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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

HEARING

March 31, 2004

Jefferson City, Missouri

Volume 9

In the Matter of the Application of)
Union Electric Company, Doing Business)
as AmerenUE, for an Order Authorizing)
the Sale, Transfer and Assignment of) Case No.
Certain Assets, Real Estate, Leased) EO-2004-0108
Property, Easements and Contractual)
Agreements to Central Illinois Public)
Service Company, Doing Business as)
AmerenCIPS, and, in Connection)
Therewith, Certain Other Related)
Transactions.)

BEFORE: KEVIN A. THOMPSON, Presiding
DEPUTY CHIEF REGULATORY LAW JUDGE.
STEVE GAW, Chair
CONNIE MURRAY,
ROBERT CLAYTON,
COMMISSIONERS.

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A P P E A R A N C E S (CONT'D)

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1 JUDGE THOMPSON: Mr. Kind, I'll remind you
2 that you're still under oath. Go ahead and take your seat.

3 THE WITNESS: Okay.

4 JUDGE THOMPSON: Commissioner Clayton?

5 COMMISSIONER CLAYTON: Thank you, Judge.

6 RYAN KIND testified as follows:

7 QUESTIONS BY COMMISSIONER CLAYTON:

8 Q. Mr. Kind, first of all, I want to say thank
9 you for coming back to the stand. I'm not sure how many
10 other issues, if any, you have, but I appreciate you
11 indulging and coming back for a second day.

12 A. I have quite a few others, so not a difficulty
13 at all.

14 Q. Okay. Well, just focusing in on SO2
15 allowances, is it a fair statement that you were the first
16 person to bring a concern up about this issue?

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

18 Q. And in reviewing your testimony, you spend a
19 considerable number of pages talking about this issue. I
20 first wanted to ask you regarding your efforts in retrieving
21 information, there was some discussion with Staff witness
22 last week about prob-- not problems in retrieving
23 information, but just not seeking information and making a
24 determination on this issue. Were you able to get all the
25 information you needed in preparing your position on this

1 issue?

2 A. It was somewhat of a drawn-out process in that
3 some responses had to be compelled that we ultimately
4 received. Most of the information that we requested,
5 however, I believe that some of the answers we received were
6 not responsive to the question and we still haven't had time
7 to follow up on that.

8 Q. So you are still waiting on some
9 information --

10 A. Well --

11 Q. -- from the company?

12 A. -- it's not necessarily waiting. It's just
13 you get to a certain point in the -- this -- this stage in
14 the case and there's just no point in filing more motions to
15 compel, there's no time to resolve them really.

16 Q. Okay. Is it a forgone conclusion in your
17 analysis that the company will delete -- will use up its SO2
18 allowances at the rate in which they are selling those
19 allowances right now?

20 A. I guess I could give a really general answer
21 to that, but if you want any -- I'm not even sure if I can
22 answer yes or no without -- without getting into
23 confidential information.

24 Q. Well, just give me a general answer yes or no.

25 A. Okay. General answer is yes.

1 Q. You believe that they will at the current
2 rate?

3 A. Yes, I do.

4 Q. Okay. And by using up those allowances,
5 that's where a possible detriment would come to ratepayers
6 or Missouri consumers. Correct?

7 A. Correct. A possible detriment in that you'd
8 have to either start buying allowances to comply with EPA
9 regulations or you'd have to install some -- make some
10 extensive capital investments in equipment like scrubbers in
11 order to comply with regulations.

12 Q. Focusing in on buying of allowances or credits
13 in the marketplace, are you familiar with the market in this
14 commodity?

15 A. I'm pretty familiar with it. I'm familiar
16 with just the trends and prices and the level of trading
17 that takes place.

18 Q. How liquid is the market for these credits?

19 A. It's pretty liquid for -- it depends on the
20 vintages you're looking at. Once you get out -- you know,
21 in order to buy allowances to comply with regulations, say,
22 in this year, the market is pretty liquid and you can buy
23 allowances. In order to buy allowances that would allow you
24 to comply with EPA regulations for the next several years,
25 maybe three to five, it's pretty liquid. Once you get out

1 around seven to ten years, the liquidity starts dropping
2 off.

3 Q. Can you explain to me very briefly when you
4 refer to vintage or vintage credits, exactly what does that
5 mean?

6 A. What that means is that the EPA only issues a
7 certain amount of allowances every year to all the utilities
8 for all their power plants. And when they issue allowances
9 in let's say the year 1999, those are vintage 1999
10 allowances. They would also be referred to as phase 1
11 allowances in that 1999 was the last year of phase 1 of the
12 EPA's sulfur dioxide control program.

13 Q. Is it the position of Public Counsel that the
14 company's in violation of prior Commission orders in the
15 selling of these allowances?

16 A. Yes, that is our position.

17 Q. Can you explain that position to me? Is it
18 for selling one too many, a few too many credits? Is it
19 selling the wrong type of credit? Could you summarize how
20 that's been violated?

21 A. I can. I don't -- again, I sort of hesitate
22 getting into this area without being in-camera.

23 JUDGE THOMPSON: We can go in-camera,
24 Mr. Kind, if that's necessary.

25 THE WITNESS: Yeah.

1 JUDGE THOMPSON: Is that necessary?

2 THE WITNESS: I believe it is.

3 JUDGE THOMPSON: Okay. We will go in closed
4 session at this time.

5 Counsel, I will require you to make sure that
6 there's no one in the room who doesn't belong in the room.
7 Of course, employees of Public Counsel and Public Service
8 Commission are bound by statute under criminal penalties not
9 to reveal anything they hear, so of course, they're allowed
10 to remain. But other persons I'll leave it up to the
11 various counsel to make sure they're allowed to be in here.

12 Okay. Is the door closed back there? Thank
13 you.

14 (REPORTER'S NOTE: At this time, an in-camera
15 session was held, which is contained in Volume No. 10, pages
16 663 through 680 of the transcript.)

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1 JUDGE THOMPSON: And we're ready for recross
2 based on questions from the Bench. Let's see. I think it
3 would be Mr. Dottheim.

4 MR. DOTTHEIM: No questions.

5 JUDGE THOMPSON: Okay. Union Electric,
6 Mr. Byrne?

7 MR. BYRNE: Thank you, your Honor.

8 RYAN KIND testified as follows:

9 RECROSS-EXAMINATION BY MR. BYRNE:

10 Q. Mr. Kind, I just have a few questions.

11 In response to a question from Commissioner
12 Clayton, I believe you stated that Public Counsel believes
13 that the company is out of compliance with the order the
14 Commission issued authorizing it to sell SO2 allowances; is
15 that correct?

16 A. That's correct.

17 Q. Isn't it true that the company disagrees with
18 your position on that issue?

19 A. Yes. I think that they do.

20 Q. Okay. And also in response to a question from
21 Commissioner Clayton, you said that at the present rate of
22 sales of allowances, the company would deplete its
23 inventory. Do you remember that question and answer?

24 A. I think I referred to maybe depleting it, you
25 know, by a certain number of years earlier than would

1 otherwise be depleted.

2 Q. Well, let me ask you this. You're not
3 testifying, are you, that the company has already depleted
4 its inventory, are you?

5 A. No, I'm not.

6 Q. Okay. There was a question from Commissioner
7 Clayton about how SO2 allowances are different than trucks.
8 Do you remember that line of questions?

9 A. Actually, I -- I'm not sure I gave you a
10 full -- you know, the answer to the last question in terms
11 of no --

12 Q. Okay.

13 A. -- I'm not saying that. Because, you know,
14 your inventory is -- is projected -- you've got projections
15 of how it goes out to the year 2032 and there is a certain
16 point in time before then that the bank is -- is gone, is
17 depleted. And that point in time is earlier than it would
18 have been if you hadn't made any sales.

19 Q. Okay. So your belief is that if there are no
20 changes to environmental laws, if all other things remain
21 equal, you believe that we will deplete our allowance
22 inventory before 2030 right now as the inventory stands?

23 A. That's -- yes, that's the data I've seen from
24 the company.

25 Q. Okay. If that was an incorrect assumption,

1 would that change any of your recommendations?

2 A. I would have to re-assess whether any of them

3 would change, I guess.

4 Q. Okay. My next question was, do you recall the

5 line of questioning from Commissioner Clayton about

6 comparing SO2 allowances to utility trucks?

7 A. Yes, I do.

8 Q. And I think your testimony was that SO2

9 allowances are different from trucks because, first of all,

10 they're not easy to come by and they're necessary for the

11 company to generate electricity at least from plants that

12 emit SO2 --

13 A. Uh-huh.

14 Q. -- is that correct?

15 A. Yes. I think I stated those things.

16 Q. And I guess my question is, previously you

17 testified that the market for SO2 allowances at least for

18 the next five to seven years is liquid. That would suggest

19 that at least for the next five to seven years SO2

20 allowances are not difficult to come by if you're willing to

21 pay the price for them; is that correct?

22 A. I think I said up to five years it's -- that

23 the market is pretty liquid. Up to seven to ten years I

24 said it's questionable.

25 Q. Okay. But at least for those five years

1 they're not difficult to come by, are they?

2 A. Doesn't appear that way right now.

3 Q. Okay. And as far as it being necessary to

4 generate electricity, in that respect are SO2 allowances any

5 different than coal?

6 A. I -- I would say, yes, in that the future

7 supply of SO2 allowances is much less certain than the

8 future supply of coal.

9 Q. Okay. But just in terms of their

10 characteristic as being necessary to generate electricity,

11 are they any different with respect to that characteristic?

12 A. Well, I look at the characteristics of being

13 necessary if you're a utility plant, you figure out how

14 you're going to be able to provide safe and adequate service

15 over an extended period of time, say -- you know, figure it

16 out how you're going to do it for the next 20 years or so.

17 And I see them as being much different in that context.

18 Q. Okay. In response to other questions from

19 Commissioner Clayton, I believe you testified that

20 ratepayers have not benefited very much from the sale of SO2

21 allowances; is that correct?

22 A. Correct.

23 Q. You would agree that they've benefited some

24 from the sale of SO2 allowances though, wouldn't you?

25 A. I think I already stated that in -- in

1 response to Commissioner Clayton's question. I talked about
2 the small number of sales that had taken place during the
3 sharing plan in the late '90s and there being some -- some
4 small benefit the customers had received.

5 Q. And also weren't there some sales in the test
6 year of Case No. EC-2002-1?

7 A. Right. I think I also stated that there was a
8 little bit less than a million dollars --

9 JUDGE THOMPSON: Mr. Kind, I've got to break
10 in here and remind you that on cross your testimony should
11 consist of yes, no, or I don't know unless counsel clearly
12 has called for a narrative response.

13 THE WITNESS: Okay.

14 JUDGE THOMPSON: Thank you.

15 BY MR. BYRNE:

16 Q. And isn't it true, Mr. Kind, that in addition
17 to sales that occurred in the test year in Case
18 No. EC-2002-1, sales were considered in that case that
19 occurred during the update period for that case?

20 A. I'm not aware of that. In fact, I don't know
21 if the update period was, say, a three-month period, but --
22 I don't know.

23 Q. Well --

24 A. Maybe you could refresh my memory in some way.

25 Q. Let me ask you this. My understanding is

1 there was a three-month update period in that case. Does
2 that sound correct to you?

3 A. That would be a normal update period.

4 Q. Okay. And if there was such an update period,
5 wouldn't the sales of SO2 allowances that occurred during
6 that update period also be considered in that case?

7 A. Assuming any sales took place, they'd be
8 considered.

9 Q. Okay. And isn't it also true that in rate
10 cases many times and with regard to many cost and revenue
11 issues, various parties make adjustments to test year and
12 update period revenues and costs for various reasons?

13 A. That's true.

14 Q. And sometimes they use multi-year averages of
15 different cost and revenue items?

16 A. That's also true.

17 Q. Okay. And there wasn't anything in Case
18 No. EC-2002-1 that precluded Staff or Public Counsel or any
19 other party from doing that with SO2 allowances, was there?

