normalized revenue throughout the year.

7           Q.       Well, let me ask you this: Do the figures  
8 represent 100 percent occupancy? In other words, did you  
9 normalize the actual revenue in order to gross up for those  
10 structures that might not have been occupied during the 12  
11 months in question?

12          A.       I believe the numbers adjusted to make the  
13 locations with less than 100 percent occupancy were  
14 normalized to show 100 percent occupancy, yes.

15          Q.       Was there any other kind of normalization done  
16 other than to gross up the occupancy level?

17          A.       Not to my knowledge, no.

18          Q.       Okay. Now, with respect to the office  
19 building, you have a schedule attached here, JEL-5, Rolla  
20 Office Costs; is that correct?

21          A.       Yes, your Honor.

22          Q.       And is it your position or are you testifying  
23 that the cost of that office building should be part of the  
24 compensation paid to Intercounty?

25          A.       I guess I was asked to evaluate the facilities

1 in the area, and we haven't included it as part of the  
2 facilities. I think that answer is for the Commission to  
3 answer.

4 Q. Well --

5 A. It seems reasonable to me, yes, that it's part  
6 of the facilities in the area.

7 Q. In your opinion, it's reasonable. Now, with  
8 respect to that building, did you do anything to -- for  
9 example, did you audit the cost? Did you examine the  
10 building? Did you do anything to determine whether these  
11 figures are correct or reasonable?

12 A. Yes. I worked with the cooperative on this in  
13 coming up with the cost figures of what had been expended on  
14 it, the land costs and so forth, what was reasonable, yes.

15 Q. Okay. Can you tell me what this very last  
16 page is?

17 A. That's a copy of Intercounty's REA Form 7, the  
18 depreciation schedule that belongs to that, yes.

19 Q. And that's just for the building?

20 A. No. I believe that's for all facilities.

21 Q. For everything. Okay. It's for Intercounty?

22 Is it limited to Intercounty's facilities within the  
23 annexation area?

24 A. No.

25 Q. It's all of Intercounty?

1           A.       All of Intercounty's facilities.

2           Q.       Very good. Thank you. I have to ask a lot of

3 these questions just to understand what these things are.

4                   Now, with respect to the map, this is the

5 famous map, the JEL-3 map, am I correct in understanding the

6 blue area is the annexation area?

7           A.       Yes.

8           Q.       Okay. And the red lines, are those power

9 lines?

10          A.       Yes. That's where we're proposing to build

11 the new power lines for equivalent facilities.

12          Q.       Okay. And in some respect, this map is

13 incorrect, correct?

14          A.       Those parts of it are incorrect. The only

15 incorrect part on there is item where it's got a little one.

16 It's up in the left-hand corner of the blue area. You'll

17 see a parentheses one, talking about Item 1.

18          Q.       Well, I'm unable to find that. Could you

19 actually come over and point to it?

20          A.       Yes, your Honor.

21          Q.       That would help me.

22          A.       It doesn't show up on this. We've repeated

23 this exhibit in Exhibit 11 and it shows up on that page.

24          Q.       Okay. Now, is Exhibit 11 that he's referring

25 to, is that part of what I have here? It's not. So that's

1 not in evidence?

2 MR. COMLEY: The JEL-11 was an illustration  
3 used in response to a Data Request.

4 JUDGE THOMPSON: What I'm trying to  
5 understand, Mr. Comley, is, is this map correct? If it is  
6 not correct, in what respect is it not correct?

7 MR. COMLEY: If the witness can answer that,  
8 yes, please.

9 THE WITNESS: I've got another exhibit I think  
10 maybe I can clarify that with.

11 BY JUDGE THOMPSON:

12 Q. Okay. Now, this other exhibit you're  
13 referring to, is that something that has been provided to  
14 the other side and filed with the Commission?

15 A. It's JEL-11.

16 Q. This is the JEL-11. Let's get that marked.  
17 This will be Exhibit No. 24.

18 MR. DUFFY: In your response to your question,  
19 it's not been filed. It's not been provided to the  
20 Commission. It was provided to us in response to a Data  
21 Request.

22 JUDGE THOMPSON: Okay. Well, I'm going to  
23 have it marked to make it easier to talk about. Whether  
24 anybody offers it or not, I don't know.

25 (EXHIBIT NO. 24 WAS MARKED FOR IDENTIFICATION)

ASSOCIATED COURT REPORTERS, INC.  
Jefferson City - Columbia - Rolla  
(888) 636-7551

1 BY THE REPORTER.)

2 BY JUDGE THOMPSON:

3 Q. Mr. Ledbetter, please explain how JEL-3, the  
4 map that's attached to your testimony, is incorrect.

5 A. Can I --

6 Q. Yes, sir. You may refer to whatever you need  
7 to to make that clear to us.

8 MR. DUFFY: And he needs to speak in the  
9 microphone so the rest of us can hear what's going on up  
10 there.

11 THE WITNESS: What we'd done when we revised  
12 Exhibit JEL-11, we initially had the incorrect location for  
13 Item 1 in JEL-11, and --

14 BY JUDGE THOMPSON:

15 Q. When you say Item 1, that is one of the four  
16 types of power lines?

17 A. Yes.

18 Q. Okay. And are they in the same order there  
19 that they are on JEL-3, or are they in a different order?

20 A. They're two different exhibits. So they're in  
21 different orders, yes.

22 Q. Okay. Could we number the ones in JEL-3 in  
23 such a way that they reflect the numbering that you have  
24 there in JEL-11?

25 A. Well, they're different exhibits entirely.

1           Q.       In other words, the two -- the power lines do  
2 not correlate?

3           A.       Right.

4           Q.       Okay. Very good. So we will abandon the  
5 numbering. Please proceed.

6           A.       We provided the map of JEL-11 that shows the  
7 correct location of Item 1.

8           Q.       And that is the JEL-11 Item 1?

9           A.       Right.

10          Q.       And that is described as what, what type of  
11 line and what length?

12          A.       That goes back to the description. It's .03  
13 mile of single-phase ACSR and the cost estimate attached to  
14 it.

15          Q.       And what is that cost estimate?

16          A.       \$1,500.

17          Q.       Thank you. Please proceed.

18          A.       What we did is we included a recopy of the map  
19 from Exhibit 3 in order to show the locations for this.

20          Q.       Okay.

21          A.       And this map still shows the location of  
22 Item 1 before we revised it.

23          Q.       Now, where is Item 1 on that map?

24          A.       It's located right here (indicating).

25          Q.       Could you show that to each of the



1 Commissioners, please.

2           A.       (Indicating.) That occurs on revised  
3 Exhibit 11.

4                   MR. COMLEY: You need to speak into the  
5 microphone.

6 BY JUDGE THOMPSON:

7           Q.       If you would just point so that the  
8 Commissioners can see where the location is, and anything  
9 you need to say, say into the microphone, sir.

10          A.       What we have done to clarify, we revised  
11 Exhibit 11. We included a map to show where Item 1 on that  
12 Exhibit 11 is located.

13          Q.       A detailed map?

14          A.       A detailed map. We also provided a little  
15 bigger map so you could kind of locate it, a vicinity map.  
16 And in that Exhibit 11 it's labeled as a reprinted  
17 Exhibit 3, except we superimposed those items for Exhibit 11  
18 on it.

19          Q.       Okay.

20          A.       The location of Item 1 there is the actual  
21 location of the item before we revised it.

22          Q.       Okay. Now, the location you have just pointed  
23 out to us, is that a correct location or is that an  
24 incorrect location?

25          A.       This was the incorrect location.

1 Q. What is the correct location on the vicinity  
2 map?

3 A. As shown on this map 12-13, this is the  
4 corrected location. It is correct.

5 Q. That's the detail map, though?

6 A. Yes.

7 Q. Can you show me that area on the vicinity map?

8 A. It would be located approximately right here  
9 (indicating).

10 Q. Okay. Very good. Thank you, sir. Is there  
11 any other respect in which the map JEL-3 is not correct?

12 A. Not to my knowledge, sir.

13 Q. Thank you very much.

14 JUDGE THOMPSON: Any further questions from  
15 the Bench?

16 Okay. Recross based on questions from the  
17 Bench, Mr. Dunbar?

18 MR. DUNBAR: No questions.

19 JUDGE THOMPSON: Ms. O'Neill is not here.  
20 Staff, Mr. Frey?

21 MR. FREY: Your Honor, I have no questions,  
22 but I would like to clarify something for the record.

23 JUDGE THOMPSON: Please.

24 MR. FREY: Chair Lumpe, I believe, suggested  
25 that the number that was being proposed by Intercounty was

1 four times revenues was larger, I guess, than what had been  
2 advanced by the other two parties in total, and that's not  
3 correct.

4                   In fact, the Staff is estimating basically the  
5 same number for revenues as is Intercounty. I think perhaps  
6 Chair Lumpe might have been misled by the fact that Staff  
7 originally in Section 3 did not put the total number in  
8 there. We only had the net facilities figure that we  
9 attempted to -- we tried to clear that up at the beginning  
10 of the hearing yesterday, Chair Lumpe. I'm not sure you  
11 were here.

12                   CHAIR LUMPE: Could you tell me what the  
13 number is, then?

14                   MR. FREY: Staff's figure for four times  
15 revenue is 1,543,146, which is essentially the same number.

16                   CHAIR LUMPE: And then your total, the total  
17 bottom line to match that 4.3?

18                   MR. FREY: Well, unfortunately, once we found  
19 ourselves in the position of having to total it, we really  
20 couldn't total it because part of our recommendation was  
21 to --

22                   CHAIR LUMPE: Go out for bids.

23                   MR. FREY: -- seek competitive bids. But the  
24 amount we were able to quantify was a million eight  
25 something. I don't have the exact figure in front of me.

1 It was over a million eight.

2 CHAIR LUMPE: But that's an incomplete total?

3 MR. FREY: Right. And then we suggested

4 competitive bids in the whole section of the, I guess it was

5 the reintegration costs.

6 CHAIR LUMPE: See, I am sorry, because I

7 thought your bottom line was about 1.4 or 5, and I thought,

8 well, that's the same as the revenue, and then you must have

9 made tons of deductions somewhere.

10 MR. FREY: We're essentially in the same

11 place.

12 CHAIR LUMPE: I appreciate the clarification.

13 Thank you.

14 JUDGE THOMPSON: Thank you, Mr. Frey.

15 Mr. Duffy?

16 RECROSS-EXAMINATION BY MR. DUFFY:

17 Q. Mr. Ledbetter, I heard you assure the

18 Regulatory Law Judge that with the corrections that you'd

19 already made, that Exhibit -- the map showing Exhibit JEL-3

20 was correct; is that right?

21 A. We appear to have two maps that are labeled at

22 the JEL-3. One of them included with JEL-3 Exhibit, one

23 included with JEL-11. That's causing some confusion. I

24 apologize.

25 Q. So which one is accurate at this point?

1           A.       The one JEL-3 that's included with JEL-3 is  
2 accurate.

3           Q.       The one JEL-3 that's included with JEL-3  
4 that's attached to your testimony is accurate?

5           A.       Yes.

6           Q.       Isn't it true that that map depicts in blue  
7 the annexed the Southside Annexation Area or you purport to  
8 depict the Southside Annexation Area?

9           A.       As best we could show it with the maps that  
10 were given, yes.

11          Q.       Isn't it true that that map does not  
12 accurately reflect the boundaries of the Southside  
13 Annexation Area?

14          A.       As I say, as best we could show them as a  
15 generalization. It's not intended to be an exact.

16          Q.       Doesn't it eliminate or does not -- isn't it  
17 true that it does not show the Parkview Subdivision as a  
18 part of the Southside Annexation?

19          A.       I couldn't answer that, sir.

20          Q.       Do you know where the Parkview Subdivision is?

21          A.       Not by name, no, sir.

22          Q.       Did you attempt to -- or did you look at the  
23 map of the annexed area that was attached to the surrebuttal  
24 testimony of Rodney Bourne?

25          A.       I've looked at it, yes, sir.

1           Q.       And the contours and the description of the  
2 annexed area appears to be different on Mr. Bourne's map  
3 than on your map; isn't that true?

4           A.       I could speculate on that, sir. I think the  
5 exhibit we've got shown there is just a generalization to  
6 show the approximate vicinity of facilities in connection  
7 with the --

8           Q.       So you would agree with me that your JEL-3 map  
9 is not accurate in that it does not accurately depict the  
10 annexed area?

11          A.       I think it is accurate for the purposes I  
12 intended it to show the relocated facilities and the  
13 estimated costs which are outside the area, yes.

14          Q.       But it does not accurately reflect the  
15 boundaries of the annexed area, does it?

16          A.       That may well be true, sir, but the maps  
17 aren't exact.

18                   JUDGE THOMPSON: Mr. Duffy, if I could  
19 interrupt for a moment. Could you give me a specific  
20 reference to the schedule and exhibit of Mr. Bourne's that  
21 you're referring to?

22                   MR. DUFFY: It's Appendix B to Schedule RB-3.

23                   JUDGE THOMPSON: And that is attached to  
24 Exhibit 3 or 4?

25                   MR. DUFFY: 4.

1 JUDGE THOMPSON: Okay.

2 MR. DUFFY: It's a fold-out.

3 JUDGE THOMPSON: Is this it?

4 MR. DUFFY: No. You're looking at the direct

5 testimony apparently.

6 JUDGE THOMPSON: Is this it?

7 MR. DUFFY: Yes.

8 JUDGE THOMPSON: Thank you, sir. Please

9 proceed.

10 MR. DUFFY: No other questions, your Honor.

11 JUDGE THOMPSON: Redirect?

12 MR. COMLEY: Thank you very much. I have a

13 few questions.

14 REDIRECT EXAMINATION BY MR. COMLEY:

15 Q. Mr. Ledbetter, Mr. Frey talked to you about a

16 portion of your testimony talking about the normalized

17 revenue figures you used. That was located on page 8 at

18 lines 16 through 19.

19 A. Yes, sir.

20 Q. Are you there?

21 A. Uh-huh.

22 Q. The figures that you received from

23 Intercounty, is it your testimony that it did not -- those

24 figures did not include consideration of patronage or

25 discounts or were they deleted from those items?

1           A.       It's my understanding they represented that  
2 those items had been deleted.

3           Q.       When you say deleted, what do you mean again?

4           A.       I guess I'd say they were either deleted or  
5 they're void of those numbers.

6           Q.       So the figures you received were raw numbers  
7 of revenue?

8           A.       The numbers they give me was -- represented  
9 that they did not include the discounted patronage.

10          Q.       Okay. Mr. Frey also talked to you about the  
11 reintegration costs that you had on Exhibit JEL-3. Turning  
12 to JEL-3 once more, did the figures you used in connection  
13 with your estimates on construction of those lines include  
14 right of way acquisition?

15          A.       Yes, it does, as far as we would normally go.  
16 I think we put a contingency in case we had to condemn  
17 properties.

18          Q.       And in connection with the right of way  
19 acquisition, what do you concern -- what are the costs  
20 involved in right of way acquisitions you've included in  
21 your estimate?

22          A.       In this case, Intercounty is rebuilding a lot  
23 of the existing lines. The existing easements out there,  
24 normally RUS specifications require a 20-foot easement for a  
25 single-phase line, a 30-foot easement for a three-phase



1 line.

2                   So where we're rebuilding some of the lines  
3 from single-phase to three-phase, it does require extra  
4 right of way. It's always been most cooperatives, and  
5 Intercounty's, that I'm familiar with procedures is that we  
6 wouldn't go out there and rebuild a line without notifying  
7 the customer and getting permission to egress, access to do  
8 so, because it does require a lot of getting on their  
9 property and they should be informed, I think.

10                  Intercounty's procedures, normally they don't  
11 buy their right of way, but at the same time you can expend  
12 a lot of labor getting voluntary easements. In fact, some  
13 places it may cost more to get a voluntary easement than it  
14 does to just condemn it and pay for it. It does put an  
15 extra burden on doing that.

