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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

HEARING

October 27, 2000

Jefferson City, Missouri

Volume 4

In the Matter of the Application of)
St. Joseph Light & Power Company for) Case No.
the Issuance of an Accounting Authority) EO-2000-845
Order Relating to its Electrical)
Operations.)

MORRIS L. WOODRUFF, Presiding,
REGULATORY LAW JUDGE.
SHEILA LUMPE, Chair
CONNIE MURRAY,
ROBERT G. SCHEMENAUER,
M. DIANNE DRAINER, Vice-Chair
KELVIN SIMMONS,
COMMISSIONERS.

REPORTED BY:
TRACY L. THORPE, CSR
ASSOCIATED COURT REPORTERS, INC.

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A P P E A R A N C E S

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1 JUDGE WOODRUFF: I think we'll be starting
2 today with Timothy Rush; is that correct?
3 MR. DUFFY: Yes.
4 (Witness sworn.)
5 JUDGE WOODRUFF: You may inquire.
6 TIMOTHY RUSH testified as follows:
7 DIRECT EXAMINATION BY MR. DUFFY:
8 Q. Would you state your name for the record,
9 please.
10 A. Timothy M. Rush.
11 Q. Are you the same Timothy M. Rush that caused
12 to be filed what has been marked for purposes of
13 identification as Exhibit No. 7, identified as surrebuttal
14 testimony of Timothy M. Rush in this proceeding?
15 A. Yes, I am.
16 Q. If I ask you -- or do you have any changes or
17 corrections to that document?
18 A. No, I do not.
19 Q. If I ask you the same questions that appear
20 therein this morning, would your answers be the same?
21 A. Yes.
22 Q. Are those answers true and correct to the best
23 of your information, knowledge and belief?
24 A. Yes, they are.
25 MR. DUFFY: With that, I would offer Exhibit

1 No. 7 into evidence and tender the witness for
2 cross-examination.

3 JUDGE WOODRUFF: Okay. Exhibit 7 has been
4 offered into evidence. Are there any objections to its
5 receipt?

6 Hearing none, it will be received into
7 evidence.

8 (EXHIBIT NO. 7 WAS RECEIVED INTO EVIDENCE.)

9 JUDGE WOODRUFF: And Mr. Rush has been
10 tendered for cross-examination. We'll begin with AGP.

11 MR. CONRAD: Thank you, your Honor.

12 CROSS-EXAMINATION BY MR. CONRAD:

13 Q. Good morning, Mr. Rush.

14 A. Good morning.

15 Q. To your, I'm sure, eternal disappointment, I
16 really don't have too many questions for you, but I did want
17 to clarify because your testimony did not really indicate
18 when you first started with St. Joe. You've been St. Joe
19 for some time, haven't you?

20 A. That's correct.

21 Q. Do you recall when the magic day was?

22 A. January 3rd, 1977.

23 Q. And at least I recall when you -- at some
24 earlier time in your career you were responsible for some
25 aspects of the natural gas purchasing operation?

1 A. That's correct.

2 Q. And that's kind of where you and I got

3 acquainted, wasn't it?

4 A. I think that was our first contact.

5 Q. Okay. Do you recall St. Joe Light & Power

6 ever having a fuel adjustment clause, Mr. Rush?

7 A. Yes, I do.

8 Q. And it did include, as I recall, the gas

9 purchases that your company made?

10 A. It included -- yes, it did.

11 Q. For the electric side of it?

12 A. Yes.

13 Q. Yeah. On the gas side your company still does

14 have a small gas system, does it not?

15 A. That's correct.

16 Q. So we're here today looking at the electric

17 side?

18 A. Correct.

19 Q. The gas purchases over there would have been

20 through PGA?

21 A. That's right.

22 Q. Did the fuel adjustment clause -- when you all

23 had it, did that also cover purchased power?

24 A. Yes, it did.

25 Q. And it covered purchased power in a net

1 manner, if I recall? In other words, what's your net of
2 purchases as against what sales for that particular period
3 were; is that correct?

4 A. Yes, it did.

5 Q. I mean, you -- well, and it also covered fuel
6 oil No. 6 and No. 2, whatever you happened to be using?

7 A. Yes.

8 Q. And coal obviously?

9 A. Yes, it did. It -- it included the energy in
10 some capacity purchases the way ours operated. There
11 were -- as I understand it, different utilities may have had
12 different specific requirements in their fuel writers, fuel
13 adjustment clauses.

14 Q. Is that how you referred to it was the writer,
15 the fuel writer?

16 A. That's a term I've used.

17 Q. Okay. That's fine. I don't have a problem
18 with that. I think I've heard it both ways. Recalling that
19 experience and your work with it, if your company had a fuel
20 writer or fuel adjustment clause right now, would that
21 clause cover the expenditures that we're talking about here?

22 MR. DUFFY: Object to the form of the question
23 unless he specifies the content of his assumed hypothetical
24 fuel adjustment clause.

25 BY MR. CONRAD:

1 Q. Well, I'll be happy to do that, Mr. Rush.
2 Assume the writer that you were familiar with -- and let's
3 take a step back. Why don't you have that clause now?
4 A. As I understand it, there was a legal action
5 that resulted in the termination of the fuel adjustment
6 clause. And I believe it was for the entire state of
7 Missouri.
8 Q. Do you recall --
9 A. I think --
10 Q. I'm sorry.
11 A. To clarify, I do think that it -- and I'm not
12 certain of all the specifics, but I do think that it dealt
13 with residential customers only, but throughout the state, I
14 believe that when it was terminated with the -- through a
15 tariff process, that it was decided at least at our company
16 that it would be terminated for all classes of customers.
17 Q. Would you agree with me, if I gave you a
18 little bit of prompting through the mechanism of a leading
19 question, that the original fuel adjustment clause actually
20 applied only to large commercial industrial customers and it
21 was when it was sought to be applied to residential
22 customers that Bill Barvick, who then was with the Public
23 Counsel, filed a claim against it? Does that sound familiar
24 to you?
25 A. I don't remember those things.

1 Q. Don't remember that?

2 A. No, I don't.

3 Q. In any event, going back to Mr. Duffy's

4 concern about my question, I'd like for you to assume that

5 that clause was still in effect.

6 A. Are you saying the same one that we had in

7 operation --

8 Q. Yes.

9 A. -- not -- okay. Because during the process

10 that it was being litigated and stuff, there was a lot of

11 changes going on with the fuel adjustment clause and there

12 were actually proposals to modify that. So if you're

13 talking about the existing one, I can assume that.

14 Q. Okay. That's the one you're familiar with?

15 A. Fairly.

16 Q. If that one were in place today, would that

17 have any effect on how these costs were recovered?

18 A. I don't know, because I -- I don't know if

19 there were limit-- I don't remember if there were

20 limitations on extraordinary incidents such as what we're

21 talking about here. I just don't remember.

22 Q. It did cover purchased power though?

23 A. Yes, it did.

24 Q. As the purchased power cost went up or if you

25 had a unit that was unexpectedly down and you had purchased

1 power under that clause in a larger quantity than you had
2 anticipated, the clause would cover that, wouldn't it?

3 A. I think it would, yes.

4 Q. Now, in your years with St. Joe Light & Power
5 have you been familiar with any request that the company has
6 had for interim rate relief?

7 A. Well, one of my roles is to take care of the
8 books and records as far as the regulatory actions go. And
9 I do remember several interim requests that were made back
10 in -- it would have had to have been back in the late '70s
11 when I had just started working there. And that would be my
12 memory of things. And I believe there may have been some
13 prior to me coming to work also.

14 Q. Do you remember anything about the criteria
15 for those interim requests?

16 A. It was financial in nature, some kind of
17 financial hardship typically dealing with both cash flows
18 and abilities to borrow money.

19 Q. So to tie that up, at least to your
20 understanding, the company is familiar with that process,
21 has done that process before?

22 A. Yes.

23 Q. Now, Mr. Rush, you've been in the utility
24 business -- you said you'd started in the early '70s, I
25 think it was, January 3 or --

1 A. Late '70s. '77.

2 Q. '77. Excuse me.

3 A. Yes.

4 Q. Had you come to St. Joe Light & Power with
5 some utility background?

6 A. No, I had not.

7 Q. So that was your first experience with a
8 utility?

9 A. Right.

10 Q. But you've been in the business now for some
11 23 years plus or minus some additional days?

12 A. I -- that's probably right.

13 Q. Looking at that experience -- and I'm sure you
14 also watch not just your own company, but the activities of
15 other companies, other utility companies, don't you?

16 A. I try to.

17 Q. Okay.

18 A. Yes.

19 Q. Under what circumstances do you think a
20 utility should be permitted to recover a cost or an
21 incrementally increased cost from its ratepayers when that
22 cost is caused by an error or an omission on the part of
23 that utility?

24 A. Well, in today's environment, that's covered
25 through a number of different ways. Incidents or accidents

1 that occur that may be caused by some kind of a negligence
2 or some mis-- some error or whatever that may have happened
3 are built into rates today on a -- you know, when you look
4 at a historical basis and you analyze and normalize things
5 and put everything in that the, you know, Commission looks
6 at as far as rates, that happens.

7 It happens through -- it's possible that it
8 could happen through, like, a surcharge. And it's possible
9 that, you know, it could happen through other mechanisms, I
10 guess, that may be available. But -- but accidents and
11 incidents do occur, you know, in a utility industry just
12 like they do anywhere else.

13 Q. So at least to that extent, to the extent that
14 it's built in through some -- would you agree with me some
15 normalized type of level or some assumption there's, for
16 example, an injuries and damages account? Is that the kind
17 of thing you're talking about?

18 A. Well, that would be some ways you would look
19 at it, or -- I mean, it's according to what you're talking
20 about as far as the incident, but -- but, yes. I think the
21 Commission, you know, looks at those things and evaluates
22 them and they traditionally are included in prices
23 ultimately to the consumer.

24 Q. So I take it then your position is that even
25 though the cost is caused by negligence on the part of the

1 utility in the operation of its equipment, that the
2 ratepayers should nonetheless absorb that cost; is that
3 correct?

4 A. Well, I think we're into the discussion that
5 may have happened yesterday, but I guess I would look at the
6 word -- I would say, yes. There may be exceptions to that
7 situation. If there was a willful act of some kind that
8 caused that to occur -- caused that cost to be incurred, I
9 think that may require some kind of a different treatment.

10 Q. Okay. So you would draw the line at an
11 exclusion of events and costs that the result -- that were
12 the result of willful misfeasance or malfeasance, but
13 include within ratepayer costs those things that were
14 negligent or that resulted from negligence?

15 A. I think I would make that distinction, yes.
16 Again, you need to -- you know, you need to consider the
17 situation that's occurred, I guess, because we're talking
18 hypothetical at this point in time. And we need to get to
19 more specific examples to -- to try to understand, you know,
20 what the situation may have been.

21 Q. Well, I want to try to kind of stay in the
22 hypothetical area with you, Mr. Rush, because that's kind of
23 where your experience lies and I wanted to try to draw on
24 that.

25 What about the situation that's in between

1 those two extremes, where a company acts recklessly or with
2 indifference or let's say becomes aware of situations but
3 then just simply fails to take the next step or two or three
4 to prevent something from occurring? It's a little higher
5 than negligence.

6 A. Help me with an example possibly. I -- you
7 know, I'm not real familiar with what you mean by reckless,
8 I guess.

9 Q. Well, you understand what reckless conduct is,
10 don't you? With careless indifference for the consequences
11 of what may happen?

12 A. I think I would -- yeah, I understand that.

13 Q. Do you think in that circumstance if costs
14 resulted to a utility, that the ratepayers should pick up
15 the tab for that?

16 A. I guess I would look at possibly the magnitude
17 of the issue that you're talking about before I would try to
18 say yes or no. There may be some kind of a minor, you know,
19 reckless act that really is not material. But there may be
20 those that are significant reckless acts that are of a
21 nature that could cause some other action that say that you
22 should disallow something -- I mean, the ratepayers
23 shouldn't pay it.

24 Q. So if I understand then your testimony here
25 today, the way you draw the test is even if the conduct was

1 reckless or shown to be reckless, if the damage that
2 resulted was what we lawyers might say diminimous or pretty
3 small, you might be inclined to overlook that, but if it was
4 large, than that should be disallowed?

5 A. An example would be a car accident that may
6 occur that -- you know, that you end up having to do some
7 kind of a disciplinary action within the company because of
8 an employee's action and you are attempting to stop that
9 from occurring again by, you know, whatever action that
10 company takes.

11 I would say that in my mind those costs would
12 probably be covered in our prices. So, you know, again,
13 that individual may have had some act that the company
14 frowns upon and says that they need to take an action to
15 correct, and -- and I think that those costs should be
16 included in the rates.

17 Q. If they're --

18 A. You know, you have insurances for those types
19 of things and --

20 Q. If they're small. Is that what I understand?

21 A. I -- I guess I would say that, yes.

22 MR. CONRAD: Okay. Thank you. That's all,
23 your Honor.

24 JUDGE WOODRUFF: Staff?

25 CROSS-EXAMINATION BY MR. WILLIAMS:

1 Q. Mr. Rush, on page 8 of your surrebuttal
2 testimony at lines 21 through 23 you state there, Any
3 accident or incident can always have been prevented once you
4 look at it through 20/20 hindsight review. Are you stating
5 there that any accident or incident is preventable?

6 A. In a general sense, I am.

7 Q. Does this mean that when costs -- that all
8 costs incurred by a utility should be thought of as being
9 within the control of utility management?

10 A. Well, no, I'm not saying that. I mean, once
11 decisions are made, for example, to put in a -- in a certain
12 type of a generating unit, for example, that burns a certain
13 type of fuel, I think that there are instances that you're
14 stuck using that fuel until you expend the time and efforts
15 to change that.

16 So I don't think that the Commission offers us
17 a blank check to go out and ensure that there is never,
18 ever, ever an incident that would occur. I don't think
19 that's good management, and I don't think that, you know,
20 the Commission would be prudent in doing those types of
21 efforts either where they would provide a blank check to
22 ensure that nothing ever happened.

23 Q. On page 10 of your surrebuttal testimony you
24 make some discussion regarding the possibility of legal
25 action with respect to General Electric over the Lake Road

1 incident?

2 A. Yes.

3 Q. When does St. Joseph Light & Power Company

4 expect to make a decision as to whether or not it will

5 pursue legal action against General Electric over the

6 incident?

7 A. I don't know.

8 Q. Do you agree that St. Joseph Light & Power

9 Company's decision to seek an AAO from this Commission

10 concerning the Lake Road explosion and fire indicates that

11 St. Joseph Light & Power believes the cost of this incident

12 should ultimately be collected in rates from customers?

13 A. I personally do, yes.

14 Q. If St. Joseph Light & Power Company decides to

15 bring legal action against General Electric regarding the

16 Lake Road explosion on June 7th, would that mean that

17 St. Joe Light & Power has decided that GE is liable for the

18 cost of the explosion and that St. Joseph Light & Power

19 customers should not then be charged for those costs?

20 A. Well, I think maybe an example would be back

21 in the late '70s our company experienced an incident in a

22 boiler at our Lake Road plant that resulted, as I understand

23 it, in a fire. And we came to this Commission and the

24 Commission granted us some recovery, if not all recovery,

25 during this incident that occurred.

1 And after that, we elected to sue the -- I'm
2 not sure the exact process, but we did sue. And over a
3 number of years we were able to collect those -- the losses.
4 And we then came to the Commission and basically refunded a
5 portion of those dollars to our consumers in a sharing
6 process.

7 So, you know, to me we would probably act in
8 the same way if there was some legal action taken and there
9 was some recovery of those dollars. But, again, that
10 decision has not been made. I think, you know, we're doing
11 as aggressive approach as we can to make the right decision.

12 Q. Was there a case regarding the boiler
13 explosion you just referenced?

14 A. I think it was in the context of a rate case.

15 Q. Do you recall the case number?

16 A. No. But it was in, like, ER-77-107 or -- I
17 can't -- it's right around in that time frame.

18 Q. Do you recall -- okay.

19 A. And it may have been a little earlier in a
20 case there.

21 Q. So it was around 1976 or '77, in that
22 neighborhood?

23 A. It was when the incident occurred, which was
24 in the '70s and -- yes.

25 MR. WILLIAMS: Thank you. No further

1 questions.

2 JUDGE WOODRUFF: Public Counsel?

3 CROSS-EXAMINATION BY MR. MICHEEL:

4 Q. Mr. Rush, taking off where Staff counsel just
5 left off, is it correct in that case the company did not
6 request an AAO for that boiler explosion?

