

**BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI**

**IN RE: APPLICATION OF UNION ELECTRIC COMPANY
FOR AUTHORITY TO PARTICIPATE IN THE MIDWEST
ISO THROUGH A CONTRACTUAL RELATIONSHIP WITH
GRIDAMERICA**

Cause No. EO-2003-0271

VOLUME 5

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Public Service Commission*

ORIGINAL

STIPULATION PRESENTATION

FEBRUARY 20, 2004

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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Order Creating Case and
Establishing Initial Filing Deadlines
February 20, 2004
Jefferson City, Missouri
Volume 5

In re: Application of Union Electric Company)
for Authority to Participate in the Midwest) Case No.
ISO through a Contractual Relationship) EO-2003-0271
With GridAmerica)

LEWIS MILLS, Presiding,
Deputy Chief Regulatory Law Judge

REPORTED BY:
Jennifer L. Leibach
ASSOCIATED COURT REPORTERS

A P P E A R A N C E S

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DAVID B. HENNEN, Attorney at Law
1901 Chouteau Avenue
St. Louis, Missouri 63103
(314) 554-4673

FOR: AmerenUE

JAMES B. LOWERY, Attorney at Law
P.O. Box 918
Columbia, Missouri 65205
(573) 443-3141

FOR: AmerenUE

BRIAN MCCARTNEY, Attorney at Law
BRYDON, SWEARENGEN, & ENGLAND, P.C.
312 East Capitol Avenue
P.O. Box 456
Jefferson City, Missouri 65102
(573) 635-7166

FOR: Aquila, Inc. and the Empire District
Electric Company

DIANA VUYLSTEKE
BRYAN CAVE, LLP
211 North Broadway, Suite 3600
St. Louis, Missouri 63102
(314) 259-2543

FOR: Missouri Industrial Energy Consumers

KARL ZOBRIST, Attorney at Law
2300 Main Street, Suite 1100
Kansas City, Missouri 64108
(816) 983-8171

FOR: Midwest ISO

1 A P P E A R A N C E S (con't)

2 MICHAEL A. RUMP, attorney at Law
1201 Walnut
3 Kansas City, Missouri 64106
(816) 556-2483

4

FOR: Kansas City Power & Light

5

6 JEFFREY KEEVIL, attorney at Law
STEWART & KEEVIL
7 4603 John Garry Drive, Suite 11
Columbia, Missouri 65203
8 (573) 499-0635

9

FOR: National Grid, USA

10

JOHN COFFMAN, Senior Counsel

11

P.O. Box 2230
Jefferson City, Missouri 65102
12 (573) 751-5565

13

FOR: Office of the Public Counsel and
the Public

14

15 DENNIS L. FREY
STEVEN DOTTHEIM

16

P.O. Box 360
Jefferson City, Missouri 65102
17 (573) 751-7489

18

FOR: Staff of the Missouri Public Service
Commission

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1 PROCEEDINGS

2 JUDGE MILLS: We're on the record this morning
3 for a presentation of a stipulation and agreement in Case No.
4 EO-2003-0271. I think rather than doing separate opening
5 statements and entries of appearance, I'm going to ask the
6 attorneys, when they come up to present their opening
7 statements, to simply do their entries of appearance at that
8 time rather than going around twice. I think that will be
9 more efficient. As we discussed off-the-record, we'll begin
10 with the company, so let's get right to it.

11 MR. LOWERY: I'm James B. Lowery of Smith
12 Lewis, LLP, 111 South 9th Street, Columbia, MO, 65205.

13 Good morning. We appreciate the opportunity
14 to appear before you this morning for what I now believe is
15 the third time in this case. We had a couple of other
16 presentations back in November for the purpose of presenting
17 the stipulation that we recently filed with you -- to you.

18 With me today are several individuals, who
19 collectively we believe and hope will be able to answer any
20 questions that you have about the stipulation. I'd like to
21 introduce them briefly, they are David B. Hennen, Associate
22 General Counsel with Ameren, David A. Whitely, who is a
23 Senior Vice President with Ameren, Mark C. Burke, a Vice
24 President of Ameren, Greg Ringcamp, who is the Manager
25 Electric Planning at Ameren, and Daniel Godar, who is a

1 partner with the Armstrong Teasdale firm in St. Louis who's
2 representing Ameren with respect to the GridAmerica
3 arrangements and is our designated GridAmerica document
4 expert can answer questions regarding those.

5 The stipulation before you today is the
6 culmination of not just the last six months of intensive
7 negotiations among the parties, but of several years of
8 concerted effort by the company to fulfill the mandate that
9 this Commission gave it in 1997 when we were ordered to join,
10 at that time, the Independent System Operator, and ISO that
11 met the characteristics of Order 888.

12 Our application in this case, as well as the
13 other pleadings filed in this case and other cases have gone
14 into a lot of detail about the history of Ameren's ISO and
15 now RTO participation efforts. I'm not going to go into all
16 of those details this morning, but I do think it's important
17 that I provide you some context about Ameren's RTO
18 participation and those efforts as it relates to this
19 stipulation.

20 In 1997, this Commission, as I mentioned,
21 ordered the company to file or join in the filing of an ISO
22 that met the characteristics under Federal Court Order 888.
23 The company filed the Commission's directive, in that regard
24 by initiating Case No. E0-98-413, and that case resulted in a
25 May, 1999, Order from this Commission that authorized the

1 company to participate in the ISO for a six-year transitional
2 period. That transitional period was expected to begin in
3 2001, it actually began on February 1, 2002, and so if that
4 particular participation had proceeded, we would have been in
5 the ISO as a transmission owner from 19 -- excuse me, from
6 2002 through 2008.

7 In 2000, however, certain utilities that we
8 had expected to be in the ISO, notably Illinois Power and Con
9 Ed, indicated that they were -- that they had intended to
10 withdraw from the ISO, and those withdrawals presented some
11 concerns for the company, some of which we've expressed to
12 you in the November presentations that we've made relating to
13 the intertwined nature of Illinois Power transmission system
14 with our own.

15 The company had also worked hard to ensure to
16 the best of its ability that those who use the Ameren
17 transmission system, third party users of the system, pay
18 their fair share for that use and full transmission policy at
19 the time potentially had an impact on those issues. The rate
20 design in ISO's tariff regarding full policy, the IP and Con
21 Ed's announcement, all potentially lead to the company's
22 decision in late 2000 to announce its intention to not go
23 ahead and participate in the ISO.

24 In early 2001, the company filed an
25 application with FERC, seeking FERC approval of its intended

1 withdrawal from the ISO, and in June, 2001, after deciding
2 that it would pursue membership in the alliance RTO rather
3 than the ISO, the company initiated another case with this
4 Commission, case No. EO-2001-684 asking the Commission to
5 approve its intended withdrawal from the ISO and its
6 participation in the alliance.

7 At that time, the FERC had actually indicated
8 support for the alliance concept and the company believed
9 that the alliance provided the best amount to comply with
10 FERC Order 2000 and also to preserve those transmission
11 revenues that we mentioned a minute ago. Several months
12 later, however, in late 2001, the FERC reversed course and
13 denied RTO status to the alliance, and in response to that,
14 we asked this Commission to suspend further proceedings in
15 the EO-2001-684 case, and ultimately, we asked this
16 Commission's permission to withdraw our application to
17 participate in the alliance, which the Commission granted in
18 November, 2002.

19 A couple of months later, two to three months
20 later, in early 2003, we initiated the present case, and that
21 application, as you know, requested permission to participate
22 in the ISO via a contractual arrangement with the GridAmerica
23 ITC. ITC, I believe you know, stands for Independent
24 Transmission Company.

25 GridAmerica is an independent transmission

1 company that would operate within the ISO, which is a
2 not-for-profit entity. That request made about a year ago
3 has resulted in the stipulation before you today. That
4 stipulation reflects the signatory's agreement that subject
5 to the conditions in that stipulation, our participation in
6 the ISO via GridAmerica is not detrimental to the public
7 interest. In fact, it reflects the signatory's agreement
8 that the company's decision to participate in the ISO in this
9 fashion is a prudent and reasonable decision.

10 The stipulation has been signed by the
11 company, Public Counsel, Staff, the ISO, National Grid, and
12 Missouri Industrial Energy Consumers. There are four other
13 intervenor parties who are now signatories, KCPL, Aquila,
14 Empire, and Missouri Energy Group, but they've all filed
15 pleadings in this docket indicating that they don't have an
16 objection to the stipulation and that they waive their right
17 to a hearing, and as you know, under your rules, that means,
18 in effect, you've examined the stipulation and agreement
19 before you for consideration.

20 As Staff had previously advised you in the
21 status report that it has filed as the case has proceeded and
22 as some of our own comments made at the presentations back in
23 November have indicated, there have been a myriad of issues
24 that we have had to work through as we proceeded on the path
25 to reach this stipulation dealing with evolving FERC orders

1 regarding RTO's, the FERC inquiry that took place in late
2 September, the IP issues and so on.

3 That's been hard work, that's been complex
4 work at times, but I can unquestionably tell you that all of
5 the parties, every single one of them, has worked very hard
6 and diligently to reach a settlement that I think we all
7 agree is fair and beneficial for the company, for Missouri,
8 and for the parties. Staff has filed discussions supporting
9 the stipulation and I know that some of the signatories are
10 going to be making comments this morning as well in support
11 of the stipulation.

12 I would like to take this opportunity to share
13 with you, from the company's perspective, why we believe that
14 this stipulation and our participation is beneficial both to
15 us and to Missouri in general. First of all, as I mentioned,
16 the stipulation allows us to fulfill this Commission's
17 direction in the 1997 Orders that we participate at that time
18 in ISO, excuse me, and now RTO. It allows Missouri to
19 realize the benefits that I think this Commission saw at that
20 time in entering that Order.

21 It also clears up any lack of clarity that may
22 have existed in the past regarding exactly what our RTO
23 status is, what Order may govern our RTO status, what Order
24 may not govern it, there has been some confusion that you're
25 aware, but the stipulation does provide that this will be the

1 sole source governing our RTO participation.

2 Second, we, like Staff, believe that the
3 energy market like the ISO will be implementing provides an
4 opportunity to facilitate a more efficient and effective
5 market for generations, which we would hope would leave to
6 power cost benefits for us and for the Missouri rate payers.

7 Third, we believe that participation as we are
8 proposing via the GridAmerica ITC provides us the best way to
9 maximize the profitability that those who use the Ameren
10 transmission system, third party users in particular, will
11 continue to pay their fair share for that use.

12 Fourth, it fulfills our RTO requirements with
13 respect to FERC orders and requirements, and finally, it
14 allows us, the Commission, Missouri in general, to obtain
15 meaningful data in the form of a cost benefit analysis that
16 is required and provided for in the stipulation that we would
17 be filing with this Commission approximately three and a half
18 years from now. That data is going to be based upon actual
19 RTO operations with Ameren participating in the ISO, and
20 that's going to allow us all to more meaningfully, for the
21 long-term, evaluate the cost and benefits of RTO
22 participation.

23 There are a number of conditions, safeguards,
24 I think, as Staff might have referred to them in their
25 suggestions, that we think strike an appropriate balance

1 between the benefits that RTO participation can bring to us
2 while minimizing any potential downsides being to the company
3 and to the rate payers.

4 First of all, the stipulation provides that
5 your permission would be effective for a period of five
6 years, so if we were to transfer functional control this
7 spring, the permission would expire in the Spring of 2009,
8 unless this Commission extends that by further Order. Just
9 to provide a point of reference, as I mentioned before, had
10 we proceeded under the EO-98-413 Order, we would have been in
11 for six years from 2002 until 2008. This participation would
12 mean that we're in from 2004 until 2009.

13 Second, as I noted above, the cost benefit
14 staff analysis, which we'll have, by the way, as the
15 stipulation provides substantial and substantive input from
16 any of the interests of the signatories, and we've agreed in
17 the stipulation on the parameters on what we are going to
18 study will allow us to gain some real meaningful data over
19 the next few years.

20 Third, we have followed the road map that the
21 FERC laid out in its April 28th, 2003, white paper with
22 respect to preserving the status quo with regard to this
23 Commission's traditional rate making jurisdiction over the
24 transmission components of retail load, and the Staff points
25 out in its suggestions there are mechanisms built into the

1 stipulation that if the FERC were to decide we don't think
2 this is going to happen, we don't expect it to happen at all,
3 but if the FERC were to decide to further research in the
4 area, the stipulation provides the Commission the right to
5 require us to withdraw in that event.

6 Fourth, as Dr. Proctor indicated in his
7 testimony, participation via GridAmerica, we think, gives the
8 company the best opportunity to preserve transmission
9 revenues, and there's some other things about GridAmerica
10 that we think are beneficial as well. GridAmerica is a
11 for-profit entity operating within the ISO. It has the right
12 incentives to effectively and efficiently manage and focus on
13 our system and to other systems that are in GridAmerica, and
14 the GridAmerica agreements provide that we can, later with
15 GridAmerica, agree on the incentive arrangements, that if we
16 did agree on those, the company or the participants in
17 GridAmerica would receive up to 75 percent of the financial
18 benefits of those. Those benefits would then flow through to
19 rate payers.

20 There's no downside to that situation. It
21 provides an incentive, however, that we think will help
22 GridAmerica effectively manage the system. We also think it
23 just gives us a practical, larger, voice at the ISO table, so
24 to speak, when we have GridAmerica with multiple systems
25 within its footprint involved in the ISO, and we get all of

1 that for what -- for what is really materially not any
2 additional cost. The cost to participate in GridAmerica the
3 first year is only about \$515,000, and second year and third
4 year only about \$367,000 and those are before tax numbers, so
5 the after tax number is even smaller.