16                  What we have included is the normal costs we  
17 would normally incur in obtaining those easements by our  
18 traditional method. It does place a -- and I'm not really  
19 anticipating that we will have to maybe condemn any of them,  
20 but it is a contingency that could happen that we absolutely  
21 can't get from point A to point B without a condemnation.

22           Q.       Does your figure also include contingencies  
23 for any clearing costs?

24           A.       I think we've included normal clearing costs  
25 that we would expect to encounter.

1           Q.       I want you to explain to the Commission, with  
2 respect to Exhibit JEL-3, what particular item of our fair  
3 and reasonable compensation breakdown have you added JEL-3  
4 to illustrate?

5           A.       Excuse me. I'm not familiar with --

6           Q.       Let me direct your attention to the chart for  
7 the breakdown of our fair and reasonable compensation we're  
8 proposing. For which item of fair and reasonable  
9 compensation did you attach Exhibit JEL-3 for illustration?

10          A.       I believe it's Item 2 there, the best my  
11 eyesight will let me see that.

12          Q.       And that will be the cost to locate main  
13 lines, to maintain feed-through capacity, and replace  
14 investment in future capacity?

15          A.       Correct, yes.

16          Q.       This is the reintegration cost, then?

17          A.       Yes.

18          Q.       And with respect to JEL-11 we referred to and  
19 has been marked by the Commission as Exhibit 24, what was  
20 that exhibit prepared for to -- why did you prepare that  
21 exhibit and what did it illustrate?

22          A.       Exhibit JEL-11 was intended to show estimated  
23 costs for the stranded customers.

24          Q.       And what number is that on the fair and  
25 reasonable compensation?

1           A.       I believe that's Item 4.

2           Q.       On our chart of breakdown?

3           A.       Right.

4           Q.       Now, so it's clear in everybody's minds, was a  
5 correction to JEL-11 which you used to illustrate the  
6 stranded customers issue necessary -- necessarily -- does it  
7 necessarily mean a correction to JEL-3?

8           A.       No, it does not.

9           Q.       Can you explain to the Commission why not?

10          A.       What we have done there is JEL-3 was prepared  
11 first and we've got the JEL-3. We just simply reused the  
12 map from JEL-3 to illustrate the general vicinity we were  
13 talking to those facilities in JEL-11. Inadvertently Item 1  
14 didn't get corrected on that particular exhibit.

15          Q.       On JEL-11 you're referring to?

16          A.       Yes.

17          Q.       Now, have we made -- have you made all the  
18 corrections necessary to JEL-11?

19          A.       I believe so at this point, sir.

20          Q.       And explain again the correction you made for  
21 the benefit of the record.

22          A.       On JEL-11, we deleted Item 2. I believe that  
23 was service to Rolla Lions Park, which as pointed out, the  
24 maps that we have were -- that customer has been deleted  
25 service to. So we no longer need that.

1           Q.       So that was one correction, and you -- and  
2 then the map connected to JEL-11, how did you correct that  
3 for the Commission?

4           A.       It simply shows up on the exhibit attached to  
5 it that's a reprint from JEL-3. We've superimposed that  
6 location on there so you can see where it was at.

7           Q.       And the numbers on JEL-11 had to be corrected  
8 in some way to reflect that change?

9           A.       Yes.

10          Q.       All right. And you've made that correction  
11 for the Commission?

12          A.       I hope to their satisfaction, yes.

13          Q.       Now, with respect to JEL-3, Exhibit JEL-3 to  
14 your testimony, was it -- the purpose for the map, the  
15 colored map, can you explain what the purpose for the map  
16 was?

17          A.       The map was included to provide a general  
18 vicinity for the facilities we're talking about so you can  
19 visually see where they're located.

20          Q.       Now, in showing that, does that depend upon an  
21 accurate depiction or an accurate setting of the borders for  
22 the Southside Annexation Area?

23          A.       No, it does not.

24          Q.       Judge Thompson asked you about the  
25 normalization of the apartments. How were the -- how was

1 the revenue for the apartments normalized?

2           A.       I think those that showed only partial  
3 occupancy for the year were normalized to show full  
4 occupancy.

5           Q.       Regarding the office building referred to on  
6 JEL-5, can you explain to the Commission the process by  
7 which you evaluated the reproduction costs for that  
8 building?

9           A.       I worked with Intercounty to obtain these  
10 facilities. A lot of this is the actual costs that they  
11 have in the building at this date, or their estimates  
12 thereof.

13                   I worked with them in order to prepare this to  
14 come up with what we felt were historic reflections of the  
15 costs that were there, plus reasonable estimates for the  
16 items that needed to be added.

17          Q.       What depreciation rate did you use for the  
18 building?

19          A.       It's depreciated at 7 percent.

20          Q.       And that's consistent with what regulations?

21          A.       I don't know the specific regulation number.  
22 It's in accordance with --

23                   THE REPORTER: Excuse me. I didn't understand  
24 you.

25                   THE WITNESS: Excuse me. It's in respect to

1 the Rural Utility Service's regulations, or abbreviated RUS.

2 BY MR. COMLEY:

3 Q. Regarding Form 7, which is attached to your  
4 testimony and which was inquired into by Judge Thompson,  
5 does it also point out the depreciation rates for other  
6 facilities owned by Intercounty?

7 A. Yes, it does.

8 MR. COMLEY: Thank you, Judge. That's all I  
9 have on redirect.

10 MR. DUFFY: Your Honor, you indicated -- or  
11 you had marked this JEL-11, and at this point no one has  
12 offered it as an exhibit.

13 JUDGE THOMPSON: That's true.

14 MR. DUFFY: I think, just for purposes of  
15 clarity of the record, RMU would offer Exhibit 24 into  
16 evidence, but we have a practical problem in that we  
17 received one copy of it in response to a Data Request  
18 supplement. We've marked on ours.

19 So I don't have a copy in order to make copies  
20 to supply to everybody else, and I guess I would inquire as  
21 to whether, if I offer it, Mr. Comley would be kind enough  
22 to supply the copies, or do I need to obtain a copy and then  
23 go to Kinko's and get color copies of things?

24 MR. COMLEY: No. In a grand spirit of  
25 cooperation, our offices will be willing to supply a copy,

ASSOCIATED COURT REPORTERS, INC.  
Jefferson City - Columbia - Rolla  
(888) 636-7551

1 the requisite number of copies to the Commission.

2                   My question would be, do you want to have  
3 copies as JEL-11 was submitted to Mr. Duffy or do you want  
4 it as corrected by the Commission?

5                   JUDGE THOMPSON: Corrected by the Commission.

6                   MR. COMLEY: I think Mr. Ledbetter can prepare  
7 an exhibit showing the correction that was made today before  
8 the Commission.

9                   MR. DUFFY: Well --

10                  JUDGE THOMPSON: I think I would prefer to  
11 have a copy --

12                  CHAIR LUMPE: Or both.

13                  JUDGE THOMPSON: You would like both?

14                  MR. COMLEY: We will supply both.

15                  JUDGE THOMPSON: The Chair would like both,  
16 and I think that's what we'll get. We'll mark -- JEL-11 is  
17 already marked as Exhibit 24. The new version you're going  
18 to prepare we will mark as Exhibit 25. We'll reserve that  
19 number for that. And we greatly appreciate your willingness  
20 to supply the necessary copies.

21                  With respect to Exhibit 24, do I hear any  
22 objections?

23                  MR. DUFFY: I just want to make sure that  
24 we're talking about the same document, and so I'd like to  
25 make sure that it's the same number of pages that what I've

1 got, because I've not seen the --

2 JUDGE THOMPSON: Absolutely. Take a look at  
3 it.

4 MR. COMLEY: I'll tell you what we could do.  
5 We can offer these and reserve the ruling until we bring  
6 them for admission tomorrow.

7 JUDGE THOMPSON: That'll work.

8 MR. DUFFY: Well, just let me take a minute to  
9 see if I'm looking at the same thing he's looking at.

10 I have satisfied myself that what's been  
11 marked for purposes of identification as Exhibit 24 is the  
12 same thing we were provided. As I understand, that's the  
13 uncorrected version.

14 JUDGE THOMPSON: That's the uncorrected one,  
15 that's right.

16 MR. DUFFY: At this point we don't know what  
17 the corrected version is going to look like.

18 JUDGE THOMPSON: We'll take up the entry of  
19 both of these tomorrow when Mr. Comley very kindly will  
20 apply the necessary copies. Thank you, sir.

21 MR. COMLEY: I'm speaking for the witness.  
22 I'm thinking that we can get this to you by tomorrow, but I  
23 will ask leave for another day.

24 JUDGE THOMPSON: Absolutely. Does anyone  
25 anticipate any further need of Mr. Ledbetter? Thank you



1 very much, sir. You are excused.

2 (Witness excused.)

3 JUDGE THOMPSON: Your next witness,

4 Mr. Comley?

5 MR. COMLEY: Mr. Brian Nelson.

6 (Witness sworn.)

7 JUDGE THOMPSON: Please take your seat and

8 spell your name for the reporter, if you would.

9 THE WITNESS: B-r-i-a-n, N-e-l-s-o-n.

10 JUDGE THOMPSON: Please proceed, Mr. Comley.

11 BRIAN NELSON testified as follows:

12 DIRECT EXAMINATION BY MR. COMLEY:

13 Q. Mr. Nelson, would you again state your full

14 name for the reporter, please.

15 A. Brian Nelson.

16 Q. And by whom are you employed?

17 A. Intercounty Electric.

18 Q. And in what position?

19 A. Manager of Engineering.

20 JUDGE THOMPSON: Mr. Nelson, if you could

21 adjust the microphone, please. Thank you.

22 THE WITNESS: Manager of Engineering.

23 BY MR. COMLEY:

24 Q. And are you the same Brian Nelson who caused

25 to be filed in this action prepared rebuttal testimony which

1 has been marked previously by our reporter for  
2 identification as Exhibit 10?

3 A. Yes, I am.

4 Q. Do you have any additions or corrections to  
5 your testimony?

6 A. None that I know of at this time.

7 Q. Let me direct you to page 14.

8 A. Okay.

9 Q. On line 12.

10 A. Are you talking about the use of were or that  
11 were listed on Intercounty's original Data Request?

12 MR. COMLEY: Just a minute, your Honor. I  
13 think Mr. Nelson may have gotten another copy of the  
14 testimony that has different page numbers or a page  
15 numbering error.

16 BY MR. COMLEY:

17 Q. As I mentioned, let me direct your attention  
18 to page 14, line 12.

19 A. Okay.

20 Q. Do you have any corrections to make to that  
21 line?

22 A. Yes. I believe I used at the end of the line  
23 the word application. I think the proper word would be  
24 applicable.

25 Q. Do you have any other corrections to your

1 testimony?

2           A.       None that I know of at this time.

3           Q.       All right. If I were to ask you the same  
4 questions that are contained in your prepared rebuttal  
5 testimony, would your answers, as you have corrected them  
6 today, be the same?

7           A.       Yes, I believe they would.

8           Q.       And were your answers then submitted true and  
9 correct to the best of your knowledge and information and  
10 belief?

11          A.       Yes, they were.

12                   MR. COMLEY: Your Honor, I would offer into  
13 evidence Exhibit 10 and tender Mr. Nelson for  
14 cross-examination.

15                   JUDGE THOMPSON: Thank you, Mr. Comley. Do I  
16 hear any objections to the receipt of Exhibit No. 10?

17                   (No response.)

18                   Hearing none, Exhibit No. 10 is received and  
19 made a part of the record in this proceeding.

20                   (EXHIBIT NO. 10 WAS RECEIVED INTO EVIDENCE.)

21                   JUDGE THOMPSON: Cross-examination,  
22 Mr. Dunbar?

23                   MR. DUNBAR: No questions.

24                   JUDGE THOMPSON: Ms. O'Neill, still not  
25 present. Mr. Frey?

1 MR. FREY: Thank you, your Honor.

2 CROSS-EXAMINATION BY MR. FREY:

3 Q. Mr. Nelson, I just have a couple questions.

4 On page 12 of your rebuttal testimony, you indicate that  
5 some revamping or construction or transformer change  
6 activity has occurred with respect to about half of the  
7 customers in question; is that correct?

8 A. Yes, sir, it is.

9 Q. You mentioned a need to replace a number of  
10 items, including poles. Do I have that right?

11 A. When you're talking about the -- there's two  
12 paragraphs bulleted there.

13 Q. The second bullet.

14 A. The second one?

15 Q. Right.

16 A. Yes.

17 Q. Can you comment on the extent of such  
18 activity; that is, pole replacement?

19 A. There's two types of pole replacement, I  
20 guess, activities that I would consider falling under that.  
21 One is to repair an act-of-God-type accident, storm-related,  
22 something like that.

23 The other type of pole replacements we do are  
24 on a systematic pole changeout basis where we go out and  
25 test poles, try to ascertain their condition, and if they're

1 determined not to be in good enough shape, we replace them.

2 Q. Do you have any kind of a number over the  
3 last, say, three years how many of those activities occurred  
4 in the subject area?

5 A. Those simply within the area? No, I do not.

6 Q. System-wide?

7 A. I believe -- and this is just from my memory  
8 and stuff. I think we identified in, I guess it would have  
9 been 1999, that we did slightly over a thousand, I believe.

10 Q. In that year?

11 A. In that year system-wide, I believe that is  
12 correct.

13 Q. Now, is that -- would you consider that to  
14 have been an unusual year or perhaps typical?

15 A. I think it would be typical. The only caveat  
16 I would make on that is from time to time we will do --  
17 those were strictly based on our in-house efforts. From  
18 time to time we will have a contract awarded. We will  
19 identify a large group of poles. So that would have an  
20 effect for that specific year.

21 But we did not have a contract in place last  
22 year. So the year I'm talking about, I would say that I  
23 would consider that to be typical, although the number could  
24 fluctuate some.

25 Q. Did you have contracts in place, like, in

1 1998, do you recall?

2           A.       The last one which I'm aware of was finishing  
3 up shortly after I came to Intercounty, which was in '97.  
4 So it would have extended for part of the year of '98.

5           Q.       To your knowledge, has there been in recent  
6 years a need to relocate poles as a result of needed road  
7 work?

8           A.       You're talking about limited to the area or  
9 system-wide?

10          Q.       Both.

11          A.       I do not remember any incidents limited to the  
12 area. We do have to perform pole replacements for road  
13 moves. It is a typical thing we do from time to time  
14 through our system.

15          Q.       Can you come up with a number for that, some  
16 kind of a guesstimate?

17                   MR. DUFFY: I don't think it's relevant how  
18 many times or how many poles they replaced for roadway  
19 improvement outside of the Southside Annexation Area, your  
20 Honor.

21                   MR. FREY: I'll withdraw the question, your  
22 Honor.

23                   JUDGE THOMPSON: Please proceed.

24 BY MR. FREY:

25          Q.       On page 21 of your testimony, you refer to

1 demolition costs; is that correct?

2           A.       Give me a line reference, please.

3           Q.       Yeah. Try to give you a line number here.

4           A.       Would it be line 9?

5           Q.       Yes, line 9.

6           A.       Okay.

7           Q.       Can you just tell us what you anticipate will  
8 have to be demolished?

9           A.       I'm afraid that is kind of going to be  
10 determined how the decision is made. There might be some  
11 facilities that are not -- if there were some facilities of  
12 ours that were not acquired by RMU but yet were no longer  
13 needed by us, that's the kind of cost I was referring.

14                   Based on the fact I don't know what the  
15 resolution entirely of this issue is going to be, I don't  
16 have a -- didn't try to quantify a cost of that specific  
17 thing.

