BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

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TRANSCRIPT OF PROCEEDINGS

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In the Matter of Laclede Gas Company's Tariff to Revise Natural Gas Rate Schedules.	)Case No. GR-200-356)Tariff No. 200200602)

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BEFORE:

KEVIN A. THOMPSON,
DEPUTY CHIEF REGULATORY LAW JUDGE.
KELVIN SIMMONS, Chair
CONNIE MURRAY,
SHEILA LUMPE,
STEVE GAW,
BRYAN FORBIS,
COMMISSIONERS.

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JUDGE THOMPSON: This is in the matter of Laclede Gas Company's tariff to revise natural gas rate schedules, Case No. GR-2002-356. My name is Kevin Thompson. I'm the Regulatory Law Judge assigned to preside over this matter. With me are the members of the Public Service Commission.

We will at this time take oral entries of appearance beginning with Laclede.

MR. PENDERGAST: Thank you, your Honor. Michael Pendergast, Gerald McNeive and James Swearengen appearing on behalf of Laclede Gas Company. My business address is 720 Olive Street, St. Louis, Missouri 63101.

JUDGE THOMPSON: Thank you, Mr. Pendergast.

Staff?

MS. SHEMWELL: Good morning. I'm Lera Shemwell representing the Staff of the Commission. Also with me on this case are Bruce Bates, Robert Franson, David Meyer and Eric Anderson.

JUDGE THOMPSON: Thank you, Ms. Shemwell.

Office of the Public Counsel?

MR. MICHEEL: Douglas E. Micheel appearing on behalf of the Office of Public Counsel and the public, P.O. Box 7800, Jefferson City, Missouri 65102-7800.

And I also received a call today from Jan Bon of Pace Local 56 and she indicated she would not be here today, but that they support the -- or they have no opposition to the Stipulations and Agreements that will be present today, your Honor.

JUDGE THOMPSON: Thank you, sir.

Intervenors?

MR. JOHNSON: Robert C. Johnson, Lisa C. Langeneckert appearing on behalf of the Missouri Energy Group. Our business address is 720 Olive Street, 24th Floor, St. Louis, Missouri 63101.

JUDGE THOMPSON: Thank you, Mr. Johnson.

MS. VUYLSTEKE: Appearing on behalf of Missouri Industrial Energy Consumers, Diana Vuylsteke of the law firm of Bryan Cave, 211 North Broadway, Suite 3600, St. Louis, Missouri 63101.

JUDGE THOMPSON: Thank you, ma'am.

Is that all the Intervenors?

Very well. We will proceed with opening statements at this time. Ms. Shemwell, you indicated you had some remarks. Why don't you go ahead?

MS. SHEMWELL: Thank you very much, Judge.

Good morning. May it please the Commission. My name's Lera Shemwell. I represent the Staff of the Public Service Commission.

The Staff, Laclede and the other parties negotiated actually for several months to reach the settlement of the issues in this case, including revenue requirement and class cost of service. The Stipulations and Agreements are part of a whole piece or a whole settlement package and the Staff is comfortable representing the settlement to the Commission as a just and reasonable resolution of the issues in this case.

Staff had several goals going into this case, including settling some pension issues, and specifically the volatility of pensions, some agreement as to depreciation reserve and also weather. And there are two weather issues in the case. What's the heating degree days, what's that number and also weather mitigation.

There were three stipulations and three Staff memos in support. The first of partial stipulations settled the revenue requirement, bad debts and off-system sales. The parties agreed that to settle the off-system sales and capacity release issue, they adopted the method used in the last case and inputted $3.8 million of revenue to Laclede and then Laclede will retain any revenue above that amount. ROE for a specific issue was settled within Staff's range.

I would say that one of the major issues in this case was whether the effects of weather on Laclede's collection of its cost should be addressed. Staff believes that the goal of regulation of utility companies is consumers pay just and reasonable rates and that a utility has the opportunity to earn its Commission-approved return on equity.

Staff did not support the weather mitigation clause filed by Laclede in this case believing that the plan was retroactive rate-making or at the very least, single-issue rate-making.

And there was an issue, as a regulatory body, whether the Commission should reduce or eliminate the weather risk for a utility. The parties have in this case settled on a rate design approach to mitigate weather that at least addresses Staff's concerns about single-issue and retroactive rate-making.

It's a blocking mechanism, and if you have questions on that, Mike Cline, Mike Proctor, Ryan could probably answer specific questions. But the way the rate design is set up, it will have no customer impacts in normal weather. The customers will pay the same amount in normal weather, but it allows Laclede to recover its margin costs in what we call the first block of the rate design that's up to 65 therms.

In colder than normal weather it should have a slightly positive impact on customers in that they will pay a little -- they will pay no margin costs in the second block. In a cool winter, all customers will get above the 65 therms. And I think in a normal winter all customers get above that 65 therms in a single block.

In addition to that plan, Office of the Public Counsel advocated for an incentive plan that was designed to reduce weather risks for customers and that was agreed to by the parties as part of the second -- was it second or third? Anyway, I'm sure OPC will be happy to address that if you have questions about that.

We were also pleased with the blocking proposal in that it broke up the small commercial and industrial into several groups. Staff believes that customer groups should generally be homogenous so that when you assign costs to that class, you can assign it in an accurate and reasonable manner.

That small commercial and industrial included everything from small barber shops up to large shopping centers. So the blocking mechanism breaks that out into three groups and Staff was pleased with that as a development in terms of class cost of service.

Laclede has also agreed to provide Staff with information so that Staff can do new customer studies so that the class cost of service can be done in what we believe will be a more accurate and reasonable manner.

Laclede's also agreed to a 16-month rate moratorium that was proposed by Office of the Public Counsel. And barring something wholly unexpected, Laclede will not be filing a rate case for another 16 months. I'm sure OPC would be happy to discuss that.

Staff supports the stipulations as a reasonable settlement for Laclede and its customers. Thank you.

JUDGE THOMPSON: Thank you, Ms. Shemwell.

Questions from the Bench, Commissioner Lumpe?

COMMISSIONER LUMPE: Did you say 16 months? I thought I read 18 months.

MS. SHEMWELL: It's 16 months. The settlement was 16 months. They won't file another rate case for 16 months.

JUDGE THOMPSON: Mr. Pendergast?

MR. PENDERGAST: Thank you, Judge. Good morning.

If it pleases the Commission, on behalf of Laclede Gas Company, I'd like to begin by expressing our appreciation to all of the parties, in particular, the Commission Staff and the Office of the Public Counsel for their cooperation in reaching a recommended resolution of all the issues in this case.

I also want to advise the Commission that we do have a number of senior company personnel available here today to assist in answering any questions you may have.

As you may have gathered from the three

separate Stipulations and Agreements that the parties filed in this case, reaching an overall resolution of the issues took time, patience and a good faith willingness on everyone's part to make the kind of compromises that are essential to any settlement.

And like most things that come about as a result of hard work and compromise of wildly divergent views, we believe the three Stipulations and Agreements filed in this case contain recommendations and propose a result that fairly balances the interest of our customers, our shareholders and the public generally.

If I could, I'd like to briefly highlight the major recommendations of each of the three Stipulations and Agreements. I think Ms. Shemwell did a very good job of pointing out the major elements of them and I'll just kind of skip through and hit a couple of additional ones.

The partial Stipulation and Agreement that was filed on August 20th, 2002, of course, addresses the revenue requirement and related issues in this case, as Ms. Shemwell indicated.

Among other things, it recommends an overall increase of $14 million. On a total cost basis, this represents a percentage increase of about 2.4 percent or looking at just distribution costs of approximately 6.2 percent. For the typical residential customer, this would equate to an increase of approximately $1.80 per month -- a little less than that, but about $1.80 per month about 6 cents per day.

In addition to recommending an overall increase, the initial Stipulation and Agreement also proposes to continue the company's Accounting Authority Order relating to the costs incurred to comply with the various gas safety programs that have been approved by the Commission, the tracking mechanism that was put in place in our last case to track the incremental costs incurred by the company to comply with Commission's emergency amendment to the cold weather rule.

And it also, as Ms. Shemwell indicated, proposes a new treatment for pension expense that should smooth out the volatility that we've experienced in that particular expense item as the market has moved up and, unfortunately, down over the past several years. And I want to think Steve Rackers, in particular, for being very helpful in getting that done.

Just as importantly, the Stipulation and Agreement also commits the parties to meeting and discussing the impact of FASB-143. You may be somewhat familiar with that, but that's a new accounting standards board directive that has been issued for all public companies and basically comes up with a new method for determining removal costs.

From the company's perspective, we're hopeful that as we gain some experience under that and begin to implement that for financial reporting purposes, that we give everybody an opportunity to take a look at the net salvage issue again with fresh eyes and perhaps come up with some future resolution that will remove us past the existing differences that we've had.

In the meantime, the company has agreed, for settlement purposes only, to implement the Staff's recommended approach on depreciation for this case.

Finally, the company also agreed in the August 20th, 2002 Stipulation and Agreement to drop the request we had submitted in another case to obtain an Accounting Authority Order for our weather-related losses last winter.

As Ms. Shemwell indicated, we'll provide a variety of additional cost of service and billing determinant information for use in subsequent cases and input $3.8 million in revenues related to the release of pipeline capacity and off-system sales in exchange for our ability to go ahead and keep whatever revenues we may be able to achieve in between rate cases.

The second Stipulation and Agreement, which was filed on August 29th, 2002, as Ms. Shemwell indicated, does a number of things. One of the most notable, of course, is it adopts a rate design weather solution. And we've certainly made no secret that we view that as being a very important element of this case given the impact that weather has had on the company and the prominent role that those impacts have played in the company's recent downgradings.

As you know, we originally filed a weather mitigation clause when we submitted our case last January. And while we still believe that kind of approach is appropriate, obviously both the Staff and the Public Counsel had a number of policy and legal concerns with it.

And we were heartened, quite frankly, when Staff filed its Direct Testimony and started talking about some potential rate design solutions that could potentially be pursued in this area, and we kind of took that ball and ran with it. And what we tried to do was come up with a rate design solution that would work.

At the same time, we were also very sensitive to the fact that whenever you change rate design, it can have significant impacts on customers, depending on what their usage characteristics and that type of thing are.

So what we tried to do was come up with a mechanism that would go ahead and eliminate those impacts or sharply reduce them while still accomplishing the goal of reducing the overs- and under-recoveries of distribution costs related to weather.

And the solution we came up with was the rate design that's been recommended to you in this case and it's really comprised of two simple steps. The first step is to go ahead and take those distribution costs that are now collected in the second block of our distribution rates and move them into the first block.

The first block's much less sensitive to weather than the second block and so that provides a way of recovering, but not over-recovering your distribution costs. At the same time, in order to go ahead and try and prevent any customer impacts of any magnitude, we made a corresponding change in the PGA where we went ahead and established two blocks there and we simply made offsetting changes in those blocks. So that in the end, the overall rate paid by the customer remained the same that it is today.

We did basically the same approach for the commercial class. The only problem there is that class is so large, running the gambit from the barber shop to the shopping mall, that to really make it work, we had to divide it into three classes, which I think is a goal that Staff has probably had over the last several years.

And so we've divided that into three classes and we, I think, have managed to go ahead and keep very good rate continuity, so there aren't really any bumps as you move from one class to another. And we will be, of course, implementing that when we go ahead and file our compliance tariffs.

We think there's a lot to recommend this particular rate design. We think, from our perspective at least, that it does a number of things. It does have a slight inherent bias in favor of the customer from the standpoint that there aren't any costs in the second block, so once the weather gets cold enough, we stop recovering our costs, period.

