STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

HEARING
April 29, 1999
Jefferson City, Missouri
Volume 3

In the Matter of the Investigation)
into the Class Cost of Service and)Case No. EO-96-15
Rate Design for Union Electric)
Company)

BEFORE:

SHELLY A. REGISTER, Presiding,
REGULATORY LAW JUDGE.
SHEILA LUMPE, Chair,
HAROLD CRUMPTON,
CONNIE MURRAY,
ROBERT G. SCHEMENAUER,
M. DIANNE DRAINER, Vice-Chair
COMMISSIONERS.

REPORTED BY:

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P R O C E E D I N G S

(Written Entries of Appearance filed.)

JUDGE REGISTER: We're reconvening the hearing in Case No. EO-96-15 in the matter of the investigation into the class cost of service and rate design for Union Electric Company.

I'm Judge Shelly Register.

I suppose we ought to go ahead and take -- since we're actually at a new hearing date, take entries this morning -- or this afternoon.

Mr. Cook, would you like to begin?

MR. COOK: Certainly. James J. Cook, Post Office Box 66149, St. Louis, Missouri, 63166, appearing on behalf of Ameren and Ameren UE and Union Electric Company.

JUDGE REGISTER: Thank you.

Mr. Krueger?

MR. KRUEGER: Keith R. Krueger and Dennis L. Frey, for the Staff of the Missouri Public Service Commission. Our address is P.O. Box 360, Jefferson City, Missouri, 65102.

JUDGE REGISTER: Mr. Coffman?

MR. COFFMAN: John B. Coffman, on behalf of the Office of the Public Counsel, P.O. Box 7800, Jefferson City, Missouri, 65102.

JUDGE REGISTER: Mr. Byrne?

MR. BYRNE: Thomas M. Byrne, appearing on behalf of Laclede Gas Company, 720 Olive Street, St. Louis, Missouri, 63101.

JUDGE REGISTER: Ms. Schmidt, do you want to enter your appearance?

MS. SCHMIDT: Diane Schmidt, Brian Cave LLP, 211 North Broadway, St. Louis, Missouri, 63102, appearing on behalf of Missouri Industrial Energy Consumers.

JUDGE REGISTER: Mr. Molteni?

MR. MOLTENI: Ronald Molteni, Office of the Attorney General, P.O. Box 899, Jefferson City, Missouri, 65102, appearing on behalf of the State of Missouri.

JUDGE REGISTER: Okay. And for the record, I spoke to Mr. Johnson by telephone, and he asked to be excused this morning. He didn't think that he needed to be here for this remaining procedure for the hearing today. And I believe Mr. Overfelt -- I'm sorry.

Dallas, go ahead.

MS. FORREST: Dallas M. Forrest, of the law firm Goller, Gardner & Feather, 131 East High Street, Jefferson City, Missouri, 65101, appearing on behalf of the Retirement Facilities Coalition.

JUDGE REGISTER: Thank you, Ms. Forrest.

Anybody else here?

(No response.)

JUDGE REGISTER: Missouri Retailers' Association, Sam Overfelt, I think told me he didn't think he would be returning for today's hearing either.

And Robert Fulton, who told us the other day that -- Ms. Schmidt, you got his authority this morning.

Mr. Stuart is not here.

MR. MOLTENI: Your Honor, the State of Missouri would ask to be excused. We don't have any questions for any of the witnesses that will testify today.

I would like to reserve the right to file any post-hearing briefs that might result from this hearing.

JUDGE REGISTER: Parties, any objection to Mr. Molteni leaving?

(No response.)

JUDGE REGISTER: We have no objection. That's fine --

MR. MOLTENI: Thank you.

JUDGE REGISTER: -- Mr. Molteni. In case the parties need to get ahold of you, they know where to reach you; is that right?

MR. MOLTENI: Absolutely.

JUDGE REGISTER: Thank you.

All right. Are we ready to go on the record this morning, or --

MR. KRUEGER: Your Honor, I would like to go off the record to discuss a couple of things I think we might resolve more readily off the record.

JUDGE REGISTER: Go ahead and go off the record, Kristal, please.

(A discussion off the record.)

JUDGE REGISTER: We're ready for the opening statements. We spoke when we were off the record that because the issues remaining are Laclede's issues that Mr. Byrne would begin our opening statements.

MR. BYRNE: Thank you, your Honor.

May it please the Commission? My name is Tom Byrne, and I'm representing Laclede Gas Company in this proceeding.

As you may know, all of the other parties to this proceeding besides Laclede are in the process of entering into a stipulation resolving all of the class cost of service issues and all of the rate design issues in this case.

Laclede has no objection to the stipulation's treatment of all of the class cost of service issues and a majority of the rate design issues. However, we do have problems with the two discrete rate design issues which we are prepared to address in the hearing today.

The first of these issues is UE's seasonal rate differential for its residential class. This issue arises because UE's residential rates are differentiated between a four-month summer season and an eight-month winter season. UE's summer rates have a single usage charge, whereas UE's winter rates have a two-step usage charge.

UE's usage charge for the summer period is its highest usage rate. The usage charge for UE's first block of winter usage, which runs up to 750 kilowatt hours, is the second highest usage rate, and the usage rate for the tail block of winter usage, which is above 750 kilowatt hours, is the lowest usage charge. The seasonal differential is a percentage which expresses the relationship between the summer usage rate and the winter tail block usage rate.

For over a decade Laclede has argued that this seasonal rate differential is too high. In other words, UE's summer usage rate is too high in comparison to the winter tail block usage rate.

We believe that UE has an incentive to design its rates in this way because residential customers really have no alternative to using electricity to run their air conditioners, appliances, and lights during the summer.

Similarly, non-space heating customers whose consumption is generally limited to the first block of winter usage have no realistic alternatives to using electricity for their appliances and lights in the winter.

But electric space heating customers whose usage typically extends into the tail block of the winter usage have access to a number of alternative fuels, including natural gas which can be used to heat their homes. UE has designed its rates to afford it an unfair advantage in competing with those alternative fuels for space heating loads.

In the last proceeding in which UE's rate design was litigated, the 1985 Callaway rate proceeding, the Commission recognized this problem and ordered UE to bring its seasonal rate differential down to 75 percent over an eight-year phase-in period. However, due to subsequent rate case settlements, this phase-in was never fully materialized. In UE's current rates, the seasonal rate differential has grown to approximately 109 percent, and in this proceeding, UE originally proposed to increase it even further to 161 percent.

If this proposal had been implemented, UE's customers would have seen an 12.2 percent increase in their summertime usage rates, and a 10.5 percent decrease in the winter tail block usage rates, even though the residential class is unaffected overall.

Laclede believes that UE's strategy of maintaining a high seasonal differential is clearly contrary to the interests of UE's summer customers who are captive to UE's system, and it is anti-competitive with respect to the subsidized rates which apply to UE's winter space heating customers. Moreover, it is inconsistent with the evidence concerning UE's costs which Laclede is presenting in this case.

Consequently, Laclede requests that the Commission order UE to design its rates, its residential rates, so that the seasonal rate differential is reduced to 75 percent in accordance with the Commission's treatment of this issue the last time it was litigated.

Laclede is sponsoring two witnesses on this issue. Mike Cline, Laclede's manager of tariff and rate administration, will provide the policy justification for our position on this issue. And Neal Suess, a consultant, will provide evidence of the cost support for Laclede's position on this issue.

The second issue that Laclede is addressing in this proceeding relates to UE's Rider E. Rider E is a rate schedule that applies to customers who co-generate and use UE's electric service as a backup or to supplement the customer's own generation.

Laclede believes that UE has designed Rider E so that it provides strong disincentives for customers to co-generate. UE accomplishes this by unreasonably limiting the customers who are eligible to take service under Rider E and by charging customers unreasonably high minimum charges which apply whether the customer actually takes service from UE during a particular month or not.

In this proceeding UE originally proposed to amend Rider E to increase the minimum charges even further. Although UE has now agreed to withdraw its proposed changes to Rider E as part of a settlement, Laclede requests that the Commission establish a separate proceeding to comprehensively examine the problems with UE's existing Rider E and to assure the

Commission and the parties that it is not creating uneconomic or unreasonable barriers to co-generate. Mr. Suess will be Laclede's witness who addresses this issue.

Thank you very much.

JUDGE REGISTER: UE is next.

MR. COOK: Thank you, your Honor.

My name is Jim Cook, and I am representing Union Electric Company in this case.

And, frankly, I'm hesitant about starting because I am -- I am -- it's been awhile since I made an opening statement here, and I had forgot that apparently it's closing arguments instead of opening statement.

I'm, frankly, offended at the very clear implications that Union Electric has a strategy to do various things, that it has a strategy to take advantage of its customers in the summer to help its winter load, that it has a strategy to give disincentive to co-generation. Mr. Byrne just barely made mention once or twice that the Company's position might actually have something to do with cost.

Union Electric, frankly, prefers to compete in the marketplace and not in the Commission, and I wish we could keep it that way.

Union Electric's position in this case is cost-based and our proposal is cost-based, but as part of the settlement we've agreed that the seasonal differential in the new rates will remain at the current level.

What Mr. Byrne and Laclede have asked this Commission to do is go back 14 years to a decision that was made back then and which has, in effect, been superseded by numerous Commission decisions approving settlements in other proceedings that had to do with Union Electric's rates and most of which Laclede participated in.

The testimony that we've put in, I believe, will speak for itself. I believe it will become obvious that the intent of Laclede is not to encourage this Commission to be sure that our rates are cost-based, but to give them an advantage that they wish.

Concerning Rider E, again, the implication is that we've designed it to give strong disincentives to co-generation without any suggestion that it just might actually be cost-based. I think the testimony will -- or the evidence will show that that -- well, that we don't need another docket at this time to look into that, but it seems to me that the logical choice would be if Laclede does not like the rate, they can file a complaint. And then the Commission could decide at that time whether or not it's necessary based on the evidence in that petition whether something should be done. I assume Laclede doesn't want to do that because then they would have the burden to prove that the rate was not cost-based.

Mr. Kovach will be the witness that we have for both of these issues, and he will be available for cross-examination. Thank you.

JUDGE REGISTER: Thank you.

Mr. Krueger?

MR. KRUEGER: May it please the Commission? My name is Keith Krueger, and I represent the Staff in this proceeding.

The parties have filed direct and rebuttal and surrebuttal testimony and conducted a prehearing conference and extensive negotiations. As a result of those negotiations, we have reached agreement on virtually all of the issues that were in dispute in this case.

In the Hearing Memorandum, we identified, I believe, a total of 19 issues. All parties have agreed on all of those except two. The two -- on the two issues on which we disagree, all parties agree except for Laclede, and those are the two issues that we're going to be trying this afternoon.

Since we reached that agreement a couple of days ago, I have been working on a Stipulation and Agreement which we hope to file with the Commission very soon. We have not got the approval of all parties to it, but I think that we're in agreement and should have a signed and filed agreement within a couple of days.

That agreement provides for a distribution of the rate reduction which we expect that the Commission will order in Case No. EM-96-149. One of the provisions of that is that there will be no change to the revenue requirement from the residential class. The revenue reductions will be distributed among other classes.

We've also agreed to some changes in customer charges for various classes, a reduction of the rate differential between the large general service and the small primary service class, changes to the amount of the discounts which apply to customers who own their own substations and the replacements of the interruptible power rate.

The two unresolved issues that remain are the ones that Mr. Byrne and Mr. Cook have talked about, the residential seasonal differential and the

Rider E.

In the Stipulation and Agreement that I have circulated to the other parties, which I must point out has not been agreed to by everybody, but I believe that it does faithfully record the agreement that we have reached, the -- we state that the Staff and all other parties, except Laclede, have agreed that there should be no change to Rider E in this case. Also the Staff and all other parties, except Laclede, have agreed that there should be no change to the seasonal differential and the residential service rate 1-M and that the winter tail block charge should continue to apply to consumption in excess of 750 kilowatt hours per month during the eight billing months of October through May.

We believe that the prefiled evidence in this case and the evidence that you hear today supports the position of the Staff and the other parties and that there should be no change to either Rider E or the residential seasonal differential.

Thank you.

JUDGE REGISTER: Mr. Coffman, do you have an opening statement?

MR. COFFMAN: Not much of one.

May it please the Commission? I will concur in what Mr. Krueger said about the settlement. Regarding the seasonal differential, the Office of the Public Counsel supports the current differential. Implicit support for that is in the testimony of Ryan Kind.

Regarding Rider E our office takes no position at this time.

I understand cross-examination for Mr. Kind has been waived, but he is available if the Commission has any questions.

Thank you.

JUDGE REGISTER: Ms. Schmidt?

MS. SCHMIDT: On behalf of the Missouri Industrial Energy Consumers, I have no opening statement and will not be planning to do any cross-examination today because of the settlement.

Thank you.

JUDGE REGISTER: Ms. Forrest?

MS. FORREST: The Retirement Facilities Coalition will also waive opening statement at this time.

JUDGE REGISTER: Thank you.

I believe that those are -- anyone else left for opening statement?

(No response.)

JUDGE REGISTER: That's it.

Okay. Mr. Byrne, would you proceed with your first witness?

MR. BYRNE: I think Mr. Cook --

JUDGE REGISTER: Excuse me. I'm sorry.

COMMISSIONER DRAINER: Before we go on the record with the witnesses, I have a question for Mr. Krueger. I want a clarification with the Stipulation and Agreement. You mentioned twice that you have not -- it's not signed yet and agreed to by all parties.

But are you expecting to have a Stipulation and Agreement that is approved by all parties except Laclede on these two issues?

MR. KRUEGER: We do. As far as I know, there isn't any disagreement at all. I'm just saying that the question is whether we have faithfully reduced to writing the terms that we agreed upon the other day.

I've circulated it to everybody this morning. I have not heard anybody express any disagreement with anything that is in it, but until it's signed, it's not signed.

COMMISSIONER DRAINER: And are you expecting to file this this week?

MR. KRUEGER: Yes.

COMMISSIONER DRAINER: Okay. Thank you.

No other questions.

MR. KRUEGER: We were hoping to have it by today, but we couldn't quite make that.

COMMISSIONER DRAINER: Okay.

JUDGE REGISTER: Mr. Byrne, would you call your first witness?

MR. BYRNE: Actually, your Honor, it's Mr. Cook's turn.

JUDGE REGISTER: Oh, I'm sorry. Mr. Cook is going to call. I've got that wrong then.

All right. Mr. Cook, you were going to present Mr. Kovach; is that right?

MR. COOK: Yes. Mr. Kovach.

Union Electric will call Mr. Richard J. Kovach, please.

(Witness sworn.)

RICHARD J. KOVACH testified as follows:

DIRECT EXAMINATION BY MR. COOK:

Q. Would you state your name for the record, please, sir?

A. Richard J. Kovach.

Q. Mr. Kovach, by whom are you employed?

A. Ameren Services.

Q. And in that capacity, did you have prepared -- did you prepare direct, rebuttal and surrebuttal testimony for filing in this case on behalf of Union Electric Company?

A. Yes, I did.

Q. Your testimony has previously been marked, and I will direct your attention to Exhibit No. 6, which is the direct testimony of Richard J. Kovach on cost of service items. Do you have that in front of you?

A. Yes, I do.

MR. COOK: Since we are not putting those with the reporter now, and we did that later, I will assume that the Commissioners have copies. If extra copies are needed, please let me know.

JUDGE REGISTER: I think everybody has the witness's testimony.

MR. COOK: Thank you.

JUDGE REGISTER: And that document was marked as Exhibit -- do you have that exhibit number, Mr. Cook?

MR. COOK: Exhibit 6. I'm sorry.

JUDGE REGISTER: Exhibit 6. Thank you.

This was the class cost of service testimony then?

MR. COOK: Yes. Yes. Let me see if I can do some of this in a group. It may be quicker.

JUDGE REGISTER: I think we only brought -- I only have the rate design that we were going to be examining on today.

BY MR. COOK:

Q. Exhibit No. 7 is entitled, "Direct Testimony of Richard J. Kovach on Rate Design"; is that correct, sir?

A. Yes.

Q. Do you have Exhibit No. 8, which is the rebuttal testimony -- your rebuttal testimony on cost of service issues; is that correct?

A. Yes.

Q. Exhibit 9 would be the rebuttal testimony prepared by you on rate design issues; is that correct?

A. Yes.

Q. And Exhibit 10 is surrebuttal testimony of both cost of service and rate design; is that correct?

A. Yes.

Q. Was all of that testimony prepared by you for submission in this case?

A. Yes, it was.

Q. And were the exhibits or schedules that are attached thereto either prepared by you or under your direction?

A. Yes, they were.

Q. And if I were to ask you the questions that are included in these exhibits, would your answers be the same as listed in here?

A. They would be substantially the same. i have a few minor changes to make.

Q. I'll get to that.

A. Okay.

Q. Subject to those corrections, they would be the same; is that correct?

A. Yes.

Q. And are the schedules true and accurate to the best of your knowledge and belief?

A. Yes, they are.

Q. Since it's possible that there could be corrections to virtually anyone's testimony that is being submitted that is not the subject of cross-examination, I will skip that, and just direct your attention, Mr. Kovach, to Schedule 7 of your direct rate design testimony. Are there any changes or corrections that you need to make to that testimony?

JUDGE REGISTER: Exhibit No. 7?

MR. COOK: Seven. Did I say -- yeah, seven, rate design direct.

THE WITNESS: Yes, I have a few changes to that testimony.

BY MR. COOK:

Q. All right. Starting on what page, please?

A. Page 4, Line 7, there was a phrase there that looked like it was repeated a second time on that line. The phrase is "or incremental costs." That's repeated twice. It should be deleted the second time.

Q. So that line would read, "For variable costs, marginal or incremental costs would represent the Company's out of pocket"; is that correct?

A. That's correct.

Q. All right. Next?

A. On Page 12, Line 12, the sentence that starts on Line 12 that says, "The Company has retained . . . " there were three words that were left out there. "The use of" are the three words that should be inserted. So that sentence would read, "The Company has retained the use of such seasonal differentials for the allocation of capacity costs in this case."

Q. All right. Next?

A. Page 36, Lines 5 and 6, which is the first sentence of the answer, that sentence came out very garbled. I think I would just like to read a corrected sentence rather than try to insert words and delete words, if that's permissible.

Q. All right.

A. The sentence should be -- should read as follows: "The annual revenue requirement of the distribution substations providing 34.5/69 KV to 4 KV service was determined to be $5,587,000."

Q. I suspect you need to repeat that. You do for me.

JUDGE REGISTER: Go ahead.

BY MR. COOK:

Q. Try it again, please.

A. One more time?

Q. Yes.

A. Okay. The new sentence, including all of the corrections, would read as follows: "The annual revenue requirement of the distribution substations providing 34.5/69 KV to," t-o, "4 KV service was determined to be $5,587,000."

That concludes my corrections.

JUDGE REGISTER: Mr. Cook?

MR. COOK: Yes.

JUDGE REGISTER: I'd ask the witness to look at Page 18, Line 10. I think there is a word there, wad, w-a-d. I believe that should be --

THE WITNESS: That is correct. That is a typo. I was instructed by Mr. Cook not to change those minor ones that would be obvious, but you are quite right about that. Should be the word "was."

JUDGE REGISTER: Okay. Thank you.

MR. COOK: There is no residential class wad that we're aware of, at issue here anyway.

BY MR. COOK:

Q. Let's direct your attention to Page 9, the rebuttal testimony and rate design. Do you have any changes or corrections to make to that testimony?

A. No, I do not.

Q. How about Exhibit 10, the surrebuttal testimony?

A. I have no corrections.

MR. COOK: All right. I would ask that Exhibits 6, 7, 8, 9 and 10 be admitted into evidence, and Mr. Kovach will be available for cross-examination.

JUDGE REGISTER: Thank you, Mr. Cook.

Are there any objection to the admission of Exhibits 6, 7, 8, 9 and 10 into the record at this time?

(No response.)

JUDGE REGISTER: Hearing no objections, Exhibits 6, 7, 8, 9 and 10 are admitted into the record.

(EXHIBIT NOS. 6 THROUGH 10 WERE RECEIVED INTO EVIDENCE.)

MR. COOK: Thank you.

JUDGE REGISTER: And, Mr. Byrne, you're first on cross-examination; is that correct?

MR. BYRNE: That's correct.

JUDGE REGISTER: Thank you.

MR. BYRNE: Thank you, your Honor.

CROSS-EXAMINATION BY MR. BYRNE:

Q.   Good afternoon, Mr. Kovach.

A.   Good afternoon.

Q.   First, I would like to talk to you a little bit about the seasonal rate differential.

First of all, UE's rates are divided into two seasons, is that correct, the residential rates?

A.   All of our rates have seasonal differentials.

Q.   Okay. And for the residential, and maybe for all of the rest of the classes, isn't it correct that the summer period is four months and the winter period is eight months?

