

1                               BEFORE THE PUBLIC SERVICE COMMISSION  
2                               STATE OF MISSOURI  
3                               \_\_\_\_\_  
4                               TRANSCRIPT OF PROCEEDINGS  
5                               HEARING  
6                               September 13, 2000  
7                               Jefferson City, Missouri  
8                               Volume 5  
9                               \_\_\_\_\_  
10  
11       In the Matter of the Joint Application of )  
12       UtiliCorp United, Inc. and the Empire       )  
13       District Electric Company for Authority to) Case No.  
14       Merge The Empire District Electric Company) EM-2000-369  
15       with and into UtiliCorp United, Inc., and,)  
16       in Connection Therewith, Certain Other       )  
17       Related Transactions.                               )

18                               \_\_\_\_\_  
19                               MORRIS L. WOODRUFF, Presiding,  
20                               REGULATORY LAW JUDGE.  
21                               SHEILA LUMPE, Chair  
22                               HAROLD CRUMPTON,  
23                               CONNIE MURRAY,  
24                               ROBERT G. SCHEMENAUER,  
25                               M. DIANNE DRAINER, Vice-Chair  
                             COMMISSIONERS.  
                             \_\_\_\_\_

26       REPORTED BY:  
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A P P E A R A N C E S (CONT'D)

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JUDGE WOODRUFF: There is one other preliminary matter we need to take care of, and that's dealing with Mr. Proctor. Can you explain what the situation with --

MR. DOTTHEIM: Yes. Dr. Proctor, one of his sons --

JUDGE WOODRUFF: Can you use your mic?

MR. DOTTHEIM: Yes. Dr. Proctor, one of his sons is getting married this week and his son is in Seattle, so Dr. Proctor is not in the state.

It's a matter that was brought to the attention to, in particular, UtiliCorp/Empire and I believe the other parties. And the matter of taking Proctor -- Dr. Proctor at some other time other than this week was discussed, but nothing was actually settled upon.

In part, the parties wanted to wait to see if Dr. Proctor filed any additional testimony, cross-surrebuttal, which he did on August 23. And, again, the parties wanted to review that testimony before they made any decision whether they might possibly waive cross-examination.

JUDGE WOODRUFF: Okay. Do the parties want to comment on this situation? Mr. Swearengen?

MR. SWEARENGEN: Well, my first suggestion to

1 Mr. Dottheim was that the State pay to fly me out to Seattle  
2 to take Dr. Proctor's deposition. And Steve said that that  
3 wouldn't be possible, so we really don't have any questions  
4 for him. We see no reason to make any special setting or  
5 schedule to cross-examine him. We don't have any questions  
6 for him.

7 JUDGE WOODRUFF: Does anyone else have any  
8 questions for Dr. Proctor?

9 Hearing none, I guess our problem has gone  
10 away.

11 MR. DOTTHEIM: Presumably then the Bench has  
12 no questions, the Commissioners or yourself, Judge?

13 JUDGE WOODRUFF: I will discuss that with the  
14 Commissioners. And certainly in the past they've been  
15 willing to forego questioning, but I will discuss that with  
16 them at the next available opportunity and let them know.

17 MR. DOTTHEIM: Thank you.

18 JUDGE WOODRUFF: All right. Thank you. Well,  
19 then let's go ahead and we'll just skip over Dr. Proctor's  
20 testimony for now and go on with Mr. Williams?

21 MR. DOTTHEIM: Yes. Staff calls as its next  
22 witness on Regulatory Plan Overall Mr. Phillip K. Williams.

23 (Witness sworn.)

24 JUDGE WOODRUFF: You may be seated.

25 MR. DOTTHEIM: And at this time, I'd like to

1 have Mr. Williams' rebuttal testimony marked as Exhibit 717.  
2 (EXHIBIT NO. 717 WAS MARKED FOR  
3 IDENTIFICATION.)  
4 JUDGE WOODRUFF: You may inquire.  
5 PHILLIP K. WILLIAMS testified as follows:  
6 DIRECT EXAMINATION BY MR. DOTTHEIM:  
7 Q. Mr. Williams, do you have a copy of your  
8 rebuttal testimony which has been marked as Exhibit 717?  
9 A. Yes, sir, I do.  
10 Q. Do you have any corrections to make at this  
11 time to Exhibit 717?  
12 A. Not to my knowledge.  
13 MR. DOTTHEIM: I tender Mr. Williams for  
14 cross-examination.  
15 JUDGE WOODRUFF: You also offer 717?  
16 MR. DOTTHEIM: Yes. Excuse me. I also offer  
17 Exhibit 717.  
18 JUDGE WOODRUFF: For cross-examination then we  
19 start with Natural Resources?  
20 MS. WOODS: No questions.  
21 JUDGE WOODRUFF: IBEW?  
22 MR. JOLLEY: No questions.  
23 JUDGE WOODRUFF: Empire Retirees?  
24 MR. DEUTSCH: No questions.  
25 JUDGE WOODRUFF: Praxair is not here today.

1 City of Springfield is also not here today.

2 Public Counsel?

3 MR. MICHEEL: No questions, your Honor.

4 JUDGE WOODRUFF: And UtiliCorp?

5 MR. SWEARENGEN: No questions, thank you.

6 JUDGE WOODRUFF: No questions from the Bench,

7 so there will be no recross or redirect. You may step down.

8 THE WITNESS: Thank you.

9 JUDGE WOODRUFF: You can call your next

10 witness.

11 MR. DOTTHEIM: The Staff would call as its

12 next witness on the issue of Regulatory Plan Overall Roberta

13 McKiddy.

14 (Witness sworn.)

15 JUDGE WOODRUFF: You may be seated.

16 MR. DOTTHEIM: At this time I'd like to have

17 marked as Exhibit 711 the rebuttal testimony of Ms. Roberta

18 A. McKiddy.

19 (EXHIBIT NO. 711 WAS MARKED FOR

20 IDENTIFICATION.)

21 ROBERTA A. MCKIDDY testified as follows:

22 DIRECT EXAMINATION BY MR. DOTTHEIM:

23 Q. Ms. McKiddy, at this time do you have what has

24 been marked as Exhibit 717 -- excuse me -- 711?

25 A. Yes, I do.

1           Q.     Is that your rebuttal testimony in this  
2     proceeding?  
3           A.     Yes, it is.  
4           Q.     Do you have any corrections to make to  
5     Exhibit 711?  
6           A.     No, I do not.  
7                     MR. DOTTHEIM: At this time then I offer  
8     Exhibit 711 and tender Ms. McKiddy for cross-examination.  
9                     JUDGE WOODRUFF: Okay. Natural Resources?  
10                    MS. WOODS: No questions, your Honor.  
11                    JUDGE WOODRUFF: IBEW?  
12                    MR. JOLLEY: No questions.  
13                    JUDGE WOODRUFF: Public Counsel?  
14                    MR. MICHEEL: No questions.  
15                    JUDGE WOODRUFF: UtiliCorp?  
16                    MR. SWEARENGEN: No questions, thank you.  
17                    JUDGE WOODRUFF: No questions from the Bench,  
18     no recross, no redirect. You may step down.  
19                    I believe that concludes the Staff's portion  
20     of this issue of the Regulatory Plan Overall, so we'll move  
21     on to Public Counsel.  
22                    MR. MICHEEL: Let me ask, your Honor, before I  
23     parade all my people up there, if no one has any questions,  
24     we can just speed it along.  
25                    JUDGE WOODRUFF: I'm certainly willing to do



1       that. Does anyone have any questions for any of the Public  
2       Counsel's witnesses?

3                       Hearing none, I guess there are none then.  
4       All these people will be testifying again later, I assume?

5                       MR. MICHEEL: I think that's correct, your  
6       Honor.

7                       JUDGE WOODRUFF: So we can offer the evidence  
8       and testimony at that time.

9                       MR. MICHEEL: All right.

10                      JUDGE WOODRUFF: Next witness then is  
11       Mr. Meade then for Praxair, and I believe he's also been  
12       excused from appearing today because no one had any  
13       questions for him.

14                      So we'll move on to the OPC Regulatory Plan  
15       Condition starting with UtiliCorp.

16                      MR. SWEARENGEN: Thank you. We'd call  
17       Mr. McKinney unless no one has any questions for him.

18                      JUDGE WOODRUFF: Will anyone have any  
19       questions for Mr. McKinney?

20                      MR. MICHEEL: We'll have no questions.

21                      JUDGE WOODRUFF: We'll move on from  
22       Mr. McKinney then. And Mr. Kind and Mr. Trippensee were  
23       supposed to testify for Public Counsel. Does anyone have  
24       any questions on these issues?

25                      We'll move on from them also.

1 MR. SWEARENGEN: Back to Mr. McKinney.  
2 JUDGE WOODRUFF: Yes. For Acquisition  
3 Adjustment.  
4 MR. SWEARENGEN: See if I can go two for two.  
5 JUDGE WOODRUFF: Will anyone have any  
6 questions for Mr. McKinney on Acquisition Adjustment?  
7 MR. MICHEEL: Yes, I will.  
8 MR. DOTTHEIM: And the Staff has a question.  
9 JUDGE WOODRUFF: Okay. Please come forward.  
10 And, Mr. McKinney, you were sworn yesterday, I believe?  
11 THE WITNESS: That's correct  
12 JUDGE WOODRUFF: You're still under oath.  
13 THE WITNESS: Thank you.  
14 JUDGE WOODRUFF: You may inquire, if you wish.  
15 MR. SWEARENGEN: I will tender the witness for  
16 cross-examination on the issue of Acquisition Adjustment.  
17 Thank you.  
18 JUDGE WOODRUFF: Okay. Beginning with IBEW?  
19 MR. JOLLEY: No questions.  
20 JUDGE WOODRUFF: Retirees?  
21 MR. DEUTSCH: No questions.  
22 JUDGE WOODRUFF: Natural Resources?  
23 MS. WOODS: No questions.  
24 JUDGE WOODRUFF: Public Counsel?  
25 MR. MICHEEL: Thank you, your Honor.

1 JOHN MCKINNEY testified as follows:

2 CROSS-EXAMINATION BY MR. MICHEEL:

3 Q. Mr. McKinney, do you have a copy of your  
4 surrebuttal testimony with you?

5 A. Yes, I do.

6 Q. If you could, turn to page 19 of that  
7 testimony, and I'm focusing on an answer you gave there  
8 starting on line 11.

9 A. Yes.

10 Q. Is it correct you state there, We are simply  
11 asking the Commission to continue this policy of  
12 consideration of an acquisition adjustment and tell us now  
13 in the context of this merger case that it will allow the  
14 requested rate-making treatment of the assigned premium in  
15 post-moratorium rate cases provided that UtiliCorp meets  
16 certain conditions?

17 A. That's the correct reading of the last  
18 sentence of that answer.

19 Q. When you say in that answer "allow the  
20 requested rate-making treatment," does that mean allow  
21 recovery in the post-moratorium rate case or guarantee  
22 recovery of the acquisition premium?

23 A. There's no guarantee. The rate-making  
24 treatment that we've asked for is to allow us to put  
25 50 percent in rate base, amortize that 50 percent as long as

1 we prove up the synergies.

2 Q. So as long as UtiliCorp proves up the synergy  
3 savings -- or the alleged synergy savings, the Commission  
4 would be required to allow the company to recover the  
5 assigned premium; is that correct?

6 A. That's the rate-making treatment we've  
7 requested.

8 Q. So as long as synergies are proven up, the  
9 company is guaranteed recovery of the assigned premium; is  
10 that correct?

11 A. The word "guaranteed," yes, I mean, we've  
12 asked for both sides of it.

13 Q. So even if my office comes in in the  
14 post-moratorium rate case, the one that's going to be filed  
15 in year five, and says, You shouldn't allow the acquisition  
16 adjustment in spite of all the synergy savings, the  
17 Commission would have no choice but to allow the recovery?

18 MR. SWEARENGEN: I'm going to object to that.  
19 That calls for a legal conclusion and this witness can't  
20 make that.

21 JUDGE WOODRUFF: I'm going to overrule the  
22 objection. Go ahead and answer, if you can.

23 THE WITNESS: As I've testified in the  
24 previous proceeding, the Commission has the authority to do  
25 what they would like in any case. We would like them to

1 honor -- if they make a ruling in this case, we would hope  
2 that the Commission in five years would honor that.

3 BY MR. MICHEEL:

4 Q. So you're asking the Commission to make that  
5 commitment in this proceeding; is that correct?

6 A. In this proceeding, yes.

7 Q. Could you turn to page 31 of your testimony?

8 A. Of which one, please?

9 Q. Surrebuttal.

10 A. Thank you. Yes, sir.

11 Q. And I guess starting on line 7 there you say,  
12 It is also my understanding that if an asset is rel-- has a  
13 related premium, that premium would also be transferred to a  
14 new business unit; is that correct?

15 A. That's correct.

16 Q. Has the company at this point in time assigned  
17 any of the acquisition premium to, for example, generation  
18 assets?

19 A. Not a specific allocation, but any acquisition  
20 premium, of course, relates to the assets that you are  
21 acquiring and so an allocation could be made. We have in  
22 other jurisdictions made an assignment of acquisition  
23 premium based on the amount of synergies developed.

24 Q. What method has the company proposed for  
25 assigning premiums to generation or unregulated entities?

1           A.       The unregulated entities, as I discussed in my  
2       interview by the Staff and the OPC, was that the 50 percent  
3       that we're not allocating in rate base we're hopeful that  
4       the non-regulated entities will be able to contribute to the  
5       recovery of that 50 percent. So the company's taking a risk  
6       on that side. So the non-regulated entities will be  
7       contributing on the 50 percent that we're not asking for.

8                    The specific allocation to generation we have  
9       just indicated that -- in other jurisdictions we have talked  
10      about that the premium should be allocated to any specific  
11      area of base on the development of synergies from that area.

12           Q.       Are you aware of any legislation that has been  
13      proposed in Missouri to divest this Commission of its  
14      jurisdiction over generation assets?

15           A.       I believe parties have made those  
16      recommendations. I don't believe it will ever be  
17      successful.

18           Q.       And did UtiliCorp support what's been known as  
19      the Union Electric Bill in the last legislative session?

20           A.       We didn't directly support any bill. We  
21      supported all bills that they were moving in the right  
22      direction. We indicated in my testimony before the  
23      legislature that there were components of each one of the  
24      bills that had good parts. There were other parts that were  
25      not very good. So we did not totally endorse any bill.

1           Q.     Did you support any sections of the Union  
2     Electric Bill?

3           A.     Yes.    Components of it.

4           Q.     What sections did you support?

5           A.     I don't recall at this time.  I didn't file  
6     any direct testimony.  It was verbal and mainly responses  
7     from legislators.

8           Q.     Is it correct that UtiliCorp supported the  
9     section with regard to the transfer of assets?

10          A.     I don't recall.  I didn't directly support  
11     that with any filed testimony.

12                 MR. MICHEEL:  I need to get an exhibit marked,  
13     your Honor.

14                 JUDGE WOODRUFF:  Go ahead.

15                 MR. MICHEEL:  I think it would be Exhibit 205.

16                 (EXHIBIT NO. 205 WAS MARKED FOR  
17     IDENTIFICATION.)

18     BY MR. MICHEEL:

19           Q.     You've been handed what's been marked for  
20     purposes of identification as Exhibit 204.  Is that your  
21     company's response to Public Counsel Data Request --

22                 JUDGE WOODRUFF:  I'm sorry.  Just so we  
23     clarify, it's 205, not 204.

24                 MR. MICHEEL:  I'm sorry.  205.

25                 JUDGE WOODRUFF:  Go ahead.

1 BY MR. MICHEEL:

2 Q. Disregard that 204 up there in the corner,

3 it's 205. Is that Public Counsel's Data Request 3512?

4 A. Yes. I believe it is.

5 Q. And is that signed by Gary Clemens?

6 A. Yes, it is.

7 Q. And do you know who Mr. Clemens is?

8 A. Yes. Gary's a member of my department.

9 Q. Could you look on the third page there?

10 A. Yes.

11 Q. And that's talking about the transfer of

12 assets; is that correct?

13 A. That's correct.

14 Q. And does that indicate that UtiliCorp

15 supported the proposed language regarding transfer of

16 assets?

17 A. On this document, but this document was never

18 offered to the legislature.

19 MR. MICHEEL: Your Honor, with that I'd move

20 the admission of Exhibit 205.

21 JUDGE WOODRUFF: Exhibit 205 has been offered

22 into evidence. Are there any objections to its receipt?

23 Hearing none, it will be received into

24 evidence.

25 (EXHIBIT NO. 205 WAS RECEIVED INTO EVIDENCE.)



1 JUDGE WOODRUFF: You may proceed.

2 BY MR. MICHEEL:

3 Q. Do you know with absolute certainty that this  
4 document was never offered to the legislature?

5 A. Yes. I've asked our legislative  
6 representative to provide me with copies since the St. Joe  
7 hearings of all documents that we filed with the legislature  
8 and a copy of all testimony that was offered to the  
9 legislature. And this document was not part of any of those  
10 documents, so to the best of my knowledge, this document was  
11 not filed with the legislature or offered in testimony.

12 Q. Is it also your belief that there are federal  
13 requirements under PUHCA regarding spinning off generation  
14 assets?

15 A. Yes. That's what I was referring to earlier  
16 when I didn't believe this legislation would ever be  
17 successful. This legislation could be passed at the state  
18 level, but federal legislation will oversee it. And, in my  
19 opinion -- I'm not a lawyer, but I believe it would void it.  
20 PUHCA requires any spin out of generation to go before state  
21 commissions.

22 Q. Are you aware whether or not there's a  
23 movement afoot in Washington to repeal PUHCA?

24 A. There has been for a number of years. They've  
25 never been successful yet.

1 Q. Has your company supported those efforts?  
2 A. At times. More recent years we have.  
3 Q. Is your company supporting those efforts  
4 today?  
5 A. Yes.  
6 MR. MICHEEL: Let me get an exhibit marked,  
7 your Honor. I think it will be 206.  
8 (EXHIBIT NO. 206 WAS MARKED FOR  
9 IDENTIFICATION.)  
10 BY MR. MICHEEL:  
11 Q. Do you have a copy of what's been marked for  
12 purposes of identification as Exhibit 206?  
13 A. Yes, I do.  
14 Q. And focusing on the first page there it says  
15 that Utility, consumer groups back House power deregulation  
16 bill; is that correct?  
17 A. That's correct.  
18 Q. And in the middle it says there that  
19 stakeholders include utilities like UtiliCorp United; is  
20 that correct?  
21 A. That's correct.  
22 MR. MICHEEL: Your Honor, with that, I'd move  
23 the admission of Exhibit 206.  
24 JUDGE WOODRUFF: 206 has been offered into  
25 evidence. Are there any objections to its receipt?

1                   Hearing none, it will be received.

2                   (EXHIBIT NO. 206 WAS RECEIVED INTO EVIDENCE.)

3                   MR. MICHEEL: Thank you, Mr. McKinney.

4                   THE WITNESS: Thank you.

5                   JUDGE WOODRUFF: Questions from Staff?

6                   MR. DOTTHEIM: Yes. Just a couple of

7                   questions.

8                   CROSS-EXAMINATION BY MR. DOTTHEIM:

9                   Q. One to follow-up Mr. Micheel's questions.

10                  Mr. McKinney, you referred to PUHCA, and that's the Public

11                  Utility Holding Company Act of 1935?

12                  A. I don't have the year, but I'll accept that.

13                  Q. Okay. Thank you. Your reference to the

14                  jurisdiction, I presume the jurisdiction of the FERC, the

15                  Federal Energy Regulatory Commission, and state commissions

16                  respecting the spin-off of generation, is it correct that

17                  that jurisdiction is limited to the spin-off of generation

18                  from a utility to an affiliate of that utility?

19                  A. That's correct under the federal rules.

20                  Q. As a consequence, if the utility spun off the

21                  generation or divested itself of the generation to a

22                  non-affiliate, PUHCA would not give the FERC jurisdiction in

23                  that situation, and as a consequence, under PUHCA the state

24                  commissions would not need to address that issue?

25                  A. PUHCA does not address the spin-off of

1 generation to non-affiliates, you're correct. Only to  
2 affiliates.

3 Q. Mr. McKinney, would you agree that UtiliCorp  
4 believes that there are not enough synergies in the proposed  
5 merger transaction to cover 100 percent of the acquisition  
6 adjustment?

7 A. We do not -- if I can -- we do not believe  
8 that there will be enough synergies developed in the Empire  
9 operation to cover 100 percent of the synergy -- of the  
10 premium, that's correct.

11 MR. DOTTHEIM: Thank you.

12 THE WITNESS: That's why we didn't sign it.

13 MR. DOTTHEIM: Thank you, Mr. McKinney.

14 JUDGE WOODRUFF: Questions from the Bench?

15 And, Commissioner, Mr. McKinney is testifying about  
16 Acquisition Adjustment. I made some progress this morning.

17 COMMISSIONER SCHEMENAUER: I have no  
18 questions.

19 JUDGE WOODRUFF: I have no questions. So is  
20 there any redirect?

21 MR. SWEARENGEN: Just a couple, your Honor.

22 REDIRECT EXAMINATION BY MR. SWEARENGEN:

23 Q. Mr. McKinney, in response to a question from  
24 Mr. Dottheim I thought I heard you say that UtiliCorp's  
25 study would indicate that there will not be enough synergies

1 from the proposed Empire merger to cover was it 100 percent  
2 of cost of premium?

3 A. 100 percent of the premium. That's why we've  
4 only put 50 percent of request in our request to this  
5 Commission.

6 Q. A request for 50 percent of direct recovery  
7 through rates?

8 A. That's correct.

9 MR. SWEARENGEN: Thank you. That's all I  
10 have.

11 JUDGE WOODRUFF: Thank you. You may step  
12 down.

13 THE WITNESS: Thank you.

14 JUDGE WOODRUFF: Next witness listed is  
15 Mr. Kehm, and I believe he's also been excused also; is that  
16 correct?

17 MR. SWEARENGEN: That's correct, your Honor.  
18 The next witness, Mr. Myers, is not here this morning. He  
19 is scheduled later on in the week on the issue Savings  
20 Tracking and Benchmarking. And with consent of counsel and  
21 the Commission, I would like to call him at that time, but I  
22 would also make him available for any questions concerning  
23 the issue we're dealing with this morning.

24 JUDGE WOODRUFF: Does anyone have any  
25 objection to that?

1                   Hearing none, that will be fine. Fancher?

2                   MR. SWEARENGEN: Call Mr. Fancher unless no

3 one has questions for him.

4                   JUDGE WOODRUFF: Does anyone have any

5 questions for Mr. Fancher?

6                   Commissioner, would you have any questions for

7 Mr. Fancher?

8                   COMMISSIONER SCHEMENAUER: No.

9                   JUDGE WOODRUFF: We'll pass him on then as

10 well.

11                  MR. SWEARENGEN: Mr. Siemek would be next.

12                  JUDGE WOODRUFF: Does anyone have any

13 questions for Mr. Siemek? Commissioner?

14                  We'll pass him as well. And I believe that

15 completes the Acquisition Adjustment for the companies.

16 Moving over to Staff.

17                  MR. DOTTHEIM: The Staff would call, as its

18 first witness on Acquisition Adjustment, Mark Oligschlaeger.

19                  JUDGE WOODRUFF: Will anyone have any

20 questions for Mr. Oligschlaeger?

21                  MR. SWEARENGEN: Well, I can't pass up an

22 opportunity to visit with Mr. Oligschlaeger.

23                  JUDGE WOODRUFF: And, Mr. Oligschlaeger, you

24 were sworn yesterday, so you're still under oath.

25                  Is Mr. Oligschlaeger tendered for

1 cross-examination?

2 MR. DOTTHEIM: Yes. Mr. Oligschlaeger is

3 tendered for cross-examination.

4 JUDGE WOODRUFF: Natural Resources?

5 MS. WOODS: No questions.

6 JUDGE WOODRUFF: IBEW?

7 MR. JOLLEY: No, sir, I'm sorry.

8 JUDGE WOODRUFF: Retirees?

9 MR. DEUTSCH: No questions.

10 JUDGE WOODRUFF: Public Counsel?

11 MR. MICHEEL: No questions.

12 JUDGE WOODRUFF: UtiliCorp?

13 MR. SWEARENGEN: Thank you, your Honor.

14 MARK OLIGSCHLAEGER testified as follows:

15 CROSS-EXAMINATION BY MR. SWEARENGEN:

16 Q. Mr. Oligschlaeger, first of all, let me ask

17 you, would it be your testimony that, to your knowledge,

18 this Commission has never, as a matter of policy, ruled

19 against direct recovery of an acquisition premium, as a

20 matter of policy?

21 A. If I can interpret your question as asking

22 whether the Commission has ever ruled against an acquisition

23 adjustment and expressed an opinion that under no

24 circumstances should direct recovery of an acquisition

25 adjustment be allowed, I would agree. I am not aware that

1 the Commission has done that.

2 Q. Thank you. You are aware, though, I suppose  
3 in at least one specific case where an acquisition  
4 adjustment was requested, and that would have been a rate  
5 case, the Commission denied that recovery. Would that be a  
6 fair statement?

7 A. I'm specifically aware of the Missouri  
8 American Water rate case from 1995. There may be other  
9 cases.

10 Q. And in that water rate case you just  
11 mentioned, the rate recovery -- direct rate recovery of an  
12 acquisition premium was an issue. Correct?

13 A. Yes, it was.

14 Q. And the company did not prevail? In other  
15 words, the Commission did not authorize in that case direct  
16 rate recovery of the acquisition premium?

17 A. That is correct.

18 Q. Would you agree with me, based on your  
19 knowledge, that there's nothing that would prohibit the  
20 Commission in some case in the future to authorize direct  
21 rate recovery of an acquisition premium?

22 A. That's my understanding.

23 Q. Would it also be your understanding that there  
24 is nothing to prohibit the Commission in this case, in this  
25 Empire/UtiliCorp merger case, from setting up ground rules



1 under which in some future rate case it would, in fact,  
2 authorize direct rate recovery of an acquisition premium?

3 A. There may be some legal aspects to that  
4 question of which I cannot obviously address as I'm not an  
5 attorney. Beyond that, my general understanding of the  
6 Commission's powers would be that it could express its  
7 opinions on such matters in this order if it sought to do  
8 so.

9 Q. Thank you. And, once again, subject to any  
10 legal problems with that type of an approach about which  
11 you're not aware, would you agree with me that any ground  
12 rules that the Commission might set up now in this merger  
13 case could include, for example, a ruling that UtiliCorp's  
14 anticipated energy cost savings would be considered as  
15 merger related?

16 A. I am aware that the company has asked the  
17 Commission to specifically rule on UtiliCorp's contention  
18 that there will be merger-related opportunities in the  
19 off-system sales area while the Staff has alleged that any  
20 such opportunities in the future will be, in its opinion,  
21 non-merger related.

22 The matter has been brought up to the  
23 Commission and they could make that specific determination.  
24 That wouldn't necessarily have any bearing on issues  
25 pertaining to that category in a future rate case such as

1       how would you quantify any alleged merger savings and so on.

2               Q.       So at least you would be willing to concede  
3       that they could make a ruling today or in this proceeding,  
4       whenever the order is issued, that, yes, these anticipated  
5       savings will be considered merger related?

6               A.       It's my understanding they could make that  
7       ruling or they could decide not to make that ruling.

8               Q.       Assuming that they made that ruling, could  
9       they establish a benchmark for that category of cost so that  
10      five years in the future those savings could be measured?

11              A.       Again, it's my understanding that UtiliCorp --  
12      or the joint applicants have asked that the Commission set  
13      benchmarks for various categories of cost. The Commission  
14      would have the power to either agree with the company's  
15      contention in those areas or disagree or not make a ruling.  
16      Once again, there may be legal aspects to the degree in  
17      which such decisions made now would be binding or not  
18      binding for future rate proceedings.

19              Q.       And, once again, setting aside those legal  
20      considerations, should the Commission proceed and make  
21      rulings along those lines, establish, for example,  
22      benchmarks for off-system sales or energy cost savings or  
23      what have you, or other major items of cost, would that not  
24      assist all of the parties and the Commission five years in  
25      the future in attempting then to quantify what those actual

1 merger savings might be?

2 A. I would disagree with the premise of the  
3 question because we -- certainly the Staff's position is  
4 that given the inherent difficulty in measuring what true  
5 merger-related cost savings or merger costs will be in the  
6 future, to direct five years in advance what a specific  
7 benchmark would be without knowledge of how appropriate it  
8 may appear to the parties five years from now, I'm not sure  
9 I would agree that that would be helpful.

10 Q. Let me ask you this question. You would  
11 agree, would you not, that under UtiliCorp's proposed  
12 regulatory plan, in order for UtiliCorp in that rate case  
13 five years in the future to have an opportunity to recover  
14 any of the premium, that UtiliCorp would have to demonstrate  
15 merger synergies or savings at least equal to that amount.  
16 Is that not correct?

17 A. I'm sorry. Could you repeat that question?

18 Q. In order for UtiliCorp in that post-moratorium  
19 rate case five years in the future to have an opportunity to  
20 recover what we have called the assigned premium, would they  
21 not have to demonstrate at that time merger savings or  
22 synergies at least equal to that assigned premium?

23 A. As I understand your regulatory plan, it is  
24 your contention that the company would have to demonstrate  
25 such merger benefits or merger savings in order to recover

1 the portion of the premium you're requesting direct recovery  
2 of.

3 Q. Do you disagree with that contention?

4 A. Do I -- that the company has to demonstrate  
5 merger savings in order to request direct recovery of the  
6 acquisition adjustment? I don't think you have to.

7 Q. No. The question is would the company not  
8 have to demonstrate or prove merger savings in that case in  
9 order to secure the direct rate recovery of the acquisition  
10 premium as it has requested?

11 A. Well, it's the Staff's position that any such  
12 demonstration in a future rate case is irrelevant to the  
13 question of how the acquisition adjustment should be treated  
14 for rate purposes.

15 However, if a party does believe that merger  
16 savings has a direct bearing on whether acquisition  
17 adjustment should be given above the line treatment or not,  
18 then obviously that's a relevant consideration and that  
19 party should present evidence supporting or rejecting that  
20 contention.

21 Q. Well, let me ask the question this way. Under  
22 the company's proposed regulatory plan, as you understand  
23 it, do you think the company would be entitled to direct  
24 rate recovery of the assigned premium in that  
25 post-moratorium rate case if it cannot prove up merger

1 savings or synergies equal to that assigned premium?

2 A. The Staff's position would be it's not  
3 entitled to recovery under that situation and it's not  
4 entitled to direct recovery even if it, in fact, did  
5 purport -- or the Commission did accept some evidence of  
6 merger savings.

7 Q. I understand that's the Staff's position, but  
8 what I'm asking you is what is your understanding of what  
9 the company is proposing under the regulatory plan?

10 A. What the company is purporting -- or is  
11 proposing is that to the extent it can demonstrate the  
12 existence of merger savings in excess of the component -- or  
13 in excess of the requested 50 percent direct recovery of the  
14 acquisition adjustment, it should be allowed to receive that  
15 direct recovery.

16 Q. Thank you. Now, I recall in connection with  
17 the proposed UtiliCorp/St. Joseph Light and Power Company  
18 merger proceeding you made the statement, and I think you've  
19 made it here several times, that it would be very difficult  
20 and perhaps or probably impossible for UtiliCorp to show  
21 merger savings in that post-moratorium rate case. Would I  
22 assume that you would make the same statement in connection  
23 with the proposed UtiliCorp/Empire merger?

24 A. Yes, I would.

25 Q. And, once again, so we're clear on the record,

1       this is tied to your belief -- to the Staff's belief that it  
2       would be impossible to track merger savings; is that  
3       correct?

4               A.       That -- as a practical matter, it is extremely  
5       difficult and perhaps impossible to track merger savings  
6       after the fact.

7               Q.       And this ties back to something I think we  
8       touched on yesterday and it relates back to the Staff's  
9       concern that five years in the future, if this merger  
10      occurs, the rates might actually be higher for Empire than  
11      they would have been if the merger had not occurred.

12              My question is, whether or not rates under an  
13      Empire stand-alone company will be lower in five years in  
14      the future if the merger does not occur or higher if it does  
15      occur cannot be demonstrated or proven with reasonable  
16      accuracy at the present time; is that true?

17              A.       Any attempt to make predictions on what future  
18      levels of Empire rates would be five years in the future  
19      obviously would involve guesswork at this point.

20              Q.       So the Staff or anyone else for that matter in  
21      your view would not be able to prove that now. True?

22              A.       At this point that rates will be higher?

23              Q.       Or lower?

24              A.       Or lower? No. All we can do is look at the  
25      evidence of the merger savings and merger costs and, you

1 know, draw some conclusions there.

2 Q. And, likewise, five years in the future if the  
3 merger is approved, you, the Staff, would not be able to  
4 prove at that time that rates would have been lower if  
5 Empire had continued as a stand-alone company; is that true?

6 A. As a practical matter, five years from now,  
7 no. You couldn't -- you could not make that kind of  
8 statement with certainty.

9 Q. I think I asked you this question in  
10 connection with the UtiliCorp/St. Joseph Light & Power  
11 Company merger and I'll ask it here today in connection with  
12 the proposed Empire/UtiliCorp merger.

13 Assuming that the Commission does approve the  
14 merger and the proposed regulatory plan, are you confident  
15 that in the post-moratorium rate case five years in the  
16 future that UtiliCorp will be unable to meet its burden of  
17 proof in establishing that the merger savings or synergies  
18 either meet or exceed the assigned premium?

19 A. Obviously the judgment of whether UtiliCorp  
20 will have met its burden of proof at that time is up to the  
21 Commission. What we have seen, particularly the example of  
22 UtiliCorp's rate proceeding last year in Kansas in which a  
23 merger savings and, in fact, a merger tracking issue took  
24 place, was there were allegations that quite a few costs  
25 were associated with the merger by the companies that the

1 Commission ultimately rejected.

2 I would expect to see the same kind of  
3 evidence presented in a future Missouri UtiliCorp rate. And  
4 I would expect the parties to weigh in on that issue. I  
5 would expect it to be very contentious and that the  
6 Commission would have to weigh the evidence.

7 Q. So let me ask you this question then in view  
8 of that answer. You are not 100 percent confident, are you,  
9 that UtiliCorp will be unable to meet its burden of proof in  
10 that case?

11 A. I cannot predict which way the Commission will  
12 rule based on the evidence presented by all the parties.  
13 That's just speculation. I am confident, based on just the  
14 inherent nature of merger savings and attempts to track them  
15 as well as this specific example that we've seen in the  
16 WestPlains case, that the Staff, I think, will subject any  
17 claims of merger savings to considerable scrutiny and make  
18 our opinions known to the Commission.

19 Q. Well, let's talk about that WestPlains, Kansas  
20 case for a minute. It's your understanding that UtiliCorp  
21 did receive some direct -- did receive direct rate recovery  
22 of some of the premiums in that proceeding? Is that your  
23 understanding?

24 A. To be truthful, I don't know.

25 Q. Assuming that that was, in fact, the result,



1 would you agree that UtiliCorp must have met its burden of  
2 proof in that proceeding?

3 A. I'm not necessarily aware of the specific  
4 legal standards that govern rate proceedings in the state of  
5 Kansas. From my knowledge of the WestPlains case, which I  
6 believe I took a look at the Report and Order a while back  
7 and also looked at the excerpt that we have included in our  
8 testimony, in Janis Fischer's rebuttal testimony, there were  
9 any number of areas in which the company cited or claimed  
10 the existence of merger savings which the Commission  
11 rejected.

12 It is -- it is my understanding that the  
13 Commission found some evidence of connection to the merger  
14 for some of the asserted merger claims -- merger savings  
15 claims.

16 Q. Thank you. Let's get back to Missouri and  
17 talk about what might happen here five years in the future.  
18 Would you then concede that it is, in fact, possible that  
19 UtiliCorp will be able to meet its burden of proof in that  
20 post-moratorium rate case and prove up merger savings or  
21 synergies equal to the assigned premium?

22 A. From the Staff's perspective, I highly doubt  
23 it for the reasons recited in our testimony, given the  
24 nature of claims of merger savings after the fact. From the  
25 Commission's perspective, what the Commission would rule on

1       such an issue, I can't say at this juncture.

2               Q.       Assuming that the Commission would, in fact,  
3       determine that UtiliCorp had met its burden of proof and  
4       would issue an order allowing direct recovery of the  
5       assigned premium and set rates based on that, would you  
6       agree that those rates would be presumed to be just and  
7       reasonable?

8               A.       It's my understanding that new rate levels set  
9       by the Commission are presumed to be just and reasonable.

10              Q.       Now, let's look at it from the other  
11      perspective. Assuming that you are right, assuming the  
12      Staff is right and UtiliCorp is unable to meet its burden of  
13      proof in that post-moratorium rate case and prove up merger  
14      synergies equal to the assigned premium, then the rates that  
15      would be established in that case would not reflect direct  
16      rate recovery of any of the premium; is that true?

17              A.       I believe under the assumptions you stated,  
18      that would be true.

19              Q.       I think it's at page 26 of your rebuttal  
20      testimony. You might want to turn to that,  
21      Mr. Oligschlaeger. Do you have that in front of you?

22              A.       Yes, I do.

23              Q.       You make the statement that simply the attempt  
24      by UtiliCorp to seek recovery of a part of the merger  
25      premium is a detriment to the public interest.

1 Am I reading your testimony correctly?

2 A. I don't see the exact wording that you  
3 characterized. My position to be found in my testimony,  
4 what we are alleging is that we believe that the acquisition  
5 adjustment in this case is a detriment which the Commission  
6 should deal with in the current proceeding.

7 Q. Here's what I'm looking at, Mr. Oligschlaeger.  
8 On page 26 at line 9 the question to you is, Is the attempt  
9 by UtiliCorp to seek recovery of a part of the merger  
10 premium in this proceeding, meaning the merger proceeding, a  
11 detriment to the public interest? Answer, Yes. The Staff  
12 asserts that it is.