20 A. No.

21 Q. And isn't it true that Case No. EC-2002-1 was
22 resolved through a settlement --

23 A. That's correct.

24 Q. -- that doesn't specify various costs or
25 revenue elements that went into the ultimate revenue

1 requirement?

2 A. That's my understanding, yeah.

3 Q. Okay. You were asked a number of questions by
4 I think all of the Commissioners about the way that SO2
5 allowance inventory depletion could create public detriment.
6 Do you recall, for example, Commissioner Murray asking you
7 questions about that?

8 A. Or Commission Clayton, one or the other.

9 Q. I just want to explore that a little bit. My
10 understanding is in order for a public detriment to occur
11 due to our sales of SO2 allowances -- AmerenUE's sales of
12 SO2 allowances, first of all, we would have to deplete the
13 bank so that we didn't have SO2 allowances necessary to
14 cover our SO2 emissions; is that correct?

15 A. That's one way that a detriment could arise.
16 I think I discussed with the Commissioners some other ways
17 as well.

18 Q. Well, I'm sorry. What other ways are there?

19 A. The other ways have to do with when you're
20 determining whether or not the proposed transfer is
21 detrimental to the public interest from the perspective of
22 was it the least cost long-term resource to provide for
23 energy needs.

24 Q. I'm sorry. Would it be fair to say that's the
25 least cost argument that's for later on in the day or

1 perhaps tomorrow or another time in this hearing?

2 A. You could certainly ask me questions about it
3 at that time as well, sure.

4 Q. Well, excluding the least cost issue, which I
5 think is for later, is the way that sales of SO2 allowances
6 could be detrimental is if we deplete the bank and don't
7 have enough to cover our SO2 emissions? Is that the first
8 thing that has to happen?

9 A. No. I don't believe that's the only way. The
10 other -- the other way would be -- I mean, I would recognize
11 that. I would agree with you on that. But -- but the other
12 way would be that if you made sales outside of the
13 Commission's authority and there was some liabilities
14 created by some sales that become voided by this Commission.

15 Q. Okay. In that scenario the Commission would
16 void the sales and then perhaps the company would have to
17 pay damages to the counter party. Is that what you're --

18 A. That's correct.

19 Q. Okay. And then in a future rate case we would
20 file to recover those costs. That would have to happen;
21 isn't that correct?

22 A. In order for a detriment to be created?

23 Q. Yes.

24 A. Yes, that would have to happen.

25 Q. And then the Commission would have to permit

1 us to recover those costs in that rate case; is that right?

2 A. Yes.

3 Q. And then there would be a detriment?

4 A. From that -- yeah, from that particular way

5 that a detriment could arise, yes.

6 Q. Let's talk about the other branch then, the

7 other thing that I was talking about. And that is if we run

8 out of allowances.

9 A. Okay.

10 Q. So we run out of allowances, that's the first

11 thing that happens. Right?

12 A. I'm with you.

13 Q. Okay. And then I guess we would be unable to

14 vintage swap in the market to get the allowances that we

15 need? I mean, I guess if we vintage swapped in the market

16 to get the allowances we need, then there would be no public

17 detriment; is that true?

18 A. Well, no, I don't agree with that.

19 Q. Okay. And why would there be a public

20 detriment if we were able to swap vintages and get the

21 allowances that we needed?

22 A. Well, let me see if I follow you. Something

23 like if you -- if you were running out of detriment --

24 excuse me, if you were running out of allowances and -- for

25 example, in the year 2010 and you said, Well, okay, I'll

1 just switch-- I'll do a vintage and swap and I'll bring some
2 of the allowances that the EPA has committed to calculating
3 to go me in year 2015, I'll bring them back to 2010 in order
4 to comply with 2010's?

5 Q. Right.

6 A. I would still see that as a detriment. I
7 would see the vintage swap as being -- deferring the
8 detriment over time but you've still got the liability out
9 there that -- you know, you've created the ability to comply
10 in 2010 by lessening your ability to comply in 2015.

11 Q. But I guess -- okay. And speaking of that, in
12 2015 for there to be detriment, wouldn't the -- first of
13 all, the environmental regulations would have to still be in
14 effect that provide value to the SO2 allowances; isn't that
15 true?

16 A. They'd have to be at least probably as
17 stringent as they are today.

18 Q. And it's possible that -- it's possible that
19 environmental regulations could change to a new regime where
20 they don't use SO2 allowances in that time frame, isn't it?

21 A. I'm not aware of any pending proposals of that
22 type, but --

23 Q. Okay.

24 A. -- so I -- I mean, I guess it's possible
25 somebody could -- you could propose a regulation like that

1 and it could really, you know, get -- get some wings and go.

2 Q. Couldn't the federal government have a command
3 structure that just requires utilities to put emission
4 control equipment on their plants without the use of SO2
5 allowances? Isn't that possible?

6 A. There's -- there would be some -- some
7 possibility of that, yeah.

8 Q. Okay. Well, and whenever we ran out of SO2
9 allowances, whether it was next year or in 2015, wouldn't we
10 still need to come to the Commission and file a rate case
11 and include those costs in the rate case, the costs
12 resulting from our -- depletion of our SO2 allowance bank in
13 order for there to be a public detriment?

14 A. Not necessarily. You could be in an
15 over-earnings position even with those additional costs and
16 it could be that in order to address an issue like that,
17 someone would have to file a complaint to seek a -- a
18 reduction in your earnings. And -- and you might be arguing
19 that, no, no reduction is needed because we've had these
20 increased costs of buying more allowances for investing in
21 pollution control equipment.

22 Q. But whether a complaint was filed by another
23 party or a rate case was filed by Union Electric Company,
24 wouldn't the Commission have to determine that the
25 allowances -- that the costs resulting from the depletion of

1 allowances were reasonable and should be flowed through to
2 the ratepayers?

3 A. Well, in the absence of a complaint, they
4 might just be flowed through.

5 Q. Okay. But you would have the power to file a
6 complaint against the company, the Office of Public Counsel
7 would, would they not?

8 A. As -- you know, if we're still around 10 years
9 from now in the same form we are today, sure.

10 MR. BYRNE: Okay. Thank you, Mr. Kind. No
11 further questions.

12 THE WITNESS: Thank you.

13 JUDGE THOMPSON: Mr. Micheel?

14 REDIRECT EXAMINATION BY MR. MICHEEL:

15 Q. Mr. Kind, Mr. Byrne asked you an example with
16 respect to SO2 allowances. Do you recall that example?

17 A. I'm not sure which -- he asked me quite a few
18 things. I'm not sure which example --

19 Q. Well, he asked you an example about the
20 vintage swaps for the 2010 versus the 2015. Do you recall
21 that question?

22 A. Right. Yes.

23 Q. If you know, are there a finite number of SO2
24 allowances available to AmerenUE?

25 A. I believe there are, yes. And so, you know,

1 if they -- if they would be -- I think as I was trying to
2 point out, if they'd be swapping allowances in order to get
3 more today, it would just mean they'd have less to use in
4 the future because of that finite amount.

5 Q. And over what term of years, if you know, is
6 the analysis done with respect to the SO2 revenues in the
7 least cost portion of the transfer?

8 A. 2004 through 2029, I believe.

9 Q. Mr. Byrne asked you some questions and I
10 know -- I think Commissioner Clayton asked you some
11 questions about the difference between SO2 allowances and
12 the sale of utility trucks. Do you recall those questions?

13 A. Yes, I do.

14 Q. Do you know if the Commission has already made
15 any sort of decision that utilities need Commission approval
16 before they sell their SO2 allowances?

17 A. Yes. I believe they have. I cited that KCPL
18 case where they made that finding.

19 Q. And that finding was, to my understanding,
20 that before a company sell those SO2 allowances, they need
21 Commission approval; isn't that correct?

22 A. That's correct. And it seems that that's --
23 that's the -- the way our utilities have interpreted that
24 order, as all the ones that I'm aware of who wanted to make
25 any sales have come in after then to seek permission and do

1 so.

2 Q. And it's my understanding that AmerenUE sought
3 permission?

4 A. Yes, they did.

5 Q. Commissioner Clayton asked you some questions
6 where you indicated, I believe, that 63 percent of the
7 \$11 million number on the least cost transfer was related to
8 SO2 allowances. Do you recall those questions?

9 A. Yes, I do.

10 Q. Could you explain to me how you arrived at
11 this 63 percent number?

12 MR. BYRNE: Your Honor, I'm going to object
13 because we're again into the least cost analysis, which is
14 scheduled for a later time in this proceeding.

15 JUDGE THOMPSON: Well, if Commissioner Clayton
16 asked those questions of this witness, then he gets to
17 redirect.

18 THE WITNESS: Yes. I -- I calculated the
19 63 percent by looking at the difference that Mr. Voytas
20 showed between the CTG option and the transfer options. And
21 he -- he got a difference of 11 million, the CTG option
22 being valued at 429.4 million, the transfer option being
23 valued at 418.4 million.

24 And then I did some calculations using the
25 spreadsheet model that Mr. Voytas had put together where I

1 removed the SO2 adjustment that he had made. And by
2 removing the SO2 adjustment, the transfer options moved from
3 having a 25-year present value revenue requirement of
4 418.4 million to having a 25-year revenue requirement of
5 425.3 million.

6 And so the difference -- instead of comparing
7 the difference between 429 and 418 million being -- leading
8 to the \$11 million difference, if you compare the difference
9 between 429.4 million and 425.3 million, which is the
10 transfer option with the SO2 adjustment removed, that leads
11 to a cost difference of 4.1 million.

12 And so then if you look at how has the
13 11 million cost difference declined as a result, it declined
14 from 11 million down to 4.1, a decline of 6.9 million. And
15 if you take 6.9 million, divide that by 11 million, you get
16 63 percent.

17 MR. MICHEEL: Thank you, Mr. Kind.

18 That's all the questions I have, your Honor.

19 JUDGE THOMPSON: Thank you, Mr. Micheel.

20 You may step down, Mr. Kind.

21 Mr. Moore.

22 (Witness sworn.)

23 JUDGE THOMPSON: Please take your seat, state
24 your name for the reporter, if you would, and spell your
25 last name.

1 THE WITNESS: My name is James C. Moore, II,
2 M-o-o-r-e.
3 JUDGE THOMPSON: You may inquire, Mr. Byrne.
4 MR. BYRNE: Thank you, your Honor.
5 JAMES C. MOORE, II, testified as follows:
6 DIRECT EXAMINATION MR. BYRNE:
7 Q. Mr. Moore, could you please state your name?
8 A. James C. Moore, II.
9 Q. And by whom are you employed, Mr. Moore?
10 A. Ameren Energy Fuels and Services Company.
11 Q. And in what capacity are you employed there?
12 A. I am a senior emissions trader.
13 Q. Are you the same James C. Moore, II, who
14 caused to be filed in this proceeding Surrebuttal Testimony
15 that has been marked as Exhibit 21?
16 A. Yes, I am.
17 Q. And do you have any corrections to that
18 Surrebuttal Testimony that you'd like to make at this time?
19 A. No, I do not.
20 Q. Mr. Moore, is the information contained in
21 your pre-filed Surrebuttal Testimony true and correct to the
22 best of your knowledge and belief?
23 A. Yes, it is.
24 Q. And if I was to ask you the questions
25 contained in that Surrebuttal Testimony here today when

1 you're under oath, would your answers be the same as
2 contained therein?

3 A. Yes, they would.

4 MR. BYRNE: Your Honor, I would offer
5 Exhibit 21 and tender Mr. Moore for cross-examination.

6 JUDGE THOMPSON: Very well. Do I hear any
7 objections to the receipt of Exhibit No. 21?

8 Hearing no objections, the same is received
9 and made a part of the record of this proceeding.

10 (Exhibit No. 21 was received into evidence.)