A. That's correct.
Q. What are the four months of summer?
A. Summer is June through September. Those are the billing months of June through September. The winter months are the October through May billing months, for all customers.
Q. And do you know how the total residential usage compares in the summer and winter months for UE?
A. Well, if you're referring to the magnitude of usage, it's higher in the summer than it is in the winter, on the average.
Q. Okay. But in total, is it higher in the winter or the summer, if you know?
A. Total kilowatt hours sold?
Q. Yes.
A. Well, with the winter season having eight months, there are more kilowatt hours sold in the winter total than in the summer.
Q. Do you have any idea what the magnitude of that difference might be?
A. I think you're going to have to be a little more clear on what you mean by "magnitude of difference." Could you rephrase it?
Q. Do you sell a lot more kilowatt hours in the winter than in the summer, or only a few? Do you have

any -- can you quantify it at all even on an order of magnitude what the difference is?

A. Well, again, with the number of months being twice as many months in the winter, it's probably close to twice as many kilowatt hours.

Q. Okay. So if you allocate costs -- if you allocate demand costs to summer and winter periods -- say, for example, you were to allocate 50 percent of demand cost to summer and 50 percent to winter, isn't it true that the rate impact of those demand costs on summer would be greater because there are fewer kilowatt hours to spread those costs over? Is that true?

A. Well, first of all, I wouldn't agree that you should allocate 50 percent of your demand costs to each season.

Q. Sure. I understand. But just for -- as a hypothetical, if you did, wouldn't the impact on rates be greater in the summer because there are fewer kilowatt hours that you are spreading those costs over?

A. If you have a fixed amount of dollars to recover, and you have fewer billing units over which to recover, that would result in a higher rate than if you had a greater number of billing units.

Q. Okay. In your testimony you talk about three types of costs that are allocated to the residential class, and I guess I'm referring -- well, it's on Page 7 of your direct testimony, but the costs I'm referring to are customer demand and energy-related costs.

MR. COOK: Is this Exhibit 7? I'm sorry. Rate design direct?

MR. BYRNE: Rate design direct, yes Exhibit 7.

MR. COOK: Thank you.

THE WITNESS: And what page number was that again, please?

BY MR. BYRNE:

Q. On Page 7.

A. I have it.

Q. Line 21 and 22, in there. It talks about customer energy and demand-related costs.

A. It does.

Q. Okay. And those -- are those the three types of costs that are allocated to residential customers?

A. Those are the types of costs that are allocated to all customers.

Q. Okay. And could you just briefly explain what customers costs are?

A. Customer costs are generally defined as costs that don't vary with customer usage. They are cost of making service available to customers without regard to the level of the customer usage.

Q. So would that be like a minimum-sized meter, minimum-sized service line, that type of thing?

A. Postage, getting a bill out, keeping a staff on hand to handle customer inquiries about bills, things of that nature.

Q. And would it also include the things that I said, the minimum-sized meter and service line?

A. Yes.

Q. Okay. And are those recovered -- under your rate design, and for that matter our proposed rate design, at least the majority of those costs are recovered through a customer charge. Right?

A. Much more so on your rate design than our rate design, since you have higher customer charges than we do.

Q. You mean -- you're talking about Laclede Gas?

A. Laclede Gas Company, yes.

Q. Okay. Not our -- okay. I was referring to the rate design proposal that we've filed in this case

under Mr. Suess's testimony, as well as yours. The majority of Union Electric's customer-related costs are recovered through the customer charge; isn't that correct?
A. You'll have to -- he has several rates in his testimony. You'll have to refer me to which one you're talking about.
Q. Well, I don't -- I don't have one to refer you to.
Let me ask about energy charges. What are energy charges?
A. Energy charges are generally variable costs, the cost of producing a kilowatt hour.
Q. Okay. And how are those recovered in your proposed rate design?
A. Through a kilowatt-hour charge.
Q. And isn't it true that Mr. Suess has the same treatment of energy charge that you do?
A. He's added more to the energy charges than we do under our rate design.
Q. And why is that?
A. I have no idea.
Q. Is that because of the additional customer-related costs which he's put in the energy charge?
A. I think he may have done that, but I think

he put an awful lot of demand-related costs in the energy charge.

Q. Okay. Well, the third kind of cost is demand-related costs. And could you please, again, briefly explain what those are?

A. Demand-related costs are generally costs incurred in adding capacity to the system. It could be generating capacity, transmission capacity, distribution capacity. Generally, facilities necessary to meet maximum customer peak loads placed on the system during peak load periods.

Q. Well, you just mentioned generation, transmission and distribution. Are those the three subcategories of demand-related costs?

A. Yes.

Q. Okay. Let me ask you a little bit about the generation-related demand costs. What kind of costs are included in that category?

A. Well, the cost of generation of plant.

Q. Okay. So all of your generation plants, would those be in that category?

A. Yes, they would.

Q. Both your baseload and peaking plants would be in that category?

A. Yes.

Q. What's the difference between a baseload and a peaking plant?
A. A baseload plant is usually designed to run more hours of the year. A peaking plant is designed to run a shorter number of hours a year. There is usually some trade-offs between initial cost and running cost between the two types of plants.
Q. And is it true in respect to that that the -- generally the construction costs of baseload plants are relatively high and the operating costs of baseload plants are relatively low compared to peaking plants?
A. That's a fair statement.
Q. Is the Callaway Nuclear Plant an example of a baseload plant on your system?
A. Yes.
Q. And does it follow the pattern of having a high construction cost and a low operating cost?
A. That's correct.
Q. Do you know what the operating cost of the Callaway Plant is?
A. In terms of total dollars? No, I don't.
Q. In terms of, you know, cents per kilowatt hour, or some reference like that?
A. I believe that generation costs are less

than one cent per kilowatt hour, variable -- variable production costs. It would be less than a penny.

Q. And do you know what the total cost of constructing the Callaway Plant was?

A. I did at one time. I -- I don't know. I -- I was a participant in the Callaway case, but there were some disallowances, so I really don't know the number anymore.

Q. It was hundreds of millions of dollars, wasn't it, or --

A. Well, it was more than a billion dollars.

Q. More than a billion dollars?

A. Uh-huh.

Q. Okay. How many other baseload units do you have on your system besides Callaway?

A. I believe I indicate that in my testimony.

Q. If you've got a reference, that would be okay.

A. I would say we have -- I'm referring to Page 7 of my direct cost of service. That would indicate seven baseload plants.

Q. Okay. What lines are you on? I'm sorry, Mr. Kovach.

A. The first two lines on Page 7. Five fossil steam plants, one nuclear plant, one run-of-the-river hydro plant. Those would all be considered as base plants on our system.

Q. Okay.

A. So that would be seven plants.

You asked -- I'm not sure whether you asked about units, but some of those plants have multiple units, so the number of actual units would be much larger than seven.

Q. Do you know what it is, what the number is?

A. I think it would be in the range of 20.

Q. Okay. And how many peaking units do you have on your system?

A. That same testimony indicates one pump storage plant, nine combustion turbines. And I would consider that the pump storage plant has two units, so if you're counting number of units, that would be eleven peaking units.

Q. Okay. And do you have a number in that testimony that -- on Line 3 of Page 7 of your direct cost of service testimony, you have a number that shows the baseload units -- okay. That's the total -- that's the total kilowatts that can be produced, the 7,924,000 kilowatts?

A. That's total system capacity.

Q. Okay. Do you know how much of that is attributable to baseload versus peaking units?

A. No, not off the top of my head, I do not.

Q. Is it fair to say the vast majority of that is attributable to baseload units?

A. You will you a have to define "vast majority" for me.

Q. More than 75 percent.

A. I think that would be a fair statement.

Q. More than 80 percent?

A. Now, I told you I didn't know the exact number, so -- I'll say it's more than 75 percent, but that's my best estimate without, you know, having documents to look at.

Q. Sure. I understand. And how about in terms of cost -- in terms of the costs that are in the generation-related demand category? Would it be a fair statement to say that baseload units constitute the vast majority of the costs in that category as opposed to the peaking units?

A. Yes.

Q. And wouldn't their costs probably be even greater than the proportion of their production because they have such high construction costs?

A. If you're talking about the plant investment costs only, yes. But that wouldn't be true for production costs or running costs or the cost of generating kilowatt hours.

Q. Okay. But for the generation demand-related costs, that would be true, would it not?

A. Baseload plant is higher than peaking plant, yes.

Q. Do you think it would be greater than 90 percent of the costs in that category attributable to baseload plants?

A. I don't know.

Q. Okay. You talk a little bit about the 1985 rate design case, the Callaway rate case. Didn't you participate in that case, Mr. Kovach?

A. Yes.

Q. Let me ask you this: What has changed about Union Electric's generation plants since that 1985 case? I guess you included Callaway at that point, is that true, in your rates?

A. Callaway was being phased in per the order of the Commission.

Q. Okay. Have you constructed any other generating units since 198-- since that 1985 case?

A. I can't think of any. I don't think there is anything significant.

Q. Okay. Let me ask you about transmission

demand costs. What are those, just in general?
A. Well, basically the cost of the transmission system, which is mostly all fixed demand-related costs associated with the transmission system capacity. The transmission system has no variable cost. It would all be capacity or demand related.
Q. And is transmission attributable to different plants on your system? For example, is some of the transmission attributable to the baseload units and some of the transmission attributed to the peaking units?
A. No. It's a grid system, the function of which is to -- is to both import and export bulk power and to move bulk power around the system from the power plants and from other sources off of our system. So it's not related to any type of plant, is really the direct answer to your question.
Q. I mean, some of it, I guess, would. For example, the Callaway Plant, there is probably a transmission line or two or three that runs from the Callaway Plant, but you're saying there are other --
A. I'm sorry. Go ahead.
Q. But there are other transmission functions that transmission lines move power around your system?
A. Right. Every power plant has to have outlet

capacity to the transmission system. It has to be connected to the grid. But the transmission system has other functions other than just outlet capacity for the power plants.

Q. Okay. And let me ask you the same question about transmission-related demand costs. Have there been any significant changes to the transmission-related demand costs since the 1985 Callaway rate case?

A. I'm sure there has been additional investment. Again, without some before and after documents to look at and compare, I couldn't tell you what that -- what that is.

Q. Okay. So you can't tell me any difference right now sitting on the stand?

A. No. But I'm confident that we have more invested in transmission plant today than we had at the time of the Callaway construction.

Q. But you don't have any idea of an order of magnitude of that?

A. No, I do not.

Q. How about distribution-related demand costs? What are those?

A. Well, those are -- those are costs associated with generally the poles and lines that you see on the street driving from your office to your home. And it's -- it's the investment in that system which is -- has to be constructed to handle customers' maximum demands.

Q. And so as customers -- your customer base and your service area expands, you would have to construct additional distribution facilities, and that would impact the distribution-related demand costs; is that correct?

A. That's correct. We would have to extend our facilities to where the new customers are located. That would be one piece of the cost.

And then we would have to construct those facilities with adequate capacity to handle the electrical requirements of those new customers.

Q. Okay. With regard to the seasonal allocation of these demand costs, in your prefiled testimony you supported a 60 percent allocation of these -- all of the demand costs to the summer period and a 40 percent allocation of all of the demand costs to the winter period; is that correct?

A. That's correct.

Q. Okay. And, again, I guess that 60 percent/ 40 percent relationship doesn't necessarily -- or it doesn't express the impact that it would have -- the relative impact that it would have on the rates because there are fewer billing units in the summer, and maybe as many as twice as many billing units in the winter; is that correct?

A. The number of billing units does vary between the seasons, yes.

Q. Okay. And what was the basis for your allocation of 60 percent of the demand costs to the summer?

A. We looked at several applications of the average and excess demand methodology that's a methodology written up and described in the NAARUC Cost Allocation Manual, and there are some variations of that methodology. You can select one or more peaks in determining the peak demand. You can define or vary somewhat what you consider as average demand.

The methodology makes various calculations for cost allocation purposes on the difference between peak and average demand, and that difference is referred to as excess demand, and that's where the name of the procedure comes from.

And that was the methodology that we used to allocate costs to customer classes, and so we followed that same methodology in determining what the seasonal differentials should be in our demand-related costs since that's the way those costs were allocated to begin with.

Q. And are the ones that you looked at, the specific average and excess methodologies that you looked at, set forth in Schedule 24 to your -- I guess it's your surrebuttal testimony?

A. Yes. Now, you asked me the first time about whether we did this in the last case, and that's -- and I said yes, we did. And those were the -- those were the same methods we looked at in the last case. And so we simply took those same methods and applied them to the more current data relevant to this case.

Q. Okay. Could you turn to Schedule 24, if you don't mind?

A. I have it.

Q. Okay. And I guess where the analyses are labeled A through G, those were the seven analyses -- the seven average and excess analyses that you updated for data in this case and used to derive your 60 percent/40 percent allocation of summer and winter?

A. Yes.

Q. Okay. Do you show anywhere in your testimony, or is there anywhere else in the evidence in this case how those calculations were performed or what went into those calculations?

A. I don't -- I think that detail is contained in work papers, but it's not contained in any of the direct testimony. And I'm not sure we put that detail in the last case either.

Q. Okay. And it's not -- I mean, to your knowledge, it's not anywhere in the evidence in this case; is that correct?

A. Well, the demands that were used were part of the work papers that everybody received that were participants in this case. I know everybody for a fact received those, because I handed them out myself to all of the parties at one of our technical conferences.

Q. But I guess -- what I'm trying to determine is, is there anything in the record in this case, and of course those work papers are not in the record in this case, at least now, that shows how these calculations were done?

A. I'm not real sure what you're -- what you're looking for, but the details behind this are not in the record. The average and excess demand methodology is described in my testimony. And that's -- that's really it.

The methodology is described and the details were contained in the work papers that were distributed to all of the parties. So anyone could have calculated these had they chose to do so.

Q. Well, let me ask you this: You know, look at No. G, the maximum NCP. How did you calculate that?

A. Let's see if I can -- I'm sorry. Which one were you referring to?

Q. "G," where it says, "Maximum NCP, minimum NCP month."

A. Okay.

Q. How did you do that calculation?

A. We gave out the non-coincident demands for the residential class to all of the parties. That particular value right there represents the highest of the 12 demands of the residential class during the test year.

Q. But I guess I'm not -- how did the calculation go that led you to 60.3 percent and 39.7 percent? What was the calculation that gets us to that result?

A. I'll just describe it generically. The maximum demand is one number. Call that A.

Q. Okay.

A. The minimum demand is the lowest demand of the year. Call that B. The difference between A and B is the excess demand.

Q. Okay.

A. So we're using, in this case, for Line G, the minimum demand as the average demand for the period, and we're using the difference between the two numbers as the excess demand. And the average and excess demand methodology states that you weight those components by load factor and the complement of load factor of one minus load factor.

And you do this for each season. You sum up the results, and the summation of that process is as shown there: 60.3 percent in summer and 39.7 in the winter.

Q. Okay. And I -- my understanding -- well, I don't know if I have a good understanding, but I think E and F are variations on that same methodology; is that correct?

A. They are all variations of the same methodology.

Q. What's the difference between F and G?

A. In the case of F, we used as the seasonal peak demand -- we used the summer and the winter, and we did -- we did those individually or looked at the seasons individually. So we had a summer peak and we had a winter peak. And then we had the minimum demand, and we subtracted that minimum for both the summer and the winter. And that difference again became the excess demand.

Q. So you looked at it on a season-specific basis, as opposed to G where you looked at the whole year; is that true?

A. Yes. What we tried to do in the last case and what we tried to do in this case is envision every variation that anybody might want to say. Did you look at this? Did you look at that? And so we did them all. And that was to basically assist anybody that wanted to look at variations, present the results, and, as you can see, there is -- it's within a very narrow range.

Q. And E is -- is the difference between E and F that you used four months in the wint-- four months in the winter and four months in the summer, rather than eight months in the winter?

A. Yes.

Q. Okay.

A. And, again, that was to address the issue, if someone would say, how about equalizing the two periods and making the number of months the same.

Q. Okay.

A. So we said, okay, we'll do that. We will devaluate the results, and there as, again, displayed on the exhibit.

Q. How did you know which winter months, which four winter months to pick for that one?

A. You pick the maximum four.

Q. Okay. And this is the last one I'll ask you. I don't want to beat this to death. But how do you do B, summer, winter, eight?

A. Well, you have the -- you have the maximum summer, and you have the maximum winter. That's a single peak. The eight refers to the period of determination of the average demand. And what we did there is we averaged the four summer months to get a summer average, and we average the four -- I'm sorry -- the eight winter months to get a winter average. And, again, the difference between average and peak was excess demand.

Q. Okay. And, similarly, the -- I guess the only difference between A and B is in A you used four winter months, and in B you used eight winter months?

A. In the determination of the average demand, yes.

Q. Okay.

A. Uh-huh.

Q. Okay. Isn't it true that there -- well, let me ask you this: Did you do any other analyses similar to this other than the ones listed, A through G?

A. No, I don't believe we did, not in this case. I am -- I keep thinking about the past case, and they tend to run together.

Q. Isn't it true you could do more, though, by varying the months that you look at? I mean, you could really do a lot more of these kind of analyses if you wanted to?

A. No, I don't -- you could -- you could do other things, but I think these are all of the reasonable variations of the average and excess demand methodology.

You should not be doing a bunch of averaging to get the peak, because then you no longer have a peak. You've got some kind of an average. And you could certainly -- I guess, for a year, or 12 months, you could do it for one peak, two peaks, three peaks, but I wouldn't recommend that. I don't think that's very reasonable. I think you're moving far, far away from the average and excess demand methodology as it's described in the NAARUC manual, if you start doing that.

Q. You could, though, like, change the number of months. Instead of four months, you could look at two months, couldn't you? Instead of eight months, you could look at six months?

A. For which item on that exhibit?

Q. Well, for A you could look at, you know, six winter months instead of four winter months?

A. What column would we be talking about?

Q. I'm sorry. A, Column 3, where it says number of winter months. In there you -- you looked at four winter months. You could have looked at some other number of winter months, couldn't you?

A. You could pick that number. It wouldn't be right. I mean, our -- our season is eight months. And you've got two choices, as I see it. You either stick with the season you have, or I think it might be valid that someone could suggest that, shouldn't you do this on an equivalent length of season between summer and winter, and that would be to work with -- because we have four summer months, that would be to work with four winter months.

I think any other numbers in between that -- I don't think there is any basis for it. That's why we didn't do it. Mathematically, you could do whatever you want, but I don't think it would make much sense.

Q. Okay. Let me ask you this: Isn't it true that for all these analyses you used system-wide data as opposed to data that's specific to the residential class?

A. No, that's not correct. This data was performed with residential class data. In the last case we performed it on a system basis. But this information is based on residential class data.

Q. Okay. On the E, F, and G, or minimum NCP month methodologies, did you use those minimum NCP month methodologies in the last rate case?

A. I believe we did, yes.

Q. Are you aware of any regulatory commissions that have adopted the minimum NCP methodology in setting rate design?

A. I didn't attempt to research that. We thought it was a good thing to put on there in case somebody wanted to see the results. That's why it's there.

Q. Is the minimum NCP month methodology referenced in the NAARUC manual?

A. The NCP methodology is a -- is a cost allocation method in the NAARUC manual.

Q. But not specifically the minimum NCP month?

A. No. It's just defined as an NCP cost allocation methodology. When you have 12 months, you're going to have a peak month and you're going to have a minimum month, and you're going to have all of the other months in between.

Q. But the NAARUC manual doesn't talk about using the minimum in the way you have here, does it?

A. It probably doesn't.

Q. Okay.

A. But, again, it's on there to display the results of the calculation.

Q. Okay. Let me ask you this: If peak winter usage became equal to peak summer usage on UE's system, would there be any need for seasonal differentiation?

A. I'd say -- I'd say we would have to take a look at it, but the distribution system as it's constructed can handle higher peak loads in the wintertime than it can during the summertime because of less thermal constraints.

So that really -- even if we had equal peaks, and we're a long ways from having equal season peaks, the distribution system that we have today can handle higher summer loads than it can winter, if we would ever get to that point.

Q. If they were ever equalized taking into account that engineering problem, then --

A. It's a engineering benefit, not really a problem.

Q. I'm sorry. Engineering benefit. If they were ever equalized taking into account that engineering situation, would it then be reasonable not to have a seasonal differential?

A. I think we would have to -- we would have to perform a similar analysis at the time and run a cost of service study and see what that -- what those study results were before I could answer that.

Q. Okay. Okay. Let me ask you this: My understanding is your position in this case is the settlement rates, is that correct, should be implemented?

A. Yes, we're going to sign the settlement agreement.

Q. Okay. Is there any evidence in the record on the seasonal allocation underlying the settlement rates?

MR. COOK: I'm going to object. That calls for a legal conclusion. Mr. Kovach can testify about what is on the record, but as to whether or not it's -- I forgot what the exact question was, but it called for a legal conclusion.

MR. BYRNE: Let me ask a different question.

JUDGE REGISTER: Thank you, because I was going to have to have you repeat the question.

The question is withdrawn. Mr. Byrne is going to ask another question.

BY MR. BYRNE:

Q. So the question is, is there any evidence in the record -- I hope this is a different question.

Is there any evidence in the record that supports the seasonal allocation of demand costs underlying the settlement rates?

A. If I understand your question, you're asking if there is some type of exhibit or schedule which provides numbers that lead to the exact conclusion of what our current rates are. And -- and I don't think anybody has a study to that effect.

I think various parties put in testimony showing what the differential, perhaps, should be changed to. But I don't think anybody has got it to say that it calculates out exactly to where we are today. I think that would probably be sheer coincidence.