13 Is that correct?

14 A. Yes. That is correct.

15 Q. Then turn to page 27 and once again let me ask  
16 you, do you really mean that the attempt to seek recovery is  
17 a detriment or do you mean, as you say on page 27, that the  
18 Staff used recovery of acquisition adjustments in rates as  
19 detrimental to the public interest?

20 A. Okay. I'm not sure in the context of the  
21 company's overall regulatory plan that I see a large  
22 distinction there, because I believe that the proposed  
23 regulatory plan is seeking that the Commission make  
24 determinations regarding the acquisition adjustments in this  
25 proceeding.

1           Q.       Now, how is the attempt to secure rate-making  
2       treatment of the acquisition adjustment a detriment?

3           A.       It is our view that because of -- for the  
4       reasons stated in my testimony, first of all, the -- our  
5       contention that the merger premium is based both upon  
6       projected mer-- or regulated merger savings and  
7       non-regulated merger benefits as well as the fact that the  
8       costs of the merger are known with much greater certainty  
9       than any future savings that might be flown -- or that might  
10      be flowed to customers, that above the line treatment of an  
11      acquisition adjustment is detrimental to the public  
12      interest. And, further, that we view that the company is  
13      seeking approval of such above the line treatment in this  
14      case.

15          Q.       But I think you indicated earlier this morning  
16      that the Commission has never made a policy statement to  
17      that effect. Is that not correct?

18          A.       That is correct to the extent the acceptance  
19      of the Staff's position would mean a change in policy by the  
20      Commission and we would urge them to change that policy.

21          Q.       And the Commission, in fact, has left the door  
22      open to companies such as UtiliCorp to seek direct rate  
23      recovery of acquisition premiums. Is that not true?

24          A.       To my knowledge, they have never indicated the  
25      companies could not seek such rate treatment.

1           Q.       But, once again, it's the Staff's view that  
2       simply the attempt to do that, which is what we would be  
3       seeking to do in that post-moratorium rate case five years  
4       in the future, would be a detriment?

5           A.       Well, again, that's a different situation  
6       because once again we view that the company is seeking up  
7       front rate decisions regarding the acquisition adjustment in  
8       this case.

9           Q.       Let's talk about five years in the future.  
10       You say that's a different situation. Would you say that if  
11       the company seeks direct rate recovery of the acquisition  
12       premium or the assigned premium in that rate case five years  
13       in the future, that the attempt in that instance would not  
14       be a detriment?

15          A.       No. We believe that any attempt or any  
16       recovery of the acquisition adjustment above the line would  
17       be detrimental.

18          Q.       Okay. So you would say that an attempt five  
19       years in the future to recover an acquisition premium would  
20       be detrimental?

21          A.       As that attempt is detrimental here, yes.

22          Q.       So, once again, in that rate case five years  
23       in the future the company attempts to seek premium recovery  
24       and let's assume it meets its burden of proof and the  
25       Commission authorizes it. Is it your testimony then that

1 the Commission would be taking an action that's detrimental  
2 to the public?

3 A. No. The Commission would be weighing the  
4 evidence supplied by the parties in terms of detriment and  
5 making a decision based on the evidence as it perceives it.

6 Q. Are you generally familiar with the proceeding  
7 back, I think, in 1996 or 1997 where this Commission  
8 approved a merger between Union Electric Company and I  
9 believe it's Central Illinois Public Service, CIPSCO?

10 A. I'm generally familiar with it, yes.

11 Q. Would you agree with me that in the context of  
12 approving that merger, the Commission also approved the  
13 continuation of a sharing grid that Union Electric Company  
14 was then enjoying?

15 A. The sharing grid was approved by the  
16 Commission and in existence prior to either the announcement  
17 of that merger or the Commission's rulings on the merger  
18 application. So I do not recall that the Commission had to  
19 specifically approve continuance of the incentive plan.

20 Q. But if it did, that would be reflected in that  
21 Report and Order. Is that not true?

22 A. Yes.

23 MR. SWEARENGEN: Thank you. Your Honor, I  
24 would like the Commission to take official notice of its  
25 Report and Order in that docket, EM-96-149.

1 JUDGE WOODRUFF: Do you have a copy of it?

2 MR. SWEARENGEN: I do. I'll make copies

3 available.

4 JUDGE WOODRUFF: The Commission will take

5 notice of that. And if you will provide copies, that will

6 be most helpful.

7 MR. SWEARENGEN: I will. That's all I have.

8 Thank you.

9 JUDGE WOODRUFF: Thank you.

10 Questions from the Bench, Commissioner

11 Schemenauer?

12 COMMISSIONER SCHEMENAUER: Thank you, your

13 Honor.

14 QUESTIONS BY COMMISSIONER SCHEMENAUER:

15 Q. Good morning.

16 A. Good morning.

17 Q. I just have a few related to the acquisition

18 adjustment. And I want to try to understand the company's

19 proposal a little more clearly.

20 The five-year rate moratorium that they're

21 proposing, during that five years, the synergies that they

22 propose to keep for the company, will they offset the

23 acquisition premium, the 270 million? Will any of those

24 synergies offset that?

25 A. It will not be a direct offset. The increased

1 net income or profits the company would make as a result of  
2 any achieved merger savings would have the impact of  
3 offsetting the negative financial impact of amortization of  
4 the acquisition adjustment and the -- the rate base  
5 treatment of it.

6 Q. So during the first five years they would  
7 amortize \$270 million? That's the 40-year amortization  
8 starting point?

9 A. Under their proposal it would be \$275 million  
10 that would be amortized over 40 years beginning with merger  
11 approval.

12 Q. And in addition to that, they would want to  
13 book \$29 million a year carrying costs on that acquisition  
14 premium? That was in Mr. Siemek's testimony, I think, on  
15 one of his charts.

16 A. I don't believe that that's accurate, that  
17 they are seeking to somehow book the carrying cost amounts  
18 or defer that amount for future recovery. That is not my  
19 understanding of what they're proposing.

20 Q. Okay. Even though it was in Mr. Siemek's  
21 schedules and he showed 29 million a year for the first five  
22 years and 26 million a year for the next five in his  
23 acquisition premium, and then I think he had an amount for  
24 the income tax liability on premium that the ratepayers  
25 would also pick up?



1           A.       Okay. Obviously Mr. Siemek will be up later,  
2 I believe, on other issues and you can probably get answers  
3 from him directly.

4           Q.       So from Staff's viewpoint, the first five  
5 years they would amortize one-fortieth of the amortization  
6 premium a year to expenses, recover that directly from the  
7 ratepayers. After five years, they would seek to still  
8 recover for the next 35 years, I assume, the amortization on  
9 the acquisition premium and also recover directly above the  
10 line the costs to achieve the merger which I think are  
11 33 million; is that correct?

12          A.       Okay. The Staff views that the five-year rate  
13 moratorium -- by allowing the company to retain the achieved  
14 merger savings during that period would amount to indirect  
15 recovery of the acquisition adjustment from customers  
16 because their rates would not be reduced during that period  
17 to flow into that savings for them.

18                   I don't believe we could characterize that  
19 necessarily as direct recovery. That would start in year  
20 six under their proposal to recover the 50 percent that  
21 they're seeking direct recovery of.

22                   Also, it's my understanding that they are not  
23 seeking the Commission to authorize recovery of the  
24 acquisition premium beyond year 10. I believe they're  
25 holding it open that they can seek that further recovery at

1 a later point in time.

2 Q. Okay. In your testimony you have a chart that  
3 shows the -- if I can find it here -- the first 10 years,  
4 the merger savings, I think it's on page 40.

5 A. Yes.

6 Q. Now, the first five years they total up  
7 roughly \$100 million -- 98 million or 99 million?

8 A. I should clarify. This chart represents  
9 50 percent of the company's estimated merger savings. So  
10 they are projecting they will actually achieve levels of  
11 twice these amounts during the first 10 years.

12 Q. If they achieve those amounts, I mean, twice  
13 that amount, wouldn't that amount to almost the entire  
14 acquisition premium in 10 years?

15 A. Okay. If you -- we -- if you look at the --  
16 Mr. Siemek's Schedule 1, I believe it shows during the first  
17 five years there is a shortfall in the merger savings that  
18 go to customers -- or that -- not go to customers because  
19 none go to customers in the first five years.

20 There's a shortfall between the amount of  
21 merger savings achieved and full recovery or even recovery  
22 of 50 percent of the acquisition adjustment. Now, over time  
23 the balance of the acquisition adjustments declines as the  
24 amortization hits year after year and merger savings  
25 generally increase year after year. So they do recover more

1 in the second five years.

2 But when you look at the overall impact of  
3 both the merger savings estimated, the transaction and  
4 transition costs and corporate allocations in none of the  
5 first 10 years will merger savings net of corporate  
6 allocations and costs to achieve ever be enough to offset  
7 100 percent of the premiums revenue requirement impact.

8 Q. Okay. In the first five years with the frozen  
9 rate structure that they're proposing, they would keep all  
10 the synergies achieved that they document. And then in the  
11 next five years, would they take the balance of the -- I'm  
12 trying to get this straight in my mind. Would they take the  
13 balance of the acquisition premium and seek to amortize that  
14 for the last 35 years? I mean, they're going to take the  
15 full amount in year one and amortize it over four years,  
16 275 million; is that correct?

17 A. That's correct.

18 Q. And they're going to recover part of that in  
19 synergies in the first five years?

20 A. That's correct.

21 Q. Plus there will be -- that would be more than  
22 what they amortize in the first five years, their recovery?

23 A. Once again, it's my understanding based on the  
24 numbers put together by Mr. Siemek and sponsored by  
25 UtiliCorp, that during the first five years the estimated

1 merger savings will not be sufficient to recover the  
2 acquisition. The annual acquis--  
3 Q. It will not be enough to?  
4 A. Right. And the carrying costs and the income  
5 tax aspect of the amortization.  
6 Q. During the first five years none of the costs  
7 to achieve or the transaction costs will be in any of those  
8 computations? That will begin in year six; is that correct?  
9 A. A direct rate recovery of the acquisition  
10 adjustments and the transaction and transition costs under  
11 their proposal would begin in year six.  
12 Q. And continue through year ten?  
13 A. Yes.  
14 Q. And even that won't recover all of it, but  
15 will they continue to amortize the acquisition premium over  
16 the next 30 years or does it stop at year 10?  
17 A. It's my understanding that amortization would  
18 continue for the full 40 years.  
19 COMMISSIONER SCHEMENAUER: Okay. Thank you.  
20 That's all I have.  
21 JUDGE WOODRUFF: Thank you. Go to recross  
22 then. Anyone have any questions on recross?  
23 Okay. Hearing none, then redirect?  
24 MR. DOTTHEIM: Thank you.  
25 REDIRECT EXAMINATION BY MR. DOTTHEIM:

1           Q.       Mr. Oligschlaeger, I think Mr. Swearengen  
2       asked you a question regarding whether the Commission --  
3       whether the Commission could make findings in this  
4       proceeding regarding whether items are merger related. Does  
5       that decision address the full range of the scope of the  
6       Staff's concerns?

7           A.       In terms of the ability to actually quantify  
8       the items in question as well as the determination of what,  
9       in fact, would be an appropriate benchmark if, in fact, a --  
10      some savings tracking mechanism were to be considered, I do  
11      not believe that the Commission's judgment on the narrow  
12      issue you asked me to assume in your question would be  
13      sufficient to resolve those matters in any way.

14          Q.       Would that include all categories of cost?

15          A.       Yes. My answer reflects all categories of  
16      potential costs, potential merger savings that have been  
17      alleged by the joint applicants.

18          Q.       Such as off-system sales?

19          A.       Including off-system sales, all of them.

20          Q.       Mr. Swearengen, I believe, asked you whether  
21      from the Staff's perspective it would be possible, for  
22      example, five years out, to say that costs would have been  
23      lower if UtiliCorp/Empire had remained stand-alone  
24      companies. What is, from the Staff's perspective, the scope  
25      of the problems with trying to go five years out and make

1 determinations?

2 A. The inherent problems associated with any  
3 savings tracking mechanism is identifying was this cost  
4 impact related to the merger or was it related to some  
5 non-merger-related impact? It is a serious problem to start  
6 with and it just gets magnified as you go out in time when  
7 you consider all of the different impacts which would affect  
8 Empire's and UtiliCorp's cost of service over the next five  
9 years.

10 And those impacts could include new  
11 re-engineering or downsizing efforts. Those impacts could  
12 include additional merger and acquisition activity, which  
13 has a cost impact and all of the existing divisions within  
14 the UtiliCorp family and how you try to untangle those  
15 threads of causes or impacts on their financial earnings is  
16 to me in-- insoluble.

17 Q. Does that include all categories of cost?

18 A. Again, that would be an inherent problem with  
19 all categories of cost in all of the alleged categories of  
20 merger savings or benefits that have been alleged by the  
21 joint applicants.

22 Q. Including, for example, off-system sales?

23 A. Yes.

24 Q. I believe Mr. Swearengen asked you a number of  
25 questions regarding historically what the Commission has

1       done respecting mergers and what the Commission has decided  
2       or not decided. What is your understanding that the  
3       Commission has decided or not decided historically in the  
4       context of merger cases?

5               A.       I am not aware of the Commission making  
6       determinations regarding rate matters such as recovery or  
7       non-recovery of acquisition adjustments in the merger  
8       application itself. Those issues have been historically and  
9       traditionally reserved to subsequent rate proceedings.

10              MR. DOTTHEIM: Thank you.

11              JUDGE WOODRUFF: Thank you. You may step  
12       down.

13              Next witness, I believe, is Mr. Featherstone.  
14       Does anyone have any questions for Mr. Featherstone?

15              Hearing none, you can sit back down then,  
16       Mr. Featherstone.

17              Next witness then is Charles Hyneman. Will  
18       anyone have any questions for Mr. Hyneman?

19              Okay. Next witness then is Janis Fischer, I  
20       believe. Any questions for Ms. Fischer?

21              All right. Hearing none, the next witness is  
22       David Broadwater. Would there be any questions for  
23       Mr. Broadwater?

24              And hearing none, last witness is Mr. Proctor,  
25       and as we've discussed earlier, he's not here.

1                   So we'll move on to Public Counsel. First  
2       witness listed for Public Counsel is Ted Robertson. Will  
3       anyone have any questions for Ted Robertson?  
4                   Hearing none, next witness is Ryan Kind for  
5       Public Counsel. Does anyone have any questions for  
6       Mr. Kind?  
7                   Hearing none, that completes Public Counsel on  
8       this issue.  
9                   David Meade from Praxair is not here and has  
10      been excused.  
11                  Moves us on to Frozen Capital Structure. For  
12      UtiliCorp I believe the first witness was John McKinney.  
13      Does anyone have any questions for Mr. McKinney?  
14                  MR. MICHEEL: I do.  
15                  JUDGE WOODRUFF: Okay. Mr. McKinney, if you'd  
16      come forward again, please.  
17                  MR. SWEARENGEN: I understand Mr. McKinney  
18      will be here shortly.  
19                  JUDGE WOODRUFF: We're just moving too fast  
20      for everyone here. Do we want to go on with the next  
21      witness?  
22                  MR. SWEARENGEN: Call Mr. Siemek.  
23                  JUDGE WOODRUFF: Does anyone have any  
24      questions for Mr. Siemek?  
25                  We're going so fast there are people leaving



1 the room and coming and going. I want to make sure everyone  
2 has a fair opportunity. Anyone have any questions for  
3 Mr. Siemek?

4 MR. SWEARENGEN: Call Mr. Fancher.

5 JUDGE WOODRUFF: All right. Anyone have any  
6 questions for Mr. Fancher? Again, Mr. Fancher's off the  
7 hook.

8 And Mr. McKinney hasn't arrived back yet, so  
9 we'll just go on to Staff on Frozen Capital Structure,  
10 Mr. Broadwater, I believe, is the first witness. Anyone  
11 have any questions for Mr. Broadwater?

12 Hearing none, the next witness listed is  
13 Mr. Featherstone. Does anyone have any questions for  
14 Mr. Featherstone?

15 Again, hearing none, we'll over to Public  
16 Counsel and Mr. Burdette. Anyone have any questions for  
17 Mr. Burdette?

18 Hearing none --

19 MR. SWEARENGEN: Mr. McKinney has arrived on  
20 the scene.

21 JUDGE WOODRUFF: I saw him come in. Please  
22 come forward, Mr. McKinney.

23 THE WITNESS: You moved quicker than I thought  
24 you would.

25 JUDGE WOODRUFF: Quicker than I thought we

1       would too. And you are still under oath.

2                   THE WITNESS: Thank you.

3                   JUDGE WOODRUFF: Is he ready to be tendered?

4                   MR. SWEARENGEN: He's on his own.

5                   JUDGE WOODRUFF: Again, to save some time, I

6       know Public Counsel indicated they had questions. Does

7       anyone else have questions for Mr. McKinney?

8                   All right. Then we'll go ahead and start with

9       Public Counsel.

10       JOHN MCKINNEY testified as follows:

11       CROSS-EXAMINATION BY MR. MICHEEL:

12               Q.       Mr. McKinney, would you agree with me that the

13       proposed regulatory plan would lock in the capital structure

14       used to set rates for the Empire division of UCU for

15       10 years?

16               A.       Well, the first rate case would be in the

17       post-moratorium rate case. And we've agreed that we would

18       accept the capital structure that comes out of the

19       pre-moratorium rate case. We've made a recommendation now

20       of what it should be.

21               So the pre-moratorium rate case -- I believe

22       Mr. Fancher has a recommendation in his testimony of what it

23       should be. But then we've agreed that we would accept that

24       capital structure in the post-moratorium rate case and that

25       it should be in effect through years six through ten, that's

1 correct.

2 Q. So whatever capital structure is decided on in  
3 the pre-moratorium rate case would be utilized in the  
4 post-moratorium rate case and any other rate case going  
5 forward for years six through ten; is that correct?

6 A. That's correct.

7 Q. Would you agree with me that the actual  
8 capital structure of both UCU and Empire have changed over  
9 the past 10 years?

10 A. Somewhat, yes.

11 Q. Is it correct that UCU has not made any  
12 promises or guarantees that the actual capital structure  
13 going forward supporting the Empire division will match  
14 either the capital structure of UCU or the proposed -- or  
15 the capital structure found for Empire in the pre-moratorium  
16 rate case?

17 A. No, we have not.

18 Q. Would you agree with me that if market  
19 conditions would lead UCU executives to change the company's  
20 actual capital structure, those changes would not and could  
21 not be reflected in rates during the period of the company's  
22 regulatory plan in six through ten; is that correct?

23 A. Are you talking UtiliCorp's capital structure?

24 Q. Yes, sir.

25 A. That's correct. We would ask for them to be

1 frozen.

2 Q. And let me understand this. If the merger  
3 goes through -- assume that for me, if you will -- Empire  
4 will become a division of UtiliCorp United, Inc.; is that  
5 correct?

6 A. That's correct. An operating division.

7 Q. And so it won't have its own stock; is that  
8 correct?

9 A. That's correct.

10 Q. Do you know if it will issue its own debt or  
11 will the debt be supported by UCU?

12 A. It will not have its own debt issued. UCU in  
13 the merger is assuming the debt of Empire.

14 Q. So Empire will have none of its own indica of  
15 capital structure that it does now, for example, long-term  
16 debt, common stock, preferred stock; is that correct?

17 A. That's correct. We'll use the divisional  
18 capital concept that we've used before in this Commission.

19 Q. Would you agree with me that the cost of debt  
20 for a company can change over time?

21 A. That's correct.

22 Q. Would you agree with me that if the markets  
23 change and debt becomes -- there is opportunity to lower the  
24 debt costs, that UCU would take those opportunities and  
25 refinance?

1           A.       That's correct. But we're talking capital  
2       structure, not cost of the components. We're talking what  
3       percent equity, what percent debt, not the cost of each one  
4       of those components.

5           Q.       Would you agree with me that the percentage of  
6       equity can change over time?

7           A.       It does somewhat. Not materially, but it does  
8       somewhat.

9           Q.       Would you agree with me that the percentage of  
10      debt can change over time?

11          A.       My answer would be the same. It does  
12      somewhat, not materially.

13          Q.       Would you agree with me that those changes in  
14      equity and debt affect cost rates for that equity and debt?

15          A.       They could.

16          Q.       In other words, equity is generally more  
17      expensive than debt; is that correct?

18          A.       To the customer, yes.

19          Q.       So if there is a higher equity structure, for  
20      example, rates could possibly be higher; is that correct?

21          A.       It's possible.

22          Q.       Is it correct under the proposed regulatory  
23      plan that Empire's cost of capital for the second half of  
24      that plan would be based on a normalized capital structure  
25      and then the embedded cost of debt and cost of common

1 equity?

2 A. Yes. Once the moratorium would go into

3 effect, the rates would be frozen for that five-year period

4 and then we would have the post-moratorium rate case and

5 then the rates and costs would be set at that point in time.

6 Q. And that would be regardless of actual changes

7 in capital structure or the cost of capital; is that

8 correct?

9 A. Well, the cost of capital we have not asked to

10 be locked in. We've asked for the capital structure is what

11 we're talking about.

12 MR. MICHEEL: Thank you very much.

13 THE WITNESS: Thank you.

14 JUDGE WOODRUFF: Anything from Staff?

15 MR. DOTTHEIM: Nothing, your Honor.

16 JUDGE WOODRUFF: Thank you. Questions from

17 the Bench?

18 COMMISSIONER SCHEMENAUER: No questions, your

19 Honor.

20 JUDGE WOODRUFF: So there's no recross. Any

21 redirect?

22 MR. SWEARENGEN: Just a couple, your Honor. I

23 want to make sure the record's clear on this.

24 REDIRECT EXAMINATION BY MR. SWEARENGEN:

25 Q. Mr. McKinney, Public Counsel was talking about

1 capital structure that you're proposing in the  
2 pre-moratorium and also the post-moratorium rate cases.  
3 Once again so the record is clear, what is the proposal with  
4 respect to the capital structure in the pre-moratorium rate  
5 case?

6 A. In the pre-moratorium rate case that capital  
7 structure is a normalized capital structure that is being  
8 represented by Mr. Fancher in his testimony. And if you  
9 will give me a moment, I have it here. It is 47.5 percent  
10 equity, 52.5 percent debt.

11 Q. And you say that's a normalized capital  
12 structure. Normalized for the Empire District Electric  
13 Company?

14 A. That's correct. Their capital structure at  
15 the present time is -- if I could use the expression -- a  
16 little out of skew, because if they were on a stand-alone  
17 basis at this time, they've issued a lot of debt for the  
18 building of state line, they would be issuing equity  
19 bringing that capital structure back into a normal basis.  
20 And they haven't done that because of the pending merger.

21 Q. And, once again, that proposal is in  
22 connection with the pre-moratorium rate case, which will be  
23 filed by the Empire District Electric Company later this  
24 year. Is that your understanding?

25 A. Yes. My understanding November 1st is the

1 target date.

2 Q. Now, in response to a question from  
3 Mr. Micheel, you indicated in the post-moratorium rate case  
4 for the Empire District operating unit what you were  
5 proposing there in terms of capital structure was a  
6 divisional-type capital structure. Is that what I heard you  
7 say?

8 A. That's correct. It would be normalized, the  
9 same as what we have here, that's correct.

10 Q. And when you say divisional-type capital  
11 structure, what do you mean?

12 A. UtiliCorp has brought forward many times a  
13 proposal to this Commission and other Commissions that each  
14 division we're able to keep track of the capital as we have  
15 acquired those division and we assign that capital to those  
16 divisions, and that way each division is supporting the  
17 capital structure that is meant for each division.

18 Q. Now, you say you have proposed that --  
19 UtiliCorp has proposed that concept -- the divisional  
20 capital structure concept to this Commission in the past.  
21 Has the Commission ever approved that approach?

22 A. Yes.

23 MR. SWEARENGEN: Thank you. That's all I  
24 have.

25 JUDGE WOODRUFF: Thank you. I believe you are



1 the next witness also on the next issue, which would be  
2 Stranded Costs.

3 MR. KRUEGER: Your Honor --

4 JUDGE WOODRUFF: Yes.

5 MR. KRUEGER: With respect to this issue, this  
6 is the last time that Mr. Broadwater will testify and he has  
7 not been sworn and has a couple of corrections to his --  
8 couple of minor corrections to his testimony and I'd like --

9 JUDGE WOODRUFF: I thought we were moving too  
10 fast there for a moment. Come on up, Mr. Broadwater.

11 (Witness sworn.)

12 JUDGE WOODRUFF: You may sit down.

13 (EXHIBIT NOS. 700 AND 700-HC WERE MARKED FOR  
14 IDENTIFICATION.)

15 JUDGE WOODRUFF: You may inquire.

16 DAVID P. BROADWATER testified as follows:

17 DIRECT EXAMINATION BY MR. KRUEGER:

18 Q. State your name for the record, please.

19 A. David Broadwater.

20 Q. And you caused to be filed -- pre-filed the  
21 rebuttal testimony of David P. Broadwater both  
22 non-proprietary and highly confidential versions; is that  
23 correct?

24 A. Yes, it is.

25 Q. Do you have any corrections or additions to

1       that testimony to make at this time?

2               A.       Yes, I do.   Excuse me.   On page 24, line 18,  
3       about halfway across the line where it says Pre-tax, it  
4       should say After tax.   And then on line 19, the No. 13.10  
5       should be 8.07.   And the final change is on line 21.   It  
6       says -- about halfway through the line it says Pre-tax, it  
7       should say After tax.   Those are all that I'm aware of.

8               Q.       With those changes, are all of the answers  
9       given in your testimony accurate and correct?

10              A.       Yes, they are.

11              MR. KRUEGER:   I would then offer Exhibits 700  
12       and 700-HC and tender the witness for additional  
13       cross-examination if any is necessary on the basis of these  
14       corrections.

15              JUDGE WOODRUFF:   Okay.   700-NP and 700-HC have  
16       been offered into evidence.   Are there any objections?

17              Hearing none, they will be received into  
18       evidence.

19              (EXHIBIT NOS. 700-NP AND 700-HC WERE RECEIVED  
20       INTO EVIDENCE.)

21              JUDGE WOODRUFF:   Does anyone have any  
22       cross-examination questions for Mr. Broadwater?

23              Hearing none, then you may step down.

24              THE WITNESS:   Thank you.

25              MR. SWEARENGEN:   Are we back to Mr. McKinney

1 on Stranded Costs?

2 JUDGE WOODRUFF: I believe so.

3 MR. SWEARENGEN: Are there any questions for  
4 Mr. McKinney on that issue?

5 JUDGE WOODRUFF: Are there any questions for  
6 Mr. McKinney on the issue of Stranded Costs?

7 Hearing none, then we'll move on. And I  
8 believe moving over to Staff then for Mr. Oligschlaeger.  
9 Any questions for Mr. Oligschlaeger on Stranded Costs?

10 Hearing none, we'll move on to Mr. Kind for  
11 the Public Counsel. Any questions for Mr. Kind on Stranded  
12 Costs?

13 Hearing none, we'll move on to Synergies of  
14 Unregulated Operations.

15 MR. SWEARENGEN: Mr. Siemek.

16 JUDGE WOODRUFF: Are there any questions for  
17 Mr. Siemek on this issue?

18 Hearing none, we'll move on to Mr. Kind on the  
19 same issue. Any questions for Mr. Kind?

20 Hearing none, the next item I believe is the  
21 Affiliated Transactions Condition with Mr. McKinney again.  
22 Any questions for Mr. McKinney on this issue?

23 Hearing none, we'll move on to Mr. Kind on the  
24 Affiliated Transactions Condition. Any questions for  
25 Mr. Kind?

1                   Hearing none, we'll move on to Energy  
2   Efficiency Condition, Mr. Pella. Any questions for  
3   Mr. Pella on this issue?  
4                   MS. WOODS: I have a couple.  
5                   JUDGE WOODRUFF: Is he here?  
6                   MR. SWEARENGEN: Mr. Pella is not here. Could  
7   we take a short break?  
8                   JUDGE WOODRUFF: It is time to take a break.  
9   Let's come back at five after 10:00.  
10                  (A RECESS WAS TAKEN.)  
11                  JUDGE WOODRUFF: We're still waiting for  
12   Mr. Pella to arrive, so we're going to go ahead to the next  
13   issue of Corporate Allocations and starting with  
14   Mr. McKinney. Does anyone have any questions for  
15   Mr. McKinney on this issue?  
16                  All right. Hearing none, we'll move on to  
17   Mr. Siemek on the same issue. Anyone have any questions for  
18   Mr. Siemek on this issue?  
19                  MR. FREY: I do.  
20                  JUDGE WOODRUFF: All right. Mr. Siemek,  
21   please come forward.  
22                  MR. SWEARENGEN: I would tender Mr. Siemek on  
23   this issue.  
24                  JUDGE WOODRUFF: Okay. Staff indicated they  
25   had questions. Does anyone else have questions?

1 All right. Staff, you may proceed.

2 MR. FREY: Thank you, your Honor.

3 VERN SIEMEK testified as follows:

4 CROSS-EXAMINATION BY MR. FREY:

5 Q. Good morning, Mr. Siemek.

6 A. Good morning.

7 Q. Sir, would you please refer to your -- would  
8 you please refer to your surrebuttal --

9 MR. FREY: Can I have a moment, your Honor?

10 JUDGE WOODRUFF: Certainly. Mr. Frey, you can  
11 push the button on the base there.

12 MR. FREY: Thank you, your Honor.

13 BY MR. FREY:

14 Q. Mr. Siemek, would you please refer to your  
15 surrebuttal testimony, page 5, lines 14 to 22 and page 6 to  
16 lines 8?

17 A. And the line numbers again were?

18 Q. Lines 14 to 22 on page 5, page 6, 1 to 8.

19 A. All right.

20 Q. And there you state that you disagree with  
21 Mr. Traxler's use of historical analysis of UCUCorp's  
22 overhead cost to MPS because it includes unusual events, do  
23 you not?

24 A. Yes.

25 Q. Okay. I would like to bring your attention to

1 the first one that you mention -- I'm sorry. I think I've  
2 directed you to the wrong page.

3 Beginning on page 5, line 20 you mention that  
4 there -- in addition to re-engineering costs, there are  
5 additional changes that would affect the historical  
6 corporate overhead allocations to MPS. And you reference  
7 directly centralized operating division functions to UCU's  
8 ESF and IBU departments in 1995 and then in 1997 the  
9 distribution operations were re-organized from a  
10 geographical to a functionalized basis.

11 Do I have that right?

12 A. Generally, yes.

13 Q. Okay. Considering the first of those two  
14 effects, that is the 1995 consolidation, do you have -- can  
15 you give us the dollar impact of that effect of which you  
16 speak?

17 A. No. I don't have the dollar impact.

18 Q. Okay. Could you please then comment on  
19 whether or not the dollar impact was an increase in dollars  
20 in 1995 or a decrease?

21 A. Which -- for which category of costs?

22 Q. The impact of the consolidation.

23 A. Well, in -- in total -- for UtiliCorp in total  
24 I believe the impact was intended to be a reduction.  
25 However, when you look at the different categories and the

1 different departments, it was not always -- not always a  
2 comparable comparison to be made.

3 For example, the Peoples Natural Gas division  
4 or operating unit had a number of functions that were  
5 autonomous for different categories of support services, and  
6 those functions became enterprise support functions in 1995.  
7 Prior to that, there were relatively few of what I would  
8 categorize as enterprise support functions that were  
9 UtiliCorp-wide.

10 So the impact is a significant increase in  
11 enterprise support function costs because you've moved  
12 functions that were previously directly within an operating  
13 division to now a UtiliCorp-wide enterprise support  
14 function.

15 Q. Okay. And given that -- these transfers  
16 occurred in 1995 according to your testimony. Correct?

17 A. Well, that's when the centralization occurred,  
18 yes.

19 Q. Okay. And that would mean that the costs were  
20 increased relative to 1994, does it not?

21 A. It would mean the enterprise support costs,  
22 yes.

23 Q. Okay. Do you have in front of you Schedule  
24 SMT-7 from Mr. Traxler's additional pages that he  
25 introduced? It was introduced into evidence earlier in this

1 proceeding.

2 A. I'm not sure I do. Just a second. Was that

3 one of the corrected schedules?

4 Q. Yes, sir.

5 A. I believe I do.

6 Q. Okay.

7 A. I have the correct version.

8 Q. Thank you. I'm focusing on line 4 of that

9 schedule. Does SMT-7 reflect the increase in FPS's

10 allocated costs from UCU from 1994 to 1995?

11 A. That's what it indicates, yes.

12 Q. Now, I'm going to reask the question.

13 A. I'm sorry. That's not -- no, it does not --

14 Q. Okay.

15 A. -- purport that.

16 Q. Thank you. So your answer is that it does not

17 reflect an increase from 1994 to 1995; is that correct?

18 A. No, it does not.

19 Q. Thank you. And so since Schedule SMT-7 begins

20 with the increase from 1995 to 1996, it does not include the

21 increase from 1994 resulting from this departmental

22 centralization to which you refer in your surrebuttal

23 testimony; is that correct?

24 A. No, that is not correct. And the problem --

25 or the situation is that the accounting system in 1995 was



1 not -- did not fully reflect the centralization of the  
2 enterprise support functions.

3 In 1995 the autonomous divisions continued to  
4 reflect the actual results of their previously autonomous  
5 support functions within the -- within the autonomous  
6 divisions in 1994 -- I'm sorry -- in 1995 and the functions  
7 and the accounting for the functions were not actually  
8 centralized until the 1996 budget year and actuals.

9 Q. Thank you. Can you tell us what the impact  
10 was then between 1995 and 1996?

11 A. I don't have the specific details of the  
12 increase or the change, but the schedule reflects roughly a  
13 \$16 million increase of the enterprise support functions of  
14 which I believe primarily would have been the result of the  
15 centralization.

16 Q. But you do not know for sure how much that  
17 was?

18 A. I cannot put -- I cannot tell you an exact  
19 figure.

20 Q. Okay. Returning now to your surrebuttal  
21 testimony at the bottom of page 5, top of page 6 and  
22 considering the second of the effects, according to your  
23 testimony, that are, what you might say, buried in these  
24 corporate allocation actual figures, and I'm talking about  
25 the 1997 reorganization of distribution operations from a

1 geographic to a functionalized basis. Do you have that  
2 there, sir?

3 A. Yes.

4 Q. Have you quantified the impact of this  
5 reorganization on the 1997 allocated corporate overhead  
6 costs to MPS?

7 A. No, I have not quantified that.

8 Q. Now, let's go back to your surrebuttal  
9 testimony, page 5, lines 14 to 22, page 6, lines 1 to 8.  
10 We'll talk a little bit about the engineering --  
11 re-engineering projects.

12 A. I'm sorry. The reference again was?

13 Q. Page 5, lines 14 through 22, page 6, lines 1  
14 through 8.

15 A. All right.

16 Q. One of the -- I guess the third unusual event  
17 that you mention is these re-engineering projects; is that  
18 correct?

19 A. Yes.

20 Q. Would you briefly explain what these projects  
21 were?

22 A. Well, they were -- there were a number of  
23 initiatives that were begun in probably 1994 -- initiated in  
24 1994 that had various longer periods to implement.  
25 Some of those -- some of those re-engineering

1 projects included the replacement of the current numerous  
2 billing systems that UtiliCorp had within the autonomous  
3 divisions with enhancements to allow for projected future  
4 needs as well as replacing the system, some of which were  
5 quite dated. That was -- that was one of the systems -- one  
6 of the re-engineering initiatives.

7 Another was a consolidation or replacement  
8 actually of the accounting systems again from the autonomous  
9 operating divisions. That allowed the entire company to be  
10 accounted for on the same basis and within the same system,  
11 which also allowed -- which had a more up to date access and  
12 comparability capabilities.

13 There were initiatives on computer-aided  
14 dispatching to allow more efficient and economic dispatching  
15 of service -- service people. There were initiatives for  
16 customer service centers to centralize and standardize  
17 responses to customer inquiries and customer requests for  
18 service. I believe there was -- there were a number of  
19 other initiatives, but I think those are the major ones.

20 Q. Okay. Thank you. Returning to Mr. Traxler's  
21 Replacement Schedule SMT-7 we referred to a little  
22 earlier --

23 A. I'm there.

24 Q. Okay. And that shows the annual increase in  
25 UCU's corporate costs to allocate to MPS per Mr. Traxler's

1       calculations from 1996 through 1999, does it not?

2           A.       Yes.

3           Q.       On line 5 what was the four-year average

4       annual increase from 1996 through 1999?

5           A.       Well, I believe Mr. Traxler has calculated

6       that increase at 45.7 percent, but I am not sure that he has

7       comparable numbers here because of the reasons I stated in

8       my surrebuttal.

9           Q.       Okay. And his number for the three-year

10       average is what?

11          A.       Do you mean line 6?

12          Q.       Yes.

13          A.       Mr. Traxler has calculated 20 percent there,

14       but again, I don't believe those are comparable --

15          Q.       Okay.

16          A.       -- figures to make that calculation.

17          Q.       Thank you. And the line 7 figure, please?

18          A.       And the line 7 is 6.2 percent, again with the

19       caveat that my surrebuttal mentions a couple of reasons why

20       that was not comparable.

21          Q.       You're not suggesting, are you, sir, that

22       these numbers are incorrect, but simply that they're

23       inappropriate for establishing the inflation rate of

24       corporate allocations?

25          A.       Actually, I did not recalculate the numbers

1       myself, so I can't actually tell you whether they're  
2       computationally correct or not, but I am suggesting that  
3       they did not -- that they are not comparable based  
4       information.

5               Q.       For the record, I'd just like to state that --  
6       and get your confirmation that the line 7 figure was for the  
7       two-year average annual increase from 1998 and 1999.  
8       Correct?

9               A.       I believe that's the description here, yes.

10              Q.       Did you receive work papers -- do you have  
11       work papers supporting those calculations from the Staff?

12              A.       Not with me.

13              Q.       Were they provided?

14              A.       I believe they were included in a stack of  
15       work papers from the Staff, yes.

16              Q.       So you had an opportunity then to check those  
17       calculations?

18              A.       The calculations themselves were -- I did not  
19       check them because I disagreed with the original starting  
20       point. So the computational accuracy was not of importance  
21       to me.