11 JUDGE THOMPSON: This might be a good point to
12 ask counsel if perhaps we can proceed on the basis of a
13 stipulation that that series of questions on direct have
14 been asked and answered. We've done this in rate cases to
15 move things along. Would that be acceptable to everyone?

16 MR. DOTTHEIM: Yes. It would be acceptable to
17 Staff.

18 MR. BYRNE: Yes, your Honor, for the company.

19 MR. MICHEEL: Yes for Public Counsel, your
20 Honor.

21 JUDGE THOMPSON: So in the future when you
22 seat your witness, just go ahead and offer the exhibit,
23 tender the witness and we'll, maybe over the course of the
24 case, save an hour that way.

25 Very well. Mr. Dottheim, I think you're up

1 first.

2 MR. DOTTHEIM: Thank you.

3 CROSS-EXAMINATION BY MR. DOTTHEIM:

4 Q. Morning, Mr. Moore.

5 A. Good morning.

6 Q. Mr. Moore, when did you start your employment
7 with Union Electric Company?

8 A. Originally I was employed in June of '84 at
9 the Callaway plant. But just to let you know, I left the
10 company in August of '98 and worked for Illinois Power for a
11 year and a half and rejoined the company in January of 2000.

12 Q. And you were employed at Union Electric
13 Company before you were employed by Ameren Energy Fuels and
14 Services?

15 A. Yes.

16 Q. Your present position is senior emissions
17 trader?

18 A. Yes, it is.

19 Q. How long have you been engaged in the
20 emissions area?

21 A. Excluding my time at Illinois Power, I've been
22 involved with the emissions area since 1994 approximately or
23 when the original 1990 Clean Air Act Amendments were passed.

24 Q. And in 1994, what was the nature of your work
25 at Union Electric Company involving emissions?

1 A. At that time I was employed in corporate
2 planning and involved in the resource planning efforts and
3 looking at how we would comply with the '90 Clean Air Act
4 amendments.

5 Q. And when you refer to the 1990 Clean Air Act
6 Amendments, are you also, in particular, referring to SO2?

7 A. Yes, sir. That was included in that law that
8 was passed by Congress.

9 Q. When were the SO2 allowances created or
10 established?

11 A. In 19-- roughly 1994 some time. Thirty years
12 of allowances were allocated to all the utilities.

13 Q. Those 30 years of allowances, there's more
14 than one phase involved with those allowances?

15 A. The wording of that is a little troublesome.
16 Phase 1, phase 2 has no meaning associated with allowances.
17 The phase 1 just referred to certain power plants that were
18 included in the first five years of the program. Phase 2
19 was every power plant over a certain megawatt level in the
20 country.

21 Q. Are phase 1 and phase 2 allowances associated
22 with particular years?

23 A. That has been commonly used. It's not worded
24 that way in the EPA rules, but most people would agree that
25 when you say phase 1 allowances, you're referring to 1995

1 through 1999 vintage allowances.

2 Q. And in referring to phase 2, what year
3 vintages would one be referring to?

4 A. Anything after 2000. Now, many people would
5 say -- it's commonly understood in the industry that once
6 you get past a certain year, all allowances are equivalent.
7 So a 1995, a '99, a 2002 and a 2004 are basically all the
8 same at this point.

9 Q. Are allowances for future years viewed as
10 being future allowances?

11 A. They're viewed as being able to be used in a
12 future year. They are already held by people and can be
13 traded at any time.

14 Q. But can they actually be used for purposes of
15 meeting compliance requirements in a year prior to the date
16 with which they are associated?

17 A. No. They cannot be used until the -- the
18 first four digits of the serial number are the vintage year
19 and they cannot be used until you are in that year for
20 compliance purposes.

21 Q. Are there any consequences or risks to
22 AmerenUE from selling SO2 allowances?

23 A. Well, there's risks for doing anything. I
24 mean, I would ask you to be a little more specific.

25 Q. Are there risks that -- as discussed this

1 morning, that AmerenUE's bank would be depleted, for
2 example?

3 A. That risk is there. We constantly are
4 monitoring proposed legislation regulations and price our
5 fuel burn, which power plants we have. All these factors
6 impact bank and how large a bank we should hold and when
7 that's going to run out.

8 Q. Might a risk associated with allowances be the
9 cost of acquiring allowances?

10 A. Well, the price is constantly moving and, yes,
11 as price goes up, the cost of compliance, if you do not have
12 enough allowance, could increase.

13 Q. Are you the witness or do you know if there is
14 a witness for AmerenUE that deals with the risks of SO2
15 allowances specifically respecting the Metro East transfer
16 that is proposed?

17 A. I would say I'm partially involved. I haven't
18 done the least cost planning or anything along those lines.

19 Q. Then how are the risks that we've been
20 discussing addressed in the proposed Metro East transfer?

21 A. I'm probably not the right person to answer
22 that.

23 JUDGE THOMPSON: Sir, if you're able to answer
24 the question, you must.

25 THE WITNESS: Okay. I haven't studied the

1 Metro East transfer. I'm not familiar with exactly what it
2 is. My job only entails buying and selling, trading
3 emissions.

4 BY MR. DOTTHEIM:

5 Q. Do you know who might be the person who could
6 address that question or questions?

7 A. If -- my guess would be Mr. Voytas or
8 Mr. Nelson, one of those two.

9 Q. Might the sale of SO2 allowances increase the
10 probability that AmerenUE would have additional SO2
11 emission-related construction expenditures in the future for
12 its coal-burning power plants?

13 A. That is possible. That's something we study
14 all the time is when will we be required to put increased
15 technologies on our power plants.

16 Q. Mr. Moore, I'd like to ask you some questions
17 specifically going to the number of allowances, the
18 allowance bank. And as a consequence, I think the questions
19 and the answers might be deemed by AmerenUE to be highly
20 confidential.

21 JUDGE THOMPSON: Okay. We'll go into closed
22 session now.

23 (REPORTER'S NOTE: At this time, an in-camera
24 session was held, which is contained in Volume No. 10, page
25 703 through 711 of the transcript.)

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1 JUDGE THOMPSON: We are now in public session.
2 Please proceed, Mr. Dottheim.
3 JAMES C. MOORE, II, testified as follows:
4 CROSS-EXAMINATION BY MR. DOTTHEIM:
5 Q. Mr. Moore, I'd like to direct you again to
6 your Surrebuttal Testimony, page 2, lines 4 to 6. You state
7 there, do you not, It is very difficult to determine what
8 future regulations will be in place and what requirements
9 for technology installations will be required at AmerenUE
10 power plants over the next decade?
11 A. Yes, sir.
12 Q. Mr. Moore, have you reviewed Mr. Voytas'
13 Direct Testimony in this case?
14 A. No, I have not. I have read his Surrebuttal
15 Testimony.
16 Q. Have you reviewed his least cost analysis?
17 A. No, I have not.
18 Q. And I think this has maybe been referred to
19 previously, but are you aware that Mr. Voytas' least cost
20 analysis covers a 25-year period?
21 MR. BYRNE: Your Honor, I'm going to object.
22 First of all, this is totally a question about least cost
23 analysis which is for later in the proceeding; and secondly,
24 Mr. Moore just testified that he hadn't even read his
25 testimony, so I object.

1 JUDGE THOMPSON: Okay. I believe the witness
2 could answer yes or no, he is or he is not aware. I'll
3 permit that question.
4 Please respond if you're able.
5 THE WITNESS: I was made aware of it
6 yesterday.
7 BY MR. DOTTHEIM:
8 Q. Mr. Moore, are you aware whether Ameren must
9 make filings with the Securities and Exchange Commission
10 that discloses the impact of SO2 emissions and the Clean Air
11 Act requirements?
12 A. I believe there are filing of annual reports.
13 There are some line items in there.
14 Q. Do you know whether Ameren Corporation's
15 December 31, 2003 Form 10K to the Securities and Exchange
16 Commission addresses SO2 emissions?
17 A. I'm not -- I did not read that report.
18 Q. Mr. Moore, are you aware that in December of
19 2003, the EPA issued proposed regulations with respect to,
20 among other things, SO2 emissions which would require
21 significant additional reductions in SO2 emissions from
22 coal-fired plants beginning in 2010?
23 A. Yes, sir.
24 Q. Do you know whether AmerenUE has developed
25 preliminary estimated capital costs needed to comply with

1 those proposed SO2 rules based on current technology?

2 A. There is another department in our company
3 that is working with an outside contractor to come up with
4 estimates. I'm aware of that, but I'm not aware of the
5 numbers.

6 Q. Do you know whether AmerenUE has projected
7 costs for the 2010 time frame of 250 to 350 million dollars?

8 A. I don't know the numbers, but that would
9 sound -- that's possible from the -- I believe the rule --
10 the Interstate Air Quality Rule and the mercury regulations
11 that have been proposed would require some installations,
12 but I don't know the magnitude.

13 Q. So you wouldn't know the magnitude that
14 AmerenUE may have projected for 2015?

15 A. No, sir.

16 Q. But, again, at page 2 of your Surrebuttal
17 Testimony you state, Mr. Voytas did not include increased
18 environmental compliance costs in his least cost analysis?

19 A. That was my understanding, that he did not
20 include that.

21 Q. So would it be your understanding that he did
22 not include any costs associated with the December 2003 EPA
23 proposed rules starting for 2010?

24 A. It's my understanding he didn't include any
25 costs for that. But that is -- it's an uncertainty that --

1 the rules aren't passed yet, they're still under review,
2 they're going to be challenged in court, I would imagine.

3 Q. And you don't know, again, whether Ameren has
4 reported those costs or projected those costs in its
5 December 31, 2003 10K report?

6 MR. BYRNE: I'm going to object on the grounds
7 that the question was asked and answered. He already said
8 he didn't know what was in the 10K.

9 JUDGE THOMPSON: I'm going to sustain the
10 objection.

11 Please proceed.

12 BY MR. DOTTHEIM:

13 Q. Mr. Moore, do you know if the Metro East
14 transfer that is proposed did not occur, whether those
15 projected costs -- whether Illinois customers that remained
16 Illinois customers of AmerenUE would pay those costs if they
17 did occur on a going-forward basis starting in 2010?

18 A. I'm not familiar with the Metro East transfer
19 at all. I'm only involved with the emissions piece.

20 Q. Are you familiar -- there's been mention this
21 morning of a Kansas City Power & Light case in the 1990's,
22 1992, Case No. EO-92-50. Are you familiar with that case?

23 A. Yes, sir.

24 Q. Do you know whether Union Electric Company was
25 an intervenor in that case?

1 A. Yes, they were.

2 Q. Mr. Moore, might you be familiar with other
3 Kansas City Power & Light Company SO2 emission cases that
4 have been filed at the Missouri Commission?

5 A. The only one I personally am aware of is the
6 one where the -- I believe it was referred to earlier, that
7 determined that allowances are an asset that needs to be
8 reviewed by the Commission prior to sale.

9 Q. And then you're indicating that you're not
10 aware of any cases other than the one you just identified?

11 MR. BYRNE: I'm going to object on the grounds
12 it's been asked and answered.

13 JUDGE THOMPSON: Sustained.

14 MR. DOTTHEIM: One moment, please.

15 JUDGE THOMPSON: Certainly.

16 BY MR. DOTTHEIM:

17 Q. Mr. Moore, I'd like to ask you just a few more
18 questions. They're questions I've been asking all of the
19 AmerenUE witnesses.

20 Do you, in your work for Ameren Energy Fuels
21 and Services Company, perform any work for any of the other
22 Ameren Corporation operating companies, AmerenCIPS or
23 AmerenCILCO?

24 A. Not particularly for AmerenCIPS or
25 AmerenCILCO, but for some of the other subsidiaries I do.

1 Q. Could you identify those subsidiaries?

2 A. I do -- I work on behalf of AmerenUE, Ameren
3 Energy Resources Generating Company, and Ameren Energy
4 Generating Company and occasionally, rarely on behalf of
5 Electric Energy, Inc.