On the other hand, since there is still a little bit of weather sensitivity in that first block, if it's warmer then normal, significantly warmer than normal, we're still exposed to a million or two dollars worth of losses due to weather. So I think it's slightly asymmetrical, and slightly asymmetrical in favor of the customer.

We also believe it recovers both our gas costs and our non-gas costs or distribution costs in a manner that more closely reflects the way they're incurred, doesn't have any impact on price signals. And basically, as I said before, goes a long way towards addressing those concerns we had financially.

And one other thing I should point out is that as a result of the negotiations, we did agree to a 16-month rate moratorium and we did agree to the concept that any impact of the rate design on the company's business risk would be considered in future cases together with any other risks.

I think that was something that was important to Public Counsel and the other parties. And we made a commitment to go ahead and do that. And, of course, that will be something that can be considered in subsequent cases. In the meantime, though, we think valuable consideration for this rate design has already been negotiated and reflected in this case.

Finally, I just wanted to go ahead and say that in addition to this rate design proposal, as Ms. Shemwell mentioned, we also agreed to implement Public Counsel's proposed gas supply incentive plan which applies only to our gas commodity costs, but provides the company with incentive to mitigate the impact of upward swings in the wholesale price of gas by committing to retain a modest share of any actual savings that occur if we can achieve such protection within certain specified limits.

And if you have any additional questions on that, I'm sure Mr. Micheel or someone from the Office of Public Counsel will be happy to answer it.

I'd also like to just remind the Commission that, as we described in our testimony, the company's also taken some steps on its own to try and protect customers when it comes to price gas volatility.

This winter, as described in the testimony that was filed by Steve Mathews in this case, Laclede has already procured a significant amount of price protection for all of its customers pursuant to a risk management plan that has been put in place and we will continue to pursue those efforts as we approach the winter heating season.

And we have also proposed in a separate docket another program that's designed to assist our low-income customers.

So we've taken those concerns and we've taken those needs very seriously. And in the meantime, though, we think that approval of the rate design is certainly something that can be done without any reservation, that it is certainly something that benefits both the company and we think benefits our customers.

Finally, in the second amended Stipulation and Agreement that was filed on September 6th, 2002, the parties recommended a resolution of the remaining issue in this case; namely, how the rate increase should be allocated among the company's various customer classes.

And with the sole exception of a starting $200,000 reallocation between the three subclasses that I told you before earlier we had established for the general service commercial and industrial class and the large volume transportation sales class, I can tell you that the increase is being allocated between the classes on an equal percentage basis.

In conclusion, the company wants to again thank all the parties for their hard work in getting to this point. And we strongly urge the Commission to approve the Stipulations and Agreements as a recommended resolution of this case that fits squarely within the public interest.

Just on a housekeeping basis, I would note that the company is going to make every effort to file compliance tariffs by October 15th in this case to provide the Commission with sufficient time to review that prior to the proposed effective date of November 1st, 2002.

And I would also -- in response to what Staff had gone ahead and filed, I thought they did a good job in their various memoranda of summing up their position, why they entered into the Stipulations and Agreements in this case, but those are, of course, Staff's own views. All of the parties had their different ways of reaching a recommended resolution in this case.

The one thing I would ask is that since that is the case, that there not be any explicit determination set forth on return on equity in the Commission's Report and

Order. I think we all have our different views on what we settled on as far as that was concerned. Thank you very much.

JUDGE THOMPSON: Thank you Mr. Pendergast.

Any questions from the bench for Mr. Pendergast, Chairman Simmons?

CHAIR SIMMONS: Not at this time.

JUDGE THOMPSON: Commissioner Murray?

COMMISSIONER MURRAY: I'd like to ask one.

JUDGE THOMPSON: Certainly.

COMMISSIONER MURRAY: I'm just a little confused about FASB-143. Is that something that establishes a specific new methodology for treatment of retirement, or is that something that is still unclear at this time?

MR. PENDERGAST: My understanding is it does go ahead and establish a new method. However, I'm probably no less confused than you are about it and so if you would like, I've got Jim Fallert here who could come up or Mike Spotanski and ask any specific questions you might have about that.

COMMISSIONER MURRAY: I don't know that it's necessary at this time. The bottom line on the Stipulation and Agreement is that the parties have agreed to meet and discuss the implementation of this new methodology?

MR. PENDERGAST: That's correct. As we begin to implement it, and I think that will happen beginning with our next fiscal quarter, we will go ahead and after that first quarter takes place, meet with the Staff, take another look at how we account for net salvage in light of that requirement and see what implications, if any, it might have to the treatment of net salvage costs in the future.

COMMISSIONER MURRAY: All right. Thank you.

JUDGE THOMPSON: Thank you, Commissioner Murray.

Commissioner Lumpe?

COMMISSIONER LUMPE: On the 16-month, Mr. Pendergast --

MR. PENDERGAST: Yes.

COMMISSIONER LUMPE: -- does that mean that is a full 16 months and you would not file something until after that 16 months?

MR. PENDERGAST: That is correct. And that is 16 months --

COMMISSIONER LUMPE: It's not something where you'd file prior to having --

MR. PENDERGAST: That is a filing date.

COMMISSIONER LUMPE: That's a filing date. Thank you

MR. PENDERGAST: As measured from November 1st.

JUDGE THOMPSON: Commissioner Gaw?
COMMISSIONER GAW: Come back to me later.
JUDGE THOMPSON: Yes, sir. Commissioner Forbis?
COMMISSIONER FORBIS: Not right now.
JUDGE THOMPSON: I'll have to come back to you now.
COMMISSIONER GAW: I mean after everybody's done, I might have some questions.
JUDGE THOMPSON: Thank you, Mr. Pendergast.
MR. PENDERGAST: Thank you very much.
JUDGE THOMPSON: Mr. Micheel?
MR. MICHEEL: May it please the Commission. Doug Micheel on behalf of the Office of the Public Counsel.
We signed all three Stipulations and Agreements. We support all three Stipulations and Agreements. We ask the Commission to approve them. I'm available for any questions that you have about the specifics of those Stipulations and Agreements.
Let me stress that they were Stipulations and Agreements and it's a settled case and there are a lot of reasons we did what we did. If you're interested, I'll let you know. If there's any questions that I can't answer, I have the team here and they'll be able to answer any other specific questions you have about the Stipulations and

Agreements that I can't answer. Thank you.

JUDGE THOMPSON: Thank you, Mr. Micheel.

Questions from the Bench, Chair Simmons?

CHAIR SIMMONS: No.

JUDGE THOMPSON: Commissioner Murray?

COMMISSIONER MURRAY: Not at this time.

JUDGE THOMPSON: Commissioner Lumpe? Commissioner Gaw?

COMMISSIONER GAW: In a moment.

JUDGE THOMPSON: Commissioner Forbis?

Thank you, Mr. Micheel.

Mr. Johnson?

MR. JOHNSON: We waive our right to a opening statement. We'd be happy to answer any questions you might have.

JUDGE THOMPSON: Thank you, sir.

Ms. Vuylsteke? I apologize for garbling your name

MS. VUYLSTEKE: Oh, no. That's perfect. Thank you.

We also do not have an opening statement on behalf of the MIEC. We filed testimony on three issues in the case, rate design, cost allocation and then also we had put in some testimony relating to Laclede's request for an Accounting Authority Order.

We strongly support the settlement. It was negotiated after, you know, much difficult -- many difficult meetings over a long period of time. We urge the Commission to approve it. And we have our witness, John Mallinckrodt, available to answer any questions that you might have this morning. Thank you.

JUDGE THOMPSON: Thank you.

Do we have any questions from the Bench for Ms. Vuylsteke?

CHAIR SIMMONS: No, I don't.

JUDGE THOMPSON: Commissioner Lumpe?

COMMISSIONER LUMPE: The $200,000 does that, in your opinion, move it closer to the class cost of service that you were interested in?

MS. VUYLSTEKE: The actual shift that impacts my clients is about $100,000. And that is a result of some revenue being available because of the rate design change within the commercial class. So the shift actually toward the industrial class is about $100,000.

We think this is some progress towards cost of service. It's certainly not what we would have liked, but I'm sure the other parties all compromised as well and so we think it's the best result under the circumstances.

COMMISSIONER LUMPE: Thank you.

MS. VUYLSTEKE: Thank you.

JUDGE THOMPSON: Thank you, Commissioner. Commissioner Gaw?

COMMISSIONER GAW: No.

MS. VUYLSTEKE: I'm sorry.

COMMISSIONER GAW: No. It's all right.

JUDGE THOMPSON: Thank you, Ms. Vuylsteke.

MS. VUYLSTEKE: Thank you.

JUDGE THOMPSON: And Mr. Bond is not with us.

MR. MICHEEL: Ms. Bond.

JUDGE THOMPSON: Ms. Bond.

Mr. Pendergast?

MR. PENDERGAST: Yes. If I could approach.

JUDGE THOMPSON: You may.

MR. PENDERGAST: Just to avoid any confusion, I sort of took a shorthand approach on the 200,000. That 200,000 is being reallocated. $100,000 of it is going to large volume sales and transportation customers. The other 100,000 is going from the two largest tiers of the commercial class to the smallest tier of the commercial class.

So I didn't want to give the impression that the full 200,000 was going to the large folks. 100,000 is going to the smallest of the small commercial customers as well. Thank you.

JUDGE THOMPSON: Do the parties have any

additional presentation at this time?

MS. SHEMWELL: Judge, if I could. Just a small housekeeping matter.

JUDGE THOMPSON: Certainly.

MS. SHEMWELL: On Attachment 1 to the partial Stipulation and Agreement, which is the first one filed, one of the lines on the Excel spreadsheet apparently did not print properly. And it should read instead of just average, average daily balance. It's under the uncollectibles and then two indented items there and then prepaid pension. And then the next line should read, Average daily balance.

JUDGE THOMPSON: Thank you.

MS. SHEMWELL: Thank you.

JUDGE THOMPSON: Anything further?

It's my understanding that the parties want all of the --

COMMISSIONER GAW: I have questions.

JUDGE THOMPSON: Commissioner Gaw has some questions. Let's do the exhibits and then we'll proceed to his questions. It's my understanding the parties want all the exhibits in the record; is that correct?

MS. SHEMWELL: Yes, your Honor. That's correct.

JUDGE THOMPSON: Okay. And we marked 78 exhibits.

MS. SHEMWELL: Yes.

JUDGE THOMPSON: Do I hear any objections to the receipt of Exhibits 1 through 78 at this time?

Hearing no objections, Exhibits 1 through 78 are received and made a part of the record of this proceeding.

(EXHIBIT NOS. 1 THROUGH 78 WERE RECEIVED INTO EVIDENCE.)

JUDGE THOMPSON: Commissioner Gaw?

COMMISSIONER GAW: I keep trying to push that mic. It's obviously not working.

Anyone who wants to field these questions, unless I direct them otherwise, will be fine.

First, I'd like to understand the rationale for the increase in the revenue requirement in light of the time frame that's passed since the last rate case in dealing with this company.

Staff, do you want to go first? I want to know what's changed since then and I want to know how much time has gone by and I want to know why things are different now than they were then.

MS. SHEMWELL: Are you going to swear the witnesses, Judge?

JUDGE THOMPSON: I certainly am.

Why don't you step up to the podium, state your name.

MR. RACKERS: Steve Rackers.

(Witness sworn.)

JUDGE THOMPSON: Please proceed.

STEPHEN RACKERS, having been sworn, testified as follows:

QUESTIONS BY COMMISSIONER GAW:

Q. Mr. Rackers, did you hear my --

A. Yes, I did.

Q. I had several questions in there. I apologize for that. Would you like to try to tackle that for me?

A. Sure. I believe the test year in the last case was at least -- well, approximately 12 months different than in this case. So you had several cost increases that occurred during that time frame. And that -- that would be the -- the largest factor to cause increases.