18          Q.       For my own edification, how does the  
19 demolition -- how would it occur, the actual demolition?

20          A.       Again, I'm making some assumptions. There's  
21 going to be -- if they do, in fact, acquire exclusive or  
22 current members and stuff, there is going to be a transfer  
23 period at which point they are building to and connecting  
24 their services. At that same time it's possible that we  
25 would be removing a portion of ours that is currently used

1 to serve.

2 Q. But the way in which it's removed, what's the  
3 manner in which it's removed?

4 A. You're referring to, say, a pole?

5 Q. Whatever asset you're referring to, how would  
6 it be removed? I mean, we're using the term demolition.  
7 That implies to me that we're going to have dynamite.

8 A. No dynamite, I hope. No. This would simply  
9 be with our line trucks and things we do on a day-to-day  
10 basis anyway. I'm not talking about blowing anything up.

11 Q. It's more of a removal?

12 A. Yes.

13 Q. Thank you. And one other thing. On page 4 of  
14 your rebuttal testimony -- I apologize. I don't have the  
15 line number. Let's see if I can find it. On line 8, you  
16 say you would estimate peak Intercounty load in the area  
17 would be around 2.5 megawatts, and then you give the load  
18 distribution by substation. How did you arrive at that  
19 figure of 2.5 megawatts?

20 A. It was an estimate on my part, and I think it  
21 may agree with the same estimated loading that Mr. Bourne  
22 used as his calculations. It seems like a reasonable  
23 estimate to me.

24 And as far as the breakdown of the loading by  
25 substation, that again was an estimate on my part based on



1 how the circuits route through and the density of load  
2 within the area.

3 Q. When you came up with that 2.5, is that -- did  
4 that sort of come out of the, let's say the ether or were  
5 you looking at some data and so forth before you did that or  
6 is that just based on experience?

7 A. It wasn't a roll of the dice or anything.  
8 What I tried to do was go back. We will maintain records on  
9 feeder loading on a monthly basis, and I did try to do a  
10 sanity check. I went back for an extended period of time  
11 and looked what our peak loading on each one of the four  
12 feeders had been that goes into and serves part of the area.  
13 They also serve other load, but then I used that as a basis  
14 as a sanity check to see, okay, does that look right and  
15 stuff, and I feel that it is an accurate estimate.

16 MR. FREY: Thank you. I have no further  
17 questions, your Honor.

18 JUDGE THOMPSON: Thank you, Mr. Frey.  
19 Mr. Duffy?

20 MR. DUFFY: No questions.

21 JUDGE THOMPSON: Questions from the Bench,  
22 Chair Lumpe?

23 QUESTIONS BY CHAIR LUMPE:

24 Q. Mr. Nelson, on the public interest section  
25 that you talk about, and you're defining the public interest

1 as not just the people in the annexed area but all of  
2 Intercounty's customers?

3 A. Yes, ma'am.

4 Q. Okay. On reliability of service, and you talk  
5 about the oversight and the records, et cetera, that you  
6 have to keep for RUS so that you have a greater sense of  
7 outages and records of those sorts of things.

8 A. Yes, ma'am.

9 Q. And I think we heard testimony yesterday that  
10 records of that nature are not kept by RUM?

11 A. RMU.

12 Q. RMU. I'm sorry.

13 A. They are not the same. I was able to review  
14 their outage logs. What they don't keep track of that we do  
15 is we will keep track of the numbers of people affected by  
16 an outage. Say we have a one-hour outage which affects a  
17 hundred people. We consider that to be a hundred outage  
18 hours, and that's how it's entered statistically into our  
19 records.

20 From what I saw of their records, although  
21 they have outages with information about individual outages,  
22 it did not say how many people were affected by each outage,  
23 and that is why I specified in my testimony that it wasn't  
24 comparable or comparable. There's not a statistical average  
25 there on their part that I can compare ours to.

1 Q. There's no one with oversight of their  
2 operation the way RUS is overseeing your operation?  
3 A. Not that I know of. I know of no requirement  
4 that they have.  
5 Q. That they have to do by any entity?  
6 A. No, ma'am.  
7 Q. All right. And would it be your position that  
8 Intercounty should keep these customers it has and continue  
9 to provide service to them and then you wouldn't have to  
10 worry about these compensation issues?  
11 A. Yes, we would like to maintain service to  
12 them.  
13 CHAIR LUMPE: Thank you.  
14 JUDGE THOMPSON: Thank you, Chair Lumpe.  
15 Commissioner Simmons?  
16 COMMISSIONER SIMMONS: I have no questions.  
17 Thank you.  
18 QUESTIONS BY JUDGE THOMPSON:  
19 Q. Mr. Nelson, I'm holding here the infamous map  
20 JEL-3.  
21 A. Okay.  
22 Q. Do you have a copy of that available?  
23 A. I do not have.  
24 Q. Okay. Why don't you come up here and stand by  
25 this microphone. I have just a simple question regarding

1 this. Am I correct in assuming that the three yellow  
2 highlighted items are the locations of the substations that  
3 you've been talking about?

4 A. Yes, you are correct in that assumption.

5 Q. Okay. Is it true that the East Rolla  
6 Substation is, in fact, within the city limits of Rolla?

7 A. Yes, it is.

8 Q. Okay. Thank you. And the figures that you  
9 have on page 4, are those derived from the data that you  
10 have Exhibit BN-1?

11 A. Yes. That is information I did consider in  
12 that estimate, yes.

13 JUDGE THOMPSON: Okay. Thank you very much.  
14 Recross based on questions from the Bench, Mr. Dunbar?

15 MR. DUNBAR: None, your Honor.

16 JUDGE THOMPSON: Ms. O'Neill?

17 MS. O'NEILL: None, your Honor.

18 JUDGE THOMPSON: Mr. Frey?

19 MR. FREY: None, your Honor.

20 JUDGE THOMPSON: Mr. Duffy?

21 MR. DUFFY: No, your Honor.

22 JUDGE THOMPSON: Redirect, Mr. Comley?

23 MR. COMLEY: No redirect. Thank you.

24 JUDGE THOMPSON: Does anyone anticipate any  
25 further need for Mr. Nelson? You are excused, sir. Thank

1 you very much.

2 (Witness excused.)

3 JUDGE THOMPSON: Your next witness,

4 Mr. Comley.

5 MR. COMLEY: Mr. Vernon Strickland.

6 MR. DUFFY: Can we take about a five-minute

7 break before we start with him?

8 JUDGE THOMPSON: Yes, we'll do that. Why

9 don't we make it ten minutes.

10 (A BREAK WAS TAKEN.)

11 (Witness sworn.)

12 JUDGE THOMPSON: Please take your seat. Spell

13 your name for the reporter, if you would.

14 THE WITNESS: Thank you. My name is Vernon

15 Wayne Strickland. That's v-e-r-n-o-n, W-a-y-n-e,

16 S-t-r-i-c-k-l-a-n-d.

17 JUDGE THOMPSON: If you would adjust the

18 microphone so that you're speaking right into it. Please

19 proceed, sir.

20 MR. COMLEY: Thank you, Judge.

21 VERNON STRICKLAND testified as follows:

22 DIRECT EXAMINATION BY MR. COMLEY:

23 Q. Mr. Strickland, would you again state your

24 name for the court reporter, please.

25 A. Vernon Wayne Strickland.

1 Q. And by whom are you employed, Mr. Strickland?

2 A. Intercounty Electric Cooperative.

3 Q. And what is your position there?

4 A. I'm the General Manager.

5 Q. Are you the same Vernon W. Strickland who

6 caused to be filed in this case prepared rebuttal and

7 supplemental rebuttal testimony which has been marked for

8 identification as Exhibits 11 and 15 respectively?

9 A. I am.

10 Q. Do you have any additions or corrections to

11 your Exhibit 11, your prefiled rebuttal testimony?

12 A. On page 10, line 4, the line starts, Members

13 in Rolla that are not -- are within the annexed area, should

14 read, Members in Rolla that are not within the annexed area.

15 Q. So the word "not" should be inserted between

16 the words "are" and "within"?

17 A. Yes.

18 MR. FREY: I'm sorry. Could you repeat that,

19 what page?

20 THE WITNESS: That's page 10, line 4.

21 MR. FREY: Thank you.

22 THE WITNESS: It should read, Members in Rolla

23 that are not within the annexed area.

24 BY MR. COMLEY:

25 Q. Do you have any other corrections?

1           A.       On page 14, line 12, the line starts,  
2 Residential we can derive a monthly usage of approximately  
3 1,288 kilowatt hours. The 1,288 was changed in reference to  
4 a Data Request from RMU, and I'm sorry, I don't have the  
5 change.

6           Q.       Do you have any recollection of it at all?

7           A.       No, I don't.

8           Q.       Is it --

9           A.       We can leave the word approximately 1,288.  
10 It's just that number is a little low.

11          Q.       Any other corrections?

12          A.       On page 16, line 8 and line 12 -- I'm sorry --  
13 line 7 and line 12, the sum of 4,521,253.40 has been changed  
14 in response to Mr. Ledbetter's change. It should be  
15 4,517,253.40 in both those locations.

16          Q.       Are there any other corrections to your  
17 rebuttal testimony?

18          A.       No.

19          Q.       Are there any additions or corrections to your  
20 supplemental rebuttal testimony?

21          A.       No.

22          Q.       If I were to ask you the same questions that  
23 are contained in Exhibits 11 and 15, your rebuttal and  
24 supplemental rebuttal testimony, would your answers to those  
25 questions still be the same as you have corrected them with

1 respect to your rebuttal testimony?

2           A.       Yes.

3           Q.       And were your answers when you prepared them  
4 at the time of your filings stated to the best of your  
5 knowledge, information and belief?

6           A.       Yes.

7                   MR. COMLEY: Your Honor, at this time I would  
8 offer into evidence Exhibit No. 11, which is Vernon W.  
9 Strickland rebuttal, and I would also prepare an offer of  
10 proof respecting Exhibit 15, Vernon Strickland's  
11 supplemental rebuttal as was -- as was allowed or suggested  
12 in the recent order denying our motion for leave to file  
13 this out of time.

14                   JUDGE THOMPSON: Very well. Do I hear any  
15 objections to the receipt of Exhibit No. 11?

16                   (No response.)

17                   Hearing none, Exhibit No. 11 is received and  
18 made a part of the record of this proceeding.

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

20                   JUDGE THOMPSON: Do I hear any objections to  
21 the receipt of Exhibit No. 15 as an offer of proof?

22                   MR. DUFFY: Not so long as it's clearly  
23 identified as an offer of proof and not a part of the record  
24 otherwise in the proceeding.

25                   JUDGE THOMPSON: Exhibit No. 15 is received as



1 an offer of proof and will be preserved in the record of  
2 this proceeding.

3 (EXHIBIT NO. 15 WAS RECEIVED AS AN OFFER OF  
4 PROOF.)

5 MR. COMLEY: I tender Mr. Strickland for  
6 cross-examination.

7 JUDGE THOMPSON: Mr. Dunbar?

8 MR. DUNBAR: No questions.

9 JUDGE THOMPSON: Ms. O'Neill?

10 MS. O'NEILL: Thank you, your Honor.

11 CROSS-EXAMINATION BY MS. O'NEILL:

12 Q. Mr. Strickland, in your testimony you indicate  
13 that you had some awareness of the annexation plan prior to  
14 the vote of the annexation up in Rolla; is that correct?

15 A. I'm sorry. Could you repeat the question?

16 Q. Okay. You were aware of the City's annexation  
17 plan prior to the annexation of this affected area in Rolla;  
18 is that right?

19 A. I was aware of the City's Plan of Intent, yes.

20 Q. And as far as that Plan of Intent went, had  
21 you had some discussions with the City about what would  
22 happen to your customers in the event of the annexation?

23 A. We talked with the City after the first Plan  
24 of Intent. There was a question asked from the floor. We  
25 were told at that time the members of Intercounty would be

1 left alone. We have not had any subsequent discussion other  
2 than the point we got to the negotiations after the  
3 annexation election.

4 Q. In the negotiations after the annexation, did  
5 you discuss various proposals for how this matter could be  
6 resolved between you and the City at RMU?

7 A. Yes. There were several discussions conducted  
8 over a year's period. I think we met six or seven times.  
9 We were unable to reach a satisfactory resolution on  
10 anything, other than the fact that we would not consider  
11 pre-existing conditions.

12 Q. By pre-existing conditions, are you referring  
13 to something in the Plan of Intent?

14 A. No. Basically, Rolla had identified nine  
15 accounts they felt that Intercounty was serving illegally.  
16 We identified 19 that we felt Rolla was serving illegally.  
17 We both agreed that we would drop that and concentrate on  
18 the issues on the agenda.

19 Q. As far as trying to come to some understanding  
20 regarding this annexed area, was there attempt made to do  
21 that?

22 A. Yes, there was.

23 Q. At some point prior to the election, was there  
24 any discussion about conditions for Intercounty to retain  
25 those existing customers, any conditions that the City would

1 impose?

2           A.       There was no direct discussion on the  
3 possibility of Intercounty retaining those members under any  
4 kind of terms. We talked twice with the City of Rolla about  
5 the possibility of a territorial agreement which covered  
6 much more than just the annexed area.

7           Q.       Did you talk to the City about any kind of  
8 franchise fee or payment in lieu of tax kind of situation  
9 prior to the election?

10          A.       We talked with the City the first time a  
11 franchise fee was proposed as part of a territorial  
12 agreement. That was in '94. There was another attempt 18  
13 months to two years later. Both of them were received  
14 negatively by the City of Rolla. We didn't go any further.

15          Q.       But was the franchise issue only discussed in  
16 connection with the territorial agreement?

17          A.       That's the only condition Intercounty has ever  
18 been willing to talk about a franchise fee.

19          Q.       Okay. Was there anything resolved prior to  
20 the election as far as any kind of franchise fee or payment  
21 in lieu of tax?

22          A.       No, there was nothing resolved. There was no  
23 communications directly, other than the two times we  
24 contacted them.

25                   MS. O'NEILL: That's all I have. Thank you.

1 JUDGE THOMPSON: Thank you, Ms. O'Neill.

2 Mr. Frey?

3 MR. FREY: Thank you, your Honor.

4 CROSS-EXAMINATION BY MR. FREY:

5 Q. Mr. Strickland, first of all, I'd like to just  
6 clarify something. Do you recall when I was cross-examining  
7 Mr. Ledbetter, we talked about his use of the term deletion  
8 from those revenue figures?

9 Regardless of whether the capital credits or  
10 discounts were deleted or whether the numbers simply didn't  
11 include those figures, can you tell me -- as I recall, his  
12 answer to my question was that he didn't know. Can you tell  
13 me if those figures would have been bigger or larger or  
14 smaller had those numbers been included?

15 A. The figures that Mr. Ledbetter received were  
16 basically straight revenue numbers. There was no discounts.  
17 There was no patronage. They were not deleted. They were  
18 just not added in. There was no taxes. There was no  
19 service fees.

20 Q. So is it fair to say that those numbers were  
21 larger than they would have been had they been included?

22 A. If the patronage and discount had been  
23 included, yes, those numbers would have come down some.

24 Q. On page 24 and 25 of your testimony, you offer  
25 a couple of -- basically two options by way of

1 recommendation to the Commission as to how they might act in  
2 this case; is that correct?

3 A. Yes.

4 Q. Okay. On page -- direct your attention to  
5 page 24, line 13. You say there, Intercounty is requesting  
6 the Commission to find either of the two following options  
7 are within the scope of the statute and in the public  
8 interest. The first option involves retention by  
9 Intercounty of the 286 customers, does it not?

10 A. Yes, it does.

11 Q. Okay. And the second option involves the  
12 transfer of those customers to RMU, correct?

13 A. Yes, should the Commission decide that it's in  
14 the public interest to transfer them in Option 2.

15 Q. That's one of the things I was going to ask  
16 you. Your statement there that the scope and the statute  
17 and in the public interest, you are not saying, then, that  
18 Option 2 is in the public interest as far as you're  
19 concerned?