7 A. You know, honestly I don't remember the
8 specifics. We had a fuel adjustment clause in place at that
9 time, we had a number of rate cases being filed on almost a
10 back-to-back basis because of the high costs of fuel as they
11 were escalating in that period of time.

12 And I just honestly -- I believe that there
13 was a depreciation piece that was set out to deal with the
14 issue, but I believe it may have all been in the context of
15 a rate case or -- whether it be interim or permanent. I
16 just don't -- I was not in -- I had not come to the company
17 at that point in time. I'm just -- you know, as I said, I
18 do keep track of the records in the regulatory area, and I
19 was involved in the proceeds -- refunding the proceeds to
20 consumers.

21 Q. But, to your memory, the recovery was in a
22 rate case; is that correct?

23 A. I think it was a combination of the rate case
24 and the fuel adjustment clause at that time.

25 Q. Did you participate in the recent merger

1 proceeding between St. Joe and UtiliCorp United?

2 A. I was involved. I was not a witness in the
3 case.

4 Q. Were you aware that your company filed
5 testimony indicating that it was in an under-earning
6 situation and would need to come in for a rate case?

7 A. Yes.

8 Q. Is that true today?

9 MR. DUFFY: Objection. It's a compound
10 question.

11 JUDGE WOODRUFF: There was only one question
12 there, I believe.

13 MR. DUFFY: He asked him if -- he asked him if
14 the company was in an under-earnings position and would need
15 to come in with a rate case. So is he asking him is the
16 company now in an under-earning position or is he asking him
17 does the company now need to come in with a rate case?

18 JUDGE WOODRUFF: Okay. I understand your
19 objection now.

20 Will you clarify your question?

21 BY MR. MICHEEL:

22 Q. Is the company in an under-earning situation?

23 A. Yes, it is.

24 Q. Does the company need to come in for a rate
25 case?

1 A. The company's decided at this time that coming
2 in for a rate case at this moment would muddy the issues of
3 the merger proceeding, and so we've elected not to do that.
4 However, just to clarify things, if we came in for a rate
5 case at this point in time, it would not address the issue
6 that's before this Commission.

7 What we are attempting to do is to get an
8 Accounting Authority Order before the end of the year so
9 that we can address it in our -- in the company's books and
10 records. At that point in time then, we can -- you know, we
11 could come in and file a case. But there's the lag period
12 within the context of a rate proceeding that would not
13 address the issue that's before the Commission.

14 Q. Is it your testimony, Mr. Rush, that if you
15 filed a rate case, "you" being St. Joe Light & Power, that
16 the company could not request inclusion in rates of the
17 costs related to the explosion and fire on June 7th, 2000?

18 A. Absolutely not. That's not what I'm saying.

19 Q. Okay. So, indeed, your company could come in
20 for -- file a rate case tomorrow and ask for inclusion of
21 those costs in rates; is that correct?

22 A. Well, sure.

23 Q. And the only problem you're having is telling
24 Wall Street that you had this explosion/fire and saying, we
25 had to book it like this but we're seeking recovery in a

1 rate case; is that correct?

2 A. No.

3 Q. What other problems?

4 A. We would have to book the expenditure in the
5 year 2000, which regardless if you look at it as, you know,
6 telling Wall Street, the situation is that we would have to
7 report earnings. And our earnings would be just what they
8 purport to be at that point.

9 And, you know, I've dealt with the Staff and
10 the Office of Public Counsel enough years to realize that
11 they like to exclude anything that they call nonrecurring
12 items in rate cases. So we think that this is a mechanism
13 and vehicle that appropriately addresses the issue so that
14 both for financial reporting conditions we will be able to
15 report this deferral, and in the next rate case that the
16 company were to file, then that we could seek recovery for
17 that.

18 Q. Let's assume that. Do you have any reason to
19 believe sitting there today -- and I'm not agreeing with
20 your belief, that if the Commission -- assume for me the
21 Commission grants your AAO request. Can you make that
22 assumption?

23 A. Yes.

24 Q. Do you have any reason to believe, based on
25 your assumption, that when the rate case is filed and your

1 company requests recovery of these costs, that the Staff or
2 Public Counsel wouldn't make those arguments that you just
3 said about the nonrecurring nature of this?

4 A. I don't understand the last part of your
5 question.

6 Q. Well, would you agree with me that -- assuming
7 your company is granted the AAO, that any party could
8 challenge recovery of these costs in a future rate case?

9 A. I would agree that they could challenge.

10 Q. And would you agree with me if those parties
11 prevailed in challenging those costs in a rate case, that
12 that disallowance would affect your company's earnings?

13 A. Yes, it -- if they were successful and the
14 Commission agreed that those should be denied, yes, that's
15 correct.

16 Q. So even if you're granted an AAO, there's
17 still a possibility that these costs could be excluded and
18 affect your earnings; is that correct?

19 A. Absolutely.

20 MR. MICHEEL: I need to get an exhibit marked,
21 your Honor.

22 JUDGE WOODRUFF: You may.

23 THE WITNESS: May I clarify something?

24 MR. MICHEEL: No.

25 THE WITNESS: Okay.

1 MR. MICHEEL: Your Honor, this is HC. I don't
2 plan on asking any HC questions.

3 (EXHIBIT NO. 24-HC WAS MARKED FOR
4 IDENTIFICATION.)

5 JUDGE WOODRUFF: And I've marked it as
6 response to Staff DR No. 12. It will be 24-HC.

7 BY MR. MICHEEL:

8 Q. Mr. Rush, have you had a chance to look at the
9 document that I've given you there?

10 A. I'm beginning to at this time.

11 Q. Let me know when you're ready, sir.

12 A. Do you want me to read the whole thing?

13 Q. No. Whatever you're comfortable with to
14 identify the document, sir.

15 A. I can identify the document.

16 Q. Do you have before you what's been marked for
17 purposes of identification as Exhibit 24-HC?

18 A. Yes, I do.

19 Q. And is that your company's response to Staff
20 Data Request No. 12?

21 A. It appears to be.

22 Q. And do you see the signature of John T. Modlin
23 at the bottom?

24 A. Yes, I do.

25 Q. And without going into the highly confidential

1 information, does this purport to be the GE contract on the
2 new Mark V control system and new static generator
3 Excitation system or portions of that contract?

4 A. Well, it -- you know, when I -- it appears to
5 be portions of a document that does not have a name on it,
6 so it's something. I --

7 Q. Well, if you'd look at the answer to No. 1
8 that's prepared there by your company --

9 A. Uh-huh.

10 Q. -- it says exactly what those documents are
11 that are attached in one, two, and three, doesn't it,
12 Mr. Rush?

13 A. Yes. In reading the front, they only provided
14 you that portion of the document.

15 Q. And the portions of the document, so we don't
16 get into the HC things, are responsive to the information
17 requested in questions 1, 2 and 3 of Staff DR No. 12; is
18 that correct?

19 A. It appears to be.

20 MR. MICHEEL: With that, your Honor, I'd move
21 the admission of Exhibit 24-HC.

22 JUDGE WOODRUFF: 24 HC has been offered into
23 evidence. Are there any objections to its receipt?

24 Hearing none, it will be received into
25 evidence.

1 (EXHIBIT NO. 24-HC WAS RECEIVED INTO
2 EVIDENCE.)
3 BY MR. MICHEEL:
4 Q. Mr. Rush, I'm looking at page 3 of your
5 surrebuttal or -- yeah, your surrebuttal testimony. I guess
6 go to page 1. Up at the top there it says Direct Testimony
7 of Timothy M. Rush. This is surrebuttal; is that right?
8 A. I'm sorry. Yes, it is.
9 Q. Okay.
10 A. Should have read surrebuttal.
11 Q. I'm on page 3, sir, of your surrebuttal
12 testimony. And I'm focusing on your answer beginning there
13 on line 1 where you say, Both Staff and Public Counsel have
14 presented testimony on why the Missouri Public Service
15 Commission should not allow recovery of the incremental
16 costs as a result of the extraordinary incident at the Lake
17 Road plant.
18 Is that correct?
19 A. Uh-huh. Yes.
20 Q. Would you agree with me that both -- and I'm
21 only talking about Public Counsel Witness Kumar and
22 Trippensee in their pre-filed testimony only say that the
23 company should not be allowed extraordinary accounting
24 treatment for those costs?
25 A. I think that I would agree that it says that

1 they should not receive accounting treatment costs, which
2 would result in non-- allow recovery. I mean, I think they
3 can go hand in hand.

4 Q. Let me ask you this: If the Commission denies
5 your AAO request, your extraordinary accounting request, is
6 it correct that your company could file a rate case tomorrow
7 if it so chose and request recovery of those costs related
8 to the explosion and fire at Unit 4/6?

9 A. Of course they could, but they would also be
10 required to write off the expenditure in the year that it
11 occurred.

12 Q. But I'm asking you, you could still seek rate
13 recovery; isn't that correct?

14 A. I tried to discuss that a little bit earlier.
15 Yes, they would -- they could.

16 Q. So the not granting an AAO and getting rate
17 recovery are not mutually exclusive acts, is that correct,
18 Mr. Rush?

19 A. Say that one more time.

20 Q. Not receiving an AAO and getting rate recovery
21 are not mutually exclusive acts; is that correct?

22 A. Yes, it is.

23 Q. And nowhere in Mr. Trippensee's or Mr. Kumar's
24 testimony do they say that these costs should or should not
25 be recovered in rates; isn't that correct?

1 A. I think the -- you know, I think the
2 Commission needs to recognize that what -- your questions
3 you're asking are different. Our company is not seeking
4 recovery. Our company is seeking an Accounting Authority
5 Order with the opportunity to seek recovery in the next rate
6 case.

7 Q. And you could file that rate case tomorrow;
8 isn't that correct?

9 MR. DUFFY: Objection. Asked and answered at
10 least twice already.

11 JUDGE WOODRUFF: Sustained.

12 BY MR. MICHEEL:

13 Q. On page 6 of that testimony, and I'm focusing
14 on lines 19 -- starting on line 19 through line 23. You
15 state that Mr. Trippensee claims extraordinary events cannot
16 be characterized as only acts of God; is that correct?

17 A. You're reading more -- read exactly what
18 you're saying.

19 Q. It says, Extraordinary events cannot be
20 characterized as only events which are, quote, acts of God,
21 closed quote; is that correct?

22 A. That was my statement.

23 Q. You're aware, are you not, that Mr. Trippensee
24 has not taken the position that the only extraordinary
25 events are, quote, acts of God, closed quote; is that

1 correct?

2 A. Well, I'm talking about what I think -- what I
3 interpreted his testimony to represent.

4 Q. Did you send Mr. Trippensee any data requests
5 requesting what he meant?

6 A. No. I read what he said.

7 Q. Would you be shocked if I told you that's not
8 what he meant?

9 A. Maybe you could tell me what he meant then.

10 Q. Would you agree with me that this Commission
11 has granted AAOs for acts that the government has done?

12 A. Sure.

13 Q. Would you agree with me that the Commission
14 has granted companies AAOs for acts of the Public Service
15 Commission?

16 A. Yes.

17 Q. Would you agree with me that the Commission
18 has granted AAOs for natural disasters?

19 A. Yes. I'd also agree that the Commission has
20 granted AAOs for accidents that have occurred.

21 Q. What accident?

22 A. I'll take you back to 1981. Missouri Public
23 Service Commission -- Company was granted an Accounting
24 Authority Order for the Sibley unit for an accident that
25 occurred where a generating unit -- the term I understand is

1 went to ground. I don't know what that term means. There
2 was an accident.

3 There was recovery of both the repair and
4 replacement of the purchased -- the purchased power
5 requirements during that time as well as the cost of the
6 repair of the unit. And that was something that the
7 Commission granted during that period of time.

8 Q. And what case number was that?

9 A. There was a combination of cases during that
10 time. ER-81-85 was one of those cases that addressed it.
11 And there's another linkage, if you'll pardon me just one
12 second, ER-81-154. I think that was the two cases that were
13 linked together.

14 Q. Do you have the cases up there, sir?

15 A. Yes, I do.

16 Q. Are you generally familiar that the "R" in ER
17 stands for electric rates?

18 A. Absolutely.

19 Q. Would you read the caption of ER-81-85 for me?

20 A. In the matter of the Missouri Public Service
21 Company of Kansas City, Missouri for authority to file
22 tariffs increasing rates for electric service provided to
23 customers in the Missouri service area of the company.

24 Q. That was a rate case, is that correct, sir?

25 A. Yes, it was. The timing of those incidents

1 dealt with -- they had some rate cases going on instantly at
2 that time.

3 Q. Would you read the caption of ER-81-154 for
4 me?

5 A. In the matter of Missouri Public Service
6 Company of Kansas City, Missouri for authority to file
7 interim electric tariffs increasing rates for electric
8 service provided to customers in the Missouri service area
9 of the company.

10 Q. And that was an interim rate case, is that
11 correct, Mr. Rush?

12 A. That's correct.

13 Q. So those two cases are rate cases; is that
14 correct?

15 A. Those were the vehicles that the Missouri
16 Public Service Company pursued at that time to address their
17 situation, yes.

18 Q. And your company could pursue the vehicle of
19 an interim rate case at this time; is that correct?

20 A. I think I've already answered that question,
21 that obviously we could, but at the same time we have
22 elected not to do that and -- because we do not want to
23 muddy the situation with the merger case that's currently
24 before this Commission.

25 We -- I -- I believe that the Commission

1 provides vehicles to address this situation through an
2 Accounting Authority Order. And I also believe that even if
3 we filed a case, that the timing would be such that we would
4 have problems recording on our books and records this year
5 the deferral that we are requesting.

6 Q. Would you agree with me that apparently
7 Missouri Public Service in ER-81-154 thought the appropriate
8 way to recover the costs was an interim rate case?

9 A. At that time. But I want to clarify one
10 thing, that the order that came out in those cases --

11 MR. MICHEEL: Your Honor, he's answered my
12 question.

13 JUDGE WOODRUFF: You haven't been asked a
14 question, so you can't clarify.

15 MR. DUFFY: He was asked a question.

16 JUDGE WOODRUFF: He answered the question and
17 then went on to other areas, so objection's sustained.

18 You may proceed, Mr. Micheel.

19 BY MR. MICHEEL:

20 Q. I'm focusing, Mr. Rush, on page 8 of your
21 surrebuttal testimony right there at the bottom, sir, where
22 you talk -- where you discuss the AAO your company received
23 for the ice storm in 1994.

24 A. Line 23 is what you're referring to?

25 Q. 23 and 24, going over to the top of page 9.

1 A. All right. Yes.

2 Q. Did any party argue that St. Joe should have
3 undergrounded its electric lines in 1994?

4 A. No.

5 Q. In fact, did the Staff and Public Counsel
6 enter into a Stipulation and Agreement regarding that AAO
7 request?

8 A. There was a Stipulation and Agreement entered
9 into. I can't remember if the Office of Public Counsel was
10 involved, but I -- there was a Stipulation and Agreement,
11 yes.

12 Q. And that's in evidence, is it not?

13 A. Yes.

14 Q. So we'll know there. Also on page 9 you
15 discuss the '94 flood; is that correct?

16 A. Yes, I do.

17 Q. And the AAO your company received for the
18 '94 flood?

19 A. Right.

20 Q. Excuse me. It's the '93 flood.

21 A. '93 flood.

22 Q. I didn't want to throw you off there. Did any
23 party argue that St. Joe Electric Company in that AAO case
24 should have built a huge berm?

25 A. No.

1 Q. Did any party argue that because of the 500 --
2 because Iatan was in the 500-year plain that the company
3 should have built the Iatan generating station in another
4 location?

5 A. No.

6 Q. Is it correct with respect to the flood AAO
7 that's already in evidence, that the Staff and Public
8 Counsel entered into a Stipulation and Agreement regarding
9 that AAO request?

10 A. I don't remember if the Office of Public
11 Counsel entered into that agreement. I know that the Staff
12 did, yes. I mean, I would have to reference back to the
13 order.

14 Q. If I represented to you that I signed that,
15 would you believe me?

16 A. Absolutely. Yes.

17 Q. Also, on page 9, specifically at lines 15
18 through 17 you say, The question is the cost someone's
19 willing to pay to prevent the incident from occurring.

20 Is that correct?

21 A. Well, I use the word "insulate one's self from
22 ever having an incident."

23 Q. So you would agree with me that it's a matter
24 of degree?

25 A. Absolutely.

1 Q. Let me give you some hypotheticals on whether
2 or not the Commission should grant your company an AAO.
3 Assume for me that some employee, perhaps the president,
4 absconds with \$10 million. And I want you to assume for
5 purposes of this question that it meets the USOA 5 percent
6 definition and assume for me that it's nonrecurring. Can
7 you make those assumptions?