Q. Let me ask you, since it is your position that the -- that the settlement rates should be implemented, what are those settlement rates? Aren't they for the residential class a little bit different from exactly what you have now? In other words, isn't there an increase and -- isn't there an increase in the customer charge? Can you just run over what the settlement rates are so we know what we're talking about here?

A. The settlement rates provide for a slight increase in the residential customer charge because it has not changed for 14 years.

Q. What is that in-- what is it now and what is --

A. A $1.50 a month. From $5.75 a month to $7.25 a month.

Q. Okay. And, then, since -- as I understand the residential class -- the revenue contribution from the residential class stays the same. I guess the usage charges have to reduce to offset those increases?

A. Those charges were all reduced.

Q. And do you know how they were reduced?

A. They were reduced to maintain the same seasonal differentials that are in the current rates.

Q. Was it an equal percentage reduction for each, I guess, usage charge is the right way to say it?

A. No. It would not -- it would not result in an equal percentage adjustment.

Q. Okay. But it's designed to maintain the existing seasonal differential?

A. As Laclede has defined it, yes.

Q. Okay. Okay. I'd like to talk to you a little bit about once the -- once the demand costs are allocated to the summer and winter, how do you allocate them to the first block and the second block of usage in the winter? Okay. How do you allocate the distribution demand costs to the first and second block in the winter?

A. Well, why don't we just read my testimony?

Q. Okay. If you have a reference to your testimony, that would be fine.

A. I would refer to my direct rate design testimony, and that would be Exhibit 7, and my discussion of how the residential rate was designed starts on Page 17.

Q. Okay. Where does it say how the distribution demand costs are allocated to the winter charges?

A. That would start about -- with the Q and A on Line 8 of page -- I'm sorry -- Line 8 of Page 18.

And I think it generally goes on to conclude on Page 20.

Q. Well, let me ask you this: Is it your understanding that the way you allocated demand costs between the two rate steps in the winter is the same way that Mr. Suess allocated it to the rate steps in the winter? I understand you start off with a different pot of costs, but don't you -- within the winter period, don't you treat demand-related -- I mean distribution-related demand costs the same?

A. I did this testimony -- filed it on March the 4th. I didn't know who Mr. Suess was at the time. I had no idea what he was going to say. I don't even know if Laclede hired him at that time. But we certainly didn't confer on rate design.

And if you're asking me details about what he did in his testimony --

Q. You don't know?

A. Well, I would have to hunt down answers to those details.

Q. Okay. You don't know off the top of your head whether your treatment of demand-related -- or distribution-related demand costs in the winter period is the same as Mr. Suess? You just don't know that?

A. I know what I did.

Q. Okay. That's fine.
Okay. Let's talk about the other two categories of demand costs. We've got generation-related demand costs and transmission-related demand costs allocated to the winter period that have to be divided between the first and second step.
My understanding is you allocated 85 percent of those costs to the first winter step, is that correct, and 15 percent to the tail block of winter usage?
A. That may not have been the order in which I arrived at that conclusion. I think what we looked at was the marginal costs associated with providing service on the tail block over 750 kilowatt hours per month. And we added a contribution to fix costs, and I think the figure was 15 percent, which is the same 15 percent adder we use in allocating costs to our large industrial customers. And then the balance of the winter demand cost was included in the first block.
Q. So I'm correct in saying 85 percent of those costs were allocated to the first block and 15 percent of those costs were allocated to the tail block?
A. That sounds correct. I'll accept it for right now. And if I think it's wrong later, I'll have

to let you know. But it sounds correct.

Q. Okay. Let me ask you this: What's the cost basis, if there is any, for allocating 85 percent to the first block and 15 percent to the tail block?

A. Well, again, the cost basis is not for the 85 percent, but the cost basis is that we can serve additional load in the winter at no additional demand cost. And so we're -- we're pricing that -- that winter usage over 750 kilowatt hours a month to cover the full incremental fuel costs, the full distribution demand costs and a partial contribution to fixed generation and transmission costs, which aren't changing or aren't being driven by any sales in the winter months.

Q. Okay. So is it -- what I'm asking about is what's the cost basis for that 15 percent partial contribution of generation in transmission demand costs? Are you saying there isn't any cost basis for that?

A. Your question is, how did we get that number?

Q. Yes.

A. Oh, okay. As I indicated earlier, the -- that is the same adder that we used in designing our large primary service rate for our large industrial customers, and that adder is developed from the -- what we refer to as the vary curve analysis that we do for designing that customer rate.

It basically shows that based on inflection points on that cost curve function that some 15 to 20 percent of those fixed costs don't vary with customer load factor, so they should be included in an energy cost or an energy charge.

And we merely took that -- took that same adder that we use in that rate design and said it's appropriate there and it's also appropriate for the winter step in the residential rate.

Q. Well, isn't it true that your large primary service class has a single block usage charge, not a -- in other words, there is not a -- it's not a two-step charge like residential, is it?

A. No, it is not. And that's exactly why we have the 15 to 20 percent adder. Otherwise, we would be selling all kilowatt hours to the large industrial with no markup or no adder whatsoever. We would be selling it to them for fuel cost only. And I don't know of a single utility in the country that does that.

Q. So the 15 percent is in the single usage charge. It's an allocation of generation and

transmission-related demand costs that goes into that single usage rate that the large primary service customers pay?
A. That's correct.
Q. Okay. Isn't it true that the large primary service class has completely different characteristics than the residential class?
A. What do you mean by "characteristics"?
Q. Well, for example, don't have a much higher load factor than the residential class?
A. I'd say they do.
Q. Do you know what the load factor for the large primary service class is?
A. Not offhand, no.
Q. And, of course, they take -- they take service at a higher voltage than the residential customers, don't they?
A. Yes.
Q. And they pay a demand charge that residential customers don't pay; is that correct?
A. They pay a demand charge which the residential rate does not have, but both rates pay demand costs. And the demand costs we're talking about are generation and transmission costs. Those costs are included in both the residential rate and

the industrial rates.

Q. And isn't there a minimum usage amount that you're required to take before you qualify for the large primary service class?

A. The large primary class, there is a minimum bill of 5,000 kilowatts.

MR. BYRNE: Okay. I think that's all of the questions I have on seasonal differential. I would like to ask you a few questions on Rider E, if I could.

And, your Honor, I'd like to mark an exhibit off the record, if I might.

JUDGE REGISTER: Certainly.

(EXHIBIT NO. 36 WAS MARKED FOR IDENTIFICATION.)

JUDGE REGISTER: Ready to go?

BY MR. BYRNE:

Q. Mr. Kovach, I've handed you what the court reporter has marked Exhibit 36. Can you identify that?

A. It consists of three -- four tariff sheets. Three tariff sheets, 103, 104 and 105 are rider -- the Company's Rider E supplementary service, and the fourth tariff sheet is No. 67.4, which is miscellaneous charge tariff sheet.

Q. And do some of those charges on 67.4 apply to Rider E service?
A. Under some circumstances, they might.
Q. Okay.
A. They may or may not apply.
Q. Let me ask you, who -- who on UE's system is eligible to take Rider E service?
A. Anyone -- anyone that has some form of self-generation can apply for Rider E service.
Q. Well, let me ask you this: Do you have to be a primary service customer in order to take Rider E service? And I guess what I'm looking at is C-1 on Sheet No. 103 seems to suggest it's available only to primary service customers, but maybe I'm misreading it. Is --
A. No. That's the same paragraph I was going to go to to answer your question, that that fits -- that fits the requirements of all of the current Rider E customers that we have.
Q. So if you're not a primary -- only primary service customers are eligible? Is that true under your tariff?
A. I think what I'd rather say is only primary service customers have ever asked or requested for Rider E. We've had no requests that I'm aware of from

secondary service customers.

Q. So that's why -- that's why the tariff is set up to say primary service?

A. Yes. It was basically set up to serve the requests that we've been getting.

Q. If somebody who was not a primary service customer -- say if a large general service customer asked for Rider E service, would you guys amend your tariff to include large general service?

A. Not having been faced with that, I don't -- I don't know what the answer would be. We might -- we might suggest to the customer initially that he ought to own his own transformer and take primary service.

Q. Okay. Under the current tariff, is it available to both large general -- large primary service and small primary service customers, or is it limited to large primary service?

A. No, it's not limited, and either of those two rate customers can take that. I think what you're reading there in the first paragraph is just basically the original language that was in there before we had two primary service rates.

Q. Yeah. It does just say primary service. It neither specifies large or small.

How many Rider E customers does Union

Electric Company have?

A. I believe the number is around a dozen --

Q. Okay.

A. -- give or take a couple.

Q. I'd like to talk to you for a minute about the minimum bill that a customer would pay under Rider E, and I guess my understanding of the minimum bill, and correct me if I'm wrong, is it would be shown on that last sheet, Sheet No. 67.4. And, specifically, my understanding is that a customer would pay -- well, the first part of the minimum bill would pay a $210 customer charge; is that correct?

A. That's the standard primary service customer charge, and that would apply to a primary service customer that's also a Rider E customer. So it wouldn't apply twice. It just applies one time.

Q. Okay. So he only pays -- say he's co-generating for a portion of his load and taking a portion of his load as a primary service customer. He would only pay one $210 customer charge per month?

A. That's correct.

Q. Okay. But that charge would apply even if he -- even if he co-generated all of his load and didn't take any service in that particular month from UE; is that correct?

A. If he's requesting the service, that we be connected to his system, backing up his generation, yes, that would be an appropriate charge because we would still have to go out and read the meter each month and determine what went on out there, whether any service was delivered or not, and we'd have to render a bill each month.

Q. Sure.

A. So that's all of the customer charge components. As you indicated earlier, there is the metering costs and other hookup facilities that have to be paid whether the customer takes any service or not, and that's all part of the $210.

Q. Okay. And then I think the second component of the minimum bill that's shown on that Sheet 67.4 is -- I guess maybe it's -- would it be fair to call the $15.85 in the summer and $7.20 per kilowatt in the winter, is that a demand charge?

A. Yes. Those are also the same demand charges that the primary service customers pay on the large primary rate.

Q. Let's take, for example, in the summer period, the $15.85 demand charge. And that's per kilowatt. Right?

A. Yes.

Q. And a kilowatt is a unit of demand. How would you know what to apply that $15.85 per kilowatt charge to? How would you know how many kilowatts to apply that to?
A. Well, you go back to the Rider E tariff and you apply it to the contract demand.
Q. Okay. What's the contract demand?
A. Well, the contract demand is defined on Page 104, Paragraph D-1. That's D, as in dog.
Q. Okay.
A. It indicates there how the contract demand is determined.
Q. Okay. And it's got an A and B. It's the higher of A and B, and A is a number that's agreed upon by the Company and the customer as representing the maximum requirements under all conditions of use. Okay. I understand that one.
And B is the maximum demand established by a customer in use of Company service. I don't understand that one.
How is that one calculated, or how do you come up with that?
A. Well, that basically provides for and allows a customer to -- to grow beyond the original contract demand. So that -- that you may -- you may have an

initial contract demand, but the customer may have growth on his premises. And so if the meter sees something at some future or subsequent time that's in excess of contract demand, that means we're providing more than what was originally intended, and, therefore, the higher number then becomes the new contract demand.

Q. Okay. So it kind of keeps track of the peak kilowatt demand as -- the meter keeps track of that; is that correct?

A. Yes. The meter keeps track of what we provide. If we're not providing that much, then basically the contract specifies what the capacity is of the generating equipment that the customer has on the premise.

Q. Okay. How long -- let's say the meter records a kilowatt reading that sets -- that's higher than what you've mutually agreed to, I guess, due to expansion. How long -- is that -- if that's the maximum kilowatt demand that the meter ever records, does that become his contract demand forever until it is superseded by a higher reading from the meter?

A. Either that or until it's superseded by some change in the customer operations where he may have, let's say, for some reason, ceased operations or eliminated a product line. If they contact us, and this is a permanent change, then we will -- we will redo the contract with the customer.

Q. Okay. But if there isn't such a permanent change, that -- that maximum kilowatt reading could apply for years in the future. Right?

A. Yes. Yes.

Q. It would be used to bill them each month until there is a change?

A. Yes. And that's, again, on the basis that we have to have adequate distribution capacity to supply those requirements at all times. And -- and the customer -- the customer may be generating. His unit may fail any time. And we've got to have facilities there to supply that, and that's why that stays -- that stays in place, unless there is some subsequent change that takes place.

Q. Okay. Are there any other minimum charges? I know the demand charge is different in the summer and the winter, 15.85 in the summer and $7.20 in the winter.

But other than those customer charges and demand charges, are there any other minimum charges that the Rider E customer pays?

A. Well, let me clarify what this is. You said a minimum charge that the customer pays. The customer may not pay any of these demand charges if the customer takes sufficient usage from the Company that exceeds this minimum bill calculation. If he -- if the usage -- the dollar amount of the usage exceeds these minimum demand charges, basically, we just bill for the usage. So the customer may not necessarily pay these charges.

Q. Okay. Well, let me ask a couple of things about that.

One, is if he doesn't take any -- anything from the Company at all, he'll pay the customer charge and the demand charge times his contract demand. Right?

A. That type of customer would. We don't have any customers like that. All of our current Rider E customers take sufficient use from the Company that they go beyond the minimum bill amount, and we rarely collect anything from anybody on this minimum bill provision.

Q. Okay. Tell me how that works. How do they -- how do they through usage have a bill greater than the minimum bill? What's the usage charge, I guess, we could start with?

A. Well, let me just give you an example. Just assume any level of use you want as a normal customer without generation. You would generate a bill of a certain amount of dollars. Okay. We would -- that would be the same as any meter usage for these customers. He would be would get a bill. A bill would be generated for a certain amount of dollars. Then the minimum bill calculation using those demand charges would take place, and the two amounts would be compared.

And so as long as the amount for the service being provided exceeds the minimum bill amount, there is no minimum bill charge. He just -- the customer would just be billed for the amount of the service that was taken.

Q. So would it -- if you're -- if you're co-generating only a small amount of your usage, and you take -- say you take service for 90 percent of your usage from UE, because 90 percent of your usage isn't even -- isn't even being dealt with by that co-generation, you're always going to probably exceed the minimum bill?

A. Yes, you will. And unfortunately we would then be reserving that 10 percent of the generation for free, and that's one of the -- that's one of the shortcomings of the Rider E.

Q. But on the other hand, if you had a co-generation unit that was capable of supplying 100 percent of your use, and you only used UE for a backup, much more frequently you would be paying that minimum bill, assuming your co-generation unit wasn't down all of the time, but most of time you would be paying the minimum bill, and it would just be, I guess, in a more rare situation where your usage would exceed the minimum bill?
A. Under that scenario, that would be correct. But, as I said, we don't have any customers like that.
Q. You don't have customers have that co-generation that can supply, like, 100 percent of their needs?
A. Not at this point in time, we do not.
Q. What percent typically do they supply of their own needs?
A. It varies. It varies. But I would say for the most part most of them are taking over half of their requirements from Union Electric.
Q. Okay.
A. But that does vary.
Q. Okay. Are these rates the same as are in your primary -- large primary service?
A. Yes, they are.

Q. Let me ask you this: With regard to the demand charge, isn't it true that for your large primary service, don't you recalculate the kilowatts that the demand charges apply to each month?

A. Yes. It's based on monthly meter readings.

Q. So where as a co-generation customer, if you had a high demand at one point in time, that would stay in effect until there was a change; for a large primary service customer, every month the demand gets reset by what's metered; is that correct?

A. That's right. But it is different because we're always standing by to back up that Rider E customer any time his unit fails, and that's the difference. A customer with no generation, there will be fluctuations between months, but it's not going to fluctuate from zero to 100 percent like it could be, or zero to 50 percent like it could be for a Rider E customer with generation. So you've got a lot more risk there in what you're backing up, and there is a financial cost associated with that.

Q. Do you have any evidence that co-generators have disproportionate amounts of outages on your peak periods, or -- well, that's the end of my question.

A. I have not studied that. I couldn't -- I couldn't tell you one way or another.

Q. Okay. So for all you know, it's equally likely that they will have an outage on your peak period or any other period?

A. For all I know. We sure don't want the outages on our peak period. That would be the very worst time and the most costly time. But as I say, I have not studied it, and I don't know what the track record is.

Q. Does UE want to encourage co-generation by its customers?

A. I don't think we have an opinion on it one way or another. We believe in cost-based rates, so if there is a desire for co-generation service, so long as we can cover the cost of providing that service, I think we really don't have an opinion.

If the customer finds that co-generation is, in fact, in his best interest, well, that's fine with us, so long as we're not providing free backup service -- that's where we have an interest -- and making sure that co-generation customers are not subsidized by other customers that don't have co-generation. And that's one of the things that Rider E attempts to address.

Q. Well, couldn't co-generation by customers provide some benefits to UE? And, I guess,

specifically I'm talking about maybe reducing your peaks, maybe helping your reserve margin out? Couldn't there be some benefits like that that UE could get from customers that co-generate?
A. That would be a residual benefit, again, so long as the co-generator could guarantee that they would be on at time of peak and not on our system at times of peaks.
Q. Is there any other rate besides Rider E that you have for co-generators on your system?
A. No. That generally is what all of the customers with some form of self-generation are on.
Q. What do you do if a customer installs co-generation but doesn't go on Rider E? Does that ever happen?
A. I don't know if it's ever happened. I know we would be concerned about it from a safety standpoint and from -- just from a system stability standpoint, because if a customer puts in a generator and we're not aware of it, and various things are going on at the time our people, let's say, are in the area working on lines, and we have a backfeed situation into our system, that could be a hazardous situation.
If a customer's generator is, let's say,

pulling down the voltage in the area of neighboring customers that we're serving, that would be a detriment to the service being supplied to neighboring customers. So we really need to know when that's going to take place and we need to make sure that the proper protective equipment is installed both on our side of the meter and the customer's side of the meter to accommodate situations like that.

Q. Okay. Now, you said these Rider E rates are the same as the large primary service rates. Is it true that the large primary demand rate is based on costs allocated to large primary service usage during peak periods?

A. Well, theoretically it should be, if it was set based on cost of service. It was -- it was -- those rates were established by settlement in the last rate design case.

Q. Okay.

A. So, you know, you can take different positions on what's actually included.

MR. BYRNE: Okay. I think I'm done, but just one minute.

I have no further questions.

JUDGE REGISTER: Thank you, Mr. Byrne. I'm going to ask -- I need to take a five-minute break at this time, so let's resume here at 3:00.

(A RECESS WAS TAKEN.)

JUDGE REGISTER: Mr. Byrne said he was finished with this witness, and according to my order, then Staff would be next. No. Did we change that?

MR. KRUEGER: I think that is correct.

We have no questions.

JUDGE REGISTER: Thank you, Mr. Krueger.

Public Counsel?

MR. COFFMAN: No questions.

JUDGE REGISTER: And Ms. Schmidt?

MS. SCHMIDT: No questions. Thank you.

JUDGE REGISTER: And Ms. Forrest?

MS. FORREST: No questions.

JUDGE REGISTER: All right. So then that -- are there questions from the Bench at this time then?

Chair, would you like to --

CHAIR LUMPE: Yes, just a couple.

QUESTIONS BY CHAIR LUMPE:

Q. Mr. Kovach, I was interested in why the division -- the seasonal division is four months and eight months. Is that historically going back, or what's that based on?

A. It is somewhat historical, but there is a -- there is a schedule in my testimony that shows the distribution of our monthly peak loads, and there is a real fairly distinct division between the summer loads and the winter loads, as you will see from that. And --

Q. So based on that sort of graphing over the years --

A. Yes.

Q. -- you have come up with group of four months here and a group of eight months here?

A. Yes. And, generally, the peaks are caused by air-conditioning loads, and I think we all know when the air-conditioners run. The air-conditioners run generally between June and September, and that tends to drive those system peaks.

Q. I have one that's sort of a follow-up. And I would agree that we need to know if there is a co-generator out there, because you discussed safety issues, et cetera. But would that co-generator need to be a Rider E company? Could they chose not to be a Rider E company, or because they have co-generation they, of necessity, must be a Rider E company?

A. We require any customer with generation to sign a parallel operating agreement so that, again, we can protect the integrity of our system. And then with that information, we would also require the customer to become a Rider E customer.

Q. So it is a requirement?

A. Yes.

Q. If you are a co generator, you are required to do that?

A. Yes.

Q. Thank you.

A. But I would like to add, as I indicated, that if a customer does take a portion of his use from the Company, as well as generating a portion, usually the customer does not incur any minimum bill under Rider E. It's only under the circumstances when he takes practically nothing from the Company that Rider E comes into play with some billing charges for the backup and the standby service that we're providing.

Q. I wasn't clear on the earlier question whether if you are a co-generator you must be a Rider E, and your answer is yes?

A. Uh-huh.

Q. Okay. Thank you.

A. May I give you a reference to that chart I was referring to?

Q. I think I've seen it, and I just -- where it goes along and then it's sort of up here a little.

But I didn't know how historical that was.

A. That would be Schedule 2 in my direct cost of service study.

CHAIR LUMPE: Okay. Thank you.

JUDGE REGISTER: Commissioner Crumpton?

COMMISSIONER CRUMPTON: No questions at this time.