20 A. As far as I'm concerned, Option 1 is the one  
21 in the public interest.

22 Q. Thank you. I wanted to ask you, if you could,  
23 to clarify or explain under Option 1 the -- on page 25, the  
24 third bullet territorial -- the territorial boundary to be  
25 established by the Commission between Rolla and Intercounty

1 along the current contiguous corporate boundary of the city.

2 Can you sort of restate that as to what that's driving at?

3       A.       In effect, I'm asking the Commission to go  
4 ahead and recognize the fact that these types of disputes  
5 are going to continue and put a boundary around the city.

6       Q.       And that would be the same as well in Option 2  
7 on page 26, the next to the last bullet; is that correct?

8       A.       Yes, it would.

9       Q.       Okay. Now, are you talking -- when you say  
10 put a boundary around the City, are you talking about the  
11 present city limit including -- that wouldn't include the --  
12 that would include the annexed area; is that correct?

13       A.       At this time, yes, the annexed area is part of  
14 the city.

15       Q.       Okay. Now, just one other area I wanted to  
16 ask you a couple of questions about. Is it Intercounty's  
17 position that its office building within the newly annexed  
18 area, it is its position that it should be sold to Rolla; is  
19 that correct?

20       A.       It's Intercounty's position that, if the  
21 strict interpretation of the law the way we understand it is  
22 in effect, then the ability to pick and choose facilities is  
23 not there. Intercounty built that office with the  
24 understanding of the Plan of Intent that that was going to  
25 be our territory.

1           Q.       You're not suggesting, are you -- maybe I  
2 should ask you -- that the building is of no use to you with  
3 the loss of 286 customers?

4           A.       The building will be of use to someone, yes,  
5 but if it's in RMU's territory we will be relocating the  
6 office.

7           Q.       How many offices do you have of this sort?

8           A.       We have our main office and two district  
9 offices.

10          Q.       And that's to service approximately, is it  
11 28,000 customers, something to that --

12          A.       28,000 consumers, members and 2,500 square  
13 miles of territory.

14          Q.       And you would plan to relocate your office,  
15 then?

16          A.       When this decision was made to locate at this  
17 site, we looked at several things. One was availability of  
18 good highway access, visibility.

19                   We had three sites in mind. There was a site  
20 north of St. James that we were looking at which would be in  
21 our territory, this site which was in our territory at the  
22 time and we were told would remain in our territory, and the  
23 other site was very visible from the highway, we just  
24 couldn't figure out how to tell the people to get there.

25                   MR. FREY: Thank you, Mr. Strickland. I have

1 no further questions, your Honor.

2 JUDGE THOMPSON: Thank you, Mr. Frey.

3 Mr. Duffy?

4 MR. DUFFY: Thank you.

5 CROSS-EXAMINATION BY MR. DUFFY:

6 Q. Mr. Strickland, do you read a magazine called

7 Rural Missouri? Are you familiar with that?

8 A. Yes, I am.

9 Q. Did you look at the November 2000 issue?

10 A. Yes, I believe I did.

11 Q. Did you see the article in there called Energy

12 Policy and Electricity Cost which quotes from some officials

13 of the Associated Electric Cooperative?

14 A. I'm sorry. I haven't -- I don't remember it.

15 Q. Do you know someone by the name of Jim Jura?

16 A. Yes. I know Jim, yes.

17 Q. And this article says he's the CEO of AECI?

18 A. Yes.

19 Q. That means he's the chief executive officer of

20 Associated Electric Cooperative?

21 A. Yes.

22 Q. And how is Associated Electric Cooperative

23 related to Intercounty Electric Cooperative?

24 A. As set forth in my testimony, Associated is

25 owned by six G&T's now, generation and transmission



1 cooperatives. Intercounty is part owner of one of those  
2 generation and transmission cooperatives.

3 Q. Mr. Jura's quoted in this article on page 12  
4 of the November 2000 Rural Missouri magazine as saying,  
5 Although we don't know yet exact operational costs of these  
6 new and potential EPA regulations, we do know they will be  
7 very expensive and the rates of our rural members will go  
8 up. Would you agree with that statement by Mr. Jura?

9 A. I believe it's possible, yes.

10 Q. The article also says, Depending on how EPA  
11 implements new regulations, AECI could meet wholesale power  
12 rate increases of 20 percent to 25 percent. Would you agree  
13 with that?

14 A. I believe with the current EPA regulations  
15 proposed by the present administration, that's possible.

16 Q. If AECI's wholesale power rate went up to  
17 20 to 25 percent, do you know how that would impact on  
18 Intercounty's rates?

19 A. It would be a direct pass-through.

20 Q. Did you see the December issue of Rural  
21 Missouri magazine?

22 A. No, I didn't. I'm sorry.

23 Q. Did you have anything to do with an  
24 advertisement that appeared in the Rolla Daily News on  
25 November 1, 2000 entitled Intercounty Members vs. Rolla

1 Municipal Utilities Sets Precedent in State of Missouri?

2 A. Yes. I read it.

3 Q. Did you have anything to do with it other than  
4 reading it?

5 A. I proofed it after it was written. I sent it  
6 to the attorneys for their proof as well.

7 Q. So you authorized the publication of this  
8 document in the Rolla Daily News?

9 A. Yes.

10 Q. Was it your intention in publishing this  
11 advertisement that you wanted members of your rural electric  
12 cooperative to write letters to the Missouri Public Service  
13 Commission?

14 A. No. It was our intention to inform the  
15 members and tell them where they could write if they wanted  
16 to. We were getting a number of phone calls. I believe  
17 there's also the Office of the Public Counsel listed.

18 Q. Did the ad contain this sentence: Intercounty  
19 will continue to work with our members in resolving this  
20 issue and encourages members in the area to contact the  
21 Missouri Public Service Commission or the Office of the  
22 Public Counsel and express their concerns. As a  
23 member-owned, member-operated cooperative, this is truly  
24 grassroots membership in action. You may contact the  
25 Missouri Public Service Commission and the Office of Public

1 Counsel at the phone numbers and addresses below.

2                   Did I read that correctly?

3           A.       That sounds reasonable, yes.

4           Q.       And you gave an address of the Missouri Public  
5 Service Commission of 200 Madison Street, P.O. Box 360,  
6 Jefferson City, Missouri 65102-0360, and you gave a phone  
7 number of 800-392-4211; is that correct?

8           A.       I'm sorry. I'd have to see it.

9                   JUDGE THOMPSON: You may approach.

10                  THE WITNESS: Yes, this does look like the ad  
11 that we placed.

12 BY MR. DUFFY:

13           Q.       You testified previously that you contacted  
14 the City in 1994 and proposed a territorial agreement; is  
15 that correct?

16           A.       Yes, I did.

17           Q.       Does that look like the cover letter that  
18 you're talking about (indicating)? If it helps you, I don't  
19 think this is attached to your testimony.

20           A.       Apparently it's not, but this does look like a  
21 letter I sent out to several of the mayors at that time.

22           Q.       So, just so the record's clear, this is a  
23 letter from you dated November 8th, 1994 to Elwin Wax, the  
24 mayor of the City of Rolla; is that correct?

25           A.       Yes.

1 Q. And you attached a draft of the tariff, what  
2 you called a territory agreement; is that correct?

3 A. Yes.

4 Q. And in that territory agreement, on page 6,  
5 there is a heading called Franchise Fee; is that correct?

6 A. Yes, it is.

7 Q. Would you read the first sentence under that  
8 into the record, please.

9 A. Intercounty agrees that Rolla may establish a  
10 franchise fee or tax uniformly applied throughout the city  
11 for energy sales within the corporate limits of the City of  
12 Rolla.

13 Q. Thank you.

14 Take you back for a minute to this ad that we  
15 talked about. I indicated that it appeared in the Rolla  
16 Daily News on November the 1st. To your knowledge, did it  
17 appear any other times?

18 A. My understanding was it was published three  
19 times. The Rolla Daily News had misspelled a word and they  
20 published it again for us free the third time.

21 Q. So you intended for it to be published twice,  
22 but it actually ended up being published three times?

23 A. Yeah.

24 Q. Do you have any knowledge as to why apparently  
25 the exact same text of that ad appears as the cover story

1 for the December 2000 Rural Missouri magazine almost word  
2 for word?

3           A.       Oh, absolutely. We keep our members informed  
4 of what's going on with the coop.

5           Q.       So you thought it was a good idea for the  
6 contents of the ad to show up in Rural Missouri, which would  
7 then go to all of your members?

8           A.       Yes. I believe the circulation is about  
9 26,000.

10          Q.       Did you publish it anywhere else other than  
11 Rolla Daily News and the Rural Missouri magazine?

12          A.       Not that I'm aware of.

13                   MR. DUFFY: That's all the questions I have at  
14 this time, your Honor.

15                   JUDGE THOMPSON: Thank you, Mr. Duffy.  
16 Questions from the Bench, Commissioner Schemenauer?

17                   COMMISSIONER SCHEMENAUER: Thank you.

18 QUESTIONS BY COMMISSIONER SCHEMENAUER:

19          Q.       Good afternoon, Mr. Strickland.

20          A.       Good afternoon.

21          Q.       On page 18 of your rebuttal testimony, on  
22 lines 6 through 10, you're discussing an arrangement with  
23 the City and the Plan of Intent. And when you say  
24 "back-door a tax for Rolla", I think you're meaning like a  
25 franchise tax, and was the City wanting the franchise tax to

1 apply to just Intercounty Electric's customers or to  
2 everybody in Rolla?

3           A.       The discussion -- part of the confusion is, in  
4 the course of the discussion on the clearing up the Plan of  
5 Intent problem that Intercounty had with Rolla, it was  
6 suggested by the City that a franchise fee was possible or  
7 that a PILOT might be possible.

8                   At that meeting they were told there was no  
9 way we could discuss a PILOT. They were told no way twice  
10 that we would discuss it, and we did not discuss a PILOT.

11                  As for a franchise fee, Intercounty's position  
12 was that if a fee was passed, it would have to apply  
13 uniformly to all utility providers, electric utility  
14 providers within the City of Rolla, and that Intercounty did  
15 not have a problem with it because we're not in the taxing  
16 business.

17           Q.       So, in effect, then, that would keep the  
18 difference between your electric rates for your customers  
19 with the franchise tax and RMU's customers, because they  
20 would be paying the same franchise tax, would keep the  
21 difference the same?

22           A.       Right. At this time it's voluntary. My  
23 understanding is it's voluntary for RMU to make payments to  
24 the City of Rolla subject to a board that will vote to  
25 approve. In effect, this would require all electric users

1 in town, providers, to pay the same tax.

2 Q. Okay. On page 16 of your surrebuttal -- your  
3 rebuttal testimony, on lines 4 and 5 you discuss the  
4 retirement of the annexed members' patronage obligation and  
5 how much it would cost.

6 When do you -- when does Intercounty Electric  
7 pay those patronage dividends to their members? Like, the  
8 patronage checks that you send out in the year 2000, what  
9 year purchases were those based on for your customers?

10 A. I believe they were '88 and '89, I'm guessing.  
11 I'm not off by more than a year.

12 Q. I think my coop has mailed out 1980 checks,  
13 and I'm wondering why it's so late. But yours is '88 and  
14 '89, right?

15 A. Yes, sir.

16 Q. A lot of times when patronage dividends are  
17 that late, you can't find your customers. Some maybe have  
18 moved. Some maybe have died. What do you do with those  
19 checks that are unclaimed?

20 A. At this time, our bylaws require us to  
21 reallocate them to the current members.

22 Q. You're not required by federal law to turn  
23 them in to -- in to the State, unclaimed property division?

24 A. There is a discussion ongoing now. The  
25 Treasurer's Office would like to see that added as an option

1 so the members can have a choice.

2 Q. But you're not required by law to do that?

3 A. By federal law, no, sir.

4 Q. All other corporations are, but coops are

5 exempt?

6 A. Coops operate under a different set of rules,

7 yes, sir.

8 Q. All right. You put down \$402,649 for this

9 obligation, this patronage obligation. That seems like an

10 awful lot of money for 286 members.

11 A. That's the patronage obligation that we owe

12 those members for the period of time they've been with the

13 coop.

14 Q. And then what would you do with that money?

15 You'd give it to the members?

16 A. We would give it to the general membership as

17 the board agreed to pay it out.

18 Q. And then the members in the annexed area would

19 not get a patronage check for those years?

20 A. They would get one whenever the board agreed

21 to pay those years out. We're still trying to pay on a

22 first-in/first-out basis -- I'm sorry, last-in/first-out

23 basis.

24 Q. So then this \$402,000 would increase

25 everybody's patronage dividends?



1           A.       It would basically be returned to the members,  
2 the general membership, all 28,000 members.

3           Q.       But not the 286 who are leaving the system?

4           A.       They will continue to get theirs as those  
5 years were paid out.

6           Q.       But if this were paid to you in the year 2001  
7 and you lost those customers in the year 2001, they wouldn't  
8 get anything, would they?

9           A.       Oh, yes, sir. They would get patronage for  
10 the years 1990 to 2000.

11          Q.       But this 402,000 wasn't earned by your coop in  
12 the year 1999 or 2000. It would be in 2001, wouldn't it?  
13 Don't you base your patronage dividends on the revenues in  
14 that year?

15          A.       Yes, we do.

16          Q.       Well, how many years would this represent of  
17 patron dividends for those 286 folks?

18          A.       Ten years.

19          Q.       Ten years. Okay. That's nowhere else in your  
20 testimony, is it?

21          A.       No, sir.

22          Q.       One last series of questions. On page 26, on  
23 line 8 through 13 you're talking about, if Option 2 is  
24 decided by the Commission, you want the transfer and  
25 everything done at least two years after the date of the

1 Commission finding. You mean the Commission finding if it's  
2 final or if an appeal is final, right?

3 A. Yes.

4 Q. At least two years after. Now, does that mean  
5 to me you don't want to transfer anything over for two  
6 years?

7 A. We would start the process of building the  
8 lines to reintegrate our facilities on the transfers made.  
9 The members that presently enjoy the redundancy that we have  
10 built in by having multiple feed points would continue to  
11 enjoy that.

12 In effect, if we cookie-cuttered this area out  
13 right now, there would be a number of facilities that would  
14 be either stranded or in the dark until we built those  
15 facilities.

16 Q. So you're estimating it'll take two years for  
17 you to make the transition?

18 A. To get voluntary easements and other stuff  
19 like this, yes.

20 Q. At least two years?

21 A. Yes.

22 Q. So you would still have those customers for  
23 two years?

24 A. We can transfer smaller amounts over as we  
25 went, but the bottom line is any wholesale transfer we want

1 a two-year window to do it in.

2 Q. And then on line 12, you want your money  
3 within 90 days, though, is that correct?

4 A. You bet.

5 Q. I can assume by that statement there's no  
6 agreement between RMU and Intercounty Electric regarding a  
7 two-year payout plan?

8 A. I don't believe there's been agreement between  
9 RMU and Intercounty on much of anything.

10 Q. RMU had outlined this two-year payment plan in  
11 their testimony, and I see you're saying you want your money  
12 like the statute says, within 90 days?

13 A. Yes, sir.

14 COMMISSIONER SCHEMENAUER: Thank you. That's  
15 all I have.

16 JUDGE THOMPSON: Thank you, Commissioner  
17 Schemenauer.

18 QUESTIONS BY JUDGE THOMPSON:

19 Q. Mr. Strickland?

20 A. Yes, sir.

21 Q. The office building that's at issue here, is  
22 that one of your district headquarters?

23 A. Yes, sir.

24 Q. So it's one of two?

25 A. It's one of two, yes, sir.

1           Q.       Is there any reason that it can't continue to  
2 function as such if it's located within the exclusive  
3 service territory of RMU?

