

1 BEFORE THE PUBLIC SERVICE COMMISSION
2 STATE OF MISSOURI
3 _____
4 TRANSCRIPT OF PROCEEDINGS
5 HEARING
6 October 20, 2003
7 Jefferson City, Missouri
8 Volume 4
9 _____
10 In the Matter of the Application by)
11 Aquila, Inc. for Authority to Assign,) Case No.
12 Transfer, Mortgage or Encumber Its) EF-2003-0465
 Franchise, Works or System)

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BEFORE: _____
 RONALD D. PRIDGIN,
 REGULATORY LAW JUDGE.
 KELVIN SIMMONS, Chair
 CONNIE MURRAY,
 STEVE GAW,
 BRYAN FORBIS,
 ROBERT CLAYTON,
 COMMISSIONERS.

REPORTED BY:
TRACY L. CAVE, CSR, CCR
ASSOCIATED COURT REPORTERS

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A P P E A R A N C E S

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FOR: Staff of the Missouri Public Service Commission

1 JUDGE PRIDGIN: We are on the record. Good
2 morning. This is the hearing in Case No. EF-2003-0465 in
3 the matter of the application by Aquila, Incorporated for
4 authority to assign, transfer, mortgage or encumber its
5 franchise, works or system.

6 I am Ron Pridgin. I am the regulatory law
7 judge assigned by the Commission to preside over this
8 hearing. This hearing is taking place beginning on
9 October 20th, 2003 starting at approximately 8:35 in the
10 morning. We are in the Hotel Governor's Office Building in
11 Jefferson City, Missouri.

12 At this time I would like to get entries of
13 appearance from counsel, and if I could begin with the
14 applicant, Aquila, please.

15 MR. BOUDREAU: Yes. Thank you. Let the
16 record reflect the appearance of Paul A. Boudreau and James
17 C. Swearngen with the law firm of Brydon, Swearngen and
18 England, 312 East Capitol Avenue, Post Office Box 456,
19 Jefferson City, Missouri on behalf of applicant, Aquila,
20 Inc.

21 JUDGE PRIDGIN: Mr. Boudreau, thank you.
22 On behalf of Staff, please.

23 MR. WILLIAMS: Nathan Williams, Steven
24 Dottheim and Denny Frey appearing on behalf of the Staff of
25 the Missouri Public Service Commission, PO Box 360,

1 Jefferson City, Missouri 65102.

2 JUDGE PRIDGIN: Mr. Williams, thank you.

3 On behalf of the Office of Public Counsel,

4 please.

5 MR. MICHEEL: Douglas E. Micheel appearing on

6 behalf of the Office of Public Counsel and public, PO Box

7 7800, Jefferson City, Missouri 65102-7800.

8 JUDGE PRIDGIN: Mr. Micheel, thank you.

9 On behalf of the Intervenors, Ag Processing,

10 Incorporated and Sedalia Industrial Energy Users

11 Association, please.

12 MR. CONRAD: Your Honor, let the record please

13 show the appearance of Stuart W. Conrad, law firm of

14 Finnegan, Conrad and Peterson, 3100 Broadway, Suite 1209,

15 Kansas City, Missouri 64111.

16 I'd also like to enter the appearance, if I

17 have not done so earlier, of my partner, Jeremiah D.

18 Finnegan, of the same law firm and same address. He will be

19 assisting me in this matter.

20 JUDGE PRIDGIN: Mr. Conrad, thank you.

21 On behalf of the State of Missouri, please.

22 MR. MOLTENI: Ron Molteni, assistant attorney

23 general, Office of the Attorney General, PO Box 899,

24 Jefferson City, Missouri 65102 on behalf of the State of

25 Missouri.

1 JUDGE PRIDGIN: Mr. Molteni, thank you.
2 Any other parties that I've neglected?
3 Anything else that the parties want to take up
4 before we mark exhibits?
5 Okay. Hearing nothing, Mr. Boudreau, did you
6 want to begin?
7 MR. BOUDREAU: Yes, please. Bear with me. I
8 think what I'll -- are we on the record?
9 JUDGE PRIDGIN: Yes.
10 MR. BOUDREAU: I thought I'd go ahead and have
11 the exhibits marked generally following the order of the
12 witness, if that's all right.
13 JUDGE PRIDGIN: That's fine.
14 MR. BOUDREAU: First exhibit I have, which I
15 assume would be Exhibit 1, would be the Surrebuttal of Glenn
16 P. Keefe.
17 JUDGE PRIDGIN: I have as Exhibit No. 1 for
18 identification purposes Glenn P. Keefe Surrebuttal.
19 MR. BOUDREAU: Ready for the next exhibit?
20 JUDGE PRIDGIN: Whenever you're ready.
21 MR. BOUDREAU: The next exhibit would be the
22 Surrebuttal Testimony of Brett Carter.
23 JUDGE PRIDGIN: I have marked as Exhibit No. 2
24 for identification purposes Brett Carter Surrebuttal.
25 MR. BOUDREAU: The next exhibit would be the

1 Surrebuttal Testimony of Carol A. Lowndes.

2 JUDGE PRIDGIN: I have marked as Exhibit No. 3
3 for identification purposes Carol Lowndes Surrebuttal.

4 MR. BOUDREAU: If I may, the next exhibit I
5 propose to offer -- actually maybe a series of exhibits, the
6 Direct Testimony of Rick Dobson.

7 As the parties will recall, that testimony was
8 filed at the outset excluding the highly confidential
9 schedules so we could get the protective order put in place.
10 So I would propose to offer a series of exhibits, one of
11 which would be the nonpublic version of his Direct Testimony
12 and the other three exhibits being the highly confidential
13 schedules to his Direct Testimony.

14 JUDGE PRIDGIN: Okay.

15 MR. BOUDREAU: Otherwise, the entire package
16 will be designated highly confidential. I think it
17 facilitates keeping as much of it public as possible, if
18 that's all right.

19 JUDGE PRIDGIN: I want to be sure I
20 understand. You want as Exhibit 4 the Direct Testimony of
21 Mr. Dobson that is not highly confidential?

22 MR. BOUDREAU: That's correct. That would
23 exclude the first three schedules, RD-1, 2 and 3. Does that
24 make sense?

25 JUDGE PRIDGIN: I think so. So we'll show

1 marked as Exhibit No. 4 for identification purposes the
2 Direct Testimony of James Dobson, that is the --
3 MR. BOUDREAU: Rick Dobson.
4 JUDGE PRIDGIN: Excuse me. Rick Dobson. That
5 is the public version.
6 MR. CONRAD: Your Honor, just for
7 clarification, is that marked as Direct or Supplemental?
8 MR. BOUDREAU: That would be Direct Testimony.
9 MR. CONRAD: When was it filed, Paul?
10 JUDGE PRIDGIN: April 30th.
11 MR. BOUDREAU: The next schedule I would
12 propose to mark would be Schedule RD-1 to Mr. Dobson's
13 Direct Testimony, and this would be a highly confidential
14 exhibit.
15 JUDGE PRIDGIN: You wish that as Exhibit
16 No. 5, Mr. Boudreau?
17 MR. BOUDREAU: Yes.
18 JUDGE PRIDGIN: That's Mr. Dobson's RD-1?
19 MR. BOUDREAU: Yes.
20 JUDGE PRIDGIN: We'll let the record reflect
21 that Exhibit No. 5 for identification purposes is Schedule
22 No. RD-1 from Rick Dobson.
23 MR. WILLIAMS: That exhibit is HC?
24 MR. BOUDREAU: That exhibit is HC. As the
25 following exhibits will be -- the following two exhibits.

1 The next exhibit I would propose to have
2 marked would be Schedule RD-2 to Rick Dobson's Direct
3 Testimony. This too would be a highly confidential exhibit.

4 JUDGE PRIDGIN: Okay. The record will reflect
5 that Exhibit No. 6 for identification purposes is Schedule
6 RD-2, highly confidential, from Rick Dobson.

7 MR. BOUDREAU: And the next document I would
8 propose to have marked is Schedule RD-3 to Rick Dobson's
9 Direct Testimony. This too is a highly confidential
10 document.

11 JUDGE PRIDGIN: All right. Let the record
12 reflect that Exhibit No. 7 for identification purposes is
13 Schedule RD-3 from Rick Dobson.

14 MR. BOUDREAU: For clarity of the record, I
15 would also point out the balance of Mr. Dobson's schedules,
16 RD-4 through RD-12 I believe, are all part of what has been
17 marked as Exhibit 4.

18 JUDGE PRIDGIN: Thank you, Mr. Boudreau.

19 MR. BOUDREAU: The next document I would
20 request be marked is the Surrebuttal Testimony of Rick
21 Dobson.

22 JUDGE PRIDGIN: All right. Let the record
23 reflect that Exhibit No. 8 is the Surrebuttal Testimony from
24 Rick Dobson.

25 MR. BOUDREAU: The next exhibit I would

1 request be marked is the Direct Testimony of Jon R. Empson.

2 JUDGE PRIDGIN: Let the record reflect that

3 Exhibit No. 9 for identification purposes is the Direct

4 Testimony from Jon R. Empson.

5 MR. BOUDREAU: The next exhibit I would

6 propose to have marked is the Surrebuttal Testimony of Jon

7 R. Empson, nonproprietary version.

8 JUDGE PRIDGIN: Let the record reflect that

9 Exhibit No. 10 for identification purposes is the public

10 version of Jon R. Empson's Surrebuttal Testimony.

11 MR. BOUDREAU: The final exhibit I would

12 propose to mark at this time would be the Surrebuttal

13 Testimony of Jon R. Empson. This would be the highly

14 confidential version of his testimony.

15 JUDGE PRIDGIN: Let the record reflect that

16 Exhibit No. 11 is the highly confidential version of Jon R.

17 Empson's Surrebuttal Testimony.

18 MR. BOUDREAU: And that is all I have at this

19 time, thank you.

20 JUDGE PRIDGIN: Mr. Boudreau, thank you.

21 Mr. Williams, on behalf of the Staff.

22 MR. WILLIAMS: Can we go off the record for

23 just a minute?

24 JUDGE PRIDGIN: Off the record, please.

25 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

1 JUDGE PRIDGIN: We're back on the record.
2 We're back on the record.
3 I understand, Mr. Williams, you just had a
4 brief discussion with Mr. Boudreau while we were off the
5 record. Is that your understanding?
6 MR. WILLIAMS: Yes.
7 JUDGE PRIDGIN: Mr. Boudreau, is that your
8 understanding?
9 MR. BOUDREAU: Yes.
10 JUDGE PRIDGIN: Mr. Williams, you may
11 continue.
12 MR. WILLIAMS: I guess Exhibit No. 12 would be
13 the nonproprietary version of the revised Rebuttal Testimony
14 of Staff Witness Joan C. Wandel.
15 JUDGE PRIDGIN: Mr. Williams, let me make sure
16 I got that correct. That's Ms. Wandel's revised Rebuttal
17 Testimony, the public or highly confidential?
18 MR. WILLIAMS: Public.
19 JUDGE PRIDGIN: All right. Thank you.
20 We'll let the record reflect that Exhibit
21 No. 12 for identification purposes is the revised Rebuttal
22 Testimony of Joan Wandel, the public version.
23 MR. WILLIAMS: And then Exhibit No. 13 would
24 be the revised Rebuttal Testimony of Joan Wandel, highly
25 confidential version.

1 JUDGE PRIDGIN: Let the record reflect that
2 Exhibit No. 13 is the highly confidential version of Joan C.
3 Wandel's revised Rebuttal Testimony
4 MR. WILLIAMS: And Exhibit No. 14 is the
5 supplement to the revised Rebuttal Testimony of Joan C.
6 Wandel. It is the public document.
7 JUDGE PRIDGIN: All right. Let the record
8 reflect -- Mr. Williams correct me if I get this
9 incorrect -- Exhibit No. 14 for identification purposes is
10 the supplement to Joan Wandel's revised Rebuttal Testimony,
11 public version.
12 MR. WILLIAMS: That's correct.
13 JUDGE PRIDGIN: All right. Thank you.
14 MR. WILLIAMS: Then Exhibit No. 15 will be the
15 public version of the Rebuttal Testimony of Staff Witness
16 Ronald L. Bible.
17 JUDGE PRIDGIN: I'm sorry, Mr. Williams. I
18 got Mr. Bible and what --
19 MR. WILLIAMS: Mr. Bible's Rebuttal Testimony,
20 public version.
21 JUDGE PRIDGIN: All right. We'll let the
22 record reflect that Exhibit No. 15 for identification
23 purposes is the public version of Ronald Bible's Rebuttal
24 Testimony.
25 MR. WILLIAMS: Then Exhibit No. 16 is the

1 highly confidential version of Mr. Bible's Rebuttal
2 Testimony.

3 JUDGE PRIDGIN: Exhibit No. 16 for
4 identification purposes is the highly confidential version
5 of Ronald Bible's Rebuttal Testimony.

6 And, Mr. Williams, if I could remind you and
7 the rest of counsel to make sure your mics are working. I
8 see we're having a hard time picking up your voices on the
9 web.

10 MR. WILLIAMS: Exhibit No. 17 will be the
11 public version of the Rebuttal Testimony of Lena M. Mantle.

12 JUDGE PRIDGIN: All right. We'll let the
13 record reflect that Exhibit No. 17 for identification
14 purposes is the public version of Lena Mantle's Rebuttal
15 Testimony.

16 MR. WILLIAMS: Exhibit No. 18 is the highly
17 confidential version of the Rebuttal Testimony of Lena M.
18 Mantle.

19 JUDGE PRIDGIN: Let the record reflect that
20 Exhibit No. 18 for identification purposes is the highly
21 confidential version of Lena Mantle's Rebuttal Testimony.

22 MR. WILLIAMS: Exhibit 19 is the public
23 version of the Rebuttal Testimony of David M. Sommerer.

24 JUDGE PRIDGIN: Let the record reflect that
25 Exhibit No. 19 for identification purposes is the public

1 version of the Rebuttal Testimony of David Sommerer.

2 MR. WILLIAMS: Exhibit 20 is the highly
3 confidential version of the Rebuttal Testimony of David M.
4 Sommerer.

5 JUDGE PRIDGIN: Let the record reflect that
6 Exhibit No. 20 for identification purposes is the highly
7 confidential version of the Rebuttal Testimony of David
8 Sommerer.

9 MR. WILLIAMS: Exhibit 21 is the public
10 version of the Rebuttal Testimony of J. Kay Niemeier,
11 N-i-e-m-i-e-r.

12 JUDGE PRIDGIN: Let the record reflect that
13 Exhibit No. 21 for identification purposes is the public
14 version of the Rebuttal Testimony of J. Kay Niemeier.

15 MR. WILLIAMS: Exhibit No. 22 is the highly
16 confidential version of the Rebuttal Testimony of J. Kay
17 Niemeier.

18 JUDGE PRIDGIN: All right. Let the record
19 reflect that Exhibit No. 22 for identification purposes is
20 the highly confidential version of the Rebuttal Testimony of
21 J. Kay Niemeier.

22 MR. WILLIAMS: Exhibit No. 23 is the Rebuttal
23 Testimony of James L. Ketter. It's public version only.

24 JUDGE PRIDGIN: All right. Let the record
25 reflect that Exhibit No. 23 for identification purposes is

1 the public version of the Rebuttal Testimony of James L.
2 Ketter.

3 MR. WILLIAMS: And then I have some additional
4 exhibits that have not been pre-filed in this case.

5 JUDGE PRIDGIN: So you wouldn't have as a
6 highly confidential Mr. Ketter's?

7 MR. WILLIAMS: No.

8 JUDGE PRIDGIN: Okay.

9 MR. WILLIAMS: We'll wait on these exhibits.
10 I'm going to go ahead and have these premarked
11 so they've been identified.

12 JUDGE PRIDGIN: Okay.

13 MR. WILLIAMS: The first is Aquila's response
14 to Missouri Staff Data Request No. MPSC-20, which is a
15 highly confidential exhibit. That would be Exhibit No. 24.

16 JUDGE PRIDGIN: I'm sorry. Could you give me
17 the data request number again, please?

18 MR. WILLIAMS: MPSC-20.

19 JUDGE PRIDGIN: I have as Exhibit No. 24 for
20 identification purposes Aquila's response to Staff's Data
21 Request MPSC-20. Is that correct, Mr. Williams?

22 MR. WILLIAMS: That is correct.

23 JUDGE PRIDGIN: Thank you.

24 MR. WILLIAMS: Exhibit 25 then would be
25 Aquila's response to Staff's Data Request No. MPSC-2. That

1 document also is highly confidential.

2 JUDGE PRIDGIN: Okay. I assume then Exhibit

3 No. 24 is also highly confidential?

4 MR. WILLIAMS: Yes.

5 JUDGE PRIDGIN: Okay. Thank you.

6 MR. BOUDREAU: I'm sorry. Can I get a point

7 of clarification? My understanding was Exhibit 24 was

8 highly confidential. Is Exhibit 25, likewise, highly

9 confidential?

10 MR. WILLIAMS: Yes.

11 JUDGE PRIDGIN: What I have marked as Exhibit

12 No. 25 for identification purposes is Aquila's response to

13 Data Request MPSC-2 as highly confidential.

14 MR. WILLIAMS: That is correct.

15 JUDGE PRIDGIN: All right. Thank you.

16 MR. WILLIAMS: Exhibit No. 26 is Aquila's

17 response to Staff's Data Request No. MPSC-8. And that is

18 public.

19 JUDGE PRIDGIN: I have marked as Exhibit

20 No. 26 for identification purposes Aquila's response to Data

21 Request MPSC-8 public version -- or is it a public response;

22 is that correct, Mr. Williams?

23 MR. WILLIAMS: Yes.

24 JUDGE PRIDGIN: Thank you.

25 MR. DOTTHEIM: Exhibit 27, which is

1 Aquila's -- referred to as a Dashboard, it's a one-page
2 document and it's highly confidential.

3 JUDGE PRIDGIN: Mr. Dottheim, I'm not sure if
4 I'm understand.

5 MR. DOTTHEIM: It's a one-page document that
6 the company refers to as the Dashboard. It contains
7 information. I'm just trying to identify --

8 JUDGE PRIDGIN: I understand.

9 MR. DOTTHEIM: It's titled Goal Reporting Tool
10 Printable Report.

11 JUDGE PRIDGIN: Okay. Are you saying
12 Dashboard?

13 MR. DOTTHEIM: Yes.

14 JUDGE PRIDGIN: As in a vehicle?

15 MR. DOTTHEIM: Exactly. D-a-s-h-- d-a-s-c--
16 d-a-s-h-b-o-a-r-d.

17 JUDGE PRIDGIN: All right. Thank you.

18 Let the record reflect that Exhibit No. 27 for
19 identification purposes is what Mr. Dottheim's referred to
20 as the Aquila Dashboard.

21 MR. DOTTHEIM: The next document, Exhibit 28,
22 we have stamped it highly confidential because we were under
23 the impression that it contains highly confidential
24 information, but we can obtain verification of that from the
25 company. If it does not, then we will resubmit it without

1 the highly confidential designation on it. And it's the
2 second quarter of 2003, Aquila's report on monthly
3 performance data.

4 JUDGE PRIDGIN: Let the record reflect that
5 Exhibit No. 28 for identification purposes is Aquila's
6 second quarter of 2003 monthly performance data report.

7 MR. DOTTHEIM: The next document, Exhibit 29,
8 and it's not propriety, it's public, is Aquila's response to
9 Staff Data Request 3948.

10 JUDGE PRIDGIN: All right. I have marked as
11 Exhibit No. 29 for identification purposes Aquila's response
12 to Data Request No. MPSC-3948.

13 MR. DOTTHEIM: And the last exhibit that I'd
14 like to have premarked is Exhibit 30, and it is identified
15 as highly confidential. And it is Aquila's response to
16 Staff Data Request No. 3963.

17 JUDGE PRIDGIN: All right. I have marked as
18 Exhibit No. 30 for identification purposes Aquila's response
19 to Data Request No. MPSC-3963.

20 Was that Staff's final exhibit?

21 MR. DOTTHEIM: At this time.

22 JUDGE PRIDGIN: All right. Thank you.

23 Mr. Micheel, on behalf of OPC.

24 MR. MICHEEL: Yes, your Honor. Our first
25 exhibit is Exhibit 31. It's the Rebuttal Testimony of Mark

1 Burdette.

2 JUDGE PRIDGIN: I have marked as Exhibit

3 No. 31 for identification purposes the Rebuttal Testimony of

4 Mark Burdette.

5 MR. MICHEEL: The next one is the NP testimony

6 of James A. Busch. That would be Exhibit No. 32.

7 JUDGE PRIDGIN: I have marked as Exhibit

8 No. 32 for identification purposes the Rebuttal Testimony of

9 James Busch, nonproprietary.

10 MR. MICHEEL: And then Exhibit 33 would be the

11 highly confidential testimony of James A. Busch.

12 JUDGE PRIDGIN: I have marked as Exhibit

13 No. 33 for identification purposes the Rebuttal Testimony of

14 James Busch, highly confidential version.

15 MR. MICHEEL: Our next exhibit is the NP

16 version of the Rebuttal Testimony of Ted Robertson, and that

17 would be No. 34.

18 JUDGE PRIDGIN: I have marked as Exhibit

19 No. 34 for identification purposes the nonproprietary

20 Rebuttal Testimony of Ted Robertson.

21 MR. MICHEEL: As Exhibit 35 it's the HC

22 version of the Rebuttal Testimony of Ted Robertson.

23 JUDGE PRIDGIN: I have marked as Exhibit

24 No. 35 for identification purposes the highly confidential

25 Rebuttal Testimony of Ted Robertson.

1 MR. MICHEEL: And, your Honor, Mr. Robertson
2 is going to be replacing his schedule in his TGR-8 with this
3 document when he gets on the stand, so let me give you a
4 copy of that. I've provided a copy to all of the parties
5 here.

6 JUDGE PRIDGIN: So, Mr. Micheel, is what
7 you've handed me going to be a portion of Exhibit 35?

8 MR. MICHEEL: Yes.

9 JUDGE PRIDGIN: All right. Thank you.

10 MR. MICHEEL: Actually, your Honor, it would
11 be a portion of Exhibit 34, because this is an NP document.

12 JUDGE PRIDGIN: Thank you.

13 MR. MICHEEL: The next item that I have is the
14 NP Cross-Surrebuttal Testimony of Ted Robertson. And that's
15 Exhibit 36.

16 JUDGE PRIDGIN: I have marked as Exhibit
17 No. 36 for identification purposes the nonproprietary
18 Cross-Surrebuttal of Ted Robertson.

19 MR. BOUDREAU: I apologize. I have a point of
20 clarification. My numbers are now disjointed. Let me move
21 back to what I understand to be Exhibit 34, which is Ted
22 Robertson's nonproprietary Rebuttal?

23 MR. MICHEEL: Yes.

24 MR. BOUDREAU: 35 is Ted Robertson's highly
25 confidential Rebuttal?

1 MR. MICHEEL: That's how I see it, yes, sir.

2 MR. BOUDREAU: I had 36 as Ted Robertson's

3 Schedule TGR-8.

4 MR. MICHEEL: I did not mark that as an

5 exhibit. I noted for the record that TGR-8 replaces the

6 current TGR-8 in Exhibit 34, Mr. Robertson's NP Rebuttal

7 Testimony.

8 MR. BOUDREAU: Well, that explains my

9 mis-numbering. I apologize. Go ahead.

10 MR. MICHEEL: I think we were at Exhibit 37,

11 your Honor, the HC Cross-Surrebuttal Testimony of Ted

12 Robertson.

13 And that's the end of our premarked exhibits,

14 your Honor.

15 JUDGE PRIDGIN: Thank you, Mr. Micheel. I

16 show as Exhibit No. 37 for identification purposes the

17 highly confidential Cross-Surrebuttal Testimony of Ted

18 Robertson.

19 Mr. Conrad?

20 MR. CONRAD: If my count is correct, I think

21 this would be Exhibit 37.

22 JUDGE PRIDGIN: 38.

23 MR. CONRAD: 38, excuse me. And it would be

24 the Rebuttal Testimony Schedule of Michael Gorman.

25 JUDGE PRIDGIN: All right. Let the record

1 reflect that Exhibit No. 38 for identification purposes is
2 the Rebuttal Testimony of Michael Gorman.

3 MR. CONRAD: And, your Honor, I may have some
4 other exhibits as we move through, but I may not. So why
5 don't we just deal with those as the opportunity presents
6 itself?

7 JUDGE PRIDGIN: All right. Thank you,
8 Mr. Conrad.

9 MR. MICHEEL: Your Honor, I'm going to have
10 other exhibits, I just didn't want to pre-file them. I
11 don't know if it will be necessary or not, but --

12 JUDGE PRIDGIN: This does not in any way
13 preclude anybody's ability to offer further exhibits. It's
14 just a matter of trying to get the ones premarked the
15 parties want to premark.

16 Mr. Conrad, is that all you intend to offer
17 for now?

18 MR. CONRAD: Yes, sir.

19 JUDGE PRIDGIN: Thank you.

20 Mr. Molteni, on behalf of the State?

21 MR. MOLTENI: Judge Pridgin, the State doesn't
22 have any pre-filed exhibits or exhibits that need to be
23 premarked.

24 JUDGE PRIDGIN: All right. Mr. Molteni, thank
25 you.

1 Everyone clear on exhibits?

2 All right. It looks like I understand from

3 the parties' proposed procedural schedule that the parties

4 wish to have an opening statement; is that correct?

5 MR. BOUDREAU: Yes.

6 JUDGE PRIDGIN: All right. I have alerted the

7 Commissioners that I anticipated oral argument to begin here

8 in a few minutes. And if we could allow just a little time

9 for the Commissioners, maybe give them five minutes or so

10 and I'll re-remind them. Let's try to begin here in about

11 five minutes or so. We can go off the record.

12 (Exhibit Nos. 1 through 38 were marked for

13 identification.)

14 (A RECESS WAS TAKEN.)

15 JUDGE PRIDGIN: On the record, please. We are

16 back on the record. We took a brief recess to allow

17 Commissioners to come down. We will now hear opening

18 statements.

19 Mr. Boudreau, if you would, please approach

20 the podium.

21 MR. BOUDREAU: Thank you. May it please the

22 Commission.

23 JUDGE PRIDGIN: Mr. Boudreau, make sure your

24 microphone is going. You're good. Thank you, sir.

25 MR. BOUDREAU: Good morning. Well, given the

1 sheer volume and scope of testimony that has been filed in
2 this case, it would be easy to forget what this proceeding
3 is about.

4 On April 30th, 2003, Aquila filed an
5 application with the Commission for authority to subject its
6 utility works and system located in the state of Missouri to
7 a lien of its indenture of mortgage and deed of trust to
8 secure \$430 million of first mortgage bonds issued in April
9 of 2003 pursuant to the terms of a term loan, which was
10 needed to ensure continued liquidity for ongoing operations,
11 including for cash working capital requirements for its
12 utility operations in Missouri as well as the states of
13 Nebraska, Iowa, Michigan, Minnesota, and Colorado. The term
14 loan was part of a series of transactions that resulted in
15 the replacement of a \$650 million revolving credit
16 agreement.

17 Given the ruling by this Commission on
18 October 9th, really only one issue is properly before the
19 Commission, and that is whether authorizing Aquila to
20 mortgage its property or the property that it owns in this
21 state to secure this indebtedness will cause a direct and
22 present detriment to the public interest. Keeping that
23 question constantly and foremost in your mind, I'm confident
24 that you will conclude that the application should be
25 approved.

1 I won't spend much time reciting the
2 circumstances which culminated in the filing of this
3 application. That background is well known to the
4 Commission.

5 In December of 2002, your Staff filed a
6 comprehensive report concerning the financial condition of
7 Aquila and the implications the company's liquidity
8 challenges and restructuring plan had for the company's
9 regulated operations in the state of Missouri.

10 The report was submitted to you at a regularly
11 scheduled agenda meeting on December 17th, 2002 by Robert
12 Franson. That document has been filed in this case as
13 Schedule 1 to Staff Witness Joan Wandel's Rebuttal Testimony
14 in this case. The Staff's report was thorough and
15 comprehensive.

16 Jon Empson, on behalf of Aquila, submitted a
17 response to the report commending the Staff's review and
18 offering a number of observations. You will find those
19 comments incorporated in the report at pages 60 through 62
20 of Schedule 1 to Ms. Wandel's testimony.

21 Company Witness Glenn Keefe, who will testify
22 today, will offer some context for those parts of the Staff
23 report which deal with service quality and electric
24 generating plant concerns. Company Witness Rick Dobson has
25 recounted that history of events leading up to this filing

1 in his Direct Testimony as well.

2 You may also recall that Mr. Empson at the
3 time of the December 17th presentation in 2002, informed the
4 Commission that Aquila was in the process of putting
5 together its financial plan for the years 2003 through 2005.

6 Mr. Dobson will sponsor the company's
7 financial plan which was developed in March and April of
8 this year and that has been identified -- is Schedule RD-1
9 to his Direct Testimony in an exhibit that has been marked
10 as a highly confidential schedule to his Direct Testimony.

11 It has been filed in this case to put Aquila's
12 encumbrance request in context for your consideration.
13 Aquila's request to encumber its Missouri assets to support
14 its obligations under the term loan is an important facet of
15 Aquila's financial plan as it executes on its stated
16 strategy of exiting the merchant energy business, selling
17 nonstrategic assets and businesses here and abroad and
18 applying the proceeds from those sales to reduce associated
19 liabilities and debt.

20 This is in furtherance of its effort to shore
21 up its balance sheet and to retrench as a multi-state United
22 States utility company and thereby achieve its objective of
23 obtaining an investment grade debt rating.

24 Aquila is pleased to have this opportunity to
25 inform the Commission of its plans, its progress and its

1 prospects. Aquila is keenly aware that the Commission has
2 been watching carefully, perhaps with some apprehension, as
3 various events have unfolded in the trade press after the
4 collapse of Enron amid revelations of questionable business
5 practices by that company.

6 Unhappily, Aquila has been one of a number of
7 energy companies that have been caught up in the resulting
8 upheaval and the challenges it faces -- it has faced and
9 continues to face have been widely reported most prominently
10 in the Kansas City press.

11 Aquila's financial plan sets forth its general
12 goals and objectives to restore itself to financial good
13 standing. You will be able to see that progress has been
14 made since the inception of that plan and that progress has
15 been significant. To date, approximately \$2 1/2 billion of
16 assets have been sold and debt has been reduced by about
17 \$1.4 billion. Much remains to be done.

18 Now, why is this information being provided to
19 you if, as I've asserted on a number of occasions, the focus
20 of the case is fairly narrow? Well, the reason is that the
21 company thought it was important for this Commission to
22 understand Aquila's request in its complete context.