8 A. That's awful hard to make those assumptions.

9 Q. If those assumptions came true, would it be
10 appropriate for this Commission to grant your company an
11 Accounting Authority Order?

12 A. You need to explain how those funds were
13 absconded for me to answer that.

14 Q. Let's assume that the CEO, who I assume can
15 write checks, went down to the bank and wrote himself a
16 \$10 million check. Would that be appropriate for granting
17 an AAO?

18 A. Our president can't write a check and go down
19 and cash it. I don't know what you mean.

20 Q. This is a hypothetical, Mr. Rush. I'm not
21 insinuating that one of your presidents or any employee at
22 St. Joe would do this. It's a hypothetical. Assume they
23 have that authority. Would it be appropriate for this
24 Commission to grant an AAO in that situation?

25 A. If a company was allowed -- had allowed their

1 president to have the ability on their own to go down and
2 sign a check for \$10 million, then I would say the
3 Commission should not grant that because the proper vehicles
4 were not in place to protect an issue like that from
5 occurring.

6 Q. Assume for me that your company receives an
7 extremely large environmental fine from either the EPA or
8 the MODNR. Assume for me that that fine meets the 5 percent
9 USOA requirement for extraordinary and assume for me that
10 that fine is nonrecurring. Can you make those assumptions?

11 A. Yes, I can.

12 Q. Would it be appropriate for this Commission to
13 grant your company an Accounting Authority Order in those
14 fact situations?

15 A. If it was a willful act of the company that
16 caused the incident to occur, I would say the Commission
17 should not grant that. If it was an occurrence that was
18 with -- outside of their control and there were proper
19 vehicles in place to try to circumvent those instances from
20 occurring, then I would say the Commission should grant that
21 occurrence.

22 Q. Let's say it was just a negligent act that
23 resulted in those fines and keep all my other -- you know,
24 the 5 percent, the nonrecurring. Is it your position that
25 the ratepayers should be required -- or that your company

1 should be allowed an Accounting Authority Order in those
2 instances?

3 A. When you're -- I think there may be a level of
4 understanding what the term "negligence" may be and the
5 circumstances surrounding that. What I said was that if
6 purposefully the company were such that it -- and if that
7 was the term "negligence," meaning that they willfully did
8 that knowing full well what was going to happen, I would say
9 the Commission's got a real question there of whether that
10 should be approved or not.

11 If the negligence was such that an oversight
12 was -- occurred, but there were vehicles in place to try to
13 protect all those instances from occurring, there probably
14 should be the allowance of a recovery.

15 Q. So it's your view that this Commission -- even
16 though it's not a willful act, but it resulted in an
17 environmental fine, that the Commission -- and assuming it
18 meets the 5 percent and nonrecurring, should allow your
19 company an Accounting Authority Order in those instances; is
20 that correct?

21 A. Yes.

22 Q. And I guess it follows then that you believe
23 that those costs would be appropriate for recovery from the
24 ratepayers in a rate case setting; is that correct?

25 A. Ultimately, yes.

1 Q. So it's your position that the ratepayers
2 should indemnify the company for its acts or omissions that
3 resulted in that -- for example, that environmental fine; is
4 that correct?

5 A. I mean, I'll repeat what I said, but yes. I
6 mean, it goes back to the statements I made. The company,
7 if they have vehicles in place to try to assure that things
8 go on correctly and that some occurrence occurred -- the one
9 I think of when you say this is an incident where you have
10 an emission occur because of a failure of a -- of a piece of
11 equipment. And you have an occurrence that results in some
12 kind of a violation of -- you know, as you were discussing
13 in your issue.

14 So when you deal with that, you know, the
15 company tries to make every effort to put in prudent
16 practices to assure those things don't happen, but things
17 happen. I mean, I -- that's what I've been trying to say
18 through my whole testimony. Incidents occur.

19 MR. MICHEEL: Thank you, Mr. Rush.

20 JUDGE WOODRUFF: All right. We'll come up to
21 questions from the Bench. Chair Lumpe?

22 QUESTIONS BY CHAIR LUMPE:

23 Q. Mr. Rush, yesterday one of the witnesses that
24 I asked said that they could not defer these costs without
25 an AAO. Is that your position also?

1 A. Yes, it is.

2 Q. And is it based on an auditor telling you
3 that?

4 A. Right. We went out to our outside accounting
5 firm, Arthur Anderson, and consulted with them. And they,
6 in their opinion -- they gave us an opinion that said we
7 needed to pursue an Accounting Authority Order to be allowed
8 to defer those costs.

9 Q. So you could not defer them without an
10 Accounting Authority Order?

11 A. That's correct.

12 Q. On page 11, I believe it is, of your
13 testimony, you talk -- and maybe page 10 too, you talk about
14 insurance. And you talk about it being very expensive.
15 Would the insurance have been more expensive than the cost
16 of this event?

17 A. Over a period of time, absolutely. I mean,
18 number one, it's -- it's not commercially available
19 insurance that would protect the company from everything
20 that would occur.

21 One of the interesting aspects of the
22 insurance policy we have is we do have protection for energy
23 costs up to a certain limitation. We -- we've basically not
24 been able to find any utility that has that in an insurance
25 policy where we actually -- we were allowed recovery --

1 after 30 days to recover, I think it's -- the number is
2 \$17,800 of -- they paid us that much for the energy costs.

3 And that didn't cover the total cost of it,
4 but we were basically one of the only utilities we can find
5 that has that clause. And the insurance writers are not
6 writing those into clauses, as I understand it, anymore.

7 Q. And that's insurance for the need to purchase
8 additional power?

9 A. As a replacement to -- yes.

10 Q. But are you telling me you cannot get any
11 insurance against accidents such as this?

12 A. Well, the insurance that we have covers the
13 total cost of the accident. What it doesn't cover are the
14 consequences of having the unit unavailable to you during
15 that period of time.

16 Q. So that's the insurance that you're talking
17 about is the purchasing of --

18 A. To deal with --

19 Q. -- the extra power kind of insurance?

20 A. Yes. The total cost of everything. We're one
21 of the only utilities that does have this -- we got a
22 portion of it back. We got \$17,800 per day after 30 days to
23 replace power. And -- and that just basically is -- it is
24 not commercially available. We think we are the only
25 company -- utility that has it that we're aware of.

1 I'm sure anybody could go to a Lloyds of
2 London and -- or those carriers that insure things and for a
3 price you could pay it, but it's not -- you don't go out on
4 the market and put a bid out and say, Give me this insurance
5 to cover everything. It just doesn't happen.

6 Q. So basically you're saying that not only would
7 it be very expensive, it doesn't exist?

8 A. Well, I -- it doesn't exist commercially. I
9 think any insurance is available if you're willing to pay
10 that price. I don't think the Commission would probably
11 want to pay to allow us to recover those costs in rates is
12 my opinion, but --

13 Q. Okay. Let me ask a little bit about this
14 potential action against GE.

15 A. Uh-huh.

16 Q. Did I hear you correctly that the company has
17 not decided yet whether to take action or when?

18 A. That's correct. Yeah. We are working with FM
19 Global, the insurance carrier, very closely. And -- and
20 really they're the ones, for example, that are paying the
21 insurance for the cost of the accident.

22 That is, there's a couple of million dollars
23 that is being covered by insurance of the -- what we're --
24 you know, we're asking for 3.3 to be deferred. That's the
25 incremental energy cost. But the cost of repairing the unit

1 our insurance carrier's paying for. They're looking at the
2 incident also to determine whether to pursue any actions.

3 Q. Okay. So we don't have any guarantee that
4 action against GE would be taken?

5 A. No, we don't at this time.

6 Q. Okay. Or when, if --

7 A. Yeah. That's up to a lot of --

8 Q. Okay. And you did comment that possibly if
9 you were to recover, you would refund, but you said you
10 would share the refund. Why wouldn't you refund all of it?
11 If the ratepayers are picking up the excess -- or the costs
12 of the energy, why wouldn't you refund all of it to the
13 ratepayers?

14 A. That may be the case. What I was referring to
15 is an action that the company did back in the -- as a result
16 of an incident that occurred. I don't remember all the
17 circumstances around the incident, but there was -- the
18 company entered into an agreement to refund, you know -- I
19 don't remember the portion of it.

20 Q. Some portion?

21 A. Right.

22 Q. One last question, I think. And it's your
23 discussion earlier where you talk about the willful act
24 versus an act outside of the control of the company. Is it
25 your statement that this event was outside of the control of

1 the company?

2 A. Absolutely. Yes.

3 Q. That there's nothing the company could have
4 done to prevent it?

5 A. Well, in hindsight there are a lot of things
6 we think the company could have done, but at the time we
7 really felt what we were doing was the appropriate actions.
8 But, I mean, whenever you look at something you say, Boy, I
9 wish we would have done this, this and this. I mean,
10 that -- you wish those things would have happened.

11 Q. Okay.

12 A. But as far as, you know, all the protections
13 and things you've tried to put into play, we followed all of
14 those, we thought, to the best of our ability.

15 Q. Mr. Rush, one last question I had here. Is it
16 your testimony that the event was extraordinary or just that
17 the cost is extraordinary or both were extraordinary?

18 A. Well, the costs are material. That's very
19 significant. So that -- that's one aspect. The event is
20 extraordinary is the other. So maybe I call it material and
21 extraordinary. They're both significant issues.

22 The extraordinary side for the incident is
23 that it -- this is the first time it's ever happened to us.
24 And so -- it's not expected to recur obviously, so that
25 makes it extraordinary. And the dollars are such that

1 they're pretty high also. And, you know, besides being
2 material, I guess you'd call those extraordinary too.

3 Q. All right. And you still contend that it is
4 outside or was totally beyond the control of the company?

5 A. Oh, yes.

6 CHAIR LUMPE: Thank you.

7 JUDGE WOODRUFF: Vice Chair Drainer?

8 QUESTIONS BY COMMISSIONER DRAINER:

9 Q. Good morning.

10 A. Good morning.

11 Q. To follow-up on Chair Lumpe's questions, I
12 want to be clear. St. Joseph Light & Power is here only to
13 ask us for an AAO because they have had this incident that
14 you, as a representative of St. Joseph Light & Power,
15 believe was something that was extraordinary, that you do
16 not believe would occur again for your company?

17 A. We sure hope so, yes. That's right.

18 Q. How long have you been with the company?

19 A. Twenty-three years.

20 Q. And have you, in your 23 years experience,
21 seen anything like this with your company?

22 A. No, I have not.

23 Q. So just as a long-term employee of St. Joe, is
24 this something that you would consider extraordinary?

25 A. I would call it very extraordinary, yes.

1 Q. Now, if this Commission were to grant St. Joe
2 an AAO, that doesn't mean that the approximately \$4 million
3 is going to go and be recovered by the ratepayers of
4 St. Joseph, does it?

5 A. No. The Commission would have to make another
6 action beyond that. We're not asking for a rate treatment
7 at this point in time.

8 Q. All it would do would allow you to bring it to
9 a rate case and possibly ask for some rate design treatment?

10 A. That's correct.

11 Q. Would you have the expectation, if we were to
12 grant you the AAO, that this Commission would be saying that
13 you would be able to put it in rate base?

14 A. It would be my expect-- my hope that it would,
15 but I think with any issue before the Commission there are
16 certain things in a rate case that are, you know, pluses and
17 minuses. And I'm not really sure -- there's no guarantee.
18 It's my hope.

19 Q. There is no guarantee. It would be your
20 hope --

21 A. That's right.

22 Q. -- that you would be able to give us a rate
23 design, but have you yet determined what that rate design
24 would be?

25 A. No, I've not.

1 Q. And, again, you would understand that just in
2 granting an AAO -- should this Commission determine that it
3 was extraordinary and nonrecurring and granted you the
4 ability to defer the cost, you would understand that we are
5 not making any decision on whether the burden would go on
6 the ratepayers or shareholders or some combination thereof?

7 A. That's exactly correct. Yes. That is right.
8 I mean, we are not asking for recovery. I think that's been
9 some implied statement that's been made by the other
10 parties -- several parties. And all we're simply asking for
11 is deferral at this point.

12 Q. Just the AAO?

13 A. That's correct.

14 Q. And then based on some questions that
15 Commissioner Schemenauer had at the end of yesterday and
16 what Chair Lumpe was asking today, I keep going back in my
17 mind to at this time the company really doesn't have even a
18 final determination or knowledge of whether GE will have any
19 additional settlement with respect to this incident?

20 A. Well, that would have to come through some
21 kind of a legal action.

22 Q. Right. And to date there's no knowledge of
23 that?

24 A. No. We've been working with the insurance
25 carrier who's obviously covered the lion's share of --

1 they've covered the total repair of the incident. That's
2 what the insurance policy deals with. And, you know,
3 they're investigating it also. And we're working closely
4 and being as aggressive as we can at this time.

5 Q. All right. Thank you. I appreciate your
6 answers.

7 COMMISSIONER DRAINER: I guess one final thing
8 is with respect to the opening remarks -- and it is a legal
9 question so I won't ask you to answer it, but I would hope
10 it would be briefed on the dollar recovery that you're
11 asking with respect to the fuel increase. And I would want
12 to know if the Supreme Court case with the UCCM really then
13 puts a different twist on this request for an AAO and
14 because of the type of recovery whether we could do that.

15 THE WITNESS: I can try to answer that a
16 little bit from my own perspective and not a legal
17 perspective.

18 BY COMMISSIONER DRAINER:

19 Q. And I'm sure Mr. Duffy will fill in the blanks
20 later, so --

21 A. Well, the Commission has granted on numerous
22 occasion this purchased power and other costs since the UCCM
23 case through Accounting Authority Orders, you know, numerous
24 ones. In fact, in one that we had -- St. Joe Light & Power
25 we had as a result of the flood in, what was it, 199--

1 Q. '3.

2 A. -- '3. The Commission allowed recovery of the
3 purchased power -- of the replacement energy cost as a
4 result of the loss of the Iatan unit. And there's numerous
5 cases, from what I've been able to read, that the Commission
6 has granted that since that UCCM case.

7 So I think an argument saying that the
8 Commission shouldn't allow that is -- is not really
9 pertinent, because the Commission has allowed those costs to
10 be placed into a deferral and recovered over a period of
11 time at that next case that occurred.

12 Q. And I know you'd like to finish the hearing
13 today so I won't go into making you do a lot of history, but
14 I'm always interested in our flood of 1993. What happened
15 to the Iatan plant?

16 A. Well, it was -- the Iatan plant literally
17 became unavailable because of flooding that occurred along
18 the Missouri River and took out areas of which the coal
19 exist-- you know, where you pulled the coal in. And we were
20 unable to use that operation for a period of time.

21 Q. So the plant had to be shut down during that
22 time?

23 A. Oh, yes. For quite a period of time as they
24 made things available. There was some trains and tracks
25 that were destroyed during the process -- during the flood

1 that had to be repaired and a number of things like that.
2 So we -- we sought before you all an Accounting Authority
3 Order to defer the -- basically the replacement cost of
4 energy during that time and then sought that in the next
5 rate proceeding.

6 COMMISSIONER DRAINER: All right. Thank you
7 very much for your answers.

8 JUDGE WOODRUFF: Commissioner Schemenauer?

9 COMMISSIONER SCHEMENAUER: Thank you.

10 QUESTIONS BY COMMISSIONER SCHEMENAUER:

11 Q. Good morning, Mr. Rush.

12 A. Good morning.

13 Q. I want to talk a little bit about Accounting
14 Authority Orders also.

15 A. Okay.

16 Q. And you're the one I need to talk to about
17 that. Correct?

18 A. I'll try to answer.

19 Q. All right. Now, you consulted with the
20 outside auditor and the outside auditor has told you you
21 cannot take an expenditure and create an asset out of it and
22 put it on your books. Correct?

23 A. That's correct.

24 Q. Without some expectation of it turning into an
25 asset?

1 A. In this instance, yes.

2 Q. If you're not granted an AAO by the Commission
3 during -- as a result of these proceedings, does that
4 prevent you from recovering those costs at a rate case?

5 A. Well, again, that would be a determination of
6 the Commission. But I would think it -- there's a
7 possibility that we could recover those. I mean, we would
8 obviously file some mechanism to try to recover those, but
9 as far as what our books and records would look like for the
10 year 2000, we would have to write that off.

11 Q. And if a subsequent rate case would allow
12 those expenses, then you would go back and restate those
13 financial statements or not?