6 Now, let me grasp the service agreement in a
7 little bit more detail because it is an important component
8 of the stipulation, as I mentioned. As you know, in the
9 first white papers, I believe you know, the FERC suggested
10 that while utilities in the RTO do have to take network
11 service for bundle load under the RTO's open access
12 transmission tariff, that did not mean that State Utility
13 Commissions did not maintain their jurisdiction over the
14 transmission components of the bundle retail loads.

15 The service agreement memorializes that fact
16 and results, and as an agreement between the RTO and utility
17 that the RTO will not be subject to the zonal rate provided
18 for in the Schedule 9 of the Midwest ISO, Ameren would pay
19 the administrative charges, essentially the overhead to run
20 ISO, and as we think we should, because we're going to be
21 receiving services from ISO, but we're not going to pay that
22 zonal rate and the transmission component continue to be set
23 as it's always been set just as part of the bundle rate in
24 Missouri.

25 The service agreement also commits ISO to

1 making available to the company the ability to acquire a
2 reasonable portfolio of firm transmission rights, and you
3 probably have some familiarity with firm transmission rights,
4 known as FTR's. Essentially, they are hedging tools that are
5 available that the company can select an appropriate
6 portfolio that will guard against an appropriate level of
7 risk with regard to congesting costs on the transmission
8 system.

9 Another key feature of the service agreement
10 that's built in deals with giving this Commission a voice in
11 future transmission upgrades in Missouri that the ISO might
12 think is needed. Let me explain that just a little bit
13 further. As you know, in Missouri, if we are going to build
14 transmission within our existing certificated area, there's
15 no requirement that we come and get Commission permission to
16 do that. You probably also know that we meet semi-annually
17 with Staff and Public Counsel for Resource Planning Briefings
18 that deal with our resource generation and transmission.

19 The service agreement provides that if the
20 ISO, for example, believes that transmission needs to be
21 built in Missouri, and if that transmission is not within our
22 resource plan, and even if that transmission would be within
23 our existing certificated area, nevertheless, we would have
24 to come to this Commission and obtain this Commission's
25 approval of building that transmission, that gives you a

1 voice and a measure of control over building transmission
2 that, from a more of a top-down perspective, that the RTO
3 believes may be needed by not necessarily been a part of
4 Utilities Resource Plan, and we think that's an important
5 protection for rate payers.

6 Let me wrap up my remarks by discussing why
7 what we envision as being the path forward with regard to the
8 stipulation, if, as we hope you will, you enter an Order
9 approving it and approving our participation in ISO through
10 GridAmerica. As the stipulation provides, your approval of
11 the stipulation does not immediately allow us to transfer
12 functional control to the ISO via GridAmerica. That
13 permission does not ripen or rise until such time as the FERC
14 approves the service agreement without any condition or
15 modification.

16 The service agreement was filed with the FERC
17 yesterday, it's been signed by Ameren and by myself. Prior
18 to filing it, we sought and received input from FERC's
19 staff's own service agreement. The service agreement, we
20 think, is directly in accord with the April 20th, 2003, white
21 paper and the feedback that we received and our expectation
22 is that the FERC will, we believe, approve it promptly and
23 approve it without condition.

24 So if you did approve the stipulation and FERC
25 does follow through as we expect them to do, at that point,

1 we will have all the permission that we need to transfer
2 functional control. Now, we respectfully asked for your
3 permission on or before March 1, and the reason that we've
4 done that, we think it's going to take to do the job
5 properly, approximately 60 days to work with the ISO and to
6 work with GridAmerica to be in a position to transfer
7 functional control before the summer cooling season.

8 In Missouri, sometimes, that starts in May,
9 and so we really think we need to shoot for a May 1 date. We
10 wouldn't want to do it after that because we don't want to be
11 making a change of that nature in the operation during that
12 period. So we would respectfully request that you -- that
13 you grant approval by March 1, if at all possible.

14 Assuming we timely receive your approval and
15 FERC approval, we then would intend to transfer functional
16 control on effective May 1. That means that our -- as I
17 mentioned, our participation, unless you order further
18 participation or other order regarding our participation in
19 RTO, would extend until May 1 of 2009.

20 It would also mean that on or before November
21 1, 2007, we would be filing the cost benefit analysis with
22 the Commission and make any further filing with regard to the
23 future of our RTO participation. Again, thank you for
24 accommodating our request to get this presentation before you
25 rather quickly after it was filed, and we look forward to

1 answering any questions that you might have.

2 JUDGE MILLS: Thank you, Mr. Lowery. Mr.
3 Zobrist?

4 MR. ZOBRIST: Good morning. Karl Zobrist,
5 Blackwell, Sanders, Peper, Martin, 2300 Main Street, Suite
6 1100, Kansas City, Missouri, 64108, on behalf of Midwest ISO.

7 May it please the Commission. Good morning.
8 First of all, I want to introduce Mr. Jim Torgenson, who is
9 the President and CEO of Midwest ISO, and he is here to
10 respond to any questions that you may have as we go forward.
11 I want to echo what Jim Lowery said about the effort that
12 everyone put forward to get to this position today, and
13 particular, I want to thank some people who really spent a
14 lot of time.

15 Jim Lowery and Dave Hennen were really the
16 drafters and distributors on this, and they spent a lot to
17 time along with Mr. Whitely and Mr. Ringcamp to keep this
18 process going forward, and although I think it's pretty clear
19 from looking at the final document and knowing what you know
20 about the historical positions of Ameren, they were very
21 flexible and gave up some points that they, perhaps, wanted
22 coming into this process.

23 Staff and Public Counsel were extraordinarily
24 helpful in keeping this matter on schedule, and particularly,
25 Denny Frey and Steve Dottheim from the legal staff. Mike

1 Proctor and Mark Oligschlaeger, Greg Meyer and probably some
2 other staff members that I have forgotten, but they were very
3 positive and really helped us, and believe me, we talked
4 about every conceivable issue under the sun, and everyone was
5 positive about going forward, and John Coffman and Ryan Kind,
6 who for the first two years of ISO served on our Advisory
7 Board, were also very helpful in bringing all the issues out
8 and really getting us to arrive at, what I think, is a very
9 comprehensive agreement.

10 And I also want to thank you, Commissioners,
11 for giving us the time on your schedule. I know,
12 particularly with the resignation of Commissioner Simmons and
13 the tragic loss of Commissioner Forbis, this is a tough time
14 for you, and we understand that and we know that your work
15 load has been very tough, and I'm hopeful that we can
16 alleviate that to some degree, but I just wanted to express
17 Midwest ISO's appreciation for you getting us on the
18 schedule. What this does for Midwest ISO is gives the
19 company the broad connectivity between its eastern and
20 western regions that has been so lacking, and that's been
21 highlighted in some of the segments that we have had before
22 this Commission.

23 It basically does a great deal to plug the
24 holes in the Swiss cheese, as we've talked about, and will
25 make the transition to date to market much easier to

1 accomplish. With the return of Ameren's Midwest ISO
2 footprint and hopefully Illinois Power as well, the original
3 plan for the Midwest ISO, at least in the main and the ECAR
4 regions, will be pretty well fulfilled, and with the work
5 that we're doing on the joint and common market with PJM,
6 which hopefully will bring American Electric Power and
7 Commonwealth Edison into the picture, I think the original
8 wonderful ideas that came out of the mid-to-late 90's are
9 about to be -- that ship is about to be launched.

10 This will contribute very positively to
11 transmission expansion planning process, not only within the
12 ISO process, but I think as its utilities work within our
13 transmission expansion experts, and it will also bring
14 Ameren's data into the ISO enhanced reliability functions
15 that have been developed particularly within the last six
16 months.

17 The ISO pledges in this agreement are really
18 found in two sections; one is Article XI, which deals with
19 joint operating agreements. We have pledged to circulate
20 such agreements, either contemporaneous with filing at the
21 Federal Energy Regulatory Commission or beforehand. The
22 PJMJOA has been filed at FERC and is in the process of -- has
23 been in the process of being circulated for comment. We're
24 hopeful that next week a draft JOA with Southwest Power Pool
25 will be distributed to our state holders for comment as well

1 and we think there will be others in the future as would
2 effect either Missouri or this greater part of the Midwest.

3 The second article is Article XII, Roman
4 Numeral, VII which is the FTR allocation process. We believe
5 it sets forth ISO's dedication to making sure that this
6 process works, we appreciate not only in this docket, but
7 also the work that Dr. Mike Proctor has done with the
8 Advisory Committee and its various working groups as part of
9 the OMS group, but also as part of the Midwest ISO Advisory
10 Committee in general, and we think that that is a good
11 solution to that issue that troubles a lot of folks who are
12 new to the market.

13 Overall, I think this is a pledge by Midwest
14 ISO to work with the Missouri Commission, as well as the
15 many Missouri interests, and we have taken steps to work, for
16 example, with Missouri Electric Municipal Electric Utility
17 and hope to meet with them again as well as the organization
18 of ISO states which this Commission has been very much
19 dedicated to.

20 That's all I have to say, and I would
21 encourage you, if you do have any questions, to either let me
22 answer them or to -- or appropriately probably Mr. Torgenson
23 answer them on behalf of Midwest ISO.

24 Thank you.

25 JUDGE MILLS: Thank you. Mr. Keevil.

1 MR. KEEVIL: Thank you, Judge Mills. Jeff
2 Keevil of the law firm Stuart & Keevil, LLC, 4603 John Garry
3 Drive, Suite 11, Columbia, Missouri, 65203, appearing on
4 behalf of National Grid USA.

5 I would also like to mention that with me here
6 today is Mr. Paul Hallast. Mr. Hallast is President of
7 GridAmerica, also Vice President of National Grid USA
8 Services Company, and he will be available to answer any
9 National Grid or GridAmerica related questions you may have
10 after the opening statements are concluded.

11 Like Mr. Lowery and Mr. Zobrist, I, too, would
12 like to thank all of the other parties, particularly Staff
13 and Office of Public Counsel for the hard work that everyone
14 put into arriving at this stipulation. I think it took
15 longer than anyone anticipated originally, but I do believe
16 that the result, if approved by this Commission, will be a
17 stipulation that proves beneficial for all stake holders, and
18 since we do concur with the previous speakers, particularly
19 what Mr. Lowery said, rather than stand here and simply
20 repeat everything you've already heard, I just wanted to
21 point out one item that I'm sure you're already aware of, but
22 as Mr. Lowery said, the stipulation being presented to you
23 would authorize AmerenUE, excuse me, to participate in ISO
24 through contractual relationship with GridAmerica, and we
25 believe that this is a preferable arrangement than direct

1 participation because it brings with it or will bring with it
2 the benefits of the Independent Transmission Company
3 structure.

4 National Grid is a worldwide leader in
5 independent transmission, and as I said, Mr. Hallast is here
6 and can address any questions you may have regarding that. I
7 would also concur in what Mr. Lowery said about the request
8 that the approval be received by March 1st. It is important
9 that the transfer of control take place by May 1st, and we
10 would agree with that, so with that, I'll just be seated and
11 remind you that hopefully we'll be able to answer any
12 questions you may have.

13 Thanks.

14 JUDGE MILLS: Thank you. For Staff?

15 MR. FREY: Thank you, Judge Mills. Appearing
16 on behalf of the Staff and Missouri Public Service
17 Commission, Steve Dottheim and Dennis L. Frey, Post Office
18 Box 360, Jefferson City, Missouri, 65102.

19 May it please the Commission. Mr. Lowery did
20 a very thorough job of covering a lot of main features of
21 the stipulation and agreement here, so I'll keep my remarks
22 brief. Staff, first of all, I would introduce the fact that
23 we have Staff witnesses here, all of the -- all three of whom
24 filed testimony in this case. We have Dr. Michael Proctor,
25 Mr. Mark Oligschlaeger and Mr. Greg Meyer available to answer

1 any questions you may have. These folks, as was indicated by
2 other counsel, have participated fully in the entire drafting
3 process of this stip as well as the associated service
4 agreement.

5 In its suggestions, the Staff highlighted the
6 reasons it views Ameren's -- AmerenUE's request as
7 conditioned in the stip be not detrimental to the public
8 interest. A number of benefits were outlined and Mr. Lowery
9 touched on those. I would just mention, again, the structure
10 that is a for-profit ITC, GridAmerica, operating within the
11 framework of a not-for-profit RTO, the Midwest ISO. We think
12 that's a very appropriate structure.

13 Secondly, GridAmerica, again, I think Mr.
14 Keevil touched on this, is able to focus on transmission in a
15 way that an ingrained vertically -- ingrained utility cannot
16 because such a utility as AmerenUE, as many of the decisions
17 it makes are driven or at least influenced by the utilities
18 having investment in generation, so here we can take
19 advantage of the fact that GridAmerica is, if you will, a
20 specialist.

21 Also, it was mentioned in the suggestions the
22 point about the lost revenues that AmerenUE expects to be
23 able to recover as a result of its affiliating itself with
24 GridAmerica. These lost revenues from the elimination by the
25 Midwest ISO of pancake transmission rates amounts to about

1 \$20 million annually Ameren wide and about 60 percent of that
2 will be allocated to AmerenUE. So there's an opportunity to
3 recover much of those lost revenues.

4 To deal with the uncertainties -- current
5 uncertainties in this rather new RTO environment, there was
6 mentioned a number of safeguards included in the stipulation
7 and agreement, and we highlighted those in the suggestions.
8 I would just reiterate the fact that the service agreement
9 itself is a -- safeguard of the first order, because it -- it
10 ensures that the Commission will still be able to set the
11 transmission component of AmerenUE's rates associated with
12 bundled retail service, and it requires your approval, as Mr.
13 Lowery mentioned, or else any Commission approval of this
14 stipulation and agreement will essentially die on the vine.