23 This case is, after all, the company's first
24 formal filing with the Commission touching on this topic
25 since Aquila's financial situation has come to public

1 attention.

2 It is important for you to know that this
3 application for authority to mortgage assets plays a part in
4 the execution of a larger and very important strategy, the
5 ultimate goal of which is the restoration of financial
6 stability and the faith of the financial community and
7 regulators, including this Commission.

8 As to the steps that have been taken by Aquila
9 to shield customers of its regulated operations from any
10 adverse fallout during the execution of the financial plan,
11 Jon Empson has filed testimony identifying three key
12 business principles.

13 First, protect utility customers from
14 potential adverse financial impacts; second, maintain
15 quality customer service; and third, enhance regulatory
16 transparency. Ultimately, this should be the Commission's
17 principal concern and I would encourage each of you to
18 explore these considerations and safeguards with Mr. Empson
19 during the course of this hearing.

20 At the conclusion of the company's positive
21 case, Aquila will have met its burdens of showing that
22 subjecting its properties to the lien of the indenture to
23 support the \$430 million term loan is not detrimental to the
24 public interest. Aquila has not requested as part of this
25 application that its rate schedules be modified in any

1 fashion.

2 Aquila will offer the testimony of Jon Empson,
3 Glenn Keefe and Brett Carter setting forth comprehensive
4 efforts that have been made to maintain and even improve
5 customer service despite the financial challenges faced by
6 the company.

7 Rick Dobson will explain that approval of this
8 application will in no way impair or impede Aquila's ability
9 to issue additional series of first mortgage bonds under its
10 indenture to finance future needs for its Missouri
11 operations.

12 The company's application to commit its
13 Missouri properties to the collateral pool under the
14 indenture is being opposed by your Staff, the Office of the
15 Public Counsel, the State of Missouri and the Sedalia
16 Industrial Energy Users Association and AG Processing.

17 Not one of these parties has offered any
18 testimony establishing that permitting Aquila to pledge its
19 Missouri properties to the collateral pool will cause a
20 present and direct detriment to the public interest.

21 In Laclede Gas Company -- and I'll give you
22 the citation for that, it's 16 Missouri PSC, the new series
23 of that publication at 328, a case decided in 1971 -- this
24 Commission found that no public detriment could be shown if
25 the status quo were not disturbed. In that case the

1 Commission determined that that showing was made by evidence
2 that the transaction would have no impact on rates and would
3 not have any adverse impact on customer service.

4 In this case, no one is arguing that customer
5 rates will be impacted. No one is arguing that service will
6 be interrupted or impaired as a consequence of the mortgage.

7 The only evidence that has been offered on the
8 topic of customer service deals with certain historical
9 trends, which, even if true, and the evidence will cast
10 significant doubt on those claims, establishes no cause and
11 effect between the trends identified and the authority
12 requested in this case.

13 Testimony has been offered by several
14 witnesses suggesting that the approval of the application
15 will over-collateralize the loan and presumably take the
16 value of those properties out of circulation for future
17 financing needs in Missouri. This is simply not the case.

18 Company Witness Rick Dobson will testify that
19 the terms of the indenture, as supplemented by the first
20 supplemental indenture, permit the company to issue
21 additional series of first mortgage bonds to finance its
22 US networks operations.

23 If you think about it, it's not surprising
24 that there's no evidence of a detriment to the public
25 interest. Until the Commission issued its October 9th order

1 denying motion for summary disposition, the Office of the
2 Public Counsel and the Intervenor of this case and even the
3 Staff appeared to have been preparing for a much different
4 case.

5 They appear to have thought that Aquila's
6 application would be denied unless the company could show a
7 need for the proceeds from the loan or additional collateral
8 to support the first mortgage bonds.

9 As you have now made clear, the standard for
10 approval of the application is not a needs test.
11 Consequently, substantially all of the evidence offered by
12 the parties opposing the application in this case is largely
13 irrelevant to the solitary issue at hand. Unfortunately, I
14 believe that much of what you will hear during the oncoming
15 week will be similarly immaterial.

16 And what have these parties argued? Well,
17 among other things, they've argued that the company's
18 overstated its need for cash working capital. They've
19 argued that there's no further need for additional
20 collateral for the company to meet its performance covenants
21 under the term loan.

22 They've argued that the interest loan being
23 paid under this term loan is higher than it would be if the
24 company were investment grade. They've argued that an
25 interest rate reduction is not needed because the company

1 has already committed to determining regulated cost of
2 service based on a Triple B investment grade rating.

3 Other objections have been made. But
4 ultimately none of these objections or arguments identifies
5 how any ratepayers will be harmed by the mortgage of the
6 Missouri properties to support the first mortgage bonds
7 issued under the term loan, which is the issue before this
8 Commission.

9 Consider the subtext of the testimony offered
10 by the parties opposing the application. There's an
11 unspoken concern that the mortgage itself is an inherent
12 detriment. After all, isn't it better, all things being
13 equal, that the property not be mortgaged.

14 Well there are several responses to this
15 concern, one of which is addressed in the testimony. First,
16 all the mortgage does, in essence, is prioritize creditors'
17 claims. All creditors have a potential claim against a
18 debtor's assets.

19 However, the creditor with the mortgage has a
20 much better chance of having its claims paid in full in the
21 event of an insolvency or bankruptcy than does an unsecured
22 creditor. It is merely a commercial convenience and a tool
23 to access lower cost capital from the capital items.

24 Secondly -- and here's the key question -- can
25 the fact of a mortgage itself be considered a detriment to

1 the public interest? And I think the answer is clearly no.

2 And why can I so clearly state that? Well,
3 take a look at the statute. The statute provides the
4 answer. Section 393.190 authorizes this Commission to
5 permit the encumbrance of utility properties unless doing so
6 would be detrimental to the public interest.

7 Now, if a mortgage were inherently detrimental
8 to the public interest, the General Assembly presumably
9 would not have empowered the Commission to permit their use
10 in the first place.

11 The third and final consideration is
12 entrenched in historical practice. The use of
13 mortgage-backed debt by this company and many other
14 utilities in the states is a long and respected tradition.

15 Aquila during its previous lives as UtiliCorp
16 United, Inc. and Missouri Public Service Company frequently
17 issued mortgage-backed indebtedness to fund utility
18 operations here and in other states from as early as 1928.
19 In some cases specifically to acquire utility operations in
20 other states. Those cases have been identified for you in
21 Schedule RD-7 to Mr. Dobson's Direct Testimony.

22 I suspect a review of the Commission's records
23 would reflect the fact that the use of mortgage debt by
24 other utilities is so common as to be routine. You should
25 be asking yourselves how have customers been harmed by this

1 practice? And the short answer is they haven't.

2 As an aside, I should mention two issues. And
3 those are issues I believe Nos. 4 and 5 on the issues list
4 concerning Staff's request that the company be ordered in
5 this case to provide reliability indices on a monthly basis.

6 Now, Aquila has indicated that it's not
7 opposed to continuing to provide such reports on a quarterly
8 basis as it has been doing for several years now. It is,
9 however, opposed to compiling and providing the information
10 on a monthly basis. Its objections are both practical and
11 philosophical.

12 Practically speaking, Staff has not stated any
13 concerns with respect to the accuracy or frequency of the
14 monthly -- frequency of the quarterly reports. Also, as
15 will be explained by the Company Witnesses Keefe and Carter,
16 compiling and submitting the reports on a monthly basis
17 simply increases the cost and work to Aquila without any
18 real commensury benefit in the quality of the information
19 provided.

20 And philosophically it is troubling to have
21 the Staff recommend that the Commission deny the application
22 and take the position that the application for authority in
23 this case is so flawed that no insulating conditions could
24 possibly be fashioned to mitigate any detriment that has yet
25 been -- has yet to be identified and yet demand concessions

1 on the part of Aquila in this case.

2 Had this been proposal been made in the form
3 of a package of requests or negotiation that might have led
4 to a recommendation that the application be approved, it
5 might have been something that the company would have been
6 in a position to consider. Notwithstanding its reservations
7 about incremental value as a regulatory tool, but it was
8 made clear to Aquila that such discussions were not going to
9 be had.

10 In watching this case from a distance, you may
11 not have had an appreciation for how much time has been
12 expended by the company and the other parties to this case
13 in getting to this point today.

14 Before coming here, I took a quick stock of
15 the situation. During the course of this case, Aquila has
16 received over 480 separate data requests from this
17 Commission Staff, the office of the Public Counsel and
18 Mr. Conrad's clients. Literally thousands of pages of
19 documents have been produced in response to these requests
20 for information.

21 For three full days in July Aquila permitted
22 eight of its employees to be interviewed at length by the
23 Staff, the Office of the Public Counsel and the intervening
24 parties, which interviews were transcribed.

25 Finally, a little over a week ago the

1 company's CEO, its CFO, its general counsel, and the CFO of
2 Aquila US networks and a representative of Credit Suisse
3 First Boston, the syndication agency for the term loan, were
4 noticed up and formally deposed over a period of three more
5 days in advance of this hearing.

6 And all to what end? There's not one centilla
7 of evidence of any discernible harm to Missouri -- Aquila's
8 Missouri customers that will come about if its Missouri
9 assets are pledged to the collateral pool supporting the
10 \$430 million first mortgage -- \$430 million of first
11 mortgage bonds.

12 Far from identifying even one element of
13 resulting detriment, the opposing parties have offered only
14 suspicion, speculation and conjecture in support of their
15 positions that the application should be denied.

16 Previously in the Missouri American Water
17 Company case, you have stated that this is no basis for you
18 to deny an application under 393.190 RSMo. And I want to
19 remind you that your Staff apparently agrees that
20 speculation about the possibility of future public
21 detriments is not a sufficient basis for denial of the
22 application. And that appears at Volume 3 of the transcript
23 page 70, and that is the transcript of the oral argument on
24 the motion for summary disposition.

25 The laws requires that the Commission approve

1 the application in this case absent a compelling showing by
2 the opposing parties of the detriment to the -- present and
3 direct detriment to the public interest that will come about
4 by Aquila returning to its roots as a utility and financing
5 its operations with mortgage-backed debt instruments.

6 Now, as you listen to the testimony of the
7 opposing parties today and in the days throughout this week,
8 keep asking yourself, Where is the detriment? Where is the
9 harm? How specifically will customers be adversely impacted
10 by this mortgage?

11 At the conclusion of the case, I believe it
12 will be clear to you that no showing of a detriment has been
13 made and that the application should be approved. Thank you
14 very much.

15 JUDGE PRIDGIN: Mr. Boudreau, thank you.

16 Mr. Williams, on behalf of Staff, please.

17 MR. WILLIAMS: Thank you. Nathan Williams
18 appearing on behalf of the Staff. May it please the
19 Commission.

20 As Aquila stated, Aquila is asking this
21 Commission for authority to use its Missouri assets, utility
22 assets, assets used by its Aquila Networks MPS and Aquila
23 Networks L&P divisions to provide service in this state as
24 collateral for a three-year, \$430 million credit facility
25 and associated first mortgage bonds, as well as for

1 subsequent replacement debt up to \$430 million.

2 Aquila has already executed the three-year,
3 \$430 million credit facility and first mortgage bonds and
4 received the proceeds thereof.

5 The sole issue before this Commission is
6 whether to allow Aquila to encumber its Missouri utility
7 assets with \$430 million in debt. To the Staff's knowledge,
8 these facts create a case of first impression before this
9 Commission.

10 In its application, Aquila states at paragraph
11 13 approximately \$250 million of the \$430 million term loan
12 will be used to meet the cash working capital requirements
13 of Aquila's United States utility businesses with the
14 remaining \$180 million used to meet the working capital
15 needs of Aquila's other activities.

16 Although Aquila has confused cash working
17 capital with working capital, the Staff anticipates that the
18 evidence in this case will show that Aquila is referring to
19 a peak utility working capital need of \$250 million driven
20 largely by Aquila's gas operations in other states.

21 The other parties, including the Staff,
22 dispute the magnitude of that claim made. Regardless, it is
23 important that the Commission recognize that Aquila is
24 seeking to use its Missouri utility assets to secure debt of
25 at least \$180 million that Aquila states it will use to meet

1 the working capital needs of its non-utility activities.

2 In reviewing Aquila's application, the Staff
3 used the standard of not detrimental to the public interest
4 and looked at the following factors. First, Aquila has
5 already received the \$430 million under the credit facility
6 and associated first mortgage bonds. Approval of Aquila's
7 application will not provide any additional funds for
8 Aquila's utility operations.

9 Second, if allowed to encumber its Missouri
10 utility assets with the \$430 million credit facility and
11 first mortgage bond -- and associated first mortgage bonds,
12 the value of those assets as security for any additional
13 financing would be impaired. That is, denial of the
14 application would leave Aquila's Missouri utility assets
15 fully available as security for other financing while
16 granting the application would not.

17 Third, Aquila's utility assets in Michigan,
18 Nebraska and Colorado are already in the collateral pool and
19 provide more than sufficient collateral coverage for the
20 \$250 million peak US utility business working capital needs
21 that Aquila asserts.

22 Fourth, this Commission has a long-standing
23 approach of not allowing regulated utility operations to
24 subsidize non-regulated operations. However, granting
25 Aquila's application would allow Aquila to use its Missouri

1 utility assets to support the \$180 million portion of the
2 \$430 million in debt that Aquila states will be used for
3 non-utility working capital needs.

4 Fifth, while it has asserted that its US
5 utility businesses have peak working capital needs of
6 \$250 million, other than putting the \$430 million it has
7 received into a corporate-wide account used to supply cash
8 for all of its operations, Aquila has provided no assurance
9 that it will actually have cash on hand to meet the working
10 capital needs of its Missouri utility operations when that
11 cash is needed.

12 Sixth, the value of Aquila's Missouri utility
13 assets exceed the value of its utility assets in any other
14 state, yet Aquila's working capital needs for its Missouri
15 utility operation are lower than those required by its
16 utility operations in those other states.

17 Seven, Aquila has overstated its working
18 capital needs for its Missouri utility operations by
19 removing earnings from those operating divisions as internal
20 dividends rather than retaining them at the divisional level
21 for use in meeting its operating division's working capital
22 needs.

23 Eighth, the \$250 million that Aquila has
24 stated for the working capital needs of its US utility
25 businesses is inflated due to the increased cash needs that

1 have been imposed upon them by the failures of Aquila's
2 investments and nonregulated activities.

3 Ninth, Aquila's utility operations will
4 receive no direct benefit from the potential 75 basis point
5 reduction in the interest rate of the three-year term loan.
6 Basis point reduction is dependent upon Aquila pledging
7 utility collateral with a fair value totalling \$718.1
8 million.

9 Based on these factors, the Staff has
10 concluded that Aquila's application should be rejected.

11 Since counsel for Aquila has touched on the
12 standard for not detrimental to the public interest, I'd
13 like to direct the Commission's attention to the Love 1979
14 Partners versus Public Service Commission case that Aquila
15 cited in the motion for summary disposition oral argument,
16 which is Missouri Supreme Court case en banc 715 S.W. 2d,
17 482 that was decided in 1986.

18 In that case, AmerenUE was seeking approval to
19 transfer its steam operations to the Bi-State Development
20 Agency. One challenge to the transfer of those assets was
21 based on the fact that the Bi-State Development Agency
22 planned to increase rates.

23 The Commission found that increasing the rates
24 was not in and of itself a sufficient basis to reject the
25 transfer and ultimate -- and it approved the transfer of

1 those assets.

2 When the court reviewed the Commission's
3 decision, it noted that part of the plan was the use of
4 refuse to supply the power that was used to generate the
5 steam as part of the Bi-State Development Agency's plans.
6 And the court indicated that the Commission was entitled to
7 review the impacts on metropolitan -- St. Louis metropolitan
8 area, not merely the impacts solely limited to the
9 customers.

10 In addition to reviewing the application on
11 its merits, during the processing of this case, it has been
12 highlighted to the Staff that Aquila is under intense
13 financial pressure. Aquila has about 3 billion in
14 outstanding debt and such low credit ratings that its bonds
15 are considered to be high yield junk.

16 Because of this financial stress on Aquila,
17 the Staff is recommending that the Commission order Aquila
18 to continue the customer service quality measure reporting
19 that Aquila is voluntarily making to the Staff now and that
20 it increase the frequency of that reporting from quarterly
21 to monthly. Nothing further.

22 JUDGE PRIDGIN: Mr. Williams, thank you.

23 Mr. Micheel, on behalf of the Office of the
24 Public Counsel, please.

25 MR. MICHEEL: May it please the Commission.

1 Douglas E. Micheel on behalf of the Office of the Public
2 Counsel and the public.

3 Good morning. Aquila has requested two things
4 from you today. And the first thing I think everybody has
5 emphasized, that's authority to encumber all -- all billion
6 dollars of Missouri assets, just jurisdictional assets, to
7 secure its obligations under the \$430 million, three-year
8 term loan and first mortgage bonds. And remember that's the
9 billion dollars of assets to support the \$250 billion
10 alleged working capital requirement for US utilities.

11 But second, and more importantly, Aquila has
12 sought authority to secure the future replacement debt
13 offerings for working capital requirements not to exceed
14 \$430 million at the conclusion of the three-year,
15 \$430 million term loan.

16 The evidence in this case will demonstrate
17 that the US utility working capital requirement is only
18 \$250 million. There's no evidence as to why this Commission
19 should allow a rollover for working capital of \$430 million.

20 As Mr. Williams stated, Public Counsel
21 believes that this is a case of first impression. You will
22 not find one case cited by applicants, by the Office of the
23 Public Counsel, by the Staff, by the State or by the
24 Industrial Intervenors that talks to you about what the
25 standard is -- what the public interest detriment standard

1 is for an encumbrance case. All of the cases cited by
2 applicants are merger cases. And I believe there is a
3 distinction and a difference between those.

4 Public Counsel believes that the Commission
5 should reject both Aquila's request to encumber the loan --
6 or to encumber all the Missouri jurisdictional assets for
7 the three-year term loan and to replace it and allow it to
8 rollover the \$430 million term loan.

9 The evidence will demonstrate that Aquila's
10 request is detrimental to the public interest. Public
11 Counsel will present three witnesses that will explain at
12 length this detriment: Mr. Robertson, Mr. Burdette and
13 Mr. Busch. Their testimony will demonstrate the following
14 detriments among others.

15 First, that regulated assets will be
16 supporting nonregulated debt.

17 Second, that if Missouri assets are placed
18 into the pool to support \$430 million term loan, to meet
19 their own loan separation of the \$250 million for regulated
20 and the \$180 million of nonregulated, that the company would
21 be required to make optional prepayments under the loan with
22 a make whole provision that would be directly detrimental to
23 both the company and the customers.

24 Third, the evidence will demonstrate that
25 mortgaging all of the Missouri property will result in the

1 company having less financial flexibility. The evidence
2 will also show -- and I don't think there's any doubt about
3 this -- that Aquila has currently enough regulated assets
4 currently in the pool to support the \$250 million alleged
5 peak day working capital requirement.

6 Second, the evidence will demonstrate clearly
7 that Aquila already has the proceeds of the term loan.

8 Third, the evidence will demonstrate that the
9 term loan in and of itself did not -- did not contemplate or
10 require this Commission to approve the loan. Aquila knew
11 coming to you today that there was a possibility that this
12 term loan should be -- could be, excuse me -- I think it
13 should be, but could be denied by the Commission.

14 With respect to Aquila's request to continue
15 to rollover the loan after the end of the three-year term
16 and allow \$430 million for alleged working capital needs
17 after the end of the three-year term loan, first of all, the
18 evidence will prove that there is no firm plan after the
19 three years. That the situation that Aquila is facing is
20 fluid.

21 Secondly, the evidence will show that that
22 current plan as filed in -- attached as RD-1 is constantly
23 changing.

24 Third, the evidence will show that there is
25 absolutely no reason that this Commission should allow

1 Aquila carte blanche, in other words, to go out after the end
2 of this three-year term loan, if you're inclined to allow
3 them to do that, to allow them to roll it over.

4 The Commission should require Aquila to come
5 in after -- if it decides to approve the three-year term
6 loan, they should deny the rollover and require the company
7 to come in and explain its plans once again.

8 Third, there's a huge issue about the
9 company's peak day working capital needs. And it's these
10 peak day working capital needs that allegedly cause the
11 entire need for the US utilities to support the \$250 million
12 portion of the working capital loan.

13 The evidence as presented by Mr. Busch will
14 indicate that the Missouri jurisdictional utilities have no
15 peak day working capital need.

16 Secondly, Aquila's own study, the evidence
17 will show, that Missouri's peak day working capital need
18 that Missouri was a net provider of over \$300 million.

19 Finally, the evidence will show even with
20 Aquila's, quote, new and improved peak day capital working
21 study, the only amount of peak day working capital alleged
22 by the company to be caused by Missouri jurisdictional
23 utilities is a little over \$36 million.

24 At most, this Commission, if it decides to
25 grant this application, which we don't think it should --

1 but if it decides to grant this application, the Commission
2 should only -- only subject \$37 million of Missouri assets
3 to support this term loan. According to the most optimistic
4 study, which we don't agree with, that's the level that
5 Missouri causes. If we're going to be all in this together,
6 Missouri should only pay its fair share.

7 Finally, you've heard a lot about the
8 standard. And the standard is a very tough issue in this
9 case. And I think all parties agree that the standard is
10 not detrimental to the public interest, but here's where the
11 rub comes in. Is the standard -- does not detrimental to
12 the public interest mean only an immediate impact to rates
13 and only immediate impact to service as stated by the
14 applicants?

15 First of all, I think the evidence is going to
16 demonstrate that all of those cases are merger cases, not
17 encumbrance cases. Secondly, if the Commission took that
18 position literally in this encumbrance case, the Commission
19 never would have the authority to reject an encumbrance
20 case. Why? It's not a rate case.

21 And, Commissioners, it's black letter law in
22 Missouri outside the confines of a rate proceeding, the
23 Commission cannot change rates. So simply, if the
24 Commission, by statute, outside the confines of a rate case
25 cannot change rates, it makes absolutely no sense that when

1 the legislature gave this Commission authority to review a
2 request to mortgage or encumber utility properties, that the
3 standard would be are rates going to change.

4 They would have been giving this Commission an
5 act it could not do because by law, in a financing
6 proceeding, rates can't change.

7 We believe that the standard is balancing the
8 benefits that the company gets from this encumbrance versus
9 the detriments that will incur to the ratepayers. And I
10 think the evidence will demonstrate that the benefits the
11 company gets versus the detriments caused to the ratepayers,
12 the balance will tip to the detriments and that this
13 application should be denied. But to be sure, there is no
14 standard that has been specifically articulated because this
15 is a case of first impression.

16 JUDGE PRIDGIN: Mr. Micheel, thank you.

17 Mr. Conrad?

18 MR. CONRAD: May it please the Commission.

19 I find myself in an unenviable position of
20 having to be in two places at once. I'm also supposed to be
21 next door in a prehearing conference in about five minutes,
22 so I'm just going to make three quick points.

23 You've heard the Aquila counsel talk about
24 detriment. We certainly support the approach that the
25 Public Counsel has, but I'd also submit to your Honors that

1 the reading that Aquila counsel gives to that approach is
2 not the law.

3 The law can be traced back not to this
4 Commission's decisions, much though I respect them, but
5 rather to a banc case from the Missouri Supreme Court in
6 St. Louis versus Public Service Commission, which is found
7 at 73 S.W. 2d 393. With specific reference to -- it's a
8 1934 case by the way, still good law, with specific
9 reference to page 399 in that.

10 Let me just share with you very quickly the
11 language that the court used because it ties very crisply,
12 your Honors, to the dissent -- not the dissent, but the
13 concurrence that Commissioner Gaw filed here.

14 Listen to the Supreme Court. The whole
15 purpose of the Public Service Commission Act is to protect
16 the public. The public served by the utility is interested
17 in the service rendered by the utility and the price
18 charged, therefore. The investing public is interested in
19 the value and stability of the securities issued by the
20 utility. In fact, the Act itself declares this to be the
21 purpose. And continuing, It is their -- this is you five --
22 it is their duty to see that no such change shall be made as
23 would work to the public detriment.

24 There is no word "immediate," there is no word
25 "status quo," there is no word "maintain." If a course of

1 events is set in motion that would work to the detriment of
2 both the rate-paying public and the investing public, that
3 is a detriment under this state's law.

4 Now, having said that, you want to look for a
5 detriment. Let me pose to you very quickly a hypothetical.
6 Let's say that you have a house that's worth \$250,000.
7 Obviously not a utility executive's house. And you want to
8 buy a Bentley.

9 Now, I have haven't priced Bentley's recently,
10 but my understanding is that they run about a quarter
11 million dollars. Depends on whether you want fine
12 Corinthian leather on the seats or a GPS system installed in
13 the dash. But let's assume that you find a Bentley that
14 satisfies your needs currently and plop down \$250,000 having
15 mortgaged your \$250,000 house to the hilt.

16 Oh, the extascy of driving home in the
17 Bentley. But on the way home there's this twinge in your
18 chest. And so you take a detour to the hospital and say,
19 Doc, I have a pain in my chest. And he says to you, Well,
20 let's do a CAT scan and an MRI and a stress EKG.

21 And after having done all those things, he
22 comes in and says, I have bad news and good news. But the
23 bad news is you're going to need a heart transplant. The
24 good news is you have the money to pay for it because you
25 have a \$250,000 house that you can mortgage. And you're

1 saying to yourself, Boy, I wonder if I can get rid of that
2 Bentley for the money that I paid for it.

3 Now, occasionally utilities have ice storms.
4 Occasionally utilities have wind storms that they have to
5 deal with. They have other things. I seem to recall just
6 vaguely it pops into mind that a Hawthorn plant for Kansas
7 City Power and Light, by gosh, it exploded and nobody
8 anticipated that happening.

9 But now go back to my Bentley. When did the
10 detriment occur? When did the detriment to my
11 creditworthiness occur? When I had the twinge? When the
12 doc does the CAT scan? When he says I need a heart
13 transplant or when I entered into the first mortgage for the
14 house?

15 If the utility came in and asked you, Let us
16 mortgage our Missouri utility assets that are subject to a
17 certificate of convenience and necessity so that we can
18 support our unregulated operations, I would like to think
19 you would pretty quickly say no.

20 If they came in and said to you, Let us
21 mortgage our Missouri utility assets that are subject to our
22 certificate of convenience and necessity in order to support
23 our operations in Colorado, Minnesota, Nebraska, Iowa, I'd
24 like to think you all would pretty quickly say no. And yet
25 through a shell game, that's exactly what they're asking you

1 to do.

2 Now, my third point is very quick. I want to
3 address what I think is the 800 pound gorilla that nobody
4 wants to talk about in this case. And that is the pressure
5 that you five must feel if you were to deny this application
6 and six weeks or three months or name a number later Aquila
7 decides it needs to file a Chapter 11.

8 I'd like to suggest to you that that will not
9 be your fault. And there is substantial defense against
10 such an argument being made, that the Commission by denying
11 this application somehow caused a Missouri utility to go
12 into bankruptcy.

13 The answer is this utility shot itself in the
14 foot, reloaded the revolver, shot itself in the other foot
15 and shot itself about every place that it could shoot
16 itself, all without asking any one of you for the least bit
17 of authority to pull the trigger. Thank you, your Honors.

18 JUDGE PRIDGIN: Mr. Conrad, thank you.

19 Mr. Molteni, on behalf of the State of
20 Missouri.

21 MR. MOLTENI: It's tough following as colorful
22 an opening as Mr. Conrad's. Good morning. I'm Ron Molteni,
23 I'm with the Attorney General's Office and I'm here on
24 behalf of the State.

25 The state opposes Aquila's application to

1 encumber its regulated assets as collateral for this
2 \$430 million loan. Aquila is asking this Commission to do
3 on the back end what this Commission would have never
4 allowed it to do on the front end, and that is collateralize
5 regulated assets to finance their nonregulated activities.
6 And in Aquila's case, these activities have really been
7 adventures.

8 Aquila will tell you that it has segregated
9 the loan proceeds, a part for regulated activities and a
10 part for unregulated activities, but the interest rate
11 Aquila pays on this loan is the same regardless on how it
12 uses those loan proceeds. And that's the result of Aquila's
13 weak credit rating.

14 That weak credit rating, junk bond status, is
15 the product of incredibly speculative management and
16 mismanagement. Aquila's decision-making at the very top was
17 so bad that their stock tanked in just a period of a couple
18 years. It once traded in the upper 30's and now it trades
19 at about \$3.50 a share.

20 And that's despite the fact that Aquila's
21 Missouri regulated assets, when viewed in isolation from the
22 rest of the company's adventures, have always been
23 profitable. But now because of Aquila's adventures on the
24 unregulated side of its business, Aquila's had to enter this
25 term loan for its working capital needs even on the

1 regulated side of its business, a loan whose interest rate
2 reflects the lack of confidence Aquila has earned in the
3 marketplace.

4 This loan is not a traditional utility
5 financing. You won't find the major public utilities in
6 Missouri paying this kind of interest rate in a loan
7 structured this way for the regulated working capital needs.

8 This term loan is between Aquila and Credit
9 Suisse First Boston, but not the Credit Suisse First Boston
10 that's regulated in Missouri and that's registered as a
11 broker/dealer in Missouri with the Secretary of State's
12 office.

13 Rather this term loan is between Aquila and an
14 offshore Cayman Island subsidiary of Credit Suisse First
15 Boston which is a completely separate legal entity from the
16 Credit Suisse First Boston that's the Delaware limited
17 liability corporation. And the Cayman Island subsidiary
18 doesn't appear to be registered to do business in Missouri.

19 It is that Cayman Island subsidiary that put
20 together a syndicate of investors who are willing to take a
21 chance on Aquila. This syndicated investors is buying
22 mortgage bonds under an indenture that supports this loan.

23 Those bonds are not investment grade
24 securities, they're speculative, they're junk bonds. And
25 Aquila is paying a junk bond yield to those investors. And

1 its regulated side of the business will have to support the
2 fact that Aquila is paying that yield. And it's doing that
3 because Aquila was undisciplined in its nonregulated
4 business.

5 Aquila was so undisciplined that last month it
6 had to pay a settlement to the Federal Energy Regulatory
7 Commission after the FERC accused Aquila of price
8 manipulation. Aquila was so undisciplined that it had to
9 hire a forensic accountant to look into accusations that its
10 traders falsely reported prices to industry publication.

11 The term loan and the indenture contain
12 default provisions in the event of default. The trustee,
13 Bank One, for the benefit of the syndicators will be able to
14 use assets and sell them to the highest bidder. Bankruptcy
15 is one event of default.

16 If Aquila goes into bankruptcy and its
17 Missouri assets are pledged, the secured creditor will be
18 the driving force in the bankruptcy as to how those assets
19 are disposed or dealt with.