14 A. I -- I don't know that. I --

15 Q. You're not --

16 A. Restating financial statements are a big issue
17 that I do not understand all the implications do.

18 Q. But the bottom line is you could recover the
19 3.3 million that you're asking for in a future rate case if
20 the Commission allowed it?

21 A. It -- absolutely. I mean, I think anything
22 can be recovered if the Commission would grant that. I'm
23 not -- I'm just not sure about what you'd have to do to the
24 past books and records of the company.

25 Q. Okay. But I guess probably what you wouldn't

1 be able to recover would be a return on that unless it was
2 part of your request in the rate case for the 3.3 million or
3 however long it took you to file a rate case?

4 A. Well, there would be that lag period, yes.

5 Q. Regulatory lag somebody termed it, I think?

6 A. They use that term a lot, yes.

7 Q. Okay. So whether or not you get the AAO
8 doesn't guarantee or preclude your recovery either way?

9 A. That's correct.

10 Q. This is just an exercise that the accounting
11 industry likes to see to get some assurance that perhaps you
12 may recover --

13 A. They --

14 Q. -- this cost? And I'm sure notes of the
15 financial statement will say it's not a sure thing.

16 A. I think it says something to that -- I mean,
17 it says, you know, that you've deferred so many dollars,
18 that you would seek that recovery. And so I guess the word
19 "seek" is an implication that you may or may not recover
20 that.

21 Q. And on your income tax return for the current
22 year you would show that full expenditure. Correct?

23 A. That I don't know.

24 Q. I mean, you wouldn't want to pay tax on money
25 you spent?

1 A. Yeah.

2 Q. Then you would make the adjustment in the
3 deferred taxes account?

4 A. I know you know more than I do on that
5 subject. I don't -- I don't know.

6 Q. I'm trying to --

7 A. You --

8 Q. I'm trying to establish whether or not -- I
9 mean, what your risks are. And I understand the risk
10 without an AAO for this year's accounting statements
11 wouldn't be good from an investor's standpoint because it
12 would look like you've really --

13 A. That's right.

14 Q. -- really gone down?

15 Okay. And I think, you know, the whole issue
16 of extraordinary and negligence or inattention, whatever you
17 want to call it, I guess I -- we have speed limits on our
18 highway and we have penalties if we break those speed
19 limits. And I guess if there were no penalties there, there
20 wouldn't be an incentive not to break the speed limits?

21 A. That's right.

22 Q. I mean, I'm just throwing that out there to
23 try to view this thing in whether or not -- how that would
24 compare to this case. I mean, there are some things it
25 appears that GE certainly was negligent on. And then I -- I

1 get to this last exhibit that was given to us, this Data
2 Request No. 12, and I read the purchase order.

3 A. Uh-huh.

4 Q. And I don't know if that's confidential how
5 much it was, but it certainly wasn't very much money. I
6 mean, if that's your limit of recovery, that's not very much
7 money.

8 A. That is not --

9 Q. Is that the total amount of the cost of the
10 Mark V system?

11 A. No.

12 Q. Is that a classified figure?

13 A. I think the total cost is around -- \$700,000
14 was the cost of the -- somewhere in that area.

15 Q. And not being an attorney, it looks like your
16 company signed off on trying to get anything other -- in
17 excess of that. And by the time you finished with your
18 attorneys' fees, you're still going to be out quite a bit of
19 money. And at this time you don't know whether or not
20 you're going to pursue any action against --

21 A. Well, the insurance carrier picked up all of
22 that.

23 Q. Okay.

24 A. I mean, they paid everything to repair the
25 unit with the exception of our deductible.

1 Q. So they would go after GE for what they've
2 paid out and then that would further --

3 A. Then we would have to deal with it on what
4 we're out. So if that were decided --

5 Q. Okay.

6 A. And so you can see from the issue that FM
7 Global, the insurance carrier, has a significant stake in
8 this also. They've paid us or will pay us a substantial
9 amount of money for the repair of the unit.

10 Q. Okay. And then I guess my final question is
11 that the AAO that you're asking for neither guarantees you
12 the recovery of that money nor precludes your recovering it?

13 A. That's correct.

14 Q. So whether or not you get it is mainly going
15 to affect your current year's financial statements?

16 A. That's right.

17 COMMISSIONER SCHEMENAUER: Thank you. That's
18 all I have.

19 JUDGE WOODRUFF: Commissioner Drainer?

20 FURTHER QUESTIONS BY COMMISSIONER DRAINER:

21 Q. Yes. I wanted to follow-up and have you give
22 me a -- correct me if I'm wrong.

23 A. Okay.

24 Q. It's been my understanding that one of the
25 reasons the company would want an AAO and have the deferral,

1 besides the tax reasons, is from a regulatory point of view
2 that basically allows you, with an approved AAO from the
3 Commission, to bring it into the next rate case. If you
4 were to just have a rate case, there's always a test year.

5 A. Right.

6 Q. How would you, without an AAO -- if you were
7 to come in a year from now and establish a test year and
8 that's outside of it, how could you even bring that to us?

9 A. Well, that would be one of the issues. And it
10 would help us in having this deferral to establish, you
11 know, the dollars so that you would address it. If they
12 were not -- that is, if you did not grant an AAO or we
13 didn't file one, there would be difficulty in trying to
14 assess what you do with this.

15 Oftentimes, you know, from all the different
16 parties in a case people argue that this is nonrecurring so
17 they want to kick it out, or that this is a one-time event
18 and we will grant some portion of that. I mean, a lot of
19 things happen. This gives a little more clarity to that
20 issue, but it is no assurance that it would be recovered.

21 Q. Yes. But isn't that the point from a
22 regulatory point of view is when you come in for a rate
23 case, that it, in a sense, preserves your --

24 A. That's correct.

25 Q. -- ability to bring it in, it's recognized

1 that it will be addressed in the next rate case? If you're
2 not granted one that's outside of the test year -- again, I
3 guess my perception has been that there will be a test year
4 and there are true-ups --

5 A. Right.

6 Q. -- at the end. If, you know, for instance,
7 that a labor contract is going in, they'll do a true-up,
8 everybody will go ahead and allow that in because they know
9 that's going to be a change in labor rates.

10 A. Right.

11 Q. But can you tell me where in your 23 years
12 you've had a test year and you've been able to go to the
13 past and pull something in without a recognition from the
14 Commission that you've had something like an AAO
15 established?

16 A. I don't -- I don't have any recollection, so
17 you're right in that regard. If we weren't granted the AAO,
18 I guess we'd try to file a case that had that. And the time
19 period is one way that we could try to address it. But, as
20 you know, those things get addressed differently. I think
21 this gives us a pretty good vehicle to address it in a case
22 and accept it or reject it from your point of view.

23 Q. Well, then bring me to a final -- the company
24 could now come in with a rate case that had this incident as
25 a part of the test year since it is a recent time period,

1 that that would be one of your choices that you could do?

2 A. We could have done that. We elected not to.
3 We thought bringing a case before you all at this time would
4 simply muddy the water as far as our merger proceedings were
5 going on.

6 Q. I see.

7 A. And we did not want to create that situation.
8 The -- we look at it as you have -- you've provided us
9 various vehicles to deal with issues and this is one of
10 those. This, to me and in our mind, was the best vehicle to
11 address the -- the incident with.

12 Q. So is the current situation of the merger
13 position, that was the main reason that you would not have
14 gone ahead and filed a rate case at this time?

15 A. I really believe that's the case, yes.

16 Q. Okay.

17 A. I think that if we filed a case in the middle
18 of the merger when the company was -- you know, the
19 regulatory plan set out a five-year freeze -- would just
20 create more complications than our company wanted to deal
21 with at that time.

22 The vehicle of the AAO existed that provides
23 that opportunity. And, you know, as we've said before, if
24 that regulatory plan were approved and the merger were
25 approved, there were some opportunities to write those off

1 and they may occur.

2 I realize that it may end up in the premium as
3 we've talked about before being a reduction of retained
4 earnings, but there were -- there was a reason trying to
5 stay away from just creating more issues and, in my mind,
6 muddying the merger case that was going on.

7 Q. Now, I'm going to try to figure out how I can
8 ask this question. Would St. Joseph, if it were granted the
9 AAO, look at filing a rate case at the most -- well, as soon
10 as it could file a rate case based on all of the decisions
11 by the Commission? So what I guess -- let me try and make
12 this clear.

13 Should you do the merger, there be no
14 regulatory plan so you had no moratorium, would you expect
15 that you would come in and file a rate case?

16 A. I won't be part of that -- I mean, that will
17 be a different company. That will be UtiliCorp and
18 they're -- I can't speak for them. It will no longer be
19 St. Joe Light & Power that would make that decision.

20 COMMISSIONER DRAINER: I see. Thank you very
21 much.

22 JUDGE WOODRUFF: Commissioner Simmons, do you
23 have any questions?

24 COMMISSIONER SIMMONS: I have no questions.
25 Thank you though.

1 JUDGE WOODRUFF: Chair Lumpe?

2 FURTHER QUESTIONS BY CHAIR LUMPE:

3 Q. To follow-up just a little bit on the whole
4 timing issue. I think I asked the question yesterday should
5 the merger occur -- the answer was that it would be written
6 off but then it would become part of the premium, as you've
7 said. Should the merger occur, however, without the
8 moratorium --

9 A. Right.

10 Q. -- what would be an appropriate time frame to
11 file a rate case? I think it's normally -- if it's gone
12 beyond two years, the assumption is there is no financial
13 jeopardy. What would you think would be an appropriate time
14 frame?

15 A. Well, from my own personal opinion, it would
16 probably be -- two years would be a reasonable time frame
17 to -- to set it. I realize there's been some testimony
18 filed on that by our company. And I think our company
19 position says, you know, if there's a freeze placed on
20 prices, that you should wait until the end of that period of
21 time; that is, if there was some kind of a moratorium. And,
22 otherwise, I --

23 Q. Because I think there was a concern of the
24 indefiniteness of when --

25 A. I understand that.

1 Q. -- how long this asset would be potentially
2 there?
3 A. Right. I think, you know, in my own mind --
4 Q. Does two years --
5 A. -- two years.
6 Q. -- sound like a reasonable time?
7 A. Yes, it does.
8 CHAIR LUMPE: All right. Thank you.
9 JUDGE WOODRUFF: Go to recross beginning with
10 AGP.
11 RECROSS-EXAMINATION BY MR. CONRAD:
12 Q. Mr. Rush, in the first round from the Bench,
13 Chair Lumpe asked you about that opinion. And your
14 response, I believe, is that you'd gone to Arthur Anderson,
15 consulted with them. And I think that -- at least the quote
16 that I hope I typed in accurately was, They gave us an
17 opinion?
18 A. That's correct.
19 Q. Now, yesterday there were some questions about
20 that opinion?
21 A. Uh-huh.
22 Q. And I got the impression that it was not in
23 writing?
24 A. That's correct.
25 Q. So the opinion that you got from Arthur

1 Anderson that you're saying that they gave us their
2 opinion --

3 A. Uh-huh.

4 Q. -- was just verbal?

5 A. That's correct. In a -- in a meeting
6 discussion setting that went through the entire process.
7 And I believe it was one of the partners of the -- of Arthur
8 Anderson. Whether it was in writing or verbal, it was
9 their -- it's their -- an opinion that they will not --
10 they'll require you to write it off --

11 Q. You're --

12 A. -- if you don't --

13 Q. Excuse me. I'm sorry.

14 A. -- get an Accounting Authority Order.

15 Q. You deal occasionally with accounting firms,
16 don't you?

17 A. A little bit.

18 Q. Without going into all the particulars of it,
19 would you be aware that when an accounting firm, for that
20 matter a law firm -- but when an accounting firm gives their
21 opinion, that they're under some obligations to do that in a
22 very particular way?

23 A. You know, I -- I'm not certain.

24 Q. You're not at all familiar with the rules of
25 ethics and professional responsibilities as they apply to

1 accounting firms?

2 A. I know that if, you know, the Commission and
3 the company felt that we needed to have a written opinion
4 out, we would do that and provide that. I don't -- I mean,
5 we would have it done or go to the accounting firm and have
6 it in writing. So I'm not sure what you're trying to say.

7 MR. CONRAD: I think, your Honor, that's all.

8 Thank you, Mr. Rush.

9 JUDGE WOODRUFF: Staff?

10 RE CROSS-EXAMINATION BY MR. WILLIAMS:

11 Q. Mr. Rush, if the Commission were to deny the
12 AAO that St. Joseph Light & Power Company has requested in
13 this case and St. Joseph Light & -- within the time frame
14 that the company has requested the Commission act, if
15 St. Joseph Light & Power were then to immediately file a
16 rate case, wouldn't the cost that it's seeking to defer
17 through this AAO be included in the test year for that rate
18 case?

19 A. When you mean "immediate" -- it could. I
20 mean, obviously it could. Because the appear-- the incident
21 occurred June 7 through, you know, August 8th. If you can
22 have that in the test period, it could occur.

23 Q. Well, haven't you asked the Commission to make
24 a decision before February of this year -- I'm sorry -- of
25 next year?

1 A. Yes.

2 Q. And if you were to file a rate case in
3 February of next year because the Commission denied the AAO,
4 wouldn't the test year include the period where these costs
5 have been incurred?

6 A. I just said it's very possible. I mean, the
7 Commission and the Staff and -- or pardon me -- the Staff
8 and various parties get together and discuss test periods
9 so, I -- you know, those -- it's very logical that it could.

10 Q. Have you formulated an opinion about whether
11 or not St. Joseph Light & Power Company will bring a lawsuit
12 against General Electric for the cost that the company is
13 seeking here to defer?

14 A. I haven't.

15 Q. Didn't Mr. Stoll in his direct testimony
16 support the proposition that amortization should match
17 revenue recovery in the next rate case for St. Joseph Light
18 & Power?

19 A. That was his testimony.

20 Q. Doesn't that anticipate recovery on the part
21 of St. Joseph Light & Power in the rate case?

22 A. Doesn't that anticipate recovery? Is that
23 what your question is?

24 Q. Let me ask a different question. Isn't that
25 anticipated recovery on St. Joseph Light & Power Company's

1 part?

2 A. Yes.

3 MR. WILLIAMS: No further questions.

4 JUDGE WOODRUFF: Public Counsel?

5 MR. MICHEEL: Yes.

6 RECROSS-EXAMINATION BY MR. MICHEEL:

7 Q. Following up on the questions from the Bench
8 regarding Arthur Anderson, the outside auditors, do you
9 recall those questions?

10 A. Yes.

11 Q. Is it correct that in this proceeding your
12 company is seeking to place these costs in USOA Account
13 182.3?

14 A. I think that's correct, yes.

15 Q. Assume with me that the AAO is denied by the
16 Commission. Is it correct that your company could account
17 for these costs in USOA Account No. 186?

18 A. I don't know. You'd -- I mean, I just don't
19 know.

20 Q. Assume with me that there was another account
21 in the USOA that your company could account for those costs.
22 Can you make that assumption?

23 A. All right.

24 Q. If there is indeed another account that you
25 could defer these costs in without getting the AAO, would

1 that preserve your company's ability to seek recovery of
2 these costs in a future rate case?

3 A. You know, I wasn't involved with the -- I
4 personally wasn't involved in the discussion with Arthur
5 Anderson. And I don't know if it was that you can only
6 place it in this account or any account. I -- I don't know.

7 Q. You would agree with me that the Uniform
8 System of Accounts controls just placing items in accounts
9 for regulatory purposes before this Commission; is that
10 correct?

11 A. I don't know if -- I'm sure there are other
12 reasons why the USOA exists, that it's not just to put
13 things in certain buckets.

14 Q. Are you aware that this Commission has adopted
15 the Uniform System of Accounts for use for electric
16 utilities before this Commission?

17 A. Yes, I am.

18 Q. And are you required to follow Commission
19 rules? "You" being St. Joe Light & Power.

20 A. Yes.

21 Q. Okay. Commissioner Drainer asked you about
22 recovery of the AAO costs in the next rate case. Do you
23 recall those questions?

24 A. Yes, I do.

25 Q. Would you agree with me that forced outages

1 are included in the normalization process used for
2 determining fuel and purchased power costs in a rate case?

3 A. There is a recognition of outages that looks
4 at, as Mr. Ferry discussed yesterday, oftentimes a
5 statistical evaluation of historic trends of outages.
6 Oftentimes, you know, they -- they -- the Staff has
7 recommended taking, for example, the high and the lows out
8 of that historical review to try to come up with some --
9 what I call -- I always call it normalized evaluation of
10 outages and, you know, everybody comes up with different
11 models, but outages are recognized.