22              Q.       Okay. Did you quantify the impact of these  
23       re-engineering projects on the increases on overhead  
24       allocations to MPS?

25              A.       No, I did not.

1                   MR. FREY: May I approach the witness, your  
2     Honor?  
3                   JUDGE WOODRUFF: You may.  
4                   MR. FREY: I'd like to mark an exhibit, if I  
5     might.  
6                   (EXHIBIT NO. 720 WAS MARKED FOR  
7     IDENTIFICATION.)  
8     BY MR. FREY:  
9                 Q.     Can you identify that document, Mr. Siemek?  
10                A.     Well, it's listed as a data information  
11     request -- page 1 is a data information request from Steve  
12     Traxler requested from John McKinney dated August 15th of  
13     2000. And there are five pages attached that I presume are  
14     the response, but I'm not sure.  
15                Q.     Thank you. Could you read the question,  
16     please, on the request?  
17                MR. SWEARENGEN: Your Honor, I'm going to  
18     object. It speaks for itself. If we're going to put this  
19     in evidence, I don't see any reason for him to read it.  
20                JUDGE WOODRUFF: Objection's sustained.  
21     BY MR. FREY:  
22                Q.     Is it correct, sir, that this is a data  
23     request that asks for the calculations -- asks for  
24     verification of Mr. Traxler's calculations?  
25                MR. SWEARENGEN: Same objection, your Honor.

1       It speaks for itself.

2                       JUDGE WOODRUFF: Overruled.

3                       THE WITNESS: I'm sorry. Would you repeat the

4       question?

5       BY MR. FREY:

6               Q.       Is it correct, sir, that this data request

7       asks for confirmation of Mr. Traxler's -- recalculation of

8       these inflation rates after taking into account the impact

9       of these re-engineering projects?

10                      MR. SWEARENGEN: Once again, I'm going to

11       object. I don't think he's properly characterized the data

12       request. It speaks for itself.

13                      JUDGE WOODRUFF: He's asked the question as to

14       what it is, so I'm going to allow him to answer it.

15                      THE WITNESS: I don't believe it's -- I think

16       the answer is no to your question.

17       BY MR. FREY:

18               Q.       Well, let me ask you this, sir. On the last

19       page where it says Response -- did you find that?

20               A.       Yes.

21               Q.       Does it not say, In response to this data --

22       to these calculations that we believe -- quote, we believe

23       these calculations are substantially correct?

24               A.       It says, Although we believe the calculations

25       are substantially correct, and I'm not sure which

1        calculations they're referring to, but --

2                Q.        They're referring to the calculations on the

3        second page of the document.

4                A.        The -- that's marked page 1 of 4?

5                Q.        Yes.    This is just another copy of SMT-7 with

6        additional calculations.

7                        MR. SWEARENGEN:    Your Honor, I don't have any

8        problem with this document being admitted.    I think it

9        speaks for itself.    It was answered by two other UtiliCorp

10       employees.    He's asked this witness whether or not he's made

11       the calculations and determined whether or not they're

12       right.    He said he hadn't.    I think we're wasting some time

13       here.

14                        JUDGE WOODRUFF:    Mr. Frey, where are you going

15       with this?

16                        MR. FREY:    Your Honor, I'm simply trying to

17       establish that on the basis of this confirmation of accuracy

18       or substantial correctness, let's say, the company -- that

19       Mr. Traxler's recalculations or re-computations are correct

20       and then proceed from there.

21                        JUDGE WOODRUFF:    Okay.    I believe this witness

22       has testified he did not answer this -- or his name's not

23       listed as being the person answering this data request; is

24       that correct?

25                        THE WITNESS:    That's correct.



1 JUDGE WOODRUFF: Okay.

2 MR. MICHEEL: Your Honor, if I may though, the  
3 people that answered this data request are not witnesses in  
4 this proceeding.

5 JUDGE WOODRUFF: Okay.

6 MR. SWEARENGEN: I have no objection to the  
7 data request being received into evidence. I mean, I think  
8 it speaks for itself. But this witness hasn't confirmed  
9 those calculations.

10 MR. FREY: The witness, your Honor, if I may,  
11 has stated that he can't calculate -- or hasn't calculated  
12 these changes. And we have done so and are attempting to  
13 get testimony to the effect that those calculations are  
14 substantially correct.

15 MR. SWEARENGEN: Well --

16 JUDGE WOODRUFF: That is shown on this data  
17 request. Is that what you're point is?

18 MR. FREY: Yes, your Honor.

19 MR. SWEARENGEN: I don't have any problem with  
20 the data request being admitted. But this witness hasn't  
21 made those calculations and he can't offer that testimony.

22 JUDGE WOODRUFF: I agree with your objection  
23 that you can't get anything more from this witness about the  
24 calculations, so I'm going to sustain the objections if you  
25 ask him any more questions about the accuracy of the

1        calculations.  If you have other questions about the  
2        document, go ahead.

3                    MR. FREY:  Thank you, your Honor.

4        BY MR. FREY:

5                    Q.        What is, Mr. Siemek, the four-year average  
6        shown on this document from 1996 through 1999, the  
7        recalculated --

8                    A.        Page 1 of 4?

9                    Q.        Yes.

10                   A.        The four-year average is shown as 41.2  
11        percent.

12                   Q.        And the three-year average?

13                   A.        The three-year average is shown as 15.4.  The  
14        two-year average is 4.9.  And the change from 1998 to 1999  
15        is 3.2 percent.

16                   Q.        Okay.  Thank you.  In your surrebuttal  
17        testimony -- strike that, sir.

18                                Could you please turn to your Schedule VJS-1  
19        in your direct testimony?

20                   A.        Yes.

21                   Q.        And let me direct your attention first to  
22        Section 1, Operating Costs, lines 2, 3 and 4.  Those, I  
23        believe, are the general administrative savings,  
24        distribution savings and transmission savings respectively;  
25        is that correct?

1           A.       Yes.

2           Q.       And my question is, would you say that those

3           figures are composed primarily of labor savings?

4           A.       Well, they're -- there are non-payroll or

5           non-labor costs included in those.

6           Q.       Can you give us an approximate percentage that

7           would be labor related --

8           A.       No, I can't.

9           Q.       -- of those savings?

10          A.       But it would be over 50 percent, I believe.

11          Q.       With regard to Section 4 in that same table,

12          and particularly lines 1, 2 and 3, I would ask you the same

13          question. What percentage of these figures is labor

14          related?

15          A.       Well, labor related as in direct payroll or

16          labor related including benefits?

17          Q.       Just direct payroll.

18          A.       I don't have that calculation. I did not

19          attempt to break those down.

20          Q.       Is it a significant amount?

21          A.       On lines 1 and 2 it is a significant amount.

22          Q.       Can you give us a ballpark estimate? Is it

23          greater than 50 percent, for example?

24          A.       I believe it's greater than 50 percent.

25          Q.       How about greater than two-thirds?

1           A.       I'm sorry. Did you want direct payroll only  
2       or --  
3           Q.       Yes.  
4           A.       It's likely greater than two-thirds, but  
5       I'm -- again, I would be subject to check.  
6           Q.       How about line 3, sir, the support functions  
7       allocated?  
8           A.       I have -- I have not done any detailed review  
9       of the total enterprise support and IBU costs of UtiliCorp,  
10       and I would have to do that in order to give you an answer  
11       to that question. I do know it does include benefits on the  
12       direct labor because that's part of the procedure that we  
13       use for enterprise support and -- and internal business unit  
14       allocations.  
15          Q.       Can you tell me what the loading rate for  
16       benefits is that was assumed in the synergy analysis?  
17          A.       Well, the -- on Empire payroll or on UtiliCorp  
18       payroll?  
19          Q.       UtiliCorp.  
20          A.       Actually, I believe the base payroll benefit  
21       loading rate is 30 percent.  
22          Q.       So then the labor costs in there would be much  
23       higher than the benefits; is that correct? Much higher than  
24       the associated benefits?  
25          A.       Yes. I -- well, approximately -- yes, they

1 would be higher.

2 MR. FREY: Thank you. I have nothing further,  
3 your Honor. Thank you.

4 JUDGE WOODRUFF: Thank you. We'll go to  
5 questions from the Bench. Chair Lumpe, do you have any  
6 questions?

7 QUESTIONS BY CHAIR LUMPE:

8 Q. On a chance that I missed it when you were  
9 here or you're going to do it later and I won't be here,  
10 would you explain for me what the cost of mapping  
11 conversions is? Is that drawing boundaries or is that some  
12 other terminology?

13 A. Well, it's -- it actually is the cost -- it's  
14 actually developing detailed maps of the system.

15 Q. So it's actually drawing maps?

16 A. Well, act-- in this case it's actually putting  
17 them into a computerized program so that you can have ready  
18 access to up-to-date maps of the system. So it's --

19 Q. I didn't know whether mapping referred to  
20 maybe some other kind of --

21 A. Oh, no. It's mapping of the system.

22 CHAIR LUMPE: Okay. Thank you. That's all.

23 JUDGE WOODRUFF: Going back to Mr. Frey, did  
24 you want to offer Exhibit 720?

25 MR. FREY: Yes. Thank you, your Honor. I was

1 just going to ask if I might do that. Thank you.

2 JUDGE WOODRUFF: 720 has been offered into  
3 evidence. Are there any objections to its receipt?

4 Hearing none, it will be received.

5 (EXHIBIT NO. 720 WAS RECEIVED INTO EVIDENCE.)

6 JUDGE WOODRUFF: Was there any recross based  
7 on questions from the Bench?

8 Hearing none, any redirect?

9 Hearing none, you may step down.

10 And I believe Mr. Pella is here now; is that  
11 correct?

12 MR. SWEARENGEN: He is. Do you want to just  
13 go ahead and finish the rest of this?

14 JUDGE WOODRUFF: No. We need to get to Energy  
15 Efficiency so the Natural Resource witnesses can get out of  
16 here.

17 MS. WOODS: Thanks.

18 JUDGE WOODRUFF: Mr. Pella, this is the first  
19 time you've testified at this hearing; is that correct?

20 THE WITNESS: Correct.

21 (Witness sworn.)

22 MR. COOPER: Your Honor, we're going to hand  
23 to the court reporter copies of Mr. Pella's direct  
24 testimony, which I believe is Exhibit 16, and his  
25 surrebuttal testimony, which I believe is Exhibit 17, and

1 his supplemental surrebuttal testimony, which I believe  
2 we're up to Exhibit 28 if that's consistent with your list.

3 JUDGE WOODRUFF: That is.

4 (EXHIBIT NOS. 16, 17, AND 28 WERE MARKED FOR  
5 IDENTIFICATION.)

6 MR. COOPER: Your Honor, I believe that  
7 Mr. Pella has one change -- one minor change we need to make  
8 to one of the pieces of his testimony.

9 JUDGE WOODRUFF: Go ahead.

10 STEPHEN PELLA testified as follows:

11 THE WITNESS: On my direct, page 1, line 5, my  
12 position in June changed to vice president of strategic  
13 planning.

14 DIRECT EXAMINATION BY MR. COOPER:

15 Q. Is that the only question -- or the only  
16 change you have to your testimony?

17 A. Yes.

18 MR. COOPER: At this time, your Honor, we  
19 would offer Exhibits 16, 17 and 28 and tender Mr. Pella for  
20 cross-examination on Energy Efficiency and the Conditions  
21 associated with that.

22 JUDGE WOODRUFF: He will be back on subsequent  
23 issues, I believe?

24 MR. COOPER: He will.

25 JUDGE WOODRUFF: All right. Mr. Pella has

1       been tendered for cross-examination. Questions from the  
2       IBEW?

3                   MR. JOLLEY: No questions.

4                   JUDGE WOODRUFF: The Retirees?

5                   MR. DEUTSCH: No questions.

6                   JUDGE WOODRUFF: Natural Resources?

7                   MS. WOODS: I have a few, thank you.

8       CROSS-EXAMINATION BY MS. WOODS:

9           Q.       Good morning, Mr. Pella.

10          A.       Good morning.

11          Q.       Could you turn to page 27, I believe it is, of  
12       your surrebuttal --

13          A.       Yes.

14          Q.       -- lines 7 through 9? Would you agree with me  
15       that you testified in that surrebuttal testimony that  
16       UtiliCorp would be willing, outside of this merger  
17       proceeding, to discuss with the MDNR along with the  
18       Commission the concept of the proposed partnership and  
19       possible methods for funding these programs?

20          A.       Yes.

21          Q.       Have you identified any methods of possibly  
22       funding these programs?

23          A.       No new funding methods at this time.

24          Q.       Well, what types of funding methods might be  
25       available for these programs?



1           A.       That, I expect, would be part of our  
2       discussions.

3           Q.       Would you agree with me that allocating a  
4       component of customer rates for these programs is a possible  
5       financing mechanism?

6           A.       To the degree the Commission in another  
7       proceeding would choose to direct funds to be reflected in  
8       rates as a funding mechanism, that would be one option, yes.

9           Q.       Thank you.  Has UtiliCorp ever sold power  
10      generated at its facility to, say, another utility?

11          A.       That wouldn't be in my area of responsibility.

12          Q.       Who might know the answer to that question?

13          A.       Our power supply witness, Frank DeBacker.

14          Q.       Thank you.  And if you could turn to -- I  
15      believe it's page 35 of your surrebuttal.

16          A.       Yes.

17          Q.       And do you state there that, Because of these  
18      uncertainties we do not believe that these recommendations  
19      should be a condition of the merger, but should await a  
20      dedicated review by this Commission?

21          A.       The lines you're reading from are?

22          Q.       Eight through ten.

23          A.       Yes, it does.

24          Q.       Do you know if the Commission has scheduled  
25      any dedicated review of that type?

1           A.       No, I do not.

2           Q.       Has UtiliCorp asked that the Commission  
3       schedule a dedicated review of that type?

4           A.       No, I do not believe so.

5           Q.       If you could turn to page 31 of your  
6       surrebuttal, please, lines 9 through -- I believe it's 12.

7           A.       Yes.

8           Q.       Do you state there that, We agree that over  
9       time movement should be made toward implementation of more  
10      renewable resources as sources of energy?

11          A.       Yes, it does.

12          Q.       Now, I understand that UtiliCorp has set up  
13      the Jeffrey Energy Center Wind Energy project.  You're aware  
14      of that?

15          A.       Yes.

16          Q.       With the exception of that project, has  
17      UtiliCorp taken any other specific action to support this  
18      movement toward implementation of more renewable energy  
19      resources?

20          A.       There are aspects in the environmental area  
21      with respect to some of the recyclables and the power plants  
22      which you might ask Mr. DeBacker about.  In terms of new  
23      programs in addition to the wind power programs, no, there  
24      has not.

25          Q.       Would you agree with me that solar energy is a

1 renewable energy resource?

2 A. I believe it is.

3 Q. Would you agree with me that wind energy is a

4 renewable energy resource?

5 A. I do believe it is.

6 Q. And would you agree with me that biomass is a

7 renewable energy mass?

8 A. Most people say so. Everybody has their own

9 definition of renewables right now, but I would say so, yes.

10 Q. Are there any new generation projects either

11 proposed or under construction to supply electric power to

12 the Empire District service area that you're aware of?

13 A. I would direct all power supply questions to

14 Mr. DeBacker.

15 Q. Would you agree with me that the cost of

16 petroleum, and in particular, gas has risen significantly

17 recently?

18 A. That's not my area of company operation, but

19 my general knowledge, yes.

20 Q. Does that change the economic impact for using

21 renewable energy resources?

22 A. I defer the power supply questions to

23 Mr. DeBacker.

24 Q. DeBacker. With the exception of the Jeffery

25 Energy Wind Center Energy project, has UtiliCorp examined or

1       assessed renewable resource-based electric generation?

2               A.       I defer all electric generation questions to

3       Mr. DeBacker.

4               Q.       DeBacker. Has UtiliCorp completed any

5       assessment of customer support for renewable resource power?

6               A.       We would have access to the extent national or

7       public surveys might have addressed this issue.

8               Q.       And are you aware of any specific surveys?

9               A.       I'm not going to be able to recall one here.

10              Q.       But UtiliCorp itself hasn't done any specific

11       survey?

12              A.       Not that I can directly recall.

13              Q.       Is UtiliCorp currently a member of any

14       renewable resource organization?

15              A.       Not to my knowledge.

16                      MS. WOODS: That's all I have of this witness.

17       Thank you.

18                      JUDGE WOODRUFF: Thank you. Public Counsel

19       have any questions?

20                      MR. MICHEEL: No.

21                      JUDGE WOODRUFF: Staff?

22                      MR. DOTTHEIM: No questions.

23                      JUDGE WOODRUFF: Coming up to the Bench then.

24       Chair Lumpe, do you have any questions?

25       QUESTIONS BY CHAIR LUMPE:

1           Q.       Just briefly. Mr. Pella, are you suggesting  
2       that these issues that you've been talking about should  
3       either be done as a rule to -- so that it would affect all  
4       the electric companies in the state of Missouri instead of  
5       doing it case by case?

6           A.       Yes. That's one of the aspects. I mean, it's  
7       an issue in our industry, I'm sure it's an issue here within  
8       the state. And a collective separate forum for discussion  
9       seems more in order.

10          Q.       So looking at the resource issues would be  
11       something that perhaps a technical committee and Staff,  
12       etc., and anyone --

13          A.       Yes.

14          Q.       -- else interested should get together and  
15       work on that and DNR, of course, also?

16          A.       Yes.

17          Q.       All right. One other thing, these issues come  
18       up or may come up in terms of electric restructuring  
19       legislation. Would UtiliCorp oppose issues such as this  
20       being adopted in legislation?

21          A.       Commissioner, that wouldn't be my position to  
22       make a corporate judgment on a policy issue like that. I  
23       would expect we would be supportive to have that topic on  
24       the table and discussed.

25          Q.       All right.

1           A.       And I would expect we'd be generally  
2       supportive pending the provisions of the discussions that  
3       were being held, but it's --

4           Q.       Because if it were done there, then it would  
5       affect all the IOUs -- or independent --

6           A.       Yes.

7           Q.       -- I mean, investor-owned utilities as opposed  
8       to one by one by one?

9           A.       Yes. You would -- you would have many issues  
10      across all of the utilities we would have to discuss. And  
11      in that end, whatever the resolve was, then, you know, you'd  
12      have more -- the specifics there to make a judgment of  
13      support or not.

14          Q.       I just wondered -- as you say, you can't make  
15      that corporate decision, but based on the fact that you have  
16      used -- or have the green --

17          A.       Yes.

18          Q.       -- power program, could I make an assumption  
19      that you might -- the company might not be opposed to some  
20      means of addressing that in legislation?

21          A.       I would believe that the case.

22                  CHAIR LUMPE: All right. Thank you. That's  
23      all I have.

24                  JUDGE WOODRUFF: Any recross? Redirect?

25                  MR. COOPER: Yes, your Honor.

1 REDIRECT EXAMINATION BY MR. COOPER:

2 Q. Mr. Pella, you were asked about possible  
3 funding mechanisms based upon your surrebuttal testimony,  
4 and I think you mentioned a rate case; is that correct?

5 A. Yes.

6 Q. Does UtiliCorp have a rate case planned in the  
7 near future where it would be appropriate to discuss those  
8 sort of funding mechanisms?

9 A. Yes. It's my understanding that there would  
10 be in Missouri. And in this case obviously there's been  
11 much -- much discussion about the regulatory plan in the  
12 five-year provision.

13 Q. There were also some questions about  
14 UtiliCorp's willingness to move toward renewable resources,  
15 and then Commissioner Lumpe had mentioned UtiliCorp's green  
16 power tariff. To your knowledge, do any other Missouri  
17 utilities have a green power tariff?

18 A. No. Missouri Public Service was the first in  
19 the state of Missouri, to my understanding.

20 MR. COOPER: Those are the only questions I  
21 have, your Honor.

22 JUDGE WOODRUFF: Thank you. You may step  
23 down.

24 Moving over to Natural Resources' witnesses.

25 MS. WOODS: Department calls Martin Kushler.

1 (Witness sworn.)  
2 (EXHIBIT NO. 404 WAS MARKED FOR  
3 IDENTIFICATION.)  
4 JUDGE WOODRUFF: You may be seated.  
5 MARTIN G. KUSHLER testified as follows:  
6 DIRECT EXAMINATION BY MS. WOODS:  
7 Q. Mr. Kushler, do you have any changes to make  
8 to your rebuttal testimony filed in this case?  
9 A. None that I've noticed.  
10 MS. WOODS: With that, I would move the entry  
11 of Exhibit No. 404 into the record and tender Mr. Kushler  
12 for cross-examination.  
13 JUDGE WOODRUFF: I believe this is the only  
14 time Mr. Kushler will be testifying today; is that true?  
15 MS. WOODS: That's correct, your Honor.  
16 JUDGE WOODRUFF: 404 has been offered into  
17 evidence. Are there any objections?  
18 Hearing none, it will be received into  
19 evidence.  
20 (EXHIBIT NO. 404 WAS RECEIVED INTO EVIDENCE.)  
21 JUDGE WOODRUFF: He's been tendered for  
22 cross-examination so we'll begin with IBEW?  
23 MR. JOLLEY: No questions, your Honor.  
24 JUDGE WOODRUFF: Retirees?  
25 MR. DEUTSCH: No questions.



1 JUDGE WOODRUFF: Public Counsel?  
2 MR. MICHEEL: No questions.  
3 JUDGE WOODRUFF: Staff?  
4 MR. DOTTHEIM: No questions.  
5 JUDGE WOODRUFF: UtiliCorp?  
6 MR. COOPER: No questions.  
7 JUDGE WOODRUFF: No questions from the Bench,  
8 so you may step down.  
9 Next witness?  
10 MS. WOODS: Department calls Ron Lehr.  
11 (EXHIBIT NO. 403 WAS MARKED FOR  
12 IDENTIFICATION.)  
13 (Witness sworn.)  
14 JUDGE WOODRUFF: You may proceed.  
15 RONALD L. LEHR testified as follows:  
16 DIRECT EXAMINATION BY MS. WOODS:  
17 Q. Mr. Lehr, do you have any changes you'd like  
18 to make to your rebuttal testimony filed in this case?  
19 A. Yes. I'd like to make three small changes  
20 I've found in re-reading the testimony. First one of these  
21 appears on page 6. Here I'm testifying about  
22 hydro resources. And at line 36 on page 6 a phrase was  
23 dropped. So that the sentence that starts there would now  
24 read, This is also true where water is being moved from one  
25 location to another. So I would add the words "this is also

1 true."

2 Second change is on page 11. Here I'm  
3 testifying about geothermal resources. The first line here,  
4 line 16, uses the word "is" where the word "are" should  
5 appear. Technologies are plural so the word "is" becomes  
6 the word "are."

7 The final change -- another small matter -- on  
8 page 18 of the testimony I'm testifying about system  
9 benefits charges. And in the third sentence of that  
10 paragraph on line 12 it reads, The states that have adopted  
11 these policies have included support. At that point I'd  
12 like to add the word "for" so it would read, Support for the  
13 levels of energy efficiency, low-income customer needs,  
14 customer education, etc. Those are the corrections that I  
15 have.

16 Q. Thank you.

17 MS. WOODS: With those corrections, I would  
18 move the entry of Exhibit 403 into the record and tender  
19 Mr. Lehr for cross-examination.

20 JUDGE WOODRUFF: I believe this is the only  
21 time Mr. Lehr will be testifying also?

22 MS. WOODS: That's correct, your Honor.

23 JUDGE WOODRUFF: 403 has been offered into  
24 evidence. Are there any objections?

25 Hearing none, it will be received into

1 evidence.

2 (EXHIBIT NO. 403 WAS RECEIVED INTO EVIDENCE.)

3 JUDGE WOODRUFF: Are there any

4 cross-examination questions for Mr. Lehr?

5 Hearing none, there are no questions from the

6 Bench, you may step down.

7 THE WITNESS: Thank you.

8 MS. WOODS: Department calls Anita Randolph.

9 (EXHIBIT NO. 400 WAS MARKED FOR

10 IDENTIFICATION.)

11 (Witness sworn.)

12 ANITA RANDOLPH testified as follows:

13 DIRECT EXAMINATION BY MS. WOODS:

14 Q. Director Randolph, do you have any changes to

15 make to your testimony filed in this case?

16 A. No, I do not.

17 MS. WOODS: Department of Natural Resources

18 would then move the entry of Exhibit 400 and tender Director

19 Randolph for cross-examination.

20 JUDGE WOODRUFF: Ms. Randolph, this is the

21 only time she's testifying also?

22 MS. WOODS: Yes.

23 JUDGE WOODRUFF: Exhibit 400's been offered

24 into evidence. Are there any objections?

25 Hearing none, it will be received.

1 (EXHIBIT NO. 400 WAS RECEIVED INTO EVIDENCE.)  
2 JUDGE WOODRUFF: Are there any  
3 cross-examination questions for Ms. Randolph?  
4 Hearing none and there are none from the  
5 Bench, you may step down.  
6 THE WITNESS: Thank you.  
7 JUDGE WOODRUFF: I believe Mr. Colton and  
8 Mr. Jackson have both been excused; is that right?  
9 MS. WOODS: That's correct. And I have their  
10 pre-marked testimony.  
11 JUDGE WOODRUFF: If you want to come forward.  
12 (EXHIBIT NOS. 401 AND 402 WERE MARKED FOR  
13 IDENTIFICATION.)  
14 MS. WOODS: The Department would now move the  
15 entry into the record of Exhibits 401 and 402.  
16 JUDGE WOODRUFF: So the record's clear, by  
17 previous understanding between the parties and the  
18 Commission, it was agreed there was no cross-examination for  
19 Mr. Jackson or Mr. Colton, so it was agreed they did not  
20 have to appear here today.  
21 Exhibit 401 and 402 have been offered into  
22 evidence. Are there any objections to their receipt?  
23 Hearing none, they will be received.  
24 (EXHIBIT NOS. 401 AND 402 WERE RECEIVED INTO  
25 EVIDENCE.)

1 JUDGE WOODRUFF: Is there anything else from  
2 Natural Resources?  
3 MS. WOODS: No, your Honor. There is not.  
4 Thank you.  
5 JUDGE WOODRUFF: Thank you. I believe that  
6 concludes Energy Efficiency then.  
7 We'll go back down to Corporate Allocations  
8 and Mr. Traxler. Does anyone have any cross-examination  
9 questions for Mr. Traxler?  
10 Hearing none, we will proceed then to  
11 Mr. Robertson for the Public Counsel. Does anyone have any  
12 questions for Mr. Robertson on this issue?  
13 Okay. We will proceed then to Customer  
14 Service Indicators Condition. And again with Mr. Pella will  
15 anyone have any cross-examination questions for Mr. Pella on  
16 this issue?  
17 MR. BATES: Yes, your Honor.  
18 MR. COFFMAN: Yes, your Honor.  
19 JUDGE WOODRUFF: Come forward then, Mr. Pella.  
20 You were also previously sworn.  
21 THE WITNESS: Yes.  
22 JUDGE WOODRUFF: Is Mr. Pella tendered for  
23 cross-examination?  
24 MR. COOPER: Your Honor, he is tendered for  
25 cross-examination on Customer Service Indicators Condition.

1 JUDGE WOODRUFF: Thank you. And we'll begin  
2 then with the IBEW?

3 MR. JOLLEY: Yes, your Honor.

4 STEPHEN PELLA testified as follows:

5 CROSS-EXAMINATION BY MR. JOLLEY:

6 Q. Mr. Pella, can it be generally agreed that the  
7 delivery of safe and reliable service to customers is a  
8 paramount obligation and is required in the public interest?

9 A. Yes. I generally agree, yes.

10 Q. Does UtiliCorp have in place or put -- or will  
11 put into place a system or a method of tracking whether if  
12 the merger is approved it is actually delivering safe and  
13 reliable service to customers in the Empire area after jobs  
14 and specifically bargaining unit jobs are eliminated?

15 A. We currently have a tracking system for safety  
16 and reliability, and we would propose to continue that  
17 post-merger if approved.

18 Q. And this system will show what?

19 A. It would show an array of safety statistics  
20 relative to recordable incidents and vehicle incident rates  
21 and the like on this reliability side typical provisions  
22 around SAIFI and SAIDI, CAIDI and -- so that's what we would  
23 be looking at on a routine and regular basis.

24 Q. Okay. So that if these systems and tracking  
25 methods were to demonstrate that, in fact, UtiliCorp after

1       reducing bargaining unit jobs was falling short of  
2       expectations, what action would be taken?

3               A.       Action would be taken as we have operated.  
4       And the reason we provide those statistics is so we can  
5       monitor, understand the rationale for those changes and  
6       indices and take appropriate action if necessary. Not all  
7       changes in indices reflect a problem in your question  
8       relative to staffing.

9               Should research dictate any number of actions,  
10       of course, we would be aggressive in taking those actions to  
11       maintain our level of safety and reliability.

12              Q.       So that it could prove out, could it not, that  
13       remedial or corrective action were required and that that  
14       action might include beefing up the work force?

15              A.       Yes. I think that's a possibility, yes.

16              Q.       There's been testimony already that Empire  
17       currently has in place an employee work force that is highly  
18       skilled, well trained, qualified and competent. Would you  
19       agree with that?

20              A.       Generally so, yes.

21              Q.       And it's been acknowledged here that Empire is  
22       and has been delivering safe and reliable service with its  
23       existing compliment of bargaining unit employees and without  
24       a reduction of 50 bargaining unit positions. That I think  
25       is a known quantity, I mean, actual experience.

1                   Would you agree that UCU's ability to deliver  
2           service safely and reliably in the Empire area with 50 fewer  
3           bargaining unit employees is yet to be proven?

4           A.       By definition, I think that's true.

5           Q.       All right. And would you agree that if the  
6           service provided by UCU in the Empire area with 50 fewer  
7           bargaining unit positions, if the merger were approved, were  
8           less safe and less reliable than the service provided by  
9           Empire with its currently existing work force, that that  
10          result would be detrimental to the public interest?

11          A.       If UtiliCorp's service indices were less --

12          Q.       Yes.

13          A.       -- or deteriorated? Maybe -- repeat the  
14          question.

15          Q.       Would you agree that if the service provided  
16          by UtiliCorp to the Empire area, if the merger were approved  
17          and with 50 fewer bargaining unit positions, were less safe  
18          and reliable as a result of the reduction of those  
19          bargaining unit positions, as a result of insufficient  
20          manpower and that that service was worse then the service  
21          that has been currently provided to customers by Empire  
22          without a reduction of heads, that that result would be  
23          detrimental to the public interest?

24          A.       I'd say not necessarily.

25          Q.       Would you explain?



1           A.       Yes. The first issue would just be what  
2 indices we're looking at in what time frame, how they're  
3 computed and how comparable they are. I'd want to make sure  
4 that we understood, if you will, apples to apples or the  
5 indices we were looking at.

6                   And if you consider that sort of an exercise,  
7 a normalizing exercise and you looked at root causes of  
8 known and legitimate variants that was below targeted  
9 levels, then we would take corrective action. If that  
10 corrective action was dictated to include staffing, then  
11 that's what we would pursue.

12           Q.       So is the answer to my question as to  
13 whether -- if UCU provided poorer service, less reliable  
14 service, less safety service -- I mean, less safely  
15 delivered service and that that reduction in service levels  
16 were attributed to insufficient employee compliment, that  
17 may constitute a detriment to the public interest?

18           A.       I would say may under the conditions I worked  
19 through in my prior response.

20           Q.       And your response is based upon your indices?

21           A.       Yes. It's measurable and known facts that  
22 would be used to make the judgment that something is more or  
23 less safe or more or less reliable.

24           Q.       So if your indices reflected that poorer  
25 service was the result of an insufficient staffing level,

1       then the answer to my question would be yes?

2               A.       Yes.

3               Q.       Okay. Assuming that to be the case, that

4       experience would demonstrate if UCU were to eliminate

5       50 bargaining unit positions after the merger were approved

6       and that the indices reflected that that diminution of

7       service were the result of insufficient staffing contrary to

8       the public interest, would you acknowledge that the public

9       interest would be better served by continuing to provide

10      service with a known quantity with the existing compliment

11      of employees that experience has already proven delivers

12      safe and reliable service rather than reducing employees,

13      running the risk of a staffing level related diminution in

14      service and taking corrective action later?

15              A.       I believe our plan takes that into account.

16              Q.       But would you answer my question? If a

17      demonstrated track record is that the public interest is

18      worse off as a result of the staffing level, wouldn't it be

19      wiser to keep what we know works rather than track it and if

20      service is diminished, take corrective action thereafter?

21              A.       To make every opportunity to using -- to use

22      existing skilled people who are necessary, our

23      implementation plan would call for such result which would

24      have people of necessary levels be on staff.

25              Q.       And just as a hypothetical, assuming that it

1       were demonstrated that after UCU reduced 50 bargaining unit  
2       positions and that there were injuries or deaths to  
3       employees as a result of insufficient people performing the  
4       work, could there be any corrective action that would  
5       rectify that situation?

6             A.       And "that situation" being?

7             Q.       Injury or death. You can't go back and undue  
8       the injury; is that correct? You can take steps to --

9             A.       Yes.

10            Q.       -- avoid it in the future?

11            A.       The way all utilities should and the way we  
12       would approach it is by not only providing the training and  
13       support, but construct the work in such a way that it does  
14       give us the best chance for safe and reliable work.

15            Q.       Okay. And, again, I'm on a hypothetical, but  
16       I'm on the same question. And I understand that there is a  
17       difference or dispute as to proper usage of two- versus  
18       three-men linemen crews, and I recognize that we have a  
19       disagreement on that. And you recognize that; is that  
20       correct?

21            A.       Yes. We have a difference of opinion, I  
22       believe.

23            Q.       Assuming that there were an instance in which  
24       it was demonstrated that a three-man crew could have avoided  
25       serious injury or death during the period of a 50-employee

1 reduction, there is no way to go back and remedy that injury  
2 or death; is that correct? I mean, you can have safety  
3 training --

4 A. Just as it would be if a death occurred with a  
5 three-man crew.

6 Q. Yes. But if the death were attributed to the  
7 lack of an additional body, assuming that an additional  
8 body, it was determined, could have avoided the accident and  
9 the death and could have prevented death --

10 A. In any incident one can review it and make  
11 that assessment. So this case would be no different to  
12 being open to that possibility.

13 Q. John McKinney previously testified and I think  
14 he suggested an answer in answer to one of my questions that  
15 I might ask you this next question, and it may have been  
16 covered in my absence.

17 Do you know the actual dollar savings  
18 attributed to the reduction of the 50 bargaining unit jobs  
19 as a result of this merger?

20 A. I would -- I would only be able to give a  
21 broad estimate.

22 Q. Can you do that for me, even a broad estimate?

23 A. I would think it's in maybe the \$2 million  
24 range.

25 Q. And that's per year?

1           A.     Yes.

2           Q.     And that may or may not include roll-up

3           factors -- do you think your estimate included pension

4           and --

5           A.     No.

6           Q.     -- fringe benefits?

7           A.     No.

8           Q.     That's direct salary?

9           A.     Correct.

10          Q.     Payroll?

11          A.     Correct.

12          Q.     And in addition to that 2 million then there

13          would be fringe benefit costs, taxes?

14          A.     Yes.

15          Q.     So we could be up somewhere close to

16          2 1/2, 3 million a year, in that range?

17          A.     Could be.

18          Q.     Could be.

19                 MR. JOLLEY: Might I have just a moment?

20                 JUDGE WOODRUFF: Sure.

21          BY MR. JOLLEY:

22          Q.     In determining to eliminate 50 bargaining unit

23          jobs -- and I asked this question of several UtiliCorp

24          witnesses previously and at least one of them suggested I

25          might defer this to you, and it's a fairly long question. I

1       don't know how to make it any shorter.

2                       In determining to eliminate the 50 bargaining  
3       unit positions currently represented by contract with IBEW  
4       1474, would you say that there was, A, first option, a  
5       specific analysis of Empire's bargaining unit jobs by  
6       UtiliCorp, the number of employees in each of those  
7       classifications, the workload in that classification, the  
8       population density per employee, the number of lines or the  
9       miles of lines to be serviced and a resulting determination  
10      to eliminate 50 jobs; or, B, was there a determined amount  
11      of savings that must be accomplished from employee  
12      reductions and a benchmark attached to the bargaining unit  
13      so that in order to realize X number of dollars of savings,  
14      50 jobs had to be eliminated? Do you know the answer? I  
15      mean, do you understand the question? It's a little  
16      rambling, but --

17               A.       Yes. It's A. If you use the term "specific  
18      analysis," it's more A.

19               Q.       Okay. Who made the determination to eliminate  
20      the 50 bargaining unit positions?

21               A.       The combination of personnel on transition  
22      teams of which I am one lead of seven leads. There are  
23      bargaining unit employees in both the power plant and in the  
24      transmission. I'm on the distribution side.

25               Q.       So --

1           A.       So the combination of personnel on those teams  
2       who were charged with the analysis and had counterparts in  
3       Empire would have been the source of the recommendations.

4           Q.       Okay. And so this would involve the lead team  
5       for lack of a better word? There is a lead transition team  
6       and you're on it?

7           A.       There's a steering committee which I am not  
8       on.

9           Q.       Okay.

10          A.       And then --

11          Q.       And then there are several teams?

12          A.       Yes. There are seven teams by broad function  
13       of the company. I represent the distribution side.

14          Q.       And you were involved in that determination by  
15       virtue of your role as a team member on the distribution  
16       side?

17          A.       The recommendations and more importantly the  
18       analysis that went into and preceded the recommendations  
19       were done by a series of personnel assigned to the  
20       distribution team under my direction who would have the  
21       qualifications, background and experience to make those  
22       judgments.

23          Q.       Okay. Now, are you familiar that in data  
24       submitted by UtiliCorp in response to IBEW data requests it  
25       was stated that UtiliCorp had conducted no specific studies

1       indicating that with the elimination of 50 bargaining unit  
2       jobs service could be safely and reliably delivered?

3             A.       Yes.  And the key word there was the use of  
4       the word "study."

5             Q.       So there was analysis, but no study?

6             A.       Analysis and recommendations.  Study on behalf  
7       of the team who responded implied a formal concluded study  
8       with firm recommendations as one might normally get with the  
9       use of that term.  And that was not the texture of what we  
10      had at the time that data request was submitted, but clearly  
11      we've done some homework.