20 That secured creditor won't be a public
21 utility that's certificated in Missouri with legal duties
22 owing to the public. Rather under this term loan, that
23 secured creditor will be the agent of a syndication of
24 speculative investors who were willing to roll the dice on a
25 high yield junk bond.

1 The State of Missouri doesn't want that
2 syndicate to have the kind of influence over the management
3 of a Missouri certificate -- certificated regulated
4 monopoly. Their motivation is not continuous service at
5 fair and reasonable prices to Missouri's ratepayers.

6 At best in a bankruptcy context, the regulated
7 assets would be subject to the federal bankruptcy judge's
8 discretion in applying bankruptcy codes that in one
9 provision purport to respect the public utility's
10 rate-making decisions and yet in another preempt any state
11 law or regulation that impedes the progress of confirming a
12 bankruptcy plan.

13 If you want to know what the detriment to the
14 Commission's approving this application, it's two fold.
15 It's the risk of this Commission's losing control over
16 assets that are statutorily defined to belong to a, quote,
17 public utility.

18 That in and of itself, that loss of control,
19 it a detriment to the public. A public who depends on this
20 Commission to exercise statutorily prescribed duties and
21 responsibility to ensure that it pays a fair and reasonable
22 price for reliable service to a monopoly service provider.

23 The other detriment to the public is this
24 Commission establishing a precedent. A precedent that a
25 public utility can run amuck on its nonregulated side and

1 that this Commission will, after the fact, allow it to use
2 its regulated assets to bail it out.

3 You'll likely hear Aquila talk about the
4 fairness doctrine. And by that they mean the fact that
5 other states have allowed Aquila to place regulated assets
6 in the collateral pool to secure this loan.

7 There is no basis in any provision of law or
8 generally accepted accounting standards for this fairness
9 doctrine that Aquila talks about. In fact, I asked one
10 question to Beth Armstrong at her deposition in this case.
11 Beth Armstrong being the CFO for their US utilities. If she
12 could tell me about the fairness doctrine. She said she was
13 completely unfamiliar with it. This is their CFO.

14 If other state's Public Utility Commissions
15 have shirked their responsibility to the public, shame on
16 them. Don't join that group.

17 And some states have held their ground.
18 Minnesota just recently denied Aquila's application noting
19 that Aquila has already secured the loan, has adequate
20 capital in the collateral pool and has met the loan's
21 commercially reasonable efforts to gain regulatory approval.

22 This case is about discipline. It's about the
23 discipline Aquila did not have. It's about the discipline
24 this Commission must have to ensure that ratepayers do not
25 flutter in the winds of change that blow through the

1 marketplace. Because Aquila had choices to make in that
2 marketplace, choices they exercised poorly. The ratepayers
3 don't have any choice. Thank you very much.

4 JUDGE PRIDGIN: Mr. Molteni, thank you.

5 Mr. Boudreau, are you ready to call your first
6 witness?

7 MR. BOUDREAU: Yes. I believe I am. Thank
8 you.

9 JUDGE PRIDGIN: I understand from the revised
10 schedule you filed that your first witness will be Glenn
11 Keefe.

12 MR. BOUDREAU: Excuse me. Yes. I would like
13 to call Mr. Keefe to the stand.

14 JUDGE PRIDGIN: Mr. Boudreau, if you'd please
15 approach the podium and lay a foundation. Mr. Keefe, if
16 you'll come and be sworn in.

17 (Witness sworn.)

18 JUDGE PRIDGIN: Mr. Keefe, thank you very
19 much.

20 Mr. Boudreau, when you're ready.

21 MR. BOUDREAU: Thank you.

22 GLENN KEEFE testified as follows:

23 DIRECT EXAMINATION BY MR. BOUDREAU:

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

1 A. My name is Glenn Keefe.

2 Q. By whom are you employed and in what capacity?

3 A. I'm employed by Aquila, Incorporated. I'm the

4 operating vice president of Missouri Electric.

5 Q. Are you the same Mr. Keefe who has caused to

6 be filed prepared Surrebuttal Testimony which has been

7 marked for identification as Exhibit 1?

8 A. Yes.

9 Q. Was that testimony prepared by you or under

10 your direct supervision?

11 A. That's correct.

12 Q. Do you have any corrections to make to your

13 testimony this morning?

14 A. Yes. I have two corrections.

15 Q. Would you please direct us to your first

16 correction?

17 A. On page 1, evidently a word processing error.

18 On top it says, Before the Public Service Commission of the

19 State of Missouri, Surrebuttal Testimony of Jon Empson.

20 That should be Glenn P. Keefe.

21 Q. Would you please direct us to your next

22 correction?

23 A. The second correction is on page 2, and it's

24 about line 3. And it says, Since April of 2003, I have

25 served in my present capacity. That should be 2002.

1 Q. Do you have any other corrections you'd like
2 to make to your testimony at this time?

3 A. That's all.

4 Q. Now, with those corrections, if I were to ask
5 you the same questions as appear in your prepared testimony,
6 would your answers today be substantially the same?

7 A. Yes.

8 Q. Would they be true and correct to the best of
9 your information, knowledge and belief?

10 A. Yes.

11 MR. BOUDREAU: With that, I would tender -- or
12 offer Exhibit 1 into evidence and tender Mr. Keefe for
13 cross-examination.

14 JUDGE PRIDGIN: All right. Let me first see
15 if we have any objections to Exhibit No. 1.

16 MR. WILLIAMS: No objection.

17 JUDGE PRIDGIN: Hearing no objections, Exhibit
18 No. 1, Mr. Keefe's Surrebuttal Testimony, will be received
19 into evidence.

20 (Exhibit No. 1 was received into evidence.)

21 JUDGE PRIDGIN: Mr. Micheel, any
22 cross-examination?

23 MR. MICHEEL: I have no questions for
24 Mr. Keefe.

25 JUDGE PRIDGIN: Mr. Micheel, thank you.

1 Mr. Williams?

2 MR. DOTTHEIM: Yes. The Staff has questions.

3 JUDGE PRIDGIN: Mr. Dottheim, if you'd

4 approach the podium, please.

5 CROSS-EXAMINATION BY MR. DOTTHEIM:

6 Q. Good morning, Mr. Keefe.

7 A. Good morning.

8 Q. Mr. Keefe, Aquila utilizes customer service

9 and reliability indices, does it not?

10 A. That's correct.

11 Q. Those indices are the same as discussed by

12 Staff Witnesses Kay Niemeier and James Ketter?

13 A. That's correct.

14 Q. Those indices are updated on a monthly basis,

15 are they not?

16 A. Yes, they are.

17 MR. DOTTHEIM: If I can approach the witness.

18 JUDGE PRIDGIN: You may.

19 BY MR. DOTTHEIM:

20 Q. Mr. Keefe, I'm going to hand to you a copy of

21 what's been marked as Exhibit 27. It's been marked as

22 highly confidential. Up at the top it states Goal Reporting

23 Tool Printable Report. If you would please review that

24 document, I'm going to ask you some questions regarding it.

25 JUDGE PRIDGIN: Mr. Dottheim, when you get

1 back to the podium, if you could reask that question so we
2 could capture it on the microphone, please.

3 BY MR. DOTTHEIM:

4 Q. Mr. Keefe, I've handed you a copy of what's
5 been marked as Exhibit 27. It's titled at the top of the
6 document in the upper left-hand corner Goal Reporting Tool
7 Printable Report. It also bears that title about maybe a
8 fifth of the way down. If you would take a look at that
9 document, I'm going to ask you some questions regarding it.

10 A. Okay.

11 Q. Mr. Keefe, would you first identify what this
12 document is?

13 A. This is what we refer to as our Dashboard.
14 There are 14 service goals on here for Missouri Electric.
15 Every state has a Dashboard like this. These are our goals
16 and objectives to try to improve customer service.

17 Q. And when you say "every state has a Dashboard
18 like this," you're referring to Aquila states; that is,
19 states where Aquila has utility operations?

20 A. Yes. That's true.

21 JUDGE PRIDGIN: I'm sorry, Mr. Dottheim and
22 Mr. Keefe. If I could interrupt and remind the parties this
23 is a highly confidential document.

24 MR. DOTTHEIM: Yes.

25 JUDGE PRIDGIN: Thank you.

1 MR. DOTTHEIM: And the reason for which it's
2 been indicated as highly confidential I don't believe --
3 well, I have no intention of addressing that item.
4 BY MR. DOTTHEIM:
5 Q. Mr. Keefe, could you identify what the date
6 August 31, 2003 -- what that is intended to signify? It's
7 in the second column of the document to the right of the
8 column identified as Goal.
9 A. That date is the ending date of this data.
10 Q. And this data is for the month of August in
11 2003?
12 A. This data is for year-to-date information,
13 August 2003.
14 Q. Is there a separate Dashboard that contains
15 only data for the month of August 2003?
16 A. No. Not on a Dashboard.
17 Q. Is there another document that contains that
18 information?
19 A. There are -- there is monthly information that
20 is used to prepare this, yes.
21 Q. And when is that monthly information available
22 for the preparation of the Dashboard?
23 A. Usually -- after finance will close and some
24 statistics that have to be gathered, usually about the 18th
25 of the period -- the 15th to 18th after the month closes we

1 have that ready.

2 Q. If I could direct you to one of the items on
3 the Dashboard -- and again, it's my understanding that it is
4 not the reason for which the Dashboard is highly
5 confidential. There is a line item for Meter Read Error
6 Rate. Am I correct?

7 A. That's correct.

8 Q. And Meters Read on Time. Am I correct?

9 A. That's correct.

10 Q. And there are also line items for other
11 indices that are covered in the testimony of Staff Witnesses
12 Ketter or Niemeier and those items would be Customer Average
13 Interruption Duration Index?

14 A. That's correct.

15 Q. And another line item System Average
16 Interruption Duration Index?

17 A. That's correct.

18 Q. And System Average Interruption Frequency
19 Index?

20 A. That's correct.

21 Q. For the Dashboard, are these -- the only items
22 that appear on this page, are these the only indices for
23 which data is utilized to develop the Dashboard?

24 A. Would you repeat that?

25 Q. Is there another document that is another page

1 of the Dashboard? Up at the top the document shows page 1
2 of -- and I don't have the document, whether it's supposed
3 to be page 1 of 1. Do you know?

4 A. Maybe I may explain that this is the top side
5 of the state goals and there's lots of information that
6 rolls up to this top side. For example, the generating
7 station availability base, each plant keeps track of their
8 generation availability. That is put into their reports
9 which rolls into a central area where it's combined. The
10 same thing with SAIDI, SAIFI, CAIDI, all the other indices.
11 So I'm not sure I understand your question, but there are a
12 lot of pieces that's go into this.

13 Q. But the indices that are shown on the page
14 that's been marked Exhibit 27, those are the only indices
15 that appear in the Dashboard?

16 A. That's correct.

17 Q. Are there other indices that are not shown on
18 Exhibit 27 which are utilized by Aquila and for which data
19 is determined on a monthly basis?

20 A. Again, this is the statewide information. If
21 you drive down to the power plants, there may be other
22 information that is used for goal setting.

23 For instance, an example would be forced
24 outage rate for a power plant would be a goal for the power
25 plant. It's not viewed as a state goal, but it's a power

1 plant goal. Other types of goals like that are done at a
2 more local premise area. So did I answer your question?

3 Q. Yes.

4 A. Okay.

5 Q. If I could direct you to your Surrebuttal
6 Testimony. Pardon me for a moment.

7 If I could ask you -- I directed you to your
8 Surrebuttal Testimony, but let me first ask you if you
9 recall in the interview that was conducted by the Staff on
10 July 18th of this year whether you indicated that there are
11 goals set every year and there is a threshold, a target and
12 a maximum value?

13 A. That's correct.

14 Q. Are there a threshold, a target and a maximum
15 value for the indices that are shown on the document that's
16 been marked Exhibit 27?

17 A. Yes. Do you want me to explain that?

18 Q. Yes. In particular, yes, if you would explain
19 what is meant by threshold, target and maximum.

20 A. On the -- on the document, you will have an
21 actual value that is a year-to-date value of where we're at
22 August 31st, 2003. And that will change every month until
23 the end of the year.

24 The actual value is where we're at. The
25 threshold is the minimum where we think we should be. The

1 target is where we want to be. And the maximum exceeds our
2 expectations.

3 On this particular document here, it's
4 colored. It's like a dashboard of your car. You look at
5 this online and things pop up red, which means it needs
6 attention, like your oil light goes out or something like
7 that. Yellow is falling behind, light green is meets or on
8 track and dark green is exceeds expectations.

9 So the threshold is -- would be a yellow
10 indicator that you're -- you're behind, you need to catch
11 up. Anything below that would be a red indicator, which
12 means you need to put some extra attention on that. And, of
13 course, maximum, you're in real good shape.

14 Of these 14 different goals for the state, we
15 have 10 of them that are in the exceeds category, 2 in the
16 meets category, 1 behind and 1 needs attention.

17 Q. Okay. Thank you. If I could direct you to
18 your Surrebuttal Testimony, page 4, lines 3 to 6 where you
19 state, A change to a monthly basis within 20 days of the
20 last day of the month would create additional and
21 unnecessary work for the company.

22 What additional and unnecessary work would
23 that create for the company?

24 A. When we do these dashboards every month, if we
25 would send those to the -- right now we send it quarterly to

1 the Public Service Commission and they review it by month
2 quarterly.

3 If we would send it every month, there might
4 be a blimp or a bump and it may generate many, many data
5 requests. So I would rather spend my time and my staff's
6 time on recognizing the problem ourselves and fixing that
7 problem and then share with the Staff on a quarterly basis.

8 Q. The additional work that you just indicated
9 was work relating to Staff data requests, if I understand
10 you correctly?

11 A. That's part of it.

12 Q. You didn't indicate that the additional or
13 unnecessary work was actually generating the indices on a
14 monthly basis. Am I correct?

15 A. We would have the information generated. We
16 would have to set up a program or a system to send it to
17 you -- to the Staff.

18 Q. And when you said you send it to the
19 Commission, did you mean you send it to the Staff?

20 A. Yes.

21 Q. And are you indicating in your prior answer
22 that you wish to provide the information on a quarterly
23 basis so that before the information for a particular month
24 is provided to the Staff that might cause inquiry on the
25 part of the Staff, you would prefer to, yourself, be able to

1 address that before that information is provided?

2 A. There are -- in reviewing all the statistics,
3 there no indication that our reliability indices, our SAIDI,
4 our CAIDI, our SAIFI, our availability information, it's
5 actually improving, not getting worse. So I don't see right
6 now why the extra effort should be made to look at these
7 things at a monthly basis.

8 Q. Do you review the indices that are shown on
9 Exhibit 27 on a monthly basis?

10 A. Yes.

11 Q. Are there others in the company who review
12 that information on a monthly basis?

13 A. Yes.

14 Q. Could you identify those individuals?

15 A. Part -- part of this -- the -- the great thing
16 about this is that it's on the computer. People that have a
17 computer can pull it up, look at it any time.

18 We -- for those that aren't at a computer, we
19 have employee meetings with the same type of information we
20 go over, these are our goals and objectives, this is where
21 we want to be in customer service.

22 And we've gone over this, it's a regular topic
23 at our staff meetings. We have 12 staff meetings a year and
24 it's a regular topic at our employee meetings. So far this
25 year we've had in Missouri -- I've had in Missouri about

1 20 employee meetings.

2 Q. And at those meetings is the data reviewed on

3 a monthly basis?

4 A. Data is usually reviewed on a year-to-date

5 basis just like this.

6 Q. Mr. Keefe, could you identify whether the

7 company utilizes a Gallup survey?

8 A. Yes, we do.

9 Q. Could you identify what the Gallup survey that

10 the company utilizes is?

11 A. That question might be better answered by our

12 vice president of central services, but I'll go ahead -- I

13 can go ahead and answer it if you want. But it might be

14 better --

15 Q. Who is that individual?

16 A. That is Brett Carter.

17 Q. Why don't you attempt to answer and I'll ask

18 Mr. Carter also --

19 A. Okay.

20 Q. -- for what you're comfortable in responding.

21 A. The Gallup survey is a survey done by a third

22 party that we send to our customers. And there's a number

23 of questions that we ask them about their customer service,

24 what they feel about the company, a host of questions. And

25 then that is completed by a statistical portion of our

1 customers and sent back to Gallup. They prepare a document
2 and give it to us.

3 Q. And when the document is received by the
4 company, what is it utilized for?

5 A. We -- we each get a copy. Operating vice
6 presidents get a copy, we sometimes talk about it at our
7 staff meetings. We did talk about the Gallup survey about
8 two staff meetings ago. So it's reviewed to try to see what
9 our customers think about it, to see if we're improving and
10 just a way to improve our process.

11 Q. Mr. Keefe, part of your testimony deals with
12 reliability and regarding reliability, momentary
13 interruptions of service, does it not?

14 A. Yes.

15 Q. Okay. Can momentary interruptions of service
16 have serious consequences for the customers of the company?

17 A. Not as much as an outage. It affects some
18 customers more than it does -- a momentary interruption
19 could be just a few cycles and that would maybe cause your
20 VCR to blink, your clock maybe reset.

21 But more -- it's more important to companies
22 that have highly sensitive computerized equipment. And most
23 of those companies they have a thing called a UPS or
24 uninterruptible power supply, which in their plant is there
25 to protect it from those blimps. So it's a problem, but

1 it's not probably as pronounced a problem for our customers
2 as SAIDI, CAIDI and SAIFI.

3 Q. Are momentary interruptions potentially of a
4 serious matter for industrial customers that are engaged in
5 manufacturing processes?

6 A. It could be. That's why most -- most
7 industrial customers install un-- UPS systems,
8 uninterruptible power supplies, to keep those little few --
9 every time there's a lightning strike or a tree brushes a
10 line or the wind blows or anything, sometimes it can cause a
11 little blip in the service

12 MR. DOTTHEIM: Thank you, Mr. Keefe. I have
13 no further questions at this time.

14 JUDGE PRIDGIN: Mr. Dottheim, thank you.

15 Mr. Conrad?

16 CROSS-EXAMINATION BY MR. CONRAD:

17 Q. Good morning, Mr. Keefe,

18 A. Good morning.

19 Q. Staff wants to increase the frequency of the
20 reports from quarterly to monthly; is that correct?

21 A. That's correct.

22 Q. And you object to that. Is that also correct?

23 A. That's correct.

24 Q. At page 3 of your testimony you refer to Case
25 No. ER-2001-672?

1 A. That's correct.

2 Q. Do you have that reference, sir?

3 A. No, I do not.

4 Q. What was the quarterly reporting requirement
5 set in that case?

6 A. It was done, to my knowledge, due to the
7 merger of St. Joe Light & Power, Missouri Public Service.
8 And it was set up to kind of ensure that service continued
9 on as it did in the past with St. Joe Light & Power
10 customers.

11 Q. Do you know when that case was resolved?

12 A. It was resolved in 2001.

13 Q. Was Aquila in financial difficulty at the time
14 of that case?

15 A. No.

16 Q. Was Aquila an investment grade utility at the
17 time of that case?

18 A. Yes, it was.

19 Q. Would you agree that under your approach,
20 Staff and the Commission might not become aware of a
21 deterioration of service reliability for as much as three
22 months?

23 A. No. Say that again.

24 Q. Would you agree that under your approach,
25 Staff and the Commission might not become aware of a

1 deterioration in service reliability for as much as three
2 months?

3 A. That's possible.

4 Q. Three months is a quarter. Right?

5 A. Uh-huh.

6 Q. Would you agree that under Staff's request,
7 they would become aware of such a deterioration in one month
8 or one third the time that's under your approach?

9 A. That's true.

10 Q. Given Aquila's current credit standing and
11 junk debt rating, would you agree with me that the
12 Commission and the ratepayers have reason to be more
13 concerned about service reliability than would be the case
14 if Aquila were financially healthy?

15 MR. BOUDREAU: Objection, it calls for
16 speculation about what ratepayers may or may not think or
17 feel.

18 JUDGE PRIDGIN: Sustained.

19 BY MR. CONRAD:

20 Q. You testified that changing to a monthly
21 reporting scheme would create additional and unnecessary
22 work for Aquila?

23 A. That's correct.

24 Q. Is it your testimony that preparing reports to
25 document reliability indices for a regulated public utility

1 is unnecessary work?

2 A. It's a necessary work.

3 Q. It is necessary or unnecessary, sir?

4 A. To -- state that again.

5 Q. Is it your testimony that preparing the

6 reports to document reliability indices for a regulated

7 public utility is unnecessary work?

8 A. It's necessary work.

9 Q. Would shifting to a monthly report require

10 that any additional personnel be hired?

11 A. It would put more burden, I'm afraid, on

12 existing personnel, like I said.

13 Q. Would additional personnel have to be hired?

14 A. Probably not.

15 Q. At page 4 and 5 you complained about

16 Mrs. Wandel's observations. Are you suggesting that Staff

17 should change the way it reports these criteria?

18 A. I think Staff should re-- us report to the

19 Staff quarterly?

20 Q. Are you suggesting that Staff should change

21 its criteria? Yes or no.

22 A. That -- the criteria is quarterly right now.

23 Q. Are you suggesting about Mrs. Wandel's

24 observations that you reference at page 4 and 5 of your

25 testimony -- are you suggesting that Staff should change how

1 it reports these criteria?

2 A. I think the Staff should continue as we've

3 been reporting them now, quarterly.

4 Q. Would you agree that Staff gathers similar

5 data on other utilities in the state beside Aquila?

6 A. I assume so, yes. I don't think they do it

7 monthly.

8 Q. Do you contend that Aquila is the only utility

9 in the state that has changed its line extension policy?

10 A. I'm not sure about that.

11 Q. Do you contend that Aquila is the only gas

12 distribution utility in the state that has had to deal with

13 escalating natural gas prices?

14 A. No.

15 Q. Do you contend that Aquila is the only utility

16 in the state that has changed the format of its bills?

17 A. No.

18 Q. Do you contend that Aquila was the only

19 utility in the state that was affected by the significant

20 ice storm to which you refer?

21 A. No.

22 Q. Do you contend that Aquila is the only utility

23 in the state that has had a precipitous decline in its stock

24 price in recent months?

25 A. The only in the state?

1 Q. Yeah.

2 A. Yes.

3 Q. So in that regard you believe Aquila is
4 unique?

5 A. Yes.

6 Q. Do you contend that Aquila is the only utility
7 in the state to have attracted such less than positive, I
8 believe is your quote, public scrutiny regarding executive
9 compensation issues at the same time that the stock price
10 was precipitously declining?

11 A. That's speculative, but it would appear so,
12 yes.

13 Q. Do you regard that Aquila is unique in that
14 respect?

15 A. As far as I know, yes.

16 Q. Do you contend that Aquila's customers are
17 more likely than the customers of other public utilities to
18 lodge unwarranted and unjustified complaints?

19 A. Repeat that question, please.

20 Q. Do you contend that Aquila's customers are
21 more likely than the customers of other public utilities to
22 lodge unwarranted and unjustified complaints?

23 A. That's probably true, yes.

24 Q. Do you know if that attitude is widely held
25 throughout Aquila?

1 A. Our customers?

2 Q. No. What you just testified a moment ago,
3 that you believe that the Aquila customers are more likely
4 than the customers of other utilities to lodge unwarranted
5 and unjustified complaints.

6 A. I think that's true because -- especially in
7 the Kansas City area, there has been a lot of documentation
8 and front page stories about Aquila. It's kind of eased off
9 now.

10 And we're looking at our Public Service
11 Commission complaints and it appears that we're making some
12 real improvements on the amount of Public Service Commission
13 complaints. I believe this year versus last we have
14 decreased our Public Service Commission complaints by about
15 30 percent. And what we did last year, that's excluding
16 85 complaints due to the ice storm. We weather normalized
17 the ice storm.

18 Q. Is the attitude you've expressed regarding
19 your customers widely held in your department and in your
20 area of responsibility?

21 A. Yes.

22 Q. A moment ago you were talking with
23 Mr. Dottheim about blinks. I think that's how you
24 characterized them, as blinks.

25 A. Yes. I think formally it's called -- it's --

1 the reliability statistic for that is MAIFI.

2 Q. You indicated that industrials might have
3 uninterruptible power supplies which you short handed as
4 UPS; is that correct?

5 A. Yes.

6 Q. Are you familiar with the load that Ag
7 Processing presents to your company in St. Joseph?

8 A. Yes.

9 Q. How large is that load?

10 A. They're definitely in the top 20 customers.

11 Q. How large is the load in megawatts?

12 A. I don't remember the exact numbers.

13 Q. Would you accept, subject to check, it's
14 greater than five?

15 A. Yes. It's greater than five.

16 Q. You're an engineer. Correct?

17 A. Yes.

18 Q. Would you estimate how large a UPS would have
19 to be to handle a 5-megawatt load?

20 A. I think that what I'm talking about is not
21 five megawatts of computer equipment. I'm talking about
22 five megawatts of sensitive equipment.

23 For example, at the power plants we have about
24 a 20-megawatt load of our auxiliary power supply. And we
25 have a portion of that load -- when you bring that auxiliary

1 power in, you separate it with switch gear and that
2 separated switch gear may feed a computer system. That
3 computer system may only be 200 -- a quarter of a megawatt
4 or half megawatt or 1 megawatt, but that computer system is
5 what the UPS supplies.

6 You do not use a UPS to supply all of the
7 gross load to a plant, every motor, every piece. It's just
8 for the sophisticated equipment that's needed to supply the
9 equipment that needs a UPS system.

10 Q. Can a turbine go off line because of a power
11 blip?

12 A. Probably not. We usually ride those out.
13 That's why we have UPS systems. Again, that's in our
14 control system and we have universal -- uninterruptible
15 power supplies on our portion of the system that controls
16 the turbine controls.

17 Q. Can --

18 A. That's very -- that's got to be a very clean
19 power. That's why we have UPS's.

20 Q. Can an entire production line be taken off
21 line by a blip?

22 A. It's possible.

23 Q. Are you familiar --

24 A. Not very probable.

25 Q. -- with AGP's operation in St. Joseph?

1 A. Just slightly.

2 Q. Do you understand that power blips take their
3 entire production line off line and it takes several hours
4 to restart it --

5 A. Yes.

6 Q. -- do you understand that, sir?

7 A. We have --

8 MR. CONRAD: Thank you. That's all.

9 MR. BOUDREAU: I'm going to object to counsel
10 testifying.

11 JUDGE PRIDGIN: Mr. Conrad, are you finished?

12 MR. CONRAD: Yeah.

13 JUDGE PRIDGIN: Mr. Molteni, do you have any
14 cross?

15 MR. MOLTENI: I do.

16 JUDGE PRIDGIN: Can you tell me ballpark
17 estimate about how much you have?

18 MR. MOLTENI: Just a few minutes.

19 JUDGE PRIDGIN: Go ahead and approach the
20 podium, please. We'll take a break after your cross.

21 CROSS-EXAMINATION BY MR. MOLTENI:

22 Q. Good morning, Mr. Keefe.

23 A. Good morning.

24 Q. Do you recall Mr. Conrad's asking you a
25 question that Mr. Boudreau first object-- the first question

1 Mr. Conrad asked you a question about that Mr. Boudreau
2 objected to?

3 A. You might repeat it.

4 Q. I'm just asking --

5 A. No.

6 Q. -- if you remember that?

7 You don't remember Mr. Conrad's asking you a
8 question and then Mr. Boudreau --

9 A. I really --

10 Q. -- asserting an objection?

11 A. Yes.

12 Q. And do you recall that Mr. Boudreau's
13 objection involved speculation about ratepayers?

14 A. Yes.

15 Q. Are you, yourself, a ratepayer to a public
16 utility?

17 A. Yes, I am.

18 Q. If we had the court reporter read Mr. Conrad's
19 question back to you, would you be able to answer that
20 question in your capacity as a ratepayer?

21 A. I'm answering --

22 MR. BOUDREAU: I think I'm going to object to
23 this line of questioning. I'm not sure where it's going.
24 The fact of the matter is I objected to the question on the
25 grounds that it called for speculation. The witness has

1 testified he doesn't recall what the question was and I'm
2 going to object to this continuing line of questions about a
3 question he doesn't recall.

4 MR. MOLTENI: Well, Mr. Boudreau's objection
5 was specifically that it was speculative because it regarded
6 what ratepayers would be thinking. And I asked Mr. Keefe if
7 he's a ratepayer and he said he was.

8 And we don't have any problem having the court
9 reporter pull up the exact question that Mr. Conrad asked
10 and Mr. Keefe said he can answer that question in his
11 capacity as a ratepayer.

12 THE COURT: I'll sustain the objection. If
13 Mr. Keefe does not recall a question, we may need to pull
14 that up and you may need to reask the question.

15 MR. MOLTENI: Can we go ahead and have the
16 court reporter pull that question up then?

17 JUDGE PRIDGIN: If you want to go ahead and
18 re-establish what the question is that you want Mr. Keefe to
19 answer. And if he doesn't recall the question, you're
20 either going to need to reask it or find it somewhere else.

21 BY MR. MOLTENI:

22 Q. Mr. Conrad's question was, given Aquila's
23 current credit standing and junk debt rating, would you
24 agree with me that the Commission and the ratepayers have
25 reason to be more concerned about service reliability than

1 would be the case if Aquila were financially healthy?

2 And Mr. Boudreau, if you recall, he objected

3 to that question based upon speculation as to what

4 ratepayers would be thinking. And now I'm asking you, are

5 you a ratepayer? And I believe you testified you were a

6 ratepayer. Correct?

7 A. Yes, I am.

8 Q. So in your capacity as a ratepayer, how would

9 you answer that question?

10 A. I would say that the pressure that all of this

11 happens would bring more attention to Aquila.

12 Q. And in the context of that attention, you told

13 Mr. Conrad that Aquila's customers are more likely to lodge

14 unwarranted complaints than other utility customers.

15 Correct?

16 A. I didn't say lodged unwarranted complaints,

17 but I think that -- yes, I'll have to answer that yes.

18 Q. And you mentioned that in the Kansas City area

19 stories have appeared in newspapers and the customers read

20 those papers. Right?

21 A. That's correct.

22 Q. I'm going to ask you about these stories you

23 mentioned -- that you brought up. Are you talking about

24 stories regarding the drop in Aquila's stock price?

25 A. I'm talking about stories about severance pay,

1 items like that.

2 Q. And when you talk about stories of severance
3 pay, you're talking about stories about the severance pay to
4 Bob Green and the multi-million dollars severance pay Bob
5 Green received?

6 A. Yes.

7 Q. And are you talking about stories regarding
8 the bonuses -- the multi-million dollars bonuses that
9 Richard Green and Bob Green received last year?

10 A. Some of those.

11 Q. Are you talking about the stories that that
12 severance pay and those bonuses came on the heels of laying
13 off 1,500 employees? Are those the stories you're talking
14 about?