6 Q. And could you identify the type of work that
7 you perform for those entities?

8 A. I'm responsible for transacting emission
9 allowances for those entities.

10 Q. Mr. Moore, have you ever encountered a
11 situation in your performance of your work for Ameren Energy
12 Fuels and Services Company that what is in the best interest
13 of one of the Ameren Corporation entities is not necessarily
14 in the best interest of AmerenUE?

15 A. Before I -- on the previous answer, just to
16 clarify, I also do -- I missed one company. Ameren Energy
17 Fuels and Services Company, I have done transactions on
18 behalf of AFS.

19 To answer your next question, this -- the
20 positions are substantially different. What I do for
21 AmerenUE in a -- which is in a long position, is
22 substantially different from what I do for the other
23 companies which tend to be in a shorter position.

24 So the answer is no, I haven't been in a
25 situation where doing one thing would harm the other and

1 vice-versa. Their transactions are done at different times
2 for different purposes.

3 MR. DOTTHEIM: If I could have a moment,
4 please.

5 JUDGE THOMPSON: You may.

6 MR. DOTTHEIM: Thank you for your patience,
7 Mr. Moore.

8 THE WITNESS: Thank you, Mr. Dottheim.

9 JUDGE THOMPSON: Thank you, Mr. Dottheim.

10 Mr. Micheel?

11 CROSS-EXAMINATION BY MR. MICHEEL:

12 Q. Mr. Moore, it's correct that you're employed
13 by Ameren Energy Fuels and Service Companies as a senior
14 emissions trader; is that correct?

15 A. Yes, sir.

16 MR. MICHEEL: Need to get an exhibit marked,
17 your Honor.

18 JUDGE THOMPSON: Very well. This would be
19 No. 43.

20 (Exhibit No. 43 was marked for
21 identification.)

22 BY MR. MICHEEL:

23 Q. Mr. Moore, I've handed you what's been marked
24 for purposes of identification as Exhibit 43. Have you had
25 a chance to look at that?

1 A. This is the first time I've seen it.

2 Q. Okay. Why don't you read it to yourself and
3 then I'd like to ask you some questions about it.

4 A. The entire thing?

5 Q. Well, why don't I try my questions and if you
6 can answer it, that would be great.

7 A. Okay.

8 MR. BYRNE: Your Honor, I'm going to object to
9 him asking questions about a document the witness has never
10 seen before unless the witness -- well, if he hasn't seen it
11 before, he hasn't laid a foundation to ask him any questions
12 about it.

13 JUDGE THOMPSON: Well, I disagree, Mr. Byrne.
14 I think in Missouri you can present a witness anything at
15 all and ask them questions about it and the witness can say,
16 yes, no or I don't know in response to the question.

17 So, I'm going to overrule that objection.

18 Please proceed.

19 BY MR. MICHEEL:

20 Q. Let me ask you this, Mr. Moore. Is it correct
21 that Ameren Fuel and Services, the company that you work
22 for, has been authorized to act as AmerenUE's agents for
23 purposes -- agent for purposes of executing sales, swaps and
24 loans of AmerenUE's SO2 emission allowances?

25 A. Yes. I believe that is correct.

1 Q. And is this document attached to Exhibit 43,
2 which is in response to Public Counsel Data Request No. 625,
3 the Executed Fuel and Natural Gas Sales Agreement between
4 AFS, the company you work for, AmerenUE, AmerenCIPS and
5 AmerenCILCO?

6 A. That's what the document says.

7 Q. And is that signed at the back there on behalf
8 of Ameren Fuel Services Company by Jerry Birdsong, vice
9 president and treasurer?

10 A. That's -- on the last page, page 9, that's
11 what it says.

12 Q. And Union Electric Company d/b/a AmerenUE by
13 Jerry Birdsong, vice president and treasurer?

14 A. Correct.

15 Q. And Central Illinois Public Service d/b/a
16 AmerenCIPS, Jerry Birdsong, vice president and treasurer?

17 A. Correct.

18 Q. And then Central Illinois Light and Power
19 d/b/a AmerenCILCO, Jerry Birdsong, vice president and
20 treasurer; is that correct?

21 A. Correct.

22 Q. And is it correct, sir, that in your job at
23 Ameren Fuel Services Company, Ameren Fuel Services Company
24 executes the SO2 trades on behalf of AmerenUE?

25 A. Yes, sir, we do.

1 Q. And it's based probably on this document;
2 isn't that correct?

3 A. I don't know if this is the most current
4 document, because some of the names have changed over the
5 past couple of years.

6 Q. Well, let's look at the first page there. It
7 was prepared by a James A. Sobule and was given to the
8 Office of Public Counsel on March 19th, 2004; is that
9 correct?

10 A. That is correct.

11 MR. MICHEEL: I would move admission, your
12 Honor, of Exhibit 43.

13 JUDGE THOMPSON: How do we describe Exhibit
14 43?

15 MR. MICHEEL: I would say it is AmerenUE's
16 response to Public Counsel Data Request No. 625, your Honor.

17 JUDGE THOMPSON: Do I hear any objection to
18 the receipt of Exhibit 43?

19 MR. BYRNE: Your Honor, I don't think he's
20 laid a foundation to receive Exhibit 43. The witness had
21 never seen it before. I guess you could admit any document
22 that the witness has never seen before.

23 MR. MICHEEL: Your Honor, I think I've laid a
24 foundation. I've established that Ameren Fuel Services
25 Company has authority to do SO2 trades on behalf of AmerenUE

1 and that this is indeed the document that gives them that
2 authority. And the data request says that right on its face
3 and that's what Mr. Moore has testified to, your Honor.

4 MR. BYRNE: I guess Mr. Moore's testimony that
5 they have that authority isn't objectionable, it's putting
6 in a document that he's never seen before.

7 JUDGE THOMPSON: The document attached to the
8 cover sheet you've never seen before; is that correct?

9 THE WITNESS: I did -- I originally did
10 receive this data request and I told the legal department
11 that they had documents that authorized -- that showed our
12 authorization to act on behalf of the subsidiaries. So I
13 turned it back and said, I can't answer it because I don't
14 have the documents.

15 JUDGE THOMPSON: My question is, have you ever
16 seen the document attached to this cover sheet before?

17 THE WITNESS: Not to my knowledge.

18 JUDGE THOMPSON: So I'm going to sustain the
19 objection.

20 MR. MICHEEL: I'd like to make an offer of
21 proof, your Honor.

22 JUDGE THOMPSON: Very well.

23 MR. MICHEEL: I'd just offer Exhibit 43 into
24 the record.

25 JUDGE THOMPSON: Exhibit 43 is received as an

1 offer of proof.

2 (Exhibit No. 43 received as an offer of
3 proof.)

4 BY MR. MICHEEL:

5 Q. Is it correct that your duties and
6 responsibilities as a senior emissions trader are outlined
7 on Appendix A in your Surrebuttal Testimony?

8 A. Could you repeat the question, please?

9 Q. Sure. Are your duties as a senior emissions
10 trader outlined in Appendix A of your Surrebuttal Testimony?

11 A. Yes, sir.

12 Q. And Appendix A indicates that your duties as a
13 senior emissions trader involve monitoring emissions market
14 and executing Ameren's emission strategies; is that correct?

15 A. Yes, sir.

16 Q. Is it correct that part of your job
17 responsibilities require you to be familiar with current
18 environmental regulations that impact Ameren generation?

19 A. I'm required to be familiar with them. I'm
20 not an expert on them.

21 Q. That's not what I asked. Does it require you
22 to be familiar, sir?

23 A. Yes, sir.

24 Q. Is it correct that part of your job
25 responsibilities require you to be familiar with currently

1 pending environmental regulations that impact Ameren's
2 generation?

3 A. To be familiar, yes.

4 Q. You're aware of Congressional and
5 administration efforts to reduce sulfur dioxide; is that
6 correct?

7 A. Yes, sir.

8 Q. You're aware of the current SO2 regulations;
9 is that correct?

10 A. The existing ones or the proposed ones?

11 Q. The existing ones.

12 A. Yes, sir.

13 Q. You're aware of Congressional and
14 administration efforts to reduce nitrogen oxide, NOx; is
15 that correct?

16 A. Yes, sir.

17 Q. You're aware of the current or lack thereof
18 current regulations of NOx; is that correct?

19 A. Are you referring to the Interstate Air
20 Quality Rule or --

21 Q. Just any regulations regarding NOx.

22 A. Yes, sir.

23 Q. And you're aware of Congressional and
24 administration efforts to reduce mercury, is that correct --

25 A. Yes, sir.

1 Q. -- related to generation?

2 A. Yes, sir.

3 Q. And you're aware of the current or lack
4 thereof of current mercury regulations; is that correct?

5 A. Yes, sir.

6 Q. And you're aware of Congressional and
7 administrative efforts to reduce carbon dioxide emission; is
8 that correct?

9 A. Familiar with they're proposed, yes, sir.

10 Q. And you're aware of the current or lack
11 thereof current CO2 regulations; is that correct?

12 A. The lack thereof, yes.

13 Q. Are you aware of the Bush Administration's --
14 and I want to put this in quotes -- Clear Skies, closed
15 quote, proposal to deal with climate change issues and CO2
16 emissions?

17 A. I'm aware of it.

18 Q. Are you aware of the Clean Power Act proposed
19 in Senate Bill 556 sponsored by Senator Jim Jefferts
20 regarding climate change and CO2 emissions?

21 A. Yes, I'm familiar with that.

22 Q. Are you aware these legislative proposals can
23 be termed, quote, a comprehensive approach, closed quote,
24 legislation to deal with climate change issues and CO2
25 emissions?

1 A. Are you referring to the Clear Skies or the
2 Jefferts' bill?

3 Q. Yes.

4 A. Yes.

5 Q. And would you agree with me that the
6 likelihood that some form of, quote, comprehensive approach,
7 closed quote, legislation dealing with climate change issues
8 and CO2 emissions will eventually be enacted is now
9 approaching certainty?

10 A. Certainty -- I wouldn't say certainty, but
11 expectations are that some kind of emissions reforms will
12 come to pass.

13 Q. Would you agree with me that Witness Voytas
14 did not include any environmental compliance cost in his
15 least cost analysis?

16 A. That is what I've been told.

17 Q. Isn't that what you testified to at page 2,
18 lines 3 and 4 of your Surrebuttal Testimony, sir?

19 A. Which page?

20 Q. Page 2.

21 A. Lines 3 and 4?

22 Q. Yes, sir, lines 3 and 4.

23 A. Yes.

24 Q. And you indicate there that no environmental
25 compliance costs were included in his least cost analysis;

1 is that correct?

2 A. That is what I'm told.

3 Q. And that's what you testified to; is that

4 correct?

5 A. Yes, sir.

6 Q. Would you agree with me that the increased

7 environmental compliance costs were not included in

8 Mr. Voytas' least cost analysis because it is, quote,

9 difficult, closed quote, to determine those costs?

10 A. That is my understanding. It is very

11 difficult to determine what future legislation will do.

12 Q. And that's indeed your testimony, is it not,

13 there, sir, between lines 4 and 14 on page 2 of your

14 Surrebuttal Testimony?

15 A. Yes, sir.

16 Q. Would you agree with me that Ameren's metro

17 east service area transfer is based on a 25-year present

18 value analysis?

19 A. I'm not familiar with that.

20 Q. Is it correct that you believe it's

21 appropriate to ignore possible environmental compliance cost

22 increases in this proceeding?

23 A. Could you restate the question, please?

24 Q. Sure. Is it correct that you believe it's

25 appropriate to ignore possible environmental compliance cost

1 increases in this proceeding?