12            Q.       Was that homework done before or after the  
13      data request?

14            A.       There was work underway before and there's  
15      been work underway since and there will be continuing to be  
16      work underway up to and through the hopeful close.

17            Q.       Who was on the transition -- who was on the  
18      distribution transition team and what are their positions  
19      and who do they work for?  And I'm through with that  
20      question.

21            A.       I'll do my best from -- from memory.  On the  
22      distribution side there are five broad areas, and I'm going  
23      to peel the onion a little bit and tell me when you want me  
24      to stop.

25            Q.       I'm looking for the transition team to which



1       you referred that made the analysis that --

2               A.       Okay.

3               Q.       -- looked at and led to the recommendation of

4       the elimination of 50 bargaining unit jobs.

5               A.       Okay. One of the five areas was network

6       services, the point to which I'm speaking here primarily.

7       And on that team would be Larry Jones, who is a director of

8       our electric operations in Missouri; Elliott Connell, who

9       oversees our engineering in the company; Mike McNally, who

10      oversees our substation work; Brad Opfer, who was assigned

11      to this transition team exclusively. He was pulled from a

12      prior role where he oversaw electric operations in Colorado.

13      Norm Hillman (phonetic spellings) was brought into the

14      network services team, who has a background and experience

15      in electric line and service work for many years. Those are

16      the ones that I can recall.

17              Q.       And you worked with that group as well?

18              A.       I worked with that group to the extent they

19      would share the method of their analysis and the

20      recommendations of that analysis.

21              Q.       Okay. No outside consultants were used, no

22      UtiliCorp personnel?

23              A.       Not that I recall.

24              Q.       Okay. On page 2 of your supplemental

25      surrebuttal testimony filed earlier this week --

1           A.       Okay. One moment. Page 2?

2           Q.       Page 2, yes.

3           A.       Yes.

4           Q.       Beginning with line 3 there's a question and  
5 answer running down through line 16. And the question was,  
6 How did UtiliCorp undertake its assessment of Empire's  
7 business to draw conclusions about how it will operate the  
8 company if the merger is approved?

9           A.       Yes.

10          Q.       You state that, UtiliCorp used several of its  
11 employees with many years of utility experience to conduct a  
12 detailed evaluation of Empire's business to validate that  
13 UtiliCorp's business model was applicable in Empire's  
14 environment.

15                   First off, are the employees that you just  
16 identified for me, Larry Jones, Elliott Connell, Mike  
17 McNally and the other two, are these the several employees  
18 to whom you refer in the first sentence of your answer?

19          A.       These are some. I don't believe they  
20 represent all people who would have been called upon, but  
21 those are the primary participants.

22          Q.       Okay. And the answer goes on, We traveled  
23 Empire's entire service territory and talked with front line  
24 supervisory and management employees, both union and  
25 non-union.

1                   Are you included in the "we" who traveled  
2    Empire's entire service territory?

3           A.       I have traveled the entire Empire territory,  
4    but not for the purpose of necessarily evaluating the  
5    specifics around line work, for example.

6           Q.       Okay.

7           A.       Mine was there for broader issues around the  
8    merger and communications with employees explaining  
9    UtiliCorp's company.

10          Q.       It goes on to state beginning on line 12 that,  
11    We shared our preliminary conclusions with a team of Empire  
12    employees to gain their insight and feedback.

13                   First off, were there any individuals on  
14    UtiliCorp's team that looked into bargaining unit staffing  
15    who had experience as linemen, electricians, production  
16    workers?

17          A.       Looked into means reviewed, made judgments,  
18    tried to work towards recommendations, yes.

19          Q.       Any of the five individuals that you  
20    mentioned?

21          A.       Yes.

22          Q.       And who would that be?

23          A.       Brad Opfer, I believe, started his career as a  
24    lineman working his way through management and now oversight  
25    of electric operations.

1           Q.     And is he based -- is he one of the ones based  
2     in Missouri, or is he somebody from Colorado?

3           A.     He was originally from Missouri. He took a  
4     position in Colorado overseeing electric operations for us  
5     there. And within the year he's returned to Missouri for  
6     just this assignment to help us work through the transition  
7     effort.

8                     Others on the list have either supervised,  
9     directed or otherwise been around electric line and service  
10    work for the majority if not all of their careers.

11          Q.     What does that mean they've been around it?

12          A.     Would have supervised it, maybe had roles and  
13    responsibilities in a field operations job.

14          Q.     From an office job?

15          A.     Well, not necessarily. Could have been a  
16    construction -- what we would call a construction  
17    coordinator, they might have been a supervisor of linemen,  
18    they might have been a district manager over customer  
19    service and operations, those sorts of jobs.

20          Q.     They might have been, but you don't know that  
21    they were?

22          A.     Well, I can go one by one and do my best to  
23    tell you which one has which background, to the best of my  
24    knowledge. They all have those combinations of backgrounds,  
25    yes.

1           Q.     All right.  Okay.  How long did UCU personnel  
2     that you've identified spend in the Empire area analyzing  
3     specifically the manpower situation of bargaining unit  
4     personnel and the prospects for eliminating bargaining unit  
5     jobs?

6           A.     How much time?

7           Q.     Yes.

8           A.     How many hours or -- I don't believe I can  
9     quote you an exact.  What I can tell you is there's been --  
10    the team I outlined was created at the time of the announced  
11    merger and has been intact, working with representatives for  
12    many months.

13                   And that -- over that period of many months,  
14    which I'd have to think for a moment how far back, it's  
15    post-announcement.  And we've worked through initial  
16    orientations and understanding all the way through some very  
17    detailed -- more detailed -- detailed is a term people might  
18    use differently, but pretty involved either review of the  
19    system -- review of the work or back logs to the extent it  
20    was available and to try to talk to a representation of  
21    people.

22                   Given the nature of this and we are not the  
23    owners of the business, we do try to be respectful of time  
24    and use the time we have down there wisely, but it would be  
25    safe to say there have been many visits by many different

1 combinations of people working on this topic and/or  
2 reviewing systems in a variety of locations at Empire.

3 Q. Specifically relating to bargaining unit  
4 personnel?

5 A. It would have looked at all areas of what we  
6 would call network operations of which a part of are the  
7 bargaining unit employees.

8 Q. So all of this work that you just described is  
9 not applicable to an analysis of bargaining unit personnel  
10 and potential reductions; is that correct?

11 A. No. The analysis included but not restricted  
12 to.

13 Q. Correct. I understand.

14 A. So all areas, whether bargained for or not.  
15 It was the work we were trying to understand, how it's done,  
16 how it compares to how we approach the work so that we can  
17 apply some level of experience and our understanding of some  
18 relative metrics and the like to try to come up with  
19 reasonable sound recommendations as a going in position.

20 Q. Do you have any idea as to the amount of time  
21 these individuals actually spent in the field observing  
22 bargaining unit employees like linemen and electricians in  
23 the performance of their job, looking -- I mean, do you have  
24 any idea of that?

25 A. I wouldn't be able to quote. I'll -- what I

1       can say is I know there have been several visits. I would  
2       doubt our team went out and watched a crew do a job --  
3             Q.       Okay.  
4             A.       -- all day. We would make travel, do some  
5       spot observations and we would talk to a smaller set of  
6       people who would understand the work, but be more respectful  
7       of the work force at Empire who has business to conduct and  
8       customers to serve.  
9             So we tried to look for a balance. So it was  
10       done -- I think it was done at enough of a level, and this  
11       was to gauge how much -- to be able to get a reasonable view  
12       of the work, how it's done to make reasonable  
13       recommendations.  
14            Q.       Okay. When you say you talked to Empire  
15       employees, to your knowledge, this team to which you  
16       referred did not speak with Bill Courtney or any other  
17       representative of the union that represents the bargaining  
18       unit employees, did they?  
19            A.       I -- I don't know exactly. I just don't know  
20       how to answer that.  
21            Q.       If I were to relate to you that they did not,  
22       you would not disagree with that?  
23            A.       If they said -- if Bill said they did not,  
24       then I expect they did not.  
25            Q.       All right. To what extent did they talk to

1 bargaining unit employees?

2 A. My understanding is that they did talk to

3 bargaining unit employees. I don't know the extent nor time

4 nor location.

5 Q. Did they advise the bargaining unit employees

6 that they intended to make reductions in their numbers?

7 A. That would have been inappropriate. At the

8 time of the visit it was more likely to understand the work,

9 not presume any change or difference in work force.

10 Q. So you did the analysis and then went at some

11 point over the course of time --

12 A. Yeah.

13 Q. -- reviewed and came to some recommendations?

14 A. Yeah. Again, I'm -- I'm projecting what our

15 team would have done without me being in the car or in

16 the -- in the room each --

17 Q. I understand.

18 A. -- of those times. But the view would be as

19 you would work through it -- now, you may come to some

20 interim theories about how something is done, what could be

21 done differently, and might those discussions have occurred

22 along the way? I expect they did as a way to gain

23 knowledge.

24 Q. You understand I'm asking you these questions

25 because it's you who provided the supplemental --



1           A.       Yes.

2           Q.       -- surrebuttal testimony --

3           A.       Yes.

4           Q.       -- on this issue?

5           A.       Yes.

6           Q.       After the recommendations were made or after

7           the thought was given to reducing 50 bargaining unit jobs,

8           did this team go back to the Empire area, revisit the

9           bargaining unit employees and other Empire people saying,

10          Looks like it's going to be 50, and give them an opportunity

11          to rebut, give explanations as to why that shouldn't happen

12          or where you may have misfigured?

13          A.       What we did was two things. One, when the

14          recommendations were given, we would have cross-checked that

15          internally against our own knowledge of operations and

16          certain statistics across our jurisdictions about this type

17          of work. And measured against that. And those were

18          actually even below our own average. So they were probably

19          done more conservatively, which gave us some feel that the

20          recommendations were reasonable.

21                  Second, they would have been shared with our

22          assigned counterparts from Empire on each of the teams to

23          share with them what we found. And in some cases there

24          would be agreement, and some places there would not

25          necessarily be agreement, which ties back to this is an

1 evolving process where we continue, as we know more, to make  
2 refinements. And that's -- that's the environment in which  
3 those recommendations would have been reviewed.

4 Q. Has the Empire counterpart team, which I  
5 suspect, correct me if I'm wrong, consists of management or  
6 executive-type personnel -- first of all; is that correct?

7 A. I don't believe there are any bargaining unit  
8 employees represented as counterparts on that work.

9 Q. To your knowledge, when it comes to the  
10 proposed elimination of 50 bargaining unit jobs, including a  
11 number of linemen, including a number of electricians,  
12 including a number of production workers and others, did the  
13 Empire counterparts concur with that recommendation, or do  
14 you know?

15 A. In general, there would be mixed reaction to  
16 recommendations we would give. The counterparts on the  
17 Empire team were to represent Empire and all work being  
18 conducted at Empire. And whatever it took to get that  
19 representation, we would have deferred to them.

20 Second, it would be where -- and this is  
21 fairly typical -- an analysis of work to the degree one has  
22 a different either approach to work or you have a different  
23 set of broadly used tools that one has to understand the  
24 difference in methodology before you understand the end  
25 result recommendation.

1                   So, yes, there would be cases where they would  
2     seem that reasonable and other cases where they would seem  
3     that not reasonable. So they have given us feedback in  
4     their view about where they thought we should take another  
5     look or reconsider some aspect of our analysis.

6                   Q.     Did the, for lack of a better word, transition  
7     slash distribution team provide written reports and  
8     recommendations supporting the specific conclusions as to  
9     the elimination of specific bargaining unit positions and  
10    specific numbers of employee positions within those  
11    classifications?

12                  A.     There would be material reviewed in work  
13    sessions. What I recall in one of the data requests was a  
14    document provided by Mark Kirshner (phonetic spelling),  
15    which gave a narrative. Mark Kirshner was assigned to the  
16    network side of the analysis. And in there he had a  
17    narrative about each category of job and what it does and  
18    how that contrasted to UtiliCorp's model and from that drew  
19    recommendations and -- and outcomes.

20                  Q.     There were no time studies?

21                  A.     There were no time and motion studies.

22                  Q.     No time and motion studies in connection with  
23    the ultimate decision to reduce bargaining unit positions?

24                  A.     That's one of the reasons we did not have a  
25    study in response to the data request that -- because we did

1 not have that sophisticated of a level. What we do have is  
2 a -- you know, a wide array of experience in running the  
3 business, put people on it that have that experience. We  
4 have some view based on our track record or our reliability  
5 and safety to have some comfort. We do have some  
6 measurements that help gauge how accurate we are.

7 Q. The answer --

8 A. And over time we'll phase in those  
9 recommendations based on increased knowledge of the  
10 business.

11 Q. In answer to one of my earlier questions you  
12 indicated that once the recommendations were made to reduce  
13 50 heads, you did not go back and talk to bargaining unit  
14 personnel or others to find out where your assumptions may  
15 be wrong, seek out whether there's differences in equipment,  
16 older equipment versus new equipment, number of employees  
17 per line, per mile of line there where -- giving them an  
18 opportunity where perhaps your historical model may be  
19 different. You didn't do that, did you?

20 A. I would have expected our team would have  
21 reviewed that before they made any recommendations in some  
22 fashion.

23 Q. But without, after making those  
24 recommendations, getting back to the Empire people and  
25 giving them an opportunity to say, Hey, those models are

1       wrong, they don't fit here?

2               A.       The recommendations were shared and discussed  
3       with our assigned counterparts from Empire who were to  
4       represent Empire.

5               Q.       And they did not necessarily concur with your  
6       recommendations as you indicated?

7               A.       They would -- yeah, they would give feedback  
8       on areas and we would have to work through -- and we did.  
9       We would have made some revisions along the way as a part of  
10      that.

11              Q.       To your knowledge, were there recommendations  
12      that were made by the transition slash distribution team --  
13      and I guess that's my terminology -- did they specifically  
14      break down and analyze each job classification and the  
15      number of cuts within those classifications?

16                      In other words, by way of example, and I  
17      forget the numbers, but we have 117 linemen, we propose  
18      reducing -- and I'm not sure of the number, but 20, and back  
19      up as to how you can work with a reduction of 20 and do the  
20      same exercise for each of the classifications from which job  
21      eliminations are contemplated?

22              A.       The level of detail of the analysis I saw had  
23      it by job whether it be bargained for or not. And there was  
24      analysis done sufficient at that level to base a reasonable  
25      projection of staffing. And those results, along with the

1 methodology about how business would be conducted, would  
2 have been shared.

3 Q. Okay. And as I understand your testimony, in  
4 large part the recommendations to reduce bargaining unit  
5 personnel was based in part on UCU's own track record and  
6 experience and its successful way of conducting this  
7 business?

8 A. But we first had to understand the Empire  
9 operation and service territory which warranted the several  
10 visits by different people to view that. Otherwise, we  
11 could not compensate for the uniqueness in that operation.

12 Q. And do you know that they took into account --  
13 actually took into account such differences that may exist  
14 between Empire and, say, the Mo Pub Service area as to age  
15 of equipment, type of equipment, number of employees in  
16 service-related classifications per square mile, per line of  
17 mile? Do you know that these were, in fact, taken into  
18 account, any differences between Empire and UtiliCorp's  
19 other facilities? Do you know?

20 A. I know various angles would have been looked  
21 at to try to become comfortable with any recommendations.  
22 Where -- whether each of the provisions you outline were  
23 each taken into account, I would not -- I'm just not able to  
24 say. I'm not saying it would or wouldn't. I know some of  
25 the ones you ran through would have been, because that's the

1 way you would have had to work through it to be comfortable  
2 and more confident with recommendations.

3 Q. Okay. I want to have a few questions -- ask a  
4 few questions about the issue I alluded to earlier and  
5 that's two-man versus three-man crews. In your supplemental  
6 surrebuttal testimony beginning on page 2, line 17 --  
7 line 17 there is a question asked of you which states that  
8 Mr. Courtney alleged that Empire's work cannot be performed  
9 without, at a minimum and across the board reduction to  
10 two-employee crews and asks whether that's true. And you  
11 say, No, and then go on to explain?

12 A. Yes.

13 Q. You say that's not true -- and I'm referring  
14 to line 23 -- UtiliCorp provides the number of individuals  
15 required to do the work safely, efficiently and effectively  
16 whether a two-person crew or a ten-person crew. UtiliCorp  
17 currently uses three or more persons on a work crew as  
18 needed and depending on the nature of a project. However,  
19 our experience has shown that the majority of the work can  
20 be performed safely with a two-person crew.

21 Is that your testimony?

22 A. Yes.

23 Q. Okay. And then beginning on page -- on  
24 page 3, line 7 actually, you say it had been determined that  
25 70 percent of the normal work could be completed safely with

1 two people instead of three.

2 Is that to say then that in UtiliCorp's other  
3 operations, including Mo Pub, for example, Missouri Public  
4 Service area, that 70 percent of the crews are two-person  
5 crews and that 30 percent are crews consisting of more than  
6 two individuals?

7 A. Only in a broad way of speaking. This was to  
8 illustrate that a significant amount of work could be done,  
9 and that prompted then Missouri Public Service to move to  
10 more the two-person crew method of operation. Any  
11 proportion of two-person crew versus any number of crew  
12 would be based on the work that's being conducted at the  
13 time, which doesn't always come in equal size packages.

14 Q. Would I be correct in assuming and would the  
15 union be correct in assuming that in reducing linemen by  
16 16 percent, and I think it's a reduction of 16 or 19  
17 linemen, that by and large this takes into account a general  
18 reduction from what Empire currently uses as three-man crews  
19 to a general norm of two-man crews?

20 A. There is a two- and three-man crew mix in both  
21 companies. The proportional amount would be more two-person  
22 crews in Empire than would currently be used, yes.

23 Q. I'm not sure I understood. Let me give you my  
24 understanding of Empire. Empire's basic crews are  
25 three-employee crews and only a small number, three or four



1 crews, operate with two employees. The overwhelming  
2 majority of crews are three-member crews. Would you agree  
3 with that?

4 A. That's my understanding.

5 Q. And at UtiliCorp's other facilities like  
6 Missouri Public Service, that's flip-flopped?

7 A. There are more -- I don't know that it's that  
8 degree, but it is proportionally greater two-person crews  
9 than three-person crews, yes.

10 Q. When has UtiliCorp ever utilized a ten-man  
11 crew of its own regular linemen employees?

12 A. I expect whenever the job required it.

13 Q. Has it ever?

14 A. I personally don't know. That was meant to  
15 illustrate a point that we would assign the number of people  
16 required to do the work which is the first salient rule in  
17 the way we would operate.

18 Q. When UtiliCorp and its other facilities has  
19 work that it determines to be beyond a safety level or  
20 reliability level for a two-man crew, who do they refer that  
21 to?

22 A. I believe the people there, employees on the  
23 ground have a right to call for that or they would work back  
24 through their local service operation to dispatch another  
25 personnel to the job.

1           Q.     Does other personnel include outside  
2     contractors?

3           A.     That wouldn't normally be the case, to my  
4     knowledge.  It would dispatch a person -- usually the way  
5     the crew arrangement and staffing would be such that you  
6     would be able to assign from another crew or maybe you'd  
7     split a different two-person crew to supply that third  
8     person in this case.

9           Q.     So when you split a two-man crew to provide a  
10    third to a different crew, you then have a single remnant of  
11    a two-man crew that's then assigned to another two-man crew  
12    to make it a three-man crew?

13          A.     That may be what the other person has done.  
14    There are other places where -- of a different nature of  
15    position where it's a swing position where their job is to  
16    do just -- just supplement three-person crews when  
17    necessary, otherwise they work as a single which requires  
18    the necessary flexibility to not have the case you point  
19    out, which is having the -- kind of the other person of a  
20    two-person crew may or may not have work.

21          Q.     To what extent does UtiliCorp utilize outside  
22    contract crews to perform work similar or identical to that  
23    of its regular employee alignment?

24          A.     We primarily use contractors when there's  
25    specialized skill necessary.

1           Q.       Like what? As opposed to the skill level of  
2 your linemen employees?

3           A.       In your terminology it would be those skills  
4 that would not typically be performed on a day-to-day basis,  
5 regularly -- would not regularly be used.

6           Q.       Can you give me an example of what you're  
7 talking about?

8           A.       High voltage hot line work.

9           Q.       High voltage hot line work would be the kind  
10 of work that your regular linemen would not regularly --

11          A.       Well, they would be able to, but if it's a  
12 major project of a significant nature, then you would -- and  
13 required certain nature of skills -- now, you may or may not  
14 have them, but you may not have them in sufficient enough  
15 quantity. So -- and then the other part would be for peak  
16 load work where we have a particular demand that does not  
17 sustain during the year and that would be another way we  
18 might choose to use contractors.

19          Q.       It is true, is it not, that outside  
20 contractors require the use of three-man crews to perform  
21 any of the work you're talking about; is that correct?

22          A.       I believe the contractors for those more  
23 complicated significant projects do typically have  
24 three-person crews.

25          Q.       And, in fact, even for the less complicated

1 projects to the extent you use outside contractors for less  
2 complicated, even in those circumstances they by and large  
3 customarily require the use of a three-man crew, do they  
4 not?

5 A. I believe that's true.

6 Q. Let me suggest a scenario that my -- strike  
7 that.

8 Can you define a line of demarkation -- a  
9 threshold level up to which two-man crews will perform work  
10 and beyond which three-man crews will perform work?

11 A. I would not technically other than to say it  
12 would be whatever's judged by the employees and supervision  
13 working the jobs. When it's determined that more than a  
14 two-person crew is necessary, those would be assigned.

15 Q. Some of the work that linemen do involves  
16 primary lines that are single-phase lines. Correct?  
17 There's --

18 A. I'm not --

19 Q. -- a hot line and a single ground line?

20 A. I'm not the lineman. I'm not going to be able  
21 to properly answer a specific technical issue with doing the  
22 line work.

23 Q. If I were to tell you that in high density  
24 areas, residential or commercial, involving three-phased  
25 lines, which are three hot lines and one ground line, and

1 the extensions of working on those lines and extending those  
2 services involve three lines of 7,200-volt electricity in  
3 very tight and cramped quarters and that rubber gloving is  
4 required, that rubber protection has to be put in all areas  
5 within reach of an employee, that two bucket trucks are used  
6 and there's two employees up high and one down below and  
7 that there's another set of primary lines that are  
8 single-phase of either one line of 7,200 volts or extensions  
9 that goes to customer houses of 240, would you agree that  
10 one seems more dangerous than the other -- more dangerous  
11 work than the other?

12 A. I think all that work has its element of  
13 danger, one has higher voltage, more complications.

14 Q. Higher voltage, more customer lines, tighter  
15 quarters, higher risk.

16 Now, looking at UtiliCorp, when you testified  
17 earlier that you use outside contractors for higher voltage  
18 lines and more complex lines, aren't you, in fact, referring  
19 to the work that I just described in which you acknowledge  
20 would be more dangerous; namely, the three-phase lines,  
21 tight quarters, construction and extension of these lines  
22 each involving 7,200 volts, that this is where UtiliCorp is  
23 more likely to use outside contractors with three-men crews,  
24 whereas, service calls, residential where there's 240 volts  
25 or single-pole extensions of one line that can be done with

1 a hot stick, could be done with two men, but isn't that  
2 accurate? Isn't that the demarkation that UtiliCorp uses in  
3 deciding whether to use its own two-man crews or to contract  
4 outside to three-men crews?

5 A. I do not know that.

6 Q. Well, then to what were you referring when you  
7 said that UCU contracts out to outside contractors its  
8 higher voltage work?

9 A. I used it as one illustration and probably --  
10 you know, probably out of context. It's a way of -- I was  
11 trying to describe in broader terms, which is the degree I  
12 can describe them, the more complicated higher skill work  
13 and peak work. And really that's the extent of the  
14 illustration relative to use of contractors and a rule of  
15 thumb by which one would use them.

16 Q. And would you agree that outside contractor  
17 crews generally involve higher cost than the cost attributed  
18 to your own employees performing work, whether union or  
19 non-union?

20 A. No. Not necessarily.

21 Q. Really?

22 A. On what terms? Costs and what dimension?

23 Q. Well, I'm assuming that you pay your linemen  
24 at UtiliCorp 20-some-dollars an hour and fringe benefits and  
25 payroll taxes. And I'm assuming that you use your own

1 trucks. And when you use contractors, you're using more --  
2 you're using three employees and you've got a profit margin  
3 built in for the contractor and you've got rental for their  
4 trucks and for their equipment that you're paying for; is  
5 that correct?

6 A. Yeah. But on an annual basis, the use of the  
7 contractors given their use on particular projects may not  
8 carry the full year. Therefore, at any one point in time it  
9 might be more expensive, but over time it may be less  
10 expensive.

11 Q. That would be true definitely if you used  
12 outside contractor crews for the equivalent of 30 man days  
13 or the equivalent of one month out of a year, but in fact,  
14 UtiliCorp regularly every day on a daily basis utilizes  
15 outside contractors, does it not?

16 A. We use -- yes, we usually have contractors  
17 out.

18 Q. Would you agree that from among the various  
19 employees at a utility, including Empire, that linemen,  
20 electricians, production operators have perhaps the greatest  
21 exposure to unusual safety risks?

22 A. The nature of their work has its risks which  
23 is the reason for the emphasis on safety that we all share.

24 Q. Sure. And this exposure is on a daily ongoing  
25 basis? I mean, the linemen's job is --

1           A.       It's more --

2           Q.       More so than your job?

3           A.       Yes.  More than my job.

4           Q.       And more so than people in the office

5           headquarter's facilities?

6           A.       Yes.

7           Q.       And more so than people driving or --

8           virtually more than any other employees; is that correct?

9           A.       One would think so.  Although I'm not sure

10          about the driving thing.

11          Q.       Are you familiar with any industry safety

12          manuals in connection with the use of two- or three-men

13          crews?

14          A.       I'm aware of manuals that we use and are

15          available, but I would not know them personally.

16          Q.       Mr. Browning might be more up to speed than

17          you on that aspect?

18          A.       Pro-- no.  Not on the details of a safety

19          manual.  Unfortunately, I'm probably closer than Bob would

20          be to that one.

21          Q.       Are you aware that manuals traditionally

22          address the issue of pole-top rescue?

23          A.       I recognize that as one of the provisions, but

24          that's all.

25          Q.       And pole-top rescue refers, does it not, to a



1 situation where a lineman on a top of the pole in a basket  
2 or otherwise is electrocuted, comes into contact with a hot  
3 wire?

4 A. I'm -- it's probably inappropriate for me to  
5 respond because I've not personally gone through the  
6 training nor have I personally conducted the work. So I  
7 don't want to speculate or assume in this manner given the  
8 situation. I'm -- I wish I could be clearer with you.

9 Q. Would you agree that in connection with such  
10 an event where a lineman at a pole top came in contact with  
11 7,200 volts of electricity, that time is of the essence in  
12 getting him down from the pole so that resuscitation efforts  
13 can take place?

14 A. Sure. Upon any incident you'd want to move as  
15 quickly as you could.

16 Q. And would you acknowledge that two men moving  
17 such a victim from the top of the pole to the ground would  
18 be more likely to be lifesaving than one man getting him  
19 down a pole?

20 A. I -- I don't know. One would assume since  
21 there's two versus one. But I don't know that it's  
22 necessarily the case, nor that there might be other  
23 provisions nearby. So I don't know how to respond.

24 Q. If you and I were on top of the pole, we would  
25 want two people getting us down the pole instead of one,

1       wouldn't you?

2               A.       You'd think you'd be better off.

3               Q.       When will the reduction in the 50 bargaining

4       unit jobs take place?

5               A.       When we're confident enough that they should

6       be made. It will likely be a phased in exercise. I did

7       allude to the -- you know, we know what we know about

8       Empire's operation, but as the merger is finalized, we would

9       expect to -- over time as we confirm or deny information and

10      facts around our recommendation, then we'll implement as we

11      go. It would not be a day one exercise. I expect it would

12      be phased in over several months. And in some cases it

13      might take a year on some elements of it.

14              Q.       That would be after --

15              A.       After --

16              Q.       -- several months or a year within the

17      effective date of the merger?

18              A.       After the close.

19                      MR. JOLLEY: Okay. I apologize for taking so

20      much time. I do have a few more questions.

21                      JUDGE WOODRUFF: Go right ahead.

22      BY MR. JOLLEY:

23              Q.       Just on a follow-up to our last discussion,

24      in the event of a life-threatening emergency involving a

25      linemen and to the extent that UCU says that when we need

1 more people, we'll send more people, the likelihood is that  
2 other crews that you could dispatch with the best technology  
3 for dispatch, it would take a considerable amount of time  
4 for another crew to get there in a life-threatening  
5 emergency, would it not?

6 A. Yeah. You'd have some distance.

7 Q. Could be miles? Likely to be miles given the  
8 widespread geographic area and the number of crews utilized  
9 to service that geographic area, wouldn't that be correct?

10 A. Could be any variation.

11 Q. All right. I want to direct you to page 3 of  
12 your supplemental surrebuttal testimony, actually just the  
13 last line of page 3. And that question is, How do  
14 UtiliCorp's safety statistics compare to Empire? And then  
15 beginning on page 4, lines 1 through 7, you respond to that  
16 question?

17 A. Yes.

18 Q. You state that, The table below, and the  
19 table's beginning at line 6, shows the incident rates for  
20 recordable accidents for both UtiliCorp and Empire --

21 A. Yes.

22 Q. -- based on a formula established by the  
23 Occupational Safety and Health Administration. The OSHA  
24 formula is the number of accidents year to date times  
25 100 workers working one year divided by actual hours worked

1 year to date.

2 And I understand that. What is the definition  
3 of a reportable accident in your testimony? If I said  
4 reportable, I mean recordable.

5 A. There's a definition. I don't recall it  
6 myself. There's -- the safety and technical training group  
7 within UtiliCorp has specific definitions of those and it's  
8 provided in training as well as the documentation by which  
9 these are done. I just don't happen to know it.

10 Q. Is it UtiliCorp's own definition or is it an  
11 OSHA definition?

12 A. I just don't know.

13 Q. So UtiliCorp's definition of recordable  
14 accidents and, therefore, the accidents that it throws into  
15 this formula -- is that correct -- I mean -- strike that.

16 A. If it's --

17 Q. What UCU records under its definition of  
18 recordable accidents, in fact, gets put into the OSHA  
19 formula to which you refer in your testimony?

20 A. And I said I didn't know.

21 Q. Okay. Well, now the total recordable  
22 accidents incident rate, the chart, 1997, 1998, 1999  
23 comparisons between UCU, EDE and the industry includes what  
24 types of accidents?

25 A. I asked for this from our safety department,

1       so whatever the definitions are in and around use of these  
2       indices are what they are. I'm just not going to be able to  
3       recite them for you.

4               Q.       Do these statistics as to reportable accidents  
5       include statistics as to all UtiliCorp employees, clerical  
6       people, bargaining unit people, truck drivers, stores  
7       employees, or are they isolated to safety -- particularly  
8       safety sensitive positions like linemen, electricians,  
9       production workers? Do you know that?

10              A.       No, I do not.

11              Q.       And are they limited by definition to severe  
12       injuries with disability, or do they include slip and fall  
13       back cases where someone's off for three weeks or four  
14       weeks?

15              A.       The total recordable accidents I -- I believe  
16       are of all nature, not just a high severity, sir.

17              Q.       Okay. So a broken finger, a whiplash, a slip  
18       and fall with sprained ankle and electrocution of a linemen  
19       by contact with a high voltage wire would all be given the  
20       same weight as far as these statistics are concerned?

21              A.       I believe that's correct --

22              Q.       Okay.

23              A.       -- industry-wide.

24              Q.       And, to your knowledge, there's been no  
25       studies as to the specific safety record that would

1       compare -- that would make any comparison of electricians,  
2       linemen, production workers who work with high voltage  
3       machinery?

4           A.       No.   No formal studies.

5           Q.       So when it comes actually to a comparison of  
6       severe injuries due to such causes as contact and exposure  
7       with high voltage electricity as between UtiliCorp and  
8       Empire, you wouldn't have any such studies or statistics on  
9       those?  You didn't purport to in this testimony?

10          A.       I did not.  In the way the stats and these  
11       incidents are reported, that is possible to do.  And as part  
12       of operations, we would be more sensitive to these kinds of  
13       incidents as you point out because they do require follow-up  
14       and they do require review to have learning occur from any  
15       incident that might happen.

16          Q.       But your testimony did not purport --

17          A.       I did not.

18          Q.       -- or intend to draw comparisons, particularly  
19       as to bargaining unit employees and particularly as to  
20       severe injuries and accidents?

21          A.       No formal study.

22          Q.       Okay.  You were asked a question on line 8 of  
23       page 4 of your supplemental rebuttal testimony.  Do you have  
24       that page?

25          A.       Yes.

1           Q.       It states, Do you agree with Mr. Courtney's  
2       allegation that there will be adverse impacts during major  
3       outages due to the reduction in linemen and electrician  
4       jobs? And you said --  
5           A.       I'm sorry. What page?  
6           Q.       I'm sorry. Page 4, line 15 -- beginning at  
7       line 15.  
8           A.       Okay. All right.  
9           Q.       And the question was, Do you agree with  
10      Mr. Courtney's allegation that there will be adverse impacts  
11      during major outages due to the reduction in linemen and  
12      electrician jobs?  
13                   And you answered beginning on line 17.  
14      Correct?  
15           A.       Yes.  
16           Q.       Okay. And you state that, In the event of a  
17      major storm in which Empire resources need to be augmented  
18      to complete restoration efforts, craftsman and supervisors  
19      from other UtiliCorp operating areas, i.e., MPS -- that's  
20      Missouri Public Service?  
21           A.       Yes.  
22           Q.       And WPE -- you told me who it was in your  
23      earlier testimony, but --  
24           A.       WestPlains Energy.  
25           Q.       -- WestPlains Energy will be mobilized to

1 provide assistance.

2 When a major storm hits or there is a major  
3 outage, does UCU have a practice whereby it assesses the  
4 damage and makes a determination as to whether to attempt to  
5 restore power with its own people or rather to bring in  
6 sources from outside, other utilities contractors, etc. in  
7 order to restore service?

8 A. Based on the event and the information  
9 available and the extent of damage, yeah, that would be the  
10 practice, to review the extent, how much available crews and  
11 staff could handle and whether supplementary personnel are  
12 necessary.

13 Q. Okay. Mr. Courtney in his cross or rebuttal  
14 testimony described Empire's decision-making process in that  
15 event. And he said that Empire makes an assessment within  
16 hours of the incident and if Empire determines that service  
17 can be restored within a given time frame, whatever that  
18 time frame is, 16 hours or so, that no outside help is  
19 brought in, but if it's determined that their own people  
20 cannot restore within that time frame, then they start  
21 calling in troops from outside. Does UCU have some similar  
22 kind of assessment plan?

23 A. Assessment may -- I wouldn't know what it is  
24 exactly. It would be something along the lines of if you  
25 don't believe you could restore power in a reasonable period



1 of time, whether that's one day or 18 -- you know,  
2 whatever's past that, I'm not able to articulate.

3 Q. That's fine. Would you agree that in an  
4 areawide outage and assuming that no outside crews are  
5 brought in, that 98 linemen will not be able to as safely  
6 and reliably restore power as 115 linemen could have and  
7 did?

8 A. I think we may not be able to restore it as  
9 quickly. I would expect we would be as safe.

10 Q. Speaking of safe -- and earlier you took issue  
11 with Mr. Courtney's testimony -- in prior portions of your  
12 testimony that I skipped over you took issue with  
13 Mr. Courtney about his assertion that fewer people,  
14 particularly in emergency situations, will be more compelled  
15 to cut corners.

16 And he didn't -- he was not -- I will tell you  
17 was not implying that there is company directive to cut  
18 corners, but in a power outage -- major outage situation and  
19 in the absence of any directive and, in fact, in the face of  
20 instructions to the contrary by UtiliCorp or Empire, would  
21 you not recognize that when employees are understaffed in  
22 major emergencies having a desire to restore service to as  
23 many customers as quickly as possible, feeling an obligation  
24 by virtue of their job to do so, to consciously or  
25 subconsciously they do work faster and do cut a few corners,

1 not do things perhaps as safely as they otherwise might on a  
2 leisurely Saturday afternoon?

3 A. Can't speculate. That's not what should  
4 happen. It wouldn't be what would be enforced.

5 Q. We agree.

6 A. That would be an employee discretion with or  
7 without staff reductions actually.

8 Q. But to the extent there were such a  
9 subconscious or conscious feeling on the part of such an  
10 employee to do so, that could lead to unsafety?

11 A. I can't speculate on what subconsciously  
12 someone might choose to do despite rules and conditions to  
13 the contrary.

14 Q. All right. Now, once UtiliCorp -- assuming it  
15 reduces by 50 jobs and the merger is approved and there is a  
16 major outage over the Empire area and Empire or UtiliCorp  
17 makes an assessment and determines whether we need outside  
18 help or whether we don't, how long does it take for the  
19 outside help to get in and where are they coming from and  
20 how long will it take before they are of assistance in  
21 reducing and easing the workload of the reduced number of  
22 linemen and electricians that are working to restore power?

23 A. Length of time would be depending on location.  
24 Location is well known in terms of our service territory,  
25 which in this case the closest would be Nevada, Warrensburg,

1 the southern side of the Missouri Public Service territory.  
2 Others would be traveling from farther distances.

3           Depending on the extent of outage, any help  
4 whenever secured would still be effective and helpful, if it  
5 was really a major outage, probably not unlike what happens  
6 now at Empire when you have an outage beyond control. It  
7 takes a while for some people to get there.

8           Q.     And until outside help gets there, employees  
9 are working more -- are working understaffed in comparison  
10 to what they've previously worked under Empire in these  
11 situations before help arrives?

12          A.     If it's just one location of the now Empire  
13 territory, other personnel from other parts of the Empire  
14 territory would be dispatched to help with that outage.

15          Q.     And if it's the entire --

16          A.     If everybody --

17          Q.     If it's the entire Empire service territory --

18          A.     If it's entire Empire service territory, then  
19 help needs to be on the way as quickly as it could be  
20 dispatched.