Q. Do you want to spell those out for me?

A. Certainly -- and I don't have numbers, you know, ready to correspond to these, but certainly rate-base increase, the amount of plant investment went up. That would be additional return dollars and additional depreciation expense. There will probably be some property tax implication there too.

Q. Were any of these items that are currently being approved in this settlement at an issue in the previous rate case?

A. Do you mean were they included as part of the cost of service in the previous case?

Q. Were they argued by the company as being expenses in the previous rate case?

A. I don't believe any of the items that are specifically included in the revenue requirement were.

Q. All right. So all of these things are new items that we're talking about for increasing the revenue amount that were not an issue in the previous rate case? What I'm trying to get at is whether or not there are items that were dealt with in the previous case that were still -- were, in essence, brought back in front of us here in this case to get a second swipe at the same issue --

A. Well --

Q. -- that's what I want to know.

A. -- certainly the company and Staff had several of the same arguments for including items -- same treatment methodology, if you will, for including items in the cost of service. But the actual increases that caused the last rate increase and the cost items that caused this rate increase, there's no double counting or overlap in my mind.

Q. All right. Thank you, Mr. Rackers.

Public Counsel, do you want to -- do you have any --

MR. MICHEEL: Commissioner, with respect to the revenue requirement issues, we filed limited revenue requirement. And from my point of view, all of the issues that we raised were resolved favorably from our point of view.

COMMISSIONER GAW: All right.

MR. MICHEEL: We filed on AAOs and the unamortized balance and income tax, advertising, return on equity. And at least from our viewpoint -- but we didn't do a complete audit, in my view, all of those issues were resolved in our favor consistent with our filed testimony.

COMMISSIONER GAW: All right. You understand the reason I'm asking is because there's such a short time frame here in between these two cases. With this additional revenue amount, I wanted to be very clear that there was -- that all of this was something that had changed since the last rate case.

And all the parties are representing -- that have spoken so far verbally, I'm seeing heads nodding today, but that that is because of some new change?

MR. MICHEEL: Certainly I think that's the case. I think the issues, Commissioner, are the same over cases, but the expenses related to those issues change over time.

This test year was different from the test year we had in the previous case and the issues were different and the company's going to incur different costs with respect to this test year. So in most of these cases the issues remain the same, but the costs related to those issues change.

COMMISSIONER GAW: And Public Counsel and Staff are representing to the Commission that this test year is not an aberration and is more reflective of the current situation than the previous one?

MR. MICHEEL: Yes. We didn't believe -- I mean, the audit that we did didn't indicate that there were aberrational things. And to the extent that were aberrational things in the test year, I would expect that our auditors said, no, you know, if it's a one-time item, it should be out of the cost of service.

COMMISSIONER GAW: Okay. I don't mean to keep you out of the loop, Mr. Pendergast, but only if you want to make some comment. That would be fine.

MR. PENDERGAST: Commissioner, I would just concur with everybody else. These are new items that are being reflected.

COMMISSIONER GAW: Let me ask about Public Counsel's portion of this settlement in regard to the incentive plan. I'd like to hear how that works, in fairly short time frame.

MR. MICHEEL: All right. I'll give you a

quick synopsis. And to the extent that I can't answer your question completely, we'll bring Ms. Meisenheimer up here or Mr. Busch if you go beyond my scope.

COMMISSIONER GAW: I may not intentionally, but -- I see our microphones are working now.

MR. MICHEEL: Oh, are they? I'll step to the microphone then, your Honor.

Our gas cost incentive plan is focused on the delivered cost of the commodity, the gas commodity. And I guess the way I think about it is what price are customers willing to pay for insurance to stem gas cost run-ups.

And if you look at the testimony of Mr. Busch in this case, I'm sure you have, I believe it's his Rebuttal Testimony, where he sets out the design of the program, the program is broken into three tiers.

And based on our research and what we looked at, we've cut those three tiers into areas where above $5, the company never should receive any sort of reward. It should be shared pain. And that's whether or not -- if the cost is above $5, the actual cost, then no.

We've said below $3, that's a level of gas costs that customers can live with. And even though it might fluctuate between $2.50 and $3, that's not a level that causes pain nor is that a level that the company should be compensated for doing good works or good deeds.

And then we've said there's a level in between that, the $3 and $5 level, that if the company is able to get costs below a certain benchmark, below $5 or pushed it down into the -- below the $3 level, that they should get some reward because they're dampening upward price volatility.

And, in our view, the company's only participating in rewards when they're dampening upward price volatility. They're not able to reap rewards just because the market on its own goes down. And so we look at it as an insurance policy and also a way to give the company some incentive and some recognition that there are some items within the procurement area that they can control and that a reward is appropriate.

But it is unlike the last GSIP with respect to commodity costs where, you know, it was on a benchmark and if they beat the benchmark, regardless of where the price of gas was, they got a reward. So it's different in that extent. And it's only focused on the commodity portion of the gas.

COMMISSIONER GAW: Well, I want to ask you about that too, but I probably need a little more detail on the other issue. But tell me about the transportation side of this. Is it possible to manipulate this agreement so that transportation -- costs are shifted to transportation in order to get lower commodity costs and reap some benefit from this incentive?

MR. MICHEEL: I would think not. And the reason that I think not, Commissioner, is because this Commission's ability to do prudence reviews is still available to the Commission.

And I think if the gas procurement group or our auditors saw the company loading up on very high transportation costs to get a low commodity cost in order to, you know, get rewards from the incentive, we still have the ability to -- through the ACA proceeding, file an ACA claim. And so the company is at risk there and this Commission hasn't lost any of its authority in that area and that's part and parcel of the stipulation.

Now, is there always litigation risks involved? Certainly there are, but I don't think that our office would bring a case that we didn't strongly believe in and believe that we could put evidence on to prove our point. So could it happen? Yes. Will it happen? I don't believe so.

COMMISSIONER GAW: Does the stipulation address that issue at all? Does it mention it? Does it talk about --

MR. MICHEEL: It doesn't talk specifically about transportation, Commissioner, but it does talk about specifically that the Commission's authority to conduct prudence reviews into any area, even the commodity area, is still open and still available to this Commission. And that's a little bit different from the other GSIPs that you have seen where if they were in a certain area, we had foregone any sort of prudence review.

COMMISSIONER GAW: If we found that there was a situation where there was a contract negotiated in order to qualify for incentives, but that the give on the other side was increasing the transportation costs, do you believe this Commission could avoid the incentive being paid on the commodity side because of the contract gain in the system? Is that talked about in this stipulation?

MR. MICHEEL: It is not talked about in the stipulation. And I don't know if that's the way it would work, your Honor. If it would -- I don't believe it would automatically void that.

Again, what we would have to do is look at the prudence of that particular transportation contract and come to you with evidence that indicates that that manipulation that you're suggesting was indeed going on and it wasn't the result of some other -- you know, the company doing a good job or something like that.

COMMISSIONER GAW: Okay. Could I have a little more detail about the percentage of the incentives and how -- specifically if you could run through a couple of scenarios. And if you want Ms. Meisenheimer to do that, that would be fine.

MR. MICHEEL: Yeah. Either Ms. Meisenheimer or Ms. Bush. And I think it was --

MS. SHEMWELL: Mr. Busch.

MR. MICHEEL: All right. We'll bring up Mr. Busch, because he had the numbers in his Rebuttal Testimony and I know that he had a schedule. I think it was his third schedule where he ran certain scenarios indicating what the company's amount would be in various scenarios, so I'll turn it over to Mr. Busch.

COMMISSIONER GAW: Thank you.

(Witness sworn.)

JUDGE THOMPSON: Thank you.

JAMES A. BUSCH, having been sworn, testified as follows:

QUESTIONS BY COMMISSIONER GAW:

Q. Do you want to tackle that for me, Mr. Busch?

A. Sure. With -- regarding your previous question about the company being allowed to have higher transportation costs --

Q. Yes.

A. -- in my Rebuttal Testimony, Schedule JAB-R-4, I do have a line in there that says, No incentive compensation will be given for reductions in actual gas costs if those reductions are tied to an increase in transportation costs.

So even though the stipulation doesn't address that, the plan that we had proposed does address that situation.

COMMISSIONER GAW: And if I could, Mr. Micheel, the stipulation references Mr. Busch's testimony and says that that's what's being adopted and is that --

MR. MICHEEL: Yes, it does.

COMMISSIONER GAW: Is my recollection correct?

MR. MICHEEL: Yes, it does, Commissioner Gaw. And I guess I hadn't read that -- or didn't recall that specific line in Mr. Busch's schedules, but you are exactly correct that what the Stipulation and Agreement does is it says it is adopting the program set out in Mr. Busch's Rebuttal Testimony.

COMMISSIONER GAW: All right. And if I could, Mr. Pendergast, do you agree with that?

MR. PENDERGAST: If I could.

COMMISSIONER GAW: Yes. I'm sorry to jump around. It's the easiest way for me to clarify it.

MR. PENDERGAST: Yes. Essentially I do; however, I would go ahead and say that, as I indicated before and I think as Mr. Micheel has confirmed, that this is an incentive plan that applies to gas commodity costs.

And I think it's fair to say it's an incentive plan that applies to gas commodity costs and anything like an increase in transportation rates that you might do that would have an impact on that if, in fact, some kind of manipulation were to go ahead and occur.

And from that standpoint, I think that kind of safeguard is inherent in the testimony. And to the extent that it does have that kind of relationship to commodity costs, yes, I think it is included.

COMMISSIONER GAW: All right. Thank you.

QUESTIONS BY COMMISSIONER GAW:

Q. And, Mr. Busch, you're going to be able to tell when those things are being manipulated, aren't you, looking at the paperwork that's filed?

A. I believe we should be able to catch that if they're trying to do that.

Q. All right.

A. Now, I think --

Q. Go ahead if you want to.

A. I believe by now I forgot exactly what you --

Q. That's probably right. I was wanting you to run through a couple -- and I know you've done this in some of your exhibits, but if you could, just briefly run through how this incentive plan mechanism would work with a couple of scenarios that would -- maybe if you'd do three for me and one in each of the categories, that might be the easiest.

A. Okay. I guess, first of all, if -- we're developing a benchmark based upon the market price of natural gas based on the first of the month indexes that Laclede generally currently purchases their gas now. And then we will utilize the actual gas costs that they pass along to the consumers.

If that actual gas cost is below that benchmark within certain tiers, then they may be eligible for the compensation. So --

Q. How's the benchmark calculated again?

A. We are developing -- the way that the company currently purchases their gas based upon the -- their contracts, the first of the month indexes, from the basins where they purchase natural gas from. That's comes out on a monthly basis. And the monthly price of gas in February will be $3 per MMBTu.

Q. All right.

A. That is the benchmark. And we try to do a mix of where Laclede is purchasing all their natural gas from. And then we're going to look at where -- what the actual price of natural gas is that they pass along to their consumers. As long as that actual price is below that benchmark and within the tiers, then they will be eligible for incentive compensation.

And as Mr. Micheel has stated, those tiers are from 0 to $3 in tier one, $3 to $5 per MMBTu is tier two, and anything above $5 is tier three. So in the first scenario, if the benchmark costs of natural gas is $3 or less -- so let's say 2.75 --

Q. All right.

A. -- no matter what the actual cost of gas is, Laclede Gas will not get incentive compensation because we believe anywhere below $3 net price is pretty low anyway, no need to give them incentive compensation.

Another example, if the actual gas costs let's say is $5.25, even if the benchmark would go up to 6 or $7, we feel that over $5 is too much pain for the consumers; therefore, even though they did get a lower price, the company does not get incentive compensation at that level.