JUDGE REGISTER: Commissioner Murray?

COMMISSIONER MURRAY: Thank you.

QUESTIONS BY COMMISSIONER MURRAY:

Q. Good afternoon.

A. Good afternoon.

Q. Do you consider it more cost-effective to serve customers during the non-peak load periods than during the peak load periods? And I may not have phrased that question exactly right, but --

A. At this point the way we have our system constructed, the capacity that we have, we can supply additional usage during off-peak periods without incurring any fixed cost investment. Generally, we can serve that just with -- by spending money for variable generation costs.

Q. So is that behind the rationale in determining that your proposed rates are going to be highest in the summer during the peak periods and then the winter you would separate into two block periods because the more -- the second block being less cost per kilowatt hour because the more kilowatt hours that you sell during the off-peak period then actually the less it costs you to sell those; is that correct?

A. It does cost less because we're mainly incurring vary-- just variable costs, but to the extent that the rate has more in it than just our variable costs, and it certainly does -- I want to assure you that -- then those additional sales and the additional costs that we're recovering over and above variable costs, that goes to basically keep the rest of our rates lower than they otherwise would be. And so it all -- all customers on the system benefit from off-peak sales that we're able to make.

Q. Okay. And for the summer and winter periods that we're talking about here, and the division that you have proposed, I'm -- I'm trying to see if that -- if this fits with that reasoning.

And it appears to me that the design for the proposed rates that you have shown with two winter blocks would be sending -- one, they would send price signals that it costs more to serve during peak-load periods and by breaking the winter into two periods that that continues that price signal that actually the more usage during those low-peak periods should result in less costs. Would that be correct?

A. That is essentially correct. Yes.

Q. One thing, I guess, I'm -- I don't quite understand is that under your current rates there was a 109 percent differential -- winter/summer rate differential, and then under your proposed rates it looks like it's up to about 161 percent.

Why should that differential increase?

A. That differential was arrived at from our cost of service study, and our cost of service study showed that the -- we were earning a sub-par or below-average rate of return on the residential class as a whole and that the residential class rates needed -- needed to come up, and some of the other ones needed to be reduced.

I would -- I would underline the fact that the rates that we have settled on, that is no longer our position. But the rates that we proposed at the beginning of this case were a reflection of our cost of service study.

COMMISSIONER MURRAY: Okay. I believe that's all of the questions I have. Thank you.

THE WITNESS: You're welcome.

JUDGE REGISTER: Commissioner Schemenauer?

COMMISSIONER SCHEMENAUER: Thank you, Judge.

QUESTIONS BY COMMISSIONER SCHEMENAUER:

Q. Goods afternoon.

I don't know if I have a question or if I just want you to kind of clear something up for me.

The reason you're having a higher rate for the four months in the summer is because -- it's a result of the law of physics, so to speak. The higher the demand you have, the hotter your transmission wires get, the more voltage you have to generate to push the same amount of current through those transmission lines, so you are not as efficient in your generation or your transmission in the summer as you would be in the winter because the demand goes down; is that correct?

A. Yes, that's correct. That's a part of it.

Plus -- plus, our system peak loads are actually higher in the summer months than in the winter, so we really have -- that -- it's the summer period that drives our system capacity requirements, so we've got to add more capacity to serve those higher loads in the summer, and that's in addition to the point that you've correctly raised.

Q. Okay. Then I guess a -- an unintended impression that could be gained by this would be that you're penalizing your captive customers in the summer because they can't go anywhere else for air-conditioning outside of the electrical supplier, and then you're favoring your winter electric heat users with a lower rate because they can go to gas. And I think that's an unintentional result of maybe the cost of additional generation and transmission costs.

Is there any -- I guess, have you considered adjusting the winter rates slightly higher and the summer rates slightly lower so the differential isn't so great?

A. Well, let me respond to your first comment.

I believe I did see that in somebody's testimony about the competitive aspects, and, again, as I think Mr. Cook mentioned in his opening remarks, we don't have any end use rates like some of the other utilities have that are designated for heating or designated for water heating or anything.

We believe in generic cost-based rates, and those rates are structured on the basis of what our cost studies show, and the differentials evolve from the differences in the loads between the seasons.

Now, yes, someone could say, well, why don't you compress the differential a little bit, but I --

this concept about captive loads, I -- I guess what I would say is whoever is out there that is a space heating customer is also a summer air-conditioning customer, and so we're not penalizing one customer to the benefit of another. We're really talking about essentially the same customer. And all we're trying to do is get the seasonal rates set to follow our cost of service studies and give the proper price signals to all of our customers.

Q. Okay. My last question is, do you have any -- any heating assistance or air-conditioning assistance programs in place for poor people to use in the summertime like you do in the wintertime? Are there any special allowances that you give to folks who would qualify?

A. That's a little bit out of my area. I might ask Mr. Cook if he knows anything about that. That's just completely out of my area of responsibility --

Q. Okay.

A. -- so I'm afraid I couldn't answer.

Q. That's all right. I don't need an answer.

A. Okay.

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

JUDGE REGISTER: Commissioner Crumpton, I believe, has some questions of Mr. Kovach.

COMMISSIONER CRUMPTON: Thank you.

QUESTIONS BY COMMISSIONER CRUMPTON:

Q. I have the impression that there is somewhat of a winter peak load in electricity. Is that not true?

A. Well, again, if you refer to that bar chart, Schedule 2 of my testimony --

COMMISSIONER CRUMPTON: Do you have his -- I brought the one for rate design.

JUDGE REGISTER: Right.

BY COMMISSIONER CRUMPTON:

Q. So there is a small peaking -- peak load in the winter?

A. Usually during the coldest month of the winter, yes.

Q. Okay. Now, is it a good public policy to shift some of the costs from the period during which the citizen is paying the largest amount for his utilities, which in this case would be the summertime, shifting some of those payments to those off-period times? Is that good public policy?

A. Well, public policy, I guess, is somewhat kind of the eye of the beholder on what one feels is good public policy.

As I indicated earlier, what we're trying to do is reflect the cost of the service that we provide. We are trying to reflect when we have capacity available during off-peak periods, we should do the very best we can to make as much utilization -- cost-effective utilization of that capacity and on -- in the very short run additional sales during off-peak periods. The only costs that we incur out of pocket or fuel costs.

Q. And I understand. You're, then, just making a pure cost presentation to us as justification for the method that you're using?

A. Yes.

Q. But in other circumstances the Commission may reject that and say we want to allocate some of those costs away from the time when the citizens are being asked to pay the most, like $200 or $300 a month electric bills, to those other eight months when their costs are a little bit lower. Your company ends up in the same position in its -- total recovery of its total cost, but the citizen is sort of paying a little bit less.

Now, I understand that citizens have an option of doing a budget plan, but you're just providing us information. We could say that this ought to be changed, but you are just giving us information from your point of view?

A. Yes. What I -- what I could add to the cost information that we've provided in response to your point, certainly setting policy is part of your responsibility.

Q. Right.

A. However, we need to be careful of the price signals that we're giving customers. If we wind up giving too low of a price signal during the peak summer period, this might encourage even more use during that summer period and basically drive us into spending more dollars for adding more capacity to take care of that additional summer use.

And then the flip side of that would also be true, if those off-peak rates get -- get boosted up and get boosted up too high, we might be discouraging additional use during the off-peak period, and that would also be detrimental to the customer.

So it's a tightrope. It's a balancing act that we need to consider very carefully.

Q. But tweaking it a little bit may not have that much of an impact. It depends on the elasticity of the band. If the citizens don't have any more money, I mean, I don't care what we do, they are still only going to consume a limited amount.

We have citizens who are rationing their money between food, rent, insurance, medicine, and cool air in the summer. And many of them are opting to forgo the cool air, and some of them don't survive, because we have -- I'm not keeping statistics on it, but it is sometimes good public policy to shift some of the burden to periods other than the period in which the cost is incurred.

A. I think we appreciate that. I think generally -- and, I guess, I would say this maybe is my personal feeling --

Q. Uh-huh.

A. -- we have various forms of public assistance available, whether it be through the state, the federal government, and as I say, I don't know for a fact that our company may also have some assistance program to help the very people that you mentioned.

I really think that is a better way of addressing those that are truly in need as opposed to deviating significantly from cost by moving -- moving the collection of this around between -- between seasons, because then you're doing it really to all of the customers and not just the ones that may need the assistance.

Q. But you -- don't you use a different ratio for the customer under 750 kilowatt hours versus the customer over 750?

A. The rate is different, yes.

Q. So we could tweak that a little bit, could we not?

A. I think you can -- you can recommend whatever you feel is the way you need to recommend.

Q. Or we could order you to adjust it?

A. I think we have to clearly identify the problem we're trying to solve and -- and roll up our sleeves and go to work on it.

Q. Okay. Well, your presentation of the calculations, I think, are impeccable, but there may be some other issues that we have to look at.

A. I understand.

Q. Thank you very much.

A. Thank you.

JUDGE REGISTER: Chair Lumpe has another question. Chair Lumpe?

FURTHER QUESTIONS BY CHAIR LUMPE:

Q. It's sort of a follow-up on that, and it sort of goes to the issue of the four and the eight.

If you were to use six months and six months, there would be a differential of the six months and the six months that might level off the very high and the lower. And that's somewhat of what my question was, what was the rationale for taking these four months and making it high and eight months and making it low.

And the other question, then, is a clarification -- and that was a comment, not a question to you, Mr. Kovach.

-- is that as you said in the winter months the more you use, the less it costs. But the summer months it isn't the more you use the less it costs because it's the generating -- the generation needed for the summer that we have the greatest generation capacity, so you couldn't make that statement across the board. You could make it for the winter, the more you use, the less it costs, but you couldn't make that overall because in your peak months you get into the capacity need that makes it cost more. Is that correct?

A. Yes. Generally, that would be correct.

Q. Okay.

A. And might I make a comment on your six month --

Q. You may make a comment.

A. The Schedule -- Schedule 2, again, I think a picture is worth a thousand words.

COMMISSIONER CRUMPTON: It sure is.

THE WITNESS: And at one time, I think Union Electric Company -- I can't remember exactly how far back, but there used to be probably three billing periods throughout the year, and my recall is -- I don't remember the exact months, but if you look at the bar chart, you can almost guess this, I think, that the lowest months of the year would be the spring and the fall. April/May, October/November. And if we were to do anything those are the months. And you can see from the bar chart, they are almost identical months from a load perspective.

BY CHAIR LUMPE:

Q. So you have sort of a mini peak in the summer?

A. Yes.

Q. And you have these two and then you have a mini peak and then the high peak?

A. Yes.

Q. Or vice versa.

A. One of the things we also need to keep in mind, of course, is that we need time to bring our big generating units off-line and do annual maintenance, and that's usually in those spring and fall months and

to a certain extent during the winter when the loads are down, so we still have to have room in the schedule for that.
Q. And do you have a bud-- or a level rate program, in other words, that a person can pay a flat rate --
A. Yes, we do.
Q. -- a flat rate each month?
A. I'm on it.
CHAIR LUMPE: Thank you.
THE WITNESS: You're welcome.
JUDGE REGISTER: Don't go away because we still have cross after we finish up -- or recross after we finish up here.
Commissioner Crumpton had another question.
COMMISSIONER CRUMPTON: Yes.
FURTHER QUESTIONS BY COMMISSIONER CRUMPTON:
Q. In the allocation of the cost in these various periods, is some of that not arbitrary?
A. Well --
Q. I don't mean capricious, but just --
A. I think if you read the introduction to the NAARUC manual, they will -- they will tell you that they are generally acceptable cost allocation methodologies that are used. And some of them are

subject to the whims of the person selecting the cost allocation method.

I tried to summarize the general methods earlier in my testimony. I know the Company differs somewhat with the Staff on how those costs should be allocated. We differ with other parties. These are purely professional differences of opinion, so I would -- I would say that there are more -- that there is more than one way to do it. We think our way does it, does a very good job, but it's not the only way to do it.

Q. And I think that's the point.

I want to talk about the allocation of cost for the peaking units.

In the allocation of cost of the peaking units, in the process that you use, did you allocate the carrying cost of the peaking units throughout the entire 12 months.

A. The peaking units are included. They are included with other generation plant.

Q. Okay. So they are all in there?

A. Yes, they are all in there. But the amount of dollars that are allocated are -- there is more dollars, obviously, allocated in the summer months than in the winner months.

Q. That's the point. So we could just smooth that out, could we not, smooth out some of those costs throughout the year?

A. I don't know that you would want to move the peaking -- the peaking units cost more appropriately belong in the summer months because that's when they're generally called upon.

Q. Right. I understand. But I'm not speaking of the variable costs. I mean, are there other costs that we could spread out throughout the 12-month period as opposed to locking them into the four-month period? For instance, in Missouri, in St. Louis, we can have hot days in May where people will turn on their air-conditioners and run them pretty well. And we can have cool days in July where they are not turning them on. So your peaking unit is not locked into these 12 months. Am I right or wrong? Do you just start them up on June the 1st and hut them down on September the 31st?

A. Ideally, we won't run them at all because they would be part of our reserve capacity. But, generally, when they would be called upon, 99 times out of 100 would be during the summer months, yes.

Q. You never call upon them in May?

A. I would say not. However, occasionally in the winter when we have the other large units down for maintenance, we get a very sharp cold snap. There might be an occasion when we would have to bring the peaking units on in the winter. But that would be very rare compared to how they would normally be used.

Q. Could you take the baseload units down in April?

A. We do that.

Q. Okay. Then you're using peaking units in April?

A. No.

Q. You could?

A. We could, but we do not because generally the loads are low enough in April that we can take some larger units off and do maintenance and still have enough capacity left to supply the lower loads.

COMMISSIONER CRUMPTON: Okay. I was just trying to figure out -- I mean, in my cross-examination of you to identify some alternatives to putting all of the costs in that twelve -- that four-month period. Thank you.

JUDGE REGISTER: Vice Chair Drainer had a question about the differential.

QUESTIONS BY JUDGE REGISTER:

Q. Under the settlement agreement, what

will the differential -- the seasonal differential be?

A. In terms of percentage, it will be exactly the same as it is under our current rates.

Q. And that is the 109 percent?

A. Yes.

JUDGE REGISTER: That's the only question I had.

Commissioner Schemenauer?

COMMISSIONER SCHEMENAUER: I just had one more.

FURTHER QUESTIONS BY COMMISSIONER SCHEMENAUER:

Q. I'm following up Commissioner Crumpton's line.

I'm trying to predict, someone who doesn't use air-conditioning, they are a low-income family, and they haven't been increasing their load. Have you ever given any thought to having a summer differential -- I know right now it's all kilowatts, but if you have zero to 300 kilowatts as a lower rate and then 300 kilowatts and above at a higher rate, it would help those that don't use air-conditioning because they can't afford it, or -- anyway, it would protect those least able to afford the higher rates in the summer.

Have you ever consider anything like that?

A. That has been considered in the past. I don't know that we would be strongly opposed to that. I -- I'm stretching my memory a little bit to think about how various parties that may have discussed a proposal like that responded. I really don't remember, but that has been -- has come up in the past.

Q. Okay.

A. And it certainly is something that could be looked into.

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

COMMISSIONER CRUMPTON: And that basically was where I was headed. I thought we could keep the two, but lower the cost on the first 350, and then raise it on that second tier, 350 and up.

JUDGE REGISTER: Any other questions, Commissioners?

(No response.)

JUDGE REGISTER: We'll go to recross, then, at this time, beginning, then, with Laclede; is that right?

MR. BYRNE: That's right, your Honor.

I just have a few questions.

RECROSS-EXAMINATION BY MR. BYRNE:

Q. Mr. Kovach, Commissioner Murray asked you about off-peak service, and I believe you said that off-peak your customers could be served for a little more than the variable running costs of your system. Is that what -- do you recall that?

A. That's what I said.

Q. Okay. But isn't it true that your baseload units are designed to run all year long?

A. They are designed to run all hours when they are not scheduled down for maintenance.

Q. So, for example, the Callaway Nuclear Plant runs all of the time unless it's being maintained, does it?

A. That's correct.

Q. And is it the same for coal-fired baseload units?

A. Generally, it is, but some coal-fired units are sort of designed for intermediate-type use, which wouldn't necessarily be around-the-clock, all hours. They may be running two shifts, for example, and maybe one shift on weekends, or something like that.

Q. If you were to design your generation only to serve summer -- your summer peak, wouldn't there be less expensive alternatives than, say, the Callaway

Nuclear Plant and the big coal-baseload units that could serve that peak if you weren't also concerned about serving winter loads?

A. That sounds awful multifaceted. Could you break that down for me? I'll try and answer it.

Q. Well, wouldn't there be a cheaper generation alternative if all you were concerned about is serving your summer peak and you didn't have to serve customers all year long, cheaper than, say, the Callaway Nuclear Plant or the baseload coal plants that you've built? Wouldn't there be cheaper generation alternatives than those?

A. Is this getting to peaking capacity versus baseload capacity?

Q. It's not getting to anything. It's just -- the question is just, if you designed your system only to serve your summer peaks, couldn't you construct cheaper generating units than the Callaway Nuclear Plant and your baseload coal plants?

A. That's -- that hypothetical question just isn't realistic. We have -- we have customers we have to serve twelve months a year, so that -- really, the question doesn't make any sense.

Q. So that's why you built the Callaway Nuclear Plant, and that's why you built the baseload coal plants?

A. We built the Callaway Plant because the system had a need for baseload capacity at the time, and that was the lowest cost alternative at the time.

Q. Baseload capacity twelve months out of the year. Right?

A. However baseload capacity is going to be used.

Q. And on your system it's used twelve months out of the year, isn't it?

A. If we possibly can use it twelve months of the year, yeah. It doesn't make sense to invest money in a facility and let it sit there idle.

Q. And the only reason you wouldn't is if you're doing maintenance on it or it's out of service?

A. Ideally, you would like to maximize the output of any asset.

Q. Commissioner Crumpton asked you a question about, I guess, the arbitrariness of cost assignment in between seasons. And isn't it true, though -- and I think you referred to the NAARUC manual, and there are some standards that we all try to use. Do you remember that question and answer?

A. Generally, I remember it.

Q. Isn't it true that there is a lot of

different variations on cost allocation methodologies that are acceptable under the NAARUC manual, and you can reach a lot of different results employing various combinations of those analyses?

A. I don't know what you mean by a-lot. I think the cost allocation methods that are discussed in the NAARUC manual fall into a limited number of general categories, and then within each category there may be some variations.

But they are pretty well categorized. I wouldn't -- "a lot" sounds like you've got 1,000 of them to choose from, and that's not necessarily so at all.

Q. Okay. In response to another question from Commissioner Crumpton, you suggested that peaking units -- the cost of peaking units should be more allocated to the summer than the winter. Do you remember that?

A. I remember saying that, but -- but I don't think it was in response to that type of question. I don't remember the exact question, but I don't think it was -- it was just, how do you allocate peaking units? Or how should you allocate peaking units? I think it was in response to another question, which I don't remember.

Q. Okay. But do you remember saying peaking units should be more allocated to the summer than the winter period?
A. Well, I may have said that, but I don't remember what I was responding to.
Q. Okay.
A. So, I mean, that is not a general statement that I would say across the board to each and every question that might be put to me.
Q. Well, let me ask you this: Under the same logic that peaking units should be more allocated to the summer than the winter, shouldn't baseload units be allocated more to the winter than summer because there is more kilowatt hours of usage in the eight-month winter period than there is in the four-month summer period?
A. Again, that's a multifaceted question, but it seems to go against your earlier question that the baseload units should be run all of the time. So why would you want to -- why would you want to allocate more of them to the winter than to the summer. You're acting as though they're not going to be needed in the summer at all.
Q. Well, it's because there is an eight-month winter period and only a four-month summer period;

isn't that true?

A. That's true, but you have to go back to why did you put that unit in to begin with. What drove the need for that capacity to be added to the system? And it was not growth in winter loads. It was growth in summer loads that caused that capacity to be added.

And by that you could make an argument 100 percent of it ought to go to the summer. We're not doing that, but if you want to get real extreme about it, you could take that position.

MR. BYRNE: I don't have any further questions.

JUDGE REGISTER: Before we go on, Commissioner Crumpton has another question, and then I'll allow Mr. Byrne to recross if he has questions from him.

COMMISSIONER CRUMPTON: I apologize for not asking this question earlier.

FURTHER QUESTIONS BY COMMISSIONER CRUMPTON:

Q. Would your client care very much if the Commission ordered a revenue neutral change of, say, 3 to 5 percent in the allocation between summer and winter, as long as your client received the money that they deserve?

A. Well, we'd have to look at that and try to make some assessment whether or not that would have some impact on customer usage. And -- and I would not want to see that transferred to our tail block in the winter --

Q. Okay.

A. -- because I think we have a lot of customers that have usage on that block, and -- and they're certainly not all heating customers. And we'd have to take a look at that also.

Q. Your customer -- your client does not want to underrecover its costs and neither does it want to overrecover, I would assume, because we have mechanisms to try to discourage that. But as long as they're recovering what they deserve, and you've had a chance to analyze the impact on the tail issue, and it seems to me that we should have a latitude to very these rates a little.

JUDGE REGISTER: Is that a question? Are you just following up on your question?