21          Q.     And it would not be unusual for the Nevada  
22 service territory to be subjected to the same storm and  
23 power outage that affects the Empire service territory; is  
24 that correct?

25          A.     This would be classic utility issues. If it

1 blacks out a whole state, we'd have to call for help from  
2 accompanying states and we would have longer outages for our  
3 customers because our people, to operate safely, would only  
4 be able to restore service at a certain pace.

5 Q. Well, the one thing that's different is that  
6 in this case you would be working with 16 percent fewer  
7 linemen and 35 percent fewer electricians while you  
8 experienced the trouble in getting outside help; is that  
9 correct?

10 A. In an -- a widespread outage, there would need  
11 to be supplemental staff to help restore if that's what's  
12 called for in the district.

13 MR. JOLLEY: I have just a few more questions.

14 JUDGE WOODRUFF: Go ahead. We will be  
15 breaking for lunch as soon as IBEW --

16 THE WITNESS: That puts a little extra  
17 pressure.

18 JUDGE WOODRUFF: I just saw some anxious looks  
19 in the audience.

20 BY MR. JOLLEY:

21 Q. In the circumstance of a major outage over a  
22 wide geographic area, if, in fact, it takes longer to  
23 restore service with 16 percent fewer linemen and 35 percent  
24 fewer electricians than what Empire previously utilized to  
25 restore service in such situations, and as a result it takes

1 longer to get service up to speed for a greater number of  
2 customers, wouldn't that be a detriment to the public  
3 service?

4 A. In extraordinary circumstances, a massive  
5 outage of that type, which does not happen on a regular  
6 basis. But in those events, depending on the level,  
7 distance and time for dispatch, you would pursue restoration  
8 as fast as possible. I can't project exactly that it's  
9 going to take longer or shorter or exactly the same. It  
10 would depend on many conditions at the time.

11 Q. Even in major -- even in major outages of less  
12 than the entire service area, wouldn't you really  
13 acknowledge that it's going to take fewer people longer to  
14 restore service than it used to?

15 A. I can only speculate.

16 Q. On page 6 of your supplemental testimony  
17 beginning at line 15 there's a question asked that relates  
18 to -- Mr. Courtney indicates that there are no equivalent  
19 jobs in the area that Empire's displaced bargaining unit  
20 employees are qualified for. How do you respond? Are you  
21 familiar with that question?

22 A. Yes.

23 Q. And then you answered beginning on page 18?

24 A. Page 18?

25 Q. I'm sorry. Line 18. I apologize.

1           A.       Yes.

2           Q.       You indicate on line 20 that Empire management  
3 indicates that since the merger announcement, five union  
4 employees have taken new jobs in Carthage, Springfield,  
5 Marshall -- Marshfield, excuse me, and Neosho, Missouri.  
6 Moreover, we frequently receive comments from electric  
7 construction contractors who provide services across  
8 UtiliCorp's service territory that there was a shortage of  
9 qualified employees.

10                   And overall -- I'm now on page 7 -- the  
11 economy across the country is strong and with flexibility,  
12 displaced individuals can take advantage of the employee  
13 market.

14                   That was your testimony?

15           A.       Yes.

16           Q.       First of all, as to the five union employees  
17 who took other jobs, did Empire tell you who these  
18 individuals were?

19           A.       No. I was just cited what I wrote here in  
20 testimony.

21           Q.       Did they bother to tell you that -- or do you  
22 otherwise know that except for Springfield where one  
23 employee went to work, the other three employers in  
24 Carthage, Marshfield and Neosho are rural electric co-ops?

25           A.       No. Nor would that matter.

1 Q. Oh, it wouldn't. Okay.

2 A. I mean, they found employment. I guess that's

3 all we were --

4 Q. Well, I guess I'm looking more at comparable

5 employment. Are you aware of the great wage disparity

6 between the wage level at Empire District for bargaining

7 unit employees and the wage levels established in these

8 rural electric co-ops?

9 A. Only generally so.

10 Q. And what would be your general assumption as

11 to the wage levels of each?

12 A. I just know that they're slightly less than

13 what we would do. I don't know how much it is.

14 Q. Would it surprise you that they are in the

15 range of \$4 or \$5 an hour less with substantially reduced

16 benefits?

17 A. I'd have no way to confirm or deny. It

18 wouldn't surprise me, but I don't know what I'd expect. But

19 they would have chosen to go there.

20 Q. Assuming that they went to work for

21 substantially less money and reduced benefits at these

22 utilities to which you refer and assuming that electrical

23 contractors -- strike that.

24 Would you say that the electrical contractors

25 generally, including union and non-union contractors, pay

1 wage and benefit levels superior to those of these rural  
2 electric co-ops?

3 A. I wouldn't know.

4 Q. You don't know. Would you know that union  
5 electrical contractors pay more than rural electric co-ops  
6 by way of wages and benefit structure?

7 A. Only because I've been told that.

8 Q. Do you have anything to do with UtiliCorp's  
9 contracting out with outside electrical contractors?

10 A. In the normal course of the utility's  
11 business?

12 Q. Yes.

13 A. After review in bidding, it would -- I would  
14 have been part of the final approval.

15 Q. In your role, would you be familiar with what  
16 the wage level is of these outside contractors with whom you  
17 do business as an increment of the cost that UtiliCorp will  
18 be paying those contractors?

19 A. I don't recall that.

20 Q. Well, to the extent that there are union jobs  
21 available and you've heard that union jobs pay higher at  
22 electrical contractors than rural electric co-ops and  
23 assuming that these national opportunities to which you  
24 refer pay comparably to what Empire employees are paid, I  
25 guess it would be that these five individuals didn't know



1 about these growth opportunities?

2 A. The point was there are jobs, and skilled  
3 people who do their job well would have options. In this  
4 case, I believe pre-merger close, they would have chosen to  
5 go there for a number of reasons. Not everybody bases it  
6 all on pay. It may be for other reasons that I would be in  
7 no position to try to articulate.

8 But with -- there are jobs -- I mean, the  
9 market at large is strong. Technical people are strong and  
10 within any utility you'd want to size properly and retain  
11 good skilled employees and --

12 Q. Of course.

13 A. -- that's the backdrop.

14 Q. And when you talk about comparable positions,  
15 you have to factor pay into the issue of comparability, do  
16 you not?

17 A. Well --

18 Q. And you didn't --

19 A. The question as I read it had to be -- you  
20 know, was union type jobs. So is there lineman work if we  
21 don't have this one kind of example. This was a response to  
22 say, well, some people have found something like that.

23 Q. You can find jobs but there's still a question  
24 of whether there's comparable pay and benefits; is that  
25 correct?

1           A.       In their case they chose to not have it be  
2       comparable.

3           Q.       And, to your knowledge, did UtiliCorp take any  
4       action to make them aware of the career opportunities at  
5       UtiliCorp that have been testified here as being available  
6       to employees suffering reductions?

7           A.       I can't speak for the Empire management who  
8       would have dealt with the issue. I would have hoped that  
9       would have been the case.

10           MR. JOLLEY: Might I have a moment?

11           JUDGE WOODRUFF: Certainly.

12           MR. JOLLEY: I have no other questions.

13           JUDGE WOODRUFF: All right. Thank you.

14           With that, we will break for lunch. Let's  
15       come back at 1:30.

16           (A RECESS WAS TAKEN.)

17           JUDGE WOODRUFF: Are there any matters anyone  
18       wants to bring up before we proceed?

19           MR. COOPER: Yes, your Honor. As I mentioned  
20       off the record, we have some indication that it would be  
21       acceptable to the other parties to move the Load Research  
22       Condition issue up on the schedule so that it followed  
23       immediately the Customer Service Indicators Condition issue  
24       which we are currently on.

25           And I would like to ask the parties if they

1       have any objection, I guess, formally on the record and if  
2       not, would ask the Commission's approval to do that as it  
3       would allow us to go ahead and potentially send Mr. Pella on  
4       his way today.

5                   JUDGE WOODRUFF: Assuming there's no objection  
6       from any of the parties, we'll go ahead and do that.

7                   Mr. Jolley, did you have something you wanted  
8       to bring up?

9                   MR. JOLLEY: I do, your Honor. Two things.  
10       First off, on this issue Mr. Courtney is scheduled to  
11       testify as a result of several references in his  
12       cross-surrebuttal testimony. Mr. Swearengen previously  
13       agreed that all of Mr. Courtney's issues could be taken up  
14       at one time when he testified on the Labor Protective issue.  
15       And he will not be available this afternoon because he and I  
16       both have things to take care of.

17                   Secondly, I would ask the indulgence of your  
18       Honor to ask one more question before other  
19       cross-examination begins.

20                   JUDGE WOODRUFF: As long as it's one more.

21                   MR. JOLLEY: It may be two depending on the  
22       answer to the first.

23                   THE WITNESS: Or three.

24       BY MR. JOLLEY:

25               Q.       Mr. Pella, if you know, prior to the time when

1 UCU took over the active control and management of Missouri  
2 Public Service, did Missouri Public Service operate with a  
3 basic compliment of three-man crews as opposed to two-man  
4 crews -- was it something along the mix of Empire today  
5 rather than the UCU mix of today?

6 A. I wasn't here at that time.

7 MR. JOLLEY: I don't have any other questions.

8 JUDGE WOODRUFF: All right. Let's continue  
9 with cross-examination then moving to the Retirees.

10 MR. DEUTSCH: Thank you, your Honor.

11 CROSS-EXAMINATION BY MR. DEUTSCH:

12 Q. Mr. Pella, good to see you. My name's Jim  
13 Deutsch.

14 A. Good afternoon.

15 Q. I represent the EDE Retirees. I had a few  
16 questions for you. They related to some of the things that  
17 you just discussed with Mr. Jolley. Now, as I understand  
18 it -- and I'd like for you to confirm my understanding for  
19 me, the decisions with regard to jobs, employment consisted  
20 of an analysis, not a study, that was conducted by UCU  
21 management people and then was run by and checked with EDE  
22 management people generating a recommendation to you which  
23 has now become the recommendation or the information  
24 concerning employment reduction that we find in the evidence  
25 so far; is that right?

1           A.       Yes. Except the analysis wouldn't have been  
2       exclusive to just the UtiliCorp personnel. There would have  
3       been discussions by other people at Empire, but by and large  
4       what you described.

5           Q.       I just want to confine myself to the issue of  
6       employment, the employment-related reductions and the  
7       commensurate cost savings that are put forth by UtiliCorp  
8       and Empire in this case as being available if the merger  
9       happens; is that right? You understand that?

10          A.       Well, I'm going to have you ask the question  
11       again.

12          Q.       I was just clarifying that the issue I want to  
13       talk about, the frame of reference in case I forget, that  
14       you looked at a lot of things with your analysis. All I'm  
15       concerned about is that analysis which applied to the  
16       evaluation of potential savings from reduction in force by  
17       looking at EDE and determining positions that could be  
18       eliminated?

19          A.       Yes. In the distribution operation side, yes.

20          Q.       Okay. Did those analyses -- you talked with  
21       Mr. Jolley about them, including an analysis for his  
22       purposes, the 50 bargaining positions. I take it the same  
23       analysis was done with regard to the non-bargaining  
24       positions?

25          A.       Yes.

1 Q. Were they done by the same people?

2 A. In the broader distribution team, you might  
3 recall, I referenced five broad areas of which we spent the  
4 last session talking mainly in one of those five. So in  
5 that -- what we would categorize as network positions, that  
6 same team would have been engaged to look at all employees  
7 engaged in that type of work, whether they be bargained for  
8 or not. In the other teams they would have had different  
9 personnel assigned to that area, but to go through a similar  
10 analysis, apply our experience and so forth.

11 Q. Okay. So a similar analysis was applied no  
12 matter who it was that was looking at a particular segment  
13 of the business at Empire with an eye towards whether there  
14 were any reductions that could be merger savings?

15 A. A similar broad approach, yes.

16 Q. Okay. I take it because you have described it  
17 as an analysis and that it was conducted by experienced  
18 people -- and by the way, I got the feeling that the people  
19 you named were management people, management level employees  
20 of UtiliCorp?

21 A. Yeah. Yes.

22 Q. That there was never generated from those  
23 people a single written document that detailed what they  
24 did, what they found and what they recommended that was sent  
25 to you or somebody for your final review or approval?

1           A.       There were two pieces. One I referenced in a  
2       response earlier, which was a report -- a report in the  
3       network side that was produced that had some narrative as  
4       well as some spreadsheet analysis on the categories of jobs,  
5       what was looked at, how it compared and contrasted with our  
6       operations elsewhere in UtiliCorp and then made projections  
7       about changes that might occur.

8                       Secondly, as was earlier identified, I  
9       believe, there is a steering committee for all the  
10      transition efforts. And there were report-outs to that  
11      committee which would have given not all the detail, but a  
12      fair insight into all the recommendations and the level of  
13      justification about how we came to those conclusions.

14                    So we would have -- depending on the time and  
15      depending on the format, you may see something written. The  
16      formal study, because of the nature of this, as we know  
17      more, we would understand better and be able to refine  
18      recommendations. This doesn't really become closed like two  
19      weeks ago or two weeks from now. It will continue to evolve  
20      and would stay open based on as we know more, since we  
21      aren't owners of the company.

22           Q.       Okay. Are those documents that you just  
23      mentioned from the network analysis and the steering  
24      committee reports, have they been produced and are they part  
25      of anybody's testimony?

1           A.       I think they're in a DR, a data request.

2           Q.       Yeah. Do you know whose data request asked

3           for that?

4           A.       No, I don't. I mean, somebody would here if

5           they had the material.

6           Q.       Do you recall whether those documents also

7           contained any instructions given at the outset to the

8           various teams of individuals who were performing this

9           analysis as to what it was they were looking for, what it is

10          they're looking at and how they're supposed to perform their

11          analysis?

12          A.       I would have given those instructions --

13          Q.       Did you --

14          A.       -- to the team.

15          Q.       -- produce any kind of a document like that?

16          A.       There were guidelines put on, as I recall, one

17          piece of paper. Obviously when one enters the transaction,

18          someone makes some assumptions about a variety of issues to

19          come up with an agreement or an arrangement.

20                    Now, what we did as a team is -- and what I

21          asked the team to do is to go look at the work, understand

22          how we operate, how Empire operates. And their task was to

23          come up with a projected model that would operate the system

24          safely and reliably and would be reported out at certain

25          points in time to make sure that we had good feedback and



1       that we would be -- design the team in pairs of people so  
2       that we would do it more interactively.

3               Q.       And have you produced or made part of any  
4       testimony or provided to anybody in this case a copy of  
5       those instructions that you wrote at the outset?

6               A.       I don't think so. I don't recall.

7               Q.       You don't happen to have it with you, do you?

8               A.       No, I do not.

9               Q.       Do you think you can get it?

10              A.       One would think so. I think so.

11              Q.       Could you get it for me?

12              A.       If you'd like.

13              Q.       I'd really like it.

14              A.       Okay. Give me your card and I'll send it to  
15       you.

16              Q.       Thank you. Isn't it true that all of the  
17       analysis of Empire that was conducted by UCU was conducted  
18       by management level people?

19              A.       I can't say that that's true. What I  
20       articulated were the primary team members, but part of their  
21       engagement was to involve whomever they might need to  
22       supplement or compliment the team based on the issue they  
23       were looking at. And I know that did occur, but I couldn't  
24       articulate for you how many there were and all the --

25              Q.       So you didn't specifically tell whoever it was

1     you did appoint in management to use this guy or that guy or  
2     this person or that person? You told them to use their own  
3     management judgment in selecting people?

4             A.       What I asked our team was to access and use  
5     whomever could best help us work through the issues.

6             Q.       Help you, yeah. Any of the people on any of  
7     these analytical teams, had they had any experience doing  
8     this kind of evaluation for mergers in the past?

9             A.       Yes. I and several others would have been --  
10    there are no two identical, but we have been through  
11    integration, if I could use that term, of two operations and  
12    how one might work through that. I've been a party to being  
13    integrated and I've been the integrator on several  
14    occasions, as have several people who are on the team.

15            And actually went, I think, out of the way to  
16    try to put several of those types of people on only because  
17    it gives you probably a better frame of reference to how to  
18    look at operations and how people involved who may not have  
19    gone through this before -- how they feel, what their needs  
20    are and hopefully be more positive and hopefully be more  
21    constructive in the way we dealt with the transition.

22            Q.       So basically you had people that were involved  
23    in evaluating the employment situation and the job positions  
24    at Empire who had some experience in doing such evaluations  
25    for the purpose of evaluating that you were involved in

1       which was for a merger partner?

2           A.       Yes.   Or an acquisition.

3           Q.       Or an acquisition.   Do you have any kind of a

4       document or anything that would indicate that the management

5       people who have been through mergers before and know what

6       the purpose of the merger was were instructed not to look

7       for reductions that would gain the largest cost savings in

8       order to justify the acquisition or merger?

9           A.       I'm not aware of instructions beyond what I

10       ran through you earlier.

11          Q.       So those people who have previously been

12       through mergers, they pretty much know what the purpose of

13       the merger evaluation is, don't they?

14          A.       Yes.   To identify how we'll operate going

15       forward.

16          Q.       And, of course, if the decision has been made

17       that you want to have a merger, it might be helpful to know

18       that there's going to be some cost savings by being able to

19       identify some elimination of a lot of things at the acquired

20       company; isn't that right?

21          A.       Yeah.   As I mentioned earlier, there would be

22       reference from bids and the arrangement originally entered

23       between UtiliCorp and Empire, and there would be some

24       implication of a savings or a synergy out there, yes.   But

25       that's different than doing the homework, which was the

1 purpose of the transition teams.

2 Q. But in doing the homework, if you know what  
3 the goal is and the purpose is and the result is, doesn't it  
4 really kind of bias the analysis in favor of showing greater  
5 reductions in costs and greater merger savings than the  
6 contrary to try to minimize merger savings?

7 A. I don't believe so.

8 Q. Why not?

9 A. The reason the teams are together was to go  
10 back and work from a bottom-up based more on work  
11 orientation to come up with better estimates. Should we  
12 have chosen to go with savings as a prerequisite of the bid,  
13 there would have been no need to deploy large numbers of  
14 people over large periods of time to do their homework.

15 Q. Where's that information set forth?

16 A. What information?

17 Q. That you just gave me that you had a certain  
18 purpose and reason in mind and a way that you wanted for  
19 this evaluation to occur from the bottom up evaluating  
20 positions based upon their necessity. Where's that?

21 A. It's the same thing we talked about about five  
22 minutes ago.

23 Q. The thing you're going to send me?

24 A. Yeah. But it's -- I mean, it's broad  
25 statements and there were meetings with these team members

1 from both companies where we -- despite individual work, we  
2 would have talked in broad session about what the process  
3 would be, how it will work, what the deliverables from it  
4 would be and what it is we were after in terms of the end  
5 product.

6 So I could only offer you that in my  
7 recollection of something that would have been written that  
8 you might find helpful, but it's only going to be, as I  
9 recall it, a page with a few bullet points that might --  
10 would reflect this.

11 Q. Not a lot of detail on what the nature of the  
12 work should be?

13 A. No. That's why we had the people -- because  
14 to give detail ahead of time to people might skew their  
15 legitimate work to your point.

16 Q. Or it might just skew their already  
17 preconceived notion that the work should produce a  
18 particular result?

19 A. I trust people to do a sound rationale job and  
20 they're asked to do -- expected them to do it and I believe  
21 they did it.

22 Q. And these are management people in UtiliCorp?

23 A. That were assigned as the leads in the team.

24 Q. And they were checking their conclusions with  
25 management people at Empire?

1           A.       Yes.

2           Q.       Okay. With that understood, I had some other  
3       questions. If, in fact, you were looking with an eye  
4       towards seeing what reductions you might make that would  
5       generate synergies, which nothing wrong with that, that's  
6       one of the things that mergers do, do you know whether there  
7       was any instructions with regard to the positions that were  
8       being looked at that there was any kind of, oh -- any kind  
9       of profile, any kind of analysis that they were supposed to  
10      use in order to take a look at each position and emphasize  
11      certain aspects like length of service, salary, higher  
12      salary, lower salary, age, things like that?

13          A.       There were parameters that would be used  
14      during that evaluation, but they were -- would be based on  
15      our UtiliCorp experience in a number of jurisdictions  
16      nationally, internationally, we do have operating statistics  
17      that we had at our disposal. We had metrics that we could  
18      use to cross-check what we had done. We know a little bit  
19      about the nature of the work to reference it.

20                    There were no guidelines, to my knowledge, nor  
21      would I have condoned anything along the lines of look for  
22      higher rates of pay or higher seniority or lower seniority.  
23      The goal was to find an organization that going forward  
24      could operate in a safe reliable manner based on all the  
25      experience and knowledge we had.

1           Q.       So you would trust that your management  
2       evaluation team in looking at Empire would -- regardless of  
3       the fact that achieving synergies is a good thing and that's  
4       kind of what needs to be looked for and if there are no  
5       synergies, maybe there should be no merger, they would  
6       never -- it would never occur to them to take a look at  
7       higher paid positions because the people in them are skilled  
8       like union employees or people who have been with the  
9       company 20 years and, therefore, making more money than,  
10      say, someone that had been with the company five years or  
11      even if not looking at the people, looking at positions that  
12      would yield more bang from the buck when it comes to merger  
13      savings?

14           A.       I disagree on every dimension you went  
15      through.

16           Q.       And why would you disagree with that?

17           A.       Because when we look -- again, going back to  
18      doing the analysis sufficient to design an organization to  
19      get the work done to the level that we expect, you design  
20      the right people in the right position with the right  
21      experience to do so. To do it any other way is  
22      counterproductive.

23                    In terms of the bargain for employees, we  
24      would not be able to dictate per -- and it's actually  
25      dictated per the collective bargaining agreement -- how any

1 reductions would be handled. So that would not be in our  
2 jurisdiction anyway.

3 On any non-bargained for employees, it would  
4 be a long standard HR practice and procedure of UtiliCorp  
5 where if an incumbent keeps a job that's substantively the  
6 same, they keep that job. If jobs are eliminated or new  
7 jobs are created, those are bid and interviewed and  
8 selections are made on the best combination of skill and  
9 experience.

10 Q. And is there any place where all that's  
11 written down?

12 A. It's an HR practice standard in UtiliCorp.  
13 And so if you were to ask Mr. Browning, he would be able to  
14 supply that out of our --

15 Q. Mr. Browning knows everything. Is he here  
16 yet?

17 A. He's the HR representative, but it's  
18 accessible to every employee in the corporation and it's an  
19 employee handbook provision, every manager is trained and is  
20 asked to comply. And the reason we point to human resources  
21 is they retain and keep the integrity of the human resources  
22 policy and practice.

23 Q. So there's really no danger here, in your  
24 mind, not a shadow of a problem that the desire to produce  
25 cost savings of a certain amount of money might just



1 dovetail nicely with an analysis of employee reductions and  
2 force that to target the people who get paid more and leave  
3 in place the people who get paid less?

4 A. I'm confident on everything I'm aware of that  
5 that those kinds of provisions that you ended your comment  
6 with are not in play.

7 Q. Have you got anything more than your word for  
8 it to give to this Commission?

9 A. That's the best I can give anybody in the  
10 room.

11 Q. Your word's good with me. I don't know if  
12 it's good with them.

13 But let me ask you about another thing.  
14 There's kind of a play in here with my interest with regard  
15 to the retirees, because in addition to achieving larger  
16 cost savings by getting rid of people who have been there  
17 longer and make more, you also shift that group, by virtue  
18 of early retirement, into the Retiree category. Do you  
19 think that's probably true?

20 A. I can't predict how the chain of position  
21 filling would occur.

22 Q. Would it be make sense for --

23 A. If you have more re-- more people retire,  
24 therefore, you'll have more retirees everything else being  
25 equal, yes.

1           Q.       And we've had testimony, I think you were  
2       probably here for it, that there's a certain amount of money  
3       that the company is expecting to achieve as far as merger  
4       savings out of the curtailment of retirement benefits. Did  
5       you hear that testimony earlier in the proceeding?

6           A.       I believe I did.

7           Q.       And I think yesterday Mr. Traxler advised us  
8       that that was something like \$18 million. And I guess my  
9       question is, if the company is projecting \$18 million in  
10      retirement savings over the next 10 years, isn't that amount  
11      actually inflated by what the left hand is doing if, in  
12      fact, by virtue of position elimination more people retire,  
13      become a part of that class? Isn't that actually a lower  
14      number at the current time if the merger took place and you  
15      didn't have the kinds of reduction in force that you're  
16      talking about?

17          A.       My responsibility was to design the ongoing  
18      operation and the company. If you have benefits or pension  
19      issues, I wouldn't be the one to ask.

20          Q.       Well, let me look at it this way then. If, in  
21      fact, you are going to achieve a certain level of cost  
22      savings by reducing the work force by 270 workers, which is  
23      the number I've heard thrown around here what the current  
24      estimate of positions eliminated are, and if those people  
25      eliminated were all not old enough to retire, wouldn't you

1 agree that it would be sensible that they won't be able to  
2 be squeezed into that class which would be collecting  
3 retirement benefits?

4 A. I -- I'm having difficulty conjecturing about  
5 what might happen and who does what. I can only share that  
6 we design an operation that is doing the job at hand based  
7 on all the information. The best people will hopefully  
8 possess the available jobs there. And what people choose to  
9 do and how that works out and what decisions they make over  
10 time I -- I don't know how to speak to.

11 Q. Yeah. Talk to Mr. Browning. Right?

12 MR. COOPER: As a matter of fact, Mr. Deutsch,  
13 I think yesterday there were questions pertaining to  
14 curtailment numbers that were on some schedules and, in  
15 fact, that was the reference to Mr. Browning, but they were  
16 brought up during Mr. Siemek's testimony.

17 BY MR. DEUTSCH:

18 Q. Well, I want to direct my remarks to this  
19 witness as concerns my question about whether, in fact, the  
20 very reasonable and logical plan does not exist that the  
21 positions targeted for elimination as part of this merger  
22 achieve the biggest cost savings and to push those people to  
23 the greatest extent into a retiree class that then is going  
24 to have their benefits curtailed so you get a double dip on  
25 your cost of merger savings?

1           A.       I'm not aware of any motivation or instruction  
2       or outcome to my knowledge that would follow that rationale.  
3           Q.       Okay. And we've got your word for that?  
4           A.       I -- I just gave it to you. I'm sitting here  
5       in the chair under oath.  
6           Q.       And I'll look forward to getting your --  
7           A.       Yeah.  
8           Q.       -- document.  
9           A.       I'll make a note of that.  
10          Q.       Okay.  
11          A.       Yeah. Will do.  
12               MR. DEUTSCH: That's all the questions I have.  
13               JUDGE WOODRUFF: Thank you.  
14               Natural Resources?  
15               MS. WOODS: No questions on this issue. Thank  
16       you.  
17               JUDGE WOODRUFF: Public Counsel?  
18               MR. MICHEEL: No questions.  
19               JUDGE WOODRUFF: Staff?  
20               MR. BATES: Thank you, your Honor.  
21       CROSS-EXAMINATION BY MR. BATES:  
22           Q.       Good afternoon, Mr. Pella. I'm Bruce Bates,  
23       assistant general counsel for the Staff of the Missouri  
24       Public Service Commission. I think we met during the  
25       St. Joseph hearing.

1           A.       Yes.  Yes, we did.  Good afternoon.

2           Q.       Good afternoon.  I have a few questions for

3           you.  First of all, I wonder if you would turn to your

4           direct testimony filed last December, if you have it there?

5           A.       Yes.  One moment.  Which page?

6           Q.       Page 8, beginning at line 18.

7           A.       Direct, page 18?

8           Q.       No.  Direct page 8, line 18.

9           A.       Eight, line 18.  Sorry.  Okay.

10          Q.       And I believe to paraphrase there you state

11          that the company has established reliability performance

12          metrics that are monitored or reported monthly to senior

13          management; is that accurate?

14          A.       Yes.

15          Q.       And as we go through this, by the way, if I

16          accidentally misstate any of your testimony, please feel

17          free to correct me.

18          A.       Okay.

19          Q.       Is that information provided to the Staff of

20          the Public Service Commission at this time?

21          A.       Only upon request.

22          Q.       Are there any plans on the part of the company

23          to change that policy and supply it as a matter of course?

24          A.       No.

25          Q.       Do you know if it would be more expensive or

1       troublesome for the company to do that?

2               A.       I -- it would be more expensive and would  
3       involve some time.

4               Q.       Do you know how much expense and how much  
5       time?

6               A.       No, I don't. Anything beyond what is needed  
7       would be costly.

8               Q.       Okay. Do you know if anything more would be  
9       involved other than making additional copies and mailing it  
10       to the Staff?

11              A.       The way the statistics are rolled up, those  
12       are typically viewed at the management level, which is  
13       referred to here as state level roll-ups to composite, so  
14       they don't naturally break in the way or were designed in  
15       the way that's being requested. Therefore, it would take  
16       design work up front and then some additional work to bust  
17       it out and supply.

18              Q.       Okay. Can you explain to the Commission how  
19       it is designed presently and how you would envision it would  
20       have to be designed for provision to the Staff?

21              A.       Data would have to be captured at a level low  
22       enough to capture the common points you're asking for  
23       discreet reporting of. So it would have to be done in a way  
24       to keep pure and exclusive every -- every operating entity  
25       you wanted to see statistics on.

1           Q.     Is that ever done in any other situation that  
2     you're aware of?

3           A.     Local operating districts would look at their  
4     data which feeds into the statewide data to look at their  
5     performance, give them a chance to analyze and review their  
6     systems and take any correction -- corrective action, if  
7     needed. So people do use it for different reasons.

8           Q.     You said data routinely supplied to the local  
9     entities by the company?

10          A.     The local entities create the data.

11          Q.     Okay. I'm sorry. I misunderstood. Would the  
12     Commission -- excuse me. Would the company be prepared if  
13     the Commission would so order to supply that information to  
14     the Staff on a regular basis without it having to be  
15     requested first?

16          A.     We comply with all Commission orders.

17          Q.     Okay. Thank you. I wonder if you would go to  
18     your surrebuttal testimony now?

19          A.     Yes.

20          Q.     And I'd like -- I'm sorry. I'm getting used  
21     to this microphone. I'd like you to turn to page 4.

22          A.     Yes.

23          Q.     And beginning on about line 20 and continuing  
24     on to the next page you talk about -- you describe four  
25     customer values, access, image, performance and results; is

1       that correct?

2               A.       Yes.

3               Q.       And how did the company determine that those  
4       were four values that were important?

5               A.       At the time, which is in the '94 to '95 area,  
6       there was an internal team of personnel that looked at  
7       customer satisfaction and had a desire to identify more  
8       closely what we thought were drivers of satisfaction.

9                       There was experience among the team. They  
10       reference some accessible industry and general material on  
11       the topic and came up with this design. In the later '95  
12       and '96 area, as part of trying to do some degree of  
13       validation, customer focus groups were held. And those  
14       sessions would have included customers from Missouri.

15              Q.       When you talk about access, I believe you say  
16       that the company needs flexible hours to meet all types of  
17       customer expectations, and then you go on to discuss the  
18       24-hour customer service that's conducted through your  
19       toll-free centralized customer service center in Raytown; is  
20       that correct?

21              A.       Yes.

22              Q.       Is there anything about this particular value  
23       that is presently not available to Empire customers that  
24       you're aware of?

25              A.       In the access to professional call center



1 professionals in the UtiliCorp model, those are centralized  
2 and provided out of three central service areas that have a  
3 consistent set of practice training environment to support  
4 it.

5 In Empire, if I were to site an example, the  
6 call center takes calls only from the west side on hours and  
7 all field offices would take calls on the east side on  
8 hours. Now, off hours they both are channeled into the  
9 Joplin center. So that would maybe be an example of how the  
10 access between the two exists.

11 Q. In what ways might the UtiliCorp model be less  
12 desirable -- or should I say in which way should the Empire  
13 model be more convenient or desirable for the customers?

14 A. Each company has an assortment of field  
15 offices. Each company has some provision to answer calls.  
16 Each has some options around alternative pay locations. So  
17 in a very broad context, there are elements that each  
18 company has that they're doing and performing in the spirit  
19 of serving customers. I'm not here to critique the good and  
20 bad. I think there is a model that has been proposed that  
21 underlies the recommendations that are being made for  
22 customer service.

23 Q. Are you aware, is there anything unique about  
24 UtiliCorp's customer values program that is not already  
25 available to Empire customers through Empire's own programs?

1           A.       I think the approach and the tools, or if I  
2       can call them enablers, might be the easiest way to respond.  
3       We do have a customer appointment scheduling service that in  
4       each center has requirements for customers who are then  
5       scheduled to appropriate technicians who can then do the  
6       work.

7                       There is a computer-aided dispatch system  
8       which is being reviewed, no final determination has been  
9       made for Empire, that allows that order to be dispatched to  
10      the technician in the field to then conduct the work and  
11      respond with completion of them.

12                    We do have systems that are now being  
13      installed around what we would call work management systems  
14      that allow the work to be better structured, estimated,  
15      monitored through completion as well as some outage  
16      management capability that ties into the mapping system  
17      which will be basically installed and created including,  
18      what I just heard before I came up, the \$2 million  
19      conversion is to build the maps or get -- and to be able to  
20      get all maps in an electronic form not only for design work  
21      and analysis work, but to be able to compliment with other  
22      information to better monitor and manage outages. Those  
23      might be some examples.

24           Q.       Is there anything about these four main  
25      competencies that can be quantified?

1           A.       In what way quantified?

2           Q.       In any way that you're aware of?

3           A.       These enablers, we believe, allow us to

4 provide more consistent service at a better delivery cost

5 over time.

6           Q.       How does UtiliCorp measure that?

7           A.       We measure it by a range of indices. One

8 would be a customer satisfaction indices which most every

9 company would use in some fashion. Depends on how you

10 measure it.

11                   We measure it consistent with the customer

12 values you pointed me to, so we could get a direct

13 correlation to our performance. You would look at maybe

14 things like a cost per customer, employees per customer,

15 those type of metrics to get some view of efficiency.

16                   So if you keep in balance a satisfaction and

17 value kind of driver against the cost kind of drivers to be

18 able to deliver the same level of service, those would be

19 the things we would look at.

20           Q.       How does UtiliCorp capture that data?

21           A.       Do you want me to go one by one?

22           Q.       However you would like to. That would be

23 fine.

24           A.       Okay. Customer satisfaction is done on a

25 transactional basis and so every connect service order,

1 every payment arrangement or billing kind of issue, an image  
2 issue, those customers are selected for -- at least the  
3 range to pull from for a statistical sampling of how well  
4 the work was done. The composite results are sent back in,  
5 tabulated and reported and we see those basically monthly.

6 Other indices that are more of the efficiency  
7 level we take a harder look at on more of an annual basis,  
8 maybe twice a year. But typically on an annual basis  
9 because we tend to have the metrics down so we know various  
10 proper levels of staffing per various counts. And those are  
11 the ones monitored each month. So some are monthly. There  
12 might be others we'd look at two to four times a year, and  
13 other more efficiency metrics would be more once a year.

14 Q. Isn't it true, to your knowledge at least,  
15 that Empire offers a call center that can be reached 24  
16 hours a day, 7 days a week?

17 A. Yes.

18 Q. Okay. And as far as your own call center  
19 operations, isn't that data already captured under your  
20 current methods?

21 A. "That data" being?

22 Q. Any data relating to call center operations.

23 A. There's data tracked that the call center  
24 management would use to help manage their day-to-day  
25 operations.

1 Q. How does UtiliCorp survey its customers to  
2 determine their satisfaction with the company's service?

3 A. I just went through it. The transactional  
4 survey that goes by each event that the company triggers and  
5 that's captured off the system which serviced that request.  
6 Those are polled. Statistical sample drawn, a third party  
7 does the surveying and tabulating for us. That would be  
8 sent back to us for review and that's basically a monthly  
9 activity.

10 Q. You're correct. Thank you. I should have  
11 been more specific. Thank you for your answer. Turn you to  
12 page 5 of your surrebuttal testimony.

13 A. Yes.

14 Q. When did UtiliCorp begin surveying Mo Pub  
15 customers?

16 A. I think there's reference elsewhere in my  
17 direct or surrebuttal. There was survey work being done on  
18 a more limited scale than I described I believe since '97.  
19 And it's only earlier this year with the conversion to the  
20 new customer information system that we've been able to  
21 fully implement the procedure I -- I talked through.

22 Q. Doesn't Empire already offer their customers  
23 the opportunity to schedule field work online?

24 A. That depends on what we mean by "online." I'm  
25 sure it's recorded on the system and the service order

1 printed at the local service center. So in that sense, it's  
2 online.

3 Q. On page 6 of your surrebuttal testimony  
4 beginning at approximately lines 18, 19 I believe you  
5 discuss a 93 percent customer satisfaction rating?

6 A. Uh-huh.

7 Q. What does that refer to?

8 A. That was a quote for the composite Missouri  
9 UtiliCorp operations for the four-part transactional survey  
10 that we were talking about earlier.

11 Q. Do you know when those surveys were first  
12 developed and utilized?

13 A. I think 1996.

14 Q. Okay. And you may have answered this, and I  
15 apologize if you have, but are these surveys sent to all  
16 UtiliCorp customers or only a particular sample group?

17 A. The case of connect service transaction, I'll  
18 step you through my recollection of the process. All  
19 customers who experience that service during the month are  
20 captured. Those are sent to a third party who extracts a  
21 statistic -- a statistical representation of customers for a  
22 call-to-call type survey to make the request.

23 So not everyone who received connect service  
24 every month would be polled. However, every month we poll a  
25 sample of all people who requested a connect service. Is

1       that -- did I make that more confusing than it was helpful?

2               Q.       It was helpful, I think.

3               A.       Okay.

4               Q.       Do you send out surveys or regularly survey  
5       any other group?

6               A.       We do -- we do survey other various  
7       stakeholders in the company. We would -- once a year we  
8       survey our community leaders. Regularly during the year, I  
9       believe it's once a year, we have a survey that solicits  
10      input from our key customers or commercial customers or  
11      might even be a developer segment. So there are surveys  
12      around the company for various purposes and reasons that we  
13      do engage in to try to gain feedback from our customers  
14      relative to our service.