Q. And I guess the -- if you're looking at the opposite side of that, the question then is what -- I guess the mechanism to ensure that purchases are at appropriate price is the prudence review --

A. Yes.

Q. -- as it is today?

A. Yes. We still utilize prudence reviews as they are used today.

Q. Go ahead with the middle tier.

A. Okay. Now, if that benchmark price of gas falls in either tier two or tier three, which is anything above $3, the actual price falls below $5 and is below the benchmark, then they are entitled to incentive compensation.

The incentive compensation that they get is they get 10 percent of the cost reductions up to a $5 million cap. Once they reach $5 million in incentive compensation, they'll get 1 percent of any additional cost reductions.

So if you look at my schedule, JAB-R-4 and just -- these numbers are -- I'm going to just approximate the numbers for the highly confidential stuff.

Let's say in a year that's really bad, similar to the year 2000/2001 where we had the really high gas prices, if would you get a benchmark of, say, $5.75 and Laclede was able to get actual gas costs down around $4 through their purchasing practices, they would get roughly 5 million, 5.5 million dollars incentive compensation at those levels.

If they would get lower gas prices at that $5.75, say below $3, their incentive compensation could be up close to $7 million. But that would be a price differential of almost $3 per MMBTu delivered to the customers on the commodity side versus if they would have just flowed what the market would have been.

COMMISSIONER GAW: Okay. That's very helpful.

If I could ask just for a moment, Mr. Busch, if Staff has anything to add on that?

MS. SHEMWELL: Yes, Commissioner Gaw. Thank you.

I would just like to add that in terms of GSIP, Staff continues to be concerned that they be properly designed to obtain the benefits for customers and avoid the unintended consequences, or as we've called them, the perverse incentives.

For example, an LDC could try to get a higher maximum rate at the FERC on the transportation side. That's how I'm defining a perverse incentive. Staff was concerned with this GSIP, but has signed on because prudence reviews are available. And how those would work, if you're concerned with that, Dave Sommerer is here who could describe to you how Staff approached that, if you'd like.

COMMISSIONER GAW: That would be fine.

(Witness sworn.)

JUDGE THOMPSON: Thank you, sir.

DAVID M. SOMMERER, having been sworn, testified as follows:

QUESTIONS BY COMMISSIONER GAW:

Q. Mr. Sommerer, do you want to go ahead and follow-up with what Ms. Shemwell said?

A. Certainly. Staff's main concerns, and we had three or four that we listed in Surrebuttal Testimony, revolved around the possibility, we thought, of gaming the incentive plan. And you had pointed out the issue of perhaps increasing transportation charges and reducing gas supply commodity charges.

And I think in Public Counsel's original plan, depending upon the tier that you were in, you would escape a prudence review. And we felt like once the parties agreed that prudence reviews would be possible in all the instances, we would have enough protection through the ACA audit to catch any possible gaming.

Q. All right. Can you tell me how you would have an idea that transportation costs had somehow -- the costs had somehow been shifted there from the commodity charge? What kind of things would you be looking for?

A. Right. The way that it would increase or that you could possibly increase the transportation costs would be to do a bundled deal where you approached the gas supply marketing company and negotiated a delivered price. And that's truly the bottom line when you're buying gas is the delivered price reasonable. And a lot of times the marketing companies won't care whether the transportation cost is high or low as long as they get that bottom-line price.

And we believe by looking at historical buying patterns -- Laclede has a certain way it buys gas. It buys from various pipelines. It really can't go to a pipeline that it doesn't have a connection to. So we could make historical comparisons, we could do some comparisons between existing contracting practices that Laclede has.

We know very well what the market for the gas supply commodity is. That's a competitive market, it's non-regulated, we track that very closely. So we believe that we could monitor changes from the status quo to anything that Laclede would do on a going-forward basis and identify any cost increases.

Q. Of course, I think -- I would assume that it also leaves quite a bit open for argument in regard to the rationale for transportation costs in a particular case. It would not be a black and white kind of distinction in all likelihood, would it?

A. That's true. It's always an uphill struggle when you've got a prudence issue, as you know --

Q. Yeah.

A. -- in listening to some of the arguments. But it is a protection and that was the minimum protection that Staff believed it needed to go forward with this.

Q. All right. And I don't mean to be inquiring of this because of this being Laclede. I'm just wanting to understand this mechanism because it's possible that we'll see this again with other companies as well. So thank you very much.

A. You're welcome.

COMMISSIONER GAW: I appreciate it.

Mr. Busch, I think that's all I have for you. Thank you. Unless you're involved in this next issue I want to ask about.

If I could have someone to help me to understand this shift in the rate blocks a little more. And I am particularly interested in whether or not this shift in any way discourages conservation.

MS. SHEMWELL: Commissioner, Mike Proctor is here. He can discuss that. Mike Cline for the company is also here. We'll call Mike.

COMMISSIONER GAW: Mike, Mr. Proctor, Dr. Proctor.

MS. SHEMWELL: Dr. Proctor to the stand, to the podium.

COMMISSIONER GAW: He's been through all those phases in his life, I just shortened them.

(Witness sworn.)

JUDGE THOMPSON: Thank you, sir.

MICHAEL PROCTOR, having been sworn, testified as follows:

QUESTIONS BY COMMISSIONER GAW:

Q. Dr. Proctor, the rate design that's in this case, if you would maybe give me an understanding of how it's working. I'm particularly trying to understand the fact that there's a shift, as I understand it, regarding the said distribution costs into the first block, but then there's evidently some equalizing of the issue from a consumer's standpoint because of the PGA provision.

If you want to go through that and give me a little bit of an idea how this is going to work and then maybe you can follow up on my question regarding the conservation issue.

A. Basically, the rate the customer sees on his bill is the same as it currently was before this rate design change. It had two components, the distribution cost component and purchased gas component, but when you add those two components together, the rate that he's paying is going to be the same as it was before.

So, in essence, the impact to the customer of moving the distribution costs up into the first block have been mitigated by moving some of the gas costs from the first block into the tail block. So from a customer's standpoint, he's seeing the same overall rate that he saw before.

Now, it would make a big difference if you had customers buying distribution services from -- from one person and buying supply services or natural -- purchased gas from another entity. That is not -- this rate design is not for those customers. This rate design is for the customers that are buying gas from Laclede. So from the customer's standpoint, it's the same rate -- overall rate design that they saw before. From --

Q. Is it --

A. Go ahead. I'm sorry.

Q. I guess what I'm -- if it's basically the same in the bottom line, does that mean the bill is going to be basically the same?

A. If -- under normal weather, the bill would be exactly the same. Now, if it were colder than normal -- if we have a cold winter, basically the customers will pay less than what they paid previously.

What happens is that they're not -- in the old rate design, with the cold winter they would pay more for distribution costs simply from the rate design. In essence, the company would over-earn from weather on -- on their investment in distribution. Of course, the purchased gas is worked out through the ACA. But in this rate design there may be a little bit of weather effect, but not like there was.

The downside of that, of course, is if we have a milder than normal winter, they're going to pay fairly close to the full cost of the distribution system. So in normal weather, when -- from my perspective, when bills are lower overall, customers are going to be paying the full amount for the distribution. And when it's colder, when their bills are higher, they will not be paying that higher component for distribution costs.

Q. What happens if you've got a residential -- if you've got a home that utilizes natural gas for heating, in the summer with rates?

A. The summer rates are the same as they were before. This -- this only applies to the winter rate -- winter rate.

Q. So there's not any -- so I guess -- okay. Help me to understand how much this is helping Laclede with its difficulty in getting its revenue stream evened out.

A. Estimates are that this will account for somewhere in the range of 90 percent of the variability in earnings for the distribution system. Now, those are estimates that Laclede has made and you might want to talk specifically to some of their witnesses on that.

Q. All right. Conservation issue?

A. The customer's facing the same rate he was facing before, so there's no difference.

Q. All right.

A. He doesn't see -- because he's paying a bundled rate --

Q. So he doesn't know?

A. -- he doesn't see any difference.

COMMISSIONER GAW: All right. Thank you, Dr. Proctor. I don't think I'll have a follow-up, but you may not walk too far back yet.

Mr. Pendergast, do you want to give me an idea about how this is helping Laclede with its revenue stream?

MR. PENDERGAST: Sure.

COMMISSIONER GAW: I know that was a major concern for the company.

MR. PENDERGAST: And Mike Cline is here as well in case you need some additional --

COMMISSIONER GAW: However you'd like to do it is fine.

MR. PENDERGAST: Yeah. Well, I'll tell you what. Mike, why don't come up?

JUDGE THOMPSON: State your name, sir.

THE WITNESS: Michael Cline.

(Witness sworn.)

JUDGE THOMPSON: Thank you.

MICHAEL CLINE, having been sworn, testified as follows:

QUESTIONS BY COMMISSIONER GAW:

Q. Okay. Mr. Cline, did you hear what I was asking about a moment ago?

A. Yes, sir. Essentially, the rate design we're proposing in this case will provide us with the revenue streams that the company believes it would have been entitled to had rates -- had norm-- had weather actually turned out to be normal as opposed to colder than normal or warmer than normal.

As we all know, rates in a rate case are generally based on the assumption of normal weather. And this will -- this rate design will ensure that -- that -- or help to ensure that the company's revenue stream would be the one that we would have achieved had the -- had the company sold the amount of gas it had been expected to sell as it set its rates in the rate case.

In terms of actual numbers, for example, the winter of 2000/2001, as we all know, was a very -- relatively cold winter, about 10 percent, 9 percent colder than normal. During that year Laclede's earnings on a pre-tax basis were about $6 million higher than they otherwise would have been had the weather been normal.

The rate design in this case would substantially eliminate that and basically ensure that our earnings would be -- the earnings we would achieve would be those we would have been -- would have been similar to the level that had been established in the last rate case assuming everything else stayed the same.

Likewise, this past winter, as we all know, was much warmer than normal. And during that year, the -- during this past year, the company experienced over a $10 million shortfall in earnings because of the weather that was approximately 14 or 15 percent warmer than normal.

From the company's standpoint, the costs -- the distribution costs of service are relatively fixed. You know, those are costs that don't go away just because the weather's warmer than normal. We still have mains in the ground, still have services in the ground, meters are still read, computer systems are still there to render the bills, servicemen still check for leaks.

From our perspective, it's important that we still recover those same costs, even when the weather is warmer than normal. So the rate design in this case -- that we're proposing in this case would help to ensure that the company would be more likely to recover its cost of service in the year where the weather was warmer than normal and where our costs stayed relatively the same.

Q. And I guess the opposite would be true as well, that if you have a colder than normal winter, this is going to stabilize the amount of money coming into you? Instead of seeing more money coming in toward your fixed costs, you're going to have a more stationary amount?

A. Yes. The company recognizes that that's --

that stable revenue stream is part of all this. And that's what we're seeking and we believe that's -- that's important to the financial community as well in making sure that our -- our ratings and our various instruments -- financial instruments stay at a level, that's important to the company

COMMISSIONER GAW: Okay. Thank you very much.

Public Counsel have anything you want to add to this issue at all?

MR. MICHEEL: I don't think so, Commissioner.

COMMISSIONER GAW: Thank you.

Could I have just a brief rundown on the emergency cold weather rule resolution from Staff?

MS. SHEMWELL: One moment.

COMMISSIONER GAW: Sure. Ms. Shemwell.

MS. SHEMWELL: Thank you. I will mention that if this is not enough, we'll get someone that can answer.

It's being treated the same way it was in the last rate case and it is subject to true-up. So that $750,000 that we developed in the matrix in the last case as an appropriate amount will continue and it will be again subject to true-up and for inclusion in this rate case as well.