15 Another major safeguard, of course, is the
16 fact that there is interim approval, and again, as Mr. Lowery
17 pointed out, some three and a half years down the line, the
18 Commission will have an opportunity to review a detailed and
19 comprehensive cost benefit analysis based on real experience
20 that the company has, and so then the Commission can revisit
21 the issue of the company's RTO participation in the future.
22 There are a number of other areas in which this Commission's
23 approval is required, such as any decision on the part of the
24 company that invests its assets to, for example, GridAmerica,
25 or if it were to change its status vis-a-vis the -- its RTO

1 participation with the Midwest ISO, it has to come back in
2 and ask for this Commission's approval.

3 Finally, I would just mention that the parties
4 have expressly not agreed to any rate-making treatment
5 associated or in connection with this stipulation and
6 agreement. Again, the Staff believes that the stip
7 adequately protects the public interest while allowing the
8 company to participate in the Midwest ISO under a contractual
9 agreement with GridAmerica.

10 Thank you very much.

11 JUDGE MILLS: Thank you. Mr. Coffman?

12 MR. COFFMAN: Thank you. May it please the
13 Commission. Happy to be here today. Like others, I would
14 like to thank everyone who is involved in this long
15 negotiation process. This is the longest negotiated
16 stipulation I've been involved with where everyone was
17 engaged and really working hard for such a prolonged period
18 of time. We went -- it appears we would go one direction to
19 try to solve one set of problems, it would create another
20 thing, we would have to do a 180 and go another direction,
21 and explore many different approaches to bring everyone to a
22 place where they were comfortable, and it was -- well, it was
23 a difficult task that was accomplished only because of a lot
24 of hard work and focused attention on it.

25 The complexity of coming to this agreement is

1 largely the result of shifting Federal Transmission Policy
2 decisions that have changed what was considered an ISO back
3 in 1997. As Mr. Lowery stated, this Commission ordered ISO
4 participation to be sought by Ameren, and at that time, there
5 was a widespread assumption that retail competition was
6 coming to Missouri.

7 It was also a time when it appeared that FERC
8 was pretty clearly not attempting to preempt rate-making
9 jurisdiction of state utilities, and we had not yet seen a
10 bad experience with the failure of federal regulators to
11 actually oversee competitive wholesale markets.

12 We've learned a lot since then. We still
13 don't know exactly where everything is going to fall out with
14 the federal policy. That was the complexity, but as we, that
15 is as Public Counsel tried to look at what would be the best
16 resolution in this case, we tried to anticipate where things
17 would go, and we tried to make sure that the Commission would
18 have the option to be flexible and to adjust, given what
19 happens at the federal level with transmission policy as it
20 relates to state jurisdiction.

21 There are, I won't go over in too much detail
22 what has already been said about the benefits and protections
23 that are secured by this, as Ryan Kind in his testimony
24 advocated and pointed out importance of having a service
25 agreement that reserves a state jurisdiction, that's in here,

1 the cost benefit study was something that Ryan Kind
2 recommended be done actually prior to approval.

3 It's something that we've seen other states do
4 and seems to be a very valuable thing to make sure what
5 you're getting into is not a detrimental situation; however,
6 we understand, as has been pointed out, there is some benefit
7 to actually having data and doing a cost benefit study
8 through actual experience, and so we've had input into the
9 cost benefit study that's here that's a very positive thing.
10 Of the five or six major potential detriments that we pointed
11 out in the application, we feel that each of these are
12 addressed by the service agreement by specific provisions in
13 the stipulation itself, or as to concerns about the ITC
14 GridAmerica relationship.

15 We will at least be able to examine it during
16 this interim period and make a judgment on that after this
17 conditional experimental period, if you will. Very important
18 to us was the provision on divestiture and securitization,
19 which is Roman Numeral IX, on Page 189, which will require
20 explicit Commission approval, PSC approval, before any
21 divestiture or transmission assets to GridAmerica or any
22 other entity as well as approval of any securitization of
23 revenues from the transmission system, also PSC approval of
24 any fundamental changes in the ITC/RTO relationship.

25 Also, various rate making reservations are

1 included. We think after a lot -- after many, many meetings
2 and a lot of hard work, it is a fair and balanced approach,
3 and we do recommend that you approve the stipulation. We
4 think it will be fair and reasonable for the consumers in
5 Missouri.

6 JUDGE MILLS: Thank you. I'll just go
7 through. --

8 MR. COFFMAN: Mr. Frey just reminds me I
9 haven't entered my appearance. John Coffman, the Office of
10 Public Council, PO Box 2230, Jefferson City, Missouri.
11 Thanks.

12 JUDGE MILLS: Mr. Rump.

13 MR. RUMP: Good morning. Michael Rump, 1201
14 Walnut, Kansas City, Missouri, appearing on behalf of Kansas
15 City Power and Light. As Mr. Lowery indicated, we're not
16 signatory to stipulation of the agreement, but we've
17 indicated we have no objection to it.

18 JUDGE MILLS: Thank you. Mr. McCartney.

19 MR. MCCARTNEY: Thank you. Good morning.
20 Brian McCartney, Brydon, Swearengen, & England, 313 East
21 Capital Avenue, Jefferson City, Missouri, 65101. I'm here
22 today on behalf of Aquila, Inc. Electric Company. Like
23 Kansas City Power and Light, both of my clients do not object
24 to the stipulation and agreement that they filed pleadings
25 and they waive their right to hearing. Thank you.

1 JUDGE MILLS: Thank you. Ms. Vuylsteke.

2 MS. VUYLSTEKE: Good morning. I'm Diana
3 Vuylsteke appearing on behalf of the Missouri Industrial
4 Energy Consumers. My address is Bryan Cave, LLP, 211 North
5 Broadway, Suite 3600, St. Louis, Missouri, 63102. I don't
6 have an opening statement, but I would like to state our
7 support for the stipulation and agreement. Thank you.

8 JUDGE MILLS: Thank you. And just to round
9 out the parties, I got a call from Bob Johnson representing
10 the Missouri Energy Group yesterday. The Missouri Energy
11 Group also filed a statement -- a pleading stating their
12 non-opposition to the stipulation agreement, and Mr. Johnson
13 said he didn't plan to attend this morning. I think that
14 covers all the parties, we've either had an entry of
15 appearance or an opening statements, so I think we're ready
16 for questions from the bench. Commissioner Gaw.

17 CHAIRMAN GAW: Thank you, Judge. I have --
18 first of all, I want to say that I very much appreciate the
19 amount of work that has gone into this stipulation. I know
20 that the sands have been changing over the time that this is
21 being -- been discussed, and -- and I can tell reading
22 through it that parties have spent a lot of time trying to
23 deal with contingencies in figuring out how to best balance
24 the interests of the utility and the people of the state, and
25 positioned against what has been sometimes difficult to redo

1 policy annunciation from Washington, so with that in mind,
2 and I want to start with that premise.

3 I think that as I look at this -- at this
4 stip, it appears that there is an element of the -- of
5 Missouri in it because I think -- I think that you're saying
6 show us that this is going to be a good thing for people in
7 Missouri, and demonstrate that to us before we give you cart
8 blanc approval to go this direction from now on.

9 I'd like to follow that with a little bit of
10 -- I want you all to show me where these places are that are
11 going to give us adequate protection so I can feel as
12 comfortable as I can about some of these issues. Let me
13 first start with this question to Ameren. There was a
14 reference to the '97 Order as being a part of the reason why
15 this stip being entered into. I want to know whether or not
16 absent that Order, Ameren would have wanted to enter this
17 relationship with GridAmerica and the ISO and this
18 stipulation and I will -- I don't care who wants -- who wants
19 to provide the answers to my questions. Dave Whitely for
20 Ameren.

21 JUDGE MILLS: If we're going to have
22 non-attorneys answering questions, I'm going to ask you to
23 come forward and swear you in.

24 (THE WITNESS WAS SWORN.)

25 JUDGE MILLS: Thank you, please go ahead.

1 MR. WHITELEY: Dave Whitely, Ameren Services,
2 1901 Chouteau, St. Louis, Missouri. What I was going to say
3 is I think there's two parts to that question. There may be
4 a legal part, which I would ask Ameren's counsel to address,
5 but from a practical standpoint, I think the answer to your
6 question from a company view, the answer would be that it
7 depends, and it's not intended to be a dodge, but we're
8 talking about two completely different situations, 1997
9 versus today, 2004, and I think as several of the parties
10 have pointed out, there have been a number of changes in
11 policy, and you've recognized that as well at the federal
12 level, and also changes in the way the energy markets and
13 utilities have moved to participate in those markets over
14 that time period.

15 It's difficult for me to predict where we
16 would be today if we had not had the history starting in '97
17 and most recently the last four years. Just in a vacuum, I
18 would say it's unlikely that RTO participation would be
19 something we would -- we would ask for, and that's simply
20 because we believe we were on a good system, we participated
21 in the energy markets, provided good service to our customers
22 at reasonable rates, but it's difficult to just in a vacuum,
23 give that as an answer without the context, so that's why I
24 put the it depends.

25 CHAIRMAN GAW: I guess what -- my question is

1 not what path would have been chosen if the '97 Order would
2 have been entered, but whether or not there is some
3 impression that the '97 Order is requiring you to join an RTO
4 today and whether that is part of the reason why this stip is
5 being entered, and if so, how much of a factor is it, and
6 absent that being a factor, would you be entering into this
7 agreement? That's what I'm couching the question under,
8 under those presumptions.

9 MR. WHITELEY: I understand, and that part I
10 think I would defer to our Counsel to set the background as
11 to where the -- how the '97 Order plays into where we're at
12 today.

13 CHAIRMAN GAW: That's fine. Thank you. Mr.
14 Hennen.

15 MR. HENNEN: I didn't do an entry of
16 appearance, your Honor, do you want me to do one or?

17 JUDGE MILLS: No, we know where you live.

18 MR. HENNEN: Thank you. The '97 Order
19 obviously evolved out of the SIPS and UE merger case, and
20 ironically, the only regulatory body to mandate Ameren to
21 participate in an ISO. As a result of that merger case was,
22 in fact, the Missouri Commission, and FERC, for whatever
23 reason, did not and the ISO did not either.

24 In addition to that, though, however, FERC did
25 take initiative when it issued order 2000, effectively put

1 all vertical integrated utilities on notice that they were
2 expecting them to participate in an ISO, and Order 2000
3 introduces us to the new terminology of RTO, and set forth
4 the characteristics of an RTO.

5 Since that time, the FERC has taken an
6 additional step, as you well know, with some of the utilities
7 still remaining outside of an RTO are failing to participate,
8 and it actually mandated that they participate, so in answer
9 to your question, Commissioner Gaw, had the '97 Order not
10 been issued, it's very possible that Ameren may have been
11 compelled by FERC to participate in an RTO.

12 CHAIRMAN GAW: I guess what -- I feel like I'm
13 still not getting an answer to what I'm trying to ask, and
14 that is in assessing the public interest in this case, if we
15 throw out the '97 Order as a factor, does Ameren believe that
16 the public interest standard is being met, does Ameren
17 believe that it is in the best interest of the company in and
18 of its consumers to move forward with this agreement under
19 the terms of the stip. That's what I'm asking, and I don't
20 know who wants to answer that, but.

21 MR. WHITELY: Now -- this is Dave Whitely.
22 Now that I understand the context after hearing Dave's answer
23 as well, yes, we would still be here --

24 CHAIRMAN GAW: Okay.

25 MR. WHITELY: -- asking for approval of this

1 stipulation absent the '97 Order.

2 CHAIRMAN GAW: Okay. Thank you. I'm sorry
3 that took so long. It's important to me that I know that.
4 The -- and I'm going to ask if anyone disagrees with that
5 because I am -- I am somewhat unwilling to consider the '97
6 Order as a factor in regard to assessing this stipulation.

7 MR. COFFMAN: I would just like to point out
8 that I think throughout -- ever since the '97 Order and
9 throughout, I think in my mind, it's always been implied that
10 the Commission would review any ISO/RTO participation to
11 determine if it is in the public interest, that it was never
12 a requirement, and in the '97 Order the Commission pointed
13 out that Ameren should not participate in an ISO at any cost
14 to Missouri rate payers.

15 CHAIRMAN GAW: Okay.

16 MR. COFFMAN: That's always been a factor.

17 CHAIRMAN GAW: Thank you. I don't know if
18 anyone else wants to venture on that issue, but it's okay one
19 way or the other. Okay. Let me ask -- let me ask this.

20 And this is a general question. There are
21 great pains taken, it appears to me, to the extent -- to some
22 extent, preserve the jurisdiction of a state in this stip,
23 and in the service agreement. Do the parties believe, does
24 Public Counsel, and does Staff believe that to the extent it
25 is legally possible that the jurisdiction of the state over

1 Ameren's transmission has been preserved and what, if any,
2 jurisdiction or oversight will be lost after this stip is
3 entered and an order approving it is issued, and I will tell
4 you that I did not -- I'm not asking that question for
5 Commissioner Hockstedder in Arkansas.

6 MR. COFFMAN: I would just simply state that
7 we do believe that it preserves the Commission's rate-making
8 authority, and to some degree, the transmission investment
9 decisions in Missouri. That's our belief. I don't know -- I
10 certainly don't want to hazard a guess what's going to happen
11 with federal law or federal FERC policy, but it's our belief
12 that this is coming as close as we can to preserving the
13 PSC's rate-making authority over bundle retail rates, and I
14 guess the question that's still out there, and I know that
15 this is a difficult question to answer with any certainty,
16 but the question is by the -- by moving forward with this
17 agreement or any other one, for that matter, what, if any,
18 oversight will this Commission lose over the transmission
19 element of Ameren's -- Ameren's operation in Missouri, if you
20 know. Mr. Dottheim is rising from his chair.