2 MR. BYRNE: I'm going to object to this
3 question. It's outside the scope of his testimony. He's
4 testified that not only didn't he have anything to do with
5 the least cost analysis, he hasn't even read Mr. Voytas'
6 Direct Testimony. He had nothing to do with calculating
7 those costs and it's outside the scope of the testimony that
8 he filed.

9 MR. MICHEEL: Your Honor, if I may respond,
10 that wasn't a question about least cost. That was a
11 question about environmental compliance costs. Had nothing
12 to do with the least cost issue.

13 JUDGE THOMPSON: The objection's overruled.
14 The witness shall answer if he's able.

15 THE WITNESS: Could you restate the question,
16 please?

17 BY MR. MICHEEL:

18 Q. Do you believe it would be appropriate for
19 Ameren to ignore possible environmental compliance cost
20 increases in this proceeding?

21 A. I would say it's not appropriate to ignore
22 them nor would I say that we did ignore them.

23 Q. How did Ameren take environmental compliance
24 costs into account in its analysis?

25 A. I'm not familiar with the analysis, per se. I

1 guess I should qualify and say we do not ignore this. I'm
2 not familiar with the particular least cost planning work,
3 but in general, Ameren monitors all legislation.

4 Q. Let's go up to the top of page 2. Is it not
5 your testimony that Mr. Voytas did not include increased
6 environmental compliance costs in his least cost analysis?

7 MR. BYRNE: I'm going to object on the grounds
8 it's been asked and answered, plus it's written in the
9 testimony. I don't know how many times he has to go over
10 the same sentence in his pre-filed testimony.

11 JUDGE THOMPSON: I think that what Mr. Micheel
12 is doing, Mr. Byrne, is perhaps casting some doubt on the
13 witness's ability to make this testimony since he's now
14 indicating some lack of personal knowledge about this
15 matter. So given that that's exactly the purpose of
16 cross-examination, I'm going to overrule the objection.
17 Please proceed.

18 THE WITNESS: The question again, please?

19 MR. MICHEEL: Could you just read that back?

20 THE COURT REPORTER: "Question: Let's go up
21 to the top of page 2. Is it not your testimony that
22 Mr. Voytas did not include increased environmental
23 compliance costs in his least cost analysis?"

24 THE WITNESS: That is my testimony.

25 BY MR. MICHEEL:

1 Q. And so it is your testimony here today that no
2 least -- no environmental cost is included in any of
3 Ameren's analysis; isn't that correct?

4 A. That is what I've testified.

5 Q. Do you believe it's appropriate for Ameren to
6 ignore possible environmental compliance cost increases for
7 planning generation purposes?

8 A. That is not appropriate in certain instances.

9 Q. So it is your testimony today that for
10 planning generation, AmerenUE should take into account
11 proposed increased environmental costs; is that correct?

12 A. We take into consideration -- the fact that we
13 don't know what the future legislation is going to be
14 determines why we did not include that.

15 Q. Do you believe it would be appropriate for
16 Ameren to ignore possible environmental cost increases for
17 planning Ameren's SO2 allowance strategy?

18 A. Given the uncertainty of the future
19 regulations, we determined we could not include a number
20 that would be -- that we could stand on.

21 Q. And how did you do that?

22 A. Ongoing meetings. We meet continuously with
23 the environmental department, the legislative affairs people
24 and talk about what's coming down the pike and what we
25 expect.

1 Q. And who specifically told you you could not
2 include any environmental costs in this case because of the
3 uncertainty?

4 A. It's an understood position with the company
5 that we -- we don't know what's going to happen. We do
6 not -- with certainty we cannot determine what future
7 legislation will pass.

8 Q. Well, do you believe it would be appropriate
9 for Ameren to ignore possible environmental costs when
10 determining how to use its SO2 bank?

11 A. It would be -- it would be wrong to ignore it,
12 nor would I say that we do ignore it.

13 Q. Is it something that Ameren takes into account
14 when dealing with its use of its SO2 bank?

15 A. We consider it.

16 Q. And indeed, sir, would you agree with me in
17 the past AmerenUE has altered its SO2 allowance strategy
18 based upon laws and regulations that were merely proposed;
19 isn't that correct?

20 A. We are constantly monitoring our strategy and
21 change it as things come to light.

22 Q. Could you look, sir, at page 2 of your
23 Surrebuttal Testimony? And I'm focusing on lines 21 through
24 24 there.

25 A. Yes, sir.

1 Q. Is it correct that you say, Starting around
2 1999, 2000, laws and regulations were proposed that could
3 have substantially reduced the value of the SO2 allowances
4 that AmerenUE held. AmerenUE determined at that time that
5 it would be prudent to sell some of the large SO2 allowance
6 bank; is that correct?

7 A. That is correct.

8 Q. Does that indicate that AmerenUE, based on
9 proposed environmental regulations, has altered its SO2
10 strategy in the past?

11 A. Yes, we have.

12 Q. And so for the transfer case based on proposed
13 changes in environmental legislation, Ameren doesn't believe
14 it's appropriate to alter its actions, but with related --
15 with respect to SO2 allowances in the past, Ameren has
16 altered its strategy based on proposed environmental laws;
17 isn't that correct?

18 MR. BYRNE: I'm going to object to the
19 question. I think it misstates Mr. Moore's testimony. He
20 said that they do consider proposed legislation in dealing
21 with SO2 allowances.

22 JUDGE THOMPSON: I'm going to overrule the
23 objection. The witness shall answer if he's able.

24 THE WITNESS: Could you restate the question,
25 please?

1 MR. MICHEEL: Just read it back.

2 JUDGE THOMPSON: Yeah, read it back, please.

3 THE COURT REPORTER: "Question: And so for

4 the transfer case based on proposed changes in environmental

5 legislation, Ameren doesn't believe it's appropriate to

6 alter its actions, but with related -- with respect to SO2

7 allowances in the past, Ameren has altered its strategy

8 based on proposed environmental laws; isn't that correct?"

9 THE WITNESS: That is correct.

10 BY MR. MICHEEL:

11 Q. Would you agree with me, Mr. Moore, that

12 AmerenUE monitors proposed laws of regulations to establish

13 their impact and determine what SO2 allowance strategy

14 should be pursued?

15 A. Yes, sir.

16 MR. MICHEEL: I need to get an exhibit marked,

17 your Honor. And I believe that the exhibit is going to be

18 HC so we're going to need at this time, your Honor, to go

19 in-camera.

20 JUDGE THOMPSON: Very well. We will go into

21 closed session at this time.

22 (REPORTER'S NOTE: At this time, an in-camera

23 session was held, which is contained in Volume No. 10, pages

24 734 through 746 of the transcript.)

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1 JUDGE THOMPSON: We'll go back into public
2 session at this time. Please proceed.
3 JAMES C. MOORE, II testified as follows:
4 CROSS-EXAMINATION BY MR. MICHEEL:
5 Q. Has that involvement in the emissions market
6 been on behalf of Union Electric or its subsidiaries since
7 1994?
8 A. Except for the period where I worked for
9 Illinois Power and a period in I want to say '97 -- '6, '7
10 when I was involved with power sales.
11 Q. Is it correct that you were involved in
12 emissions market when -- in the emissions markets when Union
13 Electric filed its application with the Commission in
14 EO-98-401 to manage its SO2 allowances inventory?
15 A. I helped prepare that request.
16 Q. Does Ameren Fuel Services manage the emission
17 allowances for EEI, Inc.?
18 A. We have done transactions for them on occasion
19 when they request it, but I do not -- I'm not involved in
20 their strategy or their plans or how many they have or don't
21 have. On occasion they have asked us to act on behalf of
22 them to sell some allowances.
23 Q. Does AmerenUE have an SO2 compliance strategy
24 that is separate from the overall Ameren compliance
25 strategy?

1 A. Yes. It's a different position.

2 Q. And what is that position?

3 A. The AmerenUE position is long. When I say
4 long, I mean they have more allowances than they need to
5 comply.

6 Q. And for how long do they have more allowances
7 than they need to comply?

8 A. It depends on numerous factors. Do you want
9 me to elaborate or --

10 Q. Sure.

11 A. Currently under current -- our current
12 allowance position, given no changes in law, would allow us
13 to comply -- without any more sales or anything, we could
14 comply through the 2033 time frame. But, of course, if fuel
15 prices change, coal changes, electricity prices change, gas
16 prices change, all these factors -- and new legislation is
17 passed, it will substantially change when our allowance
18 position would go negative.

19 Q. Is it correct that the Ameren Risk Management
20 Steering Committee approves AmerenUE's emission allowance
21 strategy per the risk management policy?

22 A. Yes, sir.

23 MR. MICHEEL: And I need to get an exhibit
24 marked, your Honor.

25 JUDGE THOMPSON: Very well. This will be

1 Exhibit 45.

2 MR. MICHEEL: No, I don't. I'm sorry. No, I

3 don't. Wrong note.

4 BY MR. MICHEEL:

5 Q. Is it correct one of your job responsibilities

6 as a senior emissions trader is to keep up with the current

7 movements in SO2 prices and trends and movement of those

8 prices?

9 A. I do that on a daily basis.

10 Q. Is it correct that Ameren Energy Fuels and

11 Services has engaged a consulting firm of Evolution Markets

12 to deal with SO2 issues?

13 A. We don't -- we haven't engaged them. I talk

14 to them on a daily basis.

15 Q. What is Ameren's current budget for SO2 sales

16 for 2004?

17 A. On a dollar basis it's \$30 million.

18 Q. And what is AmerenUE's current budget for SO2

19 sales in 2005?

20 A. Thirty million dollars.

21 Q. And what is AmerenUE's SO2 sales budget in

22 2006?

23 A. Thirty million dollars.

24 Q. And what is AmerenUE's budget in 2007?

25 A. I'm not familiar with that number that far

1 out. We focus on the next two years. There's line items
2 out for five years, but the next two years is what's focused
3 on.

4 Q. Could you give me those line items out for the
5 next five years?

6 A. I don't know what they are.

7 Q. Is it correct that Evolution Markets prepares
8 forecasts of the prices of the SO2 trading market?

9 A. At my request, they have prepared those in the
10 past.

11 MR. MICHEEL: Now I need to go in-camera, your
12 Honor, and get an exhibit marked.

13 JUDGE THOMPSON: Very well. We'll go back
14 into closed session at this time.

15 (REPORTER'S NOTE: At this time, an in-camera
16 session was held, which is contained in Volume No. 10, pages
17 751 through 783 of the transcript.)
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1 JUDGE THOMPSON: So we're back in public
2 session. I guess since we're edging up on the noon hour, I
3 should ask you whether you expect to be much longer?

4 MR. MICHEEL: Depending on the witness's
5 answers, your Honor. I have two pages, but I don't write it
6 out, I just write ideas.

7 JUDGE THOMPSON: Okay.

8 MR. MICHEEL: So if you want to break here,
9 this is kind of a breaking point for me, your Honor, in
10 terms of I'm moving onto a different subject. I mean, it's
11 all about SO2.

12 JUDGE THOMPSON: Well, of course.

13 MR. BYRNE: I think a better breaking point
14 might be when Mr. Micheel is done.

15 JUDGE THOMPSON: That was my thought, but if
16 that's going to be in two hours, I'm not sure I would
17 survive. Do you --

18 MR. MICHEEL: I could use a break. I need to
19 use the --

20 JUDGE THOMPSON: Okay. Well, why don't we
21 take the lunch break now and we'll return and Mr. Micheel
22 can finish up when we return. We'll come back at 1:30.
23 Okay. We are in recess then until 1:30.

24 (A recess was taken.)

25 JUDGE THOMPSON: Okay. Mr. Micheel, you were

1 inquiring and I think we're still in closed session; is that
2 right?