COMMISSIONER GAW: All right. So really there isn't any difference from what was done with the last rate case a few months ago?

MS. SHEMWELL: That's correct.
COMMISSIONER GAW: All right. I think that's enough. Thank you, Ms. Shemwell.
I believe that's all I have.
JUDGE THOMPSON: Mr. Pendergast, do you have something?
COMMISSIONER GAW: Oh, yes, please.
MR. PENDERGAST: If I could. I just wanted to respond out of time here to your question --
COMMISSIONER GAW: No, that's good.
MR. PENDERGAST: -- some earlier questions you asked about the incentive program and its relationship to transportation and that sort of thing.
And I certainly appreciate your comments and I appreciate your comments that they weren't specifically directed to Laclede. Those are understandable concerns.
I just wanted to alert the Commission that in the past, we've attempted to go ahead and address that through various kinds of mechanisms, the mixed pipeline supplier component from the prior GSIP that was designed to make sure transportation costs couldn't be increased because of concern that had been raised earlier about its impact with commodity costs.
And I do know that some concerns have been raised in another docket that's before the Commission too.

I don't want to get into that today. You know, we're trying to go ahead and address those concerns in that docket as well.

But I did want to go ahead and simply respond that, you know, we have attempted to take measures before, of course. We don't have any intention of doing that kind of thing and I think through five years of the operation of our old GSIP, you know, the Commission never found that there was that kind of problem. So I just wanted to go ahead and make that comment. Thank you.

COMMISSIONER GAW: Thank you, Mr. Pendergast.

I think that's all that I have. I might just ask on that issue from Staff, does Staff feel that it is more difficult to craft an incentive plan that includes transportation as an element?

MS. SHEMWELL: I'm going to have to turn to Dave Sommerer to answer that, Commissioner Gaw.

DAVID SOMMERER, having been previously sworn, testified as follows:

QUESTION BY COMMISSIONER GAW:

Q. All right. Mr. Sommerer.

A. Yeah. There's no question we would prefer to have a comprehensive integrated incentive plan, but it's very difficult to address the transportation costs. FERC regulates the interstate pipeline reservation charges, pipeline costs.

And there's a real issue about if you use that as a benchmark, does everyone pay FERC rates. No, lots of companies get discounts. And then you return into arguments about should the FERC rate be the standard. It's probably not a good enough benchmark. Do you use current discounted rates? Then it has its own -- own complications. And we just have struggled and we've been unable to wrap the two concepts together, so --

Q. Is it fair to say that there's not the same market pricing with the transportation that there is with commodity?

A. That's -- that's true as well in a lot of cases.

Q. There's more -- there's a market out there on commodity that can be seen and looked at on a daily basis or even more frequently, I suppose, as opposed to transportation?

A. That's right. The transportation costs, again, are regulated by FERC. And the gas supply commodity has been deregulated for a number of years and it's fairly transparent. You can see what the daily market is, you can see what the monthly index market is. And so it becomes a little bit easier to develop a benchmark for the commodity.

Q. Can I do that with transportation on things that are discounted from the FERC rate?

A. You could conceivably, but you're always in a situation where you could switch pipelines, you're in a situation where you could vary the terms of service with a pipeline.

There are various ways that you could look at transportation. Is it firm? Is it in between firm and interruptible? Is it interruptible transportation? And obviously the rate that's going to be pegged for transportation is going to vary with the firmness.

So it just seems like there are more ways to perhaps beat some sort of benchmark that you could come up with and that's been a real Staff concern.

Q. All right. Makes it easier to -- I guess -- I guess then there is some -- was that part of Staff's concern in the potential for gaming the system when you just utilize the commodity amount without anything else on the transportation other than prudence?

A. That's right. I think the two can become interchangeable when you wrap them up in a bundled deal. And that possibility does exist. And we hope that we have enough tools that we can identify it if it occurs.

Q. All right. Thank you, Mr. Sommerer.

A. You're welcome.

COMMISSIONER GAW: Anybody else want to

follow-up with any of that?

That's all I have. Thank you very much, Judge. Thank the parties too.

JUDGE THOMPSON: Thank you, Commissioner Gaw.

Further questions from the Bench?

CHAIR SIMMONS: Yes.

JUDGE THOMPSON: Chairman Simmons?

CHAIR SIMMONS: Thank you.

QUESTIONS BY CHAIR SIMMONS:

Q. I have a follow-up question that probably dealt with an issue that you answered, Mr. Cline, with respect to the financial analysts and the thoughts of the steady revenue stream, and that will be my first question.

And since the witness is already sworn, I may just ask him from there. What is the -- what would you know of the company's -- I guess from a revenue basis, with this particular Stipulation and Agreement, I think your statement was that the analysts look at this as having a secured revenue stream for a period of time and that's a good sign. Is that how you characterize that?

MICHAEL CLINE, having been previously sworn, testified as follows:

A. Yes, sir.

Q. What is the company's authorized rate of return?

A. I don't believe there's been any explicit acknowledgment of an authorized rate of return in this case or in several past cases since they've been -- many of them have been settled.

CHAIR SIMMONS: Would anybody know that answer?

MR. PENDERGAST: Commissioner, if I could, I know that in our last case, it was an overall settlement and there was no explicit return on equity established in that case. And I believe in the case before that, the return on equity that the Commission authorized was 10.5 percent -- 10.5 percent. And that would have been in 1999.

CHAIR SIMMONS: Ms. Shemwell?

MS. SHEMWELL: Chairman Simmons, this is a whole piece of a cloth, I mean, the whole settlement. But Staff believes that its determination of the settlement included a return on equity that was within Staff's range in this case, recommended range in this case. Financial analysts for the Commission is here if you have some other questions of her.

CHAIR SIMMONS: Okay. Thank you.

MS. SHEMWELL: Thank you.

CHAIR SIMMONS: I'm going to move away from that and go to one other question that I have and it's with respect to the weather mitigation rate design. And probably ask this question -- or direct this question to Staff and OPC.

And within the Staff's support of the first amended Stipulation and Agreement which discusses this, you talk about -- I believe you suggest that this should not be viewed as a change in policy as it relates to the Commission, but this is a Stipulation and Agreement that is more significant to just this case.

And I guess I want to get your thoughts on that. When it comes to this weather mitigation rate design, is that this is not a change in policy as you view it as it relates to this Commission and previous issues or --

MS. SHEMWELL: Actually, Chairman Simmons, Staff did agree to this rate design. Laclede had brought to it a weather mitigation clause that Staff could not support. It is a change in position in terms of company's recovering its rates and whether or not the effects of weather should be mitigated.

I think Office of the Public Counsel had some very strong arguments in that respect. And certainly we have some agreement in terms of the level at which the Commission guarantees a revenue stream for the company.

We normalize the weather to take out the fluctuations. I think Mr. Kind pointed out that regulation is a substitute for competition and in competition there's no guarantee. Certainly Staff's position is that there is no guarantee in terms of the rate of return, that that's an opportunity to earn.

We're seeing this approach, since it's a new approach, as one that we will look at carefully to see if it achieves the goals of stabilizing the costs for both the company with some consumer benefits. So we're looking at it as a total piece.

Included in that is the Office of the Public Counsel's gas cost incentive plan that is intended to assist consumers. So Staff looked at both of those items. We will reduce some of the rate design in terms of these small commercial customers also as a part of this, which is something that Staff valued.

We have been feeling that the smaller commercial customers, we've been describing them as the small barber shop or the individual restaurant, have been lumped in a group and will perhaps be unfairly treated because of that. The cost that they have associated with them were greater.

So, again, we looked at this as a whole piece. We do consider that it would be a change in policy. If this were recommended in a case that went to Commission decision, that the Commission would be required to determine its policy concerning whether or not -- or the level at which weather should be mitigated for a utility company.

We will have an opportunity, when Laclede files its next rate case, to examine the effects of this rate design on all of the parties and be in a better position to recommend to the Commission whether or not there should be a change in policy for the Commission that Staff would support or something that perhaps should be abandoned.

CHAIR SIMMONS: Okay. At this time I'd like to ask for OPC's comments to the same question. And if any of the other parties would like to offer their ideas or thoughts, I'd be open to that also.

MR. MICHEEL: Thank you, Mr. Chairman. You know, the Office of the Public Counsel initially did not support this rate design and you saw our Surrebuttal Testimony. But the fact of the matter is that the Staff was comfortable with this rate design, indeed they filed Surrebuttal Testimony in support of this rate design proposal.

And as part of the total package where we got a GSIP that we think is going to be valuable, we got a 16-month rate filing moratorium when if you add the 11 months, on that's a 27-month rate moratorium, we got some explicit language with respect to the effect on ROE and the revenue stream. We're willing to try this.

I think if you'll look at paragraph 3 of the second -- or first amended Stipulation and Agreement, it clearly says it is expressly understood that any party shall be free in a future complaint case, rate case or rate design proceeding to propose respective elimination of or modification to the rate design proposed herein.

So don't take this, Commissioner, or any gas utility that may be listening on the web, as some sort of signal that the Office of Public Counsel has really changed their position. We have settled a case. We support that settlement, but in our view, we are free in the next case to present our view of what a proper rate design should be. But for this case and this case only, we're willing to live with this agreement.

And I would just want to mention, kind of going back to one of your questions, Chair Simmons, regarding the financial community, that that didn't factor into Public Counsel's decision to do what we did or did not do. I don't think the Office of the Public Counsel views what the financial analysts say as requiring us to do something.

I don't think that's what this Commission should be about. Not to tell you how to do your business, but your business is just and reasonable rates. I don't think we should be listening to what Standard and Poor's say.

And I think we've all read the papers enough to know that there's a lot of give and take between the companies and Standard and Poor's that at least raise my suspicion or raises our Office's suspicion.

So I don't want anyone to leave this room thinking that the Office of Public Counsel agreed to any of this because the financial community, and put that in quotes, whoever they may be, were concerned about the company's cash flow or guaranteed earnings or anything like that.

So we entered into this because the overall package, we believe, is going to result in just and reasonable rates and it's going to give the customers some benefits and also the company some benefits.

CHAIR SIMMONS: Okay. Any other parties like to answer any of those questions?

Mr. Pendergast?

MR. PENDERGAST: Thank you. Just a few comments, Chairman. You know, this was something that we thought was important on its own merits, something that we think is good, as I said before, not only for the company, but its customer because of its various features.

And it is important, I think, to the financial community. It is a way to help stabilize earnings. And the reason we're so concerned about what the financial community has to say is because that financial community has a pretty big role to play in determining what our cost of debt is going to be.

And we've seen some folks in the not too distant past get downgradings to the extent that, you know, their cost of debt is going to be pretty expensive. And, you know, we want to go ahead and try to keep our cost of debt as fairly priced as we can, which is something that obviously benefits our customers as well.

And the only other comment I'd like to make, you know, although this is helpful in stabilizing earnings, it is by no means a guarantee of any kind of return. As we see in this case, we're looking at $14 million worth of increased cost, which didn't just happen yesterday. They've happened over the past year and a significant portion of those have been absorbed by the company.

And, unfortunately, we're probably going to continue to be an inclining cost company, and this weather mitigation rate design isn't going to do anything to relieve us of that particular risk.

As I indicated before, the rate design itself is a bit asymmetrical to the standpoint that we still do have some measure of risk when it's -- when it's warmer. And, of course, another important element of the Stipulations and Agreements in this case is the agreement of

Public Counsel's GSIP and Staff's recommendations that there be no presumption of prudence just because you fall within a specific benchmark.