BY COMMISSIONER CRUMPTON:

Q. Do you agree with me?

JUDGE REGISTER: Thank you.

COMMISSIONER CRUMPTON: That is a question.

JUDGE REGISTER: Thank you.

THE WITNESS: Given -- given the choice

between transferring costs between seasons or perhaps putting in that initial block that I believe the other Commissioner may have referred to, I think without checking with anyone else, my gut reaction would be that we would probably prefer to set up that initial block.

BY COMMISSIONER CRUMPTON:

Q. Of varying?

A. Yes. That would be the first choice.

COMMISSIONER CRUMPTON: Thank you very much.

JUDGE REGISTER: Mr. Byrne, do you have any further questions on recross from that?

MR. BYRNE: No, your Honor.

JUDGE REGISTER: Continuing with recross, Staff?

MR. KRUEGER: No questions.

JUDGE REGISTER: Public Counsel?

MR. COFFMAN: No questions.

JUDGE REGISTER: Ms. Schmidt?

MS. SCHMIDT: No. Thank you.

JUDGE REGISTER: Ms. Forrest?

MS. FORREST: No. Thank you.

JUDGE REGISTER: Thank you.

Then we are finished with this witness?

MR. COOK: No.

JUDGE REGISTER: Oh, sorry. Thank you very much, Mr. Cook. How about redirect? Would you like to have redirect now?

MR. COOK: Oh, please. Thank you.

REDIRECT EXAMINATION BY MR. COOK:

Q. Mr. Kovach, let me follow up directly on the most recent question by Commissioner Crumpton. If by moving the cost of recovery from the peak period to an off-peak period or to the winter, that -- even though the Company would recover the same total amount of revenue in the year, that sent price signals that caused the Company to have to add capacity because now peak times is cheaper and, therefore, easier to use, would that additional capacity have an effect on the Company and eventually on the customers?

A. Well, if that happened that would increase the cost of doing business.

Q. And that's just a general theory of sending the correct pricing signals; is that correct?

A. Yes.

Q. And that would be probably less of a problem, is it your testimony, if we -- there was an initial block in the summer which at least kept the peak period cost recovery in the peak period?

A. Yes. I think that would be a better way to go.

Q. Okay. A little bit earlier Commissioner Schemenauer asked about the increased cost in the summer, and the one point he mentioned was those increased costs that are caused by the physics of it being hot and requiring more effort to get the power to the customers. You mentioned that was part of it, and the other part was also just the fact that you have to have more capacity to meet the additional loads of air-conditioning.

Which is the greater effect on the cost?

A. The capacity requirements for taking care of the air-conditioning loads would probably be the more major factor, and the other factor would be a lesser factor, but still a factor.

Q. Okay. Chair Lumpe was talking about -- I think it was the Chair who was talking about Rider E and whether a co-generator must be on Rider E. And you said yes.

And I guess my question to follow up on that is, if we look at Exhibit 36, which is Rider E, the very first sentence under the definition, I believe, says, "Where the service provided -- supplied by Company is available in the event of failure or shutdown of customer's private plant service," et cetera.

If a customer has generating capacity which would probably not be considered co-gen but had generating capacity that if it shut down did not require any service from Union Electric, they wouldn't need Rider E, would they? They would just be without electricity.

A. You're talking about a situation where the customer would be isolated from the Union Electric system?

Q. Or at least that portion of the customer's service, yes.

A. Yes, that would be correct. An isolated customer would have no need for Rider E and would not be compelled to take it.

Q. So Rider E is there because Union Electric would be there to provide the service if the co-gen failed?

A. Yes.

Q. All right. I think the only other question I had was to clarify for me. I'm not sure -- I'm sure you said it right, but I'm not sure I heard it right.

Earlier we were talking about the conditions on the electrical system in the summer versus the winter and that the -- I don't recall which you said that the system was better able to handle a higher load. Was that in the summer or winter?

A. I said the existing distribution system is capable of handling higher loads in the wintertime as opposed to the summer.

Q. Okay.

A. And that's what I meant to say. If I said it in the reverse, that was incorrect.

Q. Do you know about how much more capability there is?

A. It's my understanding on the range of 15 to 20 percent more load can be handled on our distribution system in the winter as opposed to summer. And I think some of our more enthusiastic distribution engineers will even claim that it is 25 percent. But, generally, it's my understanding 15 to 20 percent is the approximate range.

Q. There was one other area that came up, I think, in a few questions from the Bench concerning winter use, summer use, and what kind of customers are on at different times.

Is it your understanding that the only customers of Union Electric that benefit -- receive the benefit effect of a lower tail block rate in the winter are heating customers?

A. No, that's not true at all. We have a number of customers that are high winter users that when we used to keep track of who we thought was a heating customer and who was not, they were not heating customers.

Q. Do you know any -- are there any numbers on that percentage that you're aware of from past studies?

A. I believe in the last rate design case that issue came up, and I -- I believe we found that less than 40 percent of the customers that got on that tail block in the winter were heating customers at that time. Today, we have no idea what that is, but it was less than 40 percent.

MR. COOK: Okay. I believe that's all I have.

Thank you.

JUDGE REGISTER: Mr. Kovach, I believe you can be excused at this time.

THE WITNESS: Thank you.

(Witness excused.)

JUDGE REGISTER: And we will now move to Laclede's witnesses.

MR. BYRNE: I would like to call Michael Cline to the witness stand.

JUDGE REGISTER: Mr. cline, raise your right hand.

(Witness sworn.)

JUDGE REGISTER: Thank you. Please be seated.

MICHAEL T. CLINE testified as follows:

DIRECT EXAMINATION BY MR. BYRNE:

Q. Mr. Cline, will you please state your name?

A. Michael T. Cline.

Q. By whom are you employed, Mr. Cline?

A. Laclede Gas Company.

Q. And in what capacity are you employed by Laclede Gas Company?

A. I'm Manager of Tariff and Rate Administration.

Q. Okay. Your direct testimony in this proceeding has been marked as Exhibit 27. Do you have your direct testimony with you?

A. Yes, I do.

Q. Do you have any corrections to that testimony?

A. No, I do not.

Q. Are the answers contained in that testimony true and complete to the best of your knowledge?

A. Yes, they are.

Q. And if I was to ask you the questions in your testimony here today, under oath would your answers be the same?
A. Yes, they would.
Q. And your surrebuttal testimony has been marked as Exhibit 29. Do you have that?
A. Yes, I do.
Q. Do you have any corrections to your surrebuttal testimony?
A. No, I do not.
Q. Are the answers in your surrebuttal testimony true and correct to the best of your knowledge?
A. Yes, they are.
Q. If I was to ask you the same questions in that testimony here today, when you are under oath, would your answers be the same?
A. Yes, they would be.
MR. BYRNE: Okay. I'd offer Exhibits 27 and 29, and tender the witness for cross-examination.
JUDGE REGISTER: Thank you, Mr. Byrne.
Any objection to the admission of Exhibits 27 and 29 into the record?
(No response.)
JUDGE REGISTER: Hearing none, I will admit

Exhibits 27 and 29 into the record at this time.

(EXHIBIT NOS. 27 AND 29 WERE RECEIVED INTO EVIDENCE.)

JUDGE REGISTER: Mr. Cook, I believe you're first up on cross-examination.

MR. COOK: Yes. Thank you.

CROSS-EXAMINATION BY MR. COOK:

Q. Good afternoon, Mr. Cline.

A. Good afternoon.

Q. You've been with Laclede since 1975; is that right?

A. Yes, sir.

Q. And you've worked in budgeting and treasury and financial planning and in marketing; is that right?

A. I've not been in marketing.

Q. Well, you were a staff assistant to the Executive Vice President of Operations and Marketing. Is that right?

A. Yes, sir, I was, but I had no marketing role at that time.

Q. Okay. Do you have any marketing role now?

A. No, sir, I do not.

Q. Okay. The effect of your proposal to increase the rates for electricity used by UE's

residential customers during the winter would help
Laclede's marketing of its product, wouldn't it?
A. It certainly would -- it certainly would lessen the advantage that Union Electric would have to make winter heating sales.
Q. Or increase the advantage that Laclede would have; is that right?
A. It would increase -- it would certainly make natural gas in comparison to electricity more advantageous.
Q. Okay. Now, you state that -- let's look at the differential first.
You state on Page 3, Line 5 of your testimony --
MR. BYRNE: Which testimony?
MR. COOK: I'm sorry. The direct testimony, Exhibit 27.
BY MR. COOK:
Q. -- that basically that "Rates should be indicative of the relative energy-related costs of providing residential service to customers in the different seasons"; isn't that correct?
A. That's what I said.
Q. Is it true?
A. Yes, sir.

Q. Okay. And you say that -- let's see, that "This is true for rates which are based on cost of service." That's how you start the answer. Is that right?

A. Yes.

Q. Did you perform a cost of service study for UE in this case?

A. No, I did not.

Q. Did any witness for Laclede?

A. Yes. Neal Suess, our consultant, basically performed a study relying on a cost of service breakdown already provided by Union Electric witness Cooper.

Q. Okay. I mean, you're familiar with what a full cost -- class cost of service study and the other cost of service studies are. Right?

A. I certainly am.

Q. And that's not what he did, is it?

A. He used the class -- he used the results of the class cost of service study of Wil Cooper, as I understand it.

Q. Okay. Did any of those cost of service studies, except for what Mr. Suess did, support this 75 percent differential that you're recommending?

A. Mr. Suess used the class cost of service study of Mr. Cooper to actually support a seasonal differential far in excess of 75 percent, or much lower, I should say, than 75 percent.

Q. Okay. And it's only Mr. Suess's efforts from other people's cost of service studies that did that or indicated any support for changing the initial winter lock from 750 to 1,000; is that right?

A. I don't believe Mr. Suess addressed any change in the blocks that you refer to.

Q. Okay. So is there no support for that then, going to 1,000?

A. I wouldn't say there is no support for it. The support I believe we have is that was the -- the block split that was in effect at the time the Commission in the Callaway order approved a phase-in of a seasonal differential to 75 percent over a period of seven or eight years, and for that reason I recommended that that be done in this proceeding.

Q. Okay. Did you or anyone else examine the studies that were developed in the Callaway case?

A. I did not examine any specific studies in the Callaway case. I certainly looked at some of the -- I certainly looked at the Commission order and the materials that Laclede prepared in that proceeding.

Q. Okay. And you were aware that the change in the seasonal differential that was ordered in the Callaway case was to be phased in; is that right?
A. Yes, sir.
Q. And do you know what that phase-in corresponded to?
A. I think you need to be more specific. What do you mean by -- corresponded to what?
Q. That's my question. Do you know if it was corresponding to anything else, or was it just an eight-year phase-in for the rate differential?
A. I assume -- as we all know, the Callaway case involved a phase-in of the costs of the -- of the Callaway Nuclear Plant, so I assume it was calculated with that. And that should have been done by 1992, and that never came to fruition.
Q. Okay. Well, you said you read the order. Did you -- is that true?
A. I read -- I certainly did not read the entire order. It was a very extensive order, as you know. I read the parts that pertain to the issue that we are raising in this case.
Q. Okay. So it was to be phased in with an eight-year rate increase to phase in the effect of the Callaway Plant. Does that sound right?

A. Like I said before, I assumed that the phase-in -- it kind of made sense that that had some bearing on the revenue requirement phase-in of the Callaway cost.

Q. All right. They were both phased in over eight years; is that right?

A. I don't know that for sure.

Q. All right. The change in the differential was an eight-year phase-in?

A. I believe so. I do know for sure that on -- my recollection was that by 1992 certainly the 75 percent should have been -- should have been phased in entirely.

Q. All right. The Callaway order that you've been citing was issued when? Do you remember?

A. I believe in March of 1985.

Q. All right. Close enough.

Now, isn't it true that the Commission subsequently issued an order terminating the phase-in, and that occurred in 1987?

A. I believe pursuant to a -- what was probably a Stipulation and Agreement that did occur.

Q. All right. Now, isn't it true that in 1986 and '87 there were complaints filed by the Staff and the Public Counsel concerning Union Electric's rates, and that did end in a Stipulation, and the order that was issued in that case terminated the phase-in; is that right?

Do you take it subject to check also that that was effective on December 31, 1987?

A. Most of what you're saying sounds real familiar to me in terms of the Staff and the Public Counsel initiating some complaint-type proceedings, and that -- I believe ultimately a settlement was -- was struck, and there was -- the Commission undoubtedly approved the Stipulation and Agreement.

Q. Was Laclede a party to that case -- to those cases? There were actually two cases in one.

A. I'm not sure.

Q. Okay. Would you take it subject to check that Gerald T. McNeive, Associate General Counsel of Laclede Gas Company, is listed as appearing in that case?

A. I'm certainly familiar with Mr. McNeive, and it wouldn't surprise me if he had been involved in that proceeding at that time.

Q. All right. Have you read that order in case EC-87-114 and EC-87-115?

A. I'm familiar with the order. I did look at, I believe, most of the orders that came about between the Callaway case and this proceeding. I don't recall reading them in great detail, but I certainly did do that much in terms of trying to familiarize myself with what occurred in between these two time periods.

Q. Do you know if Laclede requested the Commission, or did the Commission, in fact, order an exception to the termination of the phase-in that would somehow direct the Company to continue to reduce its seasonal differential?

A. I don't know.

Q. So you don't know that Laclede even raised that issue in this case -- that case; is that right?

A. I do not know that.

Q. And you do not know whether there is anything in that order that suggests that the Company was supposed to do anything other than terminate the phase-in; is that right?

A. I do know that the -- that there was an agreement that the phase-in would be -- would be terminated. I assumed it was part of a package deal in a settlement, and I'm sure there were -- there were a lot of give and take on both sides. So it wouldn't surprise me that part of the a settlement could have involved the termination of that phase-in.

Q. Okay. And the Commission, of course,

approved that; is that right?
A. I believe it did.
Q. Okay.
A. I should say it approved that, and -- but I don't believe the -- there was any evidence, rate design or cost of service study that was offered at that time dealing with -- with the particular issue we're discussing.
Q. Well, isn't it true that if the Commission had wanted to, it could have said, hey, two years ago we told you to reduce your seasonal differential over eight years. We're going to end the phase-in of the rate decrease, but we want you to do something about the differential? They didn't do that, though, did they?
A. I assume they did not, nor was there any -- nor was there any cost -- was there any evidence on the record at that time, as I understand it, any testimony filed that dealt with the seasonal rate differential we're dealing with in this case.
Q. Okay. In 1990 the Commission issued an order in a UE rate design case, EO-87-175, cited by Mr. Kovach.
Are you familiar with that case, generally?
A. I'm familiar with that case generally. And

I do believe, once again, that was another settlement, and the Commission --

Q. Mr. Cline, I asked you if you were familiar with the case, and you answered yes.

A. I did say that, yes.

Q. Good. Was Laclede a party to that case?

A. Yes, it was.

Q. Have you read that order?

A. Yes, I did.

Q. Did it direct the Company to reinstate the phase-in of the reduction in the seasonal differential?

A. Can you repeat that question?

Q. Sure. Did that order direct the Company to reinstate the phase-in of the reduction in the seasonal differential that had been directed four years before then, several years before?

A. No, I don't believe that was provided for in any order, because the settlement didn't call for any such reinstatement.

Q. Was Laclede a party to that case?

A. Yes, we were.

Q. Okay. Did you request that, do you know?

A. Did we request what?

Q. What we've been talking about for the last half hour, that the Company be directed to reinstate its phase-in of the rate differential.

A. We, in that case, filed testimony recommending that there be a reinstatement of the 75 percent -- a reinstatement of the 75 percent differential, yes.

Q. Okay. There was an order of the Commission in 1992 changing UE's rates effective 1-1-93. Was Laclede a party to that case?

A. I'm not sure.

Q. Are you familiar with that case at all? Do you know whether it direct UE to re-resurrect the old phase-in or go to that 75 percent seasonal differential?

A. I'm familiar with there being several -- numerous proceedings between the Callaway case and this case and -- involving, once again, settlements. And, no, I'm not aware of any settlement calling for a reinstatement of the 75 percent differential.

Q. Okay. And there was another order of the Commission in 1995, again changing UE's rates. And Laclede was a party to that, too?

A. I believe we probably were.

Q. Okay. And I can ask the same questions and I'll get the same answers. Right?

A. You probably would.

Q. Okay. Should we presume that the Commission just forgot?

A. No, I don't think that's fair to say that at all. I think we can presume that there was settlements negotiated over all of these years. And as you're, I'm sure, very much familiar with a lot of these -- there is tradeoffs in any settlement, and those were the deals that were struck at that time. And the parties came to the Commission requesting that these settlements be approved, and the Commission, I assume -- obviously, they examined the settlement, but approved them.

And so, no, I don't believe the Commission forgot about the 75 percent differential phase-in. I'm not suggesting that at all. I do believe it's time that that be addressed again.

Q. Okay. Mr. Cline, what is the -- approximately, what is the gas heating saturation in your market area?

MR. BYRNE: I'm going to object because it's outside the scope of his testimony.

MR. COOK: The whole point of his testimony is his competition with -- our service with their service, and he's indicated previously that it certainly has an effect on -- our rates have an effect on their sales. I think it's appropriate.

JUDGE REGISTER: I'll allow it. The objection is overruled.

THE WITNESS: I don't know the exact saturation. I recall seeing some numbers that are very high.

BY MR. COOK:

Q. Ninety percent probably?

A. A number like that sounds familiar to me, but I can't say I know exactly how that number was computed. I'm not intimately familiar with how that saturation is measured.

Q. Okay. If you could look at Page 4 of your direct testimony, Line 25, you say, "The low winter tail block energy charge that benefits UE's space heating customers is being subsidized by UE's summertime energy charge."

Isn't it true that that assumes that all usage in the tail block, as Mr. Byrne seemed to suggest in his opening statement, is space heating usage?

A. I don't think it is assumed that all heating usage -- all usage in that tail block is, no.

Q. Have you conducted any study to determine how much of that usage is space heating?

A. No, I have not, nor do I believe a study would be necessary to reach any kind of conclusion with respect to there being a subsidy that could be potentially taking place. I don't believe a detailed study would be necessary in that case.

Q. Okay. Would you agree with Mr. Kovach's testimony on cross-examination, or questions from someplace, that winter heating customers are also summer customers of Union Electric -- let me rephrase that -- that electric winter heating customers are also summer electric customers of Union Electric?

A. I don't disagree with that, but I don't think that tells the whole story, because I think that certainly there are a lot of -- there are a lot of customers who are -- who are electric customers of Union Electric during the summertime that are not space heating customers of Union Electric in the wintertime. And for that reason, I believe there is a subsidy taking place whereby the winter space heating customers of Union Electric are getting low rates at the expense of the other non-heating customers.

Q. If the rates are cost-based, then there would not be a subsidy; is that right? And I recognize that we differ on how -- whether or not they are cost-based. But my question is, if the summer rates and the winter rates are cost-based, then there is no subsidy, is there?

A. I would have a hard time contending that there was a subsidy it the rates were based on a summer/winter tail block seasonal differential of 75 percent.

Q. That didn't answer my question. My question --

A. Ask it again.

Q. My question is, if the rates are cost-based, whatever that turns out to be, there is no subsidy?

A. And I believe -- and I believe that there is evidence to show that a cost basis would support at least a 75 percent differential.

MR. COOK: I'm going to ask that that be stricken and ask the witness to respond to the question.

JUDGE REGISTER: I'm going to direct the court reporter to strike that response from the record, and direct the witness to respond to the question.

BY MR. COOK:

Q. Do you want the question asked again?

A. No, I don't believe I need to have it asked again.

I believe that if rates -- if rates have been appropriately designed on a cost basis, they are tied to costs, there would be no subsidy that takes place.

Q. You seemed awfully reluctant to admit that. Is there a problem with admitting that cost-based rates would result with no subsidy --

A. No.

Q. -- and, therefore, that is a goal that may be trumped by a public policy, but at least that would result in no subsidy. Is that right?

A. No, sir, I'm not reluctant to concede that at all. I just want to make sure that it's understood that we -- that there has to be agreement as to what the appropriate cost-based rates are.

Q. Thank you.

Let's go to your surrebuttal testimony, if we could, Exhibit No. 29, Page 2. Your first answer there, you said, "The design of the rates approved by the Commission since the Callaway case has not been subjected to the scrutiny of the Commission in a full evidentiary hearing."

It is true, is it not, that each of the cases that has been before the Commission since then has gone to the Commission for a determination; is that right?

A. Could you repeat that question, please?

Q. Isn't it true that each of the cases that have gone to the Commission for a determination since the Callaway case, it has been up to the Commission to approve those settlements or not; is that right?

A. Certainly.

Q. Okay. And are you aware if -- whether or not Laclede -- apparently, you believe Laclede was a party to virtually all of those cases; is that right?

A. I'm not sure that we were involved except -- there were numerous cases. I'm not so sure we were involved in all of those cases. It would not surprise me if we were in many of them.

Q. All right.

A. I do know for sure we were in 1990 -- the 1990 case.

Q. All right. We can probably take it for granted that we've annoyed each other in our cases pretty generally for the last ten years, haven't we?