15              Q.       Do you know who specifically in your company  
16      develops these surveys?

17              A.       Typically they're initiated by the group most  
18      held responsible under management for the need for a survey.  
19      The next step is usually bringing in a market research  
20      professional who has been on staff for the length of time  
21      that we've been discussing here who would take that, if you  
22      will, raw request and interest and then work with the  
23      requesting party to design a proper survey document that  
24      would be viewed as statistically sound and reliable for  
25      management review.

1           Q.       But you would not know the name of anyone in  
2       particular who would do that?

3           A.       In 1996 it might have been -- there are three  
4       people in a row who have held a significant market research  
5       role. A person named Pat Caneely held that role for some  
6       time. Most currently the person's name is Karen Gergan  
7       (phonetic spellings).

8           Q.       Later on toward the bottom of page 6 -- and  
9       from now on I believe I'm discussing only your surrebuttal  
10      testimony.

11          A.       Okay.

12          Q.       You indicate that over the last three years  
13      there has been a downward trend in the number of customer  
14      complaints received by the Commission while the overall  
15      number of your customers has increased; is that correct?

16          A.       That's what it says, yes.

17          Q.       Do you happen to know of your own knowledge  
18      whether the downward trend has continued in 2000?

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

20          Q.       Moving to page 7 you discuss pay stations, I  
21      believe, deploying additional pay stations. That's found  
22      on line 6 of your testimony?

23          A.       Yes. Yes.

24          Q.       How many additional pay stations will be  
25      available to Empire customers if the merger is not approved?



1           A.       If the merger is not approved? If the  
2 merger's not approved, I assume Empire would do whatever  
3 they would choose to do.

4           Q.       You're absolutely correct. I said "not." I  
5 didn't mean to. If the merger is approved?

6           A.       That's one area where final determination  
7 isn't made. I recall there's something on the order of  
8 55 pay stations across the Empire territory. We use them  
9 for similar reasons and I think have to the tune of maybe 46  
10 in the MPS territory.

11                    I'd expect a sufficient number to serve  
12 customers based on entity and demand. So there would be --  
13 I expect there would maybe be some adjustment, but there  
14 would definitely be a need for continuation of pay station  
15 use.

16           Q.       Would you have any idea where some of these  
17 might be located?

18           A.       In grocery stores and banks and that sort of  
19 thing.

20           Q.       Any particular geographical area in the area  
21 that you would --

22           A.       Where you would use them?

23           Q.       -- be responsible for? Geographical area  
24 within the state --

25           A.       I think it's anywhere --

1 Q. -- in the service area?

2 A. I think it's based on -- on the area, maybe  
3 the accessibility and preference by customers to want to use  
4 a local office. If you're in a geography where you may not  
5 have an office, pay stations are there.

6 And really regardless people are usually  
7 looking for a convenient outlet and so we try to factor in a  
8 design that allows them some choices on how they might  
9 choose to pay, whether it's mail-in, whether they want to  
10 stop at a pay station or otherwise. So it really depends on  
11 the situation, the geography and a little bit on what the  
12 customers might prefer as well.

13 Q. And you would be -- the company would be  
14 surveying the customers then to determine what their  
15 preference was?

16 A. I don't recall a plan that calls for a survey.  
17 I'm not saying it doesn't exist. I just don't recall it.

18 Q. If you would now turn to page 8, I believe,  
19 starting approximately at line 9 you talk about UtiliCorp  
20 having set a benchmark of 90 percent customer satisfaction.  
21 And then you allude to MPS serving customers in late 1996.  
22 Do you think it would be possible to stratify responses to  
23 identify MPS customers and Empire customers separately in  
24 the event of a merger?

25 A. Well, two-part answer. One, the way it's

1 structured and the way we pull data and send customer  
2 information by state without intervention, it wouldn't  
3 stratify that way. Of course, for a price it's surely  
4 possible.

5 Q. Do you think it would be desirable to do so?

6 A. I think the survey results and the way it  
7 would be tabulated would highlight issues that would need to  
8 be known and monitored with the existing mechanism would be  
9 my judgment, which is the reason for the recommendation as  
10 it has stood at least today.

11 Q. You also state, I believe, that in April 2000  
12 MPS begin surveying customers in the four areas that we've  
13 talked about before?

14 A. Yeah.

15 Q. Do you know the results of the satisfaction  
16 survey for the months since then?

17 A. Oh, they're available. I don't happen to know  
18 them. I've looked at one or two just along the way myself  
19 and they were consistent, you know. They could have varied.  
20 I just don't recall. I don't recall any major variance in  
21 what I saw, but if you want that, we could supply it at a  
22 later date.

23 Q. Would you be willing to do that?

24 A. If you -- if you request it, we comply with  
25 all Commission and Staff requests.

1           Q.     Thank you. I would like to request it if you  
2 would do that.

3                     Let me ask you a little bit more about  
4 surveying customers in the event of a merger. I believe  
5 that you state that you disagree with Staff Witnesses  
6 Kiebel's recommendation that Empire and MPS customers --

7           A.     What page are you on?

8           Q.     I'm on page 7. I'm sorry.

9           A.     Okay. In the middle there?

10          Q.     Yes. That they'd be tracked separately  
11 ideally from your point of view. If Empire and UtiliCorp  
12 customers were surveyed together, how would UtiliCorp know  
13 whether or not specific Empire customers were satisfied with  
14 their new provider or if they're experiencing, in their  
15 opinion, any decline in their previous level of customer  
16 service?

17          A.     Well, a couple of ways, I believe. Number  
18 one, as you run through the statistical survey, it will be  
19 relevant and show up in statistics if there's a  
20 deterioration or improvement in the results. You would know  
21 it from the standard method of operation.

22                     Second, it will take several months to execute  
23 the customer service aspects, particularly relative to the  
24 customer system. And in that time, which would probably be  
25 on the order of six or more months, the existing Empire

1 mechanisms would be in place so we would have some before  
2 and after.

3 And there would actually be a third. It's at  
4 least our intention at this point -- they had conducted  
5 bi-annual customer surveys, I think it's referenced in a  
6 rebuttal, and I think the last one was in '97. And our  
7 intent is in -- probably later in that first year to re-run  
8 that survey to give us at least one more marker that would  
9 give us some compare and contrast in addition to our  
10 existing reporting to help make that judgment.

11 Q. Hypothetically if the customer levels  
12 satisfaction number were to drop a few points after the  
13 merger, you believe the process that you've just described  
14 would enable you to identify which customers were  
15 responsible for that lower level of satisfaction?

16 A. If it's that customer, meaning an individual  
17 customer?

18 Q. Say if they were Empire customers versus  
19 existing UtiliCorp customers or some mixture of both.

20 A. I'm not sure. If there were -- if there were  
21 a distortion warranting follow-up, there would be a way to  
22 go back into raw data and maybe through some re-sorting be  
23 able to get to it. I'm sure it's possible. And there would  
24 be instances, I expect, where we would have maybe had to do  
25 that up to this point, but it's more on the exception kind

1 of basis and it wouldn't be not a natural occurrence unless  
2 there's a deviation requiring follow-up.

3 Q. Based upon your testimony, there is a  
4 93 percent customer satisfaction. Let's go with that. What  
5 does the company do in regards to the 7 percent that report  
6 unsatisfactory service?

7 A. Well, we look at what the reports suggest and  
8 the questions that are answered, which these percentages are  
9 a composite. There are individual questions under it. You  
10 look for patterns of the individual questions.

11 There might be 8 or, I don't know, 12 or 15  
12 different questions of each of those four broad categories  
13 and you would examine where the deterioration might come  
14 from or an improvement might come from. Obviously if you're  
15 doing something well, you'd like to replicate it and if  
16 something is deteriorating, you'd like to solve it or remedy  
17 it.

18 So you'd go to the detail, try to understand  
19 the nature of the transaction, try to understand what  
20 circumstances that you know may or may not have prompted  
21 that result and then take -- take whatever action is  
22 suggested.

23 Q. And that goes on now as far as you know?

24 A. Yes. Those reports are distributed to the  
25 personnel who would be primarily conducting that kind of

1 business at a state -- but it is at a state level.

2 Q. Are you familiar in any detail with the  
3 existing Empire customer service survey?

4 A. Is this the four-time-a-year survey? I am --  
5 I am aware of a survey. I'm just not sure if it's the same  
6 one.

7 Q. Yes, it is.

8 A. I have seen it.

9 Q. Do you believe that it's more comprehensive  
10 than the survey that UtiliCorp currently uses?

11 A. I'll let you be the judge while I contrast.  
12 They run a short survey, standard survey, as I recall, four  
13 times a year on maybe three or four dimensions. Those are  
14 sent, gathered and then distributed to the field to  
15 follow-up however they see fit and whatever statistics are  
16 chosen to retain, it's my understanding, which I think is a  
17 good mechanism.

18 And that's just contrasted with what I spun  
19 through where we survey every month on all four on some  
20 statistical sampling that is retained centrally and reviewed  
21 by personnel who might then be able to take some monitoring  
22 and corrective action.

23 Q. Do you know if there would be any thought  
24 given or if there has been any discussion that -- in the  
25 event of a merger modifying the customer service survey to

1 more closely mirror what Empire is doing or at least capture  
2 some of its elements that may not exist in the UtiliCorp  
3 survey?

4 A. I'm probably not able to answer. What I've  
5 seen of the survey, I didn't see anything that  
6 consequentially would motivate a change. Maybe there is  
7 something there and if the team looked at it and there was  
8 something to be added, I expect they've got it on the list.  
9 I just don't know that. When I reviewed that survey, I  
10 didn't see anything that would have motivated me to do it,  
11 but it was a one-time review.

12 Q. If you'd go to page 9 now, please, beginning  
13 on -- page 9, line 5. You state here, I believe, that  
14 UtiliCorp uses a benchmark range of 5 to 10 percent for its  
15 abandon call rates. Can you provide any information to the  
16 Commission of the number of actual abandoned calls that a 5  
17 to 10 percent range can mean?

18 A. Can you repeat that, please?

19 Q. If there's a 5 to 10 percent range there,  
20 would you have any idea what raw number of calls that we're  
21 talking about?

22 A. I mean, it can be calculated. I don't have it  
23 right off my head. Be 5 percent of some statistic on the  
24 total number of calls and you'd have to back into it. I  
25 don't have that number here. Somebody can compute it.



1           Q.       Would you have any idea who in your company  
2       would be responsible for that information?

3           A.       Our customer service folks, particularly at  
4       the Raytown call center.

5           Q.       Does the company have any specific problem  
6       with being held to a single ACR or ASA target as opposed to  
7       being held to a range?

8           A.       I believe a range is a more productive and  
9       accurate measure of performance that takes into account the  
10      many day-to-day circumstances that arise. Some people do  
11      choose to use single numbers. Others, just as grading in  
12      school, choose to use a band of numbers to represent a  
13      certain level of performance.

14          Q.       Could you explain to me why you believe that a  
15      range would be more accurate than a specific number?

16          A.       I think what I -- rather than be accurate with  
17      a metric, what seems to me more important is that it's  
18      useful in management. And what message that it sends and  
19      sends the right behavior by employees and management.

20                   And a single target in light of a daily  
21      operation which has circumstances that are not motivated by  
22      superior or subordinate performance skew a rate, may not be  
23      a reflection of a distortion. I think there's a normal  
24      pattern.

25                   And in our service center -- and I did

1 acknowledge the reason for the range being we have and still  
2 are completing our customer service conversions. We do have  
3 standardization issues we're addressing. We still have the  
4 customer growth kinds of issues.

5 So we're trying to put a band to continue to  
6 incent, but monitor the right band of acceptable behavior.  
7 Clearly the lower in the band you are the better, but there  
8 are some days, some circumstances that, say, if you're  
9 closer to 10, that may be, in fact, a good day's performance  
10 and it will be subject to the conditions in play.

11 So to use a metric by itself to be exclusively  
12 reflecting of some operation is a bit too narrow, in my  
13 opinion. So you try to set reasonable metrics so people  
14 behave and management understands what that is. Now,  
15 over time, as you get more mature, I would expect we're able  
16 to tighten the band, which I reference somewhere here, maybe  
17 in surrebuttal.

18 Q. Okay. That 5 to 10 percent and 15 to 60  
19 second ranges that you talked about on lines 6 and 7 there,  
20 when do you think you might be able to tighten that to a  
21 smaller band, and would you have any objection to doing  
22 that?

23 A. I expect we're going to with or without, you  
24 know, the proceeding. I would estimate maybe within a  
25 year's time or by a year's time. In that horizon that the

1 conversion should be complete in enough post-conversion  
2 settling to occur that it's probably reasonable to look at  
3 something like that time frame, maybe a year, to have those  
4 bands show up as a bit tighter than they are today.

5 Q. Okay. To your knowledge, has UtiliCorp ever  
6 reached the 5 percent level?

7 A. Well, I expect we have. And I expect we've  
8 exceeded the 10.

9 Q. Okay. But do you personally know that  
10 other -- I guess -- I'm not questioning your integrity. I'm  
11 just saying, do you personally know of the figures?

12 A. That I -- I've looked at the last couple of  
13 years and I don't recall an under 5 percent number.

14 Q. Okay. Thank you very much. If you would turn  
15 to page 10 now, and I'd like to specifically point you to  
16 lines 14 and 15 where you discuss Empire's EASE program. If  
17 the EASE program incorporates the same features as  
18 UtiliCorp's existing normal procedures, why would you not  
19 incorporate it in the standard operating practices of  
20 UtiliCorp if it's a beneficial program?

21 A. It's in regards to differences in the  
22 packaging. I think what our provision calls for is through  
23 the registered customer program mainly the third-party  
24 notification provisions of the EASE program.

25 As I recall, the other provisions that would

1 center around deposit, a late payment penalty are really  
2 handled case by case with all of our customers as the need  
3 arises and justification exists. So with those provisions  
4 available, it appeared to address the issue.

5 Q. Are you aware specifically of what components  
6 might exist in the Empire EASE program that does not exist  
7 already in UtiliCorp's program?

8 A. No, I don't.

9 Q. Okay. Going on down to line 18, you're asked  
10 if you're familiar with Empire's flexible due date plan as  
11 part of their average pay plan, and you answer yes. And you  
12 further go on to say that it's your intention to convert all  
13 Empire customer accounts to your CIS Plus system that would  
14 allow a customer's due date to be flexed within a certain  
15 time window; is that accurate?

16 A. Yes.

17 Q. Okay. Do you happen to know if the company  
18 plans to allow a customer's due date to be flexed during the  
19 year 2000?

20 A. In the year 2000? This year would any  
21 customer's --

22 Q. Yes.

23 A. -- due date be flexed? If someone were to  
24 call in and the condition warranted on CIS Plus, it would be  
25 allowed to be flexed. There is a band -- I mean, it can't

1       be any time through the month just by system design, but I  
2       think it's on the order of four or five days plus or minus.

3               Q.       I think back on page -- referring back around  
4       page 5 on line 19 you discuss a more robust CIS?

5               A.       Page 5?  Yes.

6               Q.       Would you tell the Commission what you mean by  
7       that?

8               A.       The system would be allowed to handle various  
9       elements of the work and do them in the context of an online  
10       system.  So it would be able to track and bill a variety  
11       of -- more of a variety of services, let's say, or with  
12       different pricing then might have traditionally been  
13       expected or required of a -- of a utility.

14                      So going forward to allow some capabilities  
15       and broader access and some interface into other systems  
16       that I described earlier to be able to provide service to  
17       the customer.

18                      We had an additional issue in -- we had  
19       systems which not only were a fair bit old, but also were  
20       going to run into what at that time was the famous Y2K  
21       problem.  So those conditions together had motivated the CIS  
22       Plus conversion.

23               Q.       Okay.  And now that the Y2K problem has been  
24       successfully surmounted, what provisions remain in the CIS,  
25       and do you see any change for that in the future?

1           A.       As is often on -- in an initial conversion,  
2       there were features and functions which were desired in the  
3       system but not placed in service. So the work doesn't start  
4       and stop with the initial installation of any system.

5                   And so work is underway to attack the highest  
6       priority, most critical issues for that system. If -- so  
7       that's how -- how those issues are being addressed. And  
8       there's a team of people from across the system that help  
9       identify and prioritize that work.

10           Q.       If you go to page 11 now, line 3 of your re--  
11       excuse me, your surrebuttal testimony?

12           A.       Yes.

13           Q.       I believe you testified that your CIS Plus  
14       system at the present time will not support credit card  
15       payments, but that you plan to modify the system to offer  
16       that option to your customers in the future?

17           A.       Yes.

18           Q.       And would that be true if the merger is  
19       granted by the Commission as well?

20           A        That is -- that's an intention with or without  
21       the merger.

22           Q.       Okay. And does Empire already offer that  
23       option?

24           A.       I believe it does.

25           Q.       And do you know when you would -- if the

1 merger is approved, about how long it would take you to  
2 offer that option to all your customers?

3 A. I just asked that about a week ago, and I was  
4 given an estimate around middle of next year.

5 Q. Okay. And during that time when that was  
6 being implemented, would Empire's customers be able to  
7 continue paying by credit card?

8 A. Once function is in the system, it's available  
9 to all customers served by the system.

10 Q. Okay. I understood you to say it would take  
11 the middle of next year. And that would be to convert your  
12 existing customers, I assume. In the meantime, if it  
13 would -- if it's one system, is Empire going to be able  
14 to -- their customers going to be able to continue to do  
15 that?

16 A. Let me -- let me back up to how it will roll  
17 out. As I mentioned, the customer service provisions  
18 particularly relative to systems are going to take some  
19 time. It doesn't happen day one. It's likely going to be a  
20 six-month type of effort.

21 And if we align our activity correct, the  
22 issue would have us provide the function before the  
23 conversion of customers from the existing Empire system to  
24 the UtiliCorp system. Therefore, there would be no change  
25 of service if we're able to do that.

1 Q. For the -- for the --  
2 A. Existing --  
3 Q. -- Empire customers?  
4 A. Existing Empire customers. That's my  
5 understanding.  
6 Q. If you'd go to page 14 now beginning on  
7 approximately line 19 and thereafter, you discuss how the  
8 Commission and Staff might obtain reliability information  
9 from the company if the merger is approved.  
10 Let us suppose hypothetically that should  
11 UtiliCorp's customer services decline before a specific  
12 measurement, would that be something that would be available  
13 to the Staff and Commission upon request?  
14 A. I couldn't quite follow the first part. If  
15 the statistics fall below --  
16 Q. If the customer service indices declined below  
17 a specific measurement, whatever that measurement was --  
18 A. Drops below some acceptable level that we set?  
19 Q. Yes. That would be available to the  
20 Commission and Staff upon request?  
21 A. We comply with all Commission and Staff  
22 requests.  
23 Q. But you would prefer not to provide that  
24 automatically?  
25 A. I think any time we introduce routine



1 anything, reporting, monitoring that is not without motive  
2 is probably not a good use of time or dollars.

3 Q. Suppose that it were not, say, a quarterly  
4 report, but something that's just triggered when the  
5 customer service indices fall below a certain number,  
6 whether that be once every month or once every five years?

7 A. That's open to dialogue. The only point I  
8 would make is depending on which indices and how that report  
9 is, there may need to be some change to break out the  
10 particular territory one wants to see. So there may be some  
11 up front work, but if that's what's ordered, that's what  
12 would be complied with.

13 Q. Are you aware that the other utilities in  
14 Missouri have cooperatively agreed to identical remedial  
15 measures as those recommended by Mr. Kiebel in his  
16 testimony?

17 A. I'm aware that some have.

18 Q. Okay. Other than what you stated here today,  
19 does UtiliCorp have any objections to providing that  
20 information since other companies have already done so --  
21 agreed to do so?

22 A. My belief is that those statistics are there  
23 to operate and manage the company, which is our  
24 responsibility, and at their request at any time to the  
25 Commission and Staff. And to do otherwise would introduce

1 more time and dollars than I can see that's warranted. So,  
2 therefore, you know, I stand by the logic at this point.

3 MR. BATES: May I have a second, your Honor?

4 JUDGE WOODRUFF: Certainly.

5 MR. BATES: Mr. Pella, thank you very much. I  
6 didn't mean to make an awkward statement a moment ago when I  
7 said I had no doubts as to your integrity. I really don't  
8 have any doubts as to your integrity, viewpoint aside here,  
9 and I thank you very much.

10 THE WITNESS: Yes. You're welcome.

11 MR. BATES: Thank you, your Honor.

12 JUDGE WOODRUFF: We'll come to questions from  
13 the Bench then. Chair Lumpe?

14 QUESTIONS BY CHAIR LUMPE:

15 Q. Mr. Pella, both the EASE program and the CIS  
16 program, do they both require uniform billing, do you know?  
17 In other words, that you have to have the uniform billing,  
18 the monthly billing?

19 A. Yeah. Our -- our system as well as most  
20 systems, including Empire, would have a standard billing  
21 approach for customers usually every month.

22 Q. Okay. And did I hear correctly that under  
23 your program now you do allow flexible billing for those  
24 people on that uniform --

25 A. There is an option for a flexible bill date if

1 the one assigned by the system or company isn't workable.  
2 But there is a band. It's like plus or minus four or five  
3 days either side, as I recall.

4 Q. I would tell you that at a recent public  
5 hearing that was one of the biggest concerns that  
6 particularly senior citizens requested that -- because they  
7 were ending up with penalties based on when their Social  
8 Security check came in. So I was really interested to know  
9 if you do allow for that so the people wouldn't end up  
10 paying penalties every month.

11 A. That's why -- when those conditions occur --  
12 and that's a reasonable approach. Those are the kinds of  
13 situations that prompt that to happen, so I --

14 Q. You talked about reducing the bands, the 5 to  
15 10 percent, etc., and you intended to perhaps make them even  
16 closer than they are today in about a year. Did you start  
17 out at a much broader band? Have you reduced them over  
18 time?

19 A. Actually, we designed this band to be able to  
20 serve us through this transition. So we didn't have a  
21 larger band to begin with. We tried to pick a band that we  
22 felt we had to hit even though it was maybe broader than we  
23 would like over time.

24 Q. So you didn't have these measurements before,  
25 but you were looking at these measurements in terms of a

1 transition and going into the future?

2 A. Yes. And based on our past experience of what

3 we were able to do under a more stable environment.

4 CHAIR LUMPE: I think that's all I have.

5 Thank you, sir.

6 THE WITNESS: Yes. You're welcome.

7 JUDGE WOODRUFF: Are there any recross based

8 on those questions?

9 Hearing none, is there any redirect?

10 MR. COOPER: Yes, your Honor.

11 JUDGE WOODRUFF: Go ahead.

12 REDIRECT EXAMINATION BY MR. COOPER:

13 Q. Take me just a second to get turned back in my

14 notes. Mr. Pella, earlier you answered some questions

15 concerning whether UtiliCorp's ability to provide service in

16 the Empire territory had yet to be proven; is that correct?

17 Do you remember that?

18 A. Yes, I do remember.

19 Q. Is there any particular reason that has not

20 yet been proven?

21 A. The merger has not been approved and we are

22 not a joint company. We're separate companies, therefore,

23 it's unproven because we aren't in our final structure.

24 Q. Do you have any past experience at different

25 locations that has aided in your proposed staffing levels?

1           A.       Yeah. As I tried to allude to through those  
2       questions and answers, it was based on a vast set of  
3       experience and knowledge across a number of territories and  
4       internationally and used that as one of the bases for making  
5       these projections and doing so with some level of  
6       confidence.

7           Q.       Are you aware of any evidence that you've seen  
8       as a result of your work in this case or your job at  
9       UtiliCorp that would indicate that UtiliCorp is not  
10      providing safe and reliable service in any of its service  
11      territories?

12          A.       I believe we're providing safe and reliable  
13      service in all of our service territories.

14          Q.       Along the same lines you were asked some  
15      questions about whether given the choice you should stay  
16      with staffing levels that create a -- or that have created a  
17      known level of good service as opposed to going to staffing  
18      levels that provide an unknown level of service. Do you  
19      remember those questions?

20          A.       Yes.

21          Q.       And I think this is similar to your previous  
22      response, but does UtiliCorp have known experience relating  
23      to the proposed staffing levels?

24          A.       Of course. We have operations in a number of  
25      jurisdictions, including here in Missouri, that have

1 statistics and outcomes that would back that.

2 Q. Now, you also answered several questions about  
3 worker safety this morning before lunch. Do you remember  
4 those?

5 A. Yes, I do.

6 Q. What steps can a company take to assist in  
7 ensuring that a worker is as safe as he or she can be?

8 A. Well, first of all, I think you want to create  
9 an environment where safe and -- where safe, reliable  
10 service is expected and fostered. I believe it has to be an  
11 environment where proper training and support is given so  
12 people have the opportunity to operate in a very safe  
13 fashion.

14 The company tries to create the environment,  
15 the opportunities, but quite frankly, at the end of the day  
16 safety is every employees's responsibility. And they have  
17 the latitude to make adjustments each and every day based on  
18 their judgment of the situation, so --

19 Q. So ultimately in the end, safety depends upon  
20 a decision that's made on the ground; is that correct?

21 A. It's by -- it's every employee's job.

22 Q. Now, earlier you stated that UtiliCorp  
23 generally uses three-person outside contractor crews; is  
24 that correct?

25 A. Yes. I remember.

1 Q. Are two-person crews also used?

2 A. Yes, they are.

3 Q. I'm sorry. I misspoke here. Are two-person

4 outside contractor crews also used?

5 A. Yes, they are.

6 MR. COOPER: If you'd give me just a moment,

7 your Honor.

8 That's all the questions I have, your Honor.

9 JUDGE WOODRUFF: Thank you. You may step

10 down, Mr. Pella.

11 THE WITNESS: Thank you.

12 JUDGE WOODRUFF: We do have you coming back in

13 a little bit though.

14 THE WITNESS: I'll be close by.

15 JUDGE WOODRUFF: All right. We'll go over to

16 Staff witnesses.

17 MR. BATES: Yes, your Honor. We call Lisa

18 Kremer to the stand.

19 (Witness sworn.)

20 (EXHIBIT NOS. 708 AND 708-HC WERE MARKED FOR

21 IDENTIFICATION.)

22 JUDGE WOODRUFF: Thank you. You may sit down.

23 LISA KREMER testified as follows:

24 DIRECT EXAMINATION BY MR. BATES:

25 Q. Would you state your name for the record,

1 please.

2 A. Yes. Lisa Kremer.

3 Q. And are you responsible for having filed in

4 this case what has been marked as -- pre-marked as Exhibits

5 708 and 708-HC?

6 A. Yes, sir.

7 Q. At this time do you have any additions or

8 corrections to make to that testimony?

9 A. I have one small correction.

10 Q. Is that in the HC section?

11 A. Yes, sir.

12 MR. BATES: Your Honor, apparently she has a

13 correction to make in her HC testimony.

14 JUDGE WOODRUFF: Is it confidential?

15 THE WITNESS: It's a very small one.

16 JUDGE WOODRUFF: Is it a change in the

17 confidential information or is it --

18 THE WITNESS: No, it isn't.

19 BY MR. BATES:

20 Q. Please proceed.

21 A. All right. Page 7, line 17 the sentence

22 reads --

23 Q. Excuse me. You may want to speak more into

24 the mic.

25 A. All right. Page 7, line 17 the sentence



1 reads, At the end of 1999, the Empire, and I'd like to  
2 strike the word "the." It should read, At the end of 1999,  
3 Empire.

4 Q. Is that all?

5 A. That's it.

6 MR. BATES: Your Honor, at this time I would  
7 like to offer into evidence Exhibit Nos. 708 and 708-HC.

8 JUDGE WOODRUFF: I believe this is the only  
9 time Ms. Kremer will be testifying; is that right?

10 MR. BATES: I believe so, your Honor.

11 JUDGE WOODRUFF: 708 and 708-HC have been  
12 offered into evidence. Are there any objections to their  
13 receipt?

14 Hearing none, they will be received into  
15 evidence.

16 (EXHIBIT NOS. 708 AND 708-HC WERE RECEIVED  
17 INTO EVIDENCE.)

18 MR. BATES: And I tender the witness for  
19 cross-examination, your Honor.

20 JUDGE WOODRUFF: Thank you. Does anyone have  
21 any cross-examination questions for Ms. Kremer?

22 Hearing none, do you have any questions Chair  
23 Lumpe?

24 QUESTIONS BY CHAIR LUMPE:

25 Q. I gather, Ms. Kremer, that there was some

1 concern about the number of employees in the call centers.  
2 Would you care to discuss that a little bit? Do you think  
3 they're inadequate or will be inadequate if the call centers  
4 are reduced?

5 A. I think the point that we were trying to make  
6 in this testimony is that when companies merge, sometimes  
7 they can engage in cost-cutting measures in order to gain  
8 synergies.

9 In the area of customer service, obviously the  
10 call center is a very important function of customer  
11 service. If call center employees are reduced, that could  
12 certainly hamper the company's ability to effectively answer  
13 customer calls and could reduce the level of customer  
14 service that's currently enjoyed by Empire customers and Mo  
15 Pub customers.

16 Q. Is there any evidence that there would be  
17 increased number of employees in the Raytown center?

18 A. I don't have any documents in front of me. I  
19 think that the -- UtiliCorp has indicated that they would  
20 bring some call center employees that are currently in the  
21 Joplin call center up to the Raytown call center to help  
22 handle some of those calls, but I don't have specific  
23 numbers with me.

24 CHAIR LUMPE: Thank you. That's all I have.

25 JUDGE WOODRUFF: Any recross based on those

1 questions?

2 Hearing none, is there any redirect?

3 MR. BATES: No, your Honor.

4 JUDGE WOODRUFF: Thank you. And you may step

5 down.

6 THE WITNESS: Thanks.

7 JUDGE WOODRUFF: Next witness?

8 MR. BATES: John Kiebel to the stand, please.

9 (Witness sworn.)

10 (EXHIBIT NO. 707 WAS MARKED FOR

11 IDENTIFICATION.)

12 JUDGE WOODRUFF: You may be seated.

13 MR. BATES: Your Honor, I believe this is the

14 only time Mr. Kiebel will be testifying also.

15 JUDGE WOODRUFF: Okay. And does he have some

16 exhibit, I assume?

17 MR. BATES: Yes. I was just waiting.

18 JOHN M. KIEBEL, II testified as follows:

19 DIRECT EXAMINATION BY MR. BATES:

20 Q. Would you state your name for the record,

21 please.

22 A. John Kiebel, K-i-e-b-e-l.

23 Q. And, Mr. Kiebel, did you cause to be submitted

24 in this case rebuttal testimony that has been pre-marked as

25 Exhibit No. 707?

1           A.       Yes, sir.

2           Q.       Are there any additions or corrections you  
3 would want to make in that testimony at this time?

4           A.       No, I would not.

5           MR. BATES: Your Honor, I offer into  
6 exhibit -- excuse me -- into evidence Exhibit 707.

7           JUDGE WOODRUFF: Okay. Exhibit 707 has been  
8 offered into evidence. Are there any objections to its  
9 receipt?

10          Hearing none, it will be received into  
11 evidence.

12          (EXHIBIT NO. 707 WAS RECEIVED INTO  
13 EVIDENCE.)

14          MR. BATES: And I tender the witness for  
15 cross-examination.

16          JUDGE WOODRUFF: Any cross-examination  
17 questions for Mr. Kiebel?

18          Hearing none, Chair Lumpe, do you have any  
19 questions?

20          CHAIR LUMPE: I have no questions.

21          JUDGE WOODRUFF: So no recross and no  
22 redirect. And you may step down.

23          THE WITNESS: Thank you.

24          JUDGE WOODRUFF: And your next witness?

25          MR. BATES: James Ketter.

1 (Witness sworn.)  
2 (EXHIBIT NO. 706 WAS MARKED FOR  
3 IDENTIFICATION.)  
4 JUDGE WOODRUFF: Thank you.  
5 JAMES L. KETTER testified as follows:  
6 DIRECT EXAMINATION BY MR. BATES:  
7 Q. Would you state your name for the record,  
8 please.  
9 A. James L. Ketter.  
10 Q. And, Mr. Ketter, did you cause to be submitted  
11 in this case rebuttal testimony which has been marked for  
12 identification as Exhibit 706?  
13 A. That's correct.  
14 Q. And did you ever submit anything that -- any  
15 rebuttal testimony that would have been marked 706-HC?  
16 A. No, I did not.  
17 Q. Is there any confidential information at all  
18 in your testimony?  
19 A. Not to my knowledge, no.  
20 MR. BATES: Okay. Your Honor, at this time I  
21 offer into evidence the rebuttal testimony of James L.  
22 Ketter, which has been pre-marked as Exhibit 706.  
23 JUDGE WOODRUFF: Okay. And he will be  
24 testifying again later; is that correct?  
25 MR. BATES: That's correct.

1 JUDGE WOODRUFF: Just so the record is clear,  
2 there was a pre-marked 706-HC. Is that --

3 MR. BATES: Yes. And that was a mistake.  
4 There is no highly confidential information.

5 JUDGE WOODRUFF: Okay. All right. Then I  
6 assume Mr. Ketter is tendered for cross-examination?

7 MR. BATES: Your Honor, first of all, I do  
8 move that it be admitted into evidence.

9 JUDGE WOODRUFF: Our practice in the case so  
10 far, Mr. Bates, has been if they're going to be testifying  
11 again later, we wait until their final testimony before we  
12 actually -- before I ask whether or not anyone has any  
13 objection.

14 MR. BATES: I apologize, your Honor.

15 JUDGE WOODRUFF: You're correct so far.

16 MR. BATES: I also have an errata sheet to  
17 Mr. Ketter's testimony, which I distributed to the parties  
18 shortly before we reconvened this afternoon and which I  
19 would like to make available to the Commission and the court  
20 reporter at your direction.

21 JUDGE WOODRUFF: Do you want to mark it as an  
22 exhibit?

23 MR. BATES: Yes, please.

24 JUDGE WOODRUFF: It will be 721.

25 (EXHIBIT NO. 721 WAS MARKED FOR

1 IDENTIFICATION.)

2 MR. BATES: Your Honor, would you like me to

3 distribute that now or to wait?

4 JUDGE WOODRUFF: Why don't you go ahead and do

5 that now? Do you want to offer that?

6 MR. BATES: Yes, your Honor.

7 JUDGE WOODRUFF: Go ahead.

8 BY MR. BATES:

9 Q. Mr. Ketter, is there any changes -- or are

10 there any changes or additions you would make to either your

11 rebuttal testimony, Exhibit 706, or your testimony contained

12 on the errata sheet marked as Exhibit 721?

13 A. No.

14 MR. BATES: Your Honor, I tender this witness

15 for cross-examination.

16 JUDGE WOODRUFF: All right. Thank you.

17 Starting with Natural Resources?

18 MS. WOODS: No questions.

19 JUDGE WOODRUFF: Let me make this simpler.

20 Are there any cross-examination questions?

21 MR. COOPER: No, your Honor, not from the

22 company. But I would ask that you reserve your ruling on

23 Exhibit 721, which I believe you probably would do anyway.

24 JUDGE WOODRUFF: Yes.

25 MR. COOPER: But we would like the opportunity

1 just to talk about this and take a look at it before we have  
2 passed on it finally.

3 JUDGE WOODRUFF: Well, it will be reserved at  
4 least until Mr. Ketter testifies next time. And if you have  
5 an objection at that time, you can make it.

6 MR. COOPER: That's fine.

7 JUDGE WOODRUFF: No cross-examination  
8 questions?

9 MR. KEEVIL: None, on this end, your Honor.

10 JUDGE WOODRUFF: Hearing none, Chair Lumpe, do  
11 you have any questions?

12 CHAIR LUMPE: No.

13 JUDGE WOODRUFF: So no recross and no redirect  
14 and you may step down. Thank you.

15 And I believe Mr. Courtney is listed as a  
16 witness on this, but it was agreed that he would testify in  
17 other matters later.

18 Okay. So that takes us up to Load Research  
19 Condition, which we agreed to take out of order. Mr. Pella  
20 again.

21 MR. COOPER: We do call Mr. Pella.

22 JUDGE WOODRUFF: And I believe this is the  
23 last time Mr. Pella will testify?

24 MR. COOPER: That's correct, your Honor.

25 JUDGE WOODRUFF: And I believe he had exhibits



1       16, 17 and 28; is that correct?

2                   MR. COOPER: That's correct.

3                   JUDGE WOODRUFF: Exhibits 16, 17 and 28 have

4       been offered into evidence. Are there any objections to

5       their receipt?

6                   Hearing none, they will be received into

7       evidence.

8                   (EXHIBIT NOS. 16, 17 AND 28 WERE RECEIVED INTO

9       EVIDENCE.)

10                  JUDGE WOODRUFF: Is he ready to be tendered

11       for cross-examination?

12                  MR. COOPER: Your Honor, we hereby tender

13       Mr. Pella for cross-examination on the Load Research

14       Condition issue.

15                  JUDGE WOODRUFF: Does anyone have any

16       cross-examination on Load Research Condition for

17       Mr. Pella?

18                  MR. KRUEGER: The Staff does, your Honor.

19                  JUDGE WOODRUFF: Anyone else?

20                  Staff, you may proceed.

21                  MR. KRUEGER: Thank you, your Honor.

22       STEPHEN PELLA testified as follows:

23       CROSS-EXAMINATION BY MR. KRUEGER:

24                  Q.       Good afternoon, Mr. Pella.

25                  A.       Good afternoon.

1           Q.       My questions will focus on UtiliCorp's plan  
2       for the combined merger of UtiliCorp/Empire District and  
3       St. Joseph Light & Power load research programs. In your  
4       rebuttal testimony at page 20, lines 11 to 12 you state  
5       that --  
6           A.       Page 20?  
7           Q.       Page 20, lines 11 and 12.  
8           A.       Yes.  
9           Q.       You state that UtiliCorp's proposed staffing  
10      level is the foundation from which we intend to build our  
11      load research program?  
12          A.       Yes.  
13          Q.       Exactly what level of staffing measured in  
14      terms of full-time equivalents or FTEs is UtiliCorp  
15      proposing for the combined three companies, UtiliCorp,  
16      Empire District and St. Joseph Light & Power for their load  
17      research programs?  
18          A.       They're both outstanding mergers. I think for  
19      The Empire, load research with UtiliCorp there would --  
20      which is the part we're talking about here, it would be one  
21      additional person.  
22          Q.       How many people are there presently in the MPS  
23      load research program, how many FTEs?  
24          A.       There are two people, and as I recall, it's  
25      just under one full-time equivalent, maybe like .8.