And, you know, while in the past we've managed to go ahead and avoid any major disallowance of our gas costs, it's nonetheless a risk and it's nonetheless a risk that, you know, an explicit provision has been made for in this case that we're going to continue to assume.

So when you look at risk, I think you have to look at the whole picture. And if you look at the whole picture, this is an important element, but it's certainly not nearly the whole story. Thank you.

CHAIR SIMMONS: Thank you.

Any other parties?

If not, that will be the only questions that I'll have. Thank you.

JUDGE THOMPSON: Thank you, Chairman.

Commissioner Murray?

COMMISSIONER MURRAY: No questions. Thank you.

JUDGE THOMPSON: Commissioner Lumpe?

COMMISSIONER LUMPE: Just a couple follow-up. It's basically on the modifications to the weather mitigation.

As I understand it, the first proposal of the company was rejected and this is an alternative proposal; is that correct? Ms. Shemwell?

MS. SHEMWELL: Good morning, Commissioner. The weather mitigation clause was a proposal by the company that Staff did not feel that it could support. Staff felt that it was retroactive rate-making or at the very least single-issue rate-making, so we could not support that.

We considered this weather mitigation clause in the rate design to eliminate those concerns in terms of single-issue rate-making. And, also, this particular rate design was considered in the context of a complete rate case. And so it will be incorporated in the way that the weather mitigation clause would not be.

COMMISSIONER LUMPE: Okay. The customer charge has not changed, has it, under this proposal --

MS. SHEMWELL: The --

COMMISSIONER LUMPE: -- or has it?

MS. SHEMWELL: -- rate design will not change the customer charge.

COMMISSIONER LUMPE: Customer charge. It's the same?

MS. SHEMWELL: Yes. We had suggested that as one way to approach Laclede's margin costs or transportation costs, but no one particularly favored --

COMMISSIONER LUMPE: Doing that.

MS. SHEMWELL: -- doing that as opposed to this.

COMMISSIONER LUMPE: And what, in effect, has occurred -- the customer charge has not changed, but what we call the volume or the demand charge is put into one block as opposed to two blocks; is that right?

MS. SHEMWELL: That's correct.

COMMISSIONER LUMPE: So you've collected the volume charge and put it into one block. Now, then --

MS. SHEMWELL: May I just add a little something there?

COMMISSIONER LUMPE: Yes.

MS. SHEMWELL: Laclede has two blocks. The first is 65 therms. And that initial block is intended to be a level which is not particularly weather sensitive. It, in fact, is to some degree -- and we don't know exactly what degree -- but it is less weather sensitive obviously. Most people will get up to that level.

COMMISSIONER LUMPE: You'll get up to that.

MS. SHEMWELL: Yes. And those margin costs are collected a greater percentage -- as a matter of fact, all of them as far as I know, in that first block.

COMMISSIONER LUMPE: Okay. So, in effect, there's not a second block, is there, for residential anyway?

MS. SHEMWELL: Actually, there is a second block.

COMMISSIONER LUMPE: There is still a second?

MS. SHEMWELL: It would be above the 65 therms. And my understanding is in a normal winter, most people will get into the second block, go above 65 therms of usage. In a cold winter, most people will use that much.

COMMISSIONER LUMPE: I'm not sure I understand how anything has changed. I thought you were moving to one block.

MS. SHEMWELL: No. We're moving the margin costs --

COMMISSIONER LUMPE: To one block?

MS. SHEMWELL: -- to one block.

COMMISSIONER LUMPE: Okay.

MS. SHEMWELL: All right.

COMMISSIONER LUMPE: Then you're also changing the PGA to two blocks; is that correct, or --

MS. SHEMWELL: Dave Sommerer has filed testimony on the effect of the PGA and could probably answer that better than I can.

QUESTIONS BY COMMISSIONER LUMPE:

Q. I'd appreciate hearing from Mr. Sommerer then, because I'm trying to understand how the blocks are shifted from one place to another. And I wasn't aware there was still two blocks in the volumetric charge of the demand charge, so I wasn't aware of that. I thought you had moved it all into one block, but you haven't?

DAVID SOMMERER, having been previously sworn, testified as follows:

A. I'll do the best I can and I might have to refer to Dr. Proctor. But what I understand has happened is the margin for the non-gas cost rate has all become one block. It used to be two blocks, now it's one block, which, in essence, means that all of the distribution charges are collected through that one block. So historically two blocks for the non-gas costs, proposed is one block.

Q. All right.

A. And then there's an offsetting that's supposed to be equal on the PGA rate design movement to two blocks. So historically it was one block, there was just one PGA rate and that is being split into two blocks to make the total rate that the customer sees equal.

Q. Okay. Then am I correct that in the volumetric charge or the demand charge, there is one block now as opposed to two blocks?

A. There is -- there is --

Q. And they've moved whatever the total amount of that was into that one block in the non-gas costs?

A. They have gone from two blocks in the non-gas cost to one block.

COMMISSIONER GAW; We're getting disagreement out there, Commissioner.

BY COMMISSIONER LUMPE:

Q. Okay. Then I'll have to hear from someone else.

But in the PGA then you've gone to two blocks, it's your understanding? And that's what I'm trying to understand also. That there are now two blocks in the PGA, one is low and then it gets higher; is that correct --

A. That's correct.

Q. -- from your understanding?

A. That's correct.

COMMISSIONER LUMPE: All right. I think there's some other heads nodding around here. Could I have other interpretations here?

MR. PENDERGAST: I think part of the confusion may be when a block is really a block. And what we are doing is --

COMMISSIONER LUMPE: Can you explain that, Mr. Pendergast?

MR. PENDERGAST: Sure. Sure. I'll do my best. What we are doing is moving all costs that are currently recovered in the second block and we're moving them to the first block. We are not, however, abandoning that second block. That second block is still there, it does have zero in it, but it is still there. So --

COMMISSIONER LUMPE: I see.

MR. PENDERGAST: -- if you want to look at it and say there's really one block with cost in it, you can do that but we will still go ahead and have two blocks.

And then on the PGA side, you're quite correct. We will have offsetting adjustments made there and the two blocks there so that when you do the math and the rates come out in the end, they're the same tomorrow as they are today.

COMMISSIONER LUMPE: Now, the one block then in the non-gas costs then, that one block, is that beyond 6-- what was it 65 therms then or --

MR. PENDERGAST: No. That is still 65.

COMMISSIONER LUMPE: Still 0 to 65.

MR. PENDERGAST: That's correct.

COMMISSIONER LUMPE: But you've moved the margin costs into that?

MR. PENDERGAST: Into that block.

COMMISSIONER LUMPE: Now, if somebody uses more than that, you say they're paying zero?

MR. PENDERGAST: Then at that point on the distribution side, they would be paying zero.

COMMISSIONER LUMPE: Okay.

MR. PENDERGAST: On the gas cost side they will be paying more than they were --

COMMISSIONER LUMPE: On the gas --

MR. PENDERGAST: -- on that particular element.

COMMISSIONER LUMPE: Right.

MR. PENDERGAST: Overall though, they'll be paying the same as they are today.

COMMISSIONER LUMPE: Okay. Thank you.

MR. PENDERGAST: Thank you.

COMMISSIONER LUMPE: Do you have some thoughts on that, Mr. Micheel?

MR. MICHEEL: I would just point out also when we're talking about the zero second block rate, that's in the winter season.

MR. PENDERGAST: That's correct.

MR. MICHEEL: And so in the summer season the customer is still going to see two different blocked rates for the first block and second block. So keep in mind when we're talking about the zero block rate, we're talking about that zero in the second block is only during the winter months.

COMMISSIONER LUMPE: Okay.

MR. MICHEEL: So you still have during the summer months the two blocked rates.

COMMISSIONER LUMPE: Okay. And while you're there, Mr. Micheel, since you're the ones that came up with the design for a GSIP, did you look at what the findings were from the round table and did you say this is a properly designed GSIP?

MR. MICHEEL: Yes, we did, Commissioner. And we made a commitment at the round table -- I mean, I know that our office voted that there should be properly designed GSIPS. And I know both Ms. Meisenheimer and myself gave presentations indicating that we believed that you could have a properly designed GSIP.

And this is Public Counsel's shot at offering up a properly designed GSIP that we think dampens upward price volatility for the customers and also gives the company an opportunity, when they're successful in dampening the upward price volatility, to benefit from their works and get a little incentive compensation. So we believe this is a properly designed plan.

Nothing's perfect and if something goes wrong with this, we'll be the first ones in here to say, Change it. But based on our collective knowledge as an office, we think this is the best proposal.

COMMISSIONER LUMPE: And the concerns about transportation, do you share those concerns and is that why you did not include transportation?

MR. MICHEEL: I share those concerns with respect to transportation, but the reason -- the real reason we didn't include transportation is the lion's share of a customer's PGA rate is with respect to the commodity cost of gas.

You know, transportation rates are relatively, if you will, flat. You know, I mean, obviously pipelines file rate cases and things like that, but they're a small percentage of the PGA rate.

So what we're trying to do is focus on the portion of the PGA rate that's giving the customers the most pain and try to dampen that upward price volatility. And that's the purpose for our proposed GSIP.

So we didn't really consider -- I mean, obviously we don't want companies gaming the transportation rates, but that wasn't a huge consideration. And even in our old proposal, we could have still gone -- or even in our proposal, we were still able to do prudence reviews with respect to the transportation portion. So I don't think it was ever really a problem. So I would respectfully disagree with the Staff, but that happens on occasion.

COMMISSIONER LUMPE: In bundled transportation in gas though, do you have any concern of being able to pull those factors out and determine what they are?

MR. MICHEEL: Well, it's always very hard in a bundled contract. As you're well aware, we've struggled with that here. But I guess the bottom line is what's the overall rate that the customer is going to be paying and that's what our incentive is focused on. We're not trying to go to these bit parts and put it all together.

What we're saying is, you know, what is the delivered cost of gas. And we're making a decision based on what the delivered cost of gas is, i.e., the end result as opposed to all these bit parts.

COMMISSIONER LUMPE: And you're okay with the prudence review being still part of this?

MR. MICHEEL: I think, you know, that's a great thing. I think this Commission should not relinquish their prudence and I think it's something that makes this even much more attractive.

Although, I want to say that there was only a smidgen of prudence reduction in our initial proposal, you know, because we certainly believe in the prudence review. And although we think it's good the company should have the carrot, we think the Commission should continue to have the stick.

COMMISSIONER LUMPE: I have one more question for you, Ms. Shemwell. The settlement a year ago that occurred, the previous one, can you tell me what that amount was?

MS. SHEMWELL: I'm thinking it was right at 11.

COMMISSIONER LUMPE: About 11?

MR. PENDERGAST: It was 15 in total.

MS. SHEMWELL: 15 total.

COMMISSIONER LUMPE: 15 total. And this one is 14, so that within the two-year period we have about the 30 million --

MS. SHEMWELL: That's right.

COMMISSIONER LUMPE: -- or the 29 million that was originally requested maybe perhaps.

Okay. On the reconciliation that's in Attachment 1, I think it is, you started out with actually a revenue reduction, as I see it, of 1.7; is that correct?

MS. SHEMWELL: That's correct.

COMMISSIONER LUMPE: And then the corrections -- can you just basically tell me what those corrections --

MS. SHEMWELL: I'll call Steve Rackers up to discuss that, if that's all right.

COMMISSIONER LUMPE: That would be fine.

MS. SHEMWELL: I would like to give perhaps a more complete answer to your question about customer charges. The residential, which is by far the bulk of Laclede's customers, will remain the same. There will be some change in industrial.

COMMISSIONER LUMPE: In industrial?

MS. SHEMWELL: Yes.

COMMISSIONER LUMPE: Right. That's why I was sort of focusing on residential. I thought there were changes.