A. That we've what? I'm sorry.

Q. Have annoyed each other in each other's cases since 1990 or so, haven't we?

A. I still didn't catch your --

Q. Annoyed.
A. Annoyed. That we annoyed each other?
Q. Yes. Participated?
A. Certainly, we have a habit of participating in each others rate cases, that's correct.
Q. Thank you. That's fine.
Was the Staff a party to each of those cases?
A. Each case that either Union Electric or Laclede has --
Q. Well, let's go back to the Union Electric cases since Callaway.
A. Has Staff been a party to each of those cases?
Q. Uh-huh.
A. I would assume they would be.
Q. Now, in your examination of the records of those cases, and your memory if you were participating in them, have you found any place where the Staff or Laclede, before this case, made any attempts to reverse the termination of the differential reduction phase-in that was ordered 14 years ago?
MR. BYRNE: I'm going object. That question has already been answered. It has been asked and answered. Mr. Cline said they filed testimony

requesting reinstatement of the 75 percent, I believe, in the 1990 case.

MR. COOK: Well, I ask this time if he was aware if Staff had made any attempts to reverse the termination.

MR. BYRNE: Oh, I'm sorry.

JUDGE REGISTER: Your objection is withdrawn, Mr. Byrne?

MR. BYRNE: Withdrawn, Judge. Thank you.

JUDGE REGISTER: Thank you.

Do you remember the question, Mr. Cline?

THE WITNESS: Why don't you repeat it, please?

BY MR. COOK:

Q. Sure. Do you recall in any of those cases where the Staff made any attempt or suggested or requested the Commission to reverse the termination -- I'm sorry -- to reverse the -- yeah, the previous termination of the differential reduction?

A. Well, I guess, as far as I know, there would have been only one opportunity where the Staff could have -- where there would have been any detailed investigation of rate design issues that would have involved something like that, and that would have occurred in the 1990 case. And I'm not aware whether the Staff -- what position the Staff took in that case.

Q. Mr. Cline, isn't it true that the Staff any day of the week could file something with the Commission requesting that?

MR. BYRNE: Your Honor, I'm going to object. It calls for a legal conclusion. I'm not sure they could, and I'm sure that Mr. Cline isn't qualified to answer the question.

MR. COOK: I'll stipulate to that and withdraw it.

BY MR. COOK:

Q. Let's look at Page 3 of your testimony, please.

A. Surrebuttal?

Q. Yes. Let's look at Line 19, and the sentence around that, anyway. I guess the sentence starts on Line 15. It says, "To the extent UE can enforce non-heating loads to bear a portion of the costs it incurs to serve space heating loads, its rates for space heating become more attractive, which, in turn, encourages customers to choose electricity over natural gas to satisfy their heating requirements."

Did I read that sentence accurately?

A. I think you did.
Q. All right. Do you believe it is important that a customer should be able to freely choose between electric and gas heating?
A. Yes, I do.
Q. Okay. And that -- that choice should be unencumbered by subsidies; is that right?
A. That is correct.
Q. Okay. Is there a difference in the cost to a residential developer if he only offers gas heating in his homes versus offering his customers a choice between electric and gas heating?
A. I'm sorry. I missed the first part of that question.
Q. Is there a difference in the cost to a residential developer in what he has to pay Laclede for line extension if he offers only gas heating in his homes versus offering his customers a choice between electric and gas heating?
A. Does Laclede -- are you asking if Laclede makes -- is there a difference from Laclede's standpoint?
Q. Is there a difference from the developer's standpoint?
A. As far as what Laclede would ask for as far

as contribution, or --

Q. Uh-huh.

A. Not that I'm aware of.

Q. Isn't it true that there is no charge for laying lines if there is 100 percent gas heating in a development, and if the lines -- if UE is going to have the ability to serve the electric loads there is a charge for -- that the developer has to pay Laclede?

A. I'm not aware of that at all.

Q. There is no difference?

A. I'm not aware of any -- let me qualify that. Certainly, when we -- yeah, it is -- I'm not aware of any explicit -- I guess what I read into your question was there was some sort of explicit differentiation there between a -- you know, a subdivision that's going to have electric space heating versus one that's going to have natural gas, but -- and I don't believe there is any such thing.

But, certainly, as we look at -- as we extend lines to different subdivisions, different developments, we -- the economics of the extensions are obviously different, dependent of their -- they are dependent on the expected gas usage of those developments. So to the extent there would be more natural gas consumed, I would see that -- see that it would have some impact.

Q. You're in charge of tariffs; is that right?

A. Yes, sir.

Q. And there is -- aren't there tariffs that cover line extensions, main extensions into developments?

A. Yes, there are.

Q. And isn't there a difference, or is it just all free, no matter what your developer is going to do, or is there a charge to the developer?

A. Well, all I can say is it has nothing to do with -- it has nothing to do with an explicit -- any kind of explicit difference between a subdivision that's going to go electric heating versus gas.

Q. I'm sure it's not explicit, but what is the difference?

A. I believe, like I said, like I just stated before, I believe the only way that there could be any difference built into a calculation like that would be through a projection of what the natural gas usage is going to be of that subdivision or development if it goes -- if the developer decides to go with gas heating versus electric.

Q. So it's -- if there is going to be all gas heating, then, obviously, the gas company is going to have more sales there, and so it is more to the Laclede economic advantage to lay the lines that have -- to provide enough capacity for that, versus a residential development that has -- that you know is going to have the choice of electric heat, isn't that right, because you're not going to sell as much gas in that second residential development?

A. I think, first of all, we have to make sure -- you know, we have to make sure we understand we're talking about a main extension policy. Not in every case are we looking for a contribution.

I mean, it may be pretty clear that whether the subdivision has electric space heating or not, that doesn't -- we still may -- we still may -- the economics still may be such that we're going to go ahead and lay gas mains into the area.

Q. Fine. If I come to you and tell you I'm going to put in a subdivision, 300 houses, all gas, am I going to have to pay anything to Laclede to lay those lines?

A. You may.

Q. Why?

A. Because we have -- we have certain -- we just don't -- we just do not extend our system willy-nilly. There is -- there is -- if there is too much cost involved relative to the usage, we expect a contribution from the customer, the developer, in order to make that extension, you know, a viable investment for Laclede, whether it's -- whether it's, you know, for a development that's going to have natural gas space heating or electric space heating. But there is no -- no built-in difference or advantage for natural gas over electric.

Q. Will some subdivisions not have to pay anything?

MR. BYRNE: Your Honor, I'm going to object to continuing this line of questioning. I haven't objected for a while, but this case is not about Laclede's extension policy. I think it's of marginal relevance to UE's rate design, and so I'm going to object on relevance grounds.

JUDGE REGISTER: I think I understand your point. Mr. Cook, how much more do you think you need to get into it?

MR. COOK: Well, I don't think I'm getting straight answers, your Honor. I would like a little more leeway. I'll eventually give up, I'm sure.

MR. BYRNE: You got a perfectly straight answer to the last question.

MR. COOK: If I could be indulged for a few more minutes, and if I go too far, please stop me.

JUDGE REGISTER: Let's try to keep it moving. We are getting close to the end of the day.

BY MR. COOK:

Q. Is there a situation where the developer would not have to pay?

A. Where a developer would not have to pay --

Q. Anything for line extension?

A. Yes, there are situations where a developer does not have to pay anything for a line extension.

Q. Now, isn't it true that's most likely to be a situation where it's all gas, because that's going to be more economical for you?

A. I don't disagree with that.

Q. All right. So you'd put it in even if it wasn't economical?

A. I'm sorry. Can you repeat that question, please?

Q. No, never mind.

JUDGE REGISTER: You're withdrawing that question, is that right, Mr. Cook?

MR. COOK: That's right. I'm withdrawing the question.

I will ask leave to be able -- I think I'd have it anyway -- to cite to Laclede's tariffs in any

briefs that we might file, their filed tariffs, and
we'll get a straight answer.
JUDGE REGISTER: Any objection, Mr. Byrne?
MR. BYRNE: Only if I can have leave to cite
to UE's tariffs in any brief I might want to file.
JUDGE REGISTER: As long as you provide
copies of those with your briefs, if they're not
already in evidence. You may have to have late-filed
exhibits if that's --
MR. BYRNE: Sure. Okay.
JUDGE REGISTER: -- necessary.
Any further questions, Mr. Cook?
MR. COOK: Oh, yes.
JUDGE REGISTER: Just checking.
MR. COOK: Okay.
BY MR. COOK:
Q. On that same page, Page 3 on Lines 7, 8 and
9, you state, "Even though gas air-conditioning units
exist, they are not widely used"; is that right?
A. That's what I said, yes.
Q. You also go on to say that, "UE can increase
the rates for these energies uses and expect very
little, if any, reduction in use"; is that right?
A. That's what I said.
Q. Okay. In fact, how much has Union

Electric's summer rates gone up in the last ten years?

A. I don't have -- I don't have that in front of me. I think maybe -- I am just not sure of that.

Q. Actually, they have gone down three times, haven't they, in 1990, '93, and '95?

A. They may have, but, once again, I don't see that having anything to do with the issue in this case. We're -- as I stated in my surrebuttal to the comments Mr. Kovach raised in his rebuttal testimony, I think that the revenue requirement needs written requirements, kind of irrespective of what we're dealing with here. What's important is the appropriate relationship between summer and winter rates, and not the absolute magnitude of those rates.

Q. Well, I'm asking you a question about this statement. "UE can increase the rates for these energy uses," which is air-conditioning, "and expect very little, if any, reduction in use" --

A. Right.

Q. -- which leads the Commission to believe that UE is free to increase its rates.

And I'm asking you how many times that has happened in the last ten years.

A. And I said I wasn't sure, but I wouldn't disagree with you that those rates have probably gone down to some extent. But you should understand the context of that statement there. That was --

Q. Could I interrupt and ask that he leave the context to redirect?

MR. BYRNE: He gets a chance to explain his answer, your Honor.

JUDGE REGISTER: Let him finish his response, Mr. Cook, and we'll move on.

Some of your -- I do want to explain that some of the things you want to bring out your counsel will be allowed to redirect you and will be able to clean those things up if you have concerns.

Go ahead and finish your response, please.

THE WITNESS: My concern was that that statement was made in response to Union Electric's proposal in this proceeding to increase summertime rates by over 12 percent, and -- while the second block of the winter rates were being reduced by over 10 percent. And that's why I thought it was important to make that statement.

BY MR. COOK:

Q. Going back to the business about the gas air-conditioning is not being widely used, is it possible that your summer rate customers are -- that gas air-conditioning is not being widely used because your summer rate customers are currently subsidizing your winter heat customers making gas air-conditioning uneconomical?

A. I would suspect that's not the reason. I would suspect the reason is more tied to the technology and just the fact that the commercial feasibility of attractive residential gas air-conditioning units is not out there.

Q. Okay. Generally, you've accused Union Electric of artificially increasing their on-peak rate to subsidize the off-peak usage; isn't that true?

A. I don't know if "accused" is the right word. I just -- certainly, there seems to be -- certainly, the proposal of Union Electric in this case would suggest that that's what's going on.

Q. And you're concerned that this gives UE an advantage in competing with Laclede for winter usage; isn't that true?

A. Yes.

Q. Okay. To be able to compete for winter sales, it is to Laclede's advantage to hold their winter rates down; isn't that true?

A. Certainly, if we're going to be viable competitors we need to be not only looking at your costs, but, more importantly, even our costs. And like I stated in my testimony, we're willing to compete with Union Electric for space heating load, but on -- you know, on a level playing field and not with an artificial rate advantage.

Q. And that would be true for both UE and Laclede. Right?

A. Can you clarify what you mean by that?

Q. Do you want an artificial rate advantage?

A. Do we want an artificial rate advantage?

Q. Uh-huh.

A. I don't believe we have an artificial rate advantage.

Q. I'll accept that answer not for the truth, but for what you didn't say.

Which of the two seasons, winter or summer, is the higher cost period for Laclede?

MR. BYRNE: I'm going to object to the question, your Honor. It's outside of the scope of anything he testified on. Again, it's much like the extension policy. It's not the issue that's in this case.

MR. COOK: Well, we're talking about the seasonal differential and costs and how they best track and whether Union Electric is getting an advantage over Laclede. I think it's relevant to know whether Laclede has an appropriate seasonal differential and what their costs are as well.

JUDGE REGISTER: We certainly don't want to get into this in any great detail, so if you could make your point as quickly as possible, Mr. Cook, I will allow that.

BY MR. COOK:

Q. Okay. Which is the higher season, the higher cost season for Laclede, winter or summer?

A. Certainly, for the bulk of our costs, which are natural gas supply costs -- we went through all of this with Union Electric very actively involved several years ago -- and, certainly, our studies showed that our -- our -- that there is not much of a difference between our average gas cost in the wintertime versus the summertime.

Q. How high are your winter system demands in relation to your summer peak demands? Ten to 1, 12 to 1, something like that?

A. Oh, I'll state it this way: I know that our winter demands can go as high as maybe a million-one, a million-two-hundred-thousand MCF a day, and we can have -- whereas our average -- average daily load may be in the range of 300,000 a day, 300,000 MCF a day.

Q. I didn't ask for your -- your winter peak to your average. I asked what your winter season peak is to your summer peak demands?

A. Summer peak demands may be more the range of -- oh, summer peak? Well, summer peak, our summer peaks can be as high as 300,000, 400,000 a day.

Q. What about your summer minimum?

A. Could be in the vicinity of 100,000 MCF a day.

Q. That would be ten to one, wouldn't it, ballpark?

A. Ballpark.

Q. Thank you.

Do you know what the corresponding number is for Union Electric's loads?

A. Peak summer day compared to --

Q. A minimum day in the winter --

A. -- compared to minimum day --

Q. -- or off peak --

A. No, I do not know that.

Q. -- winter peak?

A. I have not studied that.

Q. Would you accept subject to check by looking at RJK -- well, go back to direct, Schedule 2, that it's less than two to one?

A. I have not seen that schedule.

MR. COOK: Okay.

JUDGE REGISTER: Kristal, go off the record for a minute.

(A discussion off the record.)

MR. COOK: Bear with me a moment, and let me try to get where I was heading a quicker way.

That's all. Thank you.

JUDGE REGISTER: Staff?

MR. KRUEGER: No questions.

JUDGE REGISTER: Public Counsel?

MR. COFFMAN: No questions.

JUDGE REGISTER: MIEC?

MS. SCHMIDT: No questions.

JUDGE REGISTER: RFC?

MS. FORREST: No. Thank you.

JUDGE REGISTER: Cross from the Bench. Commissioner Murray?

COMMISSIONER MURRAY: Thank you.

QUESTIONS BY COMMISSIONER MURRAY:

Q. In your testimony you stated on Page 4 of your direct testimony that Mr. Neal Suess filed rebuttal testimony on behalf of Laclede in which he supported your recommendation through the use of current class cost of service data.

Whose class cost of service data was that?

A. We relied on the class cost of service data from Union Electric.

Q. So you did no independent study on class cost of service?

A. We did not.

COMMISSIONER MURRAY: I don't believe I have any other questions. Thank you.

JUDGE REGISTER: Commission Schemenauer?

COMMISSIONER SCHEMENAUER: No questions.

JUDGE REGISTER: I don't think there is anything further from the Bench.

Recross?

MR. COOK: No.

JUDGE REGISTER: Staff?

MR. KRUEGER: No.

JUDGE REGISTER: Public Counsel?

MR. COFFMAN: No. Thank you.

JUDGE REGISTER: MIEC?

MS. SCHMIDT: No, your Honor.

JUDGE REGISTER: And RFC?

MS. FORREST: No. Thank you.

JUDGE REGISTER: And redirect?

MR. BYRNE: No. Thank you, your Honor.

JUDGE REGISTER: Thank you, Mr. Byrne.

And I believe that we are finished with

Mr. Cline.

Thank you, Mr. Cline. You may step down.

(Witness excused.)

JUDGE REGISTER: And, Mr. Byrne, do you have another witness you would like to call?

MR. BYRNE: I do. I would like to call to the stand Neal Suess.

JUDGE REGISTER: Raise your right hand, please, Mr. Suess.

(Witness sworn.)

JUDGE REGISTER: Thank you.

Please be seated.

NEAL D. SUESS testified as follows:

DIRECT EXAMINATION BY MR. BYRNE:

Q. Please state your name.

A. My name is Neal D. Suess, S-u-e-s-s.

Q. Mr. Suess, by whom are you employed?

A. I'm employed by R.W. Beck & Associates -- or, actually, R.W. Beck, Incorporated.

Q. And have you been retained by Laclede Gas Company to file testimony in this case?

A. Yes, I have.

Q. And did you file rebuttal testimony, which has been marked Exhibit 28?

A. Yes, I have.

Q. Do you have that testimony with you?
A. Yes, I do.
Q. Do you have any corrections?
A. I have one correction.
On Page 22 of my rebuttal testimony, Line 7, the word "necessary" should be stricken.
Q. Okay. Mr. Suess, with that change, are all of the answers true and correct to the best of your knowledge?
A. Yes, they are.
Q. If I was to ask you the same questions that are contained in your rebuttal testimony here today when you're under oath, would your answers be the same?
A. Yes, they would.
MR. BYRNE: I offer Exhibit 28, and tender Mr. Suess for cross-examination.
JUDGE REGISTER: Any objections to the admission of Exhibit 28 into the record?
(No response.)
JUDGE REGISTER: Hearing none, Exhibit No. 28 is admitted into the record.
(EXHIBIT NO. 28 WAS RECEIVED INTO EVIDENCE.)
MR. BYRNE: Your Honor, just before we start, I forgot to offer Exhibit 36, which was the

Rider E tariff.

JUDGE REGISTER: Thank you.

Any objection to Exhibit No. 36 at this time?

(No response.)

JUDGE REGISTER: Hearing none, Exhibit No. 36 is admitted into the record.

(EXHIBIT NO. 36 WAS RECEIVED INTO EVIDENCE.)

JUDGE REGISTER: And, Mr. Cook, you may proceed.

MR. COOK: Thank you.

CROSS-EXAMINATION BY MR. COOK:

Q. Good afternoon, Mr. Suess.

A. Good afternoon.

Q. Let's start with Page 1 of your testimony. Since we only have one, I don't have to keep correcting myself.

A. Okay.

Q. Your degree is in mechanical engineering; is that correct?

A. That's correct.

Q. On Line 13 of -- starting on Line 13 of your first page, you say, a substantial portion of the work that you have been doing with R.W. Beck is related to litigated rate proceedings before the Federal Energy

Regulatory Commission and various state and local regulatory commissions; is that true?

A. That's correct.

Q. Okay. I am a little confused because then if I look at your Schedule 1, record of testimony submitted by Neal D. Suess, you only have two proceedings listed there, one before the Council of the City of New Orleans and one before the Massachusetts Appellate Tax Board.

A. That's correct.

Q. Did you forget to put the FERC and other state regulatory commissions in?

A. I said I worked on various matters related to litigated rate proceedings before FERC and various state and local regulatory commissions. I didn't necessarily file testimony before them.

Q. Okay. Thank you.

The next case you can add one.

A. I already have.

Q. Good. On Page 2 you have indicated that you worked for the Oklahoma Municipal Power Authority and you worked in assisting the development of wholesale rate design; is that right?

A. That's correct.

Q. What kind of wholesale rates -- what kind of

features of those rates did you generally design?
A. I designed all features of the rates, both demands and energy rates. OMPA is a joint action agency that serves a number of municipal electric utilities in the Oklahoma area. And we designed our rates for service to those municipal utilities.
Q. Okay. So the Oklahoma Municipal Power Authority is -- do they own generation?
A. Yes, they do.
Q. Okay. And then they also purchase it?
A. That's correct.
Q. And then they sell that to other municipal authorities; is that right?
A. That's correct.
Q. Now, there would be no retail rate design required in that; is that right?
A. Not in that particular one; although, we did help our retail -- our municipal wholesale members establish retail rates.
Q. Okay. Did you have occasion to use the average and excess methodology for any of that?
A. No, I did not.
Q. Okay. Did you do any rate design work when you were with the City of Pella?
A. Yes, I did.

Q. Okay. And you have been with Beck since '96?

A. I was with Beck from 1982 to 1992 previously, and then I rejoined Beck in 1996.

Q. Okay. And you're also a member of the American Society of Mechanical Engineers and the American Society of Appraisers. I don't suppose you've gone to any seminars or continuing education from those particular groups that have to do the average and excess?

A. No, I haven't.

Q. Okay. When were you first contacted by Laclede to participate in this case?

A. My recollection is that we were first contacted sometime in late February.

Q. Okay. Was that before or after Mr. Cline prepared his direct testimony, or do you know?

A. I believe it was before he filed it. Whether he had prepared it before or not, I'm not aware of that or not.

Q. Did you have occasion to read his direct testimony before you did your work for Laclede?

A. Before I filed my rebuttal testimony?

Q. Yes.

A. Yes, I did.

Q. Did you file it before you did any of your -- did you read it before you did any of your studies, your average and excess efforts?
A. Yes, I did.
Q. Okay. Were you asked to file testimony supporting Mr. Cline's direct testimony?
A. I was asked to perform -- to look at the residential rate design that was proposed by Union Electric and determine whether that rate design was appropriate, and, if not, if there were any other methodologies or ways to perform that rate design on the residential rate design that might be accurate.
Q. Were you asked to file testimony supporting Mr. Cline's direct testimony, though?
MR. BYRNE: I'm going to object. It's been asked and answered. He just asked the same question twice in a row. He's already got an answer.
MR. COOK: Well, I got an answer, but it wasn't -- I didn't hear either yes or no as to whether he was asked to file testimony supporting Mr. Cline's direct testimony.
JUDGE REGISTER: I think his answer was nonresponsive and needs to be answered again.
BY MR. COOK:
Q. I will repeat it.