15 A. Some of those stories have been written.

16 MR. MOLTENI: Thank you.

17 JUDGE PRIDGIN: Mr. Molteni, thank you. At
18 this time let's go off the record and take a brief break.
19 We will resume at eleven o'clock.

20 (A RECESS WAS TAKEN.)

21 JUDGE PRIDGIN: We are back on the record. We
22 have finished counsel's cross-examination of Mr. Keefe and
23 we'll now open the witness up for cross-examination from the
24 Bench starting with Chairman Simmons. Do you have any
25 questions, sir?

1 CHAIR SIMMONS: Judge, I'm going to pass at
2 this time. I might reserve time to come back later.
3 JUDGE PRIDGIN: Thank you, Commissioner.
4 Commissioner Murray, any questions?
5 COMMISSIONER MURRAY: I have no questions.
6 Thank you.
7 JUDGE PRIDGIN: Commissioner Gaw?
8 COMMISSIONER GAW: No questions, Judge. Thank
9 you.
10 JUDGE PRIDGIN: Thank you.
11 Commissioner Clayton?
12 COMMISSIONER CLAYTON: No questions.
13 JUDGE PRIDGIN: Thank you.
14 And I don't believe I have any questions for
15 this witness. And normally I would re-open this to recross,
16 but since we don't have any questions from the Bench, I'm
17 not going to do that.
18 Mr. Boudreau, any redirect based on the cross?
19 MR. BOUDREAU: I just have one -- maybe a
20 couple of lead-in questions, but basically one topic I'd
21 like to touch. Thank you.
22 REDIRECT EXAMINATION BY MR. BOUDREAU:
23 Q. Mr. Keefe, I wanted to ask you, do you recall
24 a question that you were asked by Mr. Conrad about whether
25 or not the monthly reporting would cause you to feel the

1 need to hire any additional personnel to comply?

2 A. Yes.

3 Q. And you indicated -- I believe your answer was

4 no?

5 A. That's correct.

6 Q. But I also believe that you indicated that it

7 would be additional work for the current staff?

8 A. That's correct.

9 Q. Now, the question I have for you, sir, is why

10 would your preference be that additional -- that the

11 additional workload of preparing monthly reports not be

12 assigned to your existing staff?

13 A. The existing staff that we have, they do a

14 great job, they have a lot of things on their plate, very

15 busy. I just do not want to add any more burden to them.

16 I'd rather have them work on improving some of

17 our statistics like reliability statistics, our -- a better

18 way to track our heat rate or things like that then I would

19 to month-by-month answer data requests on the Dashboard.

20 I'd rather see three months, talk to the

21 Commission, we can then explain better blips. Sometimes you

22 might see a blip in it and you're investigating it, trying

23 to find the information and then you're trying to answer

24 questions also and it makes it a little more difficult. So

25 I prefer to have the quarterly like we do now.

1 MR. BOUDREAU: Very good. That's all I have.
2 Thank you, sir.

3 JUDGE PRIDGIN: Mr. Boudreau, thank you. May
4 this witness be excused?

5 MR. BOUDREAU: Actually, that would be fine.
6 And I'm glad you brought that up because I would like the
7 witness to be able to be excused, because I know he has some
8 responsibilities back in Kansas City.

9 JUDGE PRIDGIN: Any objections?

10 All right. Hearing none, you may step down,
11 Mr. Keefe. Thank you for appearing today. Thank you for
12 your testimony, sir.

13 THE WITNESS: Thank you.

14 MR. DOTTHEIM: I would like to --

15 JUDGE PRIDGIN: Mr. Dottheim?

16 MR. DOTTHEIM: I would like to offer Exhibit
17 27 at this time.

18 JUDGE PRIDGIN: All right. I believe that has
19 been published. And let me see if we have any objections.

20 MR. BOUDREAU: No objection. Thank you.

21 JUDGE PRIDGIN: Hearing no objection, Exhibit
22 No. 27 is admitted into evidence.

23 (Exhibit No. 27 was received into evidence.)

24 JUDGE PRIDGIN: Mr. Boudreau, I understand
25 your next witness would be Brett Carter?

1 MR. BOUDREAU: That would be correct, yes.
2 Mr. Carter. I'd like to call Mr. Brett Carter to the stand,
3 please.
4 JUDGE PRIDGIN: Mr. Carter, if you would,
5 please step to the witness stand and be sworn, please.
6 (Witness sworn.)
7 JUDGE PRIDGIN: Thank you very much, sir.
8 Mr. Boudreau, when you're ready.
9 MR. BOUDREAU: Thank you, sir.
10 BRETT CARTER testified as follows:
11 DIRECT EXAMINATION BY MR. BOUDREAU:
12 Q. Good morning, sir.
13 A. Morning.
14 Q. Would you please state your name for the
15 record?
16 A. Brett Carter.
17 Q. By whom are you employed, sir, and in what
18 capacity?
19 A. I'm employed by Aquila. And my title is vice
20 president of central services.
21 Q. Are you the same Brett Carter that caused to
22 be filed what has been previously marked for identification
23 as Exhibit 2, that being your Surrebuttal Testimony?
24 A. That's correct.
25 Q. Was that testimony prepared by you or under

1 your direct supervision?

2 A. Yes.

3 Q. Do you have any corrections that you would
4 like to make to your testimony at this time?

5 A. I do. Page 3, line 3 -- actually, it's
6 line 4. Where the word "improvements" begins, that's
7 actually the answer. So that should be broken out as answer
8 to the question that starts on line 3.

9 Q. Okay. So as I understand it, the question is,
10 Please explain your plans to improve the manner in which the
11 company addresses service levels in the call center.

12 And the following language after that would be
13 the answer to that question?

14 A. That's correct.

15 Q. Okay.

16 A. And page 5, line 19, I'll just read what it
17 should say. It should say, Are there any clarifications or
18 other matters you would like to discuss with regard to
19 staff? So I would add "or" between "clarifications" and
20 "other," delete "make" and delete "in" on line 19.

21 Q. All right. Do you have any other corrections
22 you'd like to make at this time?

23 A. Line 6 -- I mean page 6, line 5. I would put,
24 In the informal interviews in lines 10 and 11 were for the
25 2003 approved and current staffing levels.

1 And then on page -- on line 12, page 6, I
2 would eliminate the words "the company's."
3 And then the final edit to page 7 and it would
4 say, Where we wanted them to be in the past.
5 Q. Excuse me, sir. That would be on line 1?
6 A. Line 1, yes. And then period there. Delete
7 "or even" and then start the sentence with "currently" and
8 delete "however, and."
9 Q. Okay. Just for clarity of the record, line 1
10 then, you would want -- the third word would be "wanted"
11 instead of "want"?
12 A. Right.
13 Q. The sentence would end after the word "past"?
14 A. That's correct.
15 Q. The phrase "or even" would be deleted?
16 A. That's correct.
17 Q. The sentence starts with "currently"?
18 A. Uh-huh.
19 Q. And the phrase -- the words "however, and"
20 following the word "currently" would be deleted?
21 A. That's correct.
22 And final -- the final edit would be to line
23 11 where it says "improving customer." The word that's
24 missing after "customer" is "service".
25 Q. Does that complete your corrections?

1 A. Yes.

2 Q. With those corrections, sir, if I were to ask
3 you the same questions as appear throughout the prepared
4 testimony, would your answers today be substantially the
5 same?

6 A. Yes.

7 Q. And would they be true and correct to the best
8 of your information, knowledge and belief?

9 A. Yes.

10 MR. BOUDREAU: With that, I would offer
11 Exhibit 2 into the record and tender Mr. Carter for
12 cross-examination.

13 JUDGE PRIDGIN: Mr. Boudreau, thank you.

14 Any objections to Exhibit No. 2?

15 All right. Hearing none, Exhibit No. 2 is
16 admitted into evidence.

17 (Exhibit No. 2 was received into evidence.)

18 JUDGE PRIDGIN: Mr. Carter is now available
19 for cross. Mr. Micheel, any questions?

20 MR. MICHEEL: No questions for Mr. Carter
21 today.

22 JUDGE PRIDGIN: Thank you very much.

23 Mr. Williams -- or I'm sorry, Mr. Dottheim?

24 MR. DOTTHEIM: Yes. I have a few questions.

25 JUDGE PRIDGIN: All right. If you'd approach

1 the podium, please.

2 CROSS-EXAMINATION BY MR. DOTTHEIM:

3 Q. Good morning, Mr. Carter.

4 A. Morning.

5 MR. DOTTHEIM: If I could approach the

6 witness.

7 JUDGE PRIDGIN: You may.

8 MR. DOTTHEIM: I would like to provide him

9 with a copy of what has been marked as Exhibit 28, the

10 Second Quarter Report for 2003 Regarding Monthly Performance

11 Data of Aquila.

12 JUDGE PRIDGIN: Mr. Dottheim, can I get one

13 more copy also, please?

14 MR. DOTTHEIM: I'm sorry.

15 JUDGE PRIDGIN: Thank you.

16 MR. DOTTHEIM: I first might indicate that the

17 document is stamped HC. When it was provided to the Staff,

18 it wasn't stamped HC, but based upon some other data

19 provided to the Staff that had been provided as highly

20 confidential, this document was stamped by the Staff HC.

21 I'm not myself going to address any numbers

22 that appear in it, so I don't believe there's going to be

23 any need to go in-camera or anything of that nature.

24 At the same time, the Staff plans to visit

25 with the company regarding Ms. Niemeier's testimony, a fair

1 amount of which is marked highly confidential. We're under
2 the impression that the company may not be asserting that
3 all the information that's indicated is highly confidential
4 is sought to be treated so by the company. And if that's
5 the case, we will refile Ms. Niemeier's testimony so that as
6 much as possible can be in the public record -- open to the
7 public record.

8 JUDGE PRIDGIN: All right, Mr. Dottheim.
9 Thank you.

10 And I will, of course, remind counsel and the
11 witness to take care and try not to talk about any highly
12 confidential information since we are web casting this.

13 Mr. Dottheim, whenever you're ready, sir.

14 MR. DOTTHEIM: Thank you.

15 BY MR. DOTTHEIM:

16 Q. Mr. Carter, excuse me, have you had an
17 opportunity to look at what has been marked as Exhibit 28?

18 A. Yes.

19 Q. Are you familiar with that document?

20 A. Yes.

21 Q. Could you please identify it?

22 A. This document is the -- appears to be the
23 quarterly report that is supplied to the Public Commission
24 Staff from my team, including some of the benchmarking or
25 some of the metrics that we are reporting on a monthly

1 basis.

2 Q. Doesn't Aquila actually view this data on a
3 monthly basis?

4 A. This particular report is specific to the
5 Commission Staff.

6 Q. Then when you say "specific to the Commission
7 Staff," could you explain that, please?

8 A. Well, we -- we gather this information in
9 different -- different groups gather this information
10 annually. And then this -- this report is actually compiled
11 from several sources.

12 Q. Is the basic information that's covered by
13 this report utilized by your staff or other individuals at
14 Aquila?

15 A. Yes.

16 Q. And is it utilized on a monthly basis?

17 A. Yes.

18 Q. Are there reports that are generated based
19 upon this data for each month of the year?

20 A. Can you restate, please?

21 Q. Yeah. Are there any reports or are there any
22 documents that are specifically related to each month of the
23 year covering this information?

24 A. Yes.

25 Q. By looking at monthly data, would it be easier

1 to identify a developing trend than looking at monthly data
2 on a quarterly basis?

3 A. I believe so.

4 Q. I'd like to direct you to your Surrebuttal
5 Testimony, page 2, line 20 through page 3, line 1. And, in
6 particular, I'd like to address the sentence, Monitoring
7 trends on a quarterly basis, however, is a more effective
8 way to communicate about our service levels, especially
9 given the plans we have to improve or maintain the current
10 levels.

11 What service level does the company intend to
12 maintain that you're referring to in that sentence?

13 A. I'm referring to the call center service
14 levels, I'm referring to the abandoned call rate, those
15 types of service levels.

16 The -- the statement here was an attempt to
17 try and create a better communication between the company
18 and the Staff by not just having numbers go out, but
19 actually had suggested with the Staff to meet on a quarterly
20 basis with the team to explain what those numbers actually
21 do mean so that there would be a better understanding of the
22 fluctuations in the numbers.

23 Q. Mr. Carter, can you identify who Carl Turner
24 is?

25 A. Carl Turner is a direct report of one of my

1 direct reports who handles quite a bit of rate requests --
2 or requests from Staff.

3 Q. When you said "rate requests," did you mean
4 data requests?

5 A. Yes.

6 Q. At this time I'd like to have marked as -- it
7 has already marked as Exhibit 29. I'd like to approach the
8 witness with a copy and distribute it. It is Aquila's
9 response to Staff Data Request No. 3948.

10 JUDGE PRIDGIN: You may approach.

11 THE WITNESS: Thank you.

12 BY MR. DOTTHEIM:

13 Q. Mr. Carter, have you had a chance to review
14 what's been marked as Exhibit 29?

15 A. Yes.

16 Q. Do you recognize that document?

17 A. Yes.

18 Q. Did you review the answer that appears on that
19 document?

20 A. Yes, I have.

21 Q. And that is, did you review it before it was
22 submitted to the Staff?

23 A. No, I did not.

24 Q. Mr. Carter, I'd like to refer you again to
25 your Surrebuttal Testimony. I'd like to refer you to

1 page 3, lines 1 and 2 where you state, A change to monthly
2 reporting would create additional and unnecessary work under
3 these circumstances.

4 What additional and unnecessary work would be
5 created?

6 A. Well, as -- as Carl stated, this report -- the
7 report you receive is a special report. We do pull the
8 information from various parts of the company. The reports
9 are a very manual process -- excuse me, very manual process
10 and it does take an effort to pull that information
11 together.

12 In trying to get information back to the Staff
13 on the other data requests, that is just an added workload
14 to try and get that information out on a monthly basis.

15 Q. And you characterize it as unnecessary work?

16 A. I believe that the information and how we use
17 it on a monthly basis from an operational perspective is
18 different than the way the Staff would utilize that
19 information.

20 Q. Mr. Carter, do you know what is the cost of
21 providing the information that the Staff is suggesting
22 should be provided on a monthly basis rather than on a
23 quarterly basis?

24 A. I have not gathered information around that.

25 Q. I'd like to direct you again to your

1 Surrebuttal Testimony, page 3, line 7 where you make
2 reference to a business rule design.

3 A. Uh-huh.

4 Q. What do you mean by that phrase?

5 A. Business rules are the standards in which we
6 use to drive out the processes of how we handle our daily
7 activities. And actually Carl Turner is within that group
8 and assists us with trying to standardize our business rules
9 across the seven states.

10 Q. What did you mean by the phrase "business rule
11 design focused on tariff compliance"?

12 A. Well, each -- each state has its own tariff
13 and so we -- when we're implementing rules, it -- we have to
14 make sure that we're complying with the tariff language in
15 each state, even though we'd like to try and move toward a
16 standardized model to gain efficiencies across the entire
17 system.

18 Q. I'd like to direct you to page 4 of your
19 Surrebuttal Testimony, lines 17 to 18, where you reference
20 benchmarking against other utilities is key to optimize
21 performance.

22 A. Right.

23 MR. DOTTHEIM: At this time, I'd like to
24 approach the witness with an exhibit -- what's been
25 premarked as Exhibit 30.

1 JUDGE PRIDGIN: You may approach.

2 BY MR. DOTTHEIM:

3 Q. Mr. Carter, have you had an opportunity to

4 review Exhibit 30?

5 A. Yes, I have.

6 Q. Can you identify that document?

7 A. This document is a benchmark study that I

8 requested have done -- I believe it was for the first time

9 about two months ago -- to identify the staffing levels and

10 service levels of comparable utilities.

11 Q. And Exhibit 30 is marked as highly

12 confidential. Again, I don't believe I'm going to have any

13 need to go into any detail on the document as far as what

14 might be asserted to be highly confidential regarding the

15 document.

16 Mr. Carter, who put together the document;

17 that is, if you could first identify who chose the companies

18 that appear on that document?

19 A. The direction was from me. The financial

20 management team that supports our group actually pulled the

21 data together.

22 Q. And how did you select the companies that

23 appear on that document?

24 A. That was primarily driven by customer count

25 and the type of utility.

1 Q. And where was the information obtained from?

2 A. AGA.

3 Q. AGA did not put together the list of

4 comparable companies then, if I understand you correctly?

5 A. That's correct. It was -- it was pulled from

6 summary data.

7 Q. And this is what you are characterizing as

8 comparable utilities?

9 A. In some cases, yes, better than others.

10 Q. Okay. If I could direct you to the second

11 column from the left where it says Fuel, could you identify

12 as you go down the column, what the G, C and E stand for?

13 A. The G is for gas only; C is for combined

14 utility, gas and electric; and the E is for electric only.

15 Q. The third column from the right, SVCLVL, can

16 you identify what those abbreviations are for?

17 A. That is the service level percentage for the

18 specific utility listed. Some are in 20 seconds and some

19 are in 30.

20 Q. And when you say "some are in 20 seconds and

21 some are in 30," could you explain that a little bit more?

22 A. Yes. The service level percentage metric is

23 something that measures the percentage of calls that are --

24 that are actually being answered within a certain amount of

25 time. And some utilities on this report are using

1 20 seconds, some are using 30 seconds. And we haven't
2 actually gotten to the point that we've validated which ones
3 are using which.

4 Q. The comparison that you would make using the
5 data that appears on this document, would it be based on an
6 average? Would you be comparing Aquila to an average value
7 that you determine respecting the companies that are shown
8 on the document?

9 A. More than likely.

10 Q. Is that what is shown on the document itself?

11 A. Yes. The average weighted by customer count
12 and then there's an average combo utility.

13 Q. And is average deemed as some goal to strive
14 for?

15 A. Average was really a number to try and
16 determine where most utilities were falling. And we were
17 using that as a -- as a gauge to see where we would likely
18 want to bring our service level to. And there's -- there's
19 also additional information being gathered behind here that
20 correlates to the type of customer mix the utilities have
21 and the technology that they utilize to obtain the certain
22 service levels.

23 Q. I'd like to direct you again to your
24 Surrebuttal Testimony.

25 A. Okay.

1 Q. And I'd like to direct you to page 5, lines 15
2 and 16 where you state, We also are creating the ability to
3 segment our call data by state for reporting and analysis.

4 Where are you in that process as far as
5 segmenting the call data by state for reporting and
6 analysis?

7 A. We've accomplished it to the average speed of
8 answer level and I believe to the abandoned rate level, but
9 have not been able to drive out the service level by state
10 yet. So I guess you would say probably 75 percent of the
11 way.

12 Q. But you are intending to, on a going-forward
13 basis once you achieve that, to provide data on a state by
14 state basis, the indices as opposed to an aggregate Aquila
15 basis?

16 A. Yes.

17 Q. Any projection as to when -- you've said
18 75 percent. Any projection as far as an actual date?

19 A. I would hope we would be able to get that
20 completed by mid-point next year. The -- again, the
21 resources that are required to do that are working on
22 several different angles.

23 And also stated about the -- it would take the
24 same team that's looking at the graphical user interface for
25 the system that we're building a business case on right now

1 and the IVR enhancements that I state in here.

2 Q. You mention the graphical user interface.

3 What do you mean by graphical user interface?

4 A. Basically our system operates today with -- in

5 an environment that looks like DOS. It's -- it's called

6 3270 and it's -- we refer to it commonly as a green screen.

7 The graphical user interface would actually provide a

8 windows-based environment for the CSAs or the call center

9 associates.

10 Q. Again, I'd like to direct you to your

11 Surrebuttal Testimony at page 6, lines 10 to 11 where you

12 state, Given those plans to improve the manner in which

13 Aquila addresses service levels, quarterly reporting is more

14 appropriate.

15 Your reference to plans to improve the manner

16 in which Aquila addresses service levels, are those the

17 plans that appear starting on page 3 and continuing to

18 page 5?

19 A. Some of it, yes.

20 Q. Okay. There are other plans other than the

21 ones set out in your testimony?

22 A. Yes, there are.

23 Q. And is the timetable for effectuating those

24 improvements set out in your testimony?

25 A. I believe that in general it is. I don't

1 believe that there's a specific timetable to the gooey
2 application -- that's what's going to be driven out in the
3 business case.

4 The hiring of the additional customer service
5 associates has already been implemented and will be
6 completed by the end of the year, whereas, we should
7 actually have a little more than 165 FTEs to directly
8 improve the service levels, which was part of a budget
9 increase for 2004.

10 Q. Okay. If I could direct you to page 7 of your
11 testimony, lines 2 and 3 where you make reference to
12 appropriate service level targets and staffing levels. Have
13 there been established appropriate service level targets and
14 staffing levels for Aquila Networks MPS and Aquila Networks
15 L&P?

16 A. We -- we believe that we have. We developed a
17 forecast model that drives out the total number of customer
18 service associates that we need and the technology necessary
19 to support that. And we believe that some of the
20 information that we're gathering from the benchmark data
21 that you reference in this exhibit is helping us further
22 define where we should be and what type of resources we need
23 to get there.

24 Q. Again, on page 7 I'd like to refer you to
25 lines 10 and 11 where you refer to a two-year time frame for

1 maintaining and/or improving customer service. Why wasn't a
2 shorter time frame than two years chosen?

3 A. Well, the two years is actually sort of a
4 by-product of the actual process of implementing the
5 business rules. So we -- we didn't actually select the
6 number of years.

7 We -- we take into consideration the amount of
8 time it takes to put in place things like the positive ID,
9 which extends out the calls from standardized emergency
10 services and those types of things. And there's sort of a
11 culturization period that takes place for the customer to
12 get accustomed to that -- to that business model.

13 Q. The information that the Staff is requesting
14 that the Commission order the company to provide on a
15 monthly basis, that is, ACR, ASA service levels, percentage
16 of total electric and gas meters read, number of consecutive
17 estimated meter reads, system average interruption frequency
18 index, system average interruption duration index and
19 customer average interruption duration index, do you review
20 any of that information on a monthly basis?

21 A. Yes, I do.

22 MR. DOTTHEIM: If I could have a moment,
23 please.

24 Thank you. I have no further questions at
25 this time.

1 JUDGE PRIDGIN: Mr. Dottheim, thank you.
2 I don't see counsel here for the Intervenor.
3 Mr. Conrad or Mr. Finnegan here? Don't see them.
4 Mr. Molteni, any questions?
5 MR. MOLTENI: No questions.
6 JUDGE PRIDGIN: Thank you. Let me see if we
7 have any questions from the Bench.
8 Mr. Chairman, do you have any questions?
9 CHAIR SIMMONS: Yes, Judge, I will just ask
10 one.
11 QUESTIONS BY CHAIR SIMMONS:
12 Q. Good morning, Mr. Carter.
13 A. Good morning.
14 Q. How are you?
15 A. Great.
16 Q. Good.
17 As I go through your testimony here, I'm
18 trying to get a thought process in terms of how our Staff
19 and your staff interacts with the information provided to
20 our Staff. Does your current staff meet with our Staff on a
21 monthly basis to discuss call information or any of the
22 other details in your presentation or in your testimony?
23 A. I -- I don't believe that there's a standing
24 monthly meeting there with my staff. I'm -- I'm not aware
25 of that.

1 Q. Are you aware of how that actually transpires
2 in terms of the staffs getting together to trade
3 information?

4 A. I know that I have a representative in my
5 group that has met with the Staff on a regular basis. It's
6 not -- it's not a standing meeting. What I was proposing in
7 my testimony was to make that a standing meeting to ensure
8 that when the information is provided, we have a chance to
9 actually review that and go over that information with them.

10 Q. Okay.

11 A. And the only reason I was saying quarterly was
12 because we have plans that we're rolling out. And the -- if
13 you -- if you notice, the staffing increases, those types of
14 things, it's kind of a quarterly model, if you will, when
15 you're -- from recruiting all the way to getting a person
16 efficient on the phone. And so it was -- it was just to
17 kind of cover those -- those -- those with the Staff.

18 Q. Second question is, there was some, I guess,
19 information given to us here that made some comparisons.

20 A. Uh-huh.

21 Q. As we look at the comparisons that I guess was
22 this benchmark summary --

23 A. Yes.

24 Q. -- that we received, do you know if any of
25 these other utility companies have a similar situation,

1 whether it's a monthly, quarterly basis as far as the calls
2 per customer, the FTEs that was given to us? Just an idea?

3 A. We are -- we are currently gathering
4 information, we've set up communications with each of these
5 utility companies to gather more detailed data. This is --
6 this is a very fresh look and start at trying to determine
7 where we fall within comparably sized utilities. And so
8 we -- I do not have all of the -- all of the detailed
9 information that supports this data at this point in time.

10 Q. You have no information in terms of whether or
11 not regulatory agencies or regulatory commissions meet on a
12 monthly or quarterly kind of basis as it relates to these
13 that you've got this data for?

14 A. I do not.

15 CHAIR SIMMONS: Okay. That's all the
16 questions I have. Thank you.

17 JUDGE PRIDGIN: Mr. Chairman, thank you.

18 Commissioner Murray?

19 COMMISSIONER MURRAY: Thank you.

20 QUESTIONS BY COMMISSIONER MURRAY:

21 Q. Good morning.

22 A. Good morning.

23 Q. Are any of the plans to improve the service
24 quality dependent in any way on the Commission's approval of
25 Aquila's application here?

1 A. Absolutely not.

2 Q. And can you tell me how much time is currently
3 involved in preparation of the reports that you give to
4 Staff on a quarterly basis?

5 A. It's -- it's probably about -- I don't have
6 specifics, but I would gather from the different levels of
7 information that it's probably a couple days work.

8 Q. Per quarter?

9 A. Yes.

10 COMMISSIONER MURRAY: All right. That's all
11 the questions I have. Thank you.

12 JUDGE PRIDGIN: Commissioner Murray, thank
13 you.

14 Commissioner Gaw?

15 COMMISSIONER GAW: Just briefly.

16 QUESTIONS BY COMMISSIONER GAW:

17 Q. Good morning, sir. How are you?

18 A. Good.

19 Q. Back to the column on the exhibit that you
20 looked at earlier on service level percentage, could you --
21 and I think you may have already done this, but could you
22 tell me what those numbers are intended to reflect in that
23 column without going into the specific numbers themselves?

24 A. Yeah. It -- basically, I think the column
25 you're referring to, the third one from the right, the

1 service level percentage --

2 Q. Yes.

3 A. -- that is -- that is primarily the number of

4 calls that the call center would be able to answer within a

5 certain period of time. And that period of time is going to

6 be within 20 seconds on within 30 seconds. So from a

7 customer actually calling in and saying -- and being put

8 into the queue, so to speak, would then have to wait 20 to 30

9 seconds to be answered. And that's what that report is

10 about.

11 Q. So if the number is a percentage number under

12 the service level, it would indicate how much calls could be

13 answered within a given time frame, what percentage of calls

14 could be answered within that time frame?

15 A. Yes.

16 Q. And you said 20 or 30 seconds. Is that one or

17 the other here or is that within that window of 20 to 30

18 seconds?

19 A. It's one or the other. It depends on how you

20 set your system up to answer those calls. Ours is set up

21 for a 20-second measurement and other systems are set up for

22 30, sometimes -- sometimes even 40-second intervals.

23 Q. Do we know on the companies that are listed in

24 this document whether all of them are set up at 20 or not?

25 A. The majority of them are set up at 20 and 30.

1 And we don't know exactly which ones are --
2 Q. Which ones are which?
3 A. Right. But we're gathering that information
4 through this -- through this relationship building that
5 we're doing.
6 COMMISSIONER GAW: All right. Thank you, sir.
7 Thank you, Judge.
8 JUDGE PRIDGIN: Thank you, Commissioner.
9 And I don't believe I have any questions for
10 this witness. Let me open this back up to recross.
11 Mr. Micheel, any questions?
12 MR. MICHEEL: No.
13 JUDGE PRIDGIN: All right. Thank you.
14 Mr. Dottheim?
15 MR. DOTTHEIM: No questions.
16 JUDGE PRIDGIN: Thank you.
17 I still don't see Mr. Conrad or Mr. Finnegan.
18 Mr. Molteni?
19 MR. MOLTENI: No, sir.
20 JUDGE PRIDGIN: Thank you.
21 Mr. Boudreau, any redirect?
22 MR. BOUDREAU: Yes, thank you. Just a few.
23 REDIRECT EXAMINATION BY MR. BOUDREAU:
24 Q. Mr. Carter, I believe that you received a
25 question from Mr. Dottheim about whether or not you had

1 quantified the cost of preparing the -- what would be a
2 monthly report to the Staff of these service indices. Do
3 you recall that?

4 A. Yes.

5 Q. And I believe your testimony was that you had
6 not quantified --

7 A. Right.

8 Q. -- that; is that correct?

9 At least not quantified it in dollars; is that
10 correct?

11 A. Right.

12 Q. You, I also believe in response to a question
13 that you received from Commissioner Murray, is that it --
14 the quarterly report you answered -- just looking at the
15 background of information that it would take to comply the
16 quarterly report, you thought there might be as much as two
17 days --

18 A. Yes.

19 Q. -- worth of work involved?

20 A. Yes. And I don't know if that's two days -- I
21 don't know how many -- how many people are involved in that
22 two days work, but we could definitely get that information.

23 Q. I guess my question to you is that if -- would
24 it be a similar amount of time then to prepare an analogous
25 report on a monthly basis?

1 A. Yes.

2 MR. BOUDREAU: That's all I have. Thank you.

3 JUDGE PRIDGIN: Mr. Boudreau, thank you.

4 At this time since we're nearing the noon

5 hour, this would be a good time to break for lunch. And

6 unless this is an unreasonable request, we'd like to

7 reconvene at roughly 1:15 or so, which gives people about 75

8 or 80 minutes. Is that agreeable with the parties? And let

9 me poll the Commission to make sure that's a reasonable

10 lunch break.

11 I'm seeing yes. At this time we will recess

12 for lunch. We will reconvene at 1:15 in the afternoon.

13 And let me clarify. May this witness be

14 excused?

15 MR. BOUDREAU: Yes. Good point again. The

16 witness may be excused. And if it's okay with the other

17 parties, I would like him to be excused if he needs to leave

18 for other responsibilities.

19 JUDGE PRIDGIN: Mr. Dottheim?

20 MR. DOTTHEIM: Yes. I'd also like to offer

21 Exhibits 28, 29 and 30.

22 JUDGE PRIDGIN: Thank you, Mr. Dottheim.

23 I don't hear any objections to Mr. Carter

24 being excused, so Mr. Charter, thank you for your testimony

25 today. You may be excused. We appreciate your appearance.