1           Q.       Do you know how many FTEs are proposed to be  
2       used for the St. Joe Light & Power load research program?

3           A.       I think it's two.

4           Q.       So then that would be a total of approximately  
5       3.8 FTEs if both mergers are approved; is that correct?

6           A.       That would be a proposal based on what we  
7       know. I think the purpose of saying foundation in this  
8       statement is, you know, it's a best judgment. That could be  
9       up or down based on if both mergers are approved, only one  
10      and other factors. I mean, it may be three, it may be four,  
11      it may be more than that if we find we're ill equipped to do  
12      what we say we're going to do.

13          Q.       Would it be accurate to say though that your  
14      best guess at the present time is that if both mergers are  
15      approved, it would be approximately 3.8 FTE?

16          A.       That's a reasonable going-in position.

17          Q.       And would those 3.8 or so FTE be responsible  
18      for collecting load research data for Empire District for  
19      St. Joseph Light & Power and for MPS?

20          A.       Yes.

21          Q.       And also for the UtiliCorp's service  
22      territories in Kansas and Colorado? Would they also provide  
23      that service as well?

24          A.       I believe that's true, yes.

25          Q.       At the present time UtiliCorp is also

1       utilizing the service of a consulting firm; is that right?

2           A.       Yes.

3           Q.       Okay. And the name of that firm is Quantum

4       Consulting?

5           A.       Quantum, yes.

6           Q.       So at the present time you're utilizing this

7       0.8 FTE plus Quantum Consulting for load research purposes?

8           A.       Yes.

9           Q.       Do you know how much UtiliCorp currently pays

10       Quantum Consulting for their load research services?

11          A.       Not right off, no, I don't.

12          Q.       According to a response to a data request from

13       the St. Joseph Light & Power merger case, it was stated that

14       the contract was for \$129,870 per year. Does that sound

15       about right?

16          A.       That was probably right. I mean, if it's on a

17       data request, it's right.

18          Q.       Thank you. Now, does UtiliCorp intend to

19       maintain its contract with Quantum Consulting for load

20       research purposes after these proposed mergers go into

21       effect?

22          A.       The intention is to migrate away from an out

23       source service to an in-house load research service.

24          Q.       And so am I correct to understand then that

25       after this is done, this approximately 3.8 FTE would be

1 providing all of the services that are presently provided by  
2 Quantum Consulting plus the present staff at Empire District  
3 and at St. Joseph Light & Power?

4 A. To the best of my knowledge, that's our  
5 projection. And as time passes, we'll make adjustments as  
6 necessary to get the job done.

7 Q. Thank you. In your surrebuttal testimony,  
8 page 19 --

9 A. Yes.

10 Q. -- at lines 13 to 16 -- are you there?

11 A. Yes.

12 Q. You state there that a five-year rate  
13 moratorium, were it imposed, would reduce the need for data  
14 collection under this scenario and ongoing data collection  
15 activity would produce little benefit to ratepayers or  
16 shareholders.

17 Did you say that?

18 A. Yes.

19 Q. Now, do you mean by this statement that  
20 UtiliCorp does not intend to collect data on an ongoing  
21 basis from customers by the use of special meters in the  
22 customer's premises?

23 A. My understanding is the data's collected.  
24 What one does with them and the analysis of that data is  
25 what would be different, how much investment would be made.

1           Q.       Well, does your statement then mean that  
2       UtiliCorp doesn't intend to produce work products on an  
3       ongoing basis from the raw load research data that is  
4       collected?

5           A.       That's -- that's my understanding.

6           Q.       So the area in which you would be able to  
7       reduce your need for data collection is in producing this  
8       data?

9           A.       Using the data and managing it to some  
10       intelligent form.

11          Q.       Is it your testimony that a rate case is the  
12       only business use for load research and -- for load research  
13       data and for class loads?

14          A.       It's not the only. It's a major one, but it's  
15       not the only business use.

16          Q.       Can you tell me what some of these other  
17       business uses are?

18          A.       I believe they're reflected somewhere in  
19       surrebuttal. I'd have to look. But I think it has to do  
20       with analyzing customer growth, characteristics of use,  
21       better insight, really going into a rate case on rate  
22       design. I mean, there's ways to use some data from it to  
23       cross-check with billing data for validation, people use it  
24       for a variety of reasons in a variety of ways.

25          Q.       Mr. Pella, are you familiar with the use of

1 load profiles in a state where electric restructuring has  
2 occurred?

3 A. Generally.

4 Q. Would you explain generally what these uses  
5 are and how load profiles are used?

6 A. What I can say is that -- and I'm -- I can  
7 only represent it -- is that that is often used as a basis  
8 to project estimated loads of certain class of customers, so  
9 that as a marketplace becomes deregulated or open to  
10 competition, there's a way to show that class of customer  
11 which is traditionally served by the utility so that the  
12 open market can either bid or better understand the  
13 requirements of the class. It's that type of thing is my  
14 understanding.

15 Q. What is the best data source to estimate load  
16 profiles specific to a service territory?

17 A. If I understand your question, read meters of  
18 a statistical significance to gather the base data.

19 Q. Would it be fair to describe this generally as  
20 load research?

21 A. Yes.

22 Q. And would you want to use five- or  
23 six-year-old load research data to estimate load profiles?

24 A. My understanding is it depends on the  
25 characteristics and nature of change in that sample that

1       would have occurred over time. In some cases that would be  
2       pretty poor. In other cases with some techniques to make  
3       them current it is useable and valid. That's my  
4       understanding, so it --

5               Q.       In which cases would five- or six-year-old  
6       data be sufficient?

7               A.       I assume it's one where the nature of the  
8       class -- and, again, I'm giving a broad characterization,  
9       the nature and composition of the class and their patterns  
10      of usage would typically not vary dramatically and the  
11      nature of those changes could be profiled or simulated in a  
12      way to, if you will, true-up the sample. That's my kind of  
13      real rudimentary understanding of the situation.

14              Q.       Could the passage of, say, five or six years  
15      period of time affect the saturations of electrical using  
16      end-uses such as personal computers?

17              A.       Sure. It could.

18              Q.       And would that change the actual hourly loads  
19      that the company experiences?

20              A.       Sure. It could.

21              Q.       Would load research and hourly class load data  
22      that's five or six years old accurately reflect these  
23      changes?

24              A.       I wish I understood the techniques to  
25      normalize those -- those samples. My assumption is that



1       would be difficult to not, but I -- I don't know them well  
2       enough.

3               Q.       I assume it's correct to say that you would  
4       want the most accurate loads to estimate load profiles,  
5       wouldn't you?

6               A.       We try to get an industry standard accurate  
7       type sample to be able to make those.  So, yes, we would  
8       want that -- at least that degree of accuracy is what you'd  
9       strive for.

10              Q.       Have you done any studies to determine whether  
11       load research data that's two or three years old would be  
12       adequate to estimate load profiles?

13              A.       I haven't.  I don't know if others have.

14                      MR. KRUEGER:  May I approach the witness?

15                      JUDGE WOODRUFF:  Yes, you may.

16       BY MR. KRUEGER:

17              Q.       I'd like to show you a data request that was  
18       prepared in this case and answered by UtiliCorp.  It was not  
19       answered by you.  Ask you to take a look at it and review  
20       it, please.

21              A.       It's a data request from St. Joe Light & Power  
22       4119 from Lena Mantle --

23              Q.       You don't need to describe it.  I'll have some  
24       questions for you.  Just take as much time as you need to to  
25       review it to understand the content, please.

1           A.       Okay.  It's a fairly long one, so this will  
2       take a minute.

3           Q.       I'm sorry.  I gave you the wrong one.

4           A.       You can't correct this.  You'll have to go on.

5                    JUDGE WOODRUFF:  I'm just glad you're not  
6       going to ask him questions about that one.

7       BY MR. KRUEGER:

8           Q.       Let me try again.

9           A.       This is an EDE Data Request 4132.  This is  
10       even longer.

11                   JUDGE WOODRUFF:  Mr. Pella, if this is fairly  
12       lengthy, we're due for a break anyway, would you like a  
13       chance to look at it over a break or do you want to get out  
14       of here?

15                   MR. COFFMAN:  Good idea.

16                   THE WITNESS:  I'll defer to the momentum of  
17       the crowd.

18                   JUDGE WOODRUFF:  Let's go ahead and take a  
19       break.  We'll go off the record.

20                   (A RECESS WAS TAKEN.)

21                   JUDGE WOODRUFF:  We're on the record.  During  
22       the break somebody put a stack of Report and Orders on my  
23       desk.  Can somebody identify what those are?

24                   MR. SWEARENGEN:  Official notice.

25                   JUDGE WOODRUFF:  Official notice.  Okay.  I

1 thought that's probably what it was, but I wanted to make  
2 sure.

3 Okay. Let's go ahead and proceed with your  
4 questioning of Mr. Pella.

5 MR. KRUEGER: Thank you, your Honor.

6 BY MR. KRUEGER:

7 Q. Mr. Pella, before the break I had handed you a  
8 copy of Data Request No. EDE 4132. Have you had an  
9 opportunity to review that?

10 A. Yes.

11 Q. Who is the individual that provided  
12 UtiliCorp's response to that data request?

13 A. Chris Holmes.

14 Q. And is he an expert at UtiliCorp on the  
15 subject of load research?

16 A. At UtiliCorp he is responsible -- has been  
17 responsible for load research. I -- expert has a  
18 connotation that many different people would share a  
19 different definition of. In UtiliCorp I think he would be  
20 considered knowledgeable, very knowledgeable.

21 Q. Would you please read Question No. 1 from that  
22 data request and the response that the company gave to that  
23 for the record?

24 A. Under the UCU plan which of the following work  
25 products will be produced on an as-needed basis and which

1 will be created on an ongoing basis: A, interval data,  
2 intervals of 60 minutes or less for sample customers,  
3 interval data at the stratum level, interval data at the  
4 class level, interval data at the jurisdictional level,  
5 interval data at the total company level, EDE, monthly class  
6 load characteristics coincident demands, non-coincident  
7 demands, customer maximum demands?

8 Response: All would be produced on an  
9 as-needed basis.

10 Q. Okay. Thank you. Would your answer to that  
11 question be the same?

12 A. Yes.

13 Q. Now, with regard to item C on that list in  
14 question one if we substitute the term "hourly class load  
15 data" for the term "interval data at the class level," would  
16 your answer to that question still be the same, that is,  
17 that it would be produced on an as-needed basis?

18 A. My knowledge is those are synonyms -- those  
19 are synonomous.

20 Q. So the answer would not change?

21 A. No.

22 Q. So it is your testimony then that hourly class  
23 load data that is produced from raw load research data and  
24 under UtiliCorp's plan this would be work product; is that  
25 correct?

1           A.       Item C would be an outcome, yes.

2           Q.       And that would only be produced on an  
3 as-needed basis, rather than on an ongoing basis?

4           A.       Yes. When needed, where required it would be  
5 done.

6           Q.       Okay. Thank you. Now, I'd ask you to read  
7 for the record Question No. 3 and the company's response to  
8 that question.

9           A.       Under the UCU plan, what is an acceptable time  
10 lag between the collection of load research data on sampled  
11 customers and the completion of the work products listed in  
12 1B through 1F above?

13                   Response: Generally four to six weeks.

14          Q.       Okay. Thank you. Now, does that mean then  
15 that if Staff were to request hourly class load data from  
16 UtiliCorp, that it would take four to six weeks to produce  
17 that data?

18          A.       My understanding of the response is that to  
19 the degree possible, the work product requested would be  
20 responded to in four to six weeks.

21          Q.       Would it be possible to produce it faster than  
22 that?

23          A.       If it were possible and able to be, I don't  
24 think we would hold it for six weeks. I mean, we would be  
25 responsive, but in this series, trying to give a reasonable

1 level of time when one might expect turnaround. So if it  
2 were available to do less for whatever the reason, I would  
3 expect we would deliver it then; and if not, I would assume  
4 we'd be working with someone here to come up with the next  
5 best schedule.

6 Q. But all you're committing to then is producing  
7 it within four to six weeks?

8 A. Yeah. Generally four to six weeks.

9 Q. Okay. Thank you. Now, would you please read  
10 Question No. 5 of that same data request and the company's  
11 response to that question into the record, please?

12 A. Number 5?

13 Q. Number 5, yes.

14 A. In an as-needed situation, how long would it  
15 take UCU to create and provide to Staff the work products in  
16 question -- oh, in question? Question mark. For example,  
17 could it be done within the standard 20 days allotted for  
18 answering data requests?

19 Response: UCU will provide to Commission  
20 Staff within the required 20 days for responding to data  
21 requests available load research data that meets the level  
22 of precision and accuracy agreed upon between Staff and UCU.

23 Q. Okay. Thank you. Now, my question is, how  
24 can the company provide the Staff with work products within  
25 20 days of a request if it requires four to six weeks just

1 to produce those work products?

2 A. I'm not familiar enough with the way the work  
3 gets done to be able to answer the question.

4 Q. Thank you. Now, would you please read  
5 Question No. 6 from that data request and the company's  
6 response to that question into the record?

7 A. Does UCU believe that work products created  
8 from load research data that are used for rate case analysis  
9 should cover the same historical time period, i.e., test  
10 year, as the financial data used in the case? If not, what  
11 adjustments would UCU recommend be made to any analysis done  
12 using load research work products to reflect test year  
13 conditions?

14 Response: UCU believes that two years of load  
15 research data that spans the test year is optimal. However,  
16 if that data is not available, a reweighing of stratum  
17 impacts could be necessary to reflect sample migration.

18 Q. Okay. Thank you. Now, would I be correct to  
19 understand from that that the company believes that some  
20 additional procedure would be required to make the available  
21 load research data and work products representative of the  
22 test year?

23 A. My understanding of what I read is that if it  
24 weren't directly available, the -- if -- in -- as indicated  
25 in the however part of the response is that another

1 technique would be deployed.

2 Q. My question is, how would the company and the  
3 Staff know whether the data that results from this  
4 additional procedure, I think you called it additional  
5 technique or whatever, is actually representative of the  
6 test year? How would we determine that?

7 A. I expect there would be a methodology that our  
8 staff believes to be effective, and I would expect that  
9 would be made known to the requestor here at the Commission  
10 or the Staff on behalf of the Commission.

11 Q. Do you know who in your company would be  
12 responsible for performing that additional work and  
13 defending it to the Commission?

14 A. At this point, I would point to one and the  
15 same person as responded to the data request, Chris Holmes.

16 Q. Okay. Do you know how much time it would take  
17 to do that additional work?

18 A. No, I don't.

19 MR. KRUEGER: Thank you. That's all the  
20 questions I have, your Honor.

21 JUDGE WOODRUFF: All right. Thank you. No  
22 questions from the Bench, so there will be no recross.

23 Any redirect?

24 MR. COOPER: Very briefly, your Honor.

25 REDIRECT EXAMINATION BY MR. COOPER:



1           Q.     Mr. Pella, you were asked about ongoing versus  
2     as-needed reports, I think. Is there a cost to have this  
3     information on an ongoing basis?

4           A.     Well, there's a -- there's a cost with that as  
5     there are, you know, any activity that happens routinely.  
6     And one of the points made is that performing this work on  
7     an ongoing basis versus as-needed -- well, cost would be  
8     greater in the former than the latter.

9           Q.     Does UCU use this information on a daily basis  
10    to operate its facilities?

11          A.     No. Not on a daily basis.

12          Q.     And what is the load research data used for  
13    again?

14          A.     What's it used for?

15          Q.     Yeah. What would be the -- what would it be  
16    helpful in doing? You say that on a daily basis UCU has no  
17    use for this data.

18          A.     It -- I mean, it's used to analyze, you know,  
19    customer characteristics of use. It's used to maybe  
20    periodically check billing. It might be used to consider  
21    methods for pricing. I think actually the full -- full  
22    extent of how you might use load research data, I think Lena  
23    Mantle in her rebuttal spun through a fair amount of that  
24    herself.

25          Q.     Did you mention earlier that deregulation of

1 the marketplace is one of the areas?

2 A. Yeah. And load -- load research under those  
3 environments is a tool that's used, as I understand it, to  
4 estimate the characteristics of certain class of customers.

5 Q. Mr. Pella, have there been any meetings  
6 between UCU representatives and the Staff pertaining to load  
7 research data?

8 A. I think we're motivated, both at Staff and at  
9 UtiliCorp, to work toward a more workable load research  
10 program. In that spirit we did work cooperatively to host a  
11 meeting, I believe. It's been since the St. Joe merger  
12 hearing to try to begin a dialogue about what we offer, what  
13 we intend and what Staff here would -- would expect. And  
14 obviously it was just one meeting, but the intent was to try  
15 to find a way to work through issues that are at hand.

16 MR. COOPER: That's all the questions I have,  
17 your Honor.

18 JUDGE WOODRUFF: And, Mr. Pella, you may step  
19 down and you're excused.

20 THE WITNESS: Thank you.

21 JUDGE WOODRUFF: Okay. Over to Staff then  
22 with Ms. Mantle.

23 (Witness sworn.)

24 (EXHIBIT NO. 710 WAS MARKED FOR  
25 IDENTIFICATION.)

1 JUDGE WOODRUFF: You may inquire.

2 MR. KRUEGER: Thank you, your Honor.

3 LENA M. MANTLE testified as follows:

4 DIRECT EXAMINATION BY MR. KRUEGER:

5 Q. State your name for the record, please.

6 A. Lena M. Mantle.

7 Q. Did you cause to be pre-filed in this case the

8 rebuttal testimony of Lena M. Mantle?

9 A. Yes, I did.

10 Q. Do you have any corrections or additions to

11 that testimony as pre-filed?

12 A. No, I do not.

13 MR. KRUEGER: I would offer Exhibit 710 into

14 evidence, your Honor.

15 JUDGE WOODRUFF: All right. I believe this is

16 the only time Ms. Mantle will be testifying; is that

17 correct?

18 MR. KRUEGER: That's correct.

19 JUDGE WOODRUFF: Exhibit 710 has been offered

20 into evidence. Are there any objections to its receipt?

21 Hearing none, it will be received into

22 evidence.

23 (EXHIBIT NO. 710 WAS RECEIVED INTO EVIDENCE.)

24 MR. KRUEGER: And I will tender the witness

25 for cross-examination.

1 JUDGE WOODRUFF: Are there any  
2 cross-examination questions for Ms. Mantle?  
3 Hearing none, there are no questions from the  
4 Bench, there's no recross or redirect and you may step down.  
5 Okay. Let's go back to MPS Savings  
6 Assignment, which is Mr. McKinney.  
7 MR. SWEARENGEN: Does anybody have any  
8 questions for Mr. McKinney? Here comes Mr. Dottheim with an  
9 armful.  
10 MR. DOTTHEIM: No questions.  
11 JUDGE WOODRUFF: Does anyone have any  
12 questions of Mr. McKinney?  
13 MR. SWEARENGEN: Call Mr. Siemek.  
14 JUDGE WOODRUFF: Does anyone have any  
15 questions for Mr. Siemek?  
16 Again, hearing none, we'll move on to  
17 Mr. Oligschlaeger for Staff, please. Does anyone have any  
18 questions for Mr. Oligschlaeger on this issue?  
19 Again, hearing none, the next witness is  
20 Mr. Proctor and, of course, he's not here. And so we'll  
21 pass along on him. And that completes the MPS Savings  
22 Assignment issue.  
23 And we'll move then on to Electric Allocation  
24 Agreement.  
25 MR. SWEARENGEN: Call Mr. DeBacker.

1 (Witness sworn.)

2 MR. SWEARENGEN: I have three pieces of

3 testimony for Mr. DeBacker. First of all, he is adopting

4 the direct testimony filed by Robert W. Holzworth, and that

5 will be Exhibit 26.

6 (EXHIBIT NO. 26 WAS MARKED FOR

7 IDENTIFICATION.)

8 MR. SWEARENGEN: Then I have a two-page

9 document which is the direct testimony of Frank DeBacker,

10 and that will be Exhibit 29.

11 JUDGE WOODRUFF: That was not pre-filed; is

12 that correct?

13 MR. SWEARENGEN: That was pre-filed, but we

14 didn't -- it didn't make it to the list.

15 JUDGE WOODRUFF: Okay. And that was direct?

16 MR. SWEARENGEN: That's correct. That was

17 filed at the time the motion was filed whereby we requested

18 that Mr. DeBacker adopt Mr. Holzworth's testimony.

19 (EXHIBIT NO. 29 WAS MARKED FOR

20 IDENTIFICATION.)

21 MR. SWEARENGEN: And, finally, the surrebuttal

22 testimony of Frank DeBacker, which is Exhibit 18.

23 (EXHIBIT NO. 18 WAS MARKED FOR

24 IDENTIFICATION.)

25 JUDGE WOODRUFF: And we will be seeing

1 Mr. DeBacker later again, I believe?

2 MR. SWEARENGEN: I think so, yes.

3 JUDGE WOODRUFF: And do you wish to offer

4 those three exhibits you identified?

5 MR. SWEARENGEN: At this time I would offer

6 into evidence Exhibits 26, 29 and 18 and tender the witness

7 for cross-examination. Thank you.

8 JUDGE WOODRUFF: Does anyone have any

9 cross-examination questions for this witness?

10 MS. WOODS: Yes, I do.

11 MR. KRUEGER: I do.

12 JUDGE WOODRUFF: Both Staff and Natural

13 Resources. Anyone else?

14 I believe Natural Resources would go first

15 then.

16 FRANK A. DEBACKER testified as follows:

17 CROSS-EXAMINATION BY MS. WOODS:

18 Q. Good afternoon, Mr. DeBacker. I understand

19 Mr. Pella has already warned you that he punted a few

20 questions to you?

21 A. Yes, he has.

22 Q. Has UtiliCorp ever sold power generated at its

23 facilities to another utility?

24 A. Yes.

25 Q. And would you agree with me that in today's

1 market that power can be sold at a profit?

2 A. Of course.

3 Q. Would you also agree that the cost of fuel has

4 risen significantly here recently?

5 A. The price of oil and natural gas certainly

6 has. Coal is pretty stable.

7 Q. Will that change the economic impact in using

8 renewable energy?

9 A. Yes, it will. Assuming, of course, that

10 renewable energy does not go up also.

11 Q. Are there any new generation projects either

12 proposed or under your construction to supply electric power

13 to the Empire District service area powered by natural gas?

14 A. Yes. A state line facility is being converted

15 to combined cycle at this time.

16 Q. Are renewable resources included in that

17 project at all?

18 A. Not to my knowledge.

19 Q. And, if you know, how do the current fuel

20 expenses for natural gas compare to the Jeffrey Energy

21 Center Wind Energy project?

22 A. My recollection is the approved rate to sell

23 the Jeffery Energy Wind power is an adder of five cents a

24 kilowatt hour.

25 Q. And the current cost of natural gas would be?

1           A.       Well, you just can't compare the five cents to  
2       the current cost of natural gas because there's a base cost  
3       of energy also. So, for example, if the base cost in rates  
4       was \$15 a megawatt hour, then this would be a \$5 a megawatt  
5       hour adder, so there would be \$20.

6           Q.       Okay.

7           A.       Now, cost of the Jeffery Energy -- cost of  
8       natural gas fire generation in combined cycle -- what number  
9       do you want to use for the price of natural gas?

10          Q.       Well, do you happen to know what the price  
11       was --

12          A.       Today?

13          Q.       -- reported in the Wall Street Journal today?

14          A.       It's quite high right now. It's -- if it's  
15       not above, it's pushing \$5 a million BTU. So the cost of  
16       that generation would be somewhere around \$35 a megawatt  
17       hour, I would guess.

18                   MS. WOODS: Thank you. That's all I have.

19                   JUDGE WOODRUFF: Thank you. Staff?

20                   MR. KRUEGER: Thank you, your Honor.

21       CROSS-EXAMINATION BY MR. KRUEGER:

22          Q.       Good afternoon, Mr. DeBacker.

23          A.       Good afternoon.

24          Q.       I'd like to call your attention to your  
25       surrebuttal testimony on page 5.



1           A.       What line, please?

2           Q.       Lines 14 and 15.

3           A.       Yes.

4           Q.       You state there, The wholesale energy market

5           is not perfect and the ability and opportunities of each of

6           the market participants are not equal.

7                    Did I read that correctly?

8           A.       That's correct.

9           Q.       And you discuss that in more detail on the

10          following lines 15 through 20; is that correct?

11          A.       Yes.

12          Q.       Am I correct to understand from your statement

13          that you disagree with Dr. Proctor's assumption that Empire

14          will be able to make off-system sales of its available

15          energy at the same market price as MPS receives when it

16          makes off-system sales of its available energy?

17          A.       My position is that we will be more successful

18          both in price and quantity than Empire will be on its own.

19          Q.       That MPS on its own would be more successful

20          than Empire on its own?

21          A.       Yes. And the combined company will be more

22          successful than either of the companies on a stand-alone

23          basis.

24          Q.       And why would that be so?

25          A.       Well, we will have a larger mix of resources

1 to work with, obviously have a combined generation capacity  
2 of -- we'll have more than either company on a stand-alone  
3 basis. We will be able to manage those resources more  
4 effectively. And we will have, in our opinion, a further  
5 market reach than either company has today enabling us to  
6 get to more attractive markets.

7 Q. Would the sales price be different?

8 A. Sales price is a negotiated number. It's not  
9 a fixed number, but -- so -- I think I said that we would be  
10 more successful both in terms of price and quantity. We  
11 would be able to combine that -- command a higher price than  
12 Empire would be on its own.

13 Q. Because of your ability to negotiate better  
14 prices?

15 A. (Witness nodded head.)

16 Q. I'm going to ask you a series of questions  
17 about the assumptions that you used in your production cost  
18 model. First of all, with respect to the purchase of energy  
19 from the off-system market, what assumptions did you make  
20 regarding the purchase of energy by Empire and by MPS on a  
21 stand-alone basis?

22 A. That they would both purchase energy in the  
23 marketplace to the extent that it was economical to do so.

24 Q. And did you assume then that each company  
25 would be able to purchase whatever it needs at the market

1 price?

2 A. Yes.

3 Q. And would that price be the same for Empire as

4 it would be more MPS?

5 A. Well, yes. That was the assumption.

6 Q. Did you make the same assumptions with regard

7 to purchases by Empire and by MPS after the merger; that is,

8 that they will be able to purchase whatever they need at the

9 market price?

10 A. Yes.

11 Q. Next, with regard to the sale of energy for

12 the off-system market, what assumptions did you make

13 regarding the sale of energy by Empire and by MPS on a

14 stand-alone basis to the off-system market?

15 A. That they would be able to sell at the market

16 price at level -- at volumes consistent with what they had

17 experienced in the recent -- in the recent history of each

18 company on a stand-alone basis.

19 Q. The market price would be the same for either

20 company?

21 A. Yes. That's correct.

22 Q. And with regard to the sales by Empire and MPS

23 to the offset system market after the merger, would the

24 assumptions be the same?

25 A. No. We did assume that the price they would

1 get per megawatt hour would be the same, it would be the  
2 market price. Although I do believe that the combined  
3 company will be able to command a higher price. That was  
4 not included in the evaluation or the analysis, but the  
5 volume that -- of sales that the combined company will be  
6 able to make is higher than the sum of the two companies on  
7 a stand-alone basis.

8 Q. So both on a stand-alone basis and on a  
9 post-merger basis, you assumed that the price would be the  
10 same for sales by either company?

11 A. At a given point in time, the price would be  
12 the same.

13 Q. Okay. Now, I want to talk a little bit about  
14 the abilities and opportunities that you mentioned in the  
15 passage that I read from page 5. You mentioned differing  
16 abilities and opportunities of the two companies. What do  
17 you mean by the unequal abilities of the two companies? Why  
18 are the abilities unequal?

19 A. Empire does not have a dedicated dispatch  
20 staff that does this 24 hours a day and that's all they do.  
21 Okay? UtiliCorp does. And not only does that group  
22 dispatch the MPS generation, but it also dispatches the  
23 WestPlains Energy Kansas generation and the WestPlains  
24 Energy Colorado generation. So we have a much larger staff  
25 who has ded-- that is dedicated full-time to this endeavor.

1 And, in my estimation, they have a broader, deeper skill  
2 set.

3 Q. From a regulatory perspective, would you agree  
4 that profits from off-system sales are used to offset the  
5 cost of energy to ratepayers?

6 A. That certainly has been the position of this  
7 Commission.

8 Q. Would you agree that if the Commission does  
9 offset the profits from the off-system sales against the  
10 cost of energy to ratepayers, it would somehow have to  
11 determine what those profits from off-system sales amount  
12 to?

13 A. Yes.

14 Q. Now, I'd like to ask you to consider a  
15 situation which there are two companies that have equal  
16 opportunities but unequal abilities. In this situation when  
17 the Commission makes a determination concerning what the  
18 profits from off-system sales amount to, would it be  
19 appropriate for the Commission to utilize, as the standard  
20 for determination, the abilities of the company that has the  
21 greater ability provided that it also takes into account the  
22 cost of achieving this greater ability?

23 A. I don't believe I'm qualified to answer that  
24 question, sir.

25 Q. In your surrebuttal testimony did you include

1 an estimate of the cost for Empire to achieve the same level  
2 of ability in the wholesale market that MPS already  
3 possesses?

4 A. Yes.

5 Q. And did you state there that Empire's trading  
6 operation would be somewhat smaller than UtiliCorp's? I  
7 might direct your attention to page 9 of your surrebuttal  
8 testimony, lines 8 to 17 to assist you.

9 A. Thank you.

10 Q. Did you state there that Empire's trading  
11 operation would be somewhat smaller than UtiliCorp's?

12 A. I would expect it to be somewhat smaller.  
13 They have a smaller group of assets to deal with than the  
14 UtiliCorp generation dispatch people.

15 Q. And did you also state that due to the  
16 separation of the dispatching and transmission functions and  
17 the obtaining of comparable trading would possibly cost  
18 Empire in the area of \$1 million plus per year?

19 A. Yes.

20 Q. So Empire could acquire the ability to compete  
21 in the market substantially on the same terms as MPS at an  
22 expenditure of \$1 million plus per year?

23 A. They could.

24 Q. Thank you.

25 A. But I do not believe they would.

1           Q.       Next, I want to talk about the unequal  
2       opportunities that you discussed in your testimony. Calling  
3       your attention to page 7 of your surrebuttal testimony at  
4       lines 20 to 23 you said there, The operations of the  
5       combined company with its enhanced transmission capabilities  
6       will allow it to expand its efforts in the wholesale market  
7       much more efficiently than either of the companies could do  
8       separately. Did I read that correctly?

9           A.       Yes, you did.

10          Q.       When you referred to enhanced transmission  
11       capabilities, did that include elimination of pancaked  
12       transmission rates?

13          A.       No. Well, in a sense that you would have a  
14       larger transmission system -- one transmission system,  
15       perhaps one could say that you've eliminated one layer of  
16       pancake between MPS and Empire. But I'm not talking -- I'm  
17       not talking about eliminating pancaked rates beyond that  
18       point. Okay?

19                   What we're really talking about here is the  
20       increased number of interconnections that the combined  
21       company will have with other entities and the larger  
22       geographic area that it will cover.

23          Q.       But if there are pancaked transmission rates  
24       that are an impediment now, that is one of the things that  
25       you are saying could be eliminated by the merger; is that

1 correct?

2 A. I don't believe so. Not outside -- just  
3 looking at MPS and Empire, combine that, you'll eliminate  
4 one interface -- or they're not interconnected today anyway,  
5 but we're not talking about eliminating the interface  
6 between, say, Empire and Intergy, for example. That's still  
7 there.

8 Q. So then pancake transmission rates really  
9 aren't a problem at the present time?

10 A. They were not considered in this analysis.  
11 Are they problem? Yes, they're a problem. In a general  
12 wholesale market they're a problem.

13 Q. Would increased access to bulk power markets  
14 because of additions and upgrades to a transmission system  
15 also be included in the enhanced transmission capabilities?

16 A. We did not consider that.

17 Q. Would increased control by the merged entity  
18 of a portion of the regional transmission system be included  
19 in the enhanced transmission capability?

20 A. We did not consider -- my personal view is  
21 that a company cannot control the transmission company.  
22 That's not -- the transmission system to the detriment of  
23 other people. We did not consider that as a possibility in  
24 our analysis.

25 MR. KRUEGER: That's all the questions I have,



1       your Honor.

2                       JUDGE WOODRUFF: Thank you. Then questions

3       from the Bench? Commissioner Schemenauer, do you have any

4       questions?

5                       COMMISSIONER SCHEMENAUER: No questions.

6       QUESTIONS BY JUDGE WOODRUFF:

7               Q.       I do have one clarification I want you to

8       explain on the record.

9               A.       Okay.

10              Q.       I think I may have asked you or somebody else

11       at the last hearing as well.

12              A.       Perhaps.

13              Q.       Just explain what pancake rates are so it's

14       clear on the record.

15              A.       I did try to explain that last time, and I'm

16       looking around the room for a chart, something I can draw

17       on.

18              Q.       You don't have to go into any great detail,

19       just so we know we're not talking about breakfast.

20              A.       We're not talking about breakfast. As a

21       matter of fact, you made that same illusion last time, I

22       believe.

23              Q.       See, my jokes are already going flat.

24              A.       I'll try to do it this time so it goes left to

25       right while people look at it. Last time I went right to

1 left, I think. But, anyway, if you have transmission A on  
2 this side and transmission C over here with -- I'm sorry --  
3 company A, company B over here -- company B in the middle.

4 And company C wants to buy from company A.  
5 They've got to pay the transmission cost of basically two  
6 systems to get there. And that's -- just stack the costs  
7 up. If one system has a \$1.50 per megawatt hour charge and  
8 the other system has a \$2 per megawatt hour charge, to move  
9 the power it will cost you \$3.50 a megawatt hour.  
10 Eliminating that pancaking will lower the cost of the  
11 transaction to maybe some average number of 2.25, something  
12 like that.

13 JUDGE WOODRUFF: All right. Thank you. Any  
14 recross?

15 MR. SWEARENGEN: Just a couple, your Honor.  
16 Oh, I'm sorry. Did you say recross?

17 JUDGE WOODRUFF: Recross first, then redirect.

18 MR. SWEARENGEN: I'm sorry. You were looking  
19 at me.

20 JUDGE WOODRUFF: Go ahead.

21 REDIRECT EXAMINATION BY MR. SWEARENGEN:

22 Q. Mr. DeBacker, you used the term "skill set" I  
23 think in talking about the Empire District Electric Company,  
24 and I think you said whether or not they possess the skill  
25 set to be involved in pursuing opportunities in the

1       wholesale market. Did I hear you correctly?

2               A.       I used a word similar to that if it wasn't

3       skill set.

4               Q.       Would you please explain what you meant by the

5       use of that term?

6               A.       Knowledge of markets, knowledge of the other

7       players in the market, knowledge of the transmission system,

8       the ability to hedge the risk of a trade, the ability to

9       back up a sale with -- with other units. Skills that

10       wouldn't -- I'm not saying that the Empire folks are not

11       smart enough to have these skills, but UtiliCorp has

12       developed a lot of effort on its regulated side to develop

13       these skills and to be successful in trading in the

14       wholesale market.

15              Q.       In going along with that, in making a

16       decision, a commitment to become involved in the wholesale

17       market and develop those skill sets, is it also necessary to

18       have a certain appetite or ability to handle risk?

19              A.       Definitely. You must first have the appetite

20       for the risk and then have the skills to manage that risk.

21              Q.       With respect to your involvement with this

22       prospective merger with the Empire District Electric

23       Company, have you seen any indication that Empire possesses

24       that particular characteristic, the willingness to accept

25       the risk to become involved in the wholesale market?

1           A.       No. I -- excuse me. No, I have not.  
2                   MR. SWEARENGEN: Thank you. That's all I  
3 have.  
4                   JUDGE WOODRUFF: Thank you. You may step  
5 down.  
6                   The only other witness listed on this issue  
7 was Mr. Proctor, and we discussed this morning he's not  
8 here. So we'll move on to Savings Tracking and  
9 Benchmarking.  
10                  MR. SWEARENGEN: The first witness that we  
11 have on that, your Honor, is Mr. Myers and he is available.  
12 Where's Mr. Dottheim?  
13                  (Witness sworn.)  
14                  MR. SWEARENGEN: Having sworn Mr. Myers, I'm  
15 going to ask him to step down because I promised  
16 Mr. Dottheim I would not put him on until tomorrow. Is that  
17 okay with the Bench?  
18                  JUDGE WOODRUFF: That's fine.  
19                  MR. SWEARENGEN: We can go right back to  
20 Mr. DeBacker. We intend to put him on tomorrow for not only  
21 Savings Tracking/Benchmarking but also the Acquisition  
22 Adjustment issue we passed on earlier.  
23                  JUDGE WOODRUFF: Okay.  
24                  MR. SWEARENGEN: Thank you.  
25                  JUDGE WOODRUFF: Welcome back, Mr. DeBacker.

1 THE WITNESS: Thank you.

2 JUDGE WOODRUFF: You, of course, are still  
3 under oath.

4 MR. SWEARENGEN: I would at this time tender  
5 Mr. DeBacker for cross-examination on the issue of Savings  
6 Tracking and Benchmarking.

7 JUDGE WOODRUFF: Does anyone have any  
8 cross-examination questions on this issue?

9 Okay. Very good. Commissioner Schemenauer?

10 COMMISSIONER SCHEMENAUER: No questions.

11 JUDGE WOODRUFF: I have no questions, so no  
12 recross, no redirect, and you may step down.

13 MR. SWEARENGEN: Mr. Siemek, if he's here.

14 JUDGE WOODRUFF: He's in the back there. Does  
15 anyone have any questions for Mr. Siemek? Commissioner?  
16 You may stay back there, Mr. Siemek.