21 MR. DOTTHEIM: Yes, I would concur with Mr.
22 Coffman. To the best of our ability, to the best we know
23 possible, we have attempted to preserve the Missouri Public
24 Service Commission's jurisdiction. Bottom line, there are no
25 guarantees.

1 CHAIRMAN GAW: What are the risks of loss of
2 jurisdiction in entering into this agreement? What areas are
3 we -- could we potentially not have authority over after this
4 is -- after this is approved, assuming it's approved, that we
5 have today. Anybody want to tackle that?

6 MR. HENNEN: I might chime in, if that's okay.
7 I'm not sure if the Missouri Commission is going to lose
8 authority, but the company as a vertical integrated utility
9 may lose some of its ability to totally control its cost, if
10 you will. Just moving from a today's market environment to
11 an RTO environment is going to be a paradigm shift for
12 vertically integrated utilities, and as a result of that,
13 some of the exposure to cost that we currently don't have
14 today as a vertical integrated utility, we will have as a
15 result of our participation in RTO.

16 And of course as a utility, we are going to
17 expect that the Commission acknowledge those costs in future
18 rate proceedings, and it will be up to the Commission to
19 decide, like they always do, whether or not those are
20 prudently incurred costs.

21 CHAIRMAN GAW: Well, I recognize what's
22 happened in this agreement is a very strongly, I think, very
23 strongly worded attempt to make sure that transmission rate
24 authority is preserved, authority over rates. The -- I guess
25 what I'm asking is, and this is -- this is not unique here.

1 I'm not trying to say this -- this agreement is something
2 different than any other joint or of any other RTO. It's --
3 really, my question is in a very general sense what is it
4 that this new -- that this RTO concept and the -- the turning
5 over of functionality, whether it's through a third party
6 first or through anyone else does in regard to a state
7 Commission's oversight of a vertical integrated company, and
8 that's what I'm asking, and I'm just asking in a very general
9 sense.

10 MR. DOTTHEIM: I think -- I think possibly in
11 particular what Mr. Hennen was addressing was the lost
12 revenue from, for example, pancaked transmission rates.
13 There's --

14 CHAIRMAN GAW: Well, that's again, a different
15 issue to me. I'm going to come back to those issues in a
16 little bit. What I'm asking about is purely from a legal
17 standpoint, and by joining the RTO, what is it that changes
18 in regard to the state's jurisdiction and what -- what is it
19 that becomes subject to FERC tariff afterwards that is
20 currently not?

21 MR. HENNEN: Well, we hope nothing. The
22 intent of the agreement was to do just that, to preserve the
23 status quo --

24 CHAIRMAN GAW: Okay.

25 MR. HENNEN: -- for this Commission. We put

1 FERC on notice that that is our intent by virtue of this
2 service agreement. We put FERC on notice that if that intent
3 should change, there will be ramifications.

4 CHAIRMAN GAW: Okay.

5 MR. HENNEN: Namely, that it will trigger a
6 potential withdraw, and that's as good as we possibly could
7 do.

8 CHAIRMAN GAW: Okay. Mr. Dottheim?

9 MR. DOTTHEIM: Yes, and I don't know that
10 myself or the attorneys are best for this as opposed to the
11 technical people, in part at least, regarding transmission
12 construction and funding of that construction on a going
13 forward basis. I think one of those areas that are
14 different, I don't -- again, I don't know if anyone, either
15 Dr. Proctor, or Mr. Whitely, or one of the attorneys, whether
16 it be Mr. Zobrist or Mr. Torgenson on the technical side,
17 again, is the President of Midwest ISO, might want to address
18 that -- that item, if they view that as being an area that's
19 different.

20 MR. ZOBRIST: Chairman Gaw, just from the
21 RTO's perspective, I believe that these papers, thread that
22 needle between state and federal jurisdiction to preserve
23 state jurisdiction about as well as could be possibly done.
24 The white paper, of course, was a step back from where the
25 standard marks design appeared to be going, and that's what

1 this was based upon, and I think what this does is preserves
2 the status quo, and that means your jurisdiction is moral or
3 presuming approval, the day after approval, as the way it is
4 today. And this provides legal safeguards so that if
5 something does change, this agreement is either frozen or it
6 is -- it becomes void, and at that point the Commission's --
7 the state Commission's and the Federal authorities duke it
8 out of the course through the legislation. I think that's
9 the uncertainty that I hear the other lawyers talk about and
10 we can't predict that, but I think we've taken great pains to
11 preserve jurisdiction, and Jim, do you have anything you want
12 to add?

13 (THE WITNESS WAS SWORN.)

14 JUDGE MILLS: As long as he speaks in the
15 microphone, we'll get his voice captured for our multi media
16 preservation of this event.

17 MR. TORGENSON: First off, I name is James
18 Torgenson. I'm the President and CEO of the Midwest ISO.
19 My address is 701 City Center Drive, Caramel, Indiana, 46032.
20 As far as, you know, my not being a lawyer, so as far as --

21 CHAIRMAN GAW: Don't start out that --

22 MR. TORGENSON: -- as far as my reading of the
23 document and my understanding of it, they should preserve the
24 benefits to the state as far as their jurisdiction. As far
25 as the transmission building construction would go, the

1 Midwest ISO has limited ability to even tell people to build
2 things, and most of it comes only in the situation where
3 reliability of the system is threatened, and then the Midwest
4 ISO does have the ability to direct people to construct, but
5 it would be under the jurisdiction of the state still, so we
6 cannot preempt that, but we will identify areas where
7 construction may be needed. We have a very extensive
8 planning process, which is in conjunction with the
9 organization that ISO states that would identify areas where
10 construction should be done.

11 CHAIRMAN GAW: Anybody else?

12 MR. FREY: Mr. Lowery had mentioned earlier, I
13 believe he referred to Section 5.3 of the Service Agreement,
14 which provides for Commission approval in an instance in
15 which they wouldn't normally have Commission approval for
16 transmission upgrades, so in that regard, the Commission
17 actually gets increased authority compared to where it might
18 be under the current -- under the status quo.

19 MR. COFFMAN: I'd just like to reiterate that
20 we think that this does reserve the Commission's authority
21 approving the stipulation. The act does not concede any
22 rate-making authority in our opinion, and if something else
23 happens at the federal level in that direction, the -- this
24 particular stipulation does become void, and that's my
25 understanding of it. I also think that you might benefit

1 from hearing from Mr. Kind, who has participated in and has
2 experience with federal transmission policy in many aspects.

3 (THE WITNESS WAS SWORN.)

4 MR. KIND: And I don't think our mike is
5 working, so if people have a problem hearing me, I can move
6 elsewhere. I -- I think John has been really clear in terms
7 of expressing our view that this does effectively preserve
8 the Missouri Commission's rate-making authority. We feel
9 like it does a really good job of doing that.

10 I think that in terms of our jurisdiction,
11 depending on how you interpret that word, it should be clear
12 to people that there are some things that are given up by
13 joining an RTO, and one of the main things that's given up is
14 -- and when I say given up, you know, this might be
15 considered something on the downside.

16 We entered into this agreement because we
17 think there are enough benefits to offset this that make it
18 clearly in the public interest from our perspective, but on
19 the downside, the currently, the practice that Ameren uses to
20 determine how it's going to utilize its own transmission
21 system to serve its native load, it has pretty much complete
22 discretion to utilize that system in the manner that it
23 thinks is best for -- that it thinks is best from this
24 perspective, and what that means is essentially it -- it has
25 a discretion to schedule the use -- well, it doesn't even

1 have to schedule the use of its system.

2 It just makes others aware of what excess
3 capacity is available for them to schedule use of the system.
4 Once you join an RTO, then you just become like anyone else
5 who wants to use your own transmission system, and you have
6 to compete with others in a sense through, you know, through
7 the FTR process. I mean, FTR's hopefully preserve the status
8 quo in that area, but it's just, there is some risk involved
9 in that.

10 I think we've, you know, as has been
11 mentioned, the service agreement includes explicate language
12 that Ameren will have a right to a reasonable portfolio of
13 FTR's, okay, well, but we haven't gone through that process
14 to see how it works out. There is some risk involved, and it
15 just is -- it's clearly -- it really is a paradigm shift in
16 that sense.

17 I think that there are benefits to being part
18 of a regional organization like the Midwest ISO that offset
19 that. There's benefits in the area of a regional reliability
20 coordination, and I'm impressed with the MISO's efforts since
21 the blackout last summer to try and make sure that they're up
22 to speed in that area. And then there's benefits in terms of
23 participating in regional energy markets, there's benefits in
24 terms of regional planning as well, just because the flows of
25 electricity aren't limited to state lines or a single control

1 area, you couldn't -- you couldn't stop the flows at the edge
2 of the control area often if you wanted to, you know. So, I
3 just think it's -- that it's pretty clear that there are --
4 and basically I think what it amounts to is that the MISO
5 files tariffs at the FERC for how the markets are going to
6 operate for the files tariffs for the terms and conditions of
7 the use of the transmission facilities, and so there -- those
8 things are, like I said, constitute a paradigm shift and
9 Ameren will no longer have some of the discretion that it has
10 today to just say, you know, this is how I want to use my
11 system, but we don't see that as necessarily a negative
12 thing, you know, and we think that overall, there's likely to
13 be net benefit from doing this, and that's -- and part of our
14 rationale of entering into an interim agreement is that we
15 can assess those trade offs.

16 CHAIRMAN GAW: Okay. There are provisions in
17 this, as has already been stated, for withdrawal from -- from
18 this relationship with GridAmerica and from this proposal at
19 some point. What I guess I would like to know is what are
20 the -- are there avenues for the Commission to order
21 withdrawal or is it -- or is the -- is the withdrawal
22 language that's in here in regard to Ameren permissive for
23 Ameren to withdraw?

24 MR. LOWERY: I think I can answer that. There
25 is one avenue that the Commission has complete control over

1 that issue, and that is in the jurisdictional sense that you
2 were talking about before. If the FERC asserts jurisdiction
3 and that could be by an order, it could be by rule, however
4 it may happen, if they assert jurisdiction over the
5 transmission component, then this Commission has the right to
6 require withdrawal.

7 You're not obligated to, it doesn't happen
8 automatically, we are bound to notify Staff and Public
9 Counsel if we become aware of that, but anybody can initiate
10 a proceeding and ask this Commission to exercise that
11 authority.

12 The second circumstance of withdrawal would
13 simply be if we don't get a further order from this
14 Commission within the time frame set forth in the
15 stipulation, then we no longer have permission from this
16 Commission to be there, so again, the Commission has that
17 authority.

18 There's no -- there's no discretionary
19 withdrawal where the stipulation says, well, if Ameren
20 decides that in two years we want to get out -- in fact,
21 there's a provision that says if we change our RTO
22 participation in effect that we've got to come back, so you
23 have control of those two circumstances.

24 CHAIRMAN GAW: The change in practice -- what
25 was that that was referred to earlier, and I can't remember

1 where it is in here, that provides that Ameren can withdraw
2 in the event of certain circumstances occurring, maybe
3 somebody can help me with that.

4 MR. LOWERY: That Ameren can withdrawal?
5 You're not talking about the GridAmerica off ramp, are you?

6 CHAIRMAN GAW: I don't know. I left the copy
7 that I had written all over at the house, unfortunately, so
8 I'm working off of a new copy.

9 MR. LOWERY: Let me describe that real
10 quickly, as if you might be talking about that. We are
11 committed to be in GridAmerica contractually for a period of
12 three years. There is a window, an off ramp, if you will,
13 that Ameren can make a decision that GridAmerica is not
14 delivering the benefits we think they will, and we don't
15 anticipate exercising the off ramp, and that we would come
16 out of GridAmerica, but if we do that, we go directly into
17 the MISO.

18 Ameren does have the discretion to make that
19 decision. None of the signatories of the agreement have
20 sanctioned whatever decision we make, they can argue later
21 whether we should or should not have done that, we have that
22 discretion, but in terms of coming out of the MISO, there's
23 no unilateral right reflected in the agreement.

24 CHAIRMAN GAW: Let me ask you this. If after
25 the cost -- there's a cost benefit analysis that's gone here.

1 If after that, there is a determination made by Staff or the
2 Office of Public Counsel that this was not in that positive,
3 in fact, there was net cost involved in it, what -- who has
4 what rights in regard to that information and what could
5 potentially occur?

6 MR. LOWERY: We are required to come to you on
7 or before November 1, I'm using that date assuming we go in
8 on May 1 on this year.

9 CHAIRMAN GAW: That's fine.

10 MR. LOWERY: On or before November 1 of 2007,
11 and make a filing including the cost benefit analysis with
12 respect to our future participation. The company may come in
13 and say we want to continue, we think the cost benefit
14 analysis is working out. We may come in and say, you know,
15 we don't think it's working out, we would like your
16 permission to withdrawal. All the other folks in this room,
17 and the other appropriate intervenors will have the
18 opportunity to come into that case and ask the Commission for
19 whatever relief they believe is appropriate, whether that's
20 to cause us to come out, continue.

21 CHAIRMAN GAW: Can the Commission make a
22 determination and order one thing or another to occur at the
23 point under the terms of the stip?

24 MR. LOWERY: Yes, I believe they can.

25 CHAIRMAN GAW: Okay. The -- one of the things

1 that we are -- that could occur here -- let me frame this a
2 little better first. There are anticipated costs of
3 participating in MISO, overhead costs, costs that will be
4 filed and tariffs that haven't been filed yet. Those costs
5 are not firmed up, some of them are not firmed up, there may
6 be additional costs that could come up that aren't
7 anticipated.