3 MR. MICHEEL: If we are, I don't know that we
4 need to be, your Honor.

5 JUDGE THOMPSON: Okay. Why don't we --

6 MR. MICHEEL: At least right now. I'm going
7 to go back, but these questions are not, sir.

8 JUDGE THOMPSON: Very well. We'll go back
9 into open session and you may inquire.

10 JAMES C. MOORE, II testified as follows:

11 CROSS-EXAMINATION BY MR. MICHEEL:

12 Q. Mr. Moore, just so I can clear up the record,
13 one ton -- the sale of one ton of SO₂, that equals one SO₂
14 allowance; is that correct?

15 A. Yes, sir.

16 Q. Now, you told me that the sale of 56 tons per
17 year to comply with the current price -- the current price
18 for the \$17 million, the bank would be exhausted in 2010; is
19 that correct?

20 A. It was 56,000 tons.

21 Q. I'm sorry. 56,000 tons.

22 A. That is what I said.

23 Q. And what I want to understand, is that from
24 '04 to '09 it would be exhausted?

25 A. It would run out in the year 2000-- I believe

1 we would have to do something different by 2000 -- it was
2 either 10 or 11. I don't have the spreadsheet in front of
3 me. But we'd be able to comply at least through 2009, and I
4 think 2010.

5 Q. Okay. I just wanted to know is that at the
6 end -- you don't know if it's the end of 2009 or the end of
7 2010?

8 A. Yes. One of those years.

9 MR. MICHEEL: I need to get an exhibit marked,
10 your Honor. And I believe it is going to be Exhibit 50.

11 JUDGE THOMPSON: Okay.

12 MR. MICHEEL: And it's not HC, your Honor.

13 (Exhibit No. 50 was marked for
14 identification.)

15 BY MR. MICHEEL:

16 Q. Mr. Moore, I've handed you what's been marked
17 for purposes of identification as Exhibit 50; is that
18 correct?

19 A. Yes.

20 Q. And does that indicate it's an order approving
21 Stipulation and Agreement in Case EO-98-401?

22 A. Yes, sir.

23 Q. And you're familiar with that case, are you
24 not, sir?

25 A. Yes. I have read this before.

1 MR. MICHEEL: With that, your Honor, I would
2 move admission of Exhibit 50.

3 JUDGE THOMPSON: Do I hear any objections to
4 the receipt of Exhibit No. 50?

5 MR. BYRNE: No objection, your Honor.

6 JUDGE THOMPSON: Hearing no objections, the
7 same is received and made a part of the record of this
8 proceeding.

9 (Exhibit No. 50 was received into evidence.)

10 BY MR. MICHEEL:

11 Q. And I'm looking, sir, at the last paragraph on
12 the first page of that exhibit. Does it indicate that
13 AmerenUE will have authority to manage its allowance
14 inventory, and that's SO2 allowances, with certain
15 restrictions; is that correct?

16 A. Yes, sir.

17 Q. And if you turn to page 2 of that Report and
18 Order, sir, it is the second to last sentence -- beginning
19 with the second to last sentence in the first paragraph
20 there that starts, Ameren will be allowed to manage. Do you
21 see that?

22 A. Yes, sir.

23 Q. Could you read that into the record?

24 A. AmerenUE will be allowed to manage the entire
25 allowance inventory but may sell only up to one-half of all

1 phase 1 allowances without seeking specific Commission
2 approval, including sales to AmerenCIPS and other utilities.
3 Q. Finish the paragraph.
4 A. AmerenUE may request authorization to sell
5 additional allowances above this level through a filing with
6 the Commission.
7 Q. If you could, sir, turn to page 2 of the
8 attached Stipulation and Agreement there. It's attached to
9 the Report and Order. Are you there, sir?
10 A. Yes.
11 Q. And I'm focusing there on paragraph 2. Do you
12 see that paragraph, sir?
13 A. Yes.
14 Q. Is that the specific paragraph that sets out
15 AmerenUE's authority to sell one-half of all phase 1
16 allowances?
17 A. Yes.
18 MR. MICHEEL: These questions are HC, your
19 Honor.
20 JUDGE THOMPSON: Okay. We'll go back into
21 closed session at this time.
22 (REPORTER'S NOTE: At this time, an in-camera
23 session was held, which is contained in Volume No. 10, pages
24 789 through 794 of the transcript.)
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1 JUDGE THOMPSON: I'll let the Commissioners
2 know we're ready for questions from the Bench.
3 JAMES C. MOORE, II testified as follows:
4 QUESTIONS BY JUDGE THOMPSON:
5 Q. Now then, Mr. Moore --
6 A. Yes.
7 Q. -- is the SO2 allowance regime designed so
8 that at some point Ameren will inevitably run out of
9 allowances?
10 A. Your Honor, I wouldn't say that inevitably.
11 Under certain scenarios, yes, we would.
12 Q. Does the EPA give Ameren enough allowances
13 every year -- a number equal to the number it needs?
14 A. Roughly after about year 2000, Ameren has
15 about -- UE -- the AmerenUE side of Ameren has roughly the
16 number of allowances it needs to comply every year.
17 Q. Received from the EPA?
18 A. Yes, sir.
19 Q. Okay. And is that going to continue out
20 until, what's the last year, 2030?
21 A. We've currently received allowances through
22 2033, and every year they allocate another year until the
23 rules or laws are changed.
24 Q. And each allocation is equivalent to the
25 amount you are projected to need for that year?

1 A. Roughly.

2 Q. Okay. So let's say that Ameren finds itself
3 without sufficient SO2 allowances -- Union Electric I mean,
4 and you're unable to acquire any on the market. What
5 happens then?

6 A. We would either have to install technology to
7 reduce our emissions or there are penalties associated with
8 not having enough allowances in your account to comply.

9 Q. Let's say you install technology to reduce
10 emissions. What's the effect of that?

11 A. That would put us in a position where we have
12 excess allowances.

13 Q. And what would be the effect of that in an
14 environmental sense?

15 A. In an environmental sense, it would allow us
16 to sell the excess to other companies. We would have
17 reduced our emissions from our power plants.

18 Q. And would Ameren then not be in a position
19 where it was causing less harm to the environment, if that's
20 the appropriate phrase?

21 A. I would agree with you that it reduces the
22 amount of emissions and thereby the harm.

23 Q. So wouldn't that be viewed as a public
24 benefit?

25 A. I believe it would.

1 JUDGE THOMPSON: I have no further questions
2 for you.

3 Let's see if we've got any response here from
4 the Commissioners. Commissioner Murray indicates that she
5 has no questions.

6 Let's go ahead with recross based on questions
7 from the Bench. If either of the other two Commissioners
8 comes down and asks some questions, we'll just have
9 additional recross after that. So we are ready then for
10 Mr. Dottheim.

11 MR. DOTTHEIM: No questions.

12 JUDGE THOMPSON: Mr. Micheel?

13 MR. MICHEEL: Yes.

14 RECROSS-EXAMINATION BY MR. MICHEEL:

15 Q. Judge Thompson asked you some questions about
16 installing pollution control technology. Do you recall
17 those questions?

18 A. Yes, sir.

19 Q. Would you agree with me that there's a cost to
20 the company to install those pollution control technologies?

21 A. Yes, sir.

22 Q. Would you believe -- would you agree with me
23 that the cost of installing those technologies are the kind
24 of costs that Ameren would seek to recover in rates?

25 A. I would assume that depending on the

1 situation, the -- if it increased our cost of doing
2 business, I would think we would file for some kind of a
3 rate case.

4 Q. And, for example, to install a scrubber, that
5 would add to your rate base, would it not?

6 A. It could.

7 (REPORTER'S NOTE: At this time, an in-camera
8 session was held, which is contained in Volume No. 10, pages
9 799 through 811 of the transcript.)

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1 JUDGE THOMPSON: Okay. We're back in public
2 session. Mr. Nelson, nice to see you again.
3 THE WITNESS: Hello.
4 JUDGE THOMPSON: Mr. Nelson, I'll remind you,
5 you are still under oath.
6 THE WITNESS: Yes, sir.
7 JUDGE THOMPSON: I believe your testimony has
8 already been offered and received. Correct?
9 MR. RAYBUCK: That's correct, your Honor.
10 JUDGE THOMPSON: So we can probably forgo any
11 direct. Am I right?
12 MR. RAYBUCK: You are correct.
13 JUDGE THOMPSON: And we can move right to
14 cross and that will be Mr. Dottheim.
15 MR. DOTTHEIM: Thank you.
16 CRAIG NELSON testified as follows:
17 CROSS-EXAMINATION BY MR. DOTTHEIM:
18 Q. Good afternoon, Mr. Nelson.
19 A. Good afternoon.
20 Q. Mr. Nelson, AmerenUE generating units will
21 provide power under the Joint Dispatch Agreement, JDA, to
22 serve the Metro East electrical load, will it not, if the
23 proposed Metro East transfer is implemented?
24 A. There will be energy transfers, yes.
25 Q. Under the terms of the Joint Dispatch

1 Agreement, will AmerenUE be compensated for any power that
2 it provides to serve the Metro East electrical load after
3 the proposed transfer?

4 A. Yes, it will.

5 Q. How will AmerenUE be compensated for any power
6 that it provides to serve the Metro East electrical load --

7 A. At marginal --

8 Q. -- after --

9 A. I'm sorry.

10 Q. -- after the proposed transfer?

11 A. At marginal cost.

12 Q. Mr. Nelson, it's your testimony, is it not, in
13 your Surrebuttal that amendments to the JDA are not
14 necessary either to ensure that the Metro East transfer is
15 not detrimental or to ensure that it is the least cost way
16 to meet AmerenUE's resource needs?

17 A. That's correct.

18 Q. Okay. Mr. Nelson, might you have a copy of
19 Mr. Voytas' Direct Testimony?

20 A. Yes, I have one.

21 Q. Okay. I'd like to direct you to that
22 testimony.

23 A. I'm there.

24 Q. Have you reviewed Mr. Voytas' Direct
25 Testimony?

1 A. Previously I have, yes.

2 Q. And have you reviewed the schedules to that
3 testimony?

4 A. Yes.

5 Q. I'd like to direct you to Mr. Voytas'
6 Schedule 2, which is a one-page document. In AmerenUE's
7 analysis of the costs related to the Metro East transfer,
8 what costs that currently are allocated to AmerenUE Illinois
9 customers will be assumed by AmerenUE Missouri customers as
10 a result of the Metro East transfer?

11 A. Basically, it's all generation-related costs.

12 Q. Would it be -- I'm looking at the last column
13 on the right, the total revenue requirement. Would the
14 number be \$114.8 million?

15 A. Yes. I think that's correct.

16 Q. I'd like to direct you again to this schedule,
17 in particular to the four lines on what may appear to be the
18 second half of the schedule. And when I say "lines," they
19 are the lines Fuel and Purchased Power for Load, Other
20 Production Expenses, Fuel and Purchased Power for
21 Interchange -- Interchange Sales, excuse me, and Total
22 Production Expenses.

23 Isn't it true that these numbers for these
24 line items are affected by the current form of the JDA?

25 A. It's clear -- I could ask you to go through

1 those again, but my answer to your question is I don't know
2 the full answer to your question. We'll have to refer to
3 Mr. Voytas. But, yes, clearly fuel is, for example,
4 affected by energy transfers under the JDA.

5 Q. If the terms of the JDA were changed as the
6 Staff has proposed in testimony, it would have an impact,
7 would it not, on the costs that are currently allocated to
8 AmerenUE Illinois customers that would be assumed by
9 AmerenUE Missouri customers subsequent to a Metro East
10 transfer?

11 A. I'm sorry. You're going to have to ask me
12 that question again, maybe break it into pieces.

13 Q. All right. The adjustments as proposed by
14 Dr. Proctor in his Rebuttal Testimony --

15 A. Sir, there are two adjustments and they're not
16 the same adjustment.

17 Q. Yes. Well, could you identify the two
18 adjustments?

19 A. Yes. One suggestion that Dr. Proctor has made
20 is that off-system sales should be split based on generation
21 rather than load. And the other suggestion by Dr. Proctor
22 is that energy transfers should be at a market price rather
23 than incremental cost or a marginal cost.