4           A.       There's several reasons why there'll be a  
5 problem with it. One of the reasons is referenced in my  
6 exhibit from RUS and CFC, which basically requires Show-Me  
7 to be a sole-requirements provider. So, in effect, that  
8 area would be RMU's exclusive.

9           Q.       Is this your Exhibit 2, VWB-2?

10          A.       Yes, correspondence from Rural Utility Service  
11 and National Rural Utilities Cooperative. In effect, it  
12 links Intercounty and Show-Me's ability to repay our federal  
13 debt, and right now we buy all of our power from Show-Me  
14 because they're our sole requirements provider.

15                   If the office is cut out of the annexed area,  
16 we would now have a facility that is on a radial line served  
17 from one point, one source, that would be at risk every time  
18 there was a problem with that substation or that line.

19                   Right now we enjoy the same redundancy the  
20 members in the area do. If we lose an area, we can pick it  
21 back up from another substation, and I think that's key to  
22 operations in the district office.

23          Q.       Okay. Is that the main problem or are there  
24 others, with the building?

25          A.       That's the main problem right there.

1 Q. Okay. And I think you already answered this  
2 next question. You do not produce any power?  
3 A. No, we don't.  
4 Q. You purchase it from who?  
5 A. Show-Me.  
6 Q. Now, Show-Me, is that also a cooperative?  
7 A. Yes.  
8 Q. And they're located where?  
9 A. Marshfield.  
10 Q. Okay. Is there any likelihood of them  
11 changing as your supplier any time soon?  
12 A. No.  
13 Q. Now, with respect to Intercounty, how many  
14 counties does Intercounty serve?  
15 A. We serve portions of nine counties.  
16 Q. And approximately how many members do you have  
17 as of today?  
18 A. Approximately 28,700.  
19 Q. And can you tell me what your approximate  
20 gross revenues are on either a monthly or annual basis?  
21 A. Approximately 27 million.  
22 MR. DUFFY: Excuse me. Is that monthly?  
23 THE WITNESS: Annual.  
24 MR. DUFFY: Oh, annual.  
25 BY JUDGE THOMPSON:

1           Q.       Now, Mr. Ledbetter had an Exhibit JEL-4,  
2 actual and normalized revenue for the consumers in the  
3 annexed area, and I believe you were present in the room  
4 when he testified; isn't that correct?

5           A.       Yes.

6           Q.       And you heard him testify that he was provided  
7 these numbers by Intercounty?

8           A.       Yes.

9           Q.       Okay. Do you know how these numbers were  
10 computed?

11          A.       Yes. I directed the work order clerk in our  
12 bookkeeping department to pull the accounts in the annexed  
13 area. This went through several different iterations. As  
14 Rolla pointed out, we had too many members or we covered  
15 some that were not inside the annexed area. So it was  
16 adjusted over several iterations.

17                   In effect, what you see there, the normalized  
18 revenue is the revenue-only number. It does not include any  
19 adjustments for discounts, rebates on water heaters, fees,  
20 assessments of any type.

21                   It also includes the fact that there were at  
22 least ten that I remember rental-type properties that may be  
23 vacated part of the year. There are no accounts out there  
24 that were only operated one time and then projected that  
25 over 11 months. We're talking about taking an average of

1 somebody's use for three months and then filling in another  
2 month.

3                   We did not go through the mathematical  
4 exercise of running a gumpers curve or a bell-shaped curve  
5 to come up with a normalized distribution and spreading  
6 that. We just basically went the quick and dirty method.

7           Q.       So do I understand you to say that the  
8 normalization was not done in such a way as to show  
9 occupancy of all structures at a hundred percent?

10          A.       Yes, it was. The fact is, we're talking about  
11 maybe ten rental properties. If somebody was in the first  
12 three months and then they didn't rent it until the fifth  
13 month, that fourth month was covered. We averaged the first  
14 three months and assumed that for the fourth month.

15          Q.       So what you're saying is the number of  
16 properties affected is quite small?

17          A.       Yes.

18          Q.       All right. And was it normalized in any other  
19 way?

20          A.       No, it wasn't.

21          Q.       It was not. Okay. And is it true, as  
22 Mr. Ledbetter's testimony suggests, that patronage and  
23 discounts have been removed?

24          A.       They were never added in, so they weren't  
25 removed.

1 Q. Okay. So we need not fear that they are part  
2 of these figures?

3 A. No.

4 Q. Okay. What exactly are patronage and  
5 discounts?

6 A. The coops use several different phrases,  
7 basically capital credits or patronage. In effect, we set  
8 our rates to where we can recover our costs of operations.  
9 We borrow money from three different sources. We borrow  
10 from the Rural Utilities Service, from the National Rural --  
11 we call it CFC. I'm sorry. I can't remember the name --  
12 and our members.

13 Q. Okay.

14 A. If effect, if you pay an electric bill during  
15 the year and we end up with money left over at the end of  
16 the year, that money is credited back to your account on a  
17 proportion to the total. That is your capital credit or  
18 your patronage for the year. That is returned to you when  
19 the coop can afford to do it. It's usually used as starting  
20 money for the next year.

21 Q. Okay. And it runs in arrears, is that what I  
22 understand?

23 A. Yes.

24 JUDGE THOMPSON: I think that covers all the  
25 questions that I had for you. Do you have another?



1                   COMMISSIONER SCHEMENAUER: I was just going to  
2 say, in some cases in more arrears than others.

3                   JUDGE THOMPSON: Recross, Mr. Dunbar?

4                   MR. DUNBAR: No questions, your Honor.

5                   JUDGE THOMPSON: Ms. O'Neill?

6                   MS. O'NEILL: No questions.

7                   JUDGE THOMPSON: Mr. Frey?

8                   MR. FREY: No questions, your Honor.

9                   JUDGE THOMPSON: Mr. Duffy?

10                  MR. DUFFY: No questions, your Honor.

11                  JUDGE THOMPSON: Redirect?

12                  MR. COMLEY: Thank you, your Honor.

13 REDIRECT EXAMINATION BY MR. COMLEY:

14                  Q.       Mr. Duffy asked you some questions about  
15 pending EPA regulations and the effect they may have on the  
16 wholesale rates charged to the distribution and  
17 cooperatives. Can you tell me if those EPA regulations are  
18 going to -- are ready to be passed?

19                  A.       I believe Jim was -- Mr. Jura was trying to  
20 warn us that the possibility of the code treaty being passed  
21 piecemeal by EPA was still there.

22                  Q.       Do you anticipate in the foreseeable future  
23 any increases in the rates you charge the members for power?

24                  A.       No. After my discussion with Show-Me, we  
25 don't anticipate a rate increase for over ten years.

1           Q.       Mr. Duffy also talked to you about an ad that  
2 appeared in the Rolla paper and also in the Rural  
3 Missourian. Can you explain to the Commission the purpose  
4 behind the ad?

5           A.       At that time there was some information coming  
6 out or that had been published, and I believe there was an  
7 article in the Rolla Daily News that, in effect, we felt had  
8 skewed the information off of the public meeting. We were  
9 being inundated. We were getting numbers of calls from our  
10 members asking us what was going on.

11                   This was basically put out in an effort to  
12 make sure our members had a chance to hear what happened at  
13 the public meeting and to have a point of contact they could  
14 call and ask.

15           Q.       Did Intercounty suggest that any of the  
16 members directly contact any members of the Commission  
17 itself?

18           A.       No, we did not.

19           Q.       The only member that I -- the only person that  
20 was in the ad was concerning the Public Counsel's office; is  
21 that correct?

22           A.       If I remember the ad correctly, yes.

23           Q.       Did Intercounty intend to unfairly influence  
24 the Commission by purposes of the ad?

25           A.       No, we didn't. We figured that at this time

1 we didn't know who was supposed to get the letters. Office  
2 of the Public Counsel was still there. We wanted to make  
3 sure they had an opportunity to send it there.

4           What we thought would happen is any letters  
5 sent to the Commission would be forwarded to the Office of  
6 the Public Counsel.

7           Q.     Mr. Duffy also asked you to look into various  
8 provisions of the 1994 territorial agreement. Do you  
9 remember those questions?

10          A.     Yes, I do.

11          Q.     And also there was a letter dated  
12 November 8th, 1994. Is that letter part of your testimony  
13 today?

14          A.     November 8th, 1994. Yes.

15          Q.     And where is that located in your testimony?

16          A.     It's behind Exhibit VWS-10, territorial  
17 agreement letters.

18          Q.     Is the draft of the territorial agreement also  
19 included in your testimony?

20          A.     Yes, it is. It's right behind the letter of  
21 November 8th, 1994.

22          Q.     Can you explain to the Commission why there is  
23 a provision concerning payment of franchise fees to the City  
24 of Rolla in this territorial agreement?

25          A.     Basically, as the letter says right up front,

1 this is a draft. It's for discussion purposes. We knew it  
2 wouldn't go anywhere without possibility of a franchise fee,  
3 and it was up for negotiation as part of the territorial  
4 agreement.

5 Q. Was this part of several conditions that went  
6 into the total agreement?

7 A. Oh, yes.

8 Q. Was this territorial agreement ever agreed to  
9 by the City of Rolla?

10 A. No. As a matter of fact, I got a very short  
11 answer when I asked for a follow-up, a short negative  
12 answer.

13 Q. So the answer was no?

14 A. Okay.

15 Q. Commissioner Schemenauer asked you about the  
16 patronage obligation and the amount that's in your  
17 testimony. Could you explain to the Commission why  
18 Intercounty is asking for this to be included, this amount  
19 to be included in the fair and reasonable compensation  
20 figure that you're -- that Intercounty is requesting?

21 A. Basically, as I mentioned earlier, we have  
22 three mortgage holders, Rural Utility Service, CFC and the  
23 members. In effect, we owe a large block of money to a  
24 group of members that we will no longer have.

25 I don't believe it's fair for the remaining

1 members to have to pick up the cost of service provided to  
2 these 286 over the past ten years. This is an obligation  
3 that Intercounty is still responsible for. I think that as  
4 part of the acquiring utility, RMU ought to pay out the  
5 patronage on them.

6 Q. Judge Thompson asked you about the revenue  
7 figures used by Mr. Ledbetter in connection with preparation  
8 of his exhibit on normalization of revenue. Were the  
9 records that you used in preparing the revenue figures that  
10 you gave to Mr. Ledbetter, were those records kept in the  
11 ordinary course of business for Intercounty?

12 A. Yes.

13 Q. And you have overall supervision for those  
14 records; isn't that correct?

15 A. Yes.

16 MR. COMLEY: Your Honor, I have no more  
17 redirect.

18 MR. DUFFY: Your Honor, at this time I have  
19 two matters I'd like to address with regards to what has  
20 just transpired.

21 No. 1, I believe I had indicated when I was up  
22 there questioning Mr. Strickland about that 1994 agreement  
23 that it was not attached to his testimony. It appears that  
24 it was attached to his testimony, and so I apologize because  
25 I didn't realize that.

1 JUDGE THOMPSON: Okay.

2 MR. DUFFY: The second matter is that, in  
3 Mr. Comley's redirect, Mr. Strickland made some comments  
4 about his intentions regarding the advertisement that I  
5 inquired about. I had not intended to make the  
6 advertisement an exhibit in this case, but because of what  
7 he has just said that seems to be at odds with what I see in  
8 this advertisement, I would like leave to make this  
9 advertisement that he identified an exhibit in the case.

10 JUDGE THOMPSON: That would be fine. We'll  
11 mark this as Exhibit No. 26. How would you identify that,  
12 Mr. Duffy?

13 MR. DUFFY: I would say it would be  
14 Intercounty ad in Rolla Daily News.

15 JUDGE THOMPSON: Okay.

16 MR. DUFFY: And I do not have the requisite  
17 number of copies available right now, but if we get a break  
18 I'll try to find a copy machine and make the copies.

19 JUDGE THOMPSON: Very good. Do you have the  
20 date that that ad ran?

21 MR. DUFFY: It's my understanding the  
22 testimony was that it ran on November 1, 2000 and on two  
23 other subsequent dates that Mr. Strickland identified, but I  
24 don't know when they were.

25 JUDGE THOMPSON: Okay. And you have offered

1 that. Do I hear any objections to the receipt of Exhibit

2 No. 26?

3 MR. COMLEY: Well, I'd like to find out what  
4 the purpose is for the admission of it. What is the reason  
5 why it has to be admitted?

6 JUDGE THOMPSON: Mr. Duffy?

7 MR. DUFFY: It's my contention that  
8 Intercounty had the express intent of having people contact  
9 the Missouri Public Service Commission with regard to this  
10 case, which may or may not be an inappropriate action.

11 And I believe that we need to have evidence in  
12 the record of what they did in order that I can make my  
13 legal arguments, and the Commission can consider whether my  
14 arguments are appropriate or not.

15 JUDGE THOMPSON: Mr. Comley?

16 MR. COMLEY: Well, I think that the  
17 cross-examination and the redirect probably are enough. I  
18 don't see how the ad could lend any more to that.

19 JUDGE THOMPSON: Objection is overruled.  
20 Exhibit No. 26 is received and made a part of the record of  
21 this proceeding. Mr. Duffy, you will provide the requisite  
22 number of copies at your earliest opportunity.

23 (EXHIBIT NO. 26 WAS RECEIVED INTO EVIDENCE.)

24 JUDGE THOMPSON: At this time, Mr. Comley, do  
25 you rest?

1 MR. COMLEY: Yes.

2 JUDGE THOMPSON: Thank you. Mr. Dunbar, call  
3 your first witness, please.

4 MR. DUNBAR: Yes, your Honor. Before I do  
5 that, it was brought to my attention during the  
6 cross-examination of Mr. Watkins that I may have inferred  
7 that Mr. Duffy had a conflict of interest. I was not  
8 intending to do that. I was merely trying to cross-examine  
9 with regards to a reference made during the public hearing.

10 I was in no way trying to imply that there was  
11 a conflict of interest on the part of Mr. Duffy because he's  
12 a very competent attorney and I know that he probably did  
13 not have a conflict and was not trying to imply that at all.

14 JUDGE THOMPSON: Thank you, Mr. Dunbar. And  
15 thank you, Mr. Strickland.

16 MR. DUNBAR: We call Don Priest.

17 (Witness sworn.)

18 JUDGE THOMPSON: Please take your seat and  
19 spell your name for the reporter, if you would.

20 THE WITNESS: My name is Don, D-o-n, Priest,  
21 P-r-i-e-s-t.

22 JUDGE THOMPSON: Thank you. You may proceed,  
23 Mr. Dunbar.

24 MR. DUNBAR: Thank you, your Honor.

25 DON PRIEST testified as follows:



1 DIRECT EXAMINATION BY MR. DUNBAR:

2 Q. Would you again please state your full name  
3 for the record.

4 A. My name is Don Priest.

5 Q. And what is your address?

6 A. 1295 Highway O, Rolla, Missouri 65401.

7 Q. And are you the same Don Priest that is one of  
8 the members of the Southside Neighbors?

9 A. That's correct.

10 Q. And are you also the same Don Priest that  
11 caused to be filed in this case Exhibit 12, your prepared  
12 rebuttal testimony?

13 A. Yes.

14 Q. And do you have any additions or corrections  
15 to your prepared rebuttal testimony?

16 A. No.

17 Q. If I were -- if I were to go through and ask  
18 you the same questions that are contained within your  
19 prepared rebuttal testimony, would your answers be the same?