1 And let me see if we have any objections to
2 Exhibits 28, 29 or 30.
3 Hearing no objections, Exhibits 28, 29 and 30
4 are admitted.
5 (Exhibit Nos. 28, 29 and 30 were received into
6 evidence.)
7 JUDGE PRIDGIN: We will go off the record and
8 reconvene at 1:15. Thank you.
9 (A RECESS WAS TAKEN.)
10 JUDGE PRIDGIN: All right. We're back on the
11 record. I'm sorry. Let's go off. I'm sorry.
12 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)
13 JUDGE PRIDGIN: We're back on the record. We
14 are resuming this afternoon after lunch. And I believe at
15 this time where we left off is with Carol Lowndes. Is that
16 correct, Mr. Boudreau?
17 MR. BOUDREAU: I believe that is correct, yes.
18 JUDGE PRIDGIN: Anything else we need to take
19 up before we have her called to the witness stand?
20 Okay. Hearing nothing, Mr. Boudreau, if you
21 would, please, lay your foundation.
22 MR. BOUDREAU: Thank you. I'd like to call
23 Carol Lowndes to the stand, please.
24 JUDGE PRIDGIN: If you would please come to
25 the witness chair and be sworn in.

1 (Witness sworn.)
2 JUDGE PRIDGIN: All right. Thank you very
3 much.
4 Mr. Boudreau, when you're ready, sir.
5 CAROL LOWNDES testified as follows:
6 DIRECT EXAMINATION BY MR. BOUDREAU:
7 Q. Good afternoon.
8 A. Good afternoon.
9 Q. Would you state your name for the record,
10 please?
11 A. Carol Lowndes.
12 Q. By whom, Ms. Lowndes, are you employed and in
13 what capacity?
14 A. Aquila, Inc.; senior financial manager for gas
15 supply and regulatory.
16 Q. Are you the same Carol Lowndes that caused to
17 be filed prepared Surrebuttal Testimony that has been marked
18 for identification as Exhibit No. 3?
19 A. I am.
20 Q. Was that testimony prepared by you or under
21 your direct supervision?
22 A. Yes, it was.
23 Q. Do you have any corrections to make to that
24 testimony at this time?
25 A. I have quite I few.

1 Q. Okay. Let us proceed.

2 A. On page 3, line 7, the line reference should
3 read line 6 through 8. On the same page, line 13, the page
4 reference should read page 26, lines 17 through 20.

5 On page 4, line 11 the page reference should
6 read page 21, line 17. On the same page, page -- line 17
7 should read lines 8 through 10.

8 On page 5, line 4, line reference line 16
9 through 17. Same page, line 22 should read page 32 and
10 line 23 should read 19 through 24.

11 Page 6, line 2, line reference should read
12 line 22. Line 15, line reference is line 22 and page --
13 line 16, page reference is page 32.

14 On page 11, line 3, page -- should read
15 page 39, lines 12 through 14 and line 13 should read page
16 35.

17 Page 15, line 1, page 44, lines 13 through 15.

18 On page 18, line 16 should read \$6.3 where it
19 now reads 7.5.

20 On page 22, line 21 should read page 35 and
21 line 23 is 16 through 18.

22 Q. Excuse me. There are two line references on
23 line 23. Which line reference needs to be corrected?

24 A. The very first 9 -- where it says 9-11 should
25 read 16-18.

1 Q. Thank you.

2 A. And that is all of the corrections I have to
3 my testimony.

4 Q. Okay. With those corrections if I were to ask
5 you the same questions as appear in the prepared testimony,
6 would your answers today be substantially the same?

7 A. Yes, they would.

8 Q. Would your answers be true and correct to the
9 best of your information, knowledge and belief?

10 A. Yes, they would.

11 MR. BOUDREAU: At this time I would offer
12 Exhibit 3 into the record and tender Ms. Lowndes for
13 cross-examination.

14 JUDGE PRIDGIN: Mr. Boudreau, thank you.

15 Any objections to Exhibit No. 3?

16 MR. MOLTENI: Your Honor, not an objection,
17 but one point of clarification. I have checked with several
18 of the parties and it appears Ms. Lowndes' Surrebuttal
19 Testimony ends on page 23, but that's an incomplete
20 sentence. Is there a page 24?

21 MR. SWEARENGEN: Yes.

22 MR. BOUDREAU: Yes, there is.

23 MR. CONRAD: Is it secret?

24 MR. BOUDREAU: No.

25 MR. CONRAD: Could we make copies?

1 JUDGE PRIDGIN: I have a page 24.

2 MR. SWEARENGEN: Who doesn't?

3 MR. BOUDREAU: I'm trying to figure out how

4 the other parties got their copies. But, yes, there is a

5 page 24. Do I have extra copies with me?

6 MR. SWEARENGEN: We'll get them for you.

7 JUDGE PRIDGIN: For purposes of the objection,

8 do you need to see a copy to simply know whether to object?

9 MR. MOLTENI: I might.

10 MR. SWEARENGEN: I've got my associate here --

11 MR. MOLTENI: Let me take a quick glance at

12 it.

13 The State of Missouri doesn't have an

14 objection.

15 MR. CONRAD: We're fine.

16 MR. MICHEEL: We need one. It didn't show up

17 in the file copy binder that you guys provided. I have it

18 from another source.

19 JUDGE PRIDGIN: I understand we don't have any

20 objection to pages 1 through 24 of Exhibit 3 coming -- as

21 well as the other schedules coming into evidence; is that

22 correct?

23 All right. And I'm sure that we'll see that

24 those parties who don't have page 24 will get copies of

25 those pages.

1 And I'm sorry, Mr. Boudreau, did you have
2 anything else?

3 MR. BOUDREAU: Also for the record, it dawns
4 on me I need to take a look at the official copy of the
5 exhibit that was marked as Exhibit 3 to make sure that it,
6 in fact, has a page 24. And maybe we can clean that up
7 later, but I'd like to reserve the ability to at last add
8 another exhibit or supplement the official Exhibit 3, if
9 necessary.

10 JUDGE PRIDGIN: Okay. That's fine.

11 I'm sorry. She's been tendered for cross?

12 MR. BOUDREAU: Yes, she has.

13 JUDGE PRIDGIN: Thank you. Mr. Micheel?

14 MR. MICHEEL: Yes.

15 MR. BOUDREAU: Has the exhibit been --

16 JUDGE PRIDGIN: I'm sorry. Exhibit 3 is
17 admitted. Thank you.

18 (Exhibit No. 3 was received into evidence.)

19 CROSS-EXAMINATION BY MR. MICHEEL:

20 Q. Ms. Lowndes, would you agree with me that a
21 term note like the three-year, \$430 million term note that
22 Aquila has is not the most efficient and effective means to
23 finance working capital?

24 A. I would.

25 Q. And how did Aquila finance its peak day

1 working capital needs prior to Aquila falling below
2 investment grade?

3 A. We had a credit revolver, I believe.

4 Q. Would that be the \$650 million credit revolver
5 mentioned in Mr. Dobson's Direct Testimony?

6 A. Yes, it would.

7 Q. And did Aquila use the \$650 million credit
8 revolver to finance its peak day working capital needs?

9 A. The utility had access to that, yes.

10 Q. And when we talk about a credit revolver,
11 could you explain to me what a credit revolver is?

12 A. Treasury would probably have a better answer,
13 but you basically have the ability to access cash on a short
14 term number of days and it can float up and down.

15 Q. Okay. And so accessing that cash would be at
16 the commercial paper rate; is that correct?

17 A. They may vary depending on what the
18 arrangements are, but they would be in that area, yes.

19 Q. What was the interest rate or how was the
20 interest rate determined for Aquila's \$650 million credit
21 revolver?

22 A. I do not know that.

23 Q. Is there anybody testifying here today that
24 would know that?

25 A. I believe Mr. Dobson would.

1 Q. You've been at Aquila since 1985; is that
2 correct?
3 A. Yes.
4 Q. Since 1985 has Aquila ever financed its peak
5 day working capital needs with a term loan?
6 A. Not to my knowledge.
7 Q. Is it correct that Missouri utilities will
8 only bear the cost with respect to the \$430 million term
9 loan equivalent to a Triple B investment grade level?
10 A. Yes. We intend to manage this as an internal
11 revolver.
12 Q. And when you talk about in your testimony at
13 page 3, lines 21 through 23 the Triple B rate there, are you
14 talking about the Triple B bond rate?
15 A. Yes. I believe so.
16 Q. And what is the interest cost equivalent to a
17 Triple B investment grade level bond currently?
18 A. I do not know.
19 Q. Can you give me a ballpark?
20 MR. BOUDREAU: I object. The witness -- the
21 witness has indicated she doesn't know.
22 JUDGE PRIDGIN: I think that's calling for
23 speculation. I'll sustain.
24 BY MR. MICHEEL:
25 Q. So sitting there today, Aquila has no idea

1 what interest rate it will be charging Missouri customers.
2 Is that your testimony?
3 A. Aquila might. I do not.
4 Q. Okay. Let me ask you this, if you know. Is
5 the Triple B investment grade bond level rate a higher rate
6 than Aquila's rate for use of its commercial paper?
7 A. Aquila doesn't have any commercial paper
8 outstanding at this time is my understanding.
9 Q. Well, let me ask you this. Do you know in
10 general -- what's your position with the company?
11 A. Senior financial manager for regulatory and
12 gas supply.
13 Q. And in your capacity as a financial manager,
14 do you have occasion to look at what those commercial paper
15 rates are?
16 A. Not really.
17 Q. And you don't have, in your capacity as a
18 financial manager, any reason to look at what the Triple B
19 interest rates are?
20 A. Not in the recent past, no.
21 Q. Let me ask you this. What would be the most
22 efficient means -- most efficient and effective means of
23 financing Aquila's working capital needs?
24 A. Under what circumstances? I mean, we have --
25 this -- we negotiated the term to the best of our ability

1 and --

2 Q. Let's look at your testimony, Ms. Lowndes.

3 A. Okay.

4 Q. And I'm focusing on page 3 --

5 A. Uh-huh.

6 Q. -- and I'm looking at lines 15 through 17.

7 You say, While the company agrees that the term note is not

8 the most efficient and effective means to finance working

9 capital, the company would have been imprudent not to ensure

10 that the necessary cash was made available to the utility

11 for its working capital needs; is that correct?

12 A. Yes.

13 Q. And my question to you is, absent the fact

14 that this company now, due to whatever reasons, is

15 noninvestment grade, what would be the most efficient and

16 effective way for financing working capital?

17 A. Our previously method of the credit revolver

18 that was in place that this term note replaced.

19 Q. And you would agree with me that this term

20 note's interest rate is higher than the credit revolver

21 interest rate; isn't that correct?

22 A. The term note is, but that won't be what we'll

23 be charging the utility.

24 Q. Do you know whether or not -- well, okay.

25 Will the Triple B bond rating that Aquila will

1 be charging the utility, will that interest rate be higher
2 than the most efficient and effective way of financing
3 Aquila's working capital?

4 A. I don't have those numbers in front of me to
5 answer that.

6 Q. Is it correct that Aquila does not have access
7 to the commercial paper markets because it is currently a
8 below investment grade rated utility?

9 A. That's my understanding, yes.

10 Q. And is it correct that Aquila is below
11 investment grade because of its failures in the unregulated
12 businesses of Aquila?

13 MR. BOUDREAU: I object to the form of the
14 question. It calls for speculation about -- it assumes that
15 there's been failures. I mean, it just assumes facts that
16 are not in evidence.

17 JUDGE PRIDGIN: Mr. Micheel, any response?
18 And when you're ready, please respond from the podium.

19 MR. MICHEEL: Well, I mean, your Honor, I
20 think that Mr. Dobson said it in his testimony that they
21 lost numerous amounts of money due to the nonregulated,
22 Mr. Robertson says it in his testimony.

23 Admittedly, standing here today those pieces
24 of evidence haven't been entered into the record and if I
25 need to refresh this witness's recollection or go to another

1 piece of testimony to ask her, I will. I think it's
2 generally understood that's the reason, but --

3 JUDGE PRIDGIN: Well --

4 MR. BOUDREAU: If I might respond, if he's got
5 questions about what Mr. Dobson said previously in
6 deposition, Mr. Dobson is going to be one of the witnesses
7 to testify and he's available.

8 To basically impeach her with somebody else's
9 testimony I think is, first of all, procedurally incorrect;
10 and number two, I'm not sure that's what Mr. Dobson said.

11 JUDGE PRIDGIN: I'll tell you what. I'll
12 overrule. This witness has said -- if she doesn't know the
13 answer, she doesn't know. If she knows the answer, she can
14 answer; if not, she can say, I don't know.

15 THE WITNESS: I would prefer that to be
16 answered by Mr. Dobson. I'm not that familiar with the
17 nonregulated side. I was never on the merchant side.

18 BY MR. MICHEEL:

19 Q. So sitting there today, you're unaware of what
20 caused Aquila's credit rating to drop below investment
21 grade?

22 A. I know pieces, but I do not have the ability
23 to answer that.

24 Q. Is it correct that the only reason Aquila
25 conducted a peak day working capital study is because its

1 access to the capital markets is severely limited due to its
2 below investment grade status?

3 A. Could you repeat that, please?

4 Q. Sure. Is it correct the only reason Aquila
5 conducted a peak day working capital study is because its
6 access to the capital markets is severely limited due to its
7 below investment grade status?

8 A. That would be one of the reasons. We wanted
9 to ensure that we knew how much cash needed to be maintained
10 on the balance sheet given various factors and what those
11 triggers would mean and what that would mean for the cash
12 that needed to be maintained.

13 Q. And that's because, because Aquila is below
14 investment grade, it can't access the capital markets; isn't
15 that correct?

16 A. Yes, it is. Not as easily as it could have
17 before. I --

18 Q. Well, let me ask you this. Does Aquila have
19 any access to the commercial paper market?

20 A. Not to my knowledge.

21 Q. Would you agree with me that the purpose for
22 conducting the peak day working capital study was to support
23 the financing in this proceeding?

24 A. That was one of the reasons, yes.

25 Q. What was the other reason?

1 A. So that we could know -- anticipate come the
2 winter what the cash would need to be for the utility.

3 Q. Is it correct that you assisted in conducting
4 the peak day working capital study?

5 A. No. I was not involved in the original
6 development.

7 Q. Have you become familiar with the original
8 development of that study?

9 A. Yes, I have.

10 Q. Okay. And that study initially was conducted
11 by Mr. Watkins and Ms. Armstrong; is that correct?

12 A. Yes, it is.

13 Q. And you're testifying here today because
14 Ms. Armstrong is on maternity leave; is that correct?

15 A. Will be shortly, yes.

16 Q. So you're the witness for Aquila that I should
17 ask any questions related to the peak day working capital
18 study; is that correct?

19 A. Yes.

20 Q. Is it correct that the peak day working
21 capital study that Aquila conducted included prepayments for
22 natural gas supplies?

23 A. Yes, it does.

24 Q. And those prepayments for natural gas supplies
25 are required because Aquila has a below investment grade

1 rating; is that correct?

2 A. Yes, it is.

3 MR. MICHEEL: I'd like to get an exhibit

4 marked, your Honor. Your Honor, this is Exhibit 39.

5 (Exhibit No. 39 was marked for

6 identification.)

7 BY MR. MICHEEL:

8 Q. Ms. Lowndes, I've handed you what's been

9 marked for purposes of identification as Exhibit 39. Have

10 you had a chance to look at that exhibit?

11 A. Yes, I have.

12 Q. And does that indicate that Aquila's -- why

13 Aquila's paying for natural gas -- prepaying for natural

14 gas?

15 A. Yes, it does.

16 MR. MICHEEL: I would move the admission of

17 Exhibit 39.

18 JUDGE PRIDGIN: All right. Exhibit No. 39 has

19 been offered into evidence. Any objections?

20 MR. BOUDREAU: None.

21 JUDGE PRIDGIN: Hearing no objections, Exhibit

22 No. 39 will be admitted.

23 (Exhibit No. 39 was received into evidence.)

24 JUDGE PRIDGIN: And to make certain that the

25 record reflects what we have here, I show as Exhibit No. 39

1 a one-page document, a Data Request No. OPC 602 dated
2 May 20th, 2003 from James Bush and it's signed by Eric
3 Watkins.

4 Mr. Micheel, did I characterize that
5 correctly?

6 MR. MICHEEL: You did, your Honor.

7 JUDGE PRIDGIN: Thank you. That is admitted.

8 BY MR. MICHEEL:

9 Q. Is it correct, Ms. Lowndes, that natural gas
10 prepayments -- or that no natural gas prepayments were
11 required when Aquila was an investment grade rated utility?

12 A. Correct.

13 Q. Is it correct that the peak day working
14 capital study Aquila conducted included prepayments for
15 pipeline transportation capacity?

16 A. Yes, it does.

17 Q. And is it correct that those prepayments are
18 required because Aquila has a below investment grade rating;
19 is that correct?

20 A. Yes, it is.

21 MR. MICHEEL: I need to get another exhibit
22 marked, your Honor, Exhibit 40.

23 (Exhibit No. 40 was marked for
24 identification.)

25 BY MR. MICHEEL:

1 Q. Ms. Lowndes, do you have before you what's
2 been marked for purposes of identification as Exhibit 40?
3 A. Yes.
4 Q. And is that Public Counsel Data Request OPC
5 603?
6 A. Yes, it is.
7 Q. And does that data request ask the question,
8 Why will Aquila have to prepay for natural gas
9 transportation capacity?
10 A. Yes, it does.
11 Q. And does it indicate that Aquila has to do
12 that because it's got sub-investment grade credit rating?
13 A. Yes, it does.
14 Q. And you know who Eric Watson -- Watkins is?
15 A. Yes, I do.
16 Q. And is it signed by Mr. Watkins?
17 A. Yes, it is.
18 MR. MICHEEL: I would move the admission of
19 Exhibit 40, your Honor.
20 JUDGE PRIDGIN: Any objections?
21 MR. BOUDREAU: None. Thank you.
22 JUDGE PRIDGIN: Hearing none, Exhibit No. 40
23 is admitted into evidence.
24 (Exhibit No. 40 was received into evidence.)
25 BY MR. MICHEEL:

1 Q. Looking at Exhibit 40, Ms. Lowndes, is it
2 correct that Southern Star Central, formerly Williams
3 Pipeline Central, is not requiring Aquila to prepay for its
4 pipeline capacity?

5 A. It wasn't at the time of this. I don't know
6 if it is now or not.

7 Q. Well, would you look at the bottom of that
8 answer, Of the small number of suppliers that are not
9 requiring prepayments, none have indicated that they will
10 start requiring prepayments.

11 Do you see that?

12 A. Yes, I do.

13 Q. Sitting there today, do you know whether or
14 not Southern Star Central is requiring a prepayment?

15 A. No, I do not.

16 Q. Is it correct that Southern Star Central
17 provides pipeline capacity for Aquila's electric and gas
18 operations?

19 A. I believe so.

20 MR. MICHEEL: I need to get another exhibit
21 marked, your Honor. I think this is going to be Exhibit 41.

22 (Exhibit No. 41 was marked for
23 identification.)

24 BY MR. MICHEEL:

25 Q. Do you have before you what's been marked for

1 purposes of identification as Exhibit 41?

2 A. Yes, I do.

3 Q. And is that the company's response to OPC Data
4 Request 610?

5 A. Yes, it is.

6 Q. And does that ask Aquila to verify the major
7 interstate pipelines providing transportation capacity to
8 Aquila's Missouri territories?

9 A. Yes, it does.

10 Q. And does that indicate that those three
11 pipelines are A&R, Panhandle Eastern and Southern Star
12 Central?

13 A. Yes, it does.

14 MR. MICHEEL: I would move the admission of
15 Exhibit 41, your Honor.

16 JUDGE PRIDGIN: Any objections?

17 MR. BOUDREAU: None.

18 JUDGE PRIDGIN: Hearing none, Exhibit No. 41
19 is admitted into evidence.

20 (Exhibit No. 41 was received into evidence.)

21 BY MR. MICHEEL:

22 Q. Does Southern Star Central provide the lion's
23 share of natural gas supplies to Aquila?

24 A. I don't know the percentages by pipeline. I'm
25 not that familiar with our gas supply side.

1 Q. Would you agree with me that Aquila was not
2 required to prepay for pipeline capacity when it was an
3 investment grade utility?
4 A. That is correct.
5 Q. Is it correct that Aquila did not perform a
6 state-specific peak day working capital study?
7 A. No. We needed to understand the peak -- the
8 coincident peak across all of the utilities to understand
9 our maximum exposure.
10 Q. So, no, Aquila did not perform --
11 A. No, we did not.
12 Q. -- a state-by-state specific peak day working
13 capital study; is that correct?
14 A. That is correct.
15 Q. Okay. And is it correct that the peak day
16 working capital study is attached to Mr. Dobson's testimony
17 as highly confidential Schedule RD-3?
18 A. I believe so.
19 Q. And is it correct that that study indicates
20 that the working capital needs for all of the US utilities
21 are \$250 million; is that correct?
22 A. Yes, it is.
23 Q. Is it also correct that the initial study
24 showed approximately \$241 million working capital need and
25 then Aquila bumped that up \$9 million for the effects of

1 weather, budget billing, coal contracts and certain things
2 like that; is that correct?

3 A. Yes.

4 Q. Is it correct that Aquila prepared a breakdown
5 state by state of the US networks peak day working capital
6 for January?

7 A. Yes. We allocated the peak -- once we
8 determined it for the US utility, we allocated that out.

9 Q. And is it correct that once you allocated that
10 out, the initial study showed that Missouri was a net
11 provider of working capital by \$3 million; is that correct?

12 A. Yes, it was. Because of the time of the year
13 primarily.

14 Q. So the initial \$250 million study that was
15 attached in RD-3, when you disaggregated that on a
16 state-by-state basis, it showed that Missouri was providing
17 \$3 million -- it did not have any peak day working capital
18 needs; is that correct?

19 A. Not exactly. The reason -- the reason it was
20 raised from 241 to 250 was to take into account other types
21 of items that weren't initially considered. And those are
22 the types of things that we included when we calculated the
23 Missouri specific. And so capital expenditures or those
24 types of things were added on.

25 Q. Could you turn to page 16 of your Surrebuttal

1 Testimony? And I'm focusing there on lines 1 through 7.

2 A. Yes.

3 Q. Is that where you indicate that the company

4 added \$9 million to the initial \$250 million study to take

5 care of the things like under-recovered PGA costs,

6 under-billed budget billing balances and capital

7 expenditures; is that correct?

8 A. We knew we didn't have everything in and so,

9 yes, we -- we rounded it up to 250 to cover those types of

10 items.

11 Q. And I can give you a copy of that initial

12 study, but you don't dispute -- and it's attached to

13 Mr. Busch's testimony. And the specific number's highly

14 confidential.

15 But you don't dispute that initially when you

16 disaggregated it, before adding on other specific items,

17 that the winter peak for Missouri -- the peak day winter

18 peak for Missouri was a positive \$3 million, do you?

19 A. I -- the amount -- I don't dispute the amount.

20 I would dispute the characterization as a winter peak for

21 Missouri. It was just simply the allocation of the company

22 peak to Missouri.

23 Q. And that company peak to Missouri is the peak

24 that is resultant of the \$250 million initial alleged peak

25 day working capital need; isn't that correct?

1 A. That is correct.

2 Q. Now, you indicated that after you broke out --
3 after Aquila broke out the \$250 million on the
4 state-by-state basis and it came up with the \$3 million
5 positive contribution by Missouri, is it correct that after
6 that, Aquila did further calculations to that study?

7 A. That is correct.

8 Q. And would you agree with me that when you took
9 those state-specific items -- and I don't want to get into
10 the highly confidential number -- but it indicated that
11 Missouri had over a \$36 million peak day working capital
12 need?

13 A. That is correct.

14 Q. Is it correct that Aquila's going to sell its
15 Eastern system?

16 A. I believe we have -- we are -- I don't know if
17 the deal has been signed, but we are in the process.

18 Q. Would you agree with me that the sale of the
19 Eastern system will reduce Missouri peak day working capital
20 needs?

21 A. I don't know, because we haven't done a
22 state-specific, so I couldn't comment on that.

23 Q. So you can't tell me if Aquila's getting rid
24 of 4,200 natural gas customers, whether or not its peak is
25 going to be affected in any way?

1 MR. BOUDREAU: I'm going to object. The
2 question's been asked and answered and it's just badgering
3 the witness.

4 JUDGE PRIDGIN: Again, I'll overrule. She can
5 answer if she knows. And if she doesn't know, she can say
6 and then I think any further inquiry into it wouldn't be
7 relevant.

8 THE WITNESS: I mean, we haven't quantified
9 their specific working capital need.

10 BY MR. MICHEEL:

11 Q. Would you agree with me that the Eastern
12 system has some working capital needs?

13 A. Whether or not it's within the January 2nd of
14 the overall company, I don't know.

15 Q. Is it correct that the Minnesota Commission
16 has decided to reject Aquila's application to encumber its
17 assets?

18 MR. BOUDREAU: Objection, lack of foundation.

19 MR. MICHEEL: Just asking her if she knows,
20 your Honor.

21 JUDGE PRIDGIN: I'll overrule. She can answer
22 if she knows.

23 MR. BOUDREAU: He didn't ask her if she knew.
24 That was my objection.

25 BY MR. MICHEEL:

1 Q. Let me rephrase it.

2 Do you know, Ms. Lowndes, whether or not the

3 Minnesota Public Service Commission or Public Utility

4 Commission has voted to reject Aquila's application?

5 A. I would rather have that be addressed by

6 Mr. Empson. I'm not that familiar if it's been an order or

7 if it's under consideration. I don't know the exact

8 specifics.

9 Q. Well, are you aware of whether or not the

10 Commission has voted to reject that?

11 A. No.

12 Q. Okay. Let's assume that the Minnesota

13 Commission has voted to reject Aquila's application. Can

14 you make that assumption?

15 A. Okay.

16 Q. If Missouri assets go into the pool, will they

17 be supporting Minnesota's peak day working capital needs?

18 MR. BOUDREAU: Object to the question on the

19 grounds it just calls for speculation.

20 JUDGE PRIDGIN: I'll overrule. She can answer

21 if she knows.

22 Can you ask the question again, Mr. Micheel?

23 MR. MICHEEL: Could you just read that back?

24 THE COURT REPORTER: "Question: If Missouri

25 assets go into the pool, will they be supporting Minnesota's

1 peak day working capital needs?"

2 THE WITNESS: Are you referring to the
3 January 2nd overall company peak or -- every state would
4 have a peak need at some point during the --

5 BY MR. MICHEEL:

6 Q. The needs presented by the study in RD-3.

7 A. They would have access to the same working
8 capital, the US utility. It's managed at a US utility level
9 so all -- each utility would have access to that.

10 Q. Is it your understanding that when Aquila
11 broke out the state-by-state peak day working capital need,
12 that Minnesota had the highest peak day working capital
13 need?

14 A. I don't recall specifically.

15 MR. MICHEEL: May I approach the witness, your
16 Honor?

17 JUDGE PRIDGIN: You may.

18 BY MR. MICHEEL:

19 Q. Ms. Lowndes, I'm handing you OPC 626, which is
20 attached as a schedule to Mr. Busch's Surrebuttal Testimony.
21 And I'm asking you to look on the third page of that
22 exhibit. Is that where Aquila has broken out the
23 state-specific working capital needs?

24 A. Yes, it is.

25 Q. And when I look at that state-specific working

1 capital needs, is it correct that Minnesota's peak day
2 working capital need is the highest working capital need by
3 almost \$20 million?

4 A. Yes. For the -- for the January 2nd company
5 peak that this was calculated on.

6 Q. And that January 2nd company peak that this
7 was calculated on, that's the peak that the \$250 million
8 working capital peak day need was calculated for in RD-3;
9 isn't that correct?

10 A. That is correct.

11 Q. And that's the working capital need that
12 Aquila -- the peak day working capital need that Aquila has
13 come before this Commission seeking approval for of the
14 \$250 million; isn't that correct?

15 A. Yes, it is.

16 Q. I want you to assume for me that -- well, I
17 want you to assume for me that your study that you included
18 or your add-ons that you included here in OPC 626, which is
19 a schedule in Mr. Busch's testimony, are correct and that
20 Missouri has a peak day working capital need of 36 point --
21 over \$36.5 million. I don't want to get into the HC number.

22 Is it not -- is it appropriate to support that
23 working capital need with over \$1 billion of Missouri
24 assets?

25 A. That's not to say that the maximum peak

1 working capital need of Missouri is that amount. That is
2 just that which occurs on January 2nd.

3 Q. Now I'm getting confused, Ms. Lowndes. Is
4 that the peak day working capital need for Missouri, the
5 \$36.5 million?

6 A. No. It -- we haven't done a Missouri-specific
7 calculation for a peak need.

8 Q. So sitting there today, you can't even tell
9 this Commission what the state of Missouri's peak day
10 working capital need is, if any; isn't that correct?

11 A. We have not calculated that number.

12 Q. So you don't know what that number is; isn't
13 that correct?

14 A. Correct.

15 Q. And just like when you initially disaggregated
16 your initial \$250 million study, it's possible, is it not,
17 Ms. Lowndes, that Missouri could be a positive provider of
18 peak day working capital; isn't that correct?

19 A. Highly unlikely that it -- all points
20 throughout the year that it has excess cash inflows. The
21 average would fluctuate throughout the year. And without
22 doing a specific --

23 Q. But you say it's highly unlikely, Ms. Lowndes.
24 But when I look at your initial disaggregation, isn't it
25 correct that it was a \$3 million positive?

1 A. In January, yes.

2 Q. And that's when the company has its
3 coincidental US utility peak day working capital need; is
4 that correct?

5 A. Correct.

6 Q. Could you turn to page 4 of your testimony,
7 your Surrebuttal Testimony, Exhibit 3?

8 JUDGE PRIDGIN: And I'm sorry. Let me
9 interrupt just for the record. I think that we had people
10 speaking at the same time and I think Ms. Lowndes answered
11 your question -- your last question with the word "correct,"
12 but I don't think it showed up on the record.

13 So if you recall that last question before you
14 changed thoughts -- if we need to get it read back to you,
15 that's fine so Ms. Lowndes can get that on the record.

16 I apologize. We got it on the record. Go
17 ahead.

18 BY MR. MICHEEL:

19 Q. Ms. Lowndes, have you had a chance to turn to
20 page 4 of your testimony?

21 A. Yes.

22 Q. And I'm focusing there on lines 12 through
23 13 -- or 12 through 16, excuse me, where you say it is your
24 understanding that the Commission has defined, quote,
25 detrimental to mean increased rates and reduced customer

1 service. Do you see that?