24 Q. Would either of those adjustments as proposed
25 by Dr. Proctor have an impact on the costs that are

1 currently allocated to AmerenUE Illinois customers?

2 A. Yes. They impact fuel and marginal --
3 marginal costs, but those costs are directly assigned in the
4 sake of a transfer. So I don't know if we're quite of a
5 meeting of the minds here.

6 Q. Okay.

7 A. Marg-- some costs are directly assigned in
8 incremental costing when there's an energy transfer, for
9 instance. So it's not an allocation issue, it's a direct
10 assignment. So I don't know if I'm freely fully
11 understanding your question yet.

12 Q. Thank you.

13 As you understand it, the two adjustments
14 proposed by Dr. Proctor, would they have an impact on costs
15 that would be assumed by AmerenUE Missouri customers if the
16 Metro East transfer were authorized by the Commission?

17 A. Let's go through the adjustments one at a
18 time, if we may. And we've offered, if the Commission
19 desires it, to split off-system sales based on generation.
20 And our testimony, and Mr. Voytas puts forth that testimony,
21 that there's an additional \$7 million of savings from
22 splitting those off-system sales. So, yes, that does have
23 an impact on cost of service for UE Missouri.

24 Q. And that would have an impact on costs assumed
25 by AmerenUE Missouri customers after a Metro East transfer?

1 A. Yes. There would be \$7 million less assuming
2 we -- the Commission orders us to put into effect the
3 adjustment we said we would.

4 Q. Would the second adjustment proposed by
5 Dr. Proctor have an impact on costs assumed by AmerenUE
6 Missouri customers after a Metro East transfer authorization
7 by the Commission?

8 A. Yes. Conceivably it could.

9 Q. I'd like to direct you again to Mr. Voytas'
10 Schedule 2 and to the two line items Fuel and Purchased
11 Power for Interchange and Interchange Sales that in the
12 right-most column show zeroes.

13 Would you agree that on Mr. Voytas' Schedule 2
14 that those two entries are zeroed out in the far right
15 column because under the current JDA any profit margin being
16 allocated to AmerenUE Illinois customers would not be
17 transferred to AmerenUE customers in Missouri subsequent to
18 a Metro East transfer?

19 A. I think Mr. Voytas would be better at
20 answering that question.

21 Q. Mr. Voytas calculates, does he not, additional
22 fuel savings to AmerenUE Missouri customers resulting from
23 the proposed Metro East transfer to be approximately
24 \$25 million per year?

25 A. You'd have to show me his testimony where he

1 says that. I don't recall.

2 Q. Okay. And I would refer you to Mr. Voytas'

3 Schedule 5.

4 A. I know what you're talking about now, yes.

5 I -- I've seen this schedule and I think I understand some

6 of it, sir.

7 Q. And, again, why don't I ask the question.

8 Mr. Voytas calculates, does he not, additional fuel savings

9 to AmerenUE Missouri customers from the proposed Metro East

10 transfer to amount to approximately \$25 million per year?

11 A. Yes, he does.

12 Q. Okay. Mr. Nelson, would you agree with me

13 that under the present JDA, with a joint dispatch of

14 AmerenUE and AEG's generation resources to meet the joint

15 loads of AmerenUE and AmerenCIPS, that dispatch will be the

16 same with or without the Metro East transfer?

17 A. Yes. In the most -- yes, each unit will be

18 dispatched in economic order and that should not change with

19 or without the transfer.

20 Q. Would you also agree with me that although

21 AmerenUE generation resources that are currently serving

22 AmerenUE's customers, both Missouri and Illinois customers,

23 will continue to serve those customers under the terms of

24 the current JDA, Illinois customers transferred to

25 AmerenCIPS under the proposed Metro East transfer will pay

1 incremental rather than the average cost for AmerenUE
2 generation?

3 A. If -- assuming there is an energy transfer,
4 they will pay the incremental cost for those energy
5 transfers.

6 Q. After the proposed Metro East transfer, if
7 authorized, will AmerenUE realize any profit on the AmerenUE
8 power used to serve its former Illinois retail electric
9 customers?

10 A. Will AmerenUE recognize any profit assuming
11 there's an energy transfer to serve the Metro East load?

12 Q. Yes, sir.

13 A. No. As I've explained two or three times, it
14 would be priced in incremental cost.

15 Q. Will the former AmerenUE Illinois electric
16 customers, assuming a Metro East transfer, provide any
17 contribution towards fixed costs of the AmerenUE generating
18 units that will provide them power under the JDA?

19 A. No. Any CIPS purchase -- I'm sorry, GENCO
20 purchases under the Joint Dispatch Agreement would be
21 purchases at incremental cost. Likewise, UE purchases from
22 GENCO would be at incremental cost.

23 Q. And when you say "GENCO," are you referring to
24 Ameren Energy Generating Company?

25 A. Yes, sir, the other party to the JDA.

1 Q. Will the former AmerenUE Illinois customers --
2 electric customers experience a rate reduction as a result
3 of the Metro East transfer if it's authorized?

4 A. Well, our plans are to keep the rates the
5 same. In fact, there's a rate freeze in Illinois so we
6 can't change the electric rates.

7 Q. Because of the JDA requirement that AmerenUE
8 generating units will serve AmerenCIPS customers, including
9 the former AmerenUE Illinois customers after the Metro East
10 transfer, will AmerenUE forgo the opportunity to sell its
11 power to non-affiliated third parties?

12 A. My answer would be no, sir, because it -- your
13 question doesn't fully address the requirements in the JDA
14 and what the JDA is. So the direct answer to your question
15 is no, but it's not a complete answer.

16 Q. Would AmerenUE have greater off-system profits
17 without the JDA requirement that AmerenUE transfer power to
18 AmerenCIPS to serve the former AmerenUE Illinois electric
19 customers?

20 A. You're going to have to give me the
21 assumptions that -- in that question. Greater than what?

22 Q. Greater than what AmerenUE will be receiving
23 from AmerenCIPS.

24 A. It depends.

25 Q. And it depends on?

1 A. Depends on which units happen to be running.
2 For instance, under the terms of the JDA, each company's
3 units serve its own load first and then if there's load from
4 the other company, energy transfers take place. And any
5 excess is sold into the market.

6 So it all depends on the load in each company
7 and which company's plants are running. UE could have a
8 major outage and there would be no energy transfers and no
9 sales to the market. And in that case, UE would be buying
10 at incremental cost from GENCO. So it depends on the
11 circumstances.

12 Q. Okay. Would AmerenUE agree to sell power that
13 it does not need to serve its own electric customers to, for
14 example, other Missouri electric utilities at a price
15 equivalent to incremental costs?

16 A. I suppose that's possible if they would enter
17 into a Joint Dispatch Agreement, yes.

18 Q. But not likely otherwise than them entering
19 into a Joint Dispatch Agreement?

20 A. Or something of similar nature, yes.

21 Q. I'd like to refer you again to Mr. Voytas'
22 Schedule 5, the \$25 million that I had previously drawn your
23 attention to. If the pricing terms for energy transferred
24 under the JDA changes, would that affect the estimate of
25 \$25 million in additional savings?

1 MR. RAYBUCK: Your Honor, I'm going to object
2 to this detailed question on the grounds of relevance. It's
3 more appropriately suited to cross-examination of
4 Mr. Voytas. We're getting into a detailed area now and,
5 therefore, I object on the grounds of relevance.

6 MR. DOTTHEIM: If Mr. Nelson doesn't know, he
7 can say he doesn't know.

8 JUDGE THOMPSON: I agree. I certainly think
9 it's relevant. And as Mr. Dottheim pointed out, if the
10 witness doesn't know, then that's his answer. So the
11 objection is overruled.

12 If you know, please answer.

13 THE WITNESS: I believe I know, your Honor.
14 The amount of energy transfers does not impact this level of
15 savings. This 25 million of savings is due to the fact that
16 UE's generation is low incremental costs of running.

17 And as I understand the schedule -- Mr. Voytas
18 can correct me if I'm wrong -- the 25 million of savings is
19 due to the fact that 6 percent of UE's generation is now
20 going to be dedicated to the Missouri side and that cheaper
21 fuel cost will be used for Missouri retail resulting in
22 25 million of savings.

23 So this piece, as I explained earlier, comes
24 before energy transfers. And this piece would grow year by
25 year as UE's load rose. In fact, it's more than 25 million

1 in outer years.

2 BY MR. DOTTHEIM:

3 Q. The adjustments that previously you were
4 discussing that we were talking about that Dr. Proctor had
5 proposed to the JDA and which you addressed in your
6 Surrebuttal Testimony, that is, allocating profits on the
7 basis of generation rather than load, do you recall when the
8 company first raised the possibility of changing the JDA on
9 that item, that is, allocating profits on the basis of
10 generation rather than load?

11 A. When we suggested it or when we first
12 identified the issue?

13 Q. When AmerenUE first broached that matter with
14 the Staff and also possibly the Office of Public Counsel.

15 A. It was just a couple of months ago.

16 Q. Okay. Was that in the context of a
17 January 15th meeting and conference call, do you recall?

18 MR. RAYBUCK: Your Honor, I object to this on
19 the grounds of relevance. It also is moot in that it's
20 reflected -- to the extent it's reflected in Mr. Nelson's
21 Surrebuttal Testimony he's here to defend that, but as to
22 when that was raised, I believe that goes to a point that's
23 no longer relevant.

24 MR. DOTTHEIM: Your Honor, the company, I
25 think, at various stages has attempted to relate what the

1 Staff did not put in its case as opposed to the case that it
2 has presently pending before the Commission. And as a
3 consequence, that item in particular which it raised in its
4 Surrebuttal Testimony, the timing of that is relevant.

5 JUDGE THOMPSON: Okay. Let me see if I can
6 parse through this. Okay. The first objection is relevance
7 and then secondly we're being told that it's moot. And it's
8 moot because -- why are you saying it's moot?

9 MR. RAYBUCK: Well, your Honor, to the extent
10 it's in his Surrebuttal Testimony, Mr. Nelson is here to
11 defend that. He's here to defend why we're prepared to make
12 that offer and under what terms.

13 JUDGE THOMPSON: And being asked questions
14 about it on cross-examination is defending it. Right?

15 MR. RAYBUCK: Except when we offered it,
16 whether it was January or February, there's no point to that
17 because the point -- the only point is we are offering it
18 now. When we offered it goes to a point that's no longer
19 relevant.

20 JUDGE THOMPSON: I see. And why does it
21 matter when they offered it?

22 MR. DOTTHEIM: Well, I think the company --
23 and there's probably -- on a shifting or going forward with
24 the evidence or possibly even a burden of proof argument on
25 the company's part has raised questions as to what is not in

1 the Staff's case. And that item is relevant.

2 JUDGE THOMPSON: Well, I agree that it's --

3 tell you what. I agree it's relevant. I'm going to

4 overrule the objection.

5 Please proceed.

6 THE WITNESS: And I don't remember what the

7 question was. I'll be happy to answer it for you. You

8 wanted to know when we made the offer? Is that --

9 BY MR. DOTTHEIM:

10 Q. Yes. If you recall.

11 A. It could have been at that January --

12 mid-January. It was some time a couple months ago

13 subsequent to the Direct Testimony, before the Surrebuttal

14 in the midst of discussions with Staff.

15 MR. DOTTHEIM: At this time I'd like to have

16 marked as an exhibit some work papers or documents that were

17 provided to the Staff.

18 JUDGE THOMPSON: Absolutely. This will be

19 Exhibit 51, work papers. Whose work papers are they?

20 MR. DOTTHEIM: They are company work papers.

21 JUDGE THOMPSON: Okay. Company work papers.

22 Very well.

23 MR. DOTTHEIM: And there are three batches of

24 documents. I have them in one folder. And the folder is

25 labeled highly confidential. The company has indicated two

1 of the -- one set of documents is marked privileged and
2 confidential. There's a single page that's marked I believe
3 privileged and confidential. And then there's a third
4 grouping of documents which isn't marked highly
5 confidential, but the company has indicated that it would
6 like that to be treated as highly confidential and the Staff
7 has no problems with that.