MS. SHEMWELL: Yes, ma'am.

COMMISSIONER LUMPE: Thank you.

MS. SHEMWELL: Thank you.

STEVE RACKERS, having been previously sworn, testified as follows:

QUESTIONS BY COMMISSIONER LUMPE:

Q. Mr. Rackers, you have corrections, additional true-ups and updates based on additional information. If you can sort of give me some idea of why -- starting from a reduction actually you then put -- what those various corrections, true-ups, etc. Okay?

A. On page 2 it sort of gives you -- it runs through the reconciliation and provides you with the various items that those amounts specifically dealt with. In terms of corrections, it dealt with property taxes, income taxes, bad debts, reconnection fee revenues and the weatherization program expenses.

Q. The weatherization. Okay. So that's part of the correction?

A. Right. Those five items make up the corrections number.

Q. Okay. And then the additional true-ups?

A. The additional true-up items, they're not specifically listed, but the largest component of that item was plant increases --

Q. Plant increases.

A. -- and the associated depreciation expense and return on investment that went through -- went with that. There was also an increase in the PSC assessment, increase in gas inventories and new property tax assessments that were part of that number.

Q. Okay. Okay. And then various updates. Are those listed?

A. Yes. On page 3, item C, there's eight items that are listed there --

Q. Eight items. All right.

A. -- that make up that number.

COMMISSIONER LUMPE: Okay. Thank you very much, Mr. Rackers.

THE WITNESS: You're welcome.

JUDGE THOMPSON: Commissioner Gaw?

COMMISSIONER GAW: Just real quick, if I could. Just a couple of quick follow-ups. I apologize for this. When is it possible -- first of all, there is no termination rate on the GSIP; is that correct?

MR. MICHEEL: That's correct. It's possible for the company or any other party to change the GSIP in this -- I think it's after the September -- the September after their next rate case, so whenever that is.

COMMISSIONER GAW: Is there a difference in any presumption regarding the Commission's authority to not renew the GSIP at that point in time or is -- in other words, since there is no -- there is no terminating date on the GSIP, does that change how this Commission -- the burdens of the parties in regard to terminating the GSIP at some point in the future?

MR. MICHEEL: No, it does not. And if you'll look at -- I think it's paragraph 5 of the first amended partial Stipulation and Agreement, it says it is expressly understood that any party shall be free in a future complaint case or rate case proceeding to propose prospective elimination of or modification to the GSIP proposed herein without any burden of proof or presumption applying to the determination of whether the GSIP proposed herein or an alternative GSIP should be approved by the Commission. And that's subject to the market-out clauses, if there's a huge C change in the market. And that will be part and parcel in the tariff.

COMMISSIONER GAW: So the Commission then under the -- can the Commission refuse to continue the GSIP at some point in the future in the same way as if the GSIP did not exist?

MR. MICHEEL: I think that this Commission always has the ability to direct its Staff to do an investigation into anything, if the Commission sees the need to do that. And I don't see this Stipulation and Agreement standing in the way.

COMMISSIONER GAW: I understand that point. I think what I'm asking is a little different. I'm asking whether or not there is -- by having the GSIP without a termination date, does that somehow shift the burden in regard to the elimination of the GSIP in the future as opposed to the termination date where the Commission might be totally free to do what it chose on approving a new GSIP beyond the termination date? That's what I'm asking about.

MR. MICHEEL: I guess I would say, yes, it does to the extent that anybody who is offering up a change to the GSIP has the burden of proving that that change is just and reasonable. I hope that answers -- I think that's what you're asking.

COMMISSIONER GAW: That's what I'm asking. So, in your opinion, it does change the Commission -- the burden of proof in regard to the Commission review of the GSIP in the future?

MR. MICHEEL: Well, to the extent that it doesn't have an ending date it does, yes.

COMMISSIONER GAW: Staff, do you want to address that?

MS. SHEMWELL: Paragraph 5 of the first amended partial Stipulation and Agreement says that any party shall be free in a future complaint case or rate case proceeding to propose elimination of or modifications to the GSIP without any burden of proof or presumption in the determination of whether the GSIP or an alternative should be approved by the Commission, so --

COMMISSIONER GAW: What does that mean to you?

MS. SHEMWELL: That certainly if -- I guess if we see a problem, we could come to the Commission in a complaint case. In the next rate case if review of this indicates that Staff cannot support it, we can bring that to the Commission.

As a complaint, it would not have a burden -- the burden of proof to show that the GSIP should be discontinued. In other words, there's no presumption that one party has the burden over the other.

And in the rate case -- in a rate case I guess the -- we would certainly be free to suggest that the Commission not approve continuing the GSIP.

COMMISSIONER GAW: But do you agree there is no termination of the GSIP in this stipulation? In other words, it would continue without some order terminating or revising it?

MS. SHEMWELL: That is correct. I guess with Laclede's pattern of coming in regularly for rate increases, I think we all thought that that would probably occur, that they would be back in fairly promptly after the end of the moratorium. But, that's correct, there is no end date for this GSIP actually as part of this proposal.

COMMISSIONER GAW: I'm just trying to understand the difference in the Commission's review of a future case. And if there were a termination date on the GSIP and the company were asking to renew it, is that, in your opinion, a different scenario than asking for a change or discontinuing it, from the Staff's perspective?

MS. SHEMWELL: I guess from Staff's perspective, we would be expecting that it would most likely occur in the context of the next rate case, so that we would feel free to propose a change. I'm not answering your question.

COMMISSIONER GAW: Well, I guess what I'm getting to is whether or not we have somehow shifted the responsibility on the -- regarding the Commission's review of this GSIP in the future by not having a termination date. I understand what you're reading to me in the stipulation, but I'm not sure how that compares to a case where this GSIP would be terminated as of a certain date, thereby requiring somebody to come back and ask for it to be renewed. And I know Mr. Pendergast has some comment, but if you want to answer that first.

MS. SHEMWELL: Sure. You're right. This doesn't have a date at which the Commission will automatically review this GSIP. Staff could bring a complaint, Office of Public Counsel could bring a complaint, but you're right, there is no specific date that automatically sets a time for the Commission review. So I --

COMMISSIONER GAW: From a historical standpoint, has that varied from one case to another on these incentive programs where sometimes you've had a termination date and sometimes you have not?

MS. SHEMWELL: In terms of history, I'll have to turn to Staff. I'm sorry. Dan Joyce, general counsel.

COMMISSIONER GAW: Sure. I apologize, Mr. Pendergast.

MR. JOYCE: Understand I was not involved certainly in negotiations, but I did have to review and sign off on the stipulation.

The difference here, I think, from a GSIP that would terminate or any incentive plan that would terminate by its own terms, I believe Staff contemplates that this would continue through the terms of the moratorium, through the 16 months, and that the Commission Staff and all parties would have an opportunity to review its performance during that period of time.

Now, as Mr. Micheel mentioned, it would be subject to review if the out-clause came into play where a filing was made under those provisions for review earlier than 16 months.

But at the time it would be reviewed, whether it would be prior to 16 months or after the 16-month moratorium expired, at that time it would be my view that the party asking for its continuance would have the burden of proof to the Commission that it continue. But really it would continue until the next rate case and the conclusion of the next rate case.

COMMISSIONER GAW: You said two different -- two things there. One of them, the last one I think is -- it seems to me there's probably not much disagreement, although I hesitate to say that, and that is that whatever's in effect in this GSIP would continue unless there's an order of the Commission varying it?

MR. JOYCE: That's correct.

COMMISSIONER GAW: Which is different than what we've had in some cases in the past where there's been a termination date and the GSIP or some incentive program was not renewed.

MR. JOYCE: That's correct.

COMMISSIONER GAW: So that there was -- could be a --

MR. JOYCE: Could be a gap. In this case, yeah, there won't be a gap until the next Commission order after a new rate case.

COMMISSIONER GAW: But what I'm curious about is whether your statement in regard to the burden -- of saying whether or not that program should continue is agreed to by everybody that's here. I might ask Mr. Pendergast if he wants to have his -- have a little bit of say in this.

MR. PENDERGAST: Well, at the risk of mentioning distinctions without a difference, essentially I think what we tried to do -- and you're quite correct. In the past you have had GSIPs and other mechanisms that had firm dates and that's always been a little bit of a two-edged sword.

You know, on one hand you've heard arguments from proponents of those that you can't really do anything until that expiration date comes, and then you've heard arguments from people that don't like it that once that date comes, you have a burden to go ahead and suggest that it ought to go ahead and be continued.

And what we tried to do here was come up with sort of a middle ground, if you will, where we basically said we're putting this into effect. And I think Public Counsel wanted to go ahead and make sure that it was in effect for a long enough period of time where we could actually see how it operated. And that meant through the next case, assuming that we filed it at the end of the moratorium and the ACA period that ends after that case.

But what we tried to do was sort of remove what you normally get if you don't call something experimental, that we're not saying that this is like the permanent change that you put into effect and it's prima fascia reasonable and that anybody that wants to come in and change that bears a burden in order to go ahead and demonstrate that it should be changed or it should be ended.

We wanted to go ahead and say that those particular burdens aren't going to go ahead and apply, that if a person that wants to go ahead and come in and say it ought to be terminated, it ought to be modified, he stands in the same shoes as somebody that says it ought to be continued.

And I think that when all is said and done, regardless of who has the burden of proof or in this case the fact that no particular party has the burden of proof, whatever the Commission does I think has to be done based on record evidence, if there is a dispute among the parties, and I think that's ultimately what it comes down to.

And I've never really known who has the burden of proof to be a particularly decisive element in most cases and in this case we just try to come up with sort of a middle ground. Thank you.

COMMISSIONER GAW: May not be decisive in some cases, Mr. Pendergast, but it seems to show up in briefs a lot.

MR. PENDERGAST: It does. I agree with you, Commissioner.

COMMISSIONER GAW: I might just -- Mr. Pendergast, if I could, does that mean that Laclede -- does Laclede take the position that under this scenario in this particular stipulation that the -- that there is a difference in the burden that a party might have in regard to seeking to continue or modify or terminate a particular incentive -- this particular GSIP as opposed to one where the company had a termination date on its GSIP and was seeking to have one continue beyond that termination date? Is there a difference as far as this Commission's review and the responsibilities of the party to make their case?

MR. PENDERGAST: I think there might be a very slight difference. And I think that slight difference would be I suppose if you had a termination date on it, you could go ahead and argue that if you want to go ahead and change that termination date by making it continuous, you would go ahead and have a burden to show that that's something that's appropriate.

On the other hand, if you were a party, you wanted to go ahead and eliminate it, you know, someone could say that you -- particularly before its termination date, some could say that you have a burden to go ahead and make sure that that doesn't happen.

What we tried to do was take those burdens kind of off the table and just say the Commission will look at it on its merits and without regard to who might have a burden of proof in the particular situation, make a decision based on the evidence.

COMMISSIONER GAW: All right. Do you believe that if this Commission were to at some point in time in the future hear a case brought by one of the parties to change the program or eliminate it -- well, let me strike that -- to change the program, that this Commission could order a change over the company's objection?

MR. PENDERGAST: Well, there's always been that line of thought.

COMMISSIONER GAW: And I guess that's why I'm exploring it now.

MR. PENDERGAST: That basically says that when it comes to incentive programs of this nature, it has to be something that the utility is willing to go ahead and implement for the Commission to go ahead and lawfully impose it. I haven't thought about that concept recently enough to be able to tell you that we're prepared to abandon it.

COMMISSIONER GAW: Yes, sir. I understand. I wanted to check it out though.

MR. PENDERGAST: And as far as I know, that's still the -- still sort of the prevailing theory in that particular area.