2 A. Yes, I do.

3 Q. Upon what do you base that understanding?

4 A. From conversations with our attorney and our
5 regulatory group.

6 Q. And what did your attorney tell you?

7 A. That that has traditionally been the
8 definition used by this Commission.

9 Q. And what was that based on?

10 A. I didn't ask him that question. I don't -- I
11 don't know.

12 Q. Did you read any of the cases that support
13 that?

14 A. No, I did not.

15 Q. So you have no idea what the basis for that
16 statement is; is that correct?

17 A. No, I do not.

18 Q. Let me ask you, Ms. Lowndes, if you know, is
19 this a merger proceeding? Is Aquila seeking to merge with a
20 company in this proceeding?

21 A. No, it is not.

22 Q. And is Aquila seeking to sell any of its
23 assets in this proceeding?

24 A. Not in this proceeding, no.

25 Q. On page 6 of your Surrebuttal Testimony, I'm

1 focusing on lines 7 through 9 there, you indicate that the
2 remaining 34 percent of gas requirements is purchased in the
3 spot market so that the customer may reap the benefits of
4 the declining market prices; is that correct?

5 A. Yes.

6 Q. Is that the daily spot market, Ms. Lowndes?

7 A. I'm -- I'm not sure on the gas supply
8 portfolio exactly their -- their use. I believe --

9 Q. Okay. So you don't know if it's the daily
10 spot market or the first of the month index that you're
11 talking about there for the 34 percent; is that correct?

12 A. I don't recall right now, no.

13 Q. On page 7 of your Surrebuttal Testimony, I'm
14 focusing on lines 7 and 12, you talk about recent ice
15 storms. Do you see that testimony?

16 A. Yes, I do.

17 Q. What was the frequency of the ice storms? I
18 mean, you've been with the company since 1985. How many
19 times have there been an ice storm that's caused service
20 outages?

21 A. I-- I don't know off-- offhand.

22 Q. Do we have one every year?

23 A. We may have in different parts of our
24 territory. I don't -- I don't really know. I mean, we have
25 a very diverse geographic area.

1 Q. Would you agree with me that ice storms don't
2 occur every year?

3 A. It may not be an ice storm. It may be a
4 tornado.

5 Q. On page 8 of your testimony you talk about the
6 graph that's attached as CL-2, the demarkation point on the
7 Northern Natural Gas System; is that correct?

8 A. Yes.

9 Q. Does MPS Networks or Light and Power Networks
10 get any of their gas from the Northern Natural Gas System?

11 A. No, they do not.

12 Q. Could you turn to page 10 of your Surrebuttal
13 Testimony? And I'm focusing on lines 1 through 5. Is it
14 there that you indicate that Aquila is seeking approval to
15 pledge the Missouri -- company's Missouri utility assets as
16 collateral for working capital to meet the peak day
17 requirements for the US networks operations, including the
18 peak day requirements to serve customers in Missouri; is
19 that correct?

20 A. Yes.

21 Q. And the embodiment of that is the \$250 million
22 peak day study that's attached as RD-3 to Mr. Dobson's
23 testimony; isn't that correct?

24 A. Yes.

25 Q. And in this proceeding Aquila is seeking to

1 disaggregate \$250 million of the \$430 million term loan to
2 support Aquila's peak day working capital requirement; isn't
3 that correct?

4 A. When you say "disaggregate," I guess I'm
5 not --

6 Q. Well, they've separated the \$430 million term
7 loan into two components, have they not? \$250 million
8 allegedly to support the peak day working capital
9 requirements for the US utilities and \$180 million allegedly
10 to support the needs of the nonregulated assets; is that
11 correct?

12 A. Correct.

13 Q. Correct that the company utilizing the
14 collateral principals embodied in the term loan only needs
15 \$417.5 million of utility collateral placed in the pool to
16 support a \$250 million peak day working capital requirement
17 for the utilities?

18 A. Yes.

19 Q. Is it correct that the company already has
20 \$650 million of US utility collateral in that pool?

21 A. Yes. I believe -- approximately.

22 Q. So sitting there today, Aquila already has
23 approximately \$240 million more collateral in the pool than
24 it needs to support the \$250 million peak day working
25 capital requirements utilizing the collateral principals in

1 the term loan; is that correct?

2 A. Yes.

3 Q. And you would agree with me, sitting there

4 today, that Aquila already has the \$250 million for working

5 capital because Aquila already has the proceeds from the

6 term loan; is that correct?

7 A. Yes. We have the proceeds.

8 Q. Let me talk to you about page 13 of your

9 testimony. And there I'm focusing on Surrebuttal Schedule

10 CL-5. Is that correct that Schedule CL-5 indicates that

11 other utilities have short-term credit facilities; is that

12 correct?

13 A. Yes, it does.

14 Q. Could you turn to CL-5 for me?

15 A. Yes.

16 Q. Is it correct that Aquila -- or AmerenUE

17 Company there is not supporting its peak day working capital

18 with a term loan?

19 A. I don't believe so, but --

20 Q. Is it correct that Atmos is not supporting its

21 peak day working capital with a term loan?

22 A. Can I have just a moment to check something?

23 Q. Sure.

24 A. That would be correct.

25 Q. Is it correct that Kansas City Power and Light

1 is not supporting its peak day working capital with a term
2 loan?

3 A. Correct.

4 Q. Is it correct that Empire District Electric is
5 not supporting its peak day working capital needs with a
6 term loan?

7 A. Correct.

8 Q. Is it correct that all of the companies that
9 you have listed in CL-5 are investment grade rated
10 utilities?

11 A. Yes, they are.

12 Q. Is it correct that all of those companies
13 listed in CL-5 have access to the commercial paper markets
14 because they are an investment grade rated utility?

15 A. That is correct, I would imagine.

16 Q. Is it correct that in conducting the peak day
17 working capital study, that Aquila only utilized one data
18 point, that being April 23rd?

19 A. We used -- we had to draw the point in time
20 and we used a 12-month -- 12-month strip out. So it wasn't
21 one day, it was a 12-month strip on a given day.

22 Q. So it was on April 23rd of '03, what the
23 12-month strip was on that day; isn't that correct?

24 A. Correct.

25 Q. So Aquila, in conducting their study, looked

1 at one data point; isn't that correct?

2 A. It was the most recent information we had at
3 the time before filing.

4 Q. Could you have updated that study?

5 A. We -- it -- it's a constant changing number.

6 Q. So gas prices are volatile; is that correct?

7 A. They change. You know, depends on the year
8 how volatile they are.

9 Q. So those numbers are always changing from the
10 April 23rd date that Aquila chose; isn't that correct?

11 A. Yes.

12 Q. Would you agree with me that almost six months
13 has passed since company initially filed its Direct
14 Testimony?

15 A. Yes.

16 Q. Would you agree with me that the gas market
17 has changed in those six months?

18 A. Yes.

19 Q. When you came up today, you made a correction
20 to your testimony on page 18. Could you please turn to that
21 page?

22 A. Yes.

23 Q. And there the question was, What is the result
24 of the corrections to Mr. Busch's methodology?

25 Answer: Mr. Busch underestimated working

1 capital needs by \$6.3 million; is that correct?

2 A. Yes.

3 Q. And why did you change the \$7.5 million to

4 \$6.3 million?

5 A. I had pulled the wrong number when I was

6 working on my testimony.

7 Q. And so is it your testimony today sitting

8 there that Mr. Busch's study that he conducted

9 underestimates Missouri working capital needs by

10 \$6.3 million; is that correct?

11 A. Yes.

12 Q. And are you aware that Mr. Busch's working

13 capital study indicates that Aquila has -- or that Aquila's

14 Missouri operations provide positive peak day working

15 capital to Aquila of \$8.2 million; is that correct?

16 A. I'd have to look at the schedule I used.

17 Q. Do you have a copy of Mr. Busch's testimony

18 with you?

19 A. Yes, I do.

20 Q. Okay.

21 A. I'm not -- I mean, I had just answered --

22 responded to a data request that detailed out the 6.3.

23 Maybe it would be easier if I referred to that.

24 Q. Well, first, I'd like you to answer my

25 question. Is it your understanding that Mr. Busch's

1 parallel peak day working capital study indicates that the
2 Missouri utility operations are a net provider of
3 approximately \$8.2 million of peak day working capital?
4 A. I was thinking it was slightly higher in -- in
5 the schedule I had used. I'm not -- I can't seem to find it
6 right now.
7 Q. Do you have a copy of Mr. Busch's testimony
8 with you?
9 A. Yes, I do.
10 Q. How about taking a look at Schedule 7 of
11 Mr. Busch's testimony, JAB-7?
12 A. Yes, I see it.
13 Q. And so that's your understanding of
14 Mr. Busch's number?
15 A. Yes.
16 MR. MICHEEL: I need to get another exhibit
17 marked, your Honor. It's Public Counsel Data Request 637.
18 And I may not have enough copies for all of the folks here
19 today because I just got it this morning, but hopefully --
20 we'll see how I do.
21 (Exhibit No. 42 was marked for
22 identification.)
23 JUDGE PRIDGIN: I show this as proposed
24 Exhibit No. 41.
25 MR. MICHEEL: I'm not --

1 JUDGE PRIDGIN: I'm sorry?
2 MR. MICHEEL: I think it's Exhibit 42, your
3 Honor.
4 JUDGE PRIDGIN: I'm sorry. You're right. It
5 is Exhibit 42.
6 MR. MICHEEL: Yes. Exhibit 24.
7 BY MR. MICHEEL:
8 Q. Ms. Lowndes, do you have in front of you
9 what's been marked for purposes of identification as
10 Exhibit 42?
11 A. Yes.
12 Q. And is that your response to OPC Data Request
13 637?
14 A. Yes, it is.
15 Q. And is that response true and correct to the
16 best of your knowledge and belief?
17 A. Yes, it is.
18 MR. MICHEEL: I would move admission of
19 Exhibit 42.
20 JUDGE PRIDGIN: Any objections?
21 MR. BOUDREAU: May I have a moment to read it,
22 please?
23 JUDGE PRIDGIN: Certainly.
24 MR. BOUDREAU: Thank you. I have no
25 objection.

1 JUDGE PRIDGIN: Hearing none, Exhibit No. 42
2 is admitted.
3 (Exhibit No. 42 was received into evidence.)
4 MR. MICHEEL: Thank you for your time,
5 Ms. Lowndes.
6 JUDGE PRIDGIN: Mr. Micheel, thank you.
7 Mr. Williams, any questions?
8 MR. WILLIAMS: Oh, yes.
9 CROSS-EXAMINATION BY MR. WILLIAMS:
10 Q. Good afternoon, Ms. Lowndes.
11 A. Good afternoon.
12 Q. My name's Nathan Williams and I'm appearing
13 here on behalf of the Staff. And I do have a series of
14 questions for you.
15 A. Okay.
16 Q. My first question is, is the sole basis for
17 Aquila's position that its application should be granted
18 that doing so would impact neither the rates charged nor the
19 service quality provided to its Missouri customers?
20 A. Could you say that again, please?
21 Q. Is the sole basis for Aquila's position that
22 its application should be granted that doing so would impact
23 neither the rates charged nor the service quality provided
24 to its Missouri customers?
25 A. I'm not sure I would -- I'm not sure if it's

1 the whole cause, so I'm going to defer that to either
2 Mr. Empson --

3 Q. If it's not the sole basis, do you know what
4 other bases there are?

5 A. I would prefer to defer that.

6 Q. Would encumbrance of Aquila's Missouri utility
7 assets with the \$430 million, three-year term loan entail no
8 risk to Aquila's Missouri utility customers?

9 A. Risk in what?

10 Q. Any risk.

11 A. I don't know.

12 Q. Let me direct your attention to, I think more
13 specifically, page 23, lines 16 through 17 of your
14 Surrebuttal Testimony.

15 A. Could you repeat that, please?

16 Q. Page 23, lines 16 through 17.

17 A. Yes.

18 Q. At that point in your testimony and also on
19 page 15 at lines 10 through 11 you indicate that an
20 investment grade utility must pay dividends, do you not?

21 A. Yes.

22 Q. Why must an investment grade utility pay
23 dividends?

24 A. That is what their shareholders expect.

25 Q. Doesn't the payment of dividends both reduce

1 equity in the company and leave less cash available for the
2 company to pay debt?

3 A. Yes. It would be a cash outflow, yes.

4 Q. Isn't the credit rating of a company based on
5 its ability to pay debt?

6 A. Yes.

7 Q. Who rates the investment quality of companies?

8 A. There are various rating agencies.

9 Q. Could you identify them?

10 A. S&P, Moody's, Fitch.

11 Q. What document can you produce that show that
12 any of these entities that you've just identified require an
13 investment grade company to pay dividends?

14 A. I don't have a document to produce.

15 Q. Direct your attention to pages 22 to 23 of
16 your Surrebuttal Testimony.

17 JUDGE PRIDGIN: I'm sorry, Mr. Williams. What
18 page?

19 MR. WILLIAMS: 22 through 23.

20 JUDGE PRIDGIN: Thank you.

21 MR. WILLIAMS: Section headed Conclusion,
22 first few lines in there.

23 BY MR. WILLIAMS:

24 Q. In that section you state that Staff Witness
25 Wandel contends that Aquila's Missouri utility operations

1 have no working capital needs.

2 Would you please identify specifically the
3 statement that Staff Witness Wandel makes where she says
4 that?

5 A. I need a corrected testimony, just -- should
6 be right --

7 MR. WILLIAMS: May I approach?

8 JUDGE PRIDGIN: You may.

9 BY MR. WILLIAMS:

10 Q. I have here what is a copy of Ms. Wandel's
11 revised Rebuttal Testimony.

12 A. Okay.

13 Q. It's been marked as Exhibit 13.

14 A. Yes. On page 39, lines 12 through 14, When
15 receipts are compared with dispersements, it is obvious that
16 the cash available to the company exceeds the cash
17 dispersements requirement associated with these expenses.

18 Q. That's language you're using to support your
19 statement there?

20 A. That was in response to a question that read,
21 How did the Staff determine these components created no cash
22 working capital requirement?

23 Q. Are you using the terms "cash working capital"
24 and "working capital" to mean the same thing?

25 A. Could you repeat the two words you're asking

1 about or the two phrases?

2 Q. Cash working capital and working capital. Are
3 you using those terms synonymously or do you use different
4 definitions for each term?

5 A. There -- there's a peak capital requirement
6 that we've used. I'm not sure if that's what you're calling
7 your cash requirement.

8 Q. Let me direct your attention to Schedule CL-8,
9 which is attached to your Surrebuttal Testimony.

10 A. Yes.

11 Q. Is that a data request response that Aquila
12 made to Staff Data Request No. MPSC 8-1?

13 A. It is.

14 Q. In that data request response Aquila makes a
15 reference to a \$190.3 million working capital facility. Do
16 you see that?

17 A. Yes, I do.

18 Q. Wasn't that \$190.3 million working capital
19 facility used to support the working capital needs of both
20 Aquila's utility and non-utility operations?

21 A. I don't know off the top.

22 Q. Do you know if the working capital needs of
23 Aquila's US domestic utility operations were drawn directly
24 against that facility?

25 A. I know we had various facilities prior to this

1 term loan. I don't -- I would assume this is part of that.

2 Q. Do you know how Aquila's working capital needs

3 for its utility operations were supported before it received

4 the \$430 million, three-year term loan?

5 A. We had various credit facilities or revolvers.

6 I'm not sure of the specifics behind those.

7 Q. Did you draw directly against those

8 facilities?

9 A. The utility?

10 Q. Yes. Did the utility operations draw directly

11 against those facilities?

12 A. No. Those are all held at Aquila, Inc. level.

13 Q. Were those held in a corporate treasury

14 account?

15 A. Yes.

16 Q. Do you know what source of funds were used to

17 fund the corporate treasury account?

18 A. Various.

19 Q. Can you identify them?

20 A. I wouldn't have an all-inclusive list, no.

21 Q. I'm not looking for an all-inclusive list.

22 Just identify for me what you can.

23 A. Well, the way our cash receipts works is --

24 and our -- the utilities are deposited through a lock box,

25 credited to the customer's account and then swept daily

1 to -- to a corporate account. And I don't know that much on
2 the nonregulated side to know exactly how theirs works or
3 not.

4 And then payments are made out of the
5 corporate account on behalf of the utility out of a
6 corporate account. So payment of utility expenses,
7 purchased power, capital expenditures for the utility are
8 all made out of a corporate account.

9 Q. Are only expenses of the utility operations
10 paid out of the corporate account or is that account a more
11 general nature?

12 A. I believe it's a more general nature.

13 Q. I want to take your attention back to page 3
14 of your Surrebuttal Testimony where you stated that a term
15 loan is not the most efficient or effective means to finance
16 working capital.

17 A. Yes.

18 Q. Is Aquila asking this Commission to approve a
19 means of financing working capital that is not efficient and
20 effective?

21 A. We're not asking for approval of the financing
22 as far as the ratepayer, merely the ability to pledge our
23 assets for that term note.

24 Q. I believe you indicated in response to
25 questions from Mr. Micheel that you have some familiarity

1 with the peak day working capital study that Aquila
2 performed?

3 A. Some familiarity, yes.

4 Q. I want to explore that a bit. Is it accurate
5 to say that that study does not identify the working capital
6 needs of Aquila's Missouri utility operations on a day
7 Aquila used as the day of its peak working capital needs?

8 A. Could you repeat that?

9 Q. Is it accurate to say that that study does not
10 identify the working capital needs of Aquila's Missouri
11 utility operations on a day that Aquila chose for its peak
12 working capital needs?

13 A. Yes.

14 Q. Do you know when Aquila began that study?

15 A. Not -- I wasn't involved in the development of
16 that.

17 Q. I'm not asking your involvement. I'm asking
18 whether or not you know the date that Aquila began that
19 study?

20 A. No, I do not.

21 Q. Was it before April 30th of this year?

22 A. Yes.

23 Q. Was it before January of this year?

24 A. I don't know specifically when it started.

25 Q. Do you know when Aquila first had a result

1 from the study that it culminated in Schedule RD-2 attached
2 to Mr. Dobson -- RD-3 attached to Mr. Dobson's testimony?
3 A. I believe right before the filing in April.
4 That's why the April 23rd date was used.
5 Q. What was that result?
6 A. The working capital calculation, the 200
7 and -- the specific calculation results in 241 million.
8 Q. Had Aquila obtained any results from its model
9 prior to getting that \$241 million result?
10 A. I don't -- I don't know the answer to that.
11 Q. What modifications did Aquila do to the study
12 after it obtained the \$241 million result, if any?
13 A. Well, in response to a Missouri-specific
14 question, we included additional items that were historical
15 amounts for Missouri.
16 Q. And what result did you have for the result
17 after those modifications?
18 A. It was in excess of 36 million.
19 Q. I'm asking about the total study, not the
20 Missouri-specific study.
21 A. Oh, I'm sorry. There were no modifications to
22 the entire study. We don't -- I've only looked at the final
23 product. I don't know any other refinements that you're
24 referring to.
25 Q. Well, Aquila's indicated that it's working

1 capital needs are \$250 million for its utility operations,
2 has it not?

3 A. Yes.

4 Q. So there must have been some adjustment to go
5 from 241 million to 250 million, wasn't there?

6 A. There was, because we did not consider --
7 there was time constraints. It didn't include some capital
8 expenditures, other items. And to ensure that the maximum
9 we had available, we used the amount of 250 million.

10 Q. Aquila included prepayments for purchased gas
11 and power in its working capital study, did it not?

12 A. Yes, it did.

13 Q. If those prepayments are excluded from the
14 study, what would be the peak day working capital
15 requirement of Aquila's US domestic utility operations?

16 A. We have not made that calculation since right
17 now our focus is ensuring the cash is available for the
18 utility and the utility is required to make those
19 prepayments. We haven't done a calculation without the
20 prepayments.

21 Q. So your answer is you don't know?

22 A. Correct.

23 Q. Are you familiar with the gas price spike in
24 the winter of 2001?

25 A. Somewhat.

1 Q. Do you recall whether or not November 2000 and
2 December 2000 was colder than normal?

3 A. No, I don't.

4 Q. Does the company collect any fixed type
5 expenses, payroll, depreciation, for example, as part of a
6 volumetric rate such as an energy charge? This is
7 pertaining to gas.

8 A. Well, there is a component of the rate, yes.

9 Q. Would you expect that colder than normal
10 temperatures in November and December would result in an
11 increase in December and January cash receipts because of
12 the collection of more fixed non-gas expenses that are
13 collected by the company on a volumetric basis?

14 A. Could you repeat that, please?

15 Q. Would you expect that colder than normal
16 temperatures in November and December would result in an
17 increase in December and January cash receipts because of
18 the collection of more fixed non-gas expenses that are
19 collected by the company on a volumetric basis?

20 MR. BOUDREAU: I'm going to object. It calls
21 for speculation.

22 JUDGE PRIDGIN: Mr. Williams?

23 MR. WILLIAMS: I'll go on.

24 BY MR. WILLIAMS:

25 Q. Did Aquila adjust its peak day working capital

1 calculation -- and I'm referring to the overall model that
2 resulted in the \$241 million in working cash needs -- to
3 account for increased cash receipts due to the collection of
4 increased non-gas expenses if November and December was
5 colder than normal?

6 A. No, we did not. And part of the reason is
7 when it gets to be colder, some of the times our customers
8 invoke the cold weather rule and our cash receipts don't
9 always track -- increase directly with the billings. And so
10 we hadn't done a study to -- on that, so those were not
11 increased directly.

12 Q. Are any of the charges that the company --
13 that Aquila collects through its purchased gas adjustment
14 rate fixed in nature?

15 A. I'm sorry?

16 Q. Are any of the charges that Aquila collects
17 through its purchased gas adjustment rate fixed in nature,
18 for example --

19 A. Pipe--

20 Q. -- interstate pipeline capacity --

21 A. Yeah.

22 Q. -- or reservation charges?

23 A. Yes.

24 Q. Would Aquila's collection of those fixed
25 pipeline charges increase when weather is colder than

1 normal?

2 A. There may be some additional expenses due
3 to -- there are ranges, I believe, within those that if you
4 exceed, that there are additional charges beyond the normal
5 capacity charge. So it's hard -- it's hard to quantify
6 that.

7 Q. Did Aquila make any adjustments to its peak
8 day working capital calculation that resulted in the
9 \$241 million working capital needs to account for increased
10 cash receipts due to the collection of increased interstate
11 pipeline capacity charges if November and December weather
12 was colder than normal?

13 A. Not all of our states have the ability to
14 reflect gas cost prices immediately and so those don't
15 always track. In fact, we -- we have unrecovered gas costs
16 in that same time period of over 100 million, so it --
17 billing customers more does not always mean the cash is
18 collected. We have unrecovered gas costs during that same
19 time period.

20 Q. With regards to Aquila's cost recovery from
21 its electric customers, does Aquila collect any portion of
22 its fixed cost, such as payroll or depreciation, as a
23 volumetric or energy charge?

24 A. Yes, it does.

25 Q. If November and December weather is colder

1 than normal, do you agree that electric space heating
2 revenues and cash receipts will increase over normal levels?

3 A. I would assume so. I've not looked at
4 specifically electric space heating.

5 Q. Did Aquila make any adjustments to its peak
6 day working capital calculation that resulted in the
7 \$241 million working capital needs to account for increased
8 cash receipts due to the collection of increased electric
9 space heating usage if November and December weather was
10 colder than normal?

11 A. No.

12 Q. Do you know if Aquila provided more
13 information to the Staff of the Missouri Public Service
14 Commission regarding the inputs that it used in its working
15 capital study than it provided to the parties in Aquila's
16 companion case in Minnesota?

17 A. I don't know. I wasn't involved in the
18 Minnesota case.

19 Q. What safeguards has Aquila proposed to this
20 Commission to ensure that the balance in its treasury
21 account, where it has placed the proceeds of the \$430
22 million, three-year term loan, will not drop before
23 \$250 million?

24 A. I don't know that that has been specifically
25 stated.

1 Q. Does Aquila have any such safeguard
2 internally?
3 A. Besides our commitment, not to my knowledge.
4 Q. How much will the balance in the treasury
5 account increase if this Commission grants Aquila's
6 application?
7 A. How much will what -- the balance in the
8 treasury account?
9 Q. Yes.
10 A. That -- that's not the nature of this --
11 there's no additional cash --
12 Q. Is your answer --
13 A. -- beyond what is there today.
14 Q. So your answer is there would be no change?
15 A. Correct.
16 Q. What interest rate is Aquila charging its
17 US domestic utility divisions for their borrowings from the
18 treasury account?
19 A. That's done at the tres-- from a corporate and
20 I'm -- I don't know directly that answer.
21 Q. Are Aquila's shareholders absorbing the
22 difference between that rate, whatever it is, and the
23 8.75 percent rate -- current rate of the \$430 million,
24 three-year term loan?
25 A. The shareholders?

1 Q. Yes.

2 A. Yes.

3 Q. I want to take your attention to corrected

4 Surrebuttal Schedule CL-5.

5 A. Okay.

6 Q. I want to direct your attention, in

7 particular, to the column that's headed June 3rd, 2003

8 Short-term Credit Capacity.

9 A. Yes.

10 Q. Mr. Micheel asked you a few questions about

11 this schedule. What I want you to do first off is to

12 identify each company that you have listed on this schedule

13 that uses one or more revolving lines of credit for its

14 short-term credit capacity. You've listed Ameren, Atmos,

15 Kansas City Power & Light and Empire District Electric.

16 A. They each use a revolving type credit

17 facility.

18 Q. For each of those companies please identify

19 the lender or lenders.

20 A. Ameren lists committed credit facilities

21 totaling 772. I don't know if it lists -- I don't know that

22 it lists the lenders specifically in their 10Q. And neither

23 does Atmos list the specific lender, it lists the amount.

24 Nor -- KCP&L lists the amount, but not the lender

25 specifically. Empire -- and Empire lists the amount, but

1 not the lender specifically.

2 Q. For each of those companies can you identify
3 the interest rate that they show they're paying
4 preferably -- well, since they don't list the lenders, I
5 guess it would be on an aggregate basis.

6 A. It doesn't list that either.

7 Q. Do you have any information that indicates
8 whether any of these companies pledged any collateral for
9 these lines of credit?

10 MR. BOUDREAU: Excuse me. While Ms. Lowndes
11 is reviewing her documents, can we go off the record to
12 discuss something very quickly? I just want to discuss
13 whether it might be an opportunity to take a break. She's
14 been on the stand for about an hour and a half and to give
15 her a breather.

16 JUDGE PRIDGIN: Mr. Williams, how much more
17 time do you think you'll have on cross-examination?

18 MR. WILLIAMS: Depends on whether she has the
19 information on hand. I don't have very many more questions,
20 although I believe a few of them are going to probably have
21 highly confidential information in the responses.

22 JUDGE PRIDGIN: Probably the cleanest place to
23 take a break would be after Mr. Williams finishes unless his
24 questioning goes on for quite a while. So let's target that
25 for giving a break.

1 MR. BOUDREAU: Thank you.

2 THE WITNESS: They are unsecured.

3 BY MR. WILLIAMS:

4 Q. Please identify which of the companies that

5 you've listed, which are UE, Atmos, KCPL and Empire, that

6 sell commercial paper for its short-term credit capacity.

7 A. Each of them use some portion of commercial

8 paper.

9 Q. Did they pledge any utility assets as

10 collateral for that commercial paper?

11 A. They are unsecured.

12 Q. Do you know what the credit ratings are of

13 AmerenUE, Atmos, KCPL and Empire?

14 A. They're investment grade.

15 Q. All of them?

16 A. Yes.

17 Q. Do you have any reason to believe that the

18 lenders who are supplying the revolving lines of credit to

19 those companies are anything less than investment grade?

20 A. I do not know.

21 Q. I have a couple of questions that I think may

22 entail some responses that are highly confidential. I'll go

23 ahead and ask the question, we'll see.

24 What is the most recent balance that Aquila

25 holds in cash?

1 A. I don't know.

2 MR. WILLIAMS: No further questions.

3 JUDGE PRIDGIN: All right. Thank you,

4 Mr. Williams.

5 Let's go ahead and go off the record. We'll

6 take a break. I see about 2:45 or so. We'll take a break

7 until three o'clock. We're off the record.

8 (A RECESS WAS TAKEN.)

9 JUDGE PRIDGIN: We're back on the record. I

10 believe where we left off, Mr. Williams, you had completed

11 your cross-examination of Ms. Lowndes; is that correct?

12 MR. WILLIAMS: Yes.

13 JUDGE PRIDGIN: And I believe we're down to

14 Mr. Conrad.

15 CROSS-EXAMINATION BY MR. CONRAD:

16 Q. Good afternoon, Ms. Lowndes.

17 A. Afternoon.

18 Q. Don't have very many things for you. Maybe

19 because they've already been covered.

20 You are, if I understood your testimony, a

21 CPA. Am I correct?

22 A. Yes.

23 Q. Where are you licensed?

24 A. Nebraska.

25 Q. Okay. Recognizing that you're not licensed in

1 Missouri, I'm going to try to stay general with my
2 accounting questions. But I wanted you to -- there was one
3 other question that I was curious about that I had made note
4 of. I didn't bring my pad up, but I believe I remembered
5 it.

6 You indicate here -- let me just ask it. What
7 is your corporate responsibility now?

8 A. Senior financial manager of regulatory and gas
9 supply.

10 Q. Of regulatory and gas supply. Now, earlier
11 Mr. Micheel asked you a question about the gas requirements.
12 Did I understand your response to be that you didn't know,
13 that you didn't work in the gas area?

14 A. I'm not on the operations side. I -- I handle
15 their budget and their variance analysis and those types of
16 financial analysis for them.

17 Q. Okay. Now, back to the accounting for a
18 moment. Tell me, if you can, just generally what is the
19 purpose of the corporate balance sheet?

20 A. It's a report in time on their asset -- the
21 assets and liabilities of the company.

22 Q. And why would someone interested in the
23 financial status of the company want to look at a balance
24 sheet?

25 A. Numerous reasons. It can tell you the

1 strength, it can tell you their receivables, it can tell you
2 their liabilities, their cash on hand, numerous reasons.

3 Q. Distinguish then for me from a balance sheet
4 an income statement.

5 A. Income statement is just for a period of time.
6 The operations of the company -- their income or loss for a
7 period -- for a specific period of time.

8 Q. And then distinguish from those two, if you
9 would, a statement of cash flow.

10 A. Excuse me. Cash -- statement of cash flow
11 will tell you for a period of time the net change in cash
12 and its source and use.

13 MR. CONRAD: Your Honor, I have an exhibit to
14 mark and it is an HC exhibit.

15 JUDGE PRIDGIN: All right. Thank you.

16 MR. CONRAD: Go ahead and give you --

17 (Exhibit No. 43-HC was marked for
18 identification.)

19 BY MR. CONRAD:

20 Q. Ms. Lowndes, the presiding officer indicates
21 that this is to be assigned No. 43. So I ask you to look at
22 the document that I have handed you that has been marked for
23 identification purposes at this point as Exhibit 43. Are
24 you able to identify that document?