12 Q. And so you would agree with me that if --
13 assuming the Commission does not grant the AAO, that there
14 is a possibility, via that fuel normalization process, that
15 these forced outage hours could indeed be included in a
16 future rate case; is that correct?

17 A. Well, from the company's perspective it
18 obviously -- you know, we could. From other parties they
19 could argue the opposite. I mean --

20 Q. But that possibility exists for your company
21 to recover based on the normalization process these -- this
22 forced outage cost; is that correct?

23 A. It's very possible. I just -- you know,
24 that's not -- we're not seeking recovery of the cost in this
25 AAO application. We are seeking a request to defer the

1 cost.

2 Q. I understand that. But you responded to
3 questions from Vice Chair Drainer --

4 A. Right.

5 Q. -- indicating that if you're not granted this
6 AAO and it's outside -- these costs are outside of the test
7 year, that you would have no opportunity to recover those
8 costs. And I'm asking you, that's not correct because they
9 could be included in the normalization process; isn't that
10 correct?

11 A. No. I did not say that in response to
12 Commissioner Drainer's question.

13 Q. Vice Chair Drainer asked you if it was correct
14 if any decision that this Commission makes with respect to
15 an AAO in this case would guarantee that the burden for
16 these costs would be placed on the ratepayer or the
17 shareholder. Do you remember that question?

18 A. Could you repeat that, please?

19 Q. Sure. Vice Chair Drainer asked you a
20 question, and the question was to the effect that if this
21 Commission grants an AAO, it does not guarantee that the
22 burden of these costs is placed on the either the
23 shareholder or the ratepayer; is that correct?

24 A. Yes.

25 Q. And you indicated that it doesn't; is that

1 correct?

2 A. Yes.

3 Q. And the converse of that is true too, is it
4 not, Mr. Rush? If the Commission decides in its wisdom to
5 deny recovery -- or deny this company an Accounting
6 Authority Order, that decision does not guarantee that the
7 burden of these costs will fall either on the ratepayer or
8 the shareholder; isn't that correct?

9 A. It will require us to report it on our
10 financial statements as a cost. And so our books and
11 records will reflect that. Then -- let me -- I will finish.
12 And then in a rate setting the company could file some
13 mechanism for recovery of those costs. But that's not
14 what -- I mean, what we're looking at now is the financial
15 books and records of the company.

16 Q. But my question to you, Mr. Rush, is, if this
17 Commission denies your AAO request, it does not guarantee
18 one way or another whether the burden of recovering these
19 costs is going to fall on the ratepayer or the shareholder;
20 is that correct?

21 A. It places it more likely that it would not be
22 recovered, but -- in my opinion.

23 Q. But you've already agreed with me that your
24 company tomorrow could file a rate case and seek recovery of
25 these costs; is that correct?

1 A. Yes.

2 Q. So is it your belief that if this Commission
3 grants your company an AAO, that there's more of a
4 likelihood that the burden of recovering these costs will be
5 placed on the shareholder -- or on the ratepayer?

6 A. I think it places it on a more level ground
7 that it's -- you know, it's like -- I think it skews it to
8 less likely if the Commission denies an AAO.

9 Q. And why is that?

10 A. Because I think that the Staff and the Office
11 of Public Counsel have traditionally argued against -- in my
12 time frame with the company, Commission Staff and the Office
13 of Public Counsel have traditionally argued to exclude any
14 known -- any -- pardon me -- extraordinary events in rate
15 cases and argued for disallowances oftentimes for events
16 like this.

17 In a rate case they -- what we would be doing
18 is if we sought for some recovery of these costs, there
19 would -- and let's say we sought it as an amortization over
20 some period of time, there are, in my mind, going to have to
21 be an accounting treatment order within the context of that
22 case that would address that amortization. And I think that
23 that -- and that's what I was trying to clarify in the MoPub
24 case earlier.

25 Q. Would you agree with me, Mr. Rush, that if

1 this Commission grants your company an Accounting Authority
2 Order, that any intervenor, the Staff or the Office of
3 Public Counsel in a rate case setting could argue that these
4 extraordinary -- allegedly extraordinary one-time costs
5 should not be included in rates?

6 A. Sure.

7 Q. So granting of the AAO doesn't preclude that
8 argument in a rate case; isn't that correct?

9 A. Absolutely. That's doesn't stop that
10 argument.

11 Q. So that's not a benefit of getting the AAO,
12 isn't that correct, Mr. Rush?

13 A. I think it provides more clarity.

14 MR. MICHEEL: Thank you.

15 JUDGE WOODRUFF: Redirect?

16 REDIRECT EXAMINATION BY MR. DUFFY:

17 Q. There were a couple of things that I think you
18 wanted to clarify. Maybe you have, maybe you haven't. Why
19 don't you try to clarify them if you have not had an
20 opportunity to do that?

21 A. All right. One of the things that we were
22 talking about was the most --

23 MR. CONRAD: Excuse me, your Honor. I guess
24 I've got to object because even though that's direct, that's
25 a pretty narrative question. If he wants to ask a specific

1 question and ask the witness to explain it --

2 JUDGE WOODRUFF: I'll sustain the objection.

3 BY MR. DUFFY:

4 Q. Well, Mr. Rush, were you prevented from

5 clarifying an answer on a couple of occasions by a ruling of

6 the Commission?

7 A. Yes.

8 Q. All right. In either of those situations do

9 you now wish to clarify something that you were prevented

10 from clarifying before?

11 MR. CONRAD: Your Honor, on what topic? On

12 what aspect of his question? This is like saying, Do you

13 have anything else you'd like to say.

14 JUDGE WOODRUFF: Again, I'm going to sustain

15 the objection. If you can tell me --

16 MR. DUFFY: How do I know what he wanted to

17 qualify when you cut him off from answering the question

18 before -- because all he said was, I would like to qualify

19 and you cut him off. So how do I know what it is he wanted

20 to --

21 JUDGE WOODRUFF: The other parties need to

22 have an opportunity to understand what kind of questions are

23 going to be asked before he starts giving answers because

24 they might have an objection to the question.

25 MR. DUFFY: They can always move to strike

1 those as --

2 JUDGE WOODRUFF: Well, I don't want it on the
3 record unless they've had an opportunity to object before so
4 they have some way of knowing what the questions are going
5 to be before he starts giving an answer.

6 MR. DUFFY: Since I cannot read Mr. Rush's
7 mind, I'll withdraw that question.

8 JUDGE WOODRUFF: Okay.

9 BY MR. DUFFY:

10 Q. Were you asked some questions about a
11 situation in the past where there had been some litigation
12 and recovery of those costs subsequent to the litigation?
13 And I think you said there was a sharing of those costs,
14 some went back to the ratepayers and some went back to the
15 shareholders.

16 A. That's correct.

17 Q. Did the company fund that litigation over a
18 period of years?

19 A. Yes. The company took care of all the costs
20 of funding the litigation and pursuing all the legal actions
21 that we dealt with to recover the proceeds from --

22 Q. To your knowledge, did the company recover the
23 cost of funding all that litigation and pursuing those
24 things in rates?

25 A. I don't believe we did.

1 Q. At the time that the proceeds became
2 available, was the sharing premised upon some recovery to
3 the company of those extended funds that had not been
4 recovered in rates?

5 A. I think a significant portion of it -- I mean,
6 from what the company received was attributable to the
7 efforts that the company put forth and the expenditures that
8 were unrecovered to receive those funds that we did from the
9 insurance company -- or from the -- in the case.

10 Q. And was the sharing of those expenses between
11 the ratepayers and the shareholders, was that the -- was
12 that implemented by means of a settlement?

13 A. I believe it was, yes. It was a settlement.

14 MR. DUFFY: I have no other questions.

15 JUDGE WOODRUFF: Thank you. You may step down
16 then.

17 Any other evidence from St. Joseph Light &
18 Power?

19 MR. DUFFY: No, your Honor.

20 JUDGE WOODRUFF: All right. Thank you.

21 At this time we're going to go ahead and take
22 a break then.

23 MR. MICHEEL: Your Honor, before we take a
24 break, the parties have agreed that we can take Public
25 Counsel Witness Trippensee and then Public Counsel Kumar

1 together. On the schedule we have separated them out, but
2 we had planned Mr. Kumar for only today and it's gone
3 longer, so --

4 JUDGE WOODRUFF: Do you want to have
5 Trippensee first or whichever?

6 MR. MICHEEL: Yeah. Trippensee and then
7 Mr. Kumar.

8 JUDGE WOODRUFF: Okay. We'll come back at
9 10:30. Thank you.

10 (A RECESS WAS TAKEN.)

11 JUDGE WOODRUFF: I see Mr. Trippensee is on
12 the stand, ready to go.

13 (Witness sworn.)

14 JUDGE WOODRUFF: You may inquire.

15 RUSSELL W. TRIPPENSEE testified as follows:

16 DIRECT EXAMINATION BY MR. COFFMAN:

17 Q. Please state your name again for the record.

18 A. Russell W. Trippensee.

19 Q. By whom are you employed?

20 A. Missouri Office of Public Counsel.

21 Q. And are you the same Russell W. Trippensee
22 that has caused to be filed in this case rebuttal testimony
23 and has been marked as Exhibit 8 in this proceeding?

24 A. Yes. Both the non-proprietary and a highly
25 confidential version.

1 Q. Are there any corrections to those
2 testimonies?

3 A. Yes. There are some typographical errors or
4 failure to use Spell Check, whichever the case may be, that
5 need to be corrected.

6 Q. Please.

7 A. The word "unit" when used as the name of the
8 Lake Road Unit 4/6 was not capitalized on the following
9 pages and lines: On page 4, line 7; on page 4, line 15; on
10 page 18, line 11; on page 20, line 4; on page 29, line 12;
11 page 29, line 21; page 30, line 5; and on page 31, line 11.

12 There were four other corrections, also typ--
13 typographical in nature. The first is on page 4, line 16.
14 The word "unit" appears at the start of that line. That
15 needs to be deleted. On page 32, line 19 the word
16 "omissions" has an extra "m" in it.

17 On page 34, line 14 there are two corrections.
18 The word "theoretical" has a "c" in it that does not belong
19 there, needs to be removed. And publicly needs to have the
20 "a" and the "l" after "c" removed so that it is spelled
21 correctly.

22 Q. Does that conclude your corrections?

23 A. I believe there's one more on line -- on
24 page 38, line 14. After Accounting Authority Order the word
25 should be "a-n-d", and, not "n-d."

1 Q. And with those corrections to Exhibit 8, would
2 your answers to the questions contained therein be the same
3 today as when you filed them?

4 A. Yes, they would.

5 MR. COFFMAN: I would now tender
6 Mr. Trippensee for cross-examination and offer into the
7 record Exhibit 8.

8 JUDGE WOODRUFF: Exhibit 8-NP and 8-HC have
9 been offered into evidence. Are there any objections to
10 their receipt?

11 Hearing none, they will be received into
12 evidence.

13 (EXHIBIT NOS. 8-NP AND 8-HC WERE RECEIVED INTO
14 EVIDENCE.)

15 JUDGE WOODRUFF: All right. For
16 cross-examination, we will begin with AGP.

17 MR. CONRAD: Seems I get to start all the
18 time.

19 JUDGE WOODRUFF: That's what's on the list.
20 CROSS-EXAMINATION BY MR. CONRAD:

21 Q. Mr. Trippensee, I just have really one thing
22 that I wanted to get clarified with you. Let me first ask,
23 you've been here in the hearing room most of the morning?

24 A. Yes.

25 Q. Because my question was sharpened somewhat by

1 Commissioner Schemenauer's questions of an earlier witness.
2 You'd agree with me, I take it, that an Accounting Authority
3 Order does not taken by itself have any rate effect?
4 A. An Accounting Authority Order does not have a
5 rate effect, that is correct.
6 Q. And you, I take it, also agree that it's not a
7 guarantee of some future rate treatment?
8 A. An Accounting Authority Order issued by this
9 Commission expressly foregoes making any future rate
10 treatment determinations.
11 Q. And I think Commissioner Schemenauer had
12 confirmed that with one of the earlier witnesses for the
13 company. And my question to you is real simple. Given that
14 understanding, what is the -- I mean, you agree, don't you,
15 that the Commission in this case is not going to make a rate
16 order or increase rates?
17 A. If they issue an Accounting Authority Order,
18 they are simply issuing an order that allows the company for
19 regulatory book purposes to defer that cost. But --
20 Q. Then --
21 A. -- it --
22 Q. I'm sorry.
23 A. -- makes no rate determination.
24 Q. Okay. Well, if there's no rate determination
25 made or to be made in this case, then what is the nature of

1 the concern, you know, that has prompted all this?

2 Mr. Duffy characterized this as a very simple case in his

3 opening statement.

4 A. The concern is -- is Accounting Authority

5 Orders as this Commission has issued them recognizes that

6 it's a divergence from traditional regulatory financial --

7 or regulatory booking, rate-making procedures. It sets up

8 and defers an amount specifically to be reviewed in a future

9 rate case.

10 Public Counsel -- that doesn't mean that you

11 have an effect on financial records necessarily because of

12 the lack of rate orders -- rate implications. But Public

13 Counsel's position is that the company's acts or omissions

14 should not create a situation that allows for that

15 divergence from traditional rate-making and regulatory

16 accounting to take place.

17 This is not a act of nature. It's not a

18 response to the federal government, EPA-type response or

19 response to this Commission's edicts. It's simply the

20 results of acts or omissions on the part of the company that

21 created this situation and incident.

22 MR. CONRAD: All right. Thank you, sir.

23 Thank you, your Honor.

24 JUDGE WOODRUFF: All right. Then Staff?

25 MR. WILLIAMS: No questions.

1 JUDGE WOODRUFF: St. Joseph?

2 MR. DUFFY: No questions.

3 JUDGE WOODRUFF: All right. We'll come up to
4 the Bench then. Commissioner Schemenauer?

5 COMMISSIONER SCHEMENAUER: Just one. Thank
6 you, your Honor.

7 QUESTIONS BY COMMISSIONER SCHEMENAUER:

8 Q. Mr. Trippensee, on page 37 of your rebuttal
9 you indicate that the company has overstated their recovery
10 request by somewhere in the range of \$272,000 to \$318,000?

11 A. Yes, sir.

12 Q. Okay. Now, the company has reduced their
13 request from 3.9 million down to 3.3 million. Is this
14 overstatement, in your opinion, still in the 3.3 million or
15 has it been washed out?

16 A. This overstatement, sir, was based on the --
17 an average of the last five years of outage hours for the
18 period of time during which this outage occurred.

19 The company in their calculation of
20 incremental cost, either their original or their new
21 calculation, did not include any outage hours for -- for
22 forced outages in that calculation. I simply attempted to
23 normalize what would be expected for forced outages during
24 that period and then utilized the cost that the company
25 developed for replacement power -- or power to substitute

1 for that from the other units and/or purchased power.

2 Q. Okay. Did you look at Mr. Lin's testimony on
3 the test model that he ran through to come up with figures?

4 A. My testimony -- Mr. Lin's testimony was put in
5 as rebuttal testimony at the same time mine was. I did not
6 have the opportunity to look at his testimony prior to
7 filing my testimony.

8 COMMISSIONER SCHEMENAUER: Okay. Thank you.
9 That's all I have.

10 JUDGE WOODRUFF: Commissioner Simmons?

11 QUESTIONS BY COMMISSIONER SIMMONS:

12 Q. Yes. Good morning, Mr. Trippensee.

13 A. Good morning, Commissioner.

14 Q. I think I just have one line of questioning
15 and it goes to a statement that you just made earlier in
16 terms of OPC's position. Just to clarify again, would it be
17 OPC's position that in circumstances where it's because of a
18 company's acts or omission, in your opinion, they should not
19 be allowed an AAO order. Would that be correct?

20 A. Yes, sir. That -- those acts or omissions
21 should not be allowed to create an event that allows the
22 company to diverge from traditional regulatory accounting
23 practices. And by regulatory accounting, I am
24 differentiating from financial reporting as -- as GAP also
25 differentiates.

1 Q. Could you tell me that in your estimation has
2 this Commission ever granted an AAO order for something
3 other than an act of Congress or an act of nature or God
4 that you are aware of?

5 A. Also, this Commission -- I think probably the
6 main AAO's been the SLRP, the service line replacement
7 program, which was in response to this Commission's order to
8 replace all service lines within 10 years.

9 The only one that I can remember that -- I
10 really can't remember one that would be specifically as a
11 result of the company's acts or omissions. There has been
12 some discussion in this case about a previous St. Joe AAO
13 involving FM Mapping, but I don't remember exactly -- or
14 AMFM Mapping, Automated Mapping, usually, Facilities
15 Maintenance Systems is what that usually stands for.