8 Is there any provision in this agreement
9 dealing with costs that might not be consistent with what was
10 -- what is anticipated currently causing some change in
11 whether or not the status of the jointure with GridAmerica
12 continues, is there anything in here that anticipates that
13 and acts as an escape clause because of some sort of a
14 substantial increase in costs of participation prior to the
15 -- prior to any dates that might be set forth here for the
16 termination of the agreement?

17 MR. LOWERY: I think the answer to that is no,
18 there is no particular cost-based trigger or escape valve or
19 anything of that nature.

20 CHAIRMAN GAW: Okay.

21 MR. LOWERY: The stipulation does provide,
22 though, that while the parties are agreeing that our decision
23 to participate is reasonable and prudent, no rate-making
24 treatment or anything of that nature has been agreed to, and
25 that being an issue, I guess, for another day, perhaps,

1 depending on what the costs are.

2 CHAIRMAN GAW: Okay.

3 MR. LOWERY: And I would also comment I think
4 the company's interest and the Missouri's interest, the
5 Commission's interest, are certainly aligned in that regard
6 certainly doesn't want to pay any costs that are unnecessary
7 any more than you would want us to.

8 CHAIRMAN GAW: I don't disagree with that, but
9 I can see that being an issue in a rate case where there
10 would not necessarily be on the same -- in the same position.
11 Who else wanted to dive into that? Mr. Zobrist?

12 MR. ZOBRIST: I was just going to agree with
13 that. I think the agreement that the stipulation
14 contemplates in a cost benefit analysis, it contemplates, I
15 think, its quarterly reporting, or periodic reporting once we
16 get into it. There's a provision 18 months before the end of
17 the five-year period where Ameren comes back and says these
18 are our futures plans, so although there isn't any type of a
19 tripwire, per se, like you were suggesting, there are certain
20 events that are contemplated throughout the five years of the
21 agreement where costs and pricing and other developments will
22 be reported to the Commission, and there will be an
23 opportunity for the parties to talk about what that means
24 CHAIRMAN GAW: So you're saying the idea here
25 is that it would be done in the cost benefit analysis and

1 those costs would be firmed up by that point, by the time
2 that cost benefit analysis is completed.

3 MR. ZOBRIST: I think that's true, plus just
4 the normal reporting of cost that Midwest ISO does, and Jim
5 you might want to address that.

6 MR. LOWERY: Yes, we have, obviously, our
7 monthly board meetings where we share all our cost with the
8 board and the Advisory Committee, but further, we have a
9 responsibility to provide the Federal Energy Regulatory
10 Commission every 60 days an estimate of our costs for the
11 market initiative and what our projected costs would be in
12 that, so we are giving that to them and that is open for
13 everybody to see.

14 CHAIRMAN GAW: Mr. Torgenson, you are probably
15 more aware than anyone else about the fact that there are
16 debates ongoing with regard to what may or may not happen on
17 changes to -- to the opening of markets and the opening of
18 areas within MISO, and isn't it -- it is true, is it not,
19 that there is currently discussion about a geographic
20 phase-in being a possibility with -- within MISO that has
21 come up in the last month and a half or two months or so?

22 MR. TORGENSON: Yes, the people in -- people,
23 companies in Wisconsin, entities in the former map or the map
24 region have suggested and some delays of their involvement in
25 the market. The Board of Directors at our meeting yesterday

1 had indicated to all the participants that the plan that we
2 want to still follow is to start the market December 1st,
3 continue to work with the people in Wisconsin, and if they --
4 and we will make our filing at FERC for the market tariff
5 March 31st, as planned.

6 The OMR has been very involved in working with
7 us. They have their schedule to look at, the tariff filing,
8 and Dr. Proctor spent a lot of time working on FTR's, so we
9 do not want to delay this issue, so we're going to make the
10 filing, and working on FTR's, from that standpoint, other
11 than the subcommittee he heads up.

12 CHAIRMAN GAW: Dr. Proctor has been working on
13 this subject you say?

14 MR. COFFMAN: But there has been discussion
15 and some parties want to look at other alternatives. We
16 suggested if they wish to do that in the proper form, would
17 be in cause of the Regulatory Commission as alternatives to
18 what we propose is the market tariff and the time line.

19 CHAIRMAN GAW: The reason for my question is
20 -- there have been some discussions that there may be some
21 additional costs that come about if there is a geographic
22 phase.

23 MR. COFFMAN: That is true.

24 CHAIRMAN GAW: And if -- and I assume that the
25 potential exists for discussion about who bears the

1 additional costs of that phase-in; would that be correct?

2 MR. COFFMAN: Yes.

3 CHAIRMAN GAW: So if something like that
4 occurred, that would have to be discussed; is that correct?

5 MR. COFFMAN: Oh, definitely, and the view of
6 -- I think most parties, I don't say all parties, but most
7 parties is those that are -- if they ask for a delay and it's
8 successful, they will bear the incremental cost of that
9 delay.

10 CHAIRMAN GAW: And if -- at least the
11 proposals for potential line drawing would put the Ameren
12 territory in Missouri in the eastern region as I understand
13 it; is that correct?

14 MR. COFFMAN: Yes.

15 CHAIRMAN GAW: There's -- so if there -- if
16 for some reason there was not a phase-in, I'm giving you a
17 real unlikely hypothetical, I hope, but if there was some --
18 if there was not a resolution with the map region and the --
19 and the rest of Wisconsin included regarding this issue, how
20 -- how big of a potential issue is it of cost if there is --
21 if there's a stalemate regarding that portion of the -- of
22 the MISO territory and -- and what do you think we're looking
23 at a territory and -- and what do you think we're looking at
24 using a crystal ball as far as this issue's resolution is
25 concerned?

1 MR. COFFMAN: I think it would -- if there is
2 no phase-in, and we're not going down that path right at the
3 moment, I mean, we're working with them, if there is no
4 phase-in, we fully believe the market will be operational
5 December 1st and we don't see any incremental cost to do that
6 other than what we planned right now.

7 CHAIRMAN GAW: Okay.

8 MR. COFFMAN: We will have to deal with some
9 seams in the map region. With the tariff, we have our
10 authority under our FERC reliability plans, which have been
11 approved and include the congestive management, would allow
12 us to proceed with that, with the plan that we have today.

13 Now, we will have to deal with those who are
14 in the Midwest ISO and those who aren't, but there are
15 protocols that if not developed are being worked on, that
16 would say how we will deal with the market to non-market
17 issues, and those who are in the Midwest ISO versus those who
18 aren't, and like I said, our FERC reliability plan has been
19 approved does contemplate that already, so we believe we have
20 the authority to go forward.

21 Now, does it make sense to try to work with
22 those people and come up with something amicable, yes, I
23 agree with that, but not at the expense of all the parties in
24 the Midwest ISO.

25 CHAIRMAN GAW: That's what I'm driving at is

1 some assurance that you will -- you will do your best at MISO
2 to make sure that the costs aren't shifted to -- to Ameren
3 and the others in the east as a result of whatever
4 negotiations are going on with the map region.

5 MR. COFFMAN: I fully agree with that. If
6 they wanted to delay their entry into the market, they need
7 to bear the cost of that.

8 CHAIRMAN GAW: Well, that sort of brings in
9 the seams issue, at least it touches on it. Missouri, if
10 this is approved, will be dealing with the seam between MISO
11 and SPP Associated Electric, I'm trying to think of who else,
12 is there another -- am -- I'm missing one -- I'm missing one.

13 MR. HENNEN: There's TBA, there's Intergy,
14 Mid-America.

15 CHAIRMAN GAW: How close is MISO in resolving
16 the seams issues there and will we see -- will we likely see
17 a resolution of those seams issues with joint operating
18 agreements before the market start update its schedule?

19 MR. COFFMAN: We should have a draft joint
20 operating agreement with the Southwest Power Pool within a
21 week or so.

22 CHAIRMAN GAW: Okay.

23 MR. COFFMAN: That one is well under way.
24 We've had contact with Associated Electric. Whether we get
25 an agreement with Associated Electric or not remains to be

1 seen. They're not jurisdictional as we're all aware.

2 CHAIRMAN GAW: Yes.

3 MR. COFFMAN: I'm not contemplating we'll
4 necessary have agreements with everyone. We certainly need
5 to have arrangements with everyone as to how things will
6 work. We have a memorandum understanding with the TVA as to
7 working with them on sharing information. We have to go a
8 step further because we not only have interconnection with
9 TVA through Ameren but also through LGNE, so that one needs
10 to be dealt with.

11 Mid-American is really under, although they
12 interconnect and they're not part of the Midwest ISO, they
13 are managed under the map region, which we have a contractual
14 arrangement to work to provide the liability service for the
15 map region, even for those non-members, so that one we can
16 deal with through those arrangements.

17 Intergy, I don't believe we've had discussions
18 with yet, but we will have to, so I do believe we can get all
19 these, we need to have them all operational or at least have
20 arrangements done before the market goes live. As a matter
21 of fact, I believe that is a criteria in the metrics that
22 were provided in order to let the market start up.

23 CHAIRMAN GAW: Okay. Okay. I will ask Ameren
24 the -- the rate -- Mr. Dottheim, did you want to say
25 something about that? Go ahead.

1 JUDGE MILLS: Mr. Dottheim, if you could come
2 up to the microphone, we'll be able to hear you better.

3 MR. DOTTHEIM: Chairman, I'm sorry, I don't
4 know if this addresses, in part, one of your questions on
5 cost, and I'm not sure how much we highlighted this in our
6 suggestions for support, even if we did, but if I could refer
7 the Commissioners to several pages within the stipulation and
8 agreement and several sentences therein. The first page
9 would be Page 6, and the Section B(1)(a), and it's the second
10 sentence.

11 CHAIRMAN GAW: Is this in the --

12 MR. DOTTHEIM: This is in the stipulation and
13 agreement itself, not the service agreement.

14 CHAIRMAN GAW: My pages may not be the same.

15 MR. DOTTHEIM: At the top of the page, it says
16 B stipulations.

17 CHAIRMAN GAW: I'm with you, go ahead.

18 MR. DOTTHEIM: The second sentence on that,
19 not withstanding Section B (x)(i)(a) of this stipulation, the
20 signatories agree that AmerenUE's decision to participate on
21 an interim and conditional basis on the Midwest ISO under the
22 terms provided for in this stipulation is prudent and
23 reasonable.

24 The parties can correct me, I'm not certain
25 that there's any reference elsewhere in the stipulation and

1 agreement or the service agreement as far as a sense in
2 finding arguably a prudence and reasonableness that it would
3 be asserted that possibly the Commission would be making by
4 approving the stipulation and agreement and the service
5 agreement.

6 If I could refer the Commissioners next, and
7 I'll just take them in order. Well, maybe what I should do
8 is refer the Commissioners to that other section that is
9 referred to on Page 6, Section B (x)(i)(a)(b)(xi)(a), which I
10 believe, is on page -- it's on Page 19, I think, that carries
11 over to Page 20 -- eleven, Effective and Negotiated
12 Settlement, and that standard boilerplate from stipulations
13 and agreements that the Staff enters into and presented is
14 presented -- are presented to the Commission, so again, on
15 Page 6, it says not with standing, B11A, so there is
16 reference to, again, the joining of AmerenUE and GridAmerica
17 in that manner through a contractual agreement participating
18 in the Midwest ISO that that on interim and conditional basis
19 under the terms of the stipulation is prudent and reasonable.

20 If I could refer the Commissioners next to
21 Page 10, and it's the Section Transmission Service under
22 Midwest ISO/OATT, the open access transmission tariff, and if
23 I could refer the Commissioners to I think it is the second
24 to last sentence and the last sentence that the sentence then
25 starts around the middle of Page 10, the signatories further

1 acknowledge, however, that as a participant in the Midwest
2 ISO as contemplated herein, AmerenUE may remain subject to
3 administrative charges from the Midwest ISO for bundled
4 retail loads similar to the charges contained in Schedules
5 10, FERC 16 and 17, and any other administrative charges
6 provided for by schedules that are in effect from time to
7 time under the Midwest ISO/OATT, to the extent that such
8 charges are assessed ratably to all load serving utilities
9 who are participants in the Midwest ISO but who are not
10 taking the transmission service for their bundled retail load
11 under the Midwest ISO-OATT.

12 CHAIRMAN GAW: Mr. Dottheim, does that include
13 -- that would include grandfathering agreements or not?

14 MR. DOTTHEIM: Yes, I believe so.

15 CHAIRMAN GAW: Thank you.

16 MR. DOTTHEIM: And then that last sentence as
17 provided for in Section B (xi)(a) of the stipulation, the
18 signatories also acknowledge that no rate-making treatment
19 has been adopted for these charges, and if I could, I refer
20 the Commissioners to Page 19 and 20 already, and I think the
21 last page, I would refer the Commission to it in regards to
22 this item, is Page 14.

23 The Section 5 from Performance Incentives,
24 which I believe Mr. Lowery touched upon in his opening
25 statement, and again, it's in the middle of that page, it's

1 the, I think, the third sentence, it says by entering into
2 this stipulation near the MO PSC or any signatory hereto
3 shall be deemed for the purposes of any Missouri rate-making
4 proceeding to agreed upon the prudence or reasonableness of
5 any such arrangements for the purposes of any Missouri
6 rate-making proceeding.

7 So I think off-hand, unless I missed something
8 and the other parties or attorneys or technical individuals
9 could indicate otherwise, those are, I think, references to
10 costs and any prudence determination or any rate-making
11 effect that appear in the stipulation and agreement. I think
12 there's -- there's some other reference to whatever FERC
13 incentives there may be for entities joining an RTO, there's
14 no rate-making effect of that in -- under the terms of the
15 stipulation and agreement.