25 A. Yes.

1 Q. Would you briefly describe that document for
2 me, please?

3 A. It is the Aquila financial projections,
4 balance sheet, income statement and cash flow.

5 Q. And would I also be correct that this is
6 attached as a response to SIE-4, that being a data request
7 from Sedalia Industrial Energy Users Association?

8 A. Correct.

9 Q. Do you know Steve Fisher?

10 A. Yes, I do.

11 Q. Who is Mr. Fisher, please? What's his
12 responsibility?

13 A. He's -- I'm not sure -- he's vice president
14 of -- I'm not sure exactly his title. I know he reports to
15 Mr. Dobson.

16 Q. This appears to be a correct copy from
17 Aquila's records that's been provided. And I draw your
18 attention to the fact that it is marked as highly
19 confidential; is that correct?

20 A. Yes.

21 MR. CONRAD: Your Honor, at this point I'd
22 move admission of 43.

23 JUDGE PRIDGIN: Thank you, Mr. Conrad.

24 Any objections?

25 MR. BOUDREAU: No objection.

1 JUDGE PRIDGIN: Hearing none, Exhibit No. 43
2 is admitted.
3 (Exhibit No. 43 was received into evidence.)
4 MR. BOUDREAU: That is being admitted as an HC
5 document?
6 JUDGE PRIDGIN: That's correct. Thank you.
7 This is a highly confidential document. Thank you.
8 BY MR. CONRAD:
9 Q. Now, I'm going to endeavor, Ms. Lowndes, to
10 avoid asking you something that necessitates that we get
11 into the specifics of the numbers --
12 A. Okay.
13 Q. -- so that we can stay in public session as
14 much as possible. But I would ask you to turn to the page
15 that is marked 3 of 8. Let me know when you have that
16 reference, please.
17 A. Okay.
18 Q. And then about two-thirds, maybe a little more
19 than half of the way across the page do you see a column,
20 2004 Full Year?
21 A. Yes.
22 Q. Now, would you move down that column to the
23 row that is identified Change in Net Debt, paren, Exclusive
24 or Excluding Revolver, closed paren? Do you see that?
25 A. Yes.

1 Q. Now, before we go further, the revolver
2 referred to there would be what?

3 A. I'm -- I'm not sure, but I'm guessing since it
4 has payments in '04, that it would be on the term loan. But
5 Mr. Dobson might be able to better address that.

6 Q. With that line or that row excluding the
7 revolver, it probably would be something else, wouldn't you
8 agree?

9 A. Oh, I'm sorry. You're right. It does --

10 Q. Does that give us a clue?

11 A. Yes. I'm sorry.

12 Q. So the revolver then would be -- let me
13 suggest something to you. Would that be the credit revolver
14 that had been discussed earlier in your cross-examination
15 with Mr. Micheel?

16 A. The revolver that existed prior to the term
17 loan?

18 Q. Yes.

19 A. I'm -- I'm not that familiar.

20 Q. All right. Well, let's talk about what you do
21 know. On page 1 of 8 -- just kind of keep your thumb at
22 page 3 for a second. Aquila Financial Projections is what I
23 see in the upper left-hand column. Right?

24 A. Yes.

25 Q. Now, would that indicate to you that this is

1 for Aquila as an entire entity?

2 A. Yes.

3 Q. And that same heading appears on page 3 of 8

4 where we were before?

5 A. Correct.

6 Q. And now without mentioning the number for the

7 record, would you agree with me that on a cash flow

8 statement such as this, if a number appears in parens, does

9 that indicate a repayment or an incurrence of the debt?

10 What does it basically mean when it's in parens?

11 A. A payback or a reduction.

12 Q. So that would be a reduction in the net debt;

13 is that fair?

14 A. That would be my understanding.

15 Q. Okay. I want to try to avoid talking about

16 the specific number. But I'd like for you to make a note on

17 a pad or somewhere that you could of that number, please.

18 Just so you have --

19 A. Of which number?

20 Q. The number that is at the intersection of the

21 column 2004 Full Year and the row that says Change in Net

22 Debt, paren, Excluding Revolver, closed paren.

23 A. Okay.

24 Q. I don't want to mention the number, I'm trying

25 to do this column A and row B. Okay. Do we have that now?

1 A. Uh-huh.

2 Q. All right. Now, flow through with me in the
3 packet to page 5 of 8. And at the upper left-hand corner
4 the title changes, does it not?

5 A. Yes, it does.

6 Q. What does it change to?

7 A. Aquila, Inc. US Utilities.

8 Q. And what conclusion should I draw from the
9 change in title and the new title that appears here?

10 A. That this would be just the regulated u--
11 those divisions that are the regulated utilities of Aquila.

12 Q. So this would be Aquila -- would it be fair to
13 say this would be Aquila without the unregulated aspects of
14 Aquila?

15 A. Yes.

16 Q. Now, please turn to page 7 of 8. Are you
17 there?

18 A. Uh-huh.

19 Q. Again, the column 2004 Full Year, about
20 two-thirds of the way across --

21 A. Uh-huh.

22 Q. -- and follow down with me to the row that
23 says Change in Net Debt Excluding Revolver.

24 A. Uh-huh.

25 Q. I see there a different number.

1 A. That is correct.

2 Q. That is not in parens?

3 A. That is correct.

4 Q. And because it's not in parens, that would

5 mean what?

6 A. An issuance.

7 Q. Or an increase --

8 A. Increase in debt.

9 Q. -- in the debt?

10 If I were to go about netting those numbers,

11 how would I need to do that? What calculation would I need

12 to do? Let's say I wanted to find out from these two

13 schedules what the change in cash flow was for the

14 unregulated operations. Would I be able to do that by

15 simply deducting one from the other?

16 A. I believe so.

17 MR. CONRAD: Your Honor, I have another

18 exhibit. This is not HC. I guess this would be No. 44.

19 JUDGE PRIDGIN: Correct.

20 (Exhibit No. 44 was marked for

21 identification.)

22 BY MR. CONRAD:

23 Q. Ms. Lowndes, I've shown you what the presiding

24 officer has indicated will be marked -- should be marked for

25 identification as Exhibit 44. Do you have that before you?

1 A. Yes.

2 Q. Are you able to identify this document?

3 A. Yes.

4 Q. Would you briefly describe this document for
5 us?

6 A. It is Data Request SIE-11. It was responded
7 to by Mike Cole. And it is answering the question to
8 explain all assurances and guarantees Aquila will make that
9 the collateralized loan by the domestic utility operations
10 will be used only for the working capital needs of domestic
11 utility companies and will not be used in any way to fund
12 the cash and/or letter of credit requirements of non-utility
13 and nonregulated operations.

14 MR. CONRAD: Your Honor, I have one more data
15 request. I guess this would be 45.

16 (Exhibit No. 45 was marked for
17 identification.)

18 BY MR. CONRAD:

19 Q. Now, Ms. Lowndes, I've shown you what has been
20 marked for identification by the presiding officer as
21 Exhibit 45. Are you able to identify that document?

22 A. Yes.

23 Q. Please do so briefly.

24 A. It is Data Request SIE No. 3. It was
25 responded to by Randy Miller. And the question was, Please

1 identify all entities that would have access to a
2 collateralized loan agreement if Aquila's proposal in this
3 proceeding is approved.

4 MR. CONRAD: Your Honor, I'm not sure if I
5 have done so, but let me now offer into the record both 44
6 and 45.

7 JUDGE PRIDGIN: All right. Exhibits 44 and 45
8 have been offered. Any objections?

9 MR. BOUDREAU: None.

10 JUDGE PRIDGIN: Hearing none, Exhibits 44 and
11 45 are admitted.

12 (Exhibit Nos. 44 and 45 were received into
13 evidence.)

14 BY MR. CONRAD:

15 Q. Ms. Lowndes, please turn now to the document
16 that's been marked and admitted as Exhibit 44. The very
17 last paragraph of the response, right above where it says
18 Attachment, talks about a management commitment to assure
19 that sufficient funding -- do you see that phrase?

20 A. Yes. Yes, I do.

21 Q. What does that -- can you explain what that
22 means to me?

23 A. Well, the purpose behind the working capital
24 study was so that we would know how much cash we believed
25 would be necessary for the utility in -- during the winter.

1 And so once that study has -- has -- was done and we kind of
2 knew that 250 was what we needed for our balance sheet,
3 we -- that's our commitment to ensure that that funding will
4 be available to the utility.

5 Q. And what has been marked and admitted as
6 Exhibit 45, would you agree that that does confirm that the
7 funds would be available to all areas of Aquila's business?

8 A. Yes. It also states in that that the
9 company's intention is to ensure that domestic regulated
10 businesses would have priority access to the capital.

11 Q. Thank you for picking up that exception.

12 To your knowledge, was it the company's
13 intention to impair its financial status by becoming less
14 than investment grade?

15 A. Could you repeat that, please?

16 Q. Do you know if it was the company's intention
17 to become less than an investment grade utility?

18 MR. BOUDREAU: Calls for speculation. I'll
19 object.

20 JUDGE PRIDGIN: I'll overrule.

21 THE WITNESS: I don't believe it was the
22 intention.

23 BY MR. CONRAD:

24 Q. So things sometimes happen that aren't
25 intended; isn't that correct?

1 A. Yes.

2 MR. CONRAD: Your Honor, I believe that's all.

3 Thank you.

4 JUDGE PRIDGIN: Mr. Conrad, thank you.

5 Mr. Molteni?

6 CROSS-EXAMINATION BY MR. MOLTENI:

7 Q. Good afternoon, Ms. Lowndes.

8 A. Good afternoon.

9 Q. You are the senior financial manager for the

10 US network; is that correct?

11 A. Just in support of regulatory and gas supply.

12 Not for all of the US networks.

13 Q. Okay. And you know Beth Armstrong?

14 A. I report directly to Beth, yes.

15 Q. Ms. Armstrong is the CFO of the US networks?

16 A. Yes.

17 Q. And that consists of all the utility

18 properties?

19 A. Yes.

20 Q. And she oversees the accounting and the

21 financial management group that's attached to each of the

22 state's jurisdictions?

23 A. Yes.

24 Q. And Ms. Armstrong is a CPA?

25 A. Yes.

1 Q. And you're a CPA?

2 A. Yes.

3 Q. And one of the reasons you're testifying here

4 today is because Ms. Armstrong is on a pending maternity

5 leave; is that right?

6 A. Correct.

7 Q. Ms. Armstrong's your boss?

8 A. Yes, she is.

9 Q. Here's some tough questions for you.

10 Is she capable?

11 A. Yes.

12 Q. Competent?

13 A. Yes.

14 Q. Intelligent?

15 A. Yes.

16 Q. Knowledgeable?

17 A. Yes.

18 Q. Is she a good CPA?

19 A. I -- I guess -- she's not performing audits,

20 if -- if that's your question.

21 Q. Just asked if she was a good CPA.

22 A. She's a good accountant.

23 Q. Is she honest?

24 A. Yes.

25 Q. Do you maintain your certificate in Nebraska?

1 A. I'm inactive status. They have a licensing
2 option in Nebraska.

3 Q. Do you know if Ms. Armstrong maintains her
4 certificate here in Missouri?

5 A. No, I do not know.

6 Q. Okay. If you were to maintain your
7 certificate in Nebraska, would you have a continuing
8 education requirement?

9 A. Yes, I would.

10 Q. Do you know if Missouri has one too?

11 A. I believe they do.

12 Q. Is it fair to assume that if Ms. Armstrong
13 maintains her certificate in Missouri, she has to meet some
14 sort of continuing education requirement?

15 A. Yes.

16 Q. Did you attend Ms. Armstrong's deposition on
17 October 9th of this year?

18 A. Yes, I did.

19 Q. And do you recall that I asked her some
20 questions?

21 A. Yes.

22 Q. And do you recall that I asked Ms. Armstrong,
23 Have you heard the term "fairness doctrine" before?

24 A. Yes.

25 Q. And do you recall that she replied, quote, I'm

1 not familiar with that?

2 A. Yes.

3 MR. MOLTENI: Thank you.

4 JUDGE PRIDGIN: Mr. Molteni, thank you.

5 Let me see if we have any questions from the

6 Bench. Commissioner Gaw, do you have any questions?

7 COMMISSIONER GAW: Not right now, thank you.

8 JUDGE PRIDGIN: Thank you, Commissioner.

9 Commissioner Clayton?

10 COMMISSIONER CLAYTON: Yeah, I do have just a

11 few questions.

12 QUESTIONS BY COMMISSIONER CLAYTON:

13 Q. I had questions about four hours ago and time

14 passing has answered a few and made them a little less

15 relevant perhaps.

16 I had several questions and I went through

17 your Surrebuttal Testimony and some of these things were

18 brought up during testimony today and I wanted to ask

19 specifically -- and I suppose if I have to start somewhere,

20 I'll start on -- I'll start on page 15 of your testimony.

21 Do you have a copy of your testimony?

22 A. Yes, I do.

23 Q. And I want to refer to the language that you

24 have on lines 4 through 12. And this was brought up by one

25 of the interrogators earlier today regarding an

1 inconsistency regarding this dividend process. And I was
2 wondering if you would explain your answer in a little more
3 detail about what it means that you're saying there?

4 A. Well, the -- with our capital -- corporate
5 structure the way it is, the utilities themselves have not
6 paid dividends historically or -- and so what's been always
7 done is to maintain the capital structure at the divisional
8 level, a journal entry is made so that -- to avoid the
9 accumulation of income in the equity section of the balance
10 sheet.

11 A journal entry is made that debits retained
12 earnings and transfer -- and credits are intercompany with
13 parent payable. And that's the accounting journal entry I'm
14 referring to there. It's not a transfer of cash.

15 Q. When you make reference to the structure of
16 your company -- and I apologize for my lack of CPA training
17 and perhaps knowledge. But what is the structure of the
18 company? You have a holding company and then several
19 divisions?

20 A. It's not a holding company. The utilities
21 are --

22 Q. Parent company, would that be a better
23 reference?

24 A. I believe so. I'd have to look for a legal --
25 but I know it's not a holding company. The utilities are

1 all one part of parent -- of the parent corporation.

2 Q. Well, there have been a number of statements
3 and I'm -- sometimes I get confused. You make reference to
4 the utility. Who are you talking about in terms of the
5 utility?

6 A. The various operating divisions.

7 Q. Okay. What would be -- what would Missouri's
8 be called?

9 A. Missouri Public Service or St. Joe.

10 Q. Okay. And then it is owned by whom?

11 A. It is a part of Aquila, Inc. It is not --

12 Q. That wasn't my question.

13 A. -- it's not owned by --

14 Q. Who owns Missouri Public Service? Is the
15 stock owned by people or is it owned by another corporation?

16 A. By people. It is not owned by another
17 corporation.

18 Q. Okay. All right. Then there's a parent
19 company?

20 A. It's one and the same.

21 Q. One and the same. Okay. Then there's a
22 utility in each of the states that have been discussed?

23 A. There are -- people operate in five states, so
24 it's one operating division.

25 Q. Okay.

1 A. So it's not necessarily separated at a state
2 level.

3 Q. Okay. When you say that it would be
4 inconsistent to treat the utility as investment grade
5 quality by insulating it from the increased cost of capital,
6 I just -- I'm having difficulty understanding that concept
7 in your answer there.

8 A. Well, what we've -- we have -- because the
9 individual utilities do not issue stock in their name, we
10 have a capital structure on their books. And in order to
11 maintain a balanced capital structure, those entries are
12 made on the utility's books.

13 If part of the rate -- the shareholders'
14 ability to absorb the cost, if you will, of paying a higher
15 rate that we're not passing to the ratepayer is we're not
16 paying dividends. And -- and that's how we're funding some
17 of this is by not paying our dividends at the -- and so
18 those entries are made to maintain our capital structure.

19 Q. Regarding dividends, you made a statement
20 earlier about investment grade being dependent upon whether
21 dividends are paid by a company. Is it your position --
22 this was asked earlier, but is it your position that a
23 company which is investment grade automatically pays
24 dividends? Is that --

25 A. Not necessarily. It depends on the type of

1 company it is. Some are -- if they're heavily involved in
2 research or something, they -- they will use their cash for
3 other investments and not dividends. It would depend on the
4 type of company it is.

5 Q. Okay. There were several people who brought
6 up -- and I know that I'm going to mess up the actual
7 language of the peak day capital requirements.

8 A. Uh-huh.

9 Q. Okay. And there were several questions
10 regarding whether or not Missouri -- there was a calculation
11 for Missouri's peak day requirements. Do you recall those
12 questions?

13 A. Yes.

14 Q. And I think your answer was that that wasn't
15 computed?

16 A. Correct.

17 Q. Okay. Why wasn't that computed?

18 A. Because our -- we wanted to look at the
19 maximum cash across the utility to understand what -- what
20 cash needed to be maintained on our balance sheet. And with
21 our geographic areas, it -- you know, you could have
22 different peaks and we wanted to look at the peak across the
23 utility. And so that was the study that was performed.

24 Q. Do you believe that there should be any
25 connection at all by state between mortgage of an asset and

1 the requirements -- the capital requirements in a particular
2 state?

3 A. I'm sorry. Could you repeat that one time?

4 Q. Do you believe it's relevant or important to
5 connect the amount of collateral pledged by a state
6 according to its working capital needs? Do you believe
7 that's a relevant question to ask? And I won't be insulted
8 by your answer.

9 A. It's a relevant question.

10 Q. It's an irrelevant question?

11 A. No. It -- it's a valid question.

12 Q. Okay. Do you think it -- that's not going to
13 be a fair question.

14 If it's a relevant question, do you think it
15 would have been helpful for this Commission to examine what
16 Missouri's needs would be in comparison to the amount of
17 collateral put up for this loan?

18 A. It might have been. That's why we look at
19 some of those other companies within Missouri that do have
20 working capital facilities to see their type of working
21 capital needs. But -- and to balance this, we did not look
22 at isolating to the detriment of other utilities.

23 Q. Did you all do a study for the other states in
24 which you're requesting permission to encumber these assets
25 for their particular capital needs in each state?

1 A. No. We have only done the -- the one
2 company-wide coincident peak across the utility.

3 Q. Are you in a position to state to the best of
4 your knowledge which state would be in the most need of
5 additional working capital, which state will benefit from
6 this loan?

7 A. It -- each state could have a peak at a
8 different time of the year depending on the type of
9 operation in that state, so the -- company-wide we did --
10 Minnesota had the highest need, but that's at that point in
11 time. It may not be the highest need if we had done it --

12 Q. Who had the least need?

13 A. For?

14 Q. You just mentioned -- you said Minnesota had
15 the greatest need. Who had the least need?

16 A. Missouri for the time that the coincident peak
17 across all of the -- them. It could be a different answer
18 if we had done a Missouri-specific that its peak occurred in
19 the spring versus the January one. It might have been a
20 different answer.

21 Q. Forgive me. I've got a lot of paper up here.
22 What is the supposed value of the Missouri assets subject to
23 this application?

24 A. I --

25 Q. Ballpark figure.

1 A. I believe it's approximately 1 billion, but --
2 Q. Okay. And how about the value of Minnesota's
3 assets?
4 A. I don't have that in front of me.
5 COMMISSIONER CLAYTON: Okay. Judge, I had
6 other questions, but I may wait and ask them at another
7 time. Thank you.
8 JUDGE PRIDGIN: Commissioner Clayton, thank
9 you.
10 COMMISSIONER GAW: Judge, may I?
11 JUDGE PRIDGIN: Commissioner Gaw?
12 COMMISSIONER GAW: Thank you.
13 QUESTIONS BY COMMISSIONER GAW:
14 Q. I think I have a grasp of corporate structure
15 here. All of the -- all of the assets that are utility
16 assets and US assets of Aquila are held by one corporation,
17 aren't they?
18 A. Correct.
19 Q. The divisions that -- and the separate
20 utilities are not in legally separated entities?
21 A. Correct. They are not.
22 Q. So the structure in regard to the differences
23 in the needs of the different divisions within the
24 corporation are accounting -- for accounting purposes there,
25 but as far as legal protection or other things from a legal

1 standpoint, it's all one corporation?

2 A. That is correct.

3 Q. Maybe you can answer this question. If this

4 Commission were to approve Aquila's request, what, if

5 anything, does the corporation gain as a result?

6 A. I'm not that familiar with the loan document

7 specifically. Mr. Dobson might be better to answer that

8 question.

9 Q. Are you aware of anything that the company

10 gains as a result?

11 A. I would defer to Mr. Dobson.

12 Q. Are you aware of anything?

13 A. I'm not.

14 COMMISSIONER GAW: All right. That's all I

15 have. Thank you.

16 JUDGE PRIDGIN: Commissioner Gaw, thank you.

17 And I think, Ms. Lowndes, I have a question or

18 two.

19 QUESTIONS BY JUDGE PRIDGIN:

20 Q. If I'm not mistaken, I think you answered

21 Commissioner Clayton's question about stock in that you said

22 it was people and not a corporation that owned stock in

23 Missouri Public Service. Wasn't that your testimony?

24 A. He asked if it was another corporation. I

25 gathered from that question he meant a holding corporation.

1 I mean there are corporations that could hold the stock
2 investments.

3 Q. Is it Missouri Public Service that issues
4 stock or is it --

5 A. No.

6 Q. -- Aquila that issues stock?

7 A. It is Aquila.

8 Q. So Missouri Public Service and St. Joseph
9 Light & Power are divisions within Aquila; is that correct?

10 A. It's more of a d/b/a even.

11 Q. All right. All right. But it's only Aquila
12 who issues --

13 A. Yes.

14 Q. -- securities?

15 A. Correct.

16 JUDGE PRIDGIN: All right. Thank you. I
17 think that's all I have.

18 Let me see if we have any recross.

19 Mr. Micheel?

20 MR. MICHEEL: Yes, your Honor. Just a couple
21 to muddle it up a little further.

22 RECROSS-EXAMINATION BY MR. MICHEEL:

23 Q. Is it correct, Ms. Lowndes, that in all seven
24 states that Aquila operates, it's Aquila, Inc. operating in
25 those states?

1 A. Yes.

2 Q. And they just operate under a fictitious name

3 registration in those states? For example, in the state of

4 Missouri it's MPS Networks and Light and Power Networks; is

5 that correct?

6 A. It -- it is a d/b/a type of designation, yes.

7 Q. And that's a fictitious name registration;

8 isn't that correct?

9 A. I'm not sure of the use of the word

10 "fictitious," but --

11 JUDGE PRIDGIN: Mr. Micheel, thank you.

12 Mr. Williams?

13 MR. WILLIAMS: Thank you.

14 RECROSS-EXAMINATION BY MR. WILLIAMS:

15 Q. In response to a question from Commissioner

16 Clayton you indicated that Aquila had done its study, which

17 I think you were probably referring to your Surrebuttal

18 Exhibit CL-5 where you did comparisons with other

19 companies --

20 A. Uh-huh.

21 Q. -- is that correct?

22 A. Yes.

23 Q. Are any of the companies that you have listed

24 on that schedule using their short-term credit capacity to

25 finance construction?

1 A. I -- I don't know.

2 Q. And I guess to muddle the waters a little

3 more, do you know if Aquila is certificated by the Missouri

4 Public Service Commission to do business in this state as

5 Aquila Networks MPS and Aquila Networks L&P?

6 A. I believe so.

7 Q. And those are operating entities for Aquila's

8 internal purposes?

9 A. Yes.

10 Q. And for regulatory purposes?

11 A. Yes.

12 Q. And you keep accounting records for those

13 regulatory purposes?

14 A. Yes, we do.

15 Q. But they are not separate legal entities?

16 A. No, they are not.

17 Q. And there is only one legal entity and that's

18 Aquila, Inc.?

19 A. Yes. They may -- they have some subsidiaries,

20 but not on the US utility side.

21 Q. Is Aquila a Missouri corporation?

22 A. I believe it's a Delaware corporation.

23 MR. WILLIAMS: No further questions.

24 JUDGE PRIDGIN: Mr. Williams, thank you.

25 Mr. Conrad, any recross?

1 MR. CONRAD: Nothing further.

2 JUDGE PRIDGIN: Thank you.

3 Mr. Molteni?

4 MR. MOLTENI: No, sir.

5 JUDGE PRIDGIN: Thank you, Mr. Molteni. No

6 further recross.

7 Mr. Boudreau?

8 MR. BOUDREAU: I have no questions for the

9 witness. Thank you.

10 JUDGE PRIDGIN: All right. Thank you.

11 Mr. Boudreau, may this witness be excused?

12 MR. BOUDREAU: Yes, please.

13 JUDGE PRIDGIN: I'm hearing no objections.

14 Ms. Lowndes, thank you very much for your time and your

15 testimony this afternoon. You are excused.

16 MR. MOLTENI: Judge Pridgin, before we take up

17 the next witness, if I could ask for a point of

18 clarification. And if you'll forgive my ignorance on the

19 protocol with the Public Service Commission.

20 I don't know whether the Commission can take

21 notice of other state's decisions and the Commissioners

22 asked about Minnesota. I would ask that the Commission

23 either take notice of the Minnesota decision or if Aquila

24 will stipulate that Minnesota's Public Utility Commission

25 has voted five-zero to deny Aquila's request to

1 collateralize their Minnesota assets.

2 JUDGE PRIDGIN: Mr. Boudreau?

3 MR. BOUDREAU: I'm not sure I'm willing to
4 stipulate to that. It's my understanding they've indicated
5 the action that they might take. I'm not sure that it's
6 shown up in a written form yet, so I'm not sure what
7 Minnesota's done specifically. So I'm not sure I'm ready to
8 stipulate to it.

9 If I were to get some document that I had the
10 confidence that it was, in fact, the official act of the
11 Minnesota Commission, perhaps. But with that, I mean, at
12 this point I don't think I'm willing to stipulate.

13 JUDGE PRIDGIN: Mr. Molteni?

14 MR. MOLTENI: I have a printout from the
15 Minnesota PUC website. I'd be happy to show it to
16 Mr. Boudreau. If this would satisfy the documentation that
17 Aquila would require, I'd be happy to provide it to him.

18 MR. BOUDREAU: Let me do this. I'm willing to
19 work with the parties. If I can get something that I
20 figure -- that I can convince myself is authoritative, I
21 don't think I have a particular problem with that.

22 JUDGE PRIDGIN: Did you want to look at that
23 document? Did you need a minute to look at that?

24 MR. BOUDREAU: I would rather --

25 JUDGE PRIDGIN: And if it's something we need

1 to do on a break, this isn't necessarily anything we have to
2 take up as far as this witness.

3 MR. BOUDREAU: I think I've seen what I needed
4 to see. This is a two-paragraph document. It says a
5 written order in this matter is expected to be issued within
6 two weeks.

7 You know, I'd like to see the written order.
8 I'm not sure -- you know, this may be a synopsis of what the
9 Commission said it may do in Minnesota, but I want to see
10 the actual order. I mean, when it comes down, I'm not sure
11 I have a problem with it.

12 JUDGE PRIDGIN: Obviously Aquila's not willing
13 to stipulate. And it doesn't sound like from that that we
14 have an order yet. And if it's going to come down in two
15 weeks, it's something that the parties can certainly
16 address. The hearing stretches until the 31st and it may
17 happen by then.

18 MR. MOLTENI: Your Honor, the Minnesota Public
19 Service Commission has already -- has voted and there was a
20 five-zero vote. They indicate they will provide a written
21 order along with -- in two weeks. And I don't know what the
22 best protocol is. Should the hearing record be kept open so
23 that we can stipulate to the Minnesota order?

24 JUDGE PRIDGIN: I think that's something that
25 we can take up towards the end of the hearing. And if it's

1 not something that is apparent that -- at least that I have
2 a written order from another commission, that's certainly
3 something that the parties can even bring up in briefs.

4 Because if it's an official record of another
5 commission, we don't need to get it into evidence. It's
6 something the Commission can take administrative notice of.
7 So we don't necessarily have that problem and that's
8 something that obviously the parties can address in briefs.

9 MR. BOUDREAU: Another matter I might offer.
10 I don't know whether Mr. Molteni is interested in this or
11 not, but Mr. Empson was present at the time the Missouri --
12 excuse me, Minnesota Commission indicated its vote.

13 And he'll be a witness and he'll be available
14 to discuss his understanding or his -- maybe able to confirm
15 that indirectly through some testimony. And that may be
16 another way to get there.

17 JUDGE PRIDGIN: Thank you, Mr. Boudreau.

18 And, Mr. Molteni, you may be able to get that
19 out in whatever information it is that you want in evidence
20 through cross-examination.

21 MR. WILLIAMS: Judge?

22 JUDGE PRIDGIN: Yes, Mr. Williams.

23 MR. WILLIAMS: Staff is contemplating
24 requesting that the record be kept open for late-filed
25 exhibits for any decisions that come out of other states

1 during some period after this case is submitted to the
2 Commission.

3 JUDGE PRIDGIN: Okay. And, again, if it's
4 something that is not elicited in Mr. Empson's testimony and
5 if the parties aren't -- either can't stipulate or the
6 Commission isn't convinced that the Minnesota Commission has
7 definitely acted, that is something that we can consider
8 doing is leaving the record open or it's something the
9 parties can address in briefs. I'm trying to be flexible
10 with this.

11 Mr. Conrad, did you have something?

12 MR. CONRAD: Just to -- not to pile on here,
13 but what we have done with similar circumstances in some
14 other jurisdictions is a Motion to Lodge, which sounds kind
15 of odd, but basically what it is is filing a copy of the
16 decision from whatever, whether it be a lower court or
17 something else, that's thought by the party filing the
18 motion to be relevant to some issue.

19 And it just explains in brief motion what it
20 is and the parties have an opportunity to respond to it.
21 That might be an acceptable way. Leaving the record open
22 for late-marked exhibits is certainly acceptable too.

23 JUDGE PRIDGIN: What I'd like to do is just go
24 ahead and move on and get the next witness. I mean, I
25 appreciate the parties bringing this to my attention and

1 that's certainly -- I would think there's some way we can
2 get that in the record either with evidence or the
3 Commission taking judicial notice.

4 And I'll certainly leave it up to the parties
5 to remind me to deal with this later if it's not been dealt
6 with to your satisfaction as the hearing draws to a close.

7 I do see as the next witness on the list
8 Mr. Dobson.

9 MR. BOUDREAU: Yes. Mr. Dobson would be the
10 next witness.

11 JUDGE PRIDGIN: Mr. Dobson, if you would come
12 forward and be sworn, please.

13 (Witness sworn.)