16 I don't remember the particulars around that
17 case except for it, unfortunately, I think, was not one of
18 the better Commission orders because it wasn't incremental
19 costs that were deferred. It was costs that were actually
20 in rates for payroll. For some reason the Commission
21 granted an AAO in that case. And from the -- our office's
22 standpoint it was a very unfortunate ruling.

23 COMMISSIONER SIMMONS: Okay. Thank you.
24 That's all the questions I have.

25 JUDGE WOODRUFF: Recross based on questions

1 from the Bench then beginning with AGP?

2 RECROSS-EXAMINATION BY MR. CONRAD:

3 Q. Mr. Trippensee, Commissioner Simmons asked you
4 about that SLRP AAO. For various reasons I guess that's
5 kind of been a cause celeb at times about what's going on,
6 but would I be correct in recalling that that was, to some
7 extent, simulated by a series of, shall we say, unfortunate
8 circumstances in the Kansas City service area with some
9 houses and buildings that were experiencing some
10 difficulties?

11 A. If my memory serves me correct, there were
12 some -- several series of explosions in Kansas City. I do
13 not remember if there was loss of -- specifically loss of
14 life. There were injuries and significant property damage.

15 It did occur during -- the incidents did occur
16 during a period that was somewhat high -- or close to a
17 drought condition, which the engineers can discuss whether
18 that caused some of the separation.

19 But ultimately the Commission found that it
20 was -- that the service lines of a certain type of pipe
21 material needed to be replaced in order to prevent the
22 situation from possibly happening in the future and ordered
23 each utility in the state -- each gas utility to file a
24 program that would allow them to replace all their service
25 lines, I believe in a period of -- within a period of 10

1 years.

2 Q. So you're helping me to clarify my
3 recollection about that, is it had been after a very dry
4 period and there had been -- as you say, some engineers can
5 argue about why that was, but that was a whole statewide
6 program, was it not?

7 A. For each local distribution gas company within
8 the state. Each and every one has filed -- there have been
9 some subsequent cases where I think Missouri Gas Energy or
10 its predecessors tried to extend their program a little bit.
11 I think most of the companies are just about done. I
12 believe Laclede is. I'm not sure about all the Kansas City
13 utilities.

14 Q. So while there were some aspects of that that
15 we both mentioned that were perhaps to some extent reactive,
16 would you say -- or would it be a fair characterization of
17 that particular AAO that it was more aimed at a series of
18 preventative measures?

19 A. Yes. The pipe was definitely for -- in an
20 accounting term, prematurely retired. It had not reached
21 its engineering -- engineering life, but the Commission, I
22 think, was very concerned that there had been sufficient
23 number of failures that to prevent loss of property, but
24 more importantly loss of life, that this be undertaken.

25 MR. CONRAD: Okay. Thank you, Mr. Trippensee.

1 Your Honor, that's all.

2 JUDGE WOODRUFF: Staff?

3 MR. WILLIAMS: No questions.

4 JUDGE WOODRUFF: St. Joseph?

5 MR. DUFFY: No questions.

6 JUDGE WOODRUFF: And you may step down,

7 Mr. Trippensee.

8 MR. COFFMAN: I have a couple of redirect

9 questions.

10 JUDGE WOODRUFF: I'm sorry. I didn't mean to

11 preclude you. I'm getting ahead of myself. Redirect?

12 REDIRECT EXAMINATION BY MR. COFFMAN:

13 Q. Okay. Following up on the last questions,

14 Mr. Trippensee, with a possible exception of cases where

15 there have been preventative acts or instances where there

16 have been plans for future acts, has this Commission ever

17 granted an AAO based on acts and omissions of utility

18 companies?

19 A. Let me think just a second if I can think of

20 anything, because I don't want to say no without being at

21 least sure.

22 No. And, I mean, there's been several

23 situations that I can think of where companies have, through

24 their acts or omissions, created situations where they

25 incurred substantial expenses. And the Commission has

1 not -- often the companies don't even ask for an AAO, but I
2 don't remember the Commission ever granting one.

3 Q. And the Commission in the AAO orders that
4 you've reviewed do generally discuss and analyze the nature
5 of the event, do they not?

6 A. I believe I quote in my testimony one case
7 where they say the principal inquiry is the nature of the
8 event.

9 Q. You're not aware of any AAO, are you, where
10 the Commission has discussed wrongdoing on behalf of any
11 party and then gone ahead and granted an AAO, are you?

12 MR. DUFFY: I'm going to object to the leading
13 question.

14 JUDGE WOODRUFF: Sustained.

15 BY MR. COFFMAN:

16 Q. You were asked by Commissioner Simmons
17 questions about whether this Commission has granted AAOs
18 based on certain facts and situations, specifically acts and
19 omissions of the company. Has this Commission ever granted
20 an AAO when negligence has been an issue analyzed?

21 A. Not to my knowledge, no.

22 MR. COFFMAN: I think that's all I have.
23 Thank you.

24 JUDGE WOODRUFF: Thank you. All right. You
25 may step down.

1 You can call your next witness.

2 MR. MICHEEL: We would call Mr. Kumar, your

3 Honor.

4 (Witness sworn.)

5 JUDGE WOODRUFF: You may inquire.

6 JATINDER KUMAR testified as follows:

7 DIRECT EXAMINATION BY MR. MICHEEL:

8 Q. Would you state your name for the record.

9 A. My name is Jatinder Kumar.

10 Q. And how are you employed?

11 A. I am president of the Economic and Technical

12 Consultants, Inc.

13 Q. And have you caused to be filed your rebuttal

14 testimony in this matter that has been marked for purposes

15 of identification as Exhibit 9-NP and Exhibit 9-HC?

16 A. Yes.

17 Q. And if I asked you those questions contained

18 in your rebuttal testimonies, would your answers be the same

19 or similar?

20 A. Yes, sir.

21 MR. MICHEEL: With that, your Honor, I would

22 move the admission of Exhibit 9-NP and Exhibit 9-HC and

23 tender Mr. Kumar for cross-examination.

24 JUDGE WOODRUFF: Exhibits 9-NP and 9-HC have

25 been offered into evidence. Are there any objections to

1 their receipt?

2 Hearing none, they will be received into

3 evidence.

4 (EXHIBIT NOS. 9-NP AND 9-HC WERE RECEIVED INTO

5 EVIDENCE.)

6 JUDGE WOODRUFF: For cross-examination we'll

7 begin with AGP.

8 CROSS-EXAMINATION BY MR. CONRAD:

9 Q. Good morning, Mr. Kumar. My name is Stu

10 Conrad. I'm here on behalf of an industrial customer of

11 St. Joseph Light & Power named Ag Processing, For your

12 information, my client uses both electricity and also steam

13 that it purchases from St. Joseph Light & Power.

14 I wanted to direct you, please, sir, to --

15 well, I thought it was marked, but I don't seem to find the

16 marking on it. It was behind your Appendix 1. There was a

17 listing of cases -- it's titled Cases in which Analysis was

18 Performed and No Testimony was Submitted. And then there's

19 another listing, I think, of which testimony was submitted.

20 Could you -- looking -- well, I guess let's

21 look at either of those lists. Do any of those cases, in

22 your recollection, that you've listed there involve an

23 Accounting Authority Order request that's at all similar to

24 what is confronting the Commission today?

25 A. I'm sure that there are few cases, but if you

1 ask me which one, I would not be able to recall it today.

2 Q. Okay. But in your experience that's

3 encompassed that, have you -- do any of those cases involve

4 situations in which you've been engaged by a utility?

5 A. By -- I'm sorry?

6 Q. By a utility?

7 A. May I have the question again?

8 Q. Okay. Any of those cases in which you've

9 testified on behalf of a utility or --

10 A. I think I have. A couple of cases I testified

11 on behalf of utilities -- investor-owned utilities, because

12 public systems are also utilities. But investor-owned

13 utilities I think there are at least two or three cases I

14 testified.

15 Q. And let me take you back, if I may, back to, I

16 believe it is, page -- yes, page 6 of Exhibit 9.

17 A. Page 6 of Exhibit 9.

18 Q. Yeah. Material I'll be looking at is not

19 highly confidential so it doesn't matter which --

20 A. Yes.

21 Q. -- copy.

22 There's a question and an answer that begin at

23 line 9 on page 6.

24 A. Yes.

25 Q. And on down about the middle of that, page 13,

1 I just wanted to -- I needed to be clear about something
2 here because I was reading this, I guess, last night again.
3 The statement there is, Generally three oil pumps are used
4 to feed lubricating oils.

5 Do you see that statement that starts there?

6 A. Yes.

7 Q. And I got confused because I guess I had
8 looked at Mr. Svuba's material. You're not there on
9 page 6 -- when you say "generally," you're not talking about
10 the turbine generator 4, are you?

11 A. No. I'm not talking here about TG 4. Here
12 I'm giving the general utility practice.

13 Q. Okay. And you go on there to talk about these
14 things that you guys are calling the lines of defense?

15 A. That is correct too.

16 Q. And they just had -- well, this, I guess is
17 where I'm confused because it goes over to page 7, line 5.
18 They had two AC oil pumps. And your material on page 6 is
19 talking about two pumps?

20 A. That's correct.

21 Q. So what am I missing here in your saying that
22 that's contrary to the general practice?

23 A. On page 6, sir, I'm describing how three oil
24 pumps are configured. There are two AC power oil pumps
25 and one DC power oil pump. And generally the practice is

1 out of two AC power pump one gets the power from the turbine
2 generator to which it is connected to, and second AC
3 receives this power from other source which we call
4 auxiliary power source. So it does not get the power from
5 the generator turbine to which it is connected.

6 And third is DC pump which gets its power from
7 the batteries. So general practice is if first AC pump
8 fail, then second one will get power from auxiliary source
9 because first would not get any power. And even if second
10 fail, then the DC pump will come on and it will get power
11 from the batteries.

12 In case on page 7 I'm describing the situation
13 that TG 4. Both AC pumps receive power from TG 4, so if
14 TG 4 trips or fails, then both oil pumps will not operate.

15 Q. All right. I think I'm under-- what we're
16 talking about here is not the number of pumps, but where the
17 pumps are powered. Is that your point?

18 A. Yes, sir.

19 Q. Okay. Now, at least based on your
20 investigation, I'm understanding that you have criticism for
21 St. Joe Light & Power, how that was set out?

22 A. That's correct.

23 Q. Was that part of this Mark V thing or had that
24 been there?

25 A. No. The -- these pumps, sir, are not

1 controlled by Mark V. What Mark V did, when they put the
2 Mark V panel, they removed a manual switch through which the
3 operator could initiate a control of their DC pump. But
4 Mark V was not intended or does not control any of these
5 three pumps, or you cannot interface through Mark V with any
6 of these three pumps.

7 Q. So this situation was existing for some time
8 before the Mark V installation occurred?

9 A. The configuration of the pumps, yes, it
10 existed. But to interface out of two interface, one
11 interface was taken out by the installation of Mark V.

12 Q. Now, I think it was Mr. Svuba -- and it could
13 have been somebody else. You were not here yesterday, were
14 you --

15 A. No.

16 Q. -- for the hearing?

17 Someone characterized this as some kind of a
18 trap. Is the trap that -- as you understand his point here,
19 in taking together with your point --

20 MR. DUFFY: Objection. I don't think --

21 BY MR. CONRAD:

22 Q. -- is that --

23 JUDGE WOODRUFF: Wait for the objection.

24 What's your objection?

25 MR. CONRAD: I hadn't finished the question

1 yet.

2 MR. DUFFY: Well, we've established that
3 Mr. Kumar was not here yesterday. And then in Mr. Conrad's
4 question he's saying as you understand what Mr. Svuba was
5 saying. We haven't established that this witness understood
6 what Mr. Svuba said when this witness wasn't here yesterday.
7 So I object to the form of the question as assuming this
8 witness knows something that we haven't laid a foundation
9 that he knows.

10 MR. CONRAD: Well, perhaps I'm mistaken, your
11 Honor, but I was thinking in Mr. Svuba's pre-filed testimony
12 that the term "trap" had been used. And it certainly was
13 used yesterday, whether this man was here to hear it or not.
14 What I was going to ask him was simply whether he understood
15 what it was that they were talking about in the context of
16 his testimony that they would be characterizing as a trap.

17 JUDGE WOODRUFF: Okay. I'm going to overrule
18 the objection. You can go ahead and ask your question.

19 MR. CONRAD: I don't know if I can put it
20 together again.

21 JUDGE WOODRUFF: You can try.

22 BY MR. CONRAD:

23 Q. Understanding that you did not hear the
24 witnesses yesterday, Mr. Kumar, but looking, as you did, at
25 their pre-filed prepared testimony and I guess Mr. Modlin's

1 depo, I think, the material here at page 6 and 7 that you
2 and I have been discussing very briefly, I'm not clear how
3 that -- if it ties to their assertion that there was somehow
4 a trap that was created by -- and I understood it to be the
5 Mark V installation. Is that how you understand what
6 they're talking about here? State that please in terms of
7 your testimony so I can understand and the Commission can
8 understand what it is you're pinpointing here.

9 A. I read Mr. Svuba's testimony and the reference
10 to Mr. Modlin's deposition about Mr. Modlin's statement that
11 somehow the removal of Mark V created a trap for the
12 company. I don't understand why he used the word "trap."
13 It was a very simple situation.

14 Prior to Mark V, there were two interfaces
15 through which the operator -- company's operator could
16 initiate the control of these three pumps -- the DC pump
17 basically. One was the manual switch, which was, I think,
18 situated on a wall right in front of the operator. It was
19 visible to him. And there was a light indicator whether
20 that switch was in off position or auto position, and it was
21 an indicator to him.

22 And then there was DCS control, which is a
23 computer control -- simply speaking, a computer control
24 system which was installed in 1995. The manual control
25 interface was installed in 1960 when the plant was --

1 mid-60s, I think, when the plant was initially installed.

2 Then in 1995, the company added computerized

3 control. They call it distributor control system, which is

4 basically computer-based software system. And it also had a

5 mechanism through which the operator could initiate the

6 control of the DC pump. It also had three positions: On,

7 auto, and local. In that local means that you go to the

8 manual switch. So in a sense, if manual switch is in off,

9 it -- or is gone, that would be off.

10 So what happened -- Mark V had nothing to do

11 with the -- this interface later to the DC pump control.

12 They took out that manual switch and placed on that wall the

13 Mark V cabinet. And now the operator, who was relying on

14 this manual switch and manual indicator -- the physical

15 indicator to see in what position the DC pump was, whether

16 it was in on, off or auto position, and that was gone.

17 So logical thing would have been, look, you

18 know, we took away your switch, now you had to check through

19 the DCS. And DCS where it says local, it means off so you

20 have to put it in auto position.

21 The manual switch used to come to auto

22 position automatically because of spring, which did not

23 happen in the DCS system. And this was very simple thing.

24 Should have said, Look, this is what you have been using

25 since 1966 and that manual switch is gone.

1 And that should have been emphasized more when
2 you -- out of two pumps -- out of three pumps, two pumps
3 depended on getting power from the same source, so DCS was
4 the only back-up in real sense. So when you took away the
5 switch, you tell, Look, now you cannot rely, go to DCS, look
6 at the status.

7 And they might have found it when -- if they
8 had tested the pump -- which I believe they did not test
9 after May 24. And the pump was left in the off position and
10 the circuit control was left in the off position. And
11 unless you go to DCS, put in auto, the pump was not supposed
12 to start.

13 So it was not pump's failure or anybody's
14 failure, it's the operator -- or any mechanical failure.
15 It's the operator -- or the company, which did not tell the
16 operator what to do. And that created the problem. That's
17 the difference I'm discussing. And I don't think it's a
18 trap or created intentionally or unintentionally by anybody.

19 Q. Okay. One very small little area that kind of
20 ties to that. In your work, you know, these cases and
21 consulting things, have you run across -- I think the term
22 that I remember from yesterday is a Bailey DCS --

23 A. Yes.

24 Q. -- system?

25 You've seen the system before?

1 A. Yes, I have.

2 Q. And you mentioned it has this local setting?

3 A. Yeah. DC pump --

4 Q. Does the Bailey DCS also have a setting where

5 you could set that pump on auto?

6 A. Yes.

7 MR. CONRAD: Thank you. Thank you, Mr. Kumar.

8 Thank you, Judge.

9 JUDGE WOODRUFF: Staff?

10 MR. WILLIAMS: No questions.

11 JUDGE WOODRUFF: St. Joseph?

12 MR. DUFFY: No questions at this time.

13 JUDGE WOODRUFF: Questions from the Bench

14 then. Commissioner Schemenauer?