17 Okay. Let's move over to the Staff then.

18 MR. JOYCE: Staff calls Janis Fischer to the  
19 stand. And, your Honor, I have pre-marked Exhibits 703,  
20 703-HC.

21 (EXHIBIT NOS. 703 AND 703-HC WERE MARKED FOR  
22 IDENTIFICATION.)

23 MR. JOYCE: May I proceed?

24 JUDGE WOODRUFF: Yes, you may.

25 JANIS FISCHER testified as follows:

1 DIRECT EXAMINATION BY MR. JOYCE:

2 Q. Ms. Fischer, please state your full name for  
3 the record, please.

4 A. Janis E. Fischer.

5 Q. Have you caused to be filed in this case  
6 surrebuttal testimony marked as Exhibit 703 and 703-HC?

7 A. Yes, I have.

8 Q. Do you have any additions or corrections to  
9 that testimony?

10 A. Yes, I have two corrections to make. The  
11 first one is on page 25, line 21. I refer to Staff Witness  
12 Traxler's Schedule SMT-5, and that should be SMT-2.

13 The second correction is on page 34. The  
14 sentence beginning on line 4 continuing on line 5 I would  
15 like to have the two words "however small" deleted so that  
16 the sentence would read, However, actual savings levels for  
17 a given period can also be used as the baseline. And that's  
18 all of the corrections I have.

19 MR. JOYCE: Thank you. I ask that the  
20 witness's testimony, Exhibits 703 and 703-HC be offered into  
21 evidence.

22 JUDGE WOODRUFF: Okay.

23 MR. JOYCE: And I tender this witness for  
24 cross-examination.

25 JUDGE WOODRUFF: Very good. Are there any

1 cross-examination questions for Ms. Fischer?

2 Hearing none, Commissioner Schemenauer, do you

3 have any questions?

4 COMMISSIONER SCHEMENAUER: No questions.

5 JUDGE WOODRUFF: No recross, redirect, you may

6 step down.

7 And Ms. Fischer will be coming back later, I

8 believe?

9 MR. JOYCE: Yes, your Honor.

10 JUDGE WOODRUFF: All right. Thank you. Next

11 witness then, Staff?

12 MR. JOYCE: Staff recalls Mr. Oligschlaeger to

13 the stand.

14 JUDGE WOODRUFF: And, Mr. Oligschlaeger, you

15 are still under oath.

16 MR. JOYCE: And he's tendered for

17 cross-examination on this issue of Savings Tracking.

18 JUDGE WOODRUFF: Are there any

19 cross-examination questions for Mr. Oligschlaeger?

20 CROSS-EXAMINATION BY MR. SWEARENGEN:

21 Q. Mr. Oligschlaeger, do you know any more this

22 afternoon about that Kansas case in which UtiliCorp was able

23 to achieve rate recovery -- direct rate recovery of premium?

24 Do you know any more about that than you did this morning?

25 A. Yes.

1           Q.     Okay.  What can you tell us about it?

2           A.     The issue related to an acquisition premium

3           associated with the Syntel properties which UtiliCorp

4           purchased in 1991, in order to recover the asserted

5           acquisition premium, UtiliCorp presented evidence of what it

6           asserted to be merger savings solely attributable to the

7           acquisition.

8                     I believe there were savings in seven

9           categories that were asserted by UtiliCorp.  The KCC Staff

10          and KURB, the Kansas Consumer Council Body, objected to the

11          recovery of the acquisition adjustment and to the asserted

12          merger savings.

13                    The Commission ruled on the seven categories

14          and I believe found in the company's -- or UtiliCorp's favor

15          on two of the categories and found in the KCC Staff and KURB

16          on the five of the categories.

17          Q.     Does that complete your answer?

18          A.     I believe that the total acquisition

19          adjustment recovery granted by the KCC was approximately

20          2 1/2 million out of, I think -- I believe the requested

21          annual revenue requirement amount associated with the

22          acquisition adjustment was approximately 10 million or so.

23          Q.     Anything further?

24          A.     I think that's it.

25                   MR. SWEARENGEN:  Thank you.



1 JUDGE WOODRUFF: Commissioner Schemenauer, any  
2 questions?  
3 COMMISSIONER SCHEMENAUER: No questions.  
4 JUDGE WOODRUFF: No recross. Any redirect?  
5 MR. JOYCE: No.  
6 JUDGE WOODRUFF: Then you may step down.  
7 MR. JOYCE: Staff calls Cary Featherstone.  
8 JUDGE WOODRUFF: And, Mr. Featherstone, you've  
9 testified also previously, have you not?  
10 THE WITNESS: Yes.  
11 JUDGE WOODRUFF: Are there any  
12 cross-examination questions for Mr. Featherstone?  
13 MR. SWEARENGEN: No questions.  
14 JUDGE WOODRUFF: No questions. You can return  
15 to your seat. Thank you very much.  
16 MR. JOYCE: Your Honor, I believe this was the  
17 last time Mr. Featherstone was scheduled to testify. I can  
18 offer that his testimony be received into evidence.  
19 JUDGE WOODRUFF: That was 702?  
20 MR. JOYCE: 702.  
21 JUDGE WOODRUFF: 702 has been offered into  
22 evidence. Are there any objections?  
23 Hearing none, it will be received into  
24 evidence.  
25 (EXHIBIT NO. 702 WAS RECEIVED INTO EVIDENCE.)

1 JUDGE WOODRUFF: All right. Staff?

2 MR. JOYCE: Staff call Mr. Traxler to the

3 witness stand.

4 JUDGE WOODRUFF: And I believe Mr. Traxler has

5 testified also previously. Are there any cross-examination

6 questions for Mr. Traxler? Commissioner?

7 COMMISSIONER SCHEMENAUER: No.

8 JUDGE WOODRUFF: All right. Hearing none

9 then, you may remain seated.

10 And next up for Staff was Dr. Proctor and he's

11 not here, so we'll move over to Public Counsel and Ted

12 Robertson. And I believe he has also previously

13 testified -- or you haven't. Okay. Do you want to put him

14 on now?

15 MR. COFFMAN: Yes.

16 (Witness sworn.)

17 (EXHIBIT NOS. 202 AND 202-HC WERE MARKED FOR

18 IDENTIFICATION.)

19 JUDGE WOODRUFF: Please be seated.

20 MR. COFFMAN: I do have Exhibits 202 and

21 202-HC, just a couple of highly confidential pages. And we

22 have a couple of corrections to make.

23 JUDGE WOODRUFF: You may inquire.

24 TED ROBERTSON testified as follows:

25 DIRECT EXAMINATION BY MR. COFFMAN:

1           Q.     Mr. Robertson, are there some corrections  
2     you'd like to make to your rebuttal testimony marked as  
3     Exhibit 202?

4           A.     Yes, there are.

5           Q.     What would be the first one?

6           A.     A few minor corrections. On the cover of the  
7     document in the upper right-hand corner it says  
8     Post-moratorium. That should actually say Pre-moratorium.

9           Q.     That is in your list of issues? In other  
10    words, that should read Pre-moratorium rate case as one of  
11    your issues?

12          A.     That's correct.

13          Q.     What else do you have?

14          A.     On page 2 of the testimony, the very last  
15    line, line 20, about the middle of the sentence the same  
16    correction. Instead of Post, it should say Pre-moratorium.

17          Q.     Okay. Any other corrections?

18          A.     Two more small ones. On page 81 of the  
19    testimony on line 11, middle of the sentence there's the  
20    word "to." Should strike that. So it should say, Did not  
21    give the assurances needed.

22                   On page 94 of the testimony on page -- on  
23    line 9 the same changes as I made a moment ago. It should  
24    say Pre-moratorium instead of Post-moratorium.

25          Q.     Okay.

1           A.       And that's it.

2           Q.       With those changes, would you stand by your  
3 testimony as prepared and filed with this case?

4           A.       Yes.

5           MR. COFFMAN: I would then offer Mr. Robertson  
6 for cross-examination.

7           JUDGE WOODRUFF: Are you offering the exhibits  
8 also at this time?

9           MR. COFFMAN: Sure. It's not the last time he  
10 will be up, but I guess I would initially offer Exhibits 202  
11 and 202-HC into the record.

12          JUDGE WOODRUFF: Thank you very much. For  
13 cross-examination does anyone have any cross-examination  
14 questions for Mr. Robertson on this issue? Commissioner?

15          COMMISSIONER SCHEMENAUER: No questions.

16          JUDGE WOODRUFF: All right. Hearing none,  
17 then you may step down.

18          I believe we'll go down to Costs to Achieve  
19 then and Mr. Siemek.

20          MR. DOTTHEIM: Judge Woodruff?

21          JUDGE WOODRUFF: Yes.

22          MR. DOTTHEIM: Before we leave the Savings  
23 Tracking/Benchmarking issue, I'd like to provide a  
24 clarification from the perspective of the Staff.

25          On Monday when Mr. Empson was on the stand, he

1 indicated that he thought that the companies, the joint  
2 applicants and the Staff were close to an agreement  
3 respecting Savings Tracking and Benchmarking issues.

4 I asked Mr. Empson from who on the part of the  
5 Staff did he have that impression and he wasn't able to name  
6 any Staff member. I subsequently checked with the various  
7 members of the Staff who would be aware if the joint  
8 applicants and the Staff were close to an agreement on  
9 Savings Tracking and Benchmarking, and no one on behalf of  
10 the Staff has been able to confirm that.

11 The Staff -- and I'd like to be clear on  
12 this -- considers that we don't have an agreement with the  
13 joint applicants on Benchmarking and Savings Tracking and we  
14 are nowhere close to an agreement among the joint applicants  
15 and the Staff on Savings Tracking and Benchmarking.

16 JUDGE WOODRUFF: Very well. I won't assume  
17 that there's an agreement unless I hear that there is.

18 MR. DOTTHEIM: Thank you.

19 JUDGE WOODRUFF: All right. Mr. Siemek. Does  
20 anyone have any cross-examination questions for Mr. Siemek?

21 MR. FREY: Yes, your Honor.

22 JUDGE WOODRUFF: All right.

23 MR. FREY: Thank you.

24 VERN SIEMEK testified as follows:

25 CROSS-EXAMINATION BY MR. FREY:

1           Q.     Mr. Siemek, I just have a couple of questions  
2     here, three actually. On your surrebuttal testimony on  
3     page 31 you refer to severance packages briefly. And my  
4     question to you, sir, is have costs associated with  
5     executive severance packages ever been an issue in past  
6     Empire rate case proceedings in Missouri, to your knowledge?  
7           A.     Costs associated with severance packages?  
8           Q.     Yes. Executive severance packages.  
9           A.     Not to my knowledge.  
10          Q.     Is it UtiliCorp's intention to charge Empire  
11     division customers for an allocated portion of costs  
12     associated with UtiliCorp board of directors in future  
13     Empire rate proceedings?  
14          A.     I believe that a relatively minor portion of  
15     the board of directors' costs would be allocated to  
16     Empire -- to the Empire operating unit.  
17          Q.     And, again, with your surrebuttal, sir, on  
18     page 36, lines 17 through 19 beginning with the second  
19     sentence there it says, Since almost all of the transition  
20     costs will be incurred in the first years all during the  
21     rate moratorium, the practical effect of that recommendation  
22     is denying recovery of the transition costs.  
23                     Have I read that correctly?  
24          A.     Yes.  
25          Q.     And, to your knowledge, is the Staff proposing

1 a rate moratorium for Empire in this merger application?

2 A. No. The Staff is not proposing a rate  
3 moratorium.

4 MR. FREY: Thank you. I have no further  
5 questions, your Honor.

6 JUDGE WOODRUFF: Thank you. Any other cross?  
7 There's nothing from the Bench, so no recross. Any  
8 redirect?

9 MR. SWEARENGEN: None.

10 JUDGE WOODRUFF: Mr. Siemek, you may step  
11 down.

12 I believe then we go over to Staff on Costs to  
13 Achieve.

14 MR. FREY: Thank you, your Honor. Staff calls  
15 James M. Russo.

16 JUDGE WOODRUFF: I believe this is the first  
17 time you've been up here, is it not?

18 THE WITNESS: Yes, it is.  
19 (Witness sworn.)

20 JUDGE WOODRUFF: Thank you.

21 MR. FREY: And, your Honor, I have three  
22 exhibits -- three copies of Mr. Russo's rebuttal testimony  
23 which I believe is Exhibit 715.

24 (EXHIBIT NO. 715 WAS MARKED FOR  
25 IDENTIFICATION.)

1 JAMES M. RUSSO testified as follows:

2 DIRECT EXAMINATION BY MR. FREY:

3 Q. Please state your name for the record, sir.

4 A. James M. Russo, R-u-s-s-o.

5 Q. And by whom are you employed and in what

6 capacity?

7 A. Missouri Public Service Commission as a

8 regulatory auditor.

9 Q. Are you the same James M. Russo who prepared

10 and caused to be filed in this case James M. Russo rebuttal

11 testimony which has previously been marked for

12 identification as Exhibit 715?

13 A. Yes.

14 Q. Do have any corrections to make to that

15 pre-filed testimony, sir?

16 A. One minor correction. It's on page 8,

17 line 13, the very last word in that line is "transition."

18 That should be "transaction."

19 Q. Including that correction, Mr. Russo, if I

20 asked the same questions as are contained in that document,

21 would your answers be the same today?

22 A. Yes.

23 Q. And are the answers true and accurate, to the

24 best of your knowledge, information and belief?

25 A. Yes.



1                   MR. FREY: Your Honor, I would offer Exhibit  
2       715 at this time initially at least and tender the witness  
3       for cross-examination.

4                   JUDGE WOODRUFF: Mr. Russo will be back on  
5       subsequent issues?

6                   MR. FREY: Right.

7                   JUDGE WOODRUFF: Does anyone have any  
8       cross-examination questions for Mr. Russo?

9                   Hearing none and no questions from the Bench,  
10      no recross and no redirect, and you may step down.

11                  THE WITNESS: Thank you.

12                  MR. FREY: Staff calls Charles R. Hyneman.  
13                  (Witness sworn.)

14                  JUDGE WOODRUFF: Thank you.

15                  MR. FREY: And I've supplied three copies of  
16      Mr. Hyneman's testimony --

17                  JUDGE WOODRUFF: 705 and 705-HC; is that  
18      correct?

19                  MR. FREY: Yes. Yes. 705 and 705-HC. Thank  
20      you, your Honor.

21                  (EXHIBIT NOS. 705 AND 705-HC WERE MARKED FOR  
22      IDENTIFICATION.)

23      CHARLES R. HYNEMAN testified as follows:

24      DIRECT EXAMINATION BY MR. FREY:

25              Q.       Can you please state your name for the record,

1       sir.

2           A.       Yes.  It's Charles R. Hyneman.

3           Q.       And by whom are you employed and in what

4       capacity?

5           A.       Missouri Public Service Commission as a

6       regulatory auditor.

7           Q.       Are you the same Charles R. Hyneman who

8       prepared and caused to be filed in this case Charles R.

9       Hyneman rebuttal testimony both NP and HC which has been

10      previously marked as Exhibit 705-NP and HC?

11          A.       Yes, I am.

12          Q.       And do you have any corrections to make to

13      that pre-filed testimony, sir?

14          A.       Yes.  On page 33, line 23, the year 1998

15      should be 1991.  On the next page, page 34, the same change,

16      the year 1998 on line 14 should be 1991.  And finally on

17      page 60 on line 6 after the No. 40, the percentage mark

18      should be deleted.  That was extraneous.

19          Q.       Thank you.  And with those corrections, if I

20      asked you the same questions as are contained in those

21      documents, would your answers be the same today?

22          A.       Yes, they would.

23          Q.       And are those answers true and accurate, to

24      the best of your knowledge, information and belief?

25          A.       Yes, they are.

1                   MR. FREY: Your Honor, I believe Mr. Hyneman  
2                   is not to appear on the witness stand anymore, so I would  
3                   offer Exhibits 705 -- oh, okay. I'm sorry. He is going to  
4                   appear on Transaction Costs.

5                   JUDGE WOODRUFF: So you're offering the  
6                   exhibits at this point?

7                   MR. FREY: Right. I'll offer them initially  
8                   at this point, 705-NP and HC, and tender the witness for  
9                   cross.

10                  JUDGE WOODRUFF: Are there any  
11                  cross-examination questions for Mr. Hyneman on Costs to  
12                  Achieve?

13                  Hearing none, there are no questions from the  
14                  Bench and no recross or redirect, and you may step down.

15                  I believe Mr. Traxler is next. And  
16                  Mr. Traxler, I believe, has testified previously. Does  
17                  anyone have any cross-examination questions for Mr. Traxler?

18                  MR. DEUTSCH: I'd like to ask him a question.

19                  JUDGE WOODRUFF: Come on up. And,  
20                  Mr. Traxler, you are still under oath.

21                  You may inquire.

22                  MR. DEUTSCH: Thank you, your Honor.

23                  STEVEN TRAXLER testified as follows:

24                  CROSS-EXAMINATION BY MR. DEUTSCH:

25                  Q.       Hi, Mr. Traxler.

1           A.       Good afternoon.

2           Q.       I was thinking about this issue of Costs to  
3 Achieve that we're on right now, and I'm still trying to dig  
4 the cobwebs out of my brain from yesterday, but I believe  
5 you gave us some information that dealt with apparently  
6 information that only you and Mr. Browning -- the elusive  
7 Mr. Browning have concerning what this cost is.

8                   And it seems to me it's relevant at this time  
9 when you're talking about costs to achieve, it's also  
10 relevant as far as estimated merger savings, but I'm not  
11 quite sure I understand how it's relevant to both of those  
12 things, so I'm going to ask you some questions and see if  
13 you can't straighten me out.

14                   First of all, do you have any idea, just to  
15 get it out of the way, how much it would cost to grandfather  
16 in the EDE Retirees and their benefits similar, for  
17 instance, to the way that St. Joe retirees got treated in  
18 their merger?

19           A.       Let me look at Mr. Browning's testimony for a  
20 second. I think I've got a copy. Let me check real quick.  
21 Yes, sir. Actually that information is reflected, as I  
22 recall, on Browning Schedule RBB-6, direct testimony.

23           Q.       The direct. Right?

24           A.       Yes, sir.

25           Q.       Okay. I've got that. Maybe you could walk me

1 through this and explain to me what the costs actually would  
2 be to fund this obligation.

3 A. If you'll look at line No. 1 and you'll see  
4 the first column, ED UC assumptions current plan, you'll see  
5 the benefit obligation on line 1, an amount of 17,100,350.

6 Q. Okay.

7 A. That amount represents at that point in time  
8 the entire accrued liability for post-retirement benefits  
9 other than pensions. This would include 100 percent of the  
10 benefits for the current retirees, and with regard to  
11 current employees would include 100 percent of accrued  
12 benefits to date earned by employees. You'll notice on  
13 line 2 that the fair value of assets number is 6,154,238.

14 Q. Yes.

15 A. That represents the amount that has been  
16 collected in rates since the legal obligation of using  
17 FAS-106 for rate-making purposes beginning in 1994. One of  
18 the provisions established by the Commission -- or no,  
19 actually established in a law, excuse me, was that any  
20 amounts collected would be funded in a separate trust.

21 This amount represents the amount collected in  
22 rates since that point in time and, therefore, distributed.  
23 So you see a shortfall or an excess, if you will, of the  
24 liability over funded assets on line 3 of 10,946,112. That  
25 represents the amount at this time.

1                   Had an agreement been worked out between  
2           UtiliCorp and Empire to use some of the money accepted in  
3           the purchase price, that's what would be required to fund  
4           100 percent of the current liability.

5                   If that were funded, and certainly in my  
6           professional opinion, there's certainly no incentive  
7           whatsoever to reduce retiree benefits with the exception of  
8           the fact that the company needs the savings to justify  
9           recovery of \$192 million acquisition premium. That's the  
10          only incentive.

11                  Q.       Okay. So just so I'm certain, the amount of  
12          the shortfall you're talking about here is actually the  
13          amount we're talking about if the company were to, as part  
14          of the merger, turn around and fund fully the retirement  
15          obligation as it currently exists to these existing retirees  
16          and people who qualify for that at this time?

17                  A.       That's correct. That \$17 million number would  
18          include 100 percent of the re-- the post-retirement benefits  
19          for the people in this room, existing retirees.

20                  Q.       What effect, if any, do you think this would  
21          have on the doability of this merger to have that  
22          \$10 million -- I don't understand what the incentive that  
23          you mentioned was.

24                  A.       In response to your question, I will indicate  
25          that I'm the witness involved in examining the benefit

1 savings for the Staff as proposed by Mr. Browning. We were  
2 unaware -- although, you know, the benefit amounts have been  
3 examined, we were unaware until Monday -- I was unaware  
4 until Monday of the magnitude of the increase you're talking  
5 about.

6 And when I heard that Monday, I will just  
7 state that we attempted internally to determine some kind of  
8 an approximate impact that would require to fund that --  
9 that shortfall, if you will, to grandfather, if you will,  
10 the benefit obligation.

11 And the only relevant calculation I could  
12 provide you that would provide some relevant number would be  
13 that assuming the purchase price right now at 29.50 a share,  
14 if 63 cents of that 29.50 were diverted to fund the existing  
15 liability, the existing liability would be funded  
16 100 percent.

17 Q. So 63 cents a share?

18 A. That's correct.

19 Q. That's real helpful, Mr. Traxler. I  
20 appreciate it.

21 MR. DEUTSCH: I have no more questions.

22 JUDGE WOODRUFF: Any other cross-examination?

23 MR. SWEARENGEN: I have just a few.

24 JUDGE WOODRUFF: Well, I assume you have  
25 redirect. I'm sorry. He's not your witness.

1 MR. DEUTSCH: How could you tell?

2 JUDGE WOODRUFF: It's getting late in the week

3 already.

4 MR. SWEARENGEN: I'll do either, recross or

5 redirect.

6 JUDGE WOODRUFF: You may proceed.

7 MR. SWEARENGEN: Thank you.

8 CROSS-EXAMINATION BY MR. SWEARENGEN:

9 Q. Mr. Traxler, I'm thoroughly confused

10 now. First of all, let me ask you -- the question I think

11 Mr. Deutsch posed to you was that if the Empire Retirees'

12 healthcare plan would be grandfathered, as in the case of

13 the St. Joe Light & Power Retirees, what would the cost be?

14 That's what I understood the question to be. Was that the

15 question that you understood?

16 A. That's correct.

17 Q. Now, let me ask you this. First of all, is it

18 your testimony that the current St. Joe Light & Power

19 Company healthcare plan for retirees is identical to

20 Empire's?

21 A. I couldn't answer that question.

22 Q. So you don't know?

23 A. I don't know.

24 Q. Okay. So if you were comparing grandfathering

25 the two, you would be comparing apples to oranges possibly?



1           A.       Well, the -- yeah, depending on the funded  
2       status, there could be a minor or significant difference in  
3       the amount required.

4           Q.       Okay. And, second, let me ask you this.  
5       Implicit in that question that Mr. Deutsch asked you was an  
6       assumption that the St. Joseph Light & Power Company  
7       Retirees did, in fact, have their healthcare benefits  
8       grandfathered. Would you agree that that was implicit in  
9       his question?

10          A.       Yes, sir.

11          Q.       And is it your testimony that that is, in  
12       fact, what has happened pursuant to the agreement and plan  
13       of merger between UtiliCorp and St. Joseph Light & Power  
14       Company?

15          A.       I cannot state that for certainty, because it  
16       was not in any testimony that I read in that particular  
17       case.

18          Q.       So you don't know whether or not the St. Joe  
19       Light & Power Company Retirees actually had their healthcare  
20       benefits grandfathered?

21          A.       Based on testimony presented in that case, I  
22       don't recall a description like that.

23          Q.       Okay. Second, what was your answer to the  
24       question, What would it cost to grandfather the Empire  
25       Retirees with respect to their healthcare benefits? I've

1 got a \$17 million number, I've got a \$10 million number, and  
2 I thought a heard a \$6 million number.

3 A. Let's refer again to that schedule in  
4 Mr. Browning's testimony.

5 Q. Can you just give me a number? That's all I  
6 want. I just want the number that you think it would cost  
7 to grandfather those people. I'm not interested in benefit  
8 obligations or fair value of assets or any of those things,  
9 funded status. I want to know what it would cost, in your  
10 opinion, to do what Mr. Deutsch asked you.

11 A. I'm going to answer the question. The  
12 question you asked requires the same answer I gave this  
13 gentleman over here. If we refer to Schedule RBB-6, the  
14 entire accrued liability as of the date on his schedule was  
15 17,100,350. He shows existing assets, funded assets of  
16 6,154,238. So the difference is the amount it would require  
17 to fund the entire liability at this point in time. That  
18 amount is shown as 10,946,112.

19 Q. So your answer is 10,946,112?

20 A. That's correct.

21 MR. SWEARENGEN: Okay. Thank you.

22 JUDGE WOODRUFF: Anything else?

23 MR. SWEARENGEN: No.

24 JUDGE WOODRUFF: All right. No questions from  
25 the Bench, so there will be no recross. Any redirect?

1                   MR. FREY: No questions, your Honor.

2                   JUDGE WOODRUFF: All right. Mr. Traxler, you

3                   may step down.

4                   I believe Mr. Robertson is next on the list.

5                   Does anyone have any cross-examination questions for

6                   Mr. Robertson?

7                   Hearing none, no need to come up. Okay.

8                   Let's go ahead and move into Transaction Costs then, which

9                   is Mr. Siemek for the companies. Does anyone have any

10                  cross-examination questions for Mr. Siemek on the

11                  Transaction Cost issue?

12                  All right. Moving along then over to Staff

13                  with Mr. Russo again. Does anyone have any

14                  cross-examination questions for Mr. Russo on this issue?

15                  Hearing none, I believe this would be the last

16                  time for Mr. Russo then?

17                  MR. FREY: Yes, your Honor. And so I would

18                  move for admission of Mr. Russo's testimony, which I believe

19                  is Exhibit 715.

20                  JUDGE WOODRUFF: Okay. 715 has been offered

21                  into evidence. Are there any objections to its receipt?

22                  Hearing none, it will be received into

23                  evidence.

24                  (EXHIBIT NO. 715 WAS RECEIVED INTO EVIDENCE.)

25                  JUDGE WOODRUFF: Okay. Next witness then is

1 Mr. Hyneman. Does anyone have any cross-examination  
2 questions for Mr. Hyneman?

3 All right. Hearing none, is he in the same  
4 situation? Was this his last time?

5 MR. FREY: I believe so, your Honor. So I  
6 would move for admission of Exhibits 705-NP and HC at this  
7 time.

8 JUDGE WOODRUFF: Exhibits 705 and 705-HC have  
9 been offered into evidence. And are there any objections?

10 Hearing none, they will be received into  
11 evidence.

12 (EXHIBIT NOS. 705 AND 705-HC WERE RECEIVED  
13 INTO EVIDENCE.)

14 JUDGE WOODRUFF: Which brings us back to  
15 Mr. Robertson for Public Counsel. Any cross-examination  
16 questions for Mr. Robertson?

17 All right. Hearing none, he'll be back again.  
18 Okay. Thank you very much. Which brings us into Estimated  
19 Merger Savings.

20 MR. SWEARENGEN: Could I take Vicki Heider out  
21 of order on that issue and call her at this time if anyone  
22 has any questions for her? This is the only time she would  
23 appear.

24 JUDGE WOODRUFF: You certainly may.

25 MR. SWEARENGEN: Does anyone have any

1 objection? Does anyone have any questions for her?

2 JUDGE WOODRUFF: Does anyone have any

3 questions for --

4 MR. JOYCE: Staff has questions.

5 (Witness sworn.)

6 (EXHIBIT NO. 21 WAS MARKED FOR

7 IDENTIFICATION.)

8 MR. SWEARENGEN: She has one piece of

9 testimony. It's direct testimony and it's Exhibit 21.

10 JUDGE WOODRUFF: And I assume you're offering

11 it at this point?

12 MR. SWEARENGEN: I am. I would move the

13 admission of Exhibit 21 and tender the witness for

14 cross-examination.

15 JUDGE WOODRUFF: Exhibit 21 has been offered

16 into evidence. Are there any objections to it receipt?

17 Hearing none, it will be received into

18 evidence.

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

20 JUDGE WOODRUFF: All right. Does anyone have

21 any cross-examination questions for Ms. Heider on Estimated

22 Merger Savings?

23 MR. JOYCE: Staff has questions.

24 JUDGE WOODRUFF: All right. Anyone else?

25 Then Staff may proceed.

1 VICKI M. HEIDER testified as follows:  
2 CROSS-EXAMINATION BY MR. JOYCE:  
3 Q. Good afternoon, Ms. Heider.  
4 A. Good afternoon.  
5 Q. Good to see you again.  
6 A. Thank you.  
7 Q. These questions may sound similar, but it's a  
8 new case so we have to get this into evidence. You're the  
9 transition team project leader for the UtiliCorp and Empire  
10 transaction; is that correct?  
11 A. Yes.  
12 Q. Is the transition team process still  
13 continuing for that transaction?  
14 A. Yes, it is.  
15 Q. What work has yet to be done by the transition  
16 team?  
17 A. In the amended schedule for the integration  
18 planning time line that was provided Staff and was amended  
19 March of 2000, right now we're in the process of  
20 refinements, which needs to get back into my project office.  
21 I need to go back and meet with the teams. And it will  
22 probably be -- before we have a finished product for an  
23 implementation plan most likely October, November when it  
24 goes to steering committee.  
25 Q. Okay. To your knowledge, have the transition

1 teams done any work to update the merger savings estimates  
2 that are included in Schedule VJS-1, which is attached to  
3 Mr. Siemek's direct testimony?

4 A. Mr. Siemek would be reviewing those before  
5 those were put into final transition plans.

6 Q. But the teams have provided some updated  
7 figures for that schedule to be updated?

8 A. I believe there have been some, but Mr. Siemek  
9 would have to answer that question.

10 Q. Now, are these final savings estimates from  
11 the team subject to the steering committee review?

12 A. Yes, sir.

13 Q. When do you expect that steering committee  
14 review to take place?

15 A. October or November.

16 MR. JOYCE: Thank you very much. No further  
17 questions.

18 JUDGE WOODRUFF: All right. Any further  
19 cross-examination?

20 Hearing none, there's no questions from the  
21 Bench, so no recross. Any redirect?

22 MR. SWEARENGEN: No redirect. Thank you.

23 JUDGE WOODRUFF: You may step down.

24 MR. SWEARENGEN: Call Mr. DeBacker at this  
25 time, if I could. Does anyone have any questions for him?

1 JUDGE WOODRUFF: Yes. Does anyone have any  
2 questions for Mr. DeBacker? Public Counsel. Anyone else?  
3 All right. Come forward.  
4 And, Mr. DeBacker, you are still under oath.  
5 THE WITNESS: Yes.  
6 JUDGE WOODRUFF: I believe Praxair would go  
7 first.  
8 FRANK A. DEBACKER testified as follows:  
9 CROSS-EXAMINATION BY MR. CONRAD:  
10 Q. Good afternoon, Mr. DeBacker. I'm going to  
11 try to avoid using the microphone since I'm over here all  
12 the way. How are you, sir?  
13 A. I'm fine.  
14 Q. Which of the lines on Exhibit 27 are you  
15 responsible for?  
16 A. I'm sorry. Exhibit 27 is? Oh, okay.  
17 Q. Okay.  
18 A. I believe it's Roman Numeral II, Dispatch  
19 Generation Savings.  
20 Q. Describe briefly for me how it is that your  
21 company intends to save, what is it, \$17 million on the one  
22 sheet?  
23 A. That's a combination of three things:  
24 Capacity savings, on-system energy savings and increased  
25 margins from off-system sales.



1           Q.       How much of it is increased margins from  
2       off-system sales?

3           A.       I have to look somewhere else.  It's not on  
4       here.  I'm looking at Exhibit RWH-13.  And this Exhibit 27  
5       is the average of years one to five.  And I believe that  
6       off-system sales, just scanning the numbers here, represent  
7       about two-thirds of that number.

8           Q.       So of the 17-some-odd-million, two-thirds of  
9       that, give or take, small change of off-system sales.  Is  
10       that your testimony?

11          A.       That's correct.

12          Q.       Who regulates those off-system sales,  
13       Mr. DeBacker?

14          A.       FERC.

15          Q.       Do they set the price that you charge?

16          A.       Market sets the price.

17          Q.       So that's a competitive market?

18          A.       That's true.

19          Q.       Okay.  So I understand that two-thirds of the  
20       benefits that you're claiming there are the result of  
21       activity in a competitive market; is that correct?

22          A.       That would be -- yes.  That's correct.

23                   MR. CONRAD:  Thank you.  That's all.

24                   JUDGE WOODRUFF:  All right.  Thank you.

25                   Public Counsel?

1 MR. COFFMAN: Thank you.

2 CROSS-EXAMINATION BY MR. COFFMAN:

3 Q. Mr. DeBacker, for the regulated generation  
4 portion of UtiliCorp's operations, are you involved in any  
5 part in the strategic planning process?

6 A. My responsibilities are long-term power supply  
7 contracts.

8 Q. You contribute to the strategic planning  
9 process at UCU?

10 A. Not on the corporate-wide, no, if that's -- if  
11 that's your question. I'm not sure --

12 Q. Okay. Are you aware of the strategic planning  
13 activity at UCU?

14 A. I'm not involved in it. Peripherally, you  
15 know. Everyone in the company knows that --

16 Q. Do you review strategic planning documents?

17 A. For the company?

18 Q. Yes.

19 A. No.

20 Q. Would you be aware if UCU has, as part of  
21 their strategic planning process, certain key performance  
22 indicators for the purpose of setting goals for regulated  
23 generation operations?

24 A. Yes.

25 Q. Okay. You're familiar with the key

1 performance indicators for your company?

2 A. As -- as they apply to my area. We're all --

3 Q. Right.

4 A. -- more focused on our own goals than --

5 Q. That's what I was asking.

6 A. Okay.

7 Q. Could you list what those key performance

8 indicators are for your division?

9 A. I -- at this point no, I cannot. I would have

10 to go back and review them.

11 Q. Can you give me a general summary of what

12 those indicators cover?

13 A. They would be cost of power for the next year,

14 for example. We have a goal of a certain price to

15 generate -- provide the energy needed at a certain price.

16 Q. Would off-system sales be part of those

17 indicators?

18 A. Perhaps, yes.

19 Q. Okay. Is any part of your compensation at

20 UtiliCorp linked to the extent to which your operations

21 achieve these goals or meet certain levels?

22 A. Yes.

23 Q. Okay. Are you aware if UtiliCorp has created

24 strategic plans that include objectives for off-system sales

25 for the regulated generation operations?

1           A.       Not that I'm aware of. Not on a corporate  
2 basis, no.

3           MR. COFFMAN: Your Honor, I'd like to ask some  
4 questions now involving an exhibit which I believe involved  
5 a highly confidential data request response. And it is my  
6 hope that I'd be able to ask those questions without  
7 revealing any highly confidential information, thus  
8 preventing the need to go in-camera.

9           JUDGE WOODRUFF: Go ahead and proceed. If we  
10 need to go in-camera, we'll stop for the day and start  
11 in-camera tomorrow.

12          MR. COFFMAN: Great. I'd like to mark  
13 something as Exhibit 207-HC.

14                 (EXHIBIT 207-HC WAS MARKED FOR  
15 IDENTIFICATION.)

16          JUDGE WOODRUFF: You may proceed.

17 BY MR. COFFMAN:

18          Q.       Mr. DeBacker, does this appear to be a  
19 UtiliCorp response to a Public Counsel Data Request No. 3589  
20 from the Merger Case EM-2000-292?

21          A.       Yes, it does.

22          Q.       Do you recognize the company employee who  
23 signed that response?

24          A.       Yes.

25          Q.       Who is that?

1           A.       It's Gary Clemens.

2           Q.       And does there appear to be some selected

3 pages from that response attached?

4           A.       Yes, there are.

5           Q.       Does there appear to be a date on the bottom

6 of those pages?

7           A.       The date is 7 -- July 8th, 1999.

8           Q.       Okay. Do pages 17 and 18 of this document

9 indicate some key performance indicators for UEG?

10          A.       That's what it appears to have, yes.

11                 MR. COFFMAN: Okay. At this point, your

12 Honor, I'd like to offer into the record Exhibit 207-HC.

13                 JUDGE WOODRUFF: Exhibit 207-HC has been

14 offered into evidence. Are there any objections to its

15 receipt?

16                 Hearing none, it will be received into

17 evidence.

18                 (EXHIBIT NO. 207-HC WAS RECEIVED INTO

19 EVIDENCE.)

20 BY MR. COFFMAN:

21          Q.       Okay. I'm going to try to ask you one or two

22 more questions here without revealing any highly

23 confidential data. If you would, though, turn to what's

24 page 18 of that, the performance indicator labeled regulated

25 power. Would you identify what the second line underneath

1       that indicator reads, what the title of that line is?

2               A.       Off-system sales volumes.

3               MR. COFFMAN:   Okay.   That's probably all the

4       further I can go without revealing it and I think that

5       covers all the questions I would need, and so that would end

6       my cross-examination.

7               JUDGE WOODRUFF:   All right.   Thank you.   Any

8       other cross-examination?   All right.   No questions from the

9       Bench, so no recross.   Is there any redirect?

10       REDIRECT EXAMINATION BY MR. SWEARENGEN:

11              Q.       Just to clear this up, Mr. DeBacker, what is

12       UEG?

13              A.       That is an acronym for UtiliCorp Energy Group.

14              Q.       And is that group in existence?

15              A.       I don't believe so.   In any event, it was not

16       regulated power.

17              MR. SWEARENGEN:   Thank you.   That's all I

18       have.

19              JUDGE WOODRUFF:   All right.   Thank you.   And

20       you may step down.

21              THE WITNESS:   Thank you.

22              JUDGE WOODRUFF:   It is after five o'clock, so

23       we'll end here for today.   We'll come back at 8:30.   Let's

24       go off the record at this point.

25              WHEREUPON, the hearing was adjourned until

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