16 CHAIRMAN GAW: Okay. The timing wise, the
17 expiration of the rate freeze or the -- that's probably not a
18 good way to describe it, but of the results of the last rate
19 case where no rate case can be filed before a certain date,
20 tell me how those dates interact with the cost benefit
21 analysis and whether or not those two are tied together in
22 some fashion.

23 MR. LOWERY: The rate moratorium is how we
24 usually refer to it from the last stipulation is rate case
25 cannot be filed until January 1 of 2006. Rates are in a

1 moratorium until June 30 of 2006. The -- assuming, again,
2 that we were to go in on May 1st, of this year, the cost
3 benefit study would be filed on November 1, 2007, so I guess
4 without 14, 13 months later, whatever, or 15 months later,
5 from the end of the rate moratorium.

6 CHAIRMAN GAW: Okay. How will that work if
7 there is a -- if Ameren were to file a rate case at the end
8 of the moratorium, we would not, then, have the results of
9 the cost benefit analysis prior to that -- prior to that time
10 and probably not before the rate case would be concluded, if
11 it were filed.

12 MR. LOWERY: I think that's true.

13 CHAIRMAN GAW: So what dynamic does that set
14 into motion down the road, if any, as a problem for the
15 Commission in assessing what to put in a test year on -- on
16 costs associated with the RTO?

17 MR. LOWERY: Well, probably they're folks here
18 are better qualified to answer that than I am.

19 CHAIRMAN GAW: And I don't know if it's a big
20 deal, but it just strikes me as being a little awkward. You
21 all may have thought this through. Mr. Dottheim, Mr. Coffman
22 has something, too, so whoever wants to go. I'm not trying
23 to direct traffic.

24 MR. COFFMAN: I'll give an answer and let Mr.
25 Dottheim give, I'm sure, a more thorough answer, but my

1 understanding of the provision in B (1)(a) on Page 6 of the
 2 stipulation is that the signatories, those of us here who
 3 have signed the stipulation, have agreed that the decision to
 4 participate on an interim conditional basis is prudent and
 5 reasonable, we could not challenge the actual -- what is
 6 sometimes referred to as decisional prudence, the actual
 7 decision to join.

8 I think it leaves open the possibility that
 9 there could be disagreements about particular costs and
 10 particular activity within that participation. We don't know
 11 that there would be, don't anticipate any at this time, but
 12 at least there at least leaves open the possibility of some
 13 other disagreement within the test year of, say, a rate case
 14 that occurred before.

15 Obviously, we won't have the benefit of a
 16 completed cost benefit study at that time, and presumably
 17 that would not -- there would not be open to us the
 18 opportunity to argue that the actual decision to enter into
 19 this interim conditional, that participation was imprudent in
 20 of itself at that time, but perhaps some other rate-making
 21 issue within that participation would be open to it.

22 CHAIRMAN GAW: Okay.

23 MR. COFFMAN: Challenge.

24 CHAIRMAN GAW: Mr. Dottheim.

25 MR. DOTTHEIM: I agree with the -- with Mr.

1 Coffman, as far as the decision itself to participate through
2 a contractual -- well, to participate in the Midwest ISO
3 through a contractual agreement through GridAmerica. That
4 decision, by this stipulation, we agree is deemed to be
5 prudent and reasonable, but any costs associated with the
6 participation are open to being an issue in a rate case at
7 the conclusion of the moratorium period.

8 CHAIRMAN GAW: Well, and I think you would
9 have -- wouldn't you have a different standard that you would
10 have to look at if those costs were costs being charged as a
11 result of the participation that Staff had agreed to, would
12 it not be a little difficult to challenge them as being
13 imprudent if you had agreed that the agreement itself was
14 prudent at this point as a decision item?

15 MR. DOTTHEIM: I think that certainly would be
16 argued regarding anything that is known at this time.

17 CHAIRMAN GAW: Yes, uh-huh. Okay. I guess I
18 suppose you could argue whether or not this issue could
19 continue to be a part of the RTO was a prudent one if those
20 -- if certain costs that were not known or anticipated came
21 into play, and whether or not there was then a decision made
22 to not continue, but I'm not sure that there was -- there's
23 an escape hatch, as I heard earlier, in that event, so the
24 company -- the company may be in a position where they have
25 no choice.

1 Anyone who wants to give me a way out of that
2 box, please do it.

3 MR. COFFMAN: It would be my assumption that
4 decisions for which Ameren has no choice having decided to
5 participate on an interim conditional basis would not be
6 subject to a prudence or reasonableness challenge, but
7 decisions that for which they still had discretion within
8 that participation would be open to a challenge on prudent
9 prudence or reasonableness, the FTR portfolio, and a variety
10 of other issues that might be -- might come under various
11 ISO tariff provisions.

12 CHAIRMAN GAW: I guess what I'm asking here,
13 and this is -- this is for the company, too, I'm trying to
14 make sure that everyone has left themselves adequate room if
15 what we currently believe is the case in regards to charges,
16 and I know you've got escape hatches in here, with regard to
17 FERC order and other things, but if something occurred that
18 was dramatically different, and I'll give you a scenario
19 which I don't believe would happen, but let's suppose that
20 there was a huge shift in the number of participants in ISO,
21 and a great number of those who were anticipated to
22 participate left or did not join, and the cost and the
23 efficiencies of ISO therefore changed dramatically leaving
24 those costs with those who remain, is there sufficient
25 language in this agreement to allow Ameren to withdraw or to

1 have the state -- the Staff or Public Counsel have that come
2 in front of the Commission because the box that could -- we
3 could be put in in a rate-making case following that is that
4 Ameren had no choice, the agreement is entered into -- is
5 reasonable and prudent in its decision, and therefore the
6 charges from Ameren's standpoint we would be arguing about
7 whether or not those charges were reasonable and prudent, and
8 there's some degree of risk with the company perhaps more
9 with the rate payers, depending on how in Mr. Coffman's
10 phrasing of what the rationale would be.

11 Can someone help me with that scenario? I
12 realize it's not there on the horizon or likely, I'm not
13 trying to insinuate that, but Mr. -- Dr. Proctor or Mr.
14 Zobrist, I don't know who wants to --

15 MR. ZOBRIST: Well, I was going to say,
16 Chairman Gaw, that I would like Mr. Torgenson to respond to
17 that. We have had sort of that scenario in the last two
18 years, alliance companies, and I think how that -- how we
19 went through that with exit fees and financing, I would like
20 to have Mr. Torgenson address it.

21 MR. TORGENSON: If we ended up in the scenario
22 where multiple parties left, first off, most of them would --
23 and I think they have to get FERC approval and then we went
24 through a process before, before the premises exit fees that
25 should keep the remaining entities in the same position, and

1 that is the concept, and that is what we used when we went
2 through those discussions with Ameren before, and Allied
3 Power to keep the remaining group in the same position they
4 would have been in had those people stayed, and that is the
5 premise that we go under, and that is what's based in our
6 transmission owner's agreement that would allow that, and
7 also our tariff that requiring exit fees to be paid upon the
8 people wishing withdrawal.

9 CHAIRMAN GAW: Okay. And I appreciate that.
10 I still have that question, because that's what you want to
11 do, and I believe you would do it, but what if that can't
12 happen. And is there -- what if that doesn't happen for some
13 reason, do you need that protection in this agreement or is
14 everyone comfortable with the way it is?

15 MR. WHITELEY: Maybe I could take a shot at
16 that. From a company's standpoint, if that scenario as you
17 voided out would occur, we would certainly be wanting to come
18 back before this Commission, the Illinois Commission, and the
19 FERC, to find a remedy for the -- from the company's
20 standpoint.

21 CHAIRMAN GAW: I would want you to also.

22 MR. WHITELEY: Exactly.

23 CHAIRMAN GAW: So I guess what I'm asking is
24 have we in any way precluded that in entering into this
25 agreement, because as one of the signatories is ISO, and I'm

1 -- I guess I'm trying to understand if we're okay in regard
2 to giving us that flexibility if it's needed.

3 MR. DOTTHEIM: I'm sorry to ask you to repeat
4 what your question is, but in trying to address an earlier
5 question, which I'd like to respond further to, we didn't
6 catch some of the question you were posing at this moment.

7 CHAIRMAN GAW: You're creating a great
8 challenge for me. What I'm asking -- what my question is
9 about whether or not if there are unanticipated costs that
10 are large that come about after this agreement is entered
11 into, and Mr. Torgenson is assuring me that the scenario that
12 I painted would not occur, but if it did occur, and there
13 were unanticipated costs, is there an escape hatch in this
14 agreement or could this thing be brought back in front of the
15 Commission point in time for relief, and that's what -- and
16 that's what I'm -- that's what I'm looking for.

17 MR. DOTTHEIM: And I don't know that this
18 directly addresses that question as opposed to an earlier
19 one. I would think there's possibly an argument under case
20 law in the state about changed circumstances, what have you,
21 that the Commission could assert jurisdiction regardless of
22 the agreement that the circumstances were so changed, but
23 you're asking as far as is there anything specifically in the
24 agreement --

25 CHAIRMAN GAW: Uh-huh.

1 MR. DOTTHEIM: -- itself.

2 CHAIRMAN GAW: Mr. Kind may have --

3 MR. KIND: I just to sort of follow-up on Dave
4 Whitely's comment that they would take all appropriate
5 measures to react to that type of a situation developing, I
6 think I want to point out that the fact that the stipulation
7 limits the parties to just decisional prudence allows us to
8 make judgments in future rate-making proceedings about the
9 appropriateness of their actions in reacting to a situation
10 like that, and take the cost consequences into account in
11 making a decision like that.

12 CHAIRMAN GAW: Okay.

13 MR. DOTTHEIM: And I think that possibly also
14 goes to your earlier question about, well, costs, you know,
15 if we would go back to Page 10, which lists, for example, the
16 administrative charges, we discussed at least one or more
17 meetings that I think the Staff and Office of Public Counsel
18 view that there's an obligation on the part of Ameren, not
19 just to go along, so to speak, and accept any charges
20 regardless what they may be that it's incumbent upon Ameren
21 to act in a prudent manner in challenging costs at the
22 Midwest ISO, and that the Staff, Office of Public Counsel,
23 other parties, reserve the right as found in a later section
24 of the stipulation and agreement, that if a party doesn't
25 believe that AmerenUE has acted in a prudent manner in trying

1 to challenge costs, which are going to be imposed upon it,
2 the party could, in a rate-making setting, seek a
3 disallowance, for example, of those costs, but I don't know
4 that our discussions went to the point of saying that based
5 upon those costs or charges, that that would be, so to speak,
6 an escape or an avenue for exiting.

7 CHAIRMAN GAW: And again, I'm raising the
8 issue now because it's easier to raise now than later, and I
9 -- just as long as everyone -- and I guess --

10 MR. GODAR: Dan Godar, Armstrong Teasdale,
11 LLP, Suite 2600, Metropolitan Square, St. Louis, Missouri,
12 63102. Just to address your specific point --

13 CHAIRMAN GAW: Thank you.

14 MR. GODAR: -- I would direct your attention
15 to the ITC agreement.

16 CHAIRMAN GAW: Okay.

17 MR. KIND: In Section 2.4, which does allow
18 GridAmerica to withdraw from ISO if either (a) GridAmerica no
19 longer directly is directly interconnected with or remaining
20 Midwest ISO member, or a material portion of the transmission
21 facilities under Midwest ISO's operational control are
22 removed by Midwest ISO members, which was designed to cover
23 the circumstance you're talking about.

24 CHAIRMAN GAW: That's helpful. Now, if that
25 would occur, the agreement between Ameren and GridAmerica,

1 does it have some mirror -- mirror image language?

2 MR. KIND: I believe it does.

3 CHAIRMAN GAW: Okay. Okay. That's helpful.

4 Thank you.

5 MR. KIND: Just one other quick remark on this
6 subject is that there currently is some, I think, legal
7 uncertainty as to whether or not the FERC can prevent
8 utilities from withdrawing from an RTO, and --

9 CHAIRMAN GAW: Yes, and that was the purpose
10 of my inquiry, in part, was that.

11 MR. KIND: And I'm sure Mr. Zobrist can cite
12 the particular case in law.

13 MR. ZOBRIST: Well, I don't particularly care
14 to cite that case, but what I can assure the Commission is
15 that the obligation that Mr. Torgenson referenced to is a
16 matter of contract, it's not a matter of the Federal Power
17 Act or the case that Mr. Kind was referring to, so although
18 that issue does remain up in the air, this was a matter of
19 contract, and I can tell you because at least Midwest ISO
20 lived through the departure of the alliance companies, and
21 then Ameren.

22 CHAIRMAN GAW: Do you want to comment about
23 where he had ended up? Do you want to make any comment about
24 that while you're at it? I'm just kidding.

25 MR. ZOBRIST: No, I don't, maybe my client

1 does, but the payment that was negotiated at FERC of those
2 proceedings and as we would anticipate Ameren would support
3 Midwest ISO if such departures occur with other companies,
4 that ended up with a \$60 million exit fee, which carried
5 Midwest ISO through the times that it has to where it has
6 those holes, so I think that should give, in this Commission,
7 some assurance that there is precedent based upon the
8 contract language that would, you know, assure that if that
9 kind of scenario developed that it wouldn't end up into a
10 back wall.

11 CHAIRMAN GAW: One other issue with regard to
12 the timing of the rate case, and if this -- if this -- will
13 there not be an assumption in the next rate case that there
14 would be a continuation of this relationship since there will
15 not be the beneficiary's cost beneficiary tests done until
16 after it's completed assuming the rate case was filed as
17 early as possible?