15 COMMISSIONER SCHEMENAUER: No questions, your

16 Honor.

17 JUDGE WOODRUFF: Commissioner Simmons?

18 COMMISSIONER SIMMONS: I have no questions,

19 your Honor.

20 QUESTIONS BY JUDGE WOODRUFF:

21 Q. I have some questions. You indicated that

22 when the manual switch was taken away, that they no longer

23 had multiple interfaces?

24 A. That's correct.

25 Q. Okay. Is it always good to have multiple

1 interfaces, or can that cause problems having more than one?

2 A. They should have multiple interface, but the
3 real problem was basically when you go to computerized, you
4 don't have to have -- nowadays basically you have mostly
5 software control or computer control switches. People are
6 getting rid of manual switches.

7 But when you are used to something manual, you
8 have to take, you know, real precaution to tell the
9 operator, Look, that is gone and you can -- you have to rely
10 on this thing, you have to check the status of control that
11 all the controls are in proper position, especially when the
12 company was relying on only one line of defense, DC pump.
13 And it was very obvious the switch is moved and operator
14 used to use it since 1966 or '65.

15 Q. Okay. Now, I think there was some testimony
16 yesterday that this local mode, I think it what they called
17 it, for the DC pump, would still work on the two AC pumps;
18 is that correct?

19 A. That's correct. An AC pump will -- there was
20 no such thing, as I understand, local. So whenever you put
21 it in off, it will go automatically to auto. But in case of
22 DCS -- because the company had a manual indicator or
23 interface, so local meant in that case that you look at the
24 manual, what position it is in. And when they moved it,
25 either they should have changed the logic or they should

1 have told the operator, Look, you check this thing and if it
2 is in local, put it in auto position.

3 Q. Okay. So local didn't really mean off, it
4 meant go back to this switch that's no longer there?

5 A. Yeah. And if there's nothing to go back to,
6 the logical thing is to get in the auto position.

7 Q. Now, what would have been the best way to
8 correct that? Would it have been to make sure that the
9 system no longer had a local setting or would it have been
10 to make sure the switch was still there?

11 A. Yeah. It -- either they should have made sure
12 there's no local position, change the logic.

13 Q. Okay. Would that be the responsibility of
14 St. Joseph Light & Power or would that be the responsibility
15 of GE that was installing this new control system?

16 A. I think it would be -- the buck doesn't stop,
17 in my opinion, with the contractor no matter what kind of
18 contractor you have. The utility has overall responsibility
19 of overseeing. That's why the contractor sent them -- GE
20 sent them drawings, so they'd review them and make sure what
21 they're doing is proper.

22 Q. Now, would it be reasonable for a utility
23 manager to be able to review the details of the plan or
24 would that be something that be beyond them?

25 A. It's not that detailed. You are taking away

1 something, so it's a very obvious thing. You're taking away
2 something. Let's say -- give you simple example. We may
3 have cars which are totally computer controlled, but we have
4 manual steering. And if I disconnect manual steering and I
5 don't tell the fellow, Look, it's disconnected and he's used
6 to driving with manual steering, if he comes and starts
7 engine, you can expect accident.

8 Q. Because you're driving down the road and the
9 steering wheel doesn't work?

10 A. Yeah. Auto -- manual, you know, pilot, if
11 auto pilot -- if I shut it off, it's not going to come on if
12 my manual pilot -- something wrong happens with it. So it's
13 very obvious, look, you are taking away switch. And GE
14 selected that in concurrence with the company. I'm not saying
15 GE does not have any fault. That part I'm not testifying
16 to.

17 But this position was so obvious that the
18 operator is used to doing something and he -- he thought
19 that, you know, same thing as in AC power switches. So
20 somebody should have told operator, no, this is -- now
21 situation has changed and you don't have that manual switch
22 you are used to. You have to look at DCS control and put
23 that in auto position or change the logic.

24 Q. Okay. So you're saying it really wasn't the
25 fault of the operators? It was somebody who should have

1 told the operators what had happened?

2 A. Yes. It was, I think, fault of his
3 supervisor, because as Mr. Modlin stated, operator did not
4 even know what local meant. And if he thought that -- he or
5 she thought that local means auto or whatever it is, I will
6 say it is his fault. He might have asked, if it was a smart
7 operator, Look, you took away my switch. I'm used to
8 looking at it every day. What am I supposed to do?

9 Q. Okay. Were there still manual switches there
10 for the two AC pumps?

11 A. I don't think there's any -- there's manual
12 switch to manually switch -- I believe, I think Modlin
13 stated that in case of failure, you can switch one of the
14 pumps to the auxiliary source manually. You can do that.
15 And that was done, in fact, after three minutes of -- three
16 minutes after the trip.

17 Q. Okay. Now, I think there's been some
18 testimony also yesterday that this incident -- once it
19 tripped, it was just a few seconds before this explosion
20 started. Would that be your understanding of how this would
21 work?

22 A. I'm sorry. I missed the question.

23 Q. Okay. I believe there was some testimony
24 yesterday that once the trip of the generator occurred, that
25 it would only be a matter of seconds before the bearings

1 would start to burn up, that the explosion started
2 occurring. Would that be your understanding of how the
3 event would happen?

4 A. Yes. Generally, you know, it could very --
5 it's pretty fast because of the friction at that speed is
6 pretty high and if you lose the lubrication, it does not
7 take long --

8 Q. Okay.

9 A. -- for overheating.

10 Q. So there really wouldn't be time to say, Oops,
11 the DC pump isn't working, I better go flip that switch.
12 That's not possible. Is that what you're saying?

13 A. Again, you know, I -- generally it's not -- I
14 would not rely on just that time -- like I have time. It
15 should have been put in the auto position to start with.

16 JUDGE WOODRUFF: Okay. That's all the
17 questions I have then.

18 Recross beginning with AGP?

19 MR. CONRAD: I don't have anything further,
20 your Honor. Thank you.

21 JUDGE WOODRUFF: Staff?

22 MR. WILLIAMS: Yes, Judge.

23 RECROSS-EXAMINATION BY MR. WILLIAMS:

24 Q. Mr. Kumar, in response to questions from the
25 Bench, you indicated that there was a difference in the

1 control positions for the AC pumps and the DC pumps and the
2 Bailey DCS system. Do you recall that?

3 A. Yes, I do.

4 Q. You've also previously indicated you're
5 familiar with Bailey DCS systems?

6 A. Yes. To some extent, yes.

7 Q. Do you know if those differences in the
8 control positions were something that the manufacturer would
9 have done or would that have taken place later?

10 A. I don't know exactly if it was done later, but
11 my understanding is the difference in logic -- DCS logic was
12 what we call fail-safe. If you switch it and put it on off
13 position, it will automatically come to auto. Same logic
14 was not used in case of DC pump, and I don't know the reason
15 why it was not done so. Generally you design things for
16 fail-safe operation whether manual or automatic or through
17 computer.

18 MR. WILLIAMS: No further questions.

19 JUDGE WOODRUFF: St. Joseph?

20 RE-CROSS-EXAMINATION BY MR. DUFFY:

21 Q. Mr. Kumar, you made a statement that the buck
22 shouldn't stop with the contractor. Have you ever taken
23 your car to the dealership and had them work on it?

24 A. Unfortunately, yes, I have.

25 Q. Have you ever hired a contractor to build a

1 house for you?

2 A. Yes, I have.

3 Q. Have you ever taken an appliance to have it
4 worked on or had a repairman come to your house to work on
5 an appliance?

6 A. Yes.

7 Q. You rely upon those people to know what
8 they're doing when they build something for you or repair
9 something of yours?

10 A. I rely on and I check that they are doing
11 their job properly. I don't wait until things fall --
12 actually I'm asking somebody to put my new roof on and if I
13 see the work is not being done properly, I don't wait until
14 the roof falls down.

15 Q. So you stand by the mechanic at the garage and
16 watch what he does when he works on your engine and comment
17 on whether he's doing it properly or not?

18 A. I may not stand by all the time, but if it
19 does not work properly, if I guess -- sense it, I go in
20 immediately. I don't wait for the accident to happen.

21 Q. If you did find something wrong, you say that
22 you would -- you try to correct that and you want to make
23 that person -- that contractor fix the problem if they've
24 created it and you found it. Correct?

25 A. Here -- first of all, I don't know what the

1 contractor --

2 Q. Do you want to answer my question?

3 A. Yeah. I'm sorry. I will answer. Can I have

4 the question back?

5 Q. When you said that, for example, if you saw

6 somebody fixing your roof and they were doing it

7 incorrectly, you bring that to their attention and you

8 expect them to be responsible for fixing the problem that

9 they created, don't you?

10 A. Yes. And if they -- let's say if they remove

11 the switch off my --

12 MR. DUFFY: That's all I have. Thank you.

13 THE WITNESS: -- the light switch --

14 JUDGE WOODRUFF: I'm sorry.

15 THE WITNESS: I was talk--

16 JUDGE WOODRUFF: There's no other question for

17 you.

18 THE WITNESS: I'm sorry.

19 JUDGE WOODRUFF: Thank you.

20 Any redirect?

21 MR. MICHEEL: Yes, your Honor.

22 REDIRECT EXAMINATION BY MR. MICHEEL:

23 Q. Mr. Kumar, Mr. Duffy just gave you some

24 hypothetical examples. Do you recall those questions?

25 A. Yes, I do.

1 Q. Let me give you a hypothetical. If you take
2 your car to the car shop to have it fixed and your car when
3 it went in had a manual switch to control starting the car
4 and it also had an automatic switch to control starting the
5 car or a computer switch starting the car, and you got your
6 car back and you recognized that the car repair shop had
7 removed the manual switch for starting your car, would you
8 question the car shop as to why the manual switch was
9 removed and what ramifications there were for removing that
10 manual switch?

11 A. I would do that as soon as I entered the car.
12 I look at it -- especially if I have been using all my life
13 manual switch, I will first notice that right away and
14 ask, You removed it. Yes, it's obvious it's removed. What
15 implications does it have, what I need to do to drive the
16 car safely?

17 Q. And why would you ask if -- for example, you
18 had had a manual switch and automatic switch and you'd been
19 relying on the manual switch, why would you ask what are the
20 implications of removing the manual switch?

21 A. If I don't ask, I know I will end up in an
22 accident. So I will want to find out that, Look, you have
23 removed the manual switch I was relying on. And even if
24 automatic switch would have been there all along, I would
25 ask now what I do, what are the problem, how should I

1 operate the car without manual switch, and what precautions
2 should I take?

3 Q. And is that the same standards that you're
4 raising in this proceeding with respect to the removal of
5 the manual pistol grip switch?

6 A. Yes, sir. That's what I called in my
7 testimony good utility practice, which involved good
8 management practices also.

9 Q. And do you know whether or not St. Joseph
10 Light & Power inquired of GE what the ramifications were of
11 the removal of the manual pistol grip switch?

12 A. The company did not. In fact, Mr. Modlin
13 stated that they did not raise that question at all.

14 Q. Do you have an opinion based on your expert --
15 let me ask you this: Have you been involved in installing
16 DCS systems in generators?

17 MR. DUFFY: I think we're going beyond the
18 scope of the questions that preceded this.

19 JUDGE WOODRUFF: Sustained.

20 BY MR. MICHEEL:

21 Q. Let me ask you this, Mr. Kumar. Do you have
22 an opinion about whether or not it would be good utility
23 practice to ask why the manual switch was removed and what
24 ramifications there were for removing that manual switch?

25 MR. DUFFY: Same objection.

1 MR. MICHEEL: Mr. Conrad asked him numerous
2 questions about the DC switch. Mr. Duffy asked my client --
3 or my witness numerous hypotheticals, and that's what this
4 question is based on.

5 JUDGE WOODRUFF: Do you have a response?

6 MR. DUFFY: I didn't ask him about anything
7 involving the switch. I asked him some hypotheticals.

8 MR. MICHEEL: Mr. Conrad certainly asked him
9 about removal of the manual pistol grip switch.

10 JUDGE WOODRUFF: I'll overrule the objection.
11 You can answer the question.

12 THE WITNESS: I don't know whether I've been
13 involved exactly in a similar situation, but I have been
14 involved with manual switches have been replaced by computer
15 control systems. And when it is done, as a product engineer
16 that I have been, I want to make sure that everybody
17 understands how to operate the automatic system in the
18 absence of manual system.

19 BY MR. MICHEEL:

20 Q. I believe that Judge Woodruff asked you some
21 questions about how long it would take after the unit
22 tripped off line for the unit to start to overheat. Do you
23 recall those questions?

24 A. Yes, I do.

25 Q. Do you think if the operator had known how to

1 manipulate the DCS screen, that operator could have turned
2 on the DC oil pump?

3 A. The operator could have turned -- yeah, turned
4 on the switch and which could have started the pump. That's
5 possible. And then we don't know, you know, what time the
6 operator would have reacted and how much damage it would
7 have taken at that stage.

8 Q. Mr. Conrad asked you some questions about the
9 DCS control screen. Do you recall those questions?

10 A. Yes.

11 Q. And is that screen -- I'm trying to understand
12 what that screen is like. Is that like an interactive touch
13 television screen?

14 A. Yes. I believe there are three consoles which
15 have few screens. And it's just like -- to give you
16 example, simple copying machine. Instruction comes and you
17 press the -- whatever instructions you want. Or in case of
18 computer, you have like -- similar thing like mouse. You
19 click it, bring it to the right place and click it. Here
20 you click it with your finger.

21 Q. Also, in response -- Judge Woodruff asked you
22 about operator training. Do you remember those questions?

23 A. Yes.

24 Q. Do you have an opinion about whether or not
25 the St. Joe Light & Power operators were properly trained

1 with respect to knowledge about what local meant once the
2 manual pistol grip control switches were removed?

3 A. I've not seen anything in the record that any
4 operator was told what local meant. In fact, Mr. Modlin
5 stated that operator did not know what local meant.

6 Q. And do you have an opinion whether or not
7 somebody at St. Joe should have informed those operators
8 what local meant now that the manual pistol grip control
9 pump switch was removed?

10 A. No. I don't recall anybody saying -- any
11 document I've seen which tells me that operator was told
12 what local meant.

13 Q. Do you have an opinion about whether the
14 operator should have been told what local meant with the
15 removal of the manual pistol grip switch?

16 A. That's the first thing that should have been
17 done after the manual switch was removed.

18 MR. MICHEEL: Thank you, Mr. Kumar. That's
19 all I have.

20 JUDGE WOODRUFF: You may step down.

21 THE WITNESS: Thank you.

22 JUDGE WOODRUFF: Thank you.

23 Anything else from Public Counsel?

24 MR. MICHEEL: No, your Honor. That ends our
25 evidence in this proceeding at this time.

1 JUDGE WOODRUFF: Thank you. We'll move over
2 to Staff then.

3 MR. WILLIAMS: Staff calls V. William Harris.
4 (Witness sworn.)

5 V. WILLIAM HARRIS testified as follows:
6 DIRECT EXAMINATION BY MR. WILLIAMS:

7 Q. Please state your name.

8 JUDGE WOODRUFF: We'll wait for Mr. Duffy to
9 come back.

10 MR. WILLIAMS: Oh, sorry.

11 JUDGE WOODRUFF: All right. Now, you may
12 inquire.

13 BY MR. WILLIAMS:

14 Q. Please state your name.

15 A. My name is V. William Harris.

16 Q. Who's your employer?

17 A. Missouri Public Service Commission.

18 Q. Have you caused to be filed in this case what
19 have been marked as Exhibit No. 10, rebuttal testimony of
20 V. William Harris; and Exhibit No. 11, revised rebuttal
21 testimony of V. William Harris?

22 A. Yes, I have.

23 Q. And are there both NP and HC versions of those
24 exhibits?

25 A. Yes, there are.

1 Q. Does the second exhibit contain revisions --
2 or does Exhibit No. 11 contain revisions to what have been
3 filed as Exhibit No. 10?
4 A. Yes.
5 Q. Are additions shown in red in the Exhibit
6 No. 11?
7 A. Yes, they are.
8 Q. And are deletions shown in red strike-through?
9 A. Yes.
10 Q. Do you have any additional revisions or
11 corrections to make to either Exhibit No. 10 or Exhibit
12 No. 11?
13 A. Yes, I do. Three very minor ones. On
14 page 5 --
15 MR. DUFFY: Which one, please?
16 THE WITNESS: This can be 11. Let me -- let
17 me understand again that 11 is the red-lined version of the
18 HC.
19 BY MR. WILLIAMS:
20 Q. That's correct.
21 A. Okay. Page 5, line 10 the word "only" should
22 be "primary," Commission's primary requirement. Line -- or
23 page 7, line 8, the word "authorize" should be "current."
24 And line 27 -- 28 -- I'll get there eventually -- line 29 --
25 Q. Are you talking about page 29?