14 JUDGE PRIDGIN: Mr. Dobson, thank you very
15 much. Have a seat.

16 Mr. Boudreau, whenever you're ready.

17 MR. BOUDREAU: Thank you.

18 RICK DOBSON testified as follows:

19 DIRECT EXAMINATION BY MR. BOUDREAU:

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

22 A. Rick Dobson.

23 Q. By whom are you employed and in what capacity?

24 A. Aquila, Inc. as their chief financial officer.

25 Q. Are you the same Rick Dobson who has caused to

1 be previously filed prepared Direct and Surrebuttal
2 Testimony, which have collectively been marked for
3 identification as Exhibits 4, 5, 6, 7 and 8?
4 A. Yes.
5 Q. And as a matter of clarification, Exhibits 5,
6 6 and 7 are highly confidential schedules to your Direct
7 Testimony, which is Exhibit 4?
8 A. Yes.
9 Q. And Exhibit 8 is your Surrebuttal Testimony?
10 A. Yes.
11 Q. Was this testimony prepared by you or under
12 your direct supervision?
13 A. Both.
14 Q. Do you have any corrections to make to either
15 your Direct or your Surrebuttal Testimony at this time?
16 A. I do.
17 Q. Okay. Do you have any corrections to your
18 Direct Testimony?
19 A. I do.
20 Q. Let's start with the Direct Testimony.
21 A. Page 11 --
22 Q. Excuse me. Excuse me. I failed to bring up
23 one of the key documents. Please proceed.
24 A. Page 11, first sentence, top of the page
25 beginning with, If the Canadian assets are sold, and

1 continuing to the end of that sentence, I would strike the
2 entire sentence and write it as such: If the Canadian
3 assets are sold, comma, a mandatory prepayment may be
4 required --

5 Q. Could you take it in slow pieces? A
6 mandatory --

7 A. Prepayment may be required in accordance with
8 Section 2.7 of the 430 million term loan, period.

9 Q. Just for the clarity of the record, could I
10 ask you to repeat that one time so everybody has it written
11 down correctly?

12 A. I will. If the Canadian assets are sold, a
13 mandatory prepayment may be required in accordance with
14 Section 2.7 of the 430 million term loan.

15 Q. Thank you. Any other corrections to your
16 Direct Testimony?

17 A. No.

18 Q. Do you have corrections to your Surrebuttal
19 Testimony?

20 A. I do.

21 Q. If I could ask you to proceed with those?

22 A. I will. Page 2, line 7, I would like to
23 change the number from page 11 to page 10 and the lines from
24 9 and 10 to 21 and 22. Line 2--

25 JUDGE PRIDGIN: I'm sorry, Mr. Boudreau.

1 Could you ask Mr. Dobson again on that correction page 2 of
2 his Surrebuttal?

3 BY MR. BOUDREAU:

4 Q. Indeed. Mr. Dobson, could you repeat the
5 correction you just indicated?

6 A. Yes. On line 7, replace page 11 with page 10
7 and lines 9-10 with 21-22. On line 21 of the same page,
8 replace lines 13-14 with 5-6, page 25 with page 24, lines
9 5-15 with lines 18-23, add page 25 and lines 1-5 and on
10 line 22 change line 16-18 to line 5-7.

11 A couple more on page 3. Line 2, change lines
12 11-14 to 1-4. On line 22 of page 3, change page 49 to page
13 48, lines 1-11 to 5-15.

14 My last change is on page 6 of my Surrebuttal
15 Testimony. I'm changing line 5 -- that's a statement -- the
16 first sentence of line 5 the statement I'm making I actually
17 can't make, so I'm changing the sentence to read as follows:
18 The company's shareholders -- this is a key word -- may have
19 suffered a loss in share value that may or may not be
20 permanent. And the sentence continues on correctly, Due to
21 Aquila's weakened -- and so forth. Those are my changes.

22 Q. With those corrections, if I were to ask you
23 the same questions as appear in your prepared testimony,
24 both Direct and Surrebuttal, would your answers today be
25 substantially the same?

1 A. Yes.

2 Q. Would they be true and correct to the best of
3 your information, knowledge and belief?

4 A. Yes.

5 MR. BOUDREAU: With that, I would offer into
6 the record Exhibits 4, 5, 6, 7 and 8 and offer the witness
7 for cross-examination -- or tender, I suppose.

8 JUDGE PRIDGIN: Mr. Boudreau, thank you.

9 And let me see if we have any objections to
10 Exhibits 4 through 8.

11 Hearing none, Exhibits 4 through 8 are
12 admitted into evidence.

13 (Exhibit Nos. 4 through 8 were received into
14 evidence.)

15 JUDGE PRIDGIN: Mr. Micheel, any cross?

16 MR. MICHEEL: Oh, yeah. If you could just
17 give me a minute to arrange my stuff.

18 CROSS-EXAMINATION BY MR. MICHEEL:

19 Q. Hello, Mr. Dobson. How are you today?

20 A. Good afternoon.

21 Q. Got a question for you on page 11 of your
22 testimony, your Direct Testimony, Exhibit 4. At the top of
23 the page you deleted a sentence there; is that correct?

24 A. Yes.

25 Q. And you inserted a new sentence; is that

1 correct?

2 A. Yes.

3 Q. And you did that because the Colorado assets

4 entered the pool and that statement that was there

5 previously is incorrect; is that correct?

6 A. That's correct.

7 Q. The three-year, \$430 million term loan

8 replaced Aquila \$650 million unsecured revolving credit

9 facility that supported the company's peak day working

10 capital requirements for Aquila's operations; is that

11 correct?

12 A. Yes.

13 Q. And is it correct that the pricing terms for

14 the unsecured revolving credit facility were tied to the

15 commercial paper market?

16 A. That's incorrect.

17 Q. What were those pricing terms tied to?

18 A. They are tied to LIBOR plus a basis point

19 spread commensurate with the risk of the counter-party at

20 the point in time we consummate the transaction.

21 Q. What LIBOR basis point was it? Was it the

22 three month, six month?

23 A. I believe it was the three month.

24 Q. And what's the current LIBOR three-month rate?

25 A. Approximately 1.2 to 1.5 percent.

1 Q. On average, what was the rate that Aquila was
2 able to draw from that revolving credit facility?

3 A. I don't recall discretely, but I believe it
4 was approximately 150 basis points above LIBOR.

5 Q. Let's say LIBOR is 1.5 percent, the top end of
6 the range you gave. Add 150 basis points, what percentage
7 does that give me?

8 A. 3 percent.

9 Q. So generally speaking -- and I know ballpark
10 Aquila was drawing unsecured credit about 3 percent, is that
11 correct, under its revolver?

12 A. That's a good ballpark, that's correct.

13 Q. Okay. And is it correct in this proceeding
14 that Aquila has committed to charging ratepayers the
15 Triple B bond rate investment grade for the funds used for
16 peak day working capital?

17 A. Yes.

18 Q. And you note that on page 13 of your Direct
19 Testimony, do you not?

20 A. Yes.

21 Q. What is the Trip B rate that Aquila will be
22 charging customers for its peak day working capital
23 requirements?

24 A. That varies daily, but it's based on a -- a
25 Triple B Bloomberg quote for short-term funds.

1 Q. Now, it was my understanding that it was the
2 Triple B investment rate for bonds; is that correct?

3 A. It's my understanding that it's the Triple B
4 investment grade rate for the utility basket off the
5 Bloomberg system. That's my understanding. The difference
6 between that and bonds would -- should be diminimus.

7 Q. And where does it say in your testimony
8 anywhere about the Bloomberg basket? Could you point that
9 to me?

10 A. It doesn't say on page 13 of my testimony
11 anything about that.

12 Q. Does it say anything about that anywhere in
13 your testimony?

14 A. Not that I recall.

15 Q. Okay. And what is the Bloomberg basket rate,
16 if you know?

17 A. About 3 percent.

18 Q. About 3 percent. So it is not the Triple B
19 investment rate for bonds that we'll be getting charged; is
20 that correct?

21 A. Bloomberg basket basically is that.

22 Q. So it's your testimony that triple rated bonds
23 right now are trading at an average of 3 percent?

24 A. Short-term, one-year, Triple B investment
25 rated bonds are around 3 percent, the best of my

1 recollection.

2 Q. Is there any other witness that testifies that
3 it's going to be this Bloomberg basket of Triple B bonds?

4 A. I don't know.

5 Q. Do you know if Aquila currently has filed both
6 an electric and gas rate case?

7 A. In what state?

8 Q. In the state of Missouri.

9 A. I believe we have.

10 Q. And do you know what the Triple B bond rates
11 are in utilized in that case, those cases?

12 A. I don't recall.

13 Q. Okay. Would you be surprised if they were in
14 the 7 percent range?

15 A. From a long-term borrowing perspective inside
16 a rate case, I would not.

17 Q. Would you agree with me, Mr. Dobson, that this
18 application is not a merger application?

19 A. Yes.

20 Q. Would you agree with me, Mr. Dobson, that this
21 application is not an application to sell assets of Aquila?

22 A. Yes.

23 Q. At page 2 of your Direct Testimony, which has
24 been marked as Exhibit 4, you discuss Aquila's merchant
25 energy strategy; is that correct? And I'd give you line

1 numbers, but you didn't put line numbers in here, contrary
2 to Commission rules.

3 A. Sorry about that. I'm on that page.

4 Q. And do you discuss the company's merchant
5 energy strategy on page 2, sir?

6 A. I do go over history of the company during
7 that period, yes.

8 Q. And as part of the history of that company,
9 the company's entering into what's been known as the
10 merchant energy strategy?

11 A. Yes.

12 Q. And would you agree with me, Mr. Dobson, that
13 Aquila's decision to execute the merchant energy strategy
14 was an Aquila management decision?

15 A. Yes.

16 Q. Does Aquila take full responsibility for that
17 management strategy?

18 A. Yes, we do.

19 Q. Would you agree with me that the merchant
20 energy trading strategy was an unregulated business?

21 A. To the best of my knowledge, yes.

22 Q. Would you agree with me that the collapse of
23 Aquila's merchant energy business is a big reason for
24 Aquila's loss of its investment grade rating?

25 A. No.

1 Q. Would you agree with me that the metrics
2 changed on that business for rating agency purposes?
3 A. Yes.
4 Q. Is it correct that Aquila lost over
5 \$200 million in that business?
6 A. For what time period?
7 MR. MICHEEL: May I approach the witness, your
8 Honor?
9 JUDGE PRIDGIN: You may.
10 MR. MICHEEL: I'm handing him a copy -- and
11 this is HC, I'm not going to talk about the HC numbers. And
12 it's already in -- well, it's attached to Mr. Robertson's HC
13 Rebuttal Testimony as TJR-3, I believe, but I'll give
14 everybody another copy. I wasn't planning on making it an
15 exhibit.
16 JUDGE PRIDGIN: So, Mr. Micheel, do I
17 understand you do want this marked as an exhibit?
18 MR. MICHEEL: No, I do not, your Honor,
19 because it's already part of Mr. Robertson's Rebuttal
20 Testimony.
21 JUDGE PRIDGIN: All right. Thank you.
22 BY MR. MICHEEL:
23 Q. Mr. Dobson, will you look with me -- and I
24 don't want to get the specific numbers here, but I'm looking
25 at the merchant loan portfolio. Is it correct there on this

1 document, OPC 1027, it indicates that before fees and taxes,
2 Aquila lost more than \$200 million in the merchant energy
3 business?

4 A. It's apparent from this sheet on the line
5 merchant loan portfolio that on the divestiture of that
6 portfolio that we lost that amount of money.

7 Q. And would you agree with me that Aquila takes
8 full responsibility for the hundreds of millions of dollars
9 lost from that decision to exit the business?

10 A. We do.

11 Q. And did that decision help Aquila's financial
12 situation? Did those losses help Aquila's financial
13 situation or hurt it?

14 A. The cash flows from that divestiture were
15 critical to our liquidity during the winter of 2002 and
16 2003.

17 Q. Is Aquila blaming its failure to be investment
18 grade -- an investment grade utility on the credit rating
19 agencies?

20 A. No.

21 Q. Is Aquila taking full responsibility for its
22 downgrades from the credit rating agencies?

23 A. Yes.

24 Q. At page 3 of your Direct Testimony -- again, I
25 don't have a line -- you discuss Aquila's equity investment

1 in Quanta Services; is that correct?

2 A. Yes.

3 Q. And, again, looking at OPC 1027, is it correct

4 that Aquila lost over \$700 million on its Quanta investment?

5 A. That's approximately correct.

6 Q. Well, I won't bookend it because I want to

7 keep it secret.

8 Is it correct that Quanta was an unregulated

9 entity?

10 A. Yes.

11 Q. And is it correct that Aquila was aware that

12 stock prices can go up and down?

13 A. I believe we were.

14 Q. And would you agree with me that Aquila takes

15 full responsibility for its Quanta losses?

16 A. We do.

17 Q. Would you agree with me that those Quanta

18 losses contributed to the noninvestment grade rating that

19 Aquila currently enjoys?

20 A. Yes.

21 Q. Looking at OPC 1027 there -- and to try to

22 speed this along because it's getting late in the day, I'm

23 just going to give you a list of items here. The Texas

24 Gas -- or the Natural Gas Processing and Pipelines, the

25 Lockport Energy, the Lodi Gas Storage, is it correct that

1 Aquila lost money on all of those investments?

2 A. Yes.

3 Q. And are all those unregulated investments?

4 A. Yes.

5 Q. Would you agree with me that the reason Aquila

6 had to acquire its three-year, \$430 million term loan is a

7 result of Aquila's huge losses from its unregulated

8 business?

9 A. No.

10 Q. Were you aware that we took the deposition of

11 Richard Green on, let's see, October 8th?

12 A. Yes.

13 Q. Were you aware that I asked Mr. Green the

14 question: And so is it fair to say that the reason Aquila

15 found it necessary to get the three-year, \$430 million term

16 loan was a result of Aquila's losses in its unregulated

17 business?

18 And Mr. Green answered: I suppose it was.

19 A. Yes.

20 Q. Would you agree with me that Aquila's US

21 utility operations have for at least the last 10 years

22 always had a positive net income?

23 A. Yes.

24 Q. Again, were you aware I took Mr. Green's

25 deposition on October 8th?

1 A. Yes.

2 Q. And were you aware that Mr. Green answered me
3 when I asked him that question: When was the last time in
4 your memory that Aquila's US utility properties didn't have
5 positive net income?

6 And Mr. Green answered: Oh, I don't think
7 that's ever happened.

8 A. I don't recall that statement, but that was a
9 long document.

10 Q. Would you agree with me that Aquila's US
11 utilities did not contribute to the losses that Aquila
12 sustained?

13 A. Yes.

14 Q. Is it correct at page 10 of your Direct
15 Testimony you mention Aquila's financial plan that is
16 attached as highly confidential Schedule RD-1 and has been
17 marked as an exhibit in this testimony as Exhibit 5?

18 A. Yes.

19 Q. Would you agree with me, Mr. Dobson, that RD-1
20 filed with your Direct Testimony is not Aquila's current
21 financial plan?

22 A. It's still the core of our financial plan, but
23 our financial plan is evolving to a state that we will make
24 a presentation of a -- a revised plan to our board on
25 November 5th of this year.

1 Q. So you're going to be providing a new plan, a
2 different plan to your board on November 5th; is that
3 correct?

4 A. It will have differences for -- with this
5 plan -- from this plan, yes.

6 Q. Is it correct that Aquila has a definitive
7 agreement to sell its Canadian assets?

8 A. Correct, yes.

9 MR. MICHEEL: I need to go into HC at this
10 point, your Honor.

11 JUDGE PRIDGIN: All right. Well, let me see
12 how the parties want to proceed, especially seeing that the
13 day is drawing to a close.

14 MR. MICHEEL: This would be a good breaking
15 spot, if you'd like. It's a new area.

16 JUDGE PRIDGIN: Let's take a quick 10-minute
17 recess then and go off the record.

18 (A RECESS WAS TAKEN.)

19 (REPORTER'S NOTE: At this time, an in-camera
20 session was held, which is contained in Volume No. 5, Pages
21 333 through 340 of the transcript.)

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1 BY MR. MICHEEL:

2 Q. Has Aquila hired financial advisors to help it
3 formulate its financial plan?

4 A. Yes.

5 JUDGE PRIDGIN: I'm sorry to interrupt. I
6 just want to make perfectly clear we're out of the HC and
7 back in the public. I'm sorry.

8 BY MR. MICHEEL:

9 Q. And that's the financial plan that we talked
10 about in RD-1; is that correct?

11 A. Yes.

12 Q. Are those advisors individuals from Suisse
13 Credit?

14 MR. BOUDREAU: I'm somewhat concerned about
15 where the line of questioning is going. Not so much about
16 the subject matter that's being asked about, but whether or
17 not it does get us into highly confidential information.

18 MR. MICHEEL: Your Honor, I don't think it is.
19 And if this witness is about to divulge highly confidential
20 information, Mr. Dobson will say, Mr. Micheel, that would be
21 highly confidential, we need to go -- I don't plan on it
22 being highly confidential, your Honor, unless his answer is.

23 JUDGE PRIDGIN: All right. And, Mr. Boudreau,
24 if you'll just keep careful tabs. If you think something's
25 highly confidential, please object and we'll go in-camera if

1 we need to.

2 MR. BOUDREAU: Okay.

3 JUDGE PRIDGIN: Thank you.

4 THE WITNESS: I'll take my time, Mr. Micheel,

5 to answer.

6 BY MR. MICHEEL:

7 Q. Sure. Mr. Dobson, my question was, are those

8 financial advisors individuals from Credit Suisse First

9 Boston or CSFB?

10 A. Some of them are, yes.

11 Q. And are there other advisors?

12 A. There are.

13 Q. And where are they from?

14 A. They're from a company I believe that's called

15 Evercore Partners.

16 Q. And are the Evercore Partners and the CFSB

17 advisors helping Aquila to formulate this new plan that

18 you're going to present to the board in the near future?

19 A. They're helping us revise our core plan that

20 we developed in April, yes.

21 Q. Are the Credit Suisse First Boston people, is

22 that the same group, the energy management group, that

23 helped Aquila secure its three-year \$430 million term loan?

24 A. Some of the parties do cross over, but the

25 specific people that helped us market the \$430 million term

1 loan are not involved in that aspect of our plan.

2 Q. How much is Aquila paying the Credit Suisse

3 First Boston folks to advise Aquila?

4 A. I don't recall.

5 Q. Could you give me ballpark?

6 A. I just don't recall.

7 Q. Would you agree with me that the Credit Suisse

8 First Boston people have a stake in the success of Aquila's

9 financial plan?

10 A. That's -- that's a difficult question to

11 answer.

12 Q. Give it a whirl.

13 A. When you say the Credit Suisse First Boston

14 has a stake in the success of the financial plan, could you

15 be more specific in what you mean?

16 Q. Sure. I wouldn't want to hire a financial

17 advisor for my own personal use that gave me bad financial

18 advice. And so I want my financial advisor to be thinking,

19 you know, we all have to be in it together and get a

20 successful plan.

21 And I'm asking you, does Credit Suisse First

22 Boston have a stake in the outcome of Aquila's plan?

23 A. From the extent that they want us to survive

24 and be a robust corporation that would be happy with the

25 work they performed to get us back to that and then could

1 subsequently possibly through kind of an open bid process
2 make them somebody we trusted in, it could. It has that
3 possibility.

4 Q. Is it correct you attached Schedule RD-2 to
5 your Direct Testimony, which has been marked for purposes of
6 identification as Exhibit 6-HC?

7 A. Yes.

8 Q. And that provides details of the collateral
9 support for the three-year, \$430 million term loan; is that
10 correct?

11 A. It's -- it -- it's a part of, if I remember
12 correctly, the investor presentation in connection with
13 marketing the term loan.

14 Q. Would you agree with me -- and I don't want to
15 go into the HC numbers, Mr. Dobson, and we've done this
16 before. Would you agree with me that RD-2 does not
17 determine the collateral value per the term loan agreement?

18 A. It does not.

19 Q. Would you agree with me that RD-2 is a
20 marketing document designed to give investors an idea of the
21 value of collateral available for the loan?

22 A. Yes.

23 Q. Would you agree with me that RD-2 was created
24 for marketing purposes?

25 A. I don't know if I would use the term

1 "marketing," but it was created as a tool for potential
2 investors to understand potential collateral package and
3 potential assets behind the loan that they may want to
4 invest in.

5 Q. Do you recall when I took your deposition on
6 October 7th, 2003?

7 A. Yes.

8 Q. Do you recall me asking you Question: And was
9 that document used for marketing purposes by Credit Suisse
10 First Boston?

11 And your answer: I believe it was.

12 My question: And that was really the only
13 purpose for that document?

14 And your answer: That's my understanding,
15 yes.

16 A. Yes.

17 Q. Is it correct that the independent fair
18 valuations were done by an independent third party -- or are
19 to be done by an independent third party and those
20 valuations are the controlling valuations for purposes of
21 the term loan?

22 A. Yes.

23 Q. And is it correct that Aquila has already had
24 certain independent fair market valuations conducted?

25 A. Yes.

1 MR. MICHEEL: I need to mark some highly
2 confidential exhibits, your Honor.

3 JUDGE PRIDGIN: Okay. Do we need to go back
4 if you're going to talk about some more HC?

5 MR. MICHEEL: No. The exhibits are HC, but at
6 this point in the cross-examination I'm not going to talk
7 about them. I just want to get them in and identified. And
8 I think it's the -- I may not -- I'm going to talk about the
9 dates. I don't think that's highly confidential. It's the
10 numbers. So I don't think we need to do that.

11 JUDGE PRIDGIN: When you publish the proposed
12 exhibits, I'll give counsel, of course, a chance to look at
13 it and not only decide if they want to object, but if they
14 think we need to go in-camera.

15 MR. MICHEEL: And, your Honor, I neglected to
16 put them in the secret envelopes. I'm sorry. But they are
17 HC.

18 If you'd just bear with me, the first one is
19 going to be Exhibit 46, and it's going to be the March 21st,
20 2003 Bearing Point valuation.

21 (Exhibit No. 46-HC was marked for
22 identification.)

23 BY MR. MICHEEL:

24 Q. Mr. Dobson, I've handed you what's been marked
25 for purposes of identification as highly confidential

1 Exhibit 46, the determination of fair value of certain
2 utility-related assets valuation as of March 21st, 2003
3 prepared by Bearing Point, Inc.; is that correct?
4 A. Yes.
5 Q. And are you familiar with that asset
6 valuation, sir?
7 A. I am somewhat familiar.
8 Q. And is that one of the -- and I don't want to
9 get into HC.
10 Is that one of the asset valuations that
11 Aquila utilized to determine fair value for certain assets
12 for purposes of its three-year, \$430 million term loan?
13 A. It is the valuation that is used to determine
14 the fair value for the term loan.
15 MR. MICHEEL: I would move admission of
16 Exhibit 46, your Honor.
17 JUDGE PRIDGIN: All right. First, let me see
18 if we have any objections.
19 MR. BOUDREAU: I don't believe I have any
20 objections. My understanding is it's an HC document and
21 will be treated accordingly.
22 JUDGE PRIDGIN: Certainly. This is a highly
23 confidential exhibit.
24 Hearing no objections, Exhibit 46 is admitted
25 into evidence.

1 (Exhibit No. 46-HC was received into
2 evidence.)

3 JUDGE PRIDGIN: And, again, I will ask the
4 parties -- I'd like to stay public if we can at all and
5 obviously give the parties time to object and allow the
6 witness to take his time answering in case anybody fears
7 that we're treading into highly confidential material.

8 MR. MICHEEL: I have another exhibit, your
9 Honor. It's Exhibit 47. It's the determination of the fair
10 value of certain utility-related assets in the state of
11 Colorado, valuation as of May 31st, 2003 prepared by Bearing
12 Point, Inc. And that's also HC, your Honor.

13 (Exhibit No. 47-HC was marked for
14 identification.)

15 BY MR. MICHEEL:

16 Q. Mr. Dobson, I've handed you what's been marked
17 for purposes of identification as Exhibit 47, a Bearing
18 Point valuation of certain utility-related assets in the
19 state of Colorado as of May 31st, 2003.

20 Are you familiar with that document, sir?

21 A. I am.

22 Q. And, again, is that the document utilized per
23 the term loan to determine the fair value of the Colorado
24 assets that have been placed in the pool?

25 A. It is.

1 MR. MICHEEL: I would move the admission of
2 highly confidential Exhibit 47, your Honor.
3 JUDGE PRIDGIN: Any objections?
4 MR. BOUDREAU: I have none. Thank you.
5 JUDGE PRIDGIN: All right. Hearing none,
6 Exhibit 47 is admitted.
7 Again, it is highly confidential and would ask
8 the parties to take care before accidentally mentioning
9 something highly confidential.
10 (Exhibit No. 47-HC was received into
11 evidence.)
12 MR. MICHEEL: Just let me get my --
13 BY MR. MICHEEL:
14 Q. Mr. Dobson, is it correct that you filed your
15 Direct Testimony with this Commission on April 30th of '03?
16 A. Yes.
17 Q. And is it correct that you had actual fair
18 valuation values for certain Aquila assets on March 21st,
19 '03?
20 A. Yes.
21 Q. Why didn't you file those actual fair market
22 value numbers in RD-2, sir?
23 A. I don't recall.
24 Q. Do you think it would have been helpful to the
25 parties to know that right at the time you filed your Direct

1 Testimony, Mr. Dobson?

2 A. I don't recall.

3 Q. Let me talk to you again about page 11 of your

4 testimony. And you changed the answer there at the top to,

5 If the Canadian assets are sold, a mandatory prepayment may

6 be required in accordance with Section 2.7 of the

7 \$430 million term loan; is that correct?

8 A. Yes.

9 Q. And is that because there is currently enough

10 assets in the pool that a prepayment may not be required?

11 A. It may not be required.

12 Q. And at the time you filed your testimony, the

13 Colorado assets were not in the pool; is that correct?

14 A. That's correct.

15 Q. And subsequently since the Colorado assets

16 entered the pool, the necessity to pay down 100 percent of

17 the net proceeds of the sale of the Colorado assets to the

18 term loan has been vitiated; isn't that correct?

19 A. Yes.

20 Q. And in your testimony, that was the first

21 reason in your Direct Testimony that you had given for this

22 Commission to approve Aquila's application; isn't that

23 correct?

24 A. Yes.

25 Q. So that reason has been vitiated by the fact

1 that we've got enough assets currently in the pool; isn't
2 that correct?

3 A. Strictly from a collateral standpoint, that's
4 correct.

5 Q. The next reason you give, sir, on page 11 of
6 your testimony, the first full question and answer there, is
7 that utility assets should support the working capital
8 requirements for utility operations; is that correct?

9 A. Yes.

10 Q. Would you agree with me that Aquila has
11 \$658 million worth of utility assets in the pool to support
12 the alleged \$250 million peak working day capital
13 requirement?

14 A. Yes.

15 Q. Would you agree with me that having those
16 \$650 million worth of utility assets, the company has over
17 \$200 million more than is needed to support the US utility
18 working capital -- peak day working capital needs using the
19 lender's collateral principles?

20 A. Yes.

21 Q. The second matter you talk about is that it is
22 only fair since the working capital facility is needed to
23 support the day-to-day operations of all utility operations;
24 is that correct?

25 A. Yes.

1 Q. Is it correct that Aquila has created this
2 alleged fairness doctrine?

3 A. I believe it -- I believe Aquila -- it's
4 Aquila's concept, yes.

5 Q. Is that anywhere in the statutes of Missouri,
6 sir?

7 A. Not that I'm aware.

8 Q. Would you agree with me, sir, if we're going
9 to be fair, only assets valued at the specific state's peak
10 day working capital needs should be thrown into the pool?

11 A. Would you repeat that question again?

12 Q. Sure. Would you agree with me if we're going
13 to be fair, only assets valued at the specific state's peak
14 day working capital needs should be thrown into the pool?

15 A. Mr. Micheel, I'm having trouble understanding
16 that question. Could you rephrase it -- rephrase it and put
17 it another way? I'm -- for whatever reason, I'm having
18 trouble processing that question.

19 Q. Well, let me try this. Let me just give you
20 an example, Mr. Dobson. You and I go out and we have dinner
21 and you have a \$20 dollar steak and I have a \$5 hamburger.
22 And you say it's your idea of fairness that we should split
23 this bill 50/50.

24 A. Yes.

25 Q. Okay. So I'm paying 12.50 for my \$5 burger

1 and you're paying \$20 [sic] for your steak; is that fair?

2 A. It -- it would be if next week we're going to

3 go out and flip the turn-- kind of the scenario whereby

4 you're getting the \$20 steak and I'm getting the

5 \$5 hamburger; i.e., in the summertime if the working capital

6 needs of, let's say, Missouri were a lot higher and

7 Minnesota or Iowa or Colorado said, Well, I don't think I

8 want to put my assets in because I don't have any real

9 summertime peaking needs. Well, they don't.

10 So that's kind of the core behind the fairness

11 doctrine is that everybody goes in, we have access to the

12 excess collateral anyway so we're not -- the whole billion

13 dollars isn't getting used up anyway. And so since we have

14 a consolidated utility and it revolves around the entire

15 year, that's kind of the core concept.

16 So in your steak/hamburger example it's true

17 in isolation for that one dinner, that would be unfair. If

18 we were going to -- said next time we go out for the Monday

19 night football game, Rick, you're going to pick up the steak

20 and you're -- you're going to have the hamburger and I'm

21 going to have the steak, I would say, Fine, that's fair.

22 Q. Well, would you agree with me, Mr. Dobson,

23 that the highest alleged peak day working capital need for

24 Missouri presented by Aquila's own study is just under

25 \$37 million?

1 A. I would.

2 Q. And would you agree with me that it would be
3 unfair to place over a billion dollars of assets in the pool
4 to support only a maybe \$37 million peak day working capital
5 need?

6 A. Effectively we're not though since we have the
7 ability to -- with the Commission's approval down the road,
8 to utilize that collateral for other reasons once we exceed
9 the collateral threshold as specified in the agreement.

10 JUDGE PRIDGIN: Mr. Micheel, if I could just
11 interrupt, we've reached the magic hour of five o'clock.

12 MR. MICHEEL: Okay. I can stop.

13 JUDGE PRIDGIN: I don't want to stop you in a
14 train of thought and I'd like to let you finish your
15 questioning unless you think you're going to be going for
16 quite some time.

17 MR. MICHEEL: I've got it all written down and
18 I've got a lot more.

19 JUDGE PRIDGIN: Okay. Is there a natural
20 stopping point or is there just -- is five o'clock just as
21 good a time as any to shut it down?

22 MR. MICHEEL: This is good. I think we'll
23 leave it with this fairness talk and pick up there in the
24 morning.

25 JUDGE PRIDGIN: What I'd like to do then is

1 adjourn for the day and go off the record. And we will
2 resume at 8:30 in the morning with Mr. Micheel questioning
3 Mr. Dobson. Thank you very much. We are off the record.
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