18 MR. WHITELEY: From the company's standpoint,
19 which would make that assumption that unless there's
20 something else that comes up between now and whenever the
21 test year is taken and the case is filed and all that, that
22 we would continue this relationship unless something else
23 comes up, we have no reason to suspect otherwise at this
24 point.

25 MR. FREY: I think the Staff concurs with that

1 Commissioner.

2 CHAIRMAN GAW: Okay. So we're going to have
3 to make that -- if the Commission found that -- if what came
4 back as a result of that exploration was that this was not
5 beneficial to the relationship -- was not beneficial, there
6 would have -- that would occur in the context of potentially
7 of after a rate case that was -- had assumed that the
8 relationship would continue. is there a reason why you need
9 that much time to get the -- that the cost benefit analysis
10 completed as opposed to doing it a year earlier?

11 MR. HENNEN: More of a data issue, I think.

12 CHAIRMAN GAW: Several nodding their heads,
13 yes.

14 MR. WHITELY: The issue is experience in the
15 market, which is the critical factor in inputs to the data
16 that goes into the analysis with cost benefit study.

17 CHAIRMAN GAW: Okay.

18 JUDGE MILLS: We're going to -- it's noon now,
19 we're going to go ahead and break for lunch and reconvene at
20 1:15. We're off-the-record.

21 (A BREAK WAS HAD.)

22 JUDGE MILLS: I believe we were in the middle
23 of questions from the bench for the various parties.
24 Commissioner Gaw.

25 CHAIRMAN GAW: Thank you, Judge. A quick

1 question on Ameren SIPS statutes of Ameren SIPS

2 In regard to ISO and GridAmerica.

3 MR. WHITELEY: I can address that. Ameren SIPS
4 will join when AmerenUE joins. We operate a joint control
5 area between the two operating companies, and so it makes
6 sense for them to join together and both will be through
7 GridAmerica.

8 CHAIRMAN GAW: Okay. Is it contemplating that
9 addition to Ameren territory would also be made a part or in
10 some fashion with GridAmerica if that -- if some of those
11 things occur, that have been talked about in the press?

12 MR. WHITELEY: Right, and the answer is yes.
13 Ultimately, our objective and goal will be to have all of our
14 operating companies participating in the Midwest ISO through
15 GridAmerica. As you know, ISO already participates as an
16 individual transmission owning member, and at some point down
17 the road, we will look to convert our membership. It seems
18 like that more appropriately will be addressed after AmerenUE
19 and Ameren SIPS join.

20 CHAIRMAN GAW: Okay. Is there a description
21 or could a description be given the anticipated attained
22 efficiencies that will come about as a result of a service
23 agreement joining with GridAmerica in becoming a part of ISO
24 where the savings will occur and how those savings will
25 occur.

1 MR. WHITELEY: Initially, we don't see a
2 tremendous number of savings resulting from the transfer
3 control of the Midwest ISO. At least not in the very initial
4 phases. At some point down the road, we reassess the
5 activities to see if there is less than Ameren would be doing
6 internally, because it's being done at GridAmerica and
7 Midwest ISO, but at least in the very early going, we don't
8 want to initially make reductions because of the fact that we
9 might miss something and have a reliability problem or issue
10 until we're comfortable that all the systems work and that
11 reliability will certainly not be decreased, but ought to be
12 increased, as we've said. We're not in a mode of making
13 immediate reductions of the activities we do at Ameren.

14 CHAIRMAN GAW: Is it anticipated that -- that
15 this is eventually going to result in a cost savings in
16 regard to doing business on the transmission side?

17 MR. WHITELEY: I think the answer is yes,
18 that's our expectation.

19 CHAIRMAN GAW: GridAmerica, explain to me how
20 that will occur.

21 MR. WHITELEY: Basically from two areas; one
22 would be staffing efficiencies. Simply put, the work that
23 Ameren now does in coordinating planning operations on
24 someone will be done through GridAmerica and through the
25 Midwest ISO and, because they are doing that for a number of

1 companies, it can be done more efficiently once the costs are
2 spread across everyone.

3 The other point would be because the
4 transmission service is being coordinated, again, on a
5 regional basis, there should be an improved view of
6 transmission operations and the amount of service that can be
7 granted across our system and through our system and our
8 customers would benefit from that, because there's more
9 efficient movement of energy, and while there is transmission
10 revenue collected that is a portion to Ameren for that
11 service, we would be collecting revenue for it as well.

12 CHAIRMAN GAW: Anyone else want to jump in on
13 that, have anything to add? Dr. Proctor?

14 JUDGE MILLS: I'll go ahead and swear you in.
15 I think this is remarkably the first time you've had to speak
16 today.

17 (THE WITNESS WAS SWORN.)

18 JUDGE MILLS: Thank you, please go ahead.

19 DR. PROCTOR: Under the system that exists
20 today of physical transmission rights and contract paths,
21 there are limitations to keep that system reliable, I'll be
22 -- the control areas have to -- have to be what I would say
23 fairly -- fairly conservative in terms of transmission that
24 they -- they can sell to others, okay. And deals that can be
25 done at best can be done on an hourly basis, that sounds like

1 that's pretty good, but it's really difficult to set up deals
2 and set up transmission that varies hour by hour and so a lot
3 of these deals are done on multi-hour basis during the day.

4 When MISO begins to operate the market, as Mr.
5 Whitely indicated, they will have a total view of the
6 transmission system, and they will be changing, I'll call it
7 the dispatch, but it's basically the buying and selling of
8 energy on a five-minute basis, and they will be able to
9 maintain that -- the same level, if not a better level, of
10 reliability and allow more transactions to take place, and I
11 really believe that's going to be to the benefit of everyone,
12 but in particular, I believe that's going to be to the
13 benefit of AmerenUE that has, at times, extensive amounts of
14 base load generation that's going to be economic, that
15 they're going to be able to sell into the market, so I think
16 there's some real savings, if you want to call it that, that
17 are going to occur at that level.

18 CHAIRMAN GAW: Okay. And all of this, again,
19 is going to be -- we will be assessing in this cost benefit
20 analysis will be part of that when that ends up being
21 completed?

22 DR. PROCTOR: That's correct.

23 CHAIRMAN GAW: There's a provision in the
24 agreement, and I know this was referred to earlier, that any
25 divestiture proposed would come before the agreement, the

1 wording, as I read it, says during the term of this
2 agreement, and my question is, first of all, why is the
3 phrasing done during the term of this agreement, and that's
4 my first question.

5 And it implies the question of whether or not
6 there is some dispute as to this Commission's duty and
7 responsibility and authority to review any divestiture of
8 this transmission whether or not this agreement exists.

9 MR. LOWERY: I can address that. It shouldn't
10 -- it doesn't imply that, and the reason the language is
11 written the way it is, we don't think this is going to
12 happen, there's no plan future forward for it to happen, but
13 the Missouri legislature to where, at some point, there is --
14 that the statutory scheme that provides for Commission
15 authority might not exist.

16 If that happened, and when this stipulation is
17 over, we would want to be on the same footing as any other
18 under whatever the statutory scheme is, but this is a
19 particular contractual agreement and an oral commitment that
20 regardless of what happens with the legislature, during the
21 term of this stipulation, we would come back to you, so it
22 doesn't imply any change in current status.

23 CHAIRMAN GAW: So would it be correct to say
24 that no party that has joined this agreement disputes the
25 status of the law that any divestiture of this transmission

1 without this agreement would require Commission approval?

2 MR. LOWERY: No, we don't dispute at all the
3 status of 393.190 in terms of divestitures, at this time,
4 under current law.

5 CHAIRMAN GAW: Thank you. That's helpful.

6 MR. DOTTHEIM: Thank you. If I could.

7 CHAIRMAN GAW: Mr. Dottheim, does the --

8 MR. DOTTHEIM: Yes, what Mr. Lowery has
9 described is how the Staff views it. It was language to
10 address a legislative -- well, a legislative possibility that
11 nobody was really suggesting was going to occur, but just to
12 address that eventuality, but presently under the present
13 statute, the Commission has jurisdiction under 393.719.1, so.

14 CHAIRMAN GAW: And that was helpful. Thank
15 you. I understand that currently we do not have clarity on
16 the allocation of FTR's that will be granted to Ameren under
17 -- in operation under ISO tariffs since we don't have that
18 completed yet, and I have something from the parties in
19 regard to assurances that FTR's will be adequate to
20 financially protect Ameren and our -- and eventually our rate
21 payers, our native load customers of Ameren, and what we have
22 currently that we -- that you all are hanging your head on in
23 that regard, that would be helpful.

24 DR. PROCTOR: Yeah, I'll attempt to address
25 that. In the agreement, ISO has agreed to provide the data

1 necessary to do an evaluation of FTR's. That data will be
2 very useful and helpful in Ameren selecting the FTR's that
3 they want to nominate.

4 You're correct that the exact process for FTR
5 nominations and what's going to get allocated is not known.
6 We don't know what the proposal is at this time, but that
7 tariff is going to be filed March 31st, and is yet to be
8 approved, but at any price that they will be able to nominate
9 these in tiers, and in the first tier up to 35 percent,
10 second tier up to 50 percent, and so forth, and based upon
11 the data that ISO has already put out, which was for a
12 different period, they need to update that for the period
13 that the market's actually going to start.

14 I did an analysis, and it appears right -- I
15 know from that set of data that if Ameren just had -- was
16 just allocated the FTR's for their base load generation
17 units, that that would protect them. They don't need -- and
18 what I would also say is given the current process, it's very
19 likely for a couple of reasons that the process, number one,
20 in the first tier, you've only got 35 percent of the
21 transmission, but you've got 100 percent of -- I'm sorry,
22 transmission service, but you have 100 percent of the
23 transmission system.

24 It's very likely those aren't going to get
25 prorated or prorated very much, and my sense is that will be

1 true all the way up to the 50 percent level, which will more
2 than adequately cover Ameren's base load generation, from
3 what I've seen, and so I feel comfortable. Now, am I saying
4 absolutely, no, I can't.

5 There are things in the model related to loop
6 flows that we just don't know about, and those can take away
7 from the FTR's that are allocated. What I do know is that
8 when MISO did the original run on just the candidate FTR's,
9 where the loop -- where some level loop flow was in the model
10 at that time, Ameren's prorate was very, very minimal. They
11 were still getting 99 percent, something of that magnitude of
12 their candidate FTR's.

13 So I have reached the level of comfort that,
14 again, not exactly, I can't promise, but I've done some
15 analysis, it's preliminary at this point, who knows exactly
16 what's going to happen between now and August when FTR's are
17 nominated, but I've come to a level of comfort in that
18 process that I can express today.

19 CHAIRMAN GAW: Okay. And Ameren, this is on
20 your interest, too. Tell me where you all are on this. I
21 assume you have some similar degree of comfort, but verbalize
22 that for me.

23 MR. WHITELEY: Yes, at the present time, our
24 first analysis or first look at the status of the FTR's and
25 data coming from Midwest ISO is, as Dr. Proctor stated, we're

1 very comfortable at this point with what we believe will be a
2 portfolio that we'll be able to designate to protect against
3 congestion charges, so part of what we need to do between now
4 and the end of the year is redo that analysis with the
5 refreshed data and make sure that we have done the best job
6 we can in allocating that portfolio and Dr. Proctor has been
7 very helpful in participating in that analysis and working
8 with us, quite frankly, on it.

9 CHAIRMAN GAW: Okay. And if something changed
10 on that and you came to a different conclusion based upon
11 something that happened, what occurs under the agreement? Is
12 there any contingency built into the agreement?

13 MR. WHITELEY: I don't believe so in terms of
14 an out or a trip.

15 CHAIRMAN GAW: Yes.

16 MR. WHITELEY: The agreement is that we believe
17 that we can nominate a portfolio that will protect customers
18 from congestion charges, and the Midwest ISO has committed to
19 work with us to assure that we have that opportunity, but
20 there is no built-in out, if, as you say, something comes up
21 between now and the end of the year where suddenly we realize
22 there is a congestion exposure.

23 CHAIRMAN GAW: Would that not fall into that
24 six-month provision, though. I mean, we still have -- we
25 still have that window open, don't you, for -- am I incorrect

1 about that?

2 MR. LOWERY: To be honest, I'm not sure what
3 six-month window you're talking about.

4 MR. DOTTHEIM: The sunset.

5 MR. LOWERY: Oh, you're talking about the
6 sunset provision.

7 CHAIRMAN GAW: Could be.

8 MR. LOWERY: There is a sunset provision
9 Ameren does not have the system or has not transferred
10 functional control within six months of the Commission's
11 Order, then your permission sunset ends and we would have to
12 come back, but that's only going to occur if -- that's really
13 designed to only apply to a situation where, I guess, Ameren
14 might decide on its own for some reason, you give us
15 permission, but it's really a control the other way not in
16 the way you're thinking of it.

17 If we're given permission and we do transfer
18 functional control and they won, the six month is irrelevant.
19 There really is no six months in the way you were thinking of
20 it.

21 CHAIRMAN GAW: So you all are comfortable
22 without knowing for sure what those FTR's are going to look
23 like, not having an out.

24 MR. WHITELEY: Indeed.

25 CHAIRMAN GAW: I mean, I know you must have

1 some level of comfort here. I guess what I'm asking you is
2 do you think this Commission should feel as comfortable as
3 you all are in signing the agreement, because I'm giving you
4 a second chance here.

5 MR. WHITELEY: I appreciate the opportunity for
6 the second chance, but yes, we are comfortable with it, and I
7 would hope and what we are asking for is that the Commission
8 be comfortable with it as well. There are no guarantees, but
9 the group has done its best in looking at it and wrestling
10 with the issues, and I believe we are all to the point where
11 it is something that we can live with and that the risks are
12 small enough at this point.