1 A. Page 29, yes, line 5 because of some of the
2 changes that were made, that reference there should read,
3 Page 7, lines 20 through page 8 and continuing on line 6
4 through page 8, line 1.

5 MR. DUFFY: Could you give me that last one
6 again, please?

7 THE WITNESS: Certainly. It should read,
8 Page 7, line 20 through page 8, line 1.

9 MR. DUFFY: Thank you.

10 BY MR. WILLIAMS:

11 Q. Do you have any further revisions?

12 A. No, I do not.

13 Q. If I asked you the questions that are set
14 forth in Exhibit No. 11 and Exhibit No. 10 as they've been
15 revised in Exhibit No. 11, together with the further
16 revisions you've made here today, would your answers be the
17 same or similar as the answers that are shown in Exhibit
18 No. 11?

19 A. Yes, they would.

20 MR. WILLIAMS: I offer Exhibit Nos. 11 and 10.

21 JUDGE WOODRUFF: 10-NP and 10-HC and 11-NP and
22 11-HC have been offered into evidence. Are there any
23 objections to their receipt?

24 Hearing none, they will be received into
25 evidence.

1 (EXHIBIT NOS. 10-NP, 10-HC, 11-NP AND 11-HC
2 WERE RECEIVED INTO EVIDENCE.)

3 MR. WILLIAMS: Tender the witness for
4 examination.

5 JUDGE WOODRUFF: Thank you. And for
6 cross-examination we will again begin with AGP.

7 MR. CONRAD: Thank you, your Honor.

8 CROSS-EXAMINATION BY MR. CONRAD:

9 Q. Mr. Harris, I just have about, I think, two
10 areas. And one of them ties to the change that I believe
11 you made on page 5 at line 10 where you took -- if I
12 understood your change, you took out the word "only" and
13 substituted in lieu thereof the word "primary." Did I track
14 your change?

15 A. Yes. That's correct.

16 Q. Help me understand what the reason for the
17 change was. I mean, was that a typo, or did you change your
18 view of the Commission's requirements or --

19 A. Okay. The -- as witness with -- if you'll
20 read the rest of the answer, the Commission has had more
21 than just that only -- that was not the only requirement
22 that the Commission has had.

23 It's the primary requirement that the
24 Commission has virtually had in every AAO application, has
25 been consistent throughout the various applications, but

1 it's certainly not the only one.

2 As I stated later in that answer, there have
3 been -- specific to certain cases there have been other
4 requirements, such as the amortization period or specifying
5 the future date for filing of a rate case.

6 And then also up above there was also some
7 reference made to amortization periods being ordered in
8 specific cases. In this case the two previous St. Joseph
9 cases that we've referred to variously. So it's rather
10 obvious that it's not the only requirement. It's only been
11 the primary consistent one case in and case out in virtually
12 all cases.

13 Q. So it's really just a change more of the
14 wording than in your understanding of the -- not some
15 epiphany that you've had during this case --

16 A. True.

17 Q. -- that convinced you to change it?

18 A. Nothing has changed.

19 Q. Okay. Now, the larger issue, I guess, here is
20 my client's position, Mr. Harris, was that we have been -- I
21 won't say we're experts in it, but we at least have been
22 comfortable with the standards that the Commission has used
23 in the past for AAOs. And there's been some discussion, I
24 think by witnesses for the company primarily.

25 I had read your proposed change to be

1 something that I guess I didn't understand and was concerned
2 about, because part of it I didn't understand. Do you see
3 the change that you're proposing here that I believe starts
4 at page 6 and goes on? Is that, in your mind, a loosening
5 or a tightening of the standards?

6 A. Well, I -- I look at it as an expanding and a
7 further clarification or more -- I guess in a sense maybe
8 more tightly defining or more precisely defining certain
9 criteria that's already existed or at least been addressed
10 in prior cases with the exception of the second -- well,
11 actually -- actually all four have been addressed in prior
12 cases at some point in time.

13 Q. Well, I noticed on page 6, at least on my
14 version, line 19, there's a specific reference to USOA
15 Account 182.3. And you'd agree with me that that's not the
16 only USOA account that a utility could defer something
17 pursuant to an AAO?

18 A. Yes, I would.

19 Q. So at least in that regard, that's kind of
20 specific for this case? And I'm not sure I'm understanding
21 how your proposed standard here would be more broadly
22 applied by the Commission if they chose to adopt it.

23 A. Okay. Well --

24 Q. You're focusing on 182.3, but --

25 A. Uh-huh.

1 Q. -- there are other accounts that could be
2 applicable. Right?

3 A. Yes. There are other accounts that could be
4 applicable. The reason I chose 182.3 was because a few
5 years ago -- I'd have to reference the exact year, probably
6 1994 maybe -- that 182.3 and, conversely, 254, which is the
7 regulatory liability account as opposed -- this is a
8 regulatory asset account.

9 They were established with the idea that some
10 of the traditional accounts, most -- most specifically 186,
11 were generally for all deferrals. And it was -- it was to
12 give a more precise or special, I guess, account for those
13 deferrals that were, you know, actions of regulatory
14 agencies. So that's why I specifically chose 182.3.

15 Q. Now, does the 5 percent test come out of
16 182.3, or is that out of 186 generally?

17 A. I would have to review to be absolutely sure.
18 It did originally -- well, actually you're referring to the
19 5 percent?

20 Q. Yeah. at least again on my version, sir, it's
21 page 6, line 15.

22 A. Okay. Once again, if you'll refer further
23 down on page 6 to part -- or to line 20, that requirement is
24 actually in the seventh general instruction extraordinary
25 items, subchapter C, part 101 of the Code of Federal

1 Regulations, Title 18. The accounts 182.3 and 186
2 themselves only define what specific items are to be
3 included in those accounts.

4 Q. So that --

5 A. Generally that's their purpose.

6 Q. Now, would you agree with me that the
7 Commission has not previously had what I would characterize
8 as a bright line test of 5 percent? You know, 4 percent is
9 no good, 6 percent is and the break point is 5? They have
10 not had that kind of test before; is that correct?

11 A. That's correct.

12 Q. Would you agree with me that asking them to
13 adopt a 5 percent, or for that matter a 4 percent or a
14 6 percent, any particular percentage, in effect, reduces
15 their discretion?

16 A. Yes, I would.

17 MR. CONRAD: Okay. Thank you. That's all.

18 JUDGE WOODRUFF: Public Counsel?

19 CROSS-EXAMINATION BY MR. MICHEEL:

20 Q. Following up on what Mr. Conrad said, have you
21 reviewed the Missouri Public Service AAO Case EO-91-358 and
22 EO-91-360?

23 A. Yes, I have. I'll refer to that case several
24 times in my testimony.

25 Q. And is it correct in that case with regard to

1 general instruction No. 7 that the 5 percent level -- the
2 Commission stated at page 206, This 5 percent standard is,
3 thus, relevant to materiality and whether the event is
4 extraordinary, but is not case dispositive?

5 A. I can't comment on the specific page number.
6 That is the comment that was -- the statement that's
7 recorded in there.

8 Q. And you would agree with me that in the past
9 the Commission has indeed allowed deferrals -- AAO deferrals
10 to Uniform System of Account No. 186; is that correct?

11 A. Yes.

12 Q. And my final question is, what does the V.
13 stand for?

14 A. Oh, Virgil. I was named after my grandfather.
15 His middle name was John Virgil and he went by John, and I
16 go by -- it's confusing, but anyway.

17 MR. MICHEEL: Thank you very much.

18 JUDGE WOODRUFF: St. Joseph?

19 MR. DUFFY: I'm sure glad we got that cleared
20 up. No questions.

21 THE WITNESS: Burning question, I'm sure.

22 JUDGE WOODRUFF: Questions from the Bench.
23 Commissioner Schemenauer?

24 COMMISSIONER SCHEMENAUER: No questions, your
25 Honor.

1 JUDGE WOODRUFF: Commission Simmons?
2 COMMISSIONER SIMMONS: I have no questions,
3 your Honor.
4 JUDGE WOODRUFF: I have no questions. No
5 recross. Any redirect?
6 MR. WILLIAMS: Yes.
7 REDIRECT EXAMINATION BY MR. WILLIAMS:
8 Q. Mr. Harris, is it your understanding that the
9 criteria for the Accounting Authority Orders you have
10 recommended in your testimony should be applicable both if
11 the deferral is proposed to be booked to Account 182.3 or to
12 some other account?
13 A. Yes.
14 MR. WILLIAMS: No further questions.
15 JUDGE WOODRUFF: Thank you. You may step
16 down.
17 Next witness?
18 MR. WILLIAMS: Staff calls Tom Y. Lin.
19 (Witness sworn.)
20 JUDGE WOODRUFF: You may inquire.
21 TOM Y. LIN testified as follows:
22 DIRECT EXAMINATION BY MR. WILLIAMS:
23 Q. Please state your name.
24 A. Tom Y. Lin.
25 Q. And who is your employer?

1 A. Missouri Public Service Commission.

2 Q. Have you caused to be filed in this case what

3 has been marked as Exhibit No. 13, rebuttal testimony of Tom

4 Y. Lin?

5 A. Yes.

6 Q. Do you have any revisions or corrections to

7 that exhibit?

8 A. No, I don't.

9 Q. If I ask you the questions that are set forth

10 in that exhibit, would your answers be substantially the

11 same as they're shown in that exhibit?

12 A. Yes.

13 MR. WILLIAMS: I offer Exhibit No. 13, both

14 the non-proprietary and HC versions.

15 JUDGE WOODRUFF: 13-HC and 13-NP have been

16 offered into evidence. Are there any objections to their

17 receipt?

18 Hearing none, they will be received into

19 evidence.

20 (EXHIBIT NOS. 13-NP AND 13-HC WERE RECEIVED

21 INTO EVIDENCE.)

22 MR. WILLIAMS: Tender the witness for

23 examination.

24 JUDGE WOODRUFF: Okay. Cross-examination

25 beginning with AGP?

1 MR. CONRAD: No questions, your Honor. Thank
2 you.
3 JUDGE WOODRUFF: Public Counsel?
4 MR. MICHEEL: No.
5 JUDGE WOODRUFF: St. Joseph?
6 MR. DUFFY: No questions.
7 JUDGE WOODRUFF: Okay. Coming up to the
8 Bench, Commissioner Schemenauer?
9 QUESTIONS BY COMMISSIONER SCHEMENAUER:
10 Q. Good af-- I guess it's still morning. Good
11 morning, Mr. Lin.
12 A. Morning.
13 Q. I wanted to ask you specifically, you use the
14 production cost model simulation to calculate the
15 incremental cost --
16 A. Yes.
17 Q. -- replacement fuel cost and purchased power
18 cost --
19 A. Yes.
20 Q. -- correct?
21 And you came out with about the same or
22 relatively close to the same amount that the company came
23 out with?
24 A. Right.
25 Q. Now, Mr. Trippensee had a figure 286,000 to

1 318,000 for unscheduled power outages. And in your
2 production cost model you took those into account -- I mean,
3 the simulation you ran you took that into account?

4 A. I think my model for the forced outage rate --
5 outage hour is three -- six hours. And I input the forced
6 outage rate is 3.5. And I -- how I calculate in the forced
7 outage rate is same way as what I'm doing was in 1990 rate
8 case.

9 We throw out the -- we consider five --
10 previous five years forced outage hour and threw out the
11 highest and lowest and using the three years average. The
12 company also using the same methods.

13 I think Trippensee calculated forced outage on
14 one reason different with me is in the model run basically
15 only two months period, from June 7 to August 8. And he
16 using this outage hour as three months period, as June, July
17 and August. So then have some difference.

18 Another thing I was finding is when you
19 calculate forced outage based on his methods, he considered
20 five years average. His -- his is some -- this is good.
21 But we need to recognize one thing. From 1997, St. Joseph
22 switch coal from Western Coal to -- from Local Coal to
23 Western Coal brand. So the forced outage hours go down.

24 THE COURT REPORTER: I'm sorry?

25 THE WITNESS: Forced outage hour is decreased.

1 You can see 1999 only one hours in this time period.

2 BY COMMISSIONER SCHEMENAUER:

3 Q. Okay. So you would stand by the figure that

4 you quote on the last page of your testimony, page 12,

5 line 18? If the Commission grants an AAO to St. Joseph

6 Light & Power, it should be no more than 3.4 million?

7 A. Yes.

8 Q. And the company's adjusted amount they're

9 asking for now is 3.3 million?

10 A. Oh, I -- I think this adjustment is different

11 with my number. I have issue being with testimony on

12 company's number. What my number get -- I have no clue

13 what the nature of this --

14 THE COURT REPORTER: I'm sorry?

15 THE WITNESS: I don't -- I don't know how they

16 got this number, 3.3. I know they have other adjustment on

17 there. But my number is just incremental replaced fuel and

18 purchased power cost. It's based on their response to my

19 DR-41-- 412, I think.

20 BY COMMISSIONER SCHEMENAUER:

21 Q. Okay. So your figure didn't -- the company

22 adjusted their figure because of some insurance proceeds

23 recovery?

24 A. I think, yes.

25 Q. It went from 3.7 down to whatever it is now?

1 A. 3.3, I think.

2 Q. Yeah. And I guess what I'm trying to

3 determine is your 3.4 figure is the top that you would say

4 that the AAO should be if it were granted even with the

5 insurance proceeds off?

6 A. No. I think my figure only consider

7 incremental replace-- replacement fuel and purchased power.

8 Q. Okay. So the incremental and purchased power

9 are the only two things that are in this 3.4 million?

10 A. Yes.

11 COMMISSIONER SCHEMENAUER: Okay. I think I've

12 got everything. Thank you.

13 JUDGE WOODRUFF: Thank you.

14 Recross then, AGP?

15 MR. CONRAD: No, sir.

16 JUDGE WOODRUFF: Public Counsel?

17 RECROSS-EXAMINATION BY MR. MICHEEL:

18 Q. Mr. Lin, I think in response to one of

19 Commissioner Schemenauer's questions you indicated that

20 there had only been one forced outage hour in --

21 A. 1999.

22 Q. -- the year 2000?

23 A. No, 1999.

24 Q. So it's your testimony that Unit 4/6 had only

25 one forced outage hour in 1999?

1 A. No. For June to August, three-month period.

2 Q. So it's your testimony that in June through

3 August of 1999 Unit 4/6 only had one hour of forced outage?

4 A. Yeah. Based on company's data, I think, yes.

5 MR. MICHEEL: Thank you.

6 St. Joseph?

7 MR. DUFFY: No questions.

8 JUDGE WOODRUFF: Any redirect?

9 MR. WILLIAMS: Yes.

10 REDIRECT EXAMINATION BY MR. WILLIAMS:

11 Q. Mr. Lin, does the number that you have on, I

12 believe it's page 12 of your testimony, the 3.460,633

13 include an amount for an insurance deductible cost?

14 A. No.

15 Q. Would that possibly explain the difference

16 between your number and the company's number?

17 A. I think, yes.

18 Q. Additionally, are you recommending to the

19 Commission that it grant an AAO to St. Joseph Light & Power

20 of -- if it grants an AAO to St. Joseph Light & Power

21 Company, that it be 3.460,633, or are you recommending that

22 it not be more than that amount?

23 A. Not be more than this amount for incremental

24 replaced fuel and purchased power cost.

25 MR. WILLIAMS: No further questions.

1 JUDGE WOODRUFF: All right. You may step down
2 then, Mr. Lin.
3 Anything else from Staff?
4 MR. WILLIAMS: No, your Honor.
5 JUDGE WOODRUFF: In looking at my schedule of
6 exhibits, I see the pump logic drawing, 14-HC, has not been
7 offered.
8 MR. WILLIAMS: And it will not be.
9 JUDGE WOODRUFF: It will not be.
10 Okay. Any other matters anyone wants to bring
11 up?
12 Let's go off the record for a moment.
13 (A RECESS WAS TAKEN.)
14 JUDGE WOODRUFF: We're back on the record.
15 While we were off the record, we had a discussion about the
16 expedited treatment of the transcript. It was agreed that
17 the transcription will be expedited and it will be due next
18 Thursday, which I believe is November 2nd.
19 And anything else anyone wants to bring up
20 before we conclude?
21 Hearing nothing, then this hearing is
22 adjourned.
23 WHEREUPON, the hearing was adjourned.
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