COMMISSIONER GAW: So would the Commission's choice then in that event, if it were not acceptable, be to eliminate it?

MR. PENDERGAST: I think that's probably correct, or as the Commission's done before, you know, when we had the GSIP litigated in the past, I mean, the Commission has said, Well, I'll approve this, but I'm going to approve it with certain conditions; in other words, I'm going to go ahead and require that X, Y and Z be changed --

COMMISSIONER GAW: Yes.

MR. PENDERGAST: -- and, you know, accept it if you like with those changes or just, you know, eliminate it.

COMMISSIONER GAW: Okay. Thank you, Mr. Pendergast.

MR. PENDERGAST: Thank you.
COMMISSIONER GAW: I appreciate it.
Staff or Public Counsel want to respond to my last question or anything else for that matter?
MS. SHEMWELL: Well, I think that Staff would view that in a rate case, the company has the usual burden of proof if they come in with the next rate case and that any party can argue for or against the GSIP.
In terms of the Commission proposing a change, I think that we agree that the Commission cannot impose upon a company a GSIP, but I think the Commission could suggest conditions that indicated that their approval would be dependent on those conditions and the company could accept or reject those conditions.
COMMISSIONER GAW: But do you agree that the alternative, if the Commission chose to not continue the GSIP, that was approved -- if this one is approved today -- and at some point chose not to continue it, but -- and the proposal for the change was not approved by the company, that the Commission's other choice would be to terminate it?
MS. SHEMWELL: Yes. That's my understanding, that's correct.
COMMISSIONER GAW: Public Counsel, anything?
MR. MICHEEL: Yeah. I think we generally agree with that. I mean, I think with our GSIP proposal,

it's fairly transparent. I mean, it's based on the delivered cost of gas.

And I would point out that the language that we're talking about, it's exactly the same with respect to the weather mitigation rate design proposal here. And, quite frankly, that's just some language that we all had to work on to try to come to some agreement. And then I know it's a little bit confusing, but, you know, the language is what the language is.

COMMISSIONER GAW: I appreciate that comment.

And I've got one more thing to ask about, but Commissioner Lumpe, if you had something on this issue, it might -- no?

The other one is I just want to make sure I'm understanding this rate design question in regard to the PGA, and I apologize. I know I asked this question earlier, but the more questions that have been asked about it, I'm not sure that I've gained an understanding like I wanted to.

Just from the standpoint of the change in the PGA as the adjustment is done on the other portion of the bill and the rate -- on the first portion where it's shifted from block two to block one, help me to understand how the PGA itself moves and is manipulated so that the bottom line costs are the same to the customer. Could somebody do that, please?

MS. SHEMWELL: Probably Dr. Proctor or Mr. Sommerer, either one.

COMMISSIONER GAW: I think I let him off the hook.

MR. CLINE: Commissioner, I can take a shot at that if you want.

COMMISSIONER GAW: That would be great. He's got a longer ways to go to get to a microphone.

MICHAEL CLINE, having been previously sworn, testified as follows:

A. All we're doing is under the existing rate design there is no -- there is no PGA block. And the PGA rate is the same for the first block of therms --

Q. Doesn't matter.

A. That's right. And -- but with this new rate design, that will change. For the first time we will have a blocked PGA rate as well.

And that's what's making this whole thing work in that to the extent that we have increased the non-gas portion of the -- of the rate in the first block, we have lowered the PGA rate that otherwise would be applicable in the first rate block so that the two when added together, will be the same -- the same total rate that we have today.

The -- the -- today we have a PGA rate and -- a single PGA rate and a block one non-gas rate. We're going to get the same total rate under our proposed rate design just by switching to components, the higher non-gas component of the first block and a lower PGA of the first rate -- first rate block.

In the second rate block, the -- there is no -- there is no non-gas component and the -- the second -- second rate block consists entirely of PGA recovery and that rate will now be higher than the rate -- then the levelized PGA rate in effect today.

In essence, the total rate in both rate blocks will remain the same, but the components have shifted -- components have shifted.

BY COMMISSIONER GAW:

Q. Yeah. And take the next step for me. Help me to understand how that -- while the customer is seeing no difference in the rate, the company is actually seeing a difference in its revenue.

A. In terms of total revenues, our total revenues, gas and non-gas, will remain the same.

Q. All right. Okay. And then go to the next step for me. How is it -- tell me how that levels out the revenue stream for the company in a way that is beneficial to the company.

A. In a warmer than normal year, the -- the company's non-gas revenues will increase, they'll be higher than what they otherwise would have been. The PGA revenues that the company would have initially billed to customers will be lower than they otherwise would have been --

Q. Right.

A. -- through the actual cost adjustment of the purchased gas adjustment clause, the PGA -- the difference between what the company should have collected in terms of gas cost dollars from the company -- from the customers, the difference between what they should have collected and what they actually did collect through this new rate design will be adjusted through the -- it will be adjusted through the actual cost adjustment. That will be made up at a subsequent point in time.

Q. I was getting close, but what do you mean by -- how will it be made up at a subsequent point in time?

A. The purchase gas adjustment clause has an actual cost adjustment feature --

Q. Right.

A. -- associated with it in that to the extent that there is any -- any differences between the gas costs the customers were billed during that past year and what the gas costs -- what the company's actual gas costs were, those differences are made up and recovered from customers in a prospective 12-month period.

Q. All right.

A. The -- the additional dollars that were -- the dollars that we'll -- the -- under our proposed rate design, when the weather is warmer than normal, the company collects more non-gas revenues than it otherwise would have been, but collects less gas revenue than it -- then it would have, that the difference between what the gas -- the gas costs of the company wanted -- needs to collect in total and what it actually did collect from its customers will be made up through the actual cost adjustment.

Q. In the ACA provision, if you under-collect on your PGA, you'll get an additional collection in the next --

A. Yes, sir.

Q. -- after that in the ACA?

A. Yes, sir.

Q. So if that's the case, then are we -- I want to make sure I'm following this clear through. If there's a warmer than average -- well, excuse me. Yeah. If there's a warmer than average winter -- well, let me back up.

On the PGA provision, when you go to the second block on the PGA, will the amount on that portion of the gas cost be an amount -- a rate that would tend to catch you up so there would be no need for an ACA adjustment, all other things being equal, if you used the amount of gas that you anticipate to use in a normal year?

A. That's correct. Under normal weather, that is correct. It's only -- the ACA adjustment would only occur if the weather was warmer or colder than normal.

Q. Okay. And will that not shift some additional costs on a customer in a winter following a warmer than average winter because of the ACA adjustment necessary to catch you up?

MR. PENDERGAST: Yeah, if I could answer that.

COMMISSIONER GAW: Yeah, go ahead, Mr. Pendergast.

MR. PENDERGAST: First of all, I want to make it very clear. We're not talking about collecting anything other than gas costs through the PGA.

COMMISSIONER GAW: Yes, I see that.

MR. PENDERGAST: We're collecting only gas costs. And what we're really talking about is that because the PGA now has more costs loaded into the second block and fewer costs loaded into the first block, we're collecting them in a slightly different way than we did.

And one of the interesting things about this rate design that we noticed was that because of the way our PGA rates work and because of the way gas prices usually work, depending on whether it's colder than normal or warmer than normal, essentially when it's warmer than normal, we over-recover our costs because prices usually fall significantly from the PGA rate, say, that you went ahead and filed in November.

And what this will do, by collecting fewer costs in that lower block, we'll actually go ahead and, as Mr. Cline indicated, collect a little bit more -- or a little bit less, excuse me, in gas cost revenues. And what that means is at the end of that ACA period, what would have been a larger over-recovery will actually be a smaller over-recovery.

Conversely, if it's colder than normal, what the usual experience is, is that prices tend to go up and it will have just the opposite effect and you'll have a smaller under-recovery at the end of that ACA period.

But you are correct that -- that while it will simply be a smaller under-recovery, the credit that you would normally flow through to customers during that next winter after a warm winter will be a little smaller than it otherwise would be.

And you're talking about something that's probably in the neighborhood of about 2 percent of the customer's overall costs that would have to go ahead and be collected by way of -- well, actually having a smaller credit to give to the customer than would otherwise be the case.

COMMISSIONER GAW: And I was kind of thinking about in terms if there were an under-recovery in gas cost and would the same thing apply. I guess it would? The same logic would apply, wouldn't it?

MR. PENDERGAST: That's correct.

COMMISSIONER GAW: Okay. Well, thank you for taking the time with that. That's helpful.

I am done. Thank you.

JUDGE THOMPSON: Thank you, Commissioner.

Commissioner Forbis?

Any further questions from the Bench?

Hearing no further questions from the bench, do the parties have anything else at this point?

Mr. Pendergast?

MR. PENDERGAST: Yes, your Honor. I'd only note -- I think I mentioned it in passing earlier, but the parties have proposed or at least requested respectfully that this be allowed to go into effect by November 1st.

Obviously we still have tariffs that need to be filed and it would be helpful to us to have a Commission order approving the Stipulations and Agreements before that. Our anticipation would be to file tariffs by October 15th.

We will be working with the parties obviously to ensure that those tariffs are acceptable to them before we even file them and have enough time for the Commission to approve those before the November 1st date, but I simply wanted to go ahead and request that if the Commission does approve the Stipulations and Agreements, that it puts something in the order indicating that when we do make that tariff filing, that it should bear an effective date of November 1st just so folks down in the records department will feel comfortable with that.

MS. SHEMWELL: May I mention that Staff neither opposes nor supports the November 1 date.

JUDGE THOMPSON: Okay. Well, you're all speaking to something that I had intended to visit at the end of the presentation here.

The operation of law date in this case is December 25th, Christmas Day. And because stipulations have been reached well in advance of that date, I was going to ask whether, in fact, the parties wanted their tariffs to take effect in advance of the operation of law date. It indeed appears that they do.

The only issue that I know of that would affect this, of course, the Commissioners are going to need to consider the order, an order will have to be issued. And once that is done and tariffs are filed, Staff will need an adequate opportunity to study the tariffs and to advise the Commission that the tariffs are, in fact, in compliance with the Commission's order.

I do not know or I can't speak to whether or not 15 days is a sufficient period for Staff to do that or not. Staff will have to tell us whether that's a sufficient period.

MS. SHEMWELL: Judge, while Staff neither supports nor opposes the November 1 date, we have agreed to cooperate with Laclede, and if we receive the information in a timely manner, to try to be in a position to suggest that the tariffs are something the Commission should approve by that date.

JUDGE THOMPSON: Okay. Well, certainly the sooner the Commission acts with respect to an order, the sooner tariffs can be prepared and filed. And the sooner they're filed, the more time Staff has to review them. So we can all note that November 1st date.

I assume the parties don't anticipate filing anything else at this juncture?

MS. SHEMWELL: I don't think so.

JUDGE THOMPSON: In other words, prior to an order,

MS. SHEMWELL: We do not plan to file anything additional.

JUDGE THOMPSON: And we expect to have the transcript by when, Ms. Reporter?

THE COURT REPORTER: Seven working days.

JUDGE THOMPSON: I think that's everything we need at this juncture. Anything further?

MR. JOYCE: Judge, I may want to file something on behalf of Staff addressing Commissioner Gaw's issue on the burden of proof and the termination of the GSIP and how that's different. I would like to consider and possibly file something very quickly on that if it pleases the Commission.

JUDGE THOMPSON: Certainly Staff may file such a document. I would just simply point out that once that's filed, then others may want to file in response and then that sets off a whole round of filings that may possibly delay things. That's all I'll point out, but certainly what you mentioned anticipating filing I think would be helpful to the Commission.

Anything further at this juncture?

Hearing nothing, this on-the-record presentation is now adjourned.

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