20 A. Yes.

21 Q. And are those answers correct to the best of  
22 your knowledge and information and belief?

23 A. Yes.

24 MR. DUNBAR: Your Honor, at this time I'd  
25 offer Exhibit 12 into evidence.

1 JUDGE THOMPSON: Do I hear any objections to  
2 the receipt of Exhibit No. 12?  
3 (No response.)  
4 Hearing none, Exhibit No. 12 is received and  
5 made a part of the record of these proceedings.  
6 (EXHIBIT NO. 12 WAS RECEIVED INTO EVIDENCE.)  
7 MR. DUNBAR: I would tender Mr. Priest for  
8 cross-examination.  
9 JUDGE THOMPSON: Thank you, Mr. Dunbar.  
10 Mr. Comley, you're up first.  
11 MR. COMLEY: I have no questions for  
12 Mr. Priest.  
13 JUDGE THOMPSON: Thank you, sir. Ms. O'Neill?  
14 MS. O'NEILL: I have no questions.  
15 JUDGE THOMPSON: Mr. Frey?  
16 MR. FREY: No questions.  
17 JUDGE THOMPSON: Mr. Duffy?  
18 MR. DUFFY: No questions.  
19 JUDGE THOMPSON: There are no questions from  
20 the Bench. You may step down, sir. Does anyone anticipate  
21 a further need for Mr. Priest? You are excused, sir. Thank  
22 you very much.  
23 (Witness excused.)  
24 JUDGE THOMPSON: Mr. Dunbar, do you rest?  
25 MR. DUNBAR: Yes, your Honor. May I approach

1 and retrieve that copy?

2 JUDGE THOMPSON: Yes, you may. Mr. Frey, call  
3 your witness, please.

4 MR. FREY: Thank you, your Honor. Staff calls  
5 James Ketter.

6 (Witness sworn.)

7 JUDGE THOMPSON: Please take your seat and  
8 spell your name for the reporter, if you would.

9 THE WITNESS: James, J-a-m-e-s, L. Ketter,  
10 K-e-t-t-e-r.

11 JAMES KETTER testified as follows:

12 DIRECT EXAMINATION BY MR. FREY:

13 Q. State your name again for the record, please,  
14 sir.

15 A. James L. Ketter.

16 Q. Mr. Ketter, by whom are you employed and in  
17 what capacity?

18 A. Employed by the Missouri Public Service  
19 Commission with the Staff as an engineer in the electric  
20 department.

21 Q. And are you the same James L. Ketter who  
22 prepared and caused to be prefiled in this case Ketter  
23 rebuttal and Ketter cross-surrebuttal testimony which have  
24 been marked for purposes of identification respectively as  
25 Exhibits 13 and 14?

1           A.       Yes.

2           Q.       Do you have any corrections to make to that  
3 prefiled testimony at this time?

4           A.       Yes. In my rebuttal testimony, on page 8, the  
5 reproduction cost at that point reflects a number there of  
6 547,131.01. In the position statement and issues filed by  
7 the Staff, I accepted the overhead costs of 195,000. So  
8 that number on line 11 should be \$742,131.

9                   JUDGE THOMPSON: And one cent?

10                  THE WITNESS: And one cent.

11                  JUDGE THOMPSON: Thank you, sir.

12                  THE WITNESS: And that reproduction cost will  
13 have to be depreciated given my depreciation method on  
14 page 10, the straight-line depreciation on line 10, the  
15 302,399.31 corrected is \$410,176.

16                  JUDGE THOMPSON: Any cents?

17                  THE WITNESS: It was rounded, sir.

18                  JUDGE THOMPSON: Thank you.

19                  THE WITNESS: Then continuing that sentence,  
20 the 344,731.70 --

21                  MR. COMLEY: Where is it?

22                  MR. DUFFY: Where is that? You're on page 10,  
23 line 10?

24                  THE WITNESS: Yes, the next sentence. This  
25 leaves --

1 BY MR. FREY:

2 Q. You mean 244,731. I think you said 344.

3 A. I'm sorry. It's 244,731 as filed. That  
4 number should be corrected to 331,955. And the math that  
5 follows in the parentheses corrected should be 742,131 minus  
6 410,176.

7 That's all the correction that I would make to  
8 my prefiled testimony.

9 Q. Nothing in cross-surrebuttal, then?

10 A. No.

11 Q. Okay. Thank you. Subject to the amendments  
12 you've just made, with those in mind, if I were to ask you  
13 the same questions as are contained in these documents,  
14 would your answers be the same?

15 A. Yes, they would.

16 Q. And are those answers true and accurate to the  
17 best of your knowledge, information and belief?

18 A. Yes.

19 MR. FREY: Thank you. Your Honor, I would  
20 offer Exhibits 13 and 14 into the record and tender  
21 Mr. Ketter for cross-examination at this time.

22 JUDGE THOMPSON: Thank you, Mr. Frey. Do I  
23 hear any objections to the receipt of Exhibits 13 or 14?

24 (No response.)

25 Hearing none, Exhibits 13 and 14 are received

ASSOCIATED COURT REPORTERS, INC.  
Jefferson City - Columbia - Rolla  
(888) 636-7551

1 and made a part of the record of these proceedings.

2 (EXHIBIT NOS. 13 AND 14 WERE RECEIVED INTO  
3 EVIDENCE.)

4 JUDGE THOMPSON: Cross-examination, Mr. Duffy?

5 MR. DUFFY: No questions.

6 JUDGE THOMPSON: Thank you, sir. Ms. O'Neill?

7 MS. O'NEILL: No questions.

8 JUDGE THOMPSON: Mr. Comley?

9 MR. COMLEY: Thank you, your Honor. I do have  
10 some questions for Mr. Ketter.

11 CROSS-EXAMINATION BY MR. COMLEY:

12 Q. First, Mr. Ketter, would you explain for the  
13 Commission the manner in which you have depreciated the  
14 assets in your testimony.

15 A. In my testimony I have outlined a way to  
16 estimate the value to depreciate the facilities that are  
17 subject to transfer. The valuation is found through the  
18 reproduction cost, but the depreciation is necessary to  
19 estimate that value.

20 The depreciation rate I don't believe is at  
21 question. The 2.8 percent is what Intercounty has expressed  
22 that that's the annual rate that's used on that plant.

23 The next part of that equation would be to  
24 find the average age of the plant that's subject to  
25 transfer. We have heard that Intercounty does not have

1 specific records that would help us determine the exact age  
2 of the facilities.

3           Records that I found that were representative  
4 of the facility in service were transformer installation  
5 records that recorded the date that the transformers in  
6 service were installed. From that information I found an  
7 average age which on page 10, line 10 -- or actually line 9,  
8 represents through June the 8th of 1988 an average age of  
9 19.74 years.

10           Q.       Tell me how this differs from the approach  
11 taken by Mr. Bourne in his testimony.

12           A.       Mr. Bourne of RMU has taken the original  
13 installation date, an estimate of that, through the property  
14 records that he has researched to find when the original  
15 facility was installed.

16           Q.       And is it your testimony that you believe that  
17 your approach is superior to Mr. Bourne's approach?

18           A.       That's my position, yes. And if I may follow  
19 that, Mr. Bourne has found the age of the oldest facility in  
20 the area, is my position on that.

21           Q.       Is it true that Mr. Bourne has not taken into  
22 account some of the additions and replacements that may  
23 affect the average age of those facilities?

24           A.       It's my feeling that it does not reflect any  
25 additions that have taken place through the time period from

1 when they were installed to the present date.

2 Q. I understand your understanding of the statute  
3 would be that the reproduction new, the reproduction cost  
4 new of the facilities would be the top line of our  
5 calculation; is that correct?

6 A. Yes.

7 Q. And then, if it's possible, each particular  
8 asset that's in the area would be checked for its age, and  
9 the amount of depreciation for that asset would be deducted  
10 from the reproduction costs new?

11 A. Let me state what I think --

12 Q. All right.

13 A. -- it is, is that the depreciation value is  
14 representative of plant as it went into service and  
15 depreciated year by year. So that the depreciation account,  
16 and I will use the word depreciation reserve, increases year  
17 by year as that amount is taken out of -- not taken out.  
18 It's calculated and put over in another spot as accumulated  
19 reserve to use in the balance sheet.

20 So the depreciation, I think the way many of  
21 us have used in this proceeding, we've used it as a  
22 percentage of what's there or what's left. I did not look  
23 at percentage of the dollars that were remaining. I looked  
24 at -- tried to identify an age of facilities that were  
25 subject to transfer.



1           Q.       Let me ask you this.  Maybe I can do it in the  
2 form of an illustration or an example.  I had an example on  
3 several witnesses.  Let's say, for instance, that  
4 Intercounty had installed a transformer, just presuming it  
5 had -- it doesn't necessarily mean it did, but presuming it  
6 had installed a transformer last year on a pole.  Under the  
7 analysis that you understand we should undertake in this  
8 case, how would you -- how would you calculate the  
9 depreciation on that new transformer at this time?

10          A.       There's -- if that's the only one in our  
11 system, that transformer has a value going into service.  I  
12 think we called it capitalized.  So that value at the end of  
13 the year is, the factor of 2.8 percent is taken times that  
14 to find out how much of that is going to be expensed for  
15 that year.

16          Q.       So between 1999 and now, for purposes of our  
17 calculation that we're working with in this case, you would  
18 take one year's worth of depreciation?

19          A.       Yes.

20          Q.       All right.

21          A.       And again, we've valued that -- I was thinking  
22 about the value.  We valued that as a new one.

23          Q.       As a new one?

24          A.       Yes.

25          Q.       You wouldn't use the historical cost; you

1 would use its reproduction cost new?

2           A.       Yes.

3           Q.       So if there was any increase in the cost of  
4 that transformer between its installation date of 1999 and  
5 today, you would use the today value and then deduct that  
6 year's worth of depreciation?

7           A.       To calculate the depreciation for that piece  
8 of plant, yes.

9           Q.       All right. Now, you have discussed  
10 Mr. Ledbetter's approach. No, you haven't discussed  
11 Mr. Ledbetter's approach. You preferred your own, as I  
12 understand. But you have read Mr. Ledbetter's approach to  
13 this depreciation issue, have you not?

14          A.       Yes.

15          Q.       Would you agree with me that Intercounty uses  
16 a 2.8 percent depreciation rate for its distribution  
17 equipment?

18          A.       That's what the RUS bulletin shows, and I  
19 accept that that's the approved rate.

20          Q.       Is it correct that Intercounty employs a  
21 straight line form of depreciation for its assets?

22          A.       That appears what the regulations require,  
23 yes.

24          Q.       Now, with respect to the depreciation factor  
25 that's used by Mr. Ledbetter in his testimony, would you

1 agree with me that that is a figure that's been derived by  
2 the use of the 2.8 percent depreciation factor on at least  
3 the distribution assets?

4       A.       Well, it is as a percentage applied to the  
5 plant account, but the account is weighted with newer  
6 equipment apparently that that has made, it appears as we  
7 look at the bottom line, the average age of the plant to be  
8 newer than, say, my approach.

9       Q.       Now, what is your criticism of Mr. Ledbetter's  
10 approach?

11       A.       It takes the system average of Intercounty and  
12 not the facilities that I was identifying and, of interest,  
13 of the 286 that are going to be transferred. It was a  
14 system-wide average, and it uses the accumulated reserve.  
15 All the money that we took off and put in a different spot  
16 for accounting purposes, it's found a reserve ratio.

17               So Mr. Ledbetter has used a reserve ratio to  
18 estimate the age, but it's a percentage of revenue, not  
19 representative of a specific age.

20       Q.       Did you remember the example I posed to  
21 Mr. Marmouget on the first day of hearing concerning the  
22 installation of the substation and its improvement?

23       A.       Yes.

24       Q.       And did you follow the calculation that was  
25 made at the close about dividing the, I guess it was .7 --

1 excuse me .3733 and dividing it by the rate of depreciation  
2 of .28, .028?. Do you remember that?

3 A. Vaguely, but I remember your example.

4 Q. And the calculation came out that the average  
5 age was less than the actual age of the substation?

6 A. That the average age was less than the actual  
7 age? I suppose I wasn't paying close enough attention. I  
8 don't recall the specifics.

9 Q. Is it possible to have -- under the example I  
10 posed, and I'll ask -- maybe this is easier for you. In  
11 that example, the improvement in the substation combined for  
12 purposes of depreciation could show an average age that's  
13 less than the age of the asset that was improved?

14 A. It appears that that could happen, and I think  
15 it's because we are taking a ratio of dollars and not  
16 particularly looking at the age of the asset.

17 Q. Now, you use the dollars. If these dollars  
18 are recorded on a regular basis and the records of  
19 replacements and records of additions are kept in the  
20 regular course of business, is there any reason that they  
21 should not be considered reliable?

22 A. I think for a financial sheet they're  
23 reliable, and I think that's the way they're used. What  
24 happens is that the pole put in in 1960 might be -- had gone  
25 in at \$100 and in 1990 it's a \$400 pole. So the revenue

1 amount will change what -- what it appears that that average  
2 age is if you just take a ratio of dollars.

3 Q. And are you talking about how inflation on  
4 those costs affects that depreciation factor?

5 A. I think that's the bottom line. I didn't put  
6 a number to it, but it's the original cost when it's put in  
7 is going to appreciate, or inflation will cause that to be  
8 higher over time.

9 Q. And with respect to the factor that you saw in  
10 Mr. Ledbetter's testimony, would you know offhand how much  
11 you would expect inflation to have affected that factor?

12 A. No.

13 Q. There's also concern about an overall  
14 depreciation factor using -- of all the equipment that's in  
15 that form, does that -- would that include trucks and  
16 vehicles? Was that a concern of yours as well?

17 A. Yes. That did -- the bottom line is what was  
18 used from that financial statement, and there were things  
19 like office, office equipment and other equipment that had  
20 depreciation rates in excess of the 2.8.

21 Q. Now, compared to Intercounty's overall  
22 investment in long lines, trestles and poles and the  
23 thousands of miles it does have in distribution line and, I  
24 guess, transmission line or high service lines -- I guess  
25 that would be the better thing to have transmission -- would

1 you expect trucks and vehicles and office equipment to be a  
2 big part of their asset inventory?

3 A. No.

4 Q. Would you agree with me that the bulk of their  
5 inventory is in electrical distribution equipment?

6 A. It appeared that way from the financial  
7 statement.

8 Q. You also looked at the normalization of the  
9 revenue that was provided to Mr. Ledbetter, I understand?

10 A. Yes.

11 Q. You reviewed the revenue figures that had been  
12 supplied to Mr. Ledbetter; is that correct?

13 A. And the base revenues that were -- in response  
14 to Data Requests were the actual revenue from those  
15 accounts.

16 Q. So you reviewed Data Request responses from  
17 Intercounty on those figures as well?

18 A. Yes.

19 Q. Now, did you do any independent auditing of  
20 those figures?

21 A. Not of their source, no.

22 Q. And again, what was the figure you arrived at  
23 about the 12-month revenue figure?

24 A. The 12-month revenue figure in my surrebuttal  
25 testimony is \$383,536.49.

1 Q. And that figure is different than the  
2 Intercounty figure by about how many dollars? Can you  
3 compute that?

4 A. Well, if we look at the four times that,  
5 \$14,000.

6 Q. Can you explain the difference, why there's a  
7 \$14,000 difference between the figures that you have and the  
8 ones that have been sponsored by Intercounty?

9 A. I did not alter or normalize the actual  
10 revenues.

11 Q. With respect to the two customers which RMU  
12 has suggested that the Commission remove from this  
13 calculation, are they included in your calculation?

14 A. Yes, they are.

15 Q. Can you tell the Commission why?

16 A. My reading of the statutes directed me to the  
17 12-month period ending the time, I believe it says the  
18 governing body made a decision to pursue this 386.800, and  
19 it's my understanding that those two customers were  
20 receiving service at the end of that 12-month period. So I  
21 found no reason to exclude them.

22 Q. The City has raised an issue concerning the  
23 condition of easements and rights of way that Intercounty  
24 has for the facilities to date. Is the Staff recommending  
25 that there be a deduction in the fair and reasonable

1 compensation to be paid to Intercounty if this application  
2 is approved for reasons of the rights of way and easements  
3 that Intercounty now has?

4 A. No.

5 Q. Can you explain why?

6 A. My surrebuttal testimony addresses that issue.  
7 I believe it's surrebuttal. It might be in the cross. I  
8 don't recall, but the -- my statement was that Rolla should  
9 get what Intercounty has. When they purchase something,  
10 they get it as is, is the basic concept there.