A. Okay.
Q. Perhaps if you try to answer it directly.
Were you asked to file testimony supporting Mr. Cline's direct testimony?
A. No.
Q. Thank you.
You've reviewed Mr. Kovach's direct testimony, at least, and probably all of it in this case, haven't you?
A. His direct rate design testimony, yes, I have.
Q. Okay. Did you read his direct cost of service testimony?
A. No, I did not.
Q. Okay. Did you read his rebuttal rate design testimony?
A. Portions of it. Not all of it.
Q. Did you read his surrebuttal testimony?
A. Portions of it. Not all of it.
Q. All right.
A. I need to make a correction. I did not read his rebuttal testimony. I misspoke.
Q. His rate design rebuttal testimony?
A. That's right.
Q. Okay. Have you read any of his testimony,

Mr. Kovach's testimony, in any of the previous cases that you may have heard about today?

A. Not as part of my preparation for this case.

Q. Okay. Are you generally familiar with any of UE's cases since the Callaway case?

A. Yes, I am.

Q. Have you reviewed any of those orders?

A. No, I have every not.

Q. Have you reviewed Laclede's testimony that was presented in any previous UE case?

A. Yes, I have.

Q. Okay. Did you base your testimony today on any of that testimony?

A. I utilized methodologies that were similar to those utilized in that testimony.

Q. All right. Thank you.

Let's look at Page 5 of your testimony, please. You state starting about Line 16 in response to a question that Mr. Kovach provided no support for the 60/40 summer/winter seasonal split for production, transmission and distribution costs; is that correct?

A. That's what it says.

JUDGE REGISTER: What page are you on, Mr. Cook?

MR. COOK: I'm sorry. Page 5, Line 16.

BY MR. COOK:

Q. In fact, Mr. Kovach explained that he used an analysis based upon several variations of the average and excess methodology in its last rate case, EO-87-175. That's explained in his direct testimony on Page 12. Did you not see that?

A. I did see that.

Q. Okay. Did you review that testimony that he referred to?

A. No, I did not.

Q. Okay. So even though he specifically directed anyone interested in his analysis where they could find further details, you did not bother to look that up; is that right?

A. I didn't feel it was relevant.

Q. Okay. Did you -- okay. Did you send any data requests seeking information?

A. I did not send any data requests.

Q. Well, I've got to back up to the last one.

If it wasn't relevant, why did you criticize him for not providing any support?

A. My criticism is that he was using data, or he claimed that he was using data based upon a methodology in Union Electric's last rate design case, which I feel isn't particularly relevant to this rate design case. That's what my -- it wasn't relevant.

Q. Okay. So, certainly, something that came from a rate -- from the rate case 14 years ago would not have relevance to this rate case, would it?

A. Not necessarily. It might have relevance.

Q. Oh, okay. Now, on Pages 5 and 6, just generally here, you acknowledge, I think -- yeah, you acknowledge that Mr. Kovach used the average and excess methodology; is that right?

A. Uses a form of the average and excess methodology. Correct.

Q. Okay. And I guess what confused me is that on the top of Page 6, the first line, you say -- after saying he used the average and excess variations of the average and excess demand methodology you then say on Line 1, Page 6, "I believe that the use of an average and excess allocation methodology provides for a more appropriate allocation."

I'm confused. Is it just a question of who did it right?

A. I believe that the analysis that we did is more appropriate.

Q. But they are both -- you both claim that you're using an average and excess methodology. Right?

A. That's correct.

Q. If you could turn to Page 12 in your testimony, please, that first full answer there, is that where you describe the average and excess methodology and how it's done generally?

A. It's a general description of it, yes.

Q. Okay. Let's look also then at Schedule 3 of your testimony.

A. What particular page on Schedule 3?

Q. Yeah. The first page.

A. Okay.

Q. You've -- if you look in -- what I want to try to do here for a moment is try to pick out some of the things that we're going to need to use as we look at how this methodology is used.

The winter peak demand appears in January of '96; is that right?

A. You're talking about in Column 2?

Q. Yes. Yeah, the non-coincident peak.

A. If you assume that there -- I assume you are making the assumption that the winter period is running from October through May?

Q. Correct. We are going to use UE's season, if you would.

A. Okay.

Q. That's what you used in this, I assume?
A. That's correct.
Q. Okay. So the winter peak would be in January of '96. Correct?
A. That's correct.
Q. All right. The summer peak was in August down near the bottom?
A. That's correct.
Q. All right. And then your calculations indicate over in the right that the excess then for the winter period is that 1,170,596 kilowatts or 1,170 megawatts; is that right?
A. That's the excess. That's what you get by taking the NCP and subtracting the average from that.
Q. The average from the peak there?
A. That's correct.
Q. Okay. And then for the summer peak -- it's down there -- it's the two-million-two; is that right?
A. 2205.239. That's correct.
Q. All right. Okay. Now, you, of course, are familiar with the NAARUC manual that we've -- Mr. Kovach talked about previously?
A. Generally aware of it.
MR. COOK: I would ask that an exhibit be

marked, please.

(EXHIBIT NO. 37 WAS MARKED FOR IDENTIFICATION.)

JUDGE REGISTER: Let's proceed.

MR. COOK: Okay. Thank you.

BY MR. COOK:

Q. Mr. Suess, let me show you what has been marked as Exhibit 37. You may want to write that up there.

A. Sure.

Q. And I will submit to you that Exhibit 37 consists of copies from the Electric Utility Cost Allocation Manual, dated January 1992, published by the National Association of Regulatory Utilities Commissions. I have copied the cover sheet, the preface and Page 49, which discusses the average and excess methodology.

I will give you temporarily the entire manual. Are you familiar with this document (indicated)?

A. I believe I've seen it before.

Q. All right. There are directions for using the average and excess methodology on Page 49; is that right?

MR. BYRNE: Your Honor, I'm going to object to him asking any questions about this document. The fact that the witness has seen it before does not -- is not sufficient to be a foundation to use it for anything in this proceeding.

He hasn't identified it. He hasn't -- he hasn't said what it is or that he knows that it has any significance. And if my witness doesn't know enough about this document, it's not -- there is not -- a proper foundation has not been laid.

MR. COOK: Let me attempt to ask some foundation questions, first, then, if I might.

JUDGE REGISTER: Is that -- do you have any objection?

MR. BYRNE: He can ask foundation questions.

JUDGE REGISTER: Okay. I'll consider your previous question withdrawn, and you will produce -- you will go on to foundational questions.

BY MR. COOK:

Q. All right. Let's start at the basics. Are you familiar with the National Association of Regulatory Utility Commissions?

A. I know what it is.

Q. All right. And are you aware that -- is it your understanding that there are various methods that are generally accepted as cost allocation

methodologies in the utility business?
A. There are several different methods.
Q. All right. Are you aware of any particular treatise or manual or learned document that attempts to pull together the generally accepted cost allocation methodologies under this manual?
A. I believe there is another -- number of other books published by various organizations that talk about cost allocation methodologies.
Q. All right. Are they electric organizations, electric utility organizations?
A. A number of them are.
Q. All right. And are you familiar with the average and excess method as being one method that is used to allocate costs?
A. I am familiar that that is one method. That's correct.
Q. Are you -- okay. And do you know whether or not the method that is described here -- well, let me ask you this: Do you know whether the method you used is consistent with the method that is listed in this manual?
A. No, I do not. I might add, though, that I'm not -- this talks more about a cost of service allocation, and as we go in through the manual it

talks about allocating costs to the various classes. What we were trying to perform is an allocation within a class to various seasons, and we used average and excess demands to perform that allocation.

Q. All right. So depending on what you're doing with the average and excess methodology, you may use certain different of the variations, for instance, that Mr. Kovach suggested?

A. I'm sure there are several different variations.

Q. But both UE and he used the average and excess methodology for the same purpose, is that right, in this case? You just did it differently.

A. Well, I believe initially that we used some different information. We used the residential information that was provided by Mr. Kovach, at least initially in his testimony.

I was under the understanding that Mr. Kovach was using a system average and excess allocation methodology to apply seasonal functions to the residential class; whereas, we used residential demands to apply that allocation within the class.

Q. Did Mr. Kovach testify on cross-examination that that was not true? Did you hear him say that today?

A. I did not hear him say that.
Q. Okay. The record will reflect whether that's true or not.
Well, is it the bottom line of your testimony that you don't -- you don't really know what this document is? You've never used it. You don't know if it's worthy of respect or following or not; is that right?
A. I have -- I don't have an opinion on it one way or another.
Q. Okay. And if, in fact, the method that's set out in here is different from what you did, you wouldn't know that?
A. Once again, we were trying to do -- we were performing an allocation within a class to different seasons. And using the average demand versus the excess demand was a methodology, an appropriate methodology to perform that seasonal allocation.
Q. Okay. And Mr. Kovach used an average and excess methodology to perform a seasonal allocation; is that right?
A. Although my understanding is -- according to what his -- I believe his direct testimony says it is a system average, not a residential average and excess methodology.

Q. Okay. That's a different question. My question is whether or not you both used an average and excess methodology, so we don't have to worry about the fact that an average and excess in and of itself is appropriate or not for a seasonal allocation?
A. Yes.
Q. It is appropriate for a seasonal allocation?
A. One method that can be used.
Q. The question is whether you do it right or not; is that right?
A. I don't believe it's a question of whether you do it right or not. There -- I believe it's a question of what is most appropriate.
Q. All right. Okay. Did you use a load factor? Did load factor come into account at all in your analysis?
A. No, it did not.
Q. Okay. Would it surprise you to know that it is required in the average and excess methodology that's listed here?
A. It wouldn't surprise me or not surprise me.
Q. So you would have no opinion as to whether or not they're right and you're wrong, or vice versa, on whether or not a load factor needs to be taken into

account in doing the seasonal allocation?

A. I believe performing the seasonal allocation like we did is an appropriate way to perform the allocation.

Q. I know that. The question is whether or not you have an opinion on whether a load factor -- the Company's load factor, system load factor, or any other load factor, is appropriate to be used in this analysis.

A. It may be appropriate in performing a cost of service among the classes. It may or may not be appropriate in performing an allocation within a class.

Q. Well, let's see if you did it the way it's supposed to be done here.

MR. BYRNE: I'm going to object to the testifying of counsel --

MR. COOK: I'm sorry.

MR. BYRNE: -- and ask it be stricken.

MR. COOK: I would like --

That was a question. Let's see if you did it the way it was done in this -- in this document, which I guess isn't a question. It's a statement of where I'm going next.

BY MR. COOK:

Q. Mr. Suess, would you look at the data requirements that is listed on Page 49 of Exhibit 37?
MR. BYRNE: I'm object to him asking any questions off of Exhibit 37 since Mr. Suess has only said that he has seen the document. There has been no adequate foundation laid that this document has any authority or relevance to this case at all.
JUDGE REGISTER: Mr. Cook, foundation?
MR. COOK: Well, I've asked my foundation questions, and I guess Mr. Suess is unfamiliar with this document.
MR. BYRNE: Which means he can't use it in cross-examination.
JUDGE REGISTER: Any other parties want to comment, or --
(No response.)
JUDGE REGISTER: I think that if Mr. Suess is not familiar with this document, unless you can lay your foundation with another witness --
MR. COOK: Well, I have an opinion on the -- never mind.
No. I have no further foundation questions for this witness. If he doesn't know what this document is, then he doesn't know.
JUDGE REGISTER: I think given the objection

by Laclede, at this time -- you've not offered this exhibit into evidence at this time; is that right?

MR. COOK: Well, let me -- let me do this: Given the answers that Mr. Suess has given to this document and given what I would make as an offer of proof of the relevance of this document to any consultant's ability to testify on this area in a public utility case, I think it should be entered into evidence for the purposes of indicating what Mr. Suess is not familiar with. And I will ask no questions about it.

MR. BYRNE: Your Honor, I object to entering it into evidence. It is a 1992 version of a rate book that Mr. Suess says he's seen but couldn't tell us anything about. I don't know if it's been subsequently superseded by other things. I don't know anything about this document, and he hasn't laid a proper foundation for it, and it shouldn't be allowed in the record.

JUDGE REGISTER: Any other comment at this time?

(No response.)

JUDGE REGISTER: It's my understanding of the rules that I can allow you to make an offer of proof on this, regardless what the ruling is. So if you would like to make an offer of proof at this time, or were you having your previous statement -- was that your offer of proof?

MR. COOK: My offer of proof is the document itself as to what it would show and my -- plus the statement that there is relevance to -- going to the weight of this witness's testimony, in light of his answers to the question about this document.

JUDGE REGISTER: Okay. I'm going to take this objection under advisement and rule on the admissibility at a later time.

MR. COOK: Thank you.

JUDGE REGISTER: Your offer of proof -- the document will be considered an offer of proof but not admitted for other purposes at this time.

MR. COOK: Yes, that's correct.

BY MR. COOK:

Q. The rates that you developed, Mr. Suess, after your analysis, did you check to see if those rates would hit the revenue target? Do you know what I mean by "hit the revenue target"?

A. I believe I understand what you mean by hitting the revenue target. And I believe they come fairly close.

Q. Is $1,000,000 close enough for you?

A. Within rounding, it's not bad.
Q. All right.
A. I mean, if we were talking about a $1,000,000 system, probably not. But we are talking about -- I believe it's eight-hundred-some-million dollars worth of revenue requirements.
Q. Okay. You, I believe, found Union Electric's 60/40 split to be inappropriate, is that correct, the 60/40 split, or did you make an analysis of that?
A. I did not make an analysis of it.
Q. Okay. So you don't know what kind of seasonal allocation split would result from your analysis; is that right?
A. I'm sure the numbers could be crunched to do it.
Q. Okay. Let's start down that road. Let's look at Page -- Schedule 3, Page 4. Have you got Page 4 of Schedule 3?
A. Page 4 of Schedule 3?
Q. Yes.
A. Okay.
Q. Schedule 3, Page 4.
A. Okay.
Q. Total residential demand cost is

486,555,000, is that correct, if you look under the heading near the left called "Classified Cost of Service." Under "Demand" the total demand is 486,555; is that right?

A. Right. Approximately, $486 million.

Q. Right. And that is the addition of average and excess right below that; is that right?

A. Actually, no. The 486,555 is an input number into the spreadsheet.

Q. And then you divided it into the average and excess?

A. That's correct.

Q. All right. Now, can you divide the total average into the summer and winter components, and you've got -- let's see here. If you go back to the previous page -- is that right, yeah -- at 37 1/2 -- well, let's look at your billing determinants on -- I'm sorry. You are going to have to go back to the previous page.

Look at the billing determinants on the same page. In the middle you've got 10 million plus, and then that's divided into summer and winter; is that right?

A. You're talking about the 10,647,042?

Q. Uh-huh.

A. And divided into the summer and winter?
Q. Uh-huh.
A. 3,995,814 summer.
Q. Uh-huh.
A. And 6,651,228 in winter.
Q. Right.
A. Okay.
Q. Well, what I want to get is the percentages of summer and winter of the billing determinants.
A. The summer energy billing determinants are approximately 37 1/2 percent --
Q. Okay.
A. -- of the total billing determinants for the residential class.
Q. Uh-huh. And that would be 62 1/2 percent for the winter?
A. That's correct.
Q. Okay. Now, would you apply those to that total average.
A. Which number --
Q. To the 252,848. Did you get a summer and winter division?
You need to keep track of these numbers, please.
A. The summer amount is approximately

$95 million.
Q. Okay. Winter, please?
A. Approximately $158 million.
Q. Okay. Did you write those down, please?
A. I didn't write them down. I stored them in my calculator.
Q. Even better. Thank you.
Now, can you do the same thing for the excess?
A. I don't believe we need to. I believe it's already done.
Q. Okay. What are those numbers, then?
A. For the summer it's 152,609.
Q. Okay. I see it there, yeah.
A. And for the winter, I think if you go back to Page 3 it shows a clear indication of 81--
Q. 81--
A. --098.
Q. Okay. Could you add together the two summer numbers, the average and excess of the summer and the average and excess of the winter, please?
A. Okay.
Q. And then would you calculate what then your seasonal allocations then would be against the total 486,555?

A. The summer would be approximately 51 percent and the winter would be approximately 49 percent.

Q. Okay. So that would be your analysis of what the seasonal allocation should be instead of that 60/40: Is that right? Basically, 50/50?

A. 51/49.

Q. Okay. Thank you.

Let's look at Page 6 of your testimony.

A. Do I need to keep those numbers anymore?

Q. No.

A. Okay.

Q. I'm going to go back and talk about the 15 percent issue here. You indicate that Mr. Kovach arbitrarily -- in the middle of Line 10, arbitrarily assigned 15 percent of these costs to the tail block.

Have you read the additional explanation of this matter in Mr. Kovach's surrebuttal on Pages 24 and 25?

A. Yes, I have.

Q. Okay. Were you aware that it had previously been used -- his explanation had previously been used and addressed in testimony in the previous rate case that he had earlier cited?

A. No, I was not aware of that.

Q. Okay. Do you know how many electric heating

customers UE has?
A. No, I do not.
Q. Do you have any notion of the saturation of UE heating in its market or Laclede's in its market?
A. No, I do not.
Q. Do you know what the average usage is for the winter months -- I'm sorry -- average electric usage is for the winter months?
MR. BYRNE: I'm going to object on the grounds that the question is -- you mean for UE's system?
MR. COOK: Yeah.
BY MR. COOK:
Q. I'm sorry. The average residential use kilowatt hours for a winter month, did you calculate that anyplace in any of your --
A. No, I have not.
Q. Okay. Do you believe it is less than the 750, so that virtually all use over 750 is heating?
A. I have no idea.
Q. Would it make any difference to you in your -- in your opinions as to whether or not, in fact, it is higher than 750?
A. Can you repeat the question again?
Q. Yeah. If you calculated that the average

use of an electric customer in winter was above 750 kilowatt hours, would that have any bas-- would that affect your position concerning Union Electric's proposals in this case, or its rates?

A. Well, I think you might have to look at where the splits are to determine where the blocking should be for the particular type of load -- loading, and then the requirement of that loading within the -- within the blocking splits.

Q. And what relevance would the use of electric heat have to that? Any? I mean, would you want it blocked right where electric heat picks up?

A. You might. It depends on the particular -- it depends on what you were trying to do with the rate design.

Q. Okay. I think the numbers are on your Schedule 3, Page 4. Let's see if we can get there quickly.

A. Okay.

Q. If you look at -- yeah, under "Billing Determinants," mostly, I guess, we have 11-million-plus bills; is that right?

A. That's what Union Electric says.

Q. All right. Would you divide that number by 12, please? And you have a number of 937246?

A. .1667

Q. That's fine. I suspect you'll want to save that somewhere.

A. But I don't have to keep all of those other numbers. Correct?

Q. The ones you already used?

A. Correct.

Q. That's correct. Just that one.

Now, if you look at the summer megawatt hours per month, you've got right under 4 million down there, 399,5?

A. Okay.

Q. You would divide that by four to get your summer average usage. Right?

A. Okay.

Q. Okay. 998,954?

A. That's correct.

Q. Okay. Now, if you divide that number by the average number of bills, you get an average of 1,066 kilowatt hours per bill?

A. Doing the calculation you get a number of 1,066.

Q. Okay. Would that be an average kilowatt hour for a summer bill, if you followed what we were doing, taking your average number of bills per month and you figured your average number of kilowatt hours per month?

A. That would be one way to come up with it. You might be able to do some differences within the customer bills if you have the -- if you know what the monthly numbers are for the particular month.

Q. Sure. Let's look at -- then look at winter. The usage is 6,651,228, is that right, in that same column? And divide that by eight winter months, you get what?

A. Divided by -- oh, eight winter months. I see. Excuse me. 831,404.

Q. Okay. And then divide that by the average number of bills. What do you get for the average kilowatt hour use for a winter month?

A. Using the numbers, the calculation comes out to be 887.

Q. Okay. Thank you.

Let's go back to Page 7 of your testimony. Now, there you've said that the majority of residential customers who have consumption that exceeds 750 kilowatt hours most likely have electric space-heating loads. You don't really have anything to support that, do you, other than your guess?

A. It's a general statement.

Q. Okay. You haven't done any study about that?

A. No, I have not.

Q. Okay. Then you say, "Since these loads generally occur at time of peak usage for an electric system during the winter months, at 4 a.m. and 5 p.m.," et cetera, et cetera.

Now, is your assumption that people turn their heat off during the day?

A. I believe, in general, people might have a tendency to reduce the use of their heating requirements during the day. It may be from a combination of either reducing the temperature setting on their thermostat or from the fact that it's generally warmer during the day and a house may not need as much heat as it would during the evening.

Q. Okay. All right. Would you agree that the maximum heating use would probably come in the coldest hours of the day or night?