13 CHAIRMAN GAW: Mr. Dottheim.

14 MR. DOTTHEIM: And again, no rate-making
15 treatment is being set by the stipulation and agreement, so
16 in the next rate case, whenever that might be, rate increase
17 case or excess earnings complaint case, that is something
18 that is potential to be an issue or for review by the
19 Commission in that context.

20 CHAIRMAN GAW: I know that keeps coming up,
21 but what's the -- Mr. Torgenson, if you want to address it,
22 fine.

23 MR. TORGENSON: Well, let me just add that it
24 is the Midwest ISO's intention, we fully indicate that the
25 native load needs to be protected in the FTR allocation, and

1 that is our plan, and the FERC will evaluate the FTR
2 allocations. I mean, they're going to be looking at the
3 methodology to be doing that and that is our plan, so
4 hopefully that will also help out that the native load should
5 be protected.

6 CHAIRMAN GAW: I feel more comfortable
7 protecting things that are locked inside my house. This is
8 going outside of my house, letting the locks become unlocked
9 and the doors fly open, so I just wanted to make sure where
10 we're headed here, and I -- I wanted to ask Mr. Dottheim,
11 though, I mean, you started down a road here of saying you
12 can come back and talk about this in a rate case, and I'm not
13 sure how far you can go dealing with something you already
14 know, you already know in this agreement that this is an
15 unknown.

16 Are you agreeing that with knowing that it's
17 an unknown, it's all right to go forward with this agreement?
18 How is it that the Staff could suggest that even if the FTR's
19 turn out to be on the short side that the company did
20 something imprudent? What would they have to do to rectify
21 the situation after the fact?

22 MR. DOTTHEIM: What can they do to rectify the
23 situation after the fact? I don't know that they can do
24 anything to rectify the situation after the fact other than
25 attempt to do so in an attempt to make certain that the FTR's

1 weren't short, and that might be the only room that exists to
2 question what -- what has occurred as to how vigorous was
3 Union Electric in attempting to make certain that the FTR's
4 weren't short both before that event and if anything could be
5 done or should be attempted after the event, but it's
6 certainly -- there's no certainty what might occur or how the
7 Commission will treat it.

8 CHAIRMAN GAW: Does this agreement contemplate
9 that this Commission is needing its ability to order the
10 withdrawal of Ameren from this agreement prior to the trigger
11 dates in the agreement if the Commission found reason to do
12 so?

13 MR. DOTTHEIM: I don't know that the Staff
14 would be seeking to speak on behalf of the Commission.

15 CHAIRMAN GAW: I guess I'm asking whether or
16 not the parties are contemplating.

17 MR. DOTTHEIM: And I think that's frankly a
18 question that not only the Staff should endeavor to attempt
19 to answer your question, but also the perspective of the
20 other parties also.

21 CHAIRMAN GAW: Me, too. I agree. Did you
22 answer my question?

23 MR. DOTTHEIM: And your question again?

24 CHAIRMAN GAW: Whether or not this Commission
25 could, at some future date, if there were reason to do so,

1 such as if it found it was no longer in the -- that it was no
2 longer not detrimental to the public interest to continue to
3 be a part of this agreement, the Commission could order the
4 withdrawal -- order Ameren to withdraw from the agreement and
5 from participation in ISO.

6 MR. DOTTHEIM: What might occur, the
7 Commission might assert the changed circumstance, and under
8 that situation, I think there's case law. Now, the company
9 would probably -- or might come back and attempt to argue
10 that there was some contract with the Commission, but my
11 recollection is that there is language in the stipulation and
12 agreement which says that none of the parties are asserting
13 that the stipulation and agreement is a contract with the
14 Commission.

15 The Commission still has pending in Western
16 District Court of Appeals a case with Union Electric Company,
17 the third year of the first experimental alternative
18 regulation plan where Union Electric Company is, in essence,
19 making a contract argument, so I don't recall that argument
20 being made in other causes. I don't offhand recall the
21 Court's literally addressing that situation that's presently
22 before the Western District Court of Appeals, but regardless
23 of that, there is language in the stipulation agreement that
24 none of the signatories are asserting that this is a contract
25 with the -- with the Commission.

1 They might assert that, I don't know, and they
2 might point to certain language that it's a contract with the
3 other parties, the other signatories, but again, it is not a
4 contract with the Commission.

5 CHAIRMAN GAW: Okay. Does the other parties
6 -- Mr. Zobrist, you had your hand up.

7 MR. ZOBRIST: I would just say, first of all,
8 the section that Mr. Dottheim is referring, Roman Numeral
9 I-F, the one about no contracts, so he's quoting that
10 accurately. The stipulation and agreement contains nothing
11 that would handcuff the Commission's normal powers under
12 Chapter 386.393, so I think the answer is whatever powers you
13 have to investigate or initiate complaints, to do whatever
14 you think is in the best interest of the utilities and of the
15 rate payers, you've got the freedom to do that.

16 Certainly, the agreement contemplates that
17 there will be other things that will go on here that will
18 apprise you of developments and things, but I don't think
19 there's anything that deprives you of any jurisdiction that
20 you have right now.

21 MR. LOWERY: Commissioner Gaw, I thought I
22 would just point you specifically, and maybe you're already
23 reading it by now, but in the provision that Mr. Zobrist
24 refers to, it says acceptance of this stipulation by the
25 Missouri Public Service Commission shall not be deemed as

1 constituting an agreement on the part of the Commission to
2 forego during the term of this stipulation the use of any
3 discovery, investigative, or other power which the Commission
4 presently has, and so I think it's explicit whatever powers
5 the Commission has with regards to our participation, you
6 retain.

7 CHAIRMAN GAW: Okay. Thank you. Anybody else
8 want to venture down that road? Okay. Well, this issue
9 keeps popping up around the edges in some other cases, and
10 I'm not sure what the final resolution of those cases will
11 be, so. I think that -- I think I'm done, Judge. I just
12 want to, again, thank you all very much for your patience
13 with me. I really do appreciate the amount of work that's
14 gone into this and what you all have done with it, and it was
15 not -- it was not the local Chamber of Commerce that caused
16 you to have to eat lunch in Jefferson City. It was entirely
17 my fault. Thank you.

18 JUDGE MILLS: And I've got just a fairly
19 technical question, and I don't know who wants to take it up,
20 but it's really a drafting question. I'm looking on Page 13,
21 the paragraph that begins any Order issued by the Missouri
22 PSC, and this is talking about terminating the approval of
23 participation, and if you look in that paragraph, shall be
24 effective at the earlier of, and my question is what does
25 that shall be effective refer to? Is that the Order or the

1 termination of participation.

2 MR. LOWERY: I'll try to answer that.

3 JUDGE MILLS: Okay. Jim.

4 MR. LOWERY: It's the effectiveness of the
5 Order. If the withdrawal -- if permission or our permission
6 expires, what we were trying to say, and maybe we didn't say
7 this as clearly as we should have, is that no later than six
8 months after that point in time our permission to continue to
9 be in the ISO will expire, the reason we have to have that
10 six-month period, it will take us some time, so if the
11 Commission orders on June 1, okay, we want you out, we still
12 need permission to remain in for up to six months, because it
13 will take some time to establish control.

14 Because maybe it only takes us four months to
15 establish control, but we were -- six months is always going
16 to be long enough, and we'll agree it may take four, it may
17 take three, but six months after that Order, our permission
18 has expired, and we are not supposed to be in there any more,
19 in effect.

20 JUDGE MILLS: So it's not literally the Order
21 that's going to be become effective on six months.

22 MR. LOWERY: It's six months from the time the
23 Order's entered, but the withdrawal of permission becomes
24 effective six months later.

25 JUDGE MILLS: Because if you read further on

1 in the paragraph, it's six months after the Order becomes
2 effective, so if you read the first shall be effective as
3 refers to the Order, and the second as referring to the
4 Order, then I think you're into some kind of a circle there
5 where it never becomes effective, so I just wanted to make
6 sure that that was --

7 MR. LOWERY: That's correct.

8 JUDGE MILLS: Okay. That's really all I had.
9 And Mr. Dottheim?

10 MR. DOTTHEIM: Yes, I thought I might just --
11 if we're about ready to conclude, is to follow-up on a couple
12 of items from this morning.

13 JUDGE MILLS: Sure.

14 MR. DOTTHEIM: And one of those items, and I
15 don't know that it's been highlighted or not pointed out,
16 it's certainly not hidden in any manner, but Mr. Godat's
17 attorney this morning was referring to the ITC agreement,
18 section 2.4, about GridAmerica having the right to withdrawal
19 from the Midwest ISO.

20 If I might just refer the bench to Pages 18
21 and 19 of the stipulation and agreement about there's
22 provision for -- referred to as an off-ramp for AmerenUE
23 leaving GridAmerica, withdrawing from Grid America, but
24 remaining in the Midwest ISO as a transmission owner, and the
25 provision there does not require AmerenUE to come in and seek

1 any further authorization from the Commission. It says not
2 withstanding anything to the contrary contained in this
3 stipulation, the signatories acknowledge and agree that
4 Ameren shall have the right as provided for in the
5 GridAmerica documents to elect a withdrawal from GridAmerica
6 while remaining in the Midwest ISO as a transmission owner
7 pursuant to an off-ramp provided for in the GridAmerica
8 documents and may exercise such right without further
9 Missouri PSC approval or permission.

10 And also this morning, I had made some rather
11 oblique reference to incentive provisions not being effective
12 for rate-making purposes. And if I could refer the bench to
13 the Service Agreement, Pages 8 and 9, it's at the bottom of
14 Page 8, the top of Page 9, where it states, without limiting
15 the foregoing to the extent that the FERC offers incentive
16 matters in a RTO or in an ITC to the rate of return allowed
17 for providing transmission service to wholesale customers
18 within the Ameren zone, such incentive matters shall not
19 apply to the transmission component of rates set for bundled
20 retail load by the Missouri PSC.

21 And that's the section that I was attempting
22 to refer to this morning, and then one last item that
23 Commissioner Gaw had raised -- Chairman Gaw had raised
24 regarding the -- the various times in the stipulation
25 agreement, regarding the cost benefit study and the

1 conclusion of the risk moratorium. That was effect weighted
2 as a result of the settlement of the Staff's earnings
3 complaint case against AmerenUE.

4 In addition to, I think, the dates that Mr.
5 Lowery had earlier indicated, the stipulation and agreement
6 there's a provision for cost of service studies. In part
7 with AI to the conclusion of the moratorium, and the
8 provision is later than January 1, 2006, we will submit to
9 the signatories a Missouri jurisdictional revenue requirement
10 cost of service study in a Missouri jurisdictional cost of
11 service study covering the 12 months ending June 30, 2005, so
12 there's likely not a great deal of overlap between when the
13 AmerenUE is participating in the Midwest ISO through
14 GridAmerica.

15 There's not a great deal of overlap over that
16 time period when the cost of service study is to be filed or
17 concluded and provided and the rate moratorium ends, so --
18 and that time frame may very well be suggested as the test
19 year for any rate case filed by the company or earnings
20 complaint case filed by the Staff.

21 CHAIRMAN GAW: And Mr. Dottheim, that's very
22 important to me. Are you saying that there will be a report
23 back that the Commission would have access to in all
24 likelihood on the cost benefit -- on a cost benefit analysis
25 that would be available if we assume there was a rate case

1 filed at the earliest opportunity that Ameren can file it
2 under the last rate case settlement?

3 MR. DOTTHEIM: I think I'm saying the
4 opposite.

5 CHAIRMAN GAW: That's what I was afraid of.

6 MR. DOTTHEIM: That it's not likely because of
7 the overlap not being very long, because being very extensive
8 that the analysis, whatever analysis may be able to be
9 performed, may be rather limited.

10 CHAIRMAN GAW: Okay.

11 MR. DOTTHEIM: And, of course, that in part
12 depends on whether the present dates that are projected for
13 Midwest ISO, the various markets, what have you, whether
14 those dates hold or whether they slide any further.

15 CHAIRMAN GAW: Right. How much of an overlap
16 did you say there was again?

17 MR. DOTTHEIM: The -- well, the -- the cost of
18 service period is to cover the 12 months ending June 30,
19 2005, so it would be July 1, 2004 to June 30, 2005.

20 CHAIRMAN GAW: All right. And the likely test
21 year -- the earliest test year possible.

22 MR. DOTTHEIM: It might be that same period of
23 July 1, 2004, to June 30, 2005.

24 CHAIRMAN GAW: What would that mean in regard
25 to this information being available in a rate case? I know

1 you've already said you didn't think it would be available.

2 MR. DOTTHEIM: Hopefully there would be some
3 information available, but whether it's from the various
4 parties perspective and they may, of course, have different
5 perspectives, but whether it's enough data to arguably be
6 used to show what actually is occurring, that may well be
7 open to dispute, and there may be no dispute that the period
8 is not long enough.

9 CHAIRMAN GAW: Well, and this is all under a
10 lot of assumptions anyway.

11 MR. DOTTHEIM: Yes.

12 CHAIRMAN GAW: I don't know that there will be
13 a rate case filed, and I'm trying to think of worse case
14 scenarios rather than what may or may not be likely.

15 MR. DOTTHEIM: And the Staff doesn't want to
16 paint a rosier picture than may actually exist.

17 CHAIRMAN GAW: I understand. Okay. Thank
18 you, sir.

19 JUDGE MILLS: Is there anything further that
20 any of the parties want to bring up? Going once, going
21 twice, good. Seeing nothing, we're off-the-record.

22 WHEREUPON, the recorded portion of the
23 conference was concluded.

24

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