11 The easements, I believe, have value in that  
12 they are holding the equipment and facilities that  
13 Intercounty has. It appears that we haven't evaluated any  
14 of its present value. We've just computed a cost of the  
15 facilities that are located on that easement.

16 Q. Let me take you back to the reproduction costs  
17 new of the facilities that you have sponsored in your  
18 testimony. There is an obvious difference between your  
19 proposal and that of Mr. Ledbetter.

20 Let me ask you this: Have you taken into  
21 account the unit costs and the reasons for the unit costs  
22 that Mr. Ledbetter has used in his testimony, and if so,  
23 what have you done with them?

24 A. My recommendation on the replacement costs  
25 starting in my surrebuttal position took the facilities that



1 were identified and the labor rates and the costs that  
2 Intercounty responded in Data Requests, and that's what was  
3 filed in my surrebuttal.

4           As other parties brought up other issues, I  
5 identified the overhead costs and right of way costs that  
6 Mr. Ledbetter had identified in his surrebuttal also.

7           Q.     And that's the \$195,000 addition that you've  
8 made --

9           A.     Yes.

10          Q.     -- to your testimony?

11          A.     So from that standpoint, I have not addressed  
12 or endorsed his -- the cost that he has presented in this  
13 proceeding.

14          Q.     Mr. Ketter, in your background, have you ever  
15 been a consulting engineer?

16          A.     No.

17          Q.     In your position with the Public Service  
18 Commission, have you ever had the occasion to try to  
19 estimate a project of the dimension that Mr. Ledbetter is  
20 estimating for purposes of the reintegration plan?

21          A.     Estimating a project, you mean original cost  
22 or what do you mean by --

23          Q.     Well, making an engineer's estimate that for  
24 purposes of a contract or for purposes of an engineer's  
25 estimate in connection with a possible contract to build

1 these facilities.

2           A.       Many times customers in a regulated area have  
3 inquiries about the cost of making extensions, distribution  
4 extensions, and I have reviewed many of regulated utilities'  
5 estimate of cost to provide service to customers,  
6 particularly in the distribution realm.

7           Q.       You've reviewed those kinds of estimates?

8           A.       Yes.

9           Q.       Would it be fair to say that you do not  
10 consider it unusual for a consulting engineer to make use of  
11 a project such as the Shawnee Bend project that was referred  
12 to in Mr. Ledbetter's testimony for purposes of arriving at  
13 unit costs for a project like that in Rolla?

14          A.       I would expect that they would use what their  
15 experience has been. I mean, I would expect that it's  
16 reflective of other projects that they have either bid or  
17 constructed or followed construction.

18                   MR. COMLEY: That's all I have, Judge  
19 Thompson.

20                   JUDGE THOMPSON: Thank you, Mr. Comley.  
21 Mr. Dunbar?

22                   MR. DUNBAR: No questions.

23 QUESTIONS BY JUDGE THOMPSON:

24          Q.       Mr. Ketter, you are, I believe, an engineer?

25          A.       Yes.

1 Q. Nonetheless, you are testifying as to  
2 normalization and depreciation; is that correct?

3 A. That's correct.

4 Q. Are you familiar with those processes?

5 A. Yes, I am.

6 Q. Okay. And you perform those as part of your  
7 normal everyday duties at the Commission?

8 A. The Staff has that responsibility. I have  
9 leaned on others of the Staff to provide historical  
10 perspective and information.

11 Q. Okay. And you are involved, are you not, in  
12 other types of cases?

13 A. That's correct.

14 Q. General rate cases, for example?

15 A. Have been, yes.

16 Q. Okay. Now with respect to a general rate  
17 case, what is the valuation that is used for utility assets?  
18 Is it reproduction cost new?

19 A. No. It's what we call book value.

20 Q. And is that, in fact, original cost?

21 A. Yes.

22 Q. All right. And so is the use of reproduction  
23 costs new in the statute, does that represent something of a  
24 departure from the way utility assets are normally valued?

25 A. Yes, particularly before this Commission.

1 Q. Okay. And do you have any opinions, sir, as  
2 to why the Legislature might have selected this unusual  
3 value?

4 A. I believe it puts a market, marketable value  
5 on the facility. The book value has very little over time  
6 relevance to the market, and other facilities that I have  
7 seen customers purchase, like transformers, they might  
8 purchase a transformer from a utility because they want to  
9 go from a secondary customer to a primary customer, those  
10 facilities have been evaluated at reproduction cost less  
11 depreciation for the customer to purchase that transformer.

12 But again, the Staff would follow the  
13 bookkeeping of that through a regulated utility such that  
14 the gain is appropriately accounted for.

15 Q. Okay. And, of course, neither of these are  
16 regulated utilities, are they?

17 A. No.

18 Q. All right. Now, with respect to  
19 normalization, is that something that's undertaken in a  
20 general rate case?

21 A. Yes, it is.

22 Q. And would you agree with me that normalization  
23 is typically used to remove unusual values?

24 A. Yes. Normally it's weather. That's one of  
25 our --

1 Q. Normally it's weather?  
2 A. Yes.  
3 Q. So that if the summer is unusually hot, you  
4 might normalize in an electric rate case because the air  
5 conditioners were being used way more than usual?  
6 A. Yes.  
7 Q. Is that a fair statement?  
8 A. Yes.  
9 Q. So when the General Assembly directs that  
10 there be normalization with respect to gross revenues, do  
11 you have an opinion, sir, as to what it is the General  
12 Assembly intends?  
13 A. My interpretation is that it's the gross  
14 revenue over the period, whether that's representative of  
15 the dollars that would be, I want to use -- I want to use  
16 the word normal again over that period.  
17 I had looked at or thought about the  
18 possibility of weather normalization. The lack of data, not  
19 only with our depreciation problems of information, weather  
20 normalization would require some what we would refer to as  
21 load research data that would define what the base use is  
22 for a customer and then the weather sensitive part and then  
23 normalize the weather sensitive.  
24 Given the small number of customers and the  
25 information that would be necessary to do that kind of what

1 the Commission would normally see in a rate proceeding, I  
2 did not pursue that.

3 Q. Okay. So that information is not available  
4 here?

5 A. No.

6 Q. All right. Now, you were present in the room,  
7 were you not, when Mr. Ledbetter testified?

8 A. Yes.

9 Q. And you were present in the room when  
10 Mr. Strickland testified?

11 A. Yes.

12 Q. And they both described the normalization that  
13 was done to the numbers that are attached to Mr. Ledbetter's  
14 testimony; is that correct?

15 A. Yes.

16 Q. And do you have an opinion, sir, as to whether  
17 or not you agree with the normalization calculations that  
18 they describe?

19 A. My revenue recommendation is consistent with  
20 Intercounty's except for filling in the non-use months. I  
21 have included two customers that are no longer in the system  
22 today -- or today, the Moreland residence, I believe, and  
23 the farm supply, because they had meters and their revenue  
24 was present at the end of the 12-month period.

25 I felt that the apartment buildings and other

1 buildings that were vacant is normal annual experience. I  
2 looked at each one that had -- each one of the accounts that  
3 had zero use to look to see if those determined a pattern or  
4 what could have been the cause.

5                   The only thing that I was anticipating  
6 normalizing was if a house came on two months into the  
7 period and the first two months there was no usage at all,  
8 but I found no residence or meter location that was new that  
9 needed to be annualized to find a full 12 months revenue.

10           Q.       Okay. And even if there was, I mean, isn't  
11 that -- would you agree with me that that is a normal  
12 incident of providing utility service to a specific area,  
13 that new residents will open accounts at some point in the  
14 middle of a year?

15           A.       I would have taken a new meter and filled that  
16 up because I was looking at a 12-month period that would  
17 represent a revenue flow in the future, and I would have --  
18 if it would have been a new meter, I would have estimated or  
19 filled out those months to reflect that. But in this case,  
20 I found none.

21           Q.       Okay. And that 12-month period specified by  
22 the statute, would you agree that that's akin to a test  
23 year?

24           A.       Yes.

25           JUDGE THOMPSON: Okay. Recross based on my

1 questions, Mr. Duffy?

2 MR. DUFFY: Thank you.

3 RECROSS-EXAMINATION BY MR. DUFFY:

4 Q. Let's talk about normalization. In a rate  
5 case at the Commission for a regulated utility, and I'm  
6 thinking in particular like maybe St. Joseph Light & Power,  
7 when the flood of '93 wiped out some businesses, there would  
8 have been revenue from those customers in a test period.  
9 But because those customers' buildings were gone and they  
10 left town, isn't it true that the Staff would have  
11 recommended that the revenues for rate case purposes be  
12 normalized to reflect that those customers weren't there  
13 anymore?

14 A. There's many individual, I want to say  
15 exceptions, but reasons why customers would be included or  
16 excluded. So a flood is a major event, so that would open  
17 the door for adjustments there.

18 Q. So you would acknowledge that the Commission  
19 in the past in doing normalizations has excluded from a test  
20 period revenues from a customer when everyone knows that the  
21 customer's not there anymore?

22 A. I wouldn't have any specific examples of that,  
23 but --

24 Q. But you agree --

25 A. Exceptions are made many times.



1 Q. But you agree that that's occurred?

2 A. I haven't been personally involved in those  
3 exceptions.

4 Q. Well, isn't it the converse of what you just  
5 said, that if -- if you found that a new meter had been set  
6 the end of the test period, you would normalize to include  
7 the new revenue from that new meter, and isn't the converse  
8 of that that if someone has gone during the test period, you  
9 should remove the revenue from that meter from the customer  
10 that's no longer there?

11 A. If it's within the 12-month period. If a  
12 person left, and I think we're June -- June to June, that if  
13 a meter was removed before the end of that period, there  
14 might be a reason why it would not be normalized.

15 Q. Well, doesn't the statute just say that you  
16 take 400 percent of the gross revenues and then you  
17 normalize them to produce a representative usage from  
18 customers at the subject structures in the annexed area?

19 A. Over that 12-month period, is that --

20 Q. Doesn't say normalizing over the 12-month  
21 period. It says 400 percent of gross revenues received from  
22 the -- received by the affected electric supplier, it says  
23 from the 12-month period, and then it says, after you look  
24 at that you normalize that to produce a representative  
25 usage.

1           So if you add -- if you added customers at the  
2 end of that period or you've lost customers at the end of  
3 that period, doesn't that language indicate to you that you  
4 need to -- that the Commission's role is to normalize that  
5 and say, All right, if we've added somebody new at the end  
6 of this period, we're going to continue that revenue stream;  
7 but if we've lost somebody at the end of that period, we're  
8 going to delete that revenue stream? Isn't that a  
9 normalization process?

10          A.       That sounds like a normal process. I didn't  
11 see any deletions at the end of my 12-month test year that  
12 we use.

13          Q.       But do you dispute the fact that these two  
14 customers are gone?

15          A.       No.

16          Q.       So everybody agrees that they're gone, but you  
17 still want to include the revenue from them as if they were  
18 still there?

19          A.       Yes.

20          Q.       On your depreciation approach, when did you  
21 stop depreciating for your calculations?

22          A.       June the 8th of '98.

23          Q.       And is it likely the sale is going to occur of  
24 these facilities on June 8th, 1998?

25          A.       No.

1                   MR. DUFFY: That's all I have. Thank you.

2                   JUDGE THOMPSON: Thank, Mr. Duffy.

3 Ms. O'Neill?

4                   MS. O'NEILL: Thank you, your Honor.

5 RECROSS-EXAMINATION BY MS. O'NEILL:

6           Q.       Mr. Ketter, just briefly going back to this

7 12-month period, you were referencing the statute as you

8 were preparing your testimony and going through all your

9 figures; is that correct?

10          A.       Yes.

11          Q.       And the statute in question does say not just

12 a 12-month period, but the 12-month period preceding the

13 approval of the municipality's governing body under the

14 provisions of subsection 2?

15          A.       Yes. That's what I would use in my analysis.

16          Q.       And was it your understanding that all the

17 structures that were occupied and had meters in that

18 12-month period was the base that you were supposed to use?

19          A.       That's how I interpret it.

20          Q.       And that's why you're including the two

21 properties that Mr. Duffy was talking about?

22          A.       Yes.

23          Q.       And they were -- and those two properties were

24 getting electricity from Intercounty during that period of

25 time?

1           A.       During that period of time, yes.

2                   MS. O'NEILL:  Thank you.

3                   JUDGE THOMPSON:  Thank you, Ms. O'Neill.

4 Mr. Comley?

5                   MR. COMLEY:  I have no cross-examination,

6 recross based on the Bench.  Thank you.

7                   JUDGE THOMPSON:  Thank you, sir.  Mr. Dunbar?

8                   MR. DUNBAR:  No questions, your Honor.

9                   JUDGE THOMPSON:  Mr. Frey?

10                  MR. FREY:  Thank you, your Honor.

11 REDIRECT EXAMINATION BY MR. FREY:

12           Q.       Just a couple of things here, Mr. Ketter.

13 First of all, by way of clarification, and this may have

14 prompted some questions from Judge Thompson, but in response

15 to Mr. Comley's questions regarding the 400 percent of gross

16 revenues, do you recall that he was asking you questions

17 about normalizing?

18           A.       Yes.

19           Q.       You made the statement that you did not

20 normalize actual revenues.  Would it not be more correct to

21 say that what you -- what you saw coming, the data that you

22 saw coming you considered to be normalized?

23           A.       I took the actual data, looked for avenues or

24 reasons why it should be changed, and did not.

25           Q.       So it's fair to say, then, that in coming up

1 with your estimate, you did comply with the statutory  
2 requirement that normalized the revenues?

3           A.       In my testimony, I make the point that I did  
4 not adjust the actual revenues.

5           Q.       And that's because you felt that they were  
6 representative --

7           A.       Yes, representative of that 12-month period.

8           Q.       -- of the normal stream?

9                    Mr. Comley also referred to Mr. Ledbetter's  
10 approach to these estimates. Do you recall that?

11          A.       Yes.

12          Q.       And he made reference to the fact that  
13 Mr. Ledbetter had considered his -- in coming up with his  
14 estimates, considered his experience in Shawnee Bend.

15                    Would you say that before anybody was going to  
16 use data from another area, they should, for example, be  
17 comparing labor rates differential -- labor rate  
18 differentials in the two areas? We are, after all, talking  
19 about replacement costs here in Rolla, in the Rolla area,  
20 and not in Shawnee Bend.

21                    So I guess I'm asking you, isn't it possible  
22 that, for example, there were differential labor rates that  
23 could account for some of the differences in these  
24 estimates?

25          A.       My recommendation on that reproduction cost,

1 the basis was Intercounty's average rate that they indicated  
2 was their actual experience in the area. So I didn't go  
3 further into Mr. Ledbetter's average cost. They apparently  
4 or obviously are greater, but they're based on his  
5 experience in other areas of the state.

6 Q. Right. You used -- as I understand your  
7 answer, you used Mr. -- you used Intercounty's experience in  
8 the Rolla area, correct?

9 A. That was the basis for that number.

10 MR. FREY: That's all I have, your Honor.  
11 Thank you, Mr. Ketter.

12 JUDGE THOMPSON: Thank you, Mr. Frey.

13 FURTHER QUESTIONS BY JUDGE THOMPSON:

14 Q. I have one more question for you, Mr. Ketter.  
15 For one element of the compensation, as I understand it,  
16 Staff's position is that competitive bids should be taken?

17 A. Yes.

18 Q. That is for the reintegration, is that it?

19 A. That's it, yes.

20 Q. Okay. Now, you're aware that the statute  
21 requires that compensation occur within 90 days of the  
22 Commission's Order?