A. Not necessarily.

Q. The maximum heating use would not necessarily come at the coldest hour? This is heating use I'm asking about.

A. Okay. It may or may not. Some people -- I happen to be one. I turn my heater down during the evening to keep it a little cooler in the house and then I turn it up in the morning when I wake up.

Q. Okay. Do you know when the daily electric peak is during winter months?

A. I looked at when Union Electric's peak was for the last three year -- for 1995, 1996 and 1997.

Q. And when was it?

A. In the winter it generally occurred sometime in the neighborhood of between, oh, 7:00 and 8:00 in the morning and 4:00 to 6:00 at night.

Q. In the winter?

A. That's correct. There are a number of variations on that, but, for the most part, that's generally when it occurred.

Q. Okay.

MR. COOK: Could we go off the record for just a moment?

JUDGE REGISTER: Certainly.

(A RECESS WAS TAKEN.)

JUDGE REGISTER: Let's go ahead and proceed, Mr. Cook.

MR. COOK: Thank you.

BY MR. COOK:

Q. We talked a few minutes ago about whether or not the electric -- we talked about usage and the coldest hours. Would you agree that -- let me back up.

You also indicated that during the day, probably, is not usually the coldest hours. The coldest hours usually are in the middle of the night and early in the morning; is that correct?

A. In general, that would tend to be the case.

Q. Do you have any doubt that Union Electric has adequate capacity to sustain additional load during those periods, those early morning hours in the winter?

A. I assume Union Electric has the ability to meet its capacity requirements year-round.

Q. Okay. So you don't have any notion that Union Electric would have to add capacity if its load actually did increase during those hours, do you?

A. "Those hours" being --

Q. The early morning hours in the winter.

A. I wouldn't think that they would.

Q. Okay. And so what's the additional cost of adding usage at those types of off-peak times?

A. Well, for additional kilowatt hours --

Q. Uh-huh.

A. -- I guess the key word there is "additional," it would be -- it probably would be

variable running costs of generation of some sort.
Q. Okay. Thank you.
Let's look at Page 8 of your testimony. Here you've developed an alternative to Mr. Kovach's residential rate design based on a one-step winter rate, and you've come up with what you believe to be the appropriate rate; is that right?
A. That's correct.
Q. Okay. Have you analyzed what the impacts are for those changes? In other words, the percentage increases of those rates over the current rates?
A. No, I have not.
Q. Would you write a couple of numbers down? And would you accept subject to check that the current summer energy charge is 8.271 cents per kilowatt hour?
A. Okay.
Q. The first block in the winter is 5.998.
A. Okay.
Q. And over the tail block is 3.965.
Could you quickly calculate what percentage increase your rates would result --
MR. BYRNE: Or decrease.
BY MR. COOK:
Q. -- or decrease?
A. Over current rates?

Q. Yes.

A. For the summer energy charge, it would be an increase of 12.2 percent.

Q. Okay.

A. For the winter energy charge, it would be 21.6 percent -- an increase of 21.6 percent.

Q. Okay. Is that in the first --

A. No. I.

Q. I think you went the wrong direction.

A. I went the wrong direction, so let me do my calculations again. I apologize for that.

Q. It is currently 5.998, and you are recommending 4.93.

A. Okay. It would be a decrease of 17.8 percent.

Q. Okay. And then the tail block would go from 3.965 to 4.93, which is what?

A. An increase of 24.3 percent.

Q. Okay. If you would turn to Page 14 of your testimony, please?

A. Okay.

Q. In the middle of the page, it discusses recovery of customer-related revenue. And you're recommending that the portion of the customer-related revenue that does not get recovered in the customer charge be recovered equally over all energy consumption by the residential class; isn't that true?

A. That's what it says.

Q. You've indicated that you've looked at some rate text, anyway, or some documents that discuss how rates are handled.

Isn't it true that virtually every rate text or theory calls for recovery of these costs through the customer charge first and then only from the initial block of an energy charge if there is more than one block? In other words, that the customer -- we've agreed that they are customer-related charges and they don't vary with usage, but, for whatever reason, political, public policy, whatever, we've decided we're not going to put them all in customer charge. We've got to spread them out further than that.

Isn't the next best thing to make sure they go in the first block of the energy charge rather than spreading them all out?

A. Excuse me. I don't know that that's necessarily the best thing.

Q. I didn't say whether you think it is the best thing. I said, isn't that the consensus of the opinion in most every treatise and text on this issue?

A. I believe there is certain individuals that might disagree with that.
Q. All right. Can you name any of them?
A. Not off the top of my head.
Q. Okay. On Pages 15 and 16 of your testimony you have two alternatives for your rate design. I'd like to do the impacts on those also, please, the changes. Again the summer --
MR. BYRNE: Jim, what if we stipulate you can use the percentage changes in your brief without running him through it?
MR. COOK: Because somebody might not get that far in my brief.
MR. BYRNE: Okay.
JUDGE REGISTER: Plus, it needs to be in the evidence.
THE WITNESS: I should have them here for you shortly.
MR. COOK: Okay.
THE WITNESS: On Page 15, for the summer energy charge, a decrease 1.1 percent.
BY MR. COOK:
Q. I'm sorry. Say that again.
A. A decrease of 1.1 percent.
For the winter charge, the first 750

kilowatt hour block, an increase of 5.7 percent. And for the excess kilowatt hour block, an increase of 9.9 percent.

Q. All right. Thank you.

Could you do that for Alternative 2, as well, please?

A. For the summer energy charge on Alternative 2, it is an increase of 1.1 -- pardon me -- a decrease of 1.1 percent. For the winter energy charge, the first 750 hour kilowatt block, a decrease of 6.9 percent. And for the excess kilowatt hour block, an increase of 40.7 percent.

Q. 40.7 percent?

A. That's correct.

MR. COOK: Your Honor, I would like to go back briefly to the offer of proof that I made, and I would like to supplement that offer of proof with a document that I don't have copies of yet. I would like to mark it as an exhibit, and indicate that this would be the proper calculation or the calculation of the average and excess seasonal allocator using Mr. Suess's numbers, using the methodology that is in the manual.

MR. BYRNE: I'm going to object to that, your Honor. The manual hasn't even been identified.

There has been no foundation for the manual, much less Mr. Cook's handwritten calculations that he derives from a manual that's not in evidence. I object to the whole thing.

MR. COOK: Trust me. They are not my calculations. But they are calculations that have been made pursuant to Mr. Suess's numbers, pursuant to the description of the process in the manual. I'm asking that it be added to the offer of proof. And, certainly, I would not object to the witness or Mr. Byrne being able to provide a document that showed the math was wrong or the attempt to follow the methodology was in error.

MR. BYRNE: Your Honor, he has got a calculation by somebody who is not even a witness now. I guess somebody in the back of the room made a calculation, and he wants to put it in evidence. I think that is ridiculous.

MR. COOK: Mr. Kovach made the calculation.

JUDGE REGISTER: Hold on, Mr. Cook. Let Mr. Byrne finish.

MR. BYRNE: Your Honor, he ought not be able to put it in the record, even as an offer of proof, I don't think. It's improper. He doesn't have a witness making the calculation, and the calculation is based on a document that should not get into evidence.

JUDGE REGISTER: Mr. Cook, let me ask you a question. These are not the recordings of the calculations that you have been having Mr. Suess make here while you've been examining him? They are something different?

MR. COOK: No. Correct. These are the calculations that I would have asked Mr. Suess to do pursuant to his numbers and pursuant to the Exhibit 37 that has been accepted as an offer of proof, or offered as an offer of proof. That is a follow up of that.

MR. BYRNE: I object to this even being put in as an offer of proof.

MR. COOK: Well, let me say that -- if I may respond. I'm sorry -- that should the eventual decision of the Chair be that the offer of proof is appropriate and that that item be admitted into evidence, then it is appropriate that the calculations that naturally follow from that would also be admitted into evidence.

MR. BYRNE: Could I have Mr. Cline make a separate set of calculations and then we'll submit those, too? I mean, that's just -- that's just not proper.

It's not the witness making these calculations, and it's not based on any document that he has any knowledge of. It's just -- it's just improper. It's as improper as if I would have Mr. Cline make a separate set of calculations and submit those to you into evidence.

MR. COOK: And I am suggesting that if counsel wishes to have someone provide a similar document showing that this is done wrong either -- that we followed the process wrong or the calculations are wrong mathematically, then that be would be appropriate to be put in.

MR. BYRNE: Mr. Kovach had a chance to file direct testimony and he had a chance to file rebuttal testimony, and he had a chance to file surrebuttal and he had -- he had two hours up on the witness stand when he didn't enter these calculations into the record.

Now Mr. Kovach is not on the witness stand anymore and it's improper to have Mr. Kovach make any calculations and be putting them in the record while my witness is on the stand. That's just not right, and I object to it.

JUDGE REGISTER: Okay. Under the rules 4 CSR 240-2.130, evidence, "Evidence to which an objection is sustained, the requested party seeking to introduce the same may nevertheless be heard and preserve in the record together with any cross-examination with respect to the evidence and any rebuttal of the evidence unless wholly irrelevant, repetitious, privileged, or unduly long."

The other option I think we have is if -- Mr. Kovach is obviously still here, and he seems to be the only one that has been on the witness stand that could testify to both the document marked as Exhibit 37 and the calculations that he has made.

MR. BYRNE: Your Honor --

JUDGE REGISTER: We can take it as an offer of proof here because it's permitted by the rule, or we can --

MR. BYRNE: Well, he is not entitled -- I don't think he is entitled to supplement his testimony. I asked him no questions about that when he was on the stand and nobody else did and --

Well, anyway, if you have to take it as an offer of proof, take it as an offer of proof.

MR. COOK: Let me suggest that I think it would be appropriate based on that reading of the rule for me to, as an offer of proof, go through this process with this witness to come up with these numbers.

What I'm suggesting at this point -- and then it would either be accepted or it would be thrown out of the record, depending upon the final determination by the hearing examiner.

This I'm suggesting is a shortcut to that, and I'm suggesting that I would not object to a -- the witness and Mr. Byrne looking at it and submitting a similar document if this is incorrect.

MR. BYRNE: It's ten minutes until six on the last day of hearing. I've never seen these calculations before. I'm not in a position to adequately respond to them.

MR. COOK: That would be the equivalent of allowing Mr. Byrne to cross-examine this witness about my direct -- or my cross-exam-- letting him redirect this witness on my cross-examination which would elicit this information.

JUDGE REGISTER: Here is what I'm going to do.

Does anybody else want to comment at this point?

(No response.)

JUDGE REGISTER: I'm going to sustain your objection, Mr. Byrne, but I'm going to accept it into the record as an offer of proof.

MR. BYRNE: Okay.

JUDGE REGISTER: Okay.

MR. COOK: Thank you, your Honor.

I will discuss with you how we should handle the copies.

JUDGE REGISTER: That's fine.

MR. COOK: I have no further questions of this witness.

JUDGE REGISTER: Thank you, Mr. Cook.

Staff?

MR. KRUEGER: No questions.

JUDGE REGISTER: Thank you.

Public Counsel?

MR. COFFMAN: Yeah, I actually have one.

JUDGE REGISTER: Okay. Please proceed.

CROSS-EXAMINATION BY MR. COFFMAN:

Q. Mr. Suess --

A. Yes.

Q. -- in recommending your rate design, you've recommended a rate design that I think better reflects Laclede's view of the -- of the cost, and you did a customer charge and an energy charge for the residential class. Correct?

A. That's correct. I actually -- I provided the number of alternatives. I recommended that the Commission should look at discussions that were contained in Mr. Cline's testimony regarding the 75 percent summer/winter rate differential and should move toward that goal as part of this proceeding.

Q.   Okay. In other words, you did seasonally differentiated customer charges -- or energy charges?

A.   That's correct. There was a summer charge and a winter charge.

Q.   And what I was wondering is why you didn't include a seasonally differentiated demand charge for the residential class?

A.   Typically, demand charges for residential classes are not collected through a demand charge. Generally, from my knowledge of operation of utility systems, demand meters for residential classes are cost prohibitive. Companies generally don't have demand meters that would record demand for that particular type of customer. And they roll all of the charges into a single energy charge to recover it on a kilowatt hour usage basis.

I believe in my testimony on page -- I believe there is a page --

Q.   Page 11 or 12, perhaps?

A.   Yeah, that sounds about right.

Yeah, if you start on Line 11 of Page 11, it talks about demand rates --

Q. Okay.

A. -- and demand charges, and why you wouldn't have a demand charge for the residential class.

MR. COFFMAN: That answers my question. Thank you very much.

THE WITNESS: Okay.

JUDGE REGISTER: That's all you have, Mr. Coffman?

MR. COFFMAN: That's correct.

JUDGE REGISTER: Thank you.

MIEC?

MS. SCHMIDT: No questions. Thank you.

JUDGE REGISTER: Thank you, Ms. Schmidt.

RFC?

MS. FORREST: No questions. Thank you.

JUDGE REGISTER: Thank you, Ms. Forrest.

Questions from the Bench. Commissioner Murray?

COMMISSIONER MURRAY: No questions.

JUDGE REGISTER: I don't have any questions. Since there are no questions from the Bench, we will go straight to redirect.

MR. BYRNE: I just have a couple, your

Honor.

JUDGE REGISTER: Okay.

REDIRECT EXAMINATION BY MR. BYRNE:

Q. Mr. Suess, in response to a question from Mr. Cook you agreed that Mr. Kovach had used the average and excess methodology? Do you recall that --

A. That's correct?

Q. -- line of questioning?

A. Right.

Q. And, specifically, Mr. Kovach's average and excess methodology is set out on that -- I think it's Exhibit 24 to his surrebuttal testimony. Are you familiar with that exhibit?

A. Schedule 24?

Q. Schedule 24. I'm sorry. Schedule 24 to his surrebuttal testimony, which --

A. Yes, I am familiar with it.

Q. And the last three -- it has methodologies A through G, which I guess you agreed are average and excess methodologies?

A. According to what I heard Mr. Kovach say, they are a form of using the average and excess methodology.

Q. Well, have you ever seen minimum NCP methodologies used which are E, F, and G, Methodologies E, F, and G on Schedule 24? Have you ever seen those used to design rates before?

A. I have not seen those used in an allocation similar to what's being used here.

Q. Do you think it's appropriate to use those for the allocation as it's being used here by Mr. Kovach?

A. I believe using an average and excess methodology as put forth in my testimony is an appropriate way to couple up with a seasonal class allocation between the summer and winter rates for Union Electric's residential class.

Q. Okay. Mr. Kovach -- or Mr. Cook asked you if your numbers hit the revenue target. Do you remember that line of questioning?

A. Yes, I do.

Q. Wouldn't you agree that UE's rates should be designed to hit the revenue target?

A. As close as possible. I'm sure if mine are off it's due strictly to rounding, and rounding within what the computer does versus rounding -- you know, computers can take things out to 99 decimal spots if you really want them to. And truncating them to a rate design within a reasonable level that Union Electric or any other company can bill with would create some rounding differential.

Q. You're not advocating rates that don't hit Union Electric's revenue target, are you?

A. No, I'm not.

Q. Okay. Mr. Cook asked you some questions about, I guess, a 1992 NAARUC cost allocation manual?

A. That's correct.

Q. And I guess you had -- you had limited familiarity with it.

Are you familiar with other treatises that explain how to do electric rate design?

A. I've taken rate design courses by the American Public Power Association. I've read rate manuals by individuals in -- within W.R. Beck who had filed rate manuals, namely Ed Cecil and Mike Schmidt. I've read and have participated in a number of cases in which various pieces of Mr. Bonbright, I think it's B-o-n-b-r-i-g-h-t, has discussed various allocation methodologies and rate design methodologies.

There is a number of others that we have in our library which go to speak to rate design and retail rate design.

Q. A number of other treatises in your library?

A. Yes, sure.

Q. That you are familiar with?

A. Yes.
Q. Okay. Just one last couple of questions.
Mr. Cook asked you, and I think he was looking on Schedule -- I think it was Schedule 3, Page 4, attached to your rebuttal testimony. Let me make sure that's right.
Yes, Schedule 3, Page 4. And he ran you through some calculations where you divided winter and summer megawatt hours by a twelfth of the total bills number. Do you remember that line of questioning?
A. Yes. Yes, I do.
Q. And I guess wouldn't -- wouldn't whether those answers are accurate depend on whether the monthly amount of bills is accurate?
A. To the extent that you have a number of different bills in the summer than you would in the winter, that would affect the answer.
Q. Or if the number of customers was increasing or decreasing over the course of the year, the average number of bills might not be the number of bills for a particular month; is that right?
A. That's correct.
MR. COOK: I object to the leading form of that redirect question.
JUDGE REGISTER: The question is asked and

answered.

Mr. Byrne, I will overrule Mr. Cook's objection, but be careful, please.

MR. BYRNE: Okay.

BY MR. BYRNE:

Q. Sorry. I do have one last question.

Public Counsel asked you why you didn't propose seasonally differentiated demand charges for residential customers. Do you remember that --

A. That's correct.

Q. -- question? And you responded that generally demand -- meters that record demand are prohibitively expensive?

A. Uh-huh.

Q. Isn't it possible, however, to determine demand cost responsibilities for residential customers in other ways?

A. That's correct. We've done -- we've provided methodology in this case, as has Mr. Kovach, for doing -- coming up with demand costs, and there are other ways to do it.

Q. So just because you don't have a meter that measures that doesn't mean you can't assign demand costs within the residential class?

A. That's correct.

MR. BYRNE: Thank you.
That's all I have.
JUDGE REGISTER: We've completed examination of this witness, and you may step down, Mr. Suess.
THE WITNESS: Thank you, your Honor.
(Witness excused.)
JUDGE REGISTER: No further witnesses at this time.
We will -- oh, there are a couple of other matters that do need to be taken care of.
First of all, I wanted to clarify, Mr. Byrne, the ruling that I made sustaining your objection. I also intended that to be the ruling that I had previously taken under advisement on Exhibit No. 37, sustaining that objection, but taking that as an offer of proof.
And all other exhibits, the exhibits I have admitted at this time are 6, 7, 8, 9, 10, 27, 28, 29, and 36. Ruling on 37 is not admitting it. And so do you want to offer -- or to have all other exhibits, except for those already ruled upon, admitted at this time?
Mr. Cook, how about you first?
MR. COOK: All of the rest of the testimony, we're talking about?

JUDGE REGISTER: Yes. The prefiled testimony marked as exhibits.

MR. KRUEGER: That is what Staff wishes.

MR. COOK: That's agreeable.

JUDGE REGISTER: Mr. Byrne?

MR. BYRNE: Yes, your Honor.

JUDGE REGISTER: Mr. Coffman?

MR. COFFMAN: Yes.

JUDGE REGISTER: MIEC and RFC?

MS. SCHMIDT: Yes.

MS. FORREST: Yes.

JUDGE REGISTER: Then I will admit all other testimony not already ruled upon into -- that are marked as exhibits into the record at this time.

(EXHIBIT NOS. 1 THROUGH 5, 11 THROUGH 26, and 30 THROUGH 35 WERE RECEIVED INTO EVIDENCE.)

JUDGE REGISTER: Are there any other matters we need to take care of at this time?

(No response.)

JUDGE REGISTER: The parties will be getting their Stipulation and Agreement filed tomorrow?

MR. KRUEGER: We hope so.

JUDGE REGISTER: Okay. Then we will be off the record.

(A discussion off the record.)

JUDGE REGISTER: Do you have a proposal for a briefing schedule?

MR. BYRNE: No.

MR. KRUEGER: I don't.

JUDGE REGISTER: It will just be on these two issues; is that correct?

MR. BYRNE: That's correct.

MR. KRUEGER: Yes.

JUDGE REGISTER: That doesn't necessarily need to be done in correlation with the formal presentation on the Stipulation and Agreement. Correct?

MR. COOK: I wouldn't think so. I mean, assuming that they are going to take some time after that -- well, in fact, this order is probably not going to be issued until the other case as well, perhaps, so it will probably be awhile.

JUDGE REGISTER: It may be. I think the rule provides 20 days for the initial briefs and --

MR. COOK: Probably.

JUDGE REGISTER: -- unless you-all -- let's see 20 days for -- and that's 20 days after the completed transcript.

MR. COOK: Okay. That's fine.

JUDGE REGISTER: Is that good? And then ten days for reply briefs?

MR. BYRNE: That would be fine.

MR. KRUEGER: That's fine.

JUDGE REGISTER: Then that's what we'll do. Twenty days after the completion of the transcript; and ten days after the initial briefs are filed, your reply briefs will be due.

MR. COOK: Thank you.

MR. KRUEGER: Thank you.

JUDGE REGISTER: Anything else we need to do before we go off the record?

MR. BYRNE: No, your Honor.

MR. KRUEGER: No.

JUDGE REGISTER: I think that's it this time.

(EXHIBIT NO. 38 WAS MARKED FOR IDENTIFICATION.)

WHEREUPON, the hearing of this case was concluded.

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I N D E X

E X H I B I T S I N D E X

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Exhibit No. 37 Copy of cover sheet, preface and Page 49 of the Electric Utility Cost Allocation Manual, dated January 1992, published by the National Association of Regulatory Utilities Commissions	197	*
Exhibit No. 38 Calculations submitted by UE	240	*

* Offer of Proof