23 A. That's the words that are in the statute, yes.

24 Q. Is it feasible to use a competitive bid method  
25 to determine the cost of reintegration where the

1 Commission's Order has to include that value?

2           A.       It poses a difficulty, but I believe the  
3 parties have expressed some interest in that way of  
4 evaluating. RMU indicated that some kind of cap in that  
5 bidding process would be of interest to them. These routes,  
6 I believe the routes have been defined, and hopefully the  
7 style of that reintegration is fairly well-defined. It's  
8 the cost to get those installed.

9                   And I believe that Intercounty would -- for  
10 these eight miles may seek an outside contractor to do this  
11 type of specific work.

12           Q.       Okay. And did Staff select that method  
13 because it considered it to be the best way of achieving  
14 reasonable values for that function?

15           A.       Well, it would advertise these line segments  
16 and what's to be constructed, and the market can bid on  
17 constructing that line. So it would be a -- what the market  
18 would bear for those facilities.

19                   JUDGE THOMPSON: Thank you, Mr. Ketter. Any  
20 additional recross based on my last question, Mr. Duffy?

21                   MR. DUFFY: Yes, sir.

22 FURTHER RECROSS-EXAMINATION BY MR. DUFFY:

23           Q.       Mr. Ketter, I want to direct you to the  
24 sentence in the statute that the Judge just asked you about,  
25 and if you'll permit me, I'm just going to read that

1 sentence that I'm interested in.

2                   The payment of compensation and transfer of  
3 title and operation of the facility shall occur within 90  
4 days after the order and any appeal therefrom becomes final  
5 unless the order provides otherwise.

6                   Would you trust me that I read that  
7 accurately?

8           A.       Yes.

9           Q.       Do you think that the transfer of title and  
10 operation of the facilities in this particular situation  
11 could reasonably occur within 90 days after an order of the  
12 Commission, based on what you've seen?

13          A.       I would not expect that it could be completed  
14 in 90 days. I expect that, if a transfer is ordered, that  
15 there -- there are probably going to be some little issues  
16 that come up to affect the change that we haven't even  
17 thought of yet, but to get the facilities constructed within  
18 90 days is not reasonable.

19          Q.       Do you think, then, that the Commission should  
20 take that into account and provide otherwise in its order  
21 and not feel constrained that it has to have everything  
22 accomplished within 90 days?

23          A.       I didn't anticipate that it would be  
24 accomplished within 90 days. I would suspect the Commission  
25 can make up their own minds.



1           Q.       Well, but you've heard the testimony of  
2 Mr. Strickland. I think he wants two years after the Order  
3 is entered. I think Mr. Bourne or Mr. Watkins has testimony  
4 that maybe -- doesn't allow them that much time to get it  
5 done, but allows in their mind sufficient time to get it  
6 done, but none of those are within 90 days.

7                   So would it be fair to say that the parties  
8 most affected by this proceeding contemplated that the  
9 Commission's Order will not require everything to be done in  
10 90 days and will, therefore, take advantage of this  
11 provision that says, unless the Order provides otherwise and  
12 allows the parties to have reasonable time to accomplish  
13 things?

14          A.       Yes, I believe that's correct. Mr. Strickland  
15 indicated some time that's going to be necessary, and  
16 Mr. Bourne in his implementation plan indicated groups of  
17 customers that would be -- could be transferred at certain  
18 times, and it was over a period of -- I don't recall, but  
19 over a year.

20          Q.       And so if we do that, do you think we would  
21 have time to deal with your suggestion of a competitive bid  
22 process?

23          A.       That would allow some time for that, yes.

24                   MR. DUFFY: That's all I have.

25                   JUDGE THOMPSON: Thank you, Mr. Duffy.

1 Ms. O'Neill?

2 FURTHER RECROSS-EXAMINATION BY MS. O'NEILL:

3 Q. Mr. Ketter, you had indicated that the parties  
4 had talked about a cap, a competitive bid and a cap on  
5 these, correct?

6 A. Yes.

7 Q. And then said something about Rolla had  
8 mentioned it. Do you know whether or not Intercounty had  
9 talked about a cap and competitive bidding with the order?  
10 Any understanding regarding that?

11 A. I don't believe -- I don't recall any from  
12 Intercounty, but this is an expense that Rolla would be  
13 responsible for.

14 Q. Right. As far as what they would be asking  
15 for, did they take a position whether or not a cap would be  
16 something that they would also consider?

17 A. I don't recall.

18 MS. O'NEILL: Okay. Thanks.

19 JUDGE THOMPSON: Are you done?

20 MS. O'NEILL: I am finished.

21 JUDGE THOMPSON: Mr. Comley?

22 MR. COMLEY: Thank you, Judge.

23 RECROSS-EXAMINATION BY MR. COMLEY:

24 Q. Mr. Ketter, regarding your proposal to use a  
25 competitive bid for the reintegration of Intercounty's

1 facilities, would that competitive bid proposal also include  
2 the facilities necessary to maintain service to the stranded  
3 customers we've talked about?

4           A.       I believe the stranded customers are going to  
5 be one-on-one analysis. I mean, we've identified or at  
6 least the utilities have identified those that are going to  
7 have difficulty in maintaining service. Depending upon the  
8 Commission's Order, that might change.

9                   In my testimony I suggested that for those  
10 tough situations a change of supplier might be an option.  
11 Outside of this document, it requires the utilities and the  
12 customers to agree on -- agree on this change of supplier,  
13 but that, I think, is another option that might be pursued.

14           Q.       In the absence of some kind of indication from  
15 the parties or from the Commission that the change of  
16 supplier idea would be acceptable, your proposal, the  
17 competitive bid proposal, would you have -- you would  
18 support putting that cost of stranded customers into your  
19 competitive bid?

20           A.       Yes.

21           Q.       Is that correct?

22           A.       That would be appropriate, yes.

23                   MR. COMLEY: That's all I have. Thank you.

24                   JUDGE THOMPSON: Thank you, Mr. Comley.

25 Mr. Dunbar?

1 MR. DUNBAR: No questions.

2 JUDGE THOMPSON: Mr. Frey?

3 MR. FREY: No questions, your Honor.

4 JUDGE THOMPSON: Mr. Frey, do you rest at this  
5 time?

6 MR. FREY: Yes, your Honor.

7 JUDGE THOMPSON: Thank you.

8 MR. DUFFY: Your Honor, I have copies of  
9 Exhibit 26 that I'd be glad to distribute at this time.

10 JUDGE THOMPSON: That would be great. Please  
11 do. Thank you, Mr. Ketter.

12 (EXHIBIT NO. 26 WAS MARKED FOR IDENTIFICATION  
13 BY THE REPORTER.)

14 JUDGE THOMPSON: I'd like to direct counsel to  
15 please in their Briefs explain to the Commission just what  
16 the meaning is of the last sentence of subsection 6 of  
17 Section 386.800. That is the one directing payment of  
18 compensation and transfer within 90 days of the Order, and  
19 in particular the meaning of the last clause of that  
20 sentence that any appeal therefrom becomes final unless the  
21 Order provides otherwise.

22 This is, as you know, a matter of first  
23 impression, and we'd like to know what it is we're supposed  
24 to do exactly.

25 Kellene, when do you anticipate that the

1 transcript will be available?

2                   THE REPORTER: Ten working days.

3                   MR. DUFFY: I have a calendar. Ten working  
4 days from today? That's the 19th, Tuesday.

5                   JUDGE THOMPSON: Okay. Kellene, we'll have  
6 the transcript on the 19th; is that correct?

7                   THE REPORTER: Yes.

8                   JUDGE THOMPSON: Principal Briefs. Let's see.  
9 When's our drop-dead date? Is it March something? What is  
10 it?

11                  MR. COMLEY: I think we proposed to the  
12 Commission a date in March, and you're right, I can't  
13 remember the exact date.

14                  JUDGE THOMPSON: I can't either, and I don't  
15 have it immediately available here. Is 30 days after the  
16 transcript sufficient for simultaneous Initial Briefs?

17                  MR. DUFFY: I think 20 would be fine.

18                  JUDGE THOMPSON: Okay. 20 is better.

19                  MR. COMLEY: Over the holidays?

20                  JUDGE THOMPSON: Anybody want to say 15?

21                  MR. FREY: 30.

22                  MR. DUFFY: Why don't we just -- why don't we  
23 look at when that works out. If it's 20 days from the 19th,  
24 it would be --

25                  JUDGE THOMPSON: In view of the holidays, why

1 don't we say the Friday closest to January the 19th. What's  
2 that on your calendar?

3 MR. DUFFY: January 19th is a Friday.

4 JUDGE THOMPSON: So January 19th, 2001 for  
5 simultaneous Initial Briefs, and two weeks thereafter for  
6 simultaneous Reply Briefs.

7 MR. DUFFY: That would be February the 2nd.

8 JUDGE THOMPSON: February 2nd.

9 MR. DUFFY: Your Honor, I would think that,  
10 because of the complexity of the issues, the things you've  
11 wanted briefed, I think it would be better to have a little  
12 more time for the Reply Brief than two weeks.

13 JUDGE THOMPSON: Okay.

14 MR. DUFFY: Mr. Comley?

15 MR. COMLEY: I have no objection to that. I  
16 think that's a proper thing.

17 MR. DUFFY: Do you have an idea? I don't want  
18 to go too far here and impinge on the Commission.

19 JUDGE THOMPSON: Let me see if I can dig out  
20 the order extending time for decision so that we'll know  
21 just what we're working with. Our drop-dead date is  
22 March 15th of 2001.

23 MR. DUFFY: For the Commission to issue an  
24 Order?

25 JUDGE THOMPSON: That's correct. So we can

1 have Reply Briefs up to about February 15th.

2                   MR. DUFFY: Well, I wasn't thinking that much  
3 was necessary. I was going to say maybe about February the  
4 8th or 9th.

5                   JUDGE THOMPSON: Okay. What's the Friday  
6 closest to February 8th?

7                   MR. DUFFY: Friday's the 9th.

8                   JUDGE THOMPSON: Very good. Is that  
9 acceptable?

10                  All right. I'd also like to have a  
11 reconciliation, a joint reconciliation. I'll give Staff the  
12 primary responsibility for this. What I anticipate is a  
13 chart with the parties across the top and the issues down  
14 the left side and the value of each item, each party's  
15 position on each item.

16                  Okay. And I'd like that to be filed -- well,  
17 I think it better be filed the same day as the transcript so  
18 that it's available during briefing. So I'd like that  
19 December 19th.

20                  Okay. I have Exhibit 1 offered and received,  
21 Exhibit 3, Exhibit 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,  
22 16, 17, 18, 19, 20, 21, 22, 23, all offered and received.  
23 Of those, Exhibit 15 was received only as an offer of proof.  
24 Exhibits 24 and 25 are still pending, and Exhibit 26 has  
25 been offered and received. Did I miss any?

ASSOCIATED COURT REPORTERS, INC.  
Jefferson City - Columbia - Rolla  
(888) 636-7551

1                   MR. DUFFY: I believe I offered 24, and then  
2 it was the -- I don't believe that it was received, but then  
3 I think it was the Commission's suggestion that we have 25.

4                   JUDGE THOMPSON: Right. Chair Lumpe asked for  
5 Exhibit 25. I'm going to treat 24 and 25 as late-filed  
6 exhibits. So who was going to let me have those?  
7 Mr. Comley?

8                   MR. COMLEY: Yes.

9                   JUDGE THOMPSON: How soon do you think you can  
10 do that? How about the 19th?

11                  MR. COMLEY: I think we can have it before the  
12 19th, but that's certainly -- the 19th is certainly a good  
13 deadline.

14                  JUDGE THOMPSON: Let's say the 19th, and any  
15 objections to late-filed Exhibits 24 and 25 will be due  
16 within five working days or one week.

17                  Okay. Does any party have any other matter to  
18 bring to my attention at this time? Hearing nothing, the  
19 hearing is adjourned. The record is closed except as  
20 previously stated. Thank you all very much. You did a good  
21 job in putting on a difficult case. Thank you.

22                  WHEREUPON, the hearing of this case was  
23 concluded.

24

25



1	I N D E X	PAGE
2	CITY OF ROLLA'S EVIDENCE:	
3	DAN A. WATKINS	
	Cross-Examination (Resumed) by Mr. Comley	290
4	Voir Dire Examination by Mr. Duffy	295
	Cross-Examination (Resumed) by Mr. Comley	297
5	Cross-Examination by Mr. Dunbar	328
	Questions by Commissioner Schemenauer	363
6	Questions by Commissioner Murray	366
	Cross-Examination (Resumed) by Mr. Dunbar	374
7	Questions by Chair Lumpe	388
	Questions by Commissioner Simmons	393
8	Further Questions by Chair Lumpe	394
	Questions by Judge Thompson	396
9	Recross-Examination by Ms. O'Neill	402
	Redirect Examination by Mr. Duffy	408
10	INTERCOUNTY'S EVIDENCE:	
11	JIM KREWSON	
12	Direct Examination by Mr. Comley	419
13	JAMES E. LEDBETTER	
	Direct Examination by Mr. Comley	422
14	Cross-Examination by Mr. Frey	424
	Cross-Examination by Mr. Duffy	432
15	Questions by Chair Lumpe	444
	Questions by Judge Thompson	447
16	Recross-Examination by Mr. Duffy	457
	Redirect Examination by Mr. Comley	460
17	BRIAN NELSON	
18	Direct Examination by Mr. Comley	470
	Cross-Examination by Mr. Frey	473
19	Questions by Chair Lumpe	478
	Questions by Judge Thompson	480
20	VERNON STRICKLAND	
21	Direct Examination by Mr. Comley	482
	Cross-Examination by Ms. O'Neill	486
22	Cross-Examination by Mr. Frey	489
	Cross-Examination by Mr. Duffy	493
23	Questions by Commissioner Schemenauer	498
	Questions by Judge Thompson	504
24	Redirect Examination by Mr. Comley	510
25		

1	SOUTHSIDE NEIGHBORS' EVIDENCE:	
2	DON PRIEST	
3	Direct Examination by Mr. Dunbar	518
4	STAFF'S EVIDENCE:	
5	JAMES L? KETTER	
6	Direct Examination by Mr. Frey	520
7	Cross-Examination by Mr. Comley	523
8	Questions by Judge Thompson	535
9	Recross-Examination by Mr. Duffy	541
10	Recross-Examination by Ms. O'Neill	544
11	Redirect Examination by Mr. Frey	545
12	Further Questions by Judge Thompson	547
13	Further Recross-Examination by Mr. Duffy	548
14	Further Recross-Examination by Ms. O'Neill	551
15	Recross-Examination by Mr. Comley	551
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	EXHIBITS INDEX		
2		MARKED	RECEIVED
3	EXHIBIT NO. 8		
4	Rebuttal Testimony of Jim R. Krewson		420
5	EXHIBIT NO. 9		
6	Rebuttal Testimony of James E. Ledbetter		424
7	EXHIBIT NO. 10		
8	Rebuttal Testimony of Brian Nelson		472
9	EXHIBIT NO. 11		
10	Rebuttal Testimony of Vernon W. Strickland		485
11	EXHIBIT NO. 12		
12	Rebuttal Testimony of Don Priest		519
13	EXHIBIT NO. 13		
14	Rebuttal Testimony of James L. Ketter		523
15	EXHIBIT NO. 14		
16	Cross-Surrebuttal Testimony of James L. Ketter		523
17	EXHIBIT NO. 15		
18	Supplemental Rebuttal Testimony of Vernon W. Strickland		486
19	EXHIBIT NO. 22		
20	Response to Data Request No. 183	295	297
21	EXHIBIT NO. 23		
22	Response to Data Request No. 192	295	297
23	EXHIBIT NO. 24		
24	Exhibit JEL-11	451	
25	EXHIBIT NO. 25		
26	Revised Exhibit JEL-11	*	
27	EXHIBIT NO. 26		
28	"Intercounty Members vs. Rolla Municipal Utilities Sets Precedent in State of Missouri"	553	516