8 JUDGE THOMPSON: So we're going to do this all
9 as one big exhibit?

10 MR. DOTTHEIM: Yes.

11 JUDGE THOMPSON: Okay. Very well.

12 MR. BYRNE: Your Honor, if I may, I would
13 suggest if Mr. Dottheim's going to ask questions about it,
14 we should go into an in-camera session, which I understand
15 Mr. Dottheim has no objection to.

16 JUDGE THOMPSON: Right. That's what we'll do.

17 MR. DOTTHEIM: And certainly the Staff has no
18 objection. I'm not quite sure I'm going at this point into
19 a detailed discussion of those documents.

20 JUDGE THOMPSON: Do you want to hold off going
21 into camera then?

22 JUDGE THOMPSON: Yes. Why don't we hold off.

23 (Exhibit No. 51 was marked for
24 identification.)

25 BY MR. DOTTHEIM:

1 Q. Mr. Nelson, have you had an opportunity to
2 look at the documents that as a group have been marked
3 Exhibit 50 [sic]?
4 A. Yes, I have.
5 Q. And I just might note that there is one group
6 of documents that has on there the first page Joint Dispatch
7 Agreement Analysis, January 15, 2004, but in the bottom
8 right-hand corner there's the date 3/25/2004 and that is
9 actually the date that the documents that were used for
10 copying were printed out. So the actual -- the actual date
11 is January 15, 2004.
12 Mr. Nelson, can you identify those documents?
13 A. Yes. The document entitled Joint Dispatch
14 Agreement Analysis is a presentation we made to Missouri
15 Staff, I think OPC Staff was on the phone. We promised in
16 July of 2003 to analyze the Joint Dispatch Agreement and
17 report back to the Staff as a result of that analysis. And
18 this was that report.
19 Q. Okay. And, Mr. Nelson, at page 10 of your
20 Surrebuttal Testimony, if I might direct you there,
21 Exhibit 6, there are various numbers that you have on that
22 page, \$7 million, \$9.5 million, \$79 million. Could these or
23 various of these documents be considered the work papers for
24 those numbers?
25 A. Part of the work papers, yes. It's actually

1 the other document entitled AmerenUE's Position on the JDA
2 that you'll see the numbers reflected in my testimony also
3 reflected on the second page of that document.

4 Q. And if I could direct you to page 8 of your
5 Surrebuttal Testimony, line 18, where you make reference to
6 the company meeting with Staff and Office of Public Counsel
7 in January of this year. The meeting that you're referring
8 to, is that the January 15th meeting at which most of these
9 documents I believe were provided to the Staff and the
10 Office of Public Counsel?

11 A. In general, yes. What I don't remember is
12 whether there were two meetings or one.

13 Q. And I might make note that there is a one-page
14 document and two groups of multi-page documents, but the
15 one-page document was subsequently provided to Dr. Proctor,
16 not at the January 15th meeting. Do you have any
17 recollection of that?

18 A. Only vaguely. I know he requested it and I
19 know we provided it.

20 Q. He requested further back-up -- further work
21 papers?

22 A. Yes. He wanted us to break the \$7 million
23 benefit into two pieces, and we did.

24 Q. Mr. Nelson, I would like to refer you to an
25 October 13, 2000 Ameren Corporation Board of Directors

1 meeting where I believe the Board of Directors authorized
2 proceeding forward on AmerenUE pursuing the Metro East
3 transfer. Do you have any recollection of that Board of
4 Directors meeting?

5 A. I did not attend that meeting, so no.

6 MR. DOTTHEIM: May I approach the Bench --
7 excuse me, may I approach the witness?

8 JUDGE THOMPSON: You may.

9 THE WITNESS: Looks like I did attend that
10 meeting. I'm sorry.

11 BY MR. DOTTHEIM:

12 Q. Yes. And that's what I was going to direct
13 you to. I'm trying to provide your counsel with a copy of
14 that document.

15 A. I should have just answered no, I didn't
16 remember.

17 Q. And what I've handed to you is the company's
18 response to a Staff Data Request 0035 which requests, Please
19 provide a copy of the Ameren, AmerenUE and CIPS Board of
20 Directors approval of the transaction proposed in this case.
21 Please include the names of the board members that approved
22 this transaction.

23 And you've had an opportunity to look at that
24 document?

25 A. Yes, sir.

1 Q. And --

2 MR. RAYBUCK: Mr. Dottheim, if I may

3 interrupt, I'm sure you've noted this is marked proprietary.

4 I don't know what your intention is, but I just want to make

5 sure you were mindful of that.

6 MR. DOTTHEIM: Yes. And thank you. And maybe

7 at this point we should go in-camera.

8 JUDGE THOMPSON: Very well. We'll go into

9 closed session at this time.

10 (REPORTER'S NOTE: At this time, an in-camera

11 session was held, which is contained in Volume No. 10, pages

12 831 through 847 of the transcript.)

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1 JUDGE THOMPSON: Please, you may inquire.

2 CRAIG NELSON testified as follows:

3 CROSS-EXAMINATION BY MR. DOTTHEIM:

4 Q. Mr. Nelson, I've got some questions regarding

5 the JDA and transmission revenues. Offhand, I don't think

6 that that is highly confidential, but I know you'll tell me

7 or your counsel will tell me if it is.

8 Mr. Nelson, does the JDA address the

9 allocation of transmission revenues between AmerenUE and

10 AmerenCIPS?

11 A. It's my understanding it does, but I'm -- here

12 we go. Yes. There's an article -- article 7 on page 11.

13 Q. And, in fact, don't you address this to some

14 extent at page 5 of your Direct Testimony, lines 5 to 8

15 where you make reference to, amongst other things,

16 third-party transmission transactions under the Ameren

17 O-A-T-T?

18 A. Yes.

19 Q. Mr. Nelson, do you know how much transmission

20 revenue will be assigned under the JDA either to AmerenUE or

21 AmerenCIPS prior to the Metro East transfer, assuming the

22 Metro East transfer is authorized?

23 A. No, I do not.

24 Q. Do you know how much transmission revenue

25 would be assigned under the JDA either to AmerenUE or

1 AmerenCIPS after the proposed Metro East transfer, assuming
2 the Metro East transfer is authorized?

3 A. No, sir, I don't. But Mr. Gary Wyse may be
4 able to handle that better than I.

5 Q. Thank you. That was going to be my next
6 question. Thank you.

7 You've identified article 7 in the JDA as
8 dealing with transmission revenue. Does Section 7.03 of the
9 JDA address the assignment of revenue from the combined
10 systems network and point-to-point transmission service
11 tariff?

12 A. Yes, it does.

13 Q. And, again, as in our previous discussion
14 about the transmission revenue, you're not able to identify
15 how much transmission revenue from the combined systems
16 network and point-to-point transmission service tariffs
17 would be assigned under the JDA either to AmerenUE or
18 AmerenCIPS either before or after Metro East transfer?

19 A. That is correct.

20 Q. And, again, is that a question that I should
21 direct to Mr. Gary Wyse?

22 A. Yes, sir.

23 Q. Okay. Thank you.

24 Is the amount of the revenue assigned to
25 AmerenUE and AmerenCIPS influenced in any manner by the

1 amount of each party's transmission plant investment
2 relative to total transmission plant investment included in
3 the rate calculation in the tariffs?

4 A. I'm not sure. Generation is more my area of
5 expertise rather than transmission.

6 Q. Was the effect of the Metro East transfer on
7 transmission revenue considered in Mr. Voytas' least cost
8 study, to your knowledge?

9 A. I don't know for sure.

10 Q. Do you know if this was an area that was even
11 discussed for inclusion in Mr. Voytas' least cost study?

12 A. I don't know whether he discussed it. I know
13 I've had a discussion about transmission revenue with
14 Mr. Wyse and Mr. Raybuck, but that's the only discussion
15 I've had.

16 Q. At this point, prior to the Metro East
17 transfer, would you agree that AmerenUE's Missouri and
18 Illinois customers have both paid the cost of transmission
19 plant?

20 A. No. I don't think I would agree.

21 Q. And why wouldn't you agree?

22 A. Basically transmission lines in Illinois are
23 Illinois jurisdictional. It's the Illinois Commerce
24 Commission that has to give permission to build the plant.
25 And I don't know the details of how transmission goes into

1 rate base, but I suspect that Illinois properties are a
2 Illinois rate base and Missouri properties are a Missouri
3 rate base, but Mr. Wyse could probably more fully explain
4 that.

5 MR. DOTTHEIM: If I could have a moment,
6 please.

7 JUDGE THOMPSON: You may.

8 BY MR. DOTTHEIM:

9 Q. Mr. Nelson, would Mr. Wyse be the best person
10 to ask or someone else regarding the allocation basis for
11 transmission revenues?

12 A. Yes, I think so.

13 MR. DOTTHEIM: Mr. Nelson, thank you again for
14 your patience. I have no further questions at this time.

15 JUDGE THOMPSON: Thank you, Mr. Dottheim.

16 Mr. Micheel?

17 MR. MICHEEL: Yes, your Honor.

18 JUDGE THOMPSON: Did you want to offer 51, 52?

19 MR. DOTTHEIM: Yes. I would like to offer
20 Exhibits 51 and 52 at this time.

21 JUDGE THOMPSON: Any objection to the receipt
22 of Exhibits 51 and 52?

23 MR. RAYBUCK: No, your Honor.

24 JUDGE THOMPSON: Hearing no objections, those
25 exhibits are received and made a part of the record of this

1 proceeding.

2 (Exhibit Nos. 51 and 52 were received into
3 evidence.)

4 CROSS-EXAMINATION BY MR. MICHEEL:

5 Q. Mr. Nelson, earlier during your testimony last
6 week you mentioned -- you testified that the JDA has some
7 provisions that require each of the parties to the Joint
8 Dispatch Agreement to have adequate capacity including
9 reserve capacity to serve its load independently; is that
10 correct?

11 A. Yes, sir.

12 Q. Do you have a copy of what's been marked as
13 Exhibit 51 and admitted into evidence -- or excuse me,
14 Exhibit 52, which is the JDA agreement?

15 A. Yes, I do.

16 Q. I've been eyeballing that agreement and I
17 can't find that requirement in there. Could you point out
18 to me where that is in that document?

19 A. I'd be happy to.

20 Q. Have at it.

21 A. Okay. You can start on page 8. I've got
22 another copy marked and let me just make sure that it's the
23 same as the exhibit. Yes, it is.

24 You'll notice on page 8 in Section 6.04,
25 Demand Charges from New Off-system Purchases, if you'll look

1 at the last sentence in that section, and I'll read it, This
2 section applies only to demand charges associated with new
3 off-system purchases made for system dispatch and not to
4 purchases made by a party for purposes of maintaining
5 adequate planning reserve margin, which responsibility shall
6 remain with each party. So that's one. There's two other
7 places.

8 Q. Let me stop you there, sir, just -- I have one
9 question about that. What do you mean when you say
10 "maintaining adequate planning reserve margin"?

11 A. That's the -- we're talking about sufficient
12 generation to meet the company's load. And reserve margin
13 is the 15 or 17 percent reserve in excess of expected normal
14 peak demand.

15 Q. And so that's my understanding too, that an
16 adequate reserve margin for AmerenUE is in between the 15
17 and 17 percent range; is that correct?

18 A. Correct.

19 Q. Now, show me where else.

20 A. Okay. If you'll go to page 14. And there's
21 a -- at the top of the page, Section C, this is part of the
22 duties of this operating committee, monitor the adequacy of
23 reserves for the parties and the combined system. So the
24 only way I can read that -- that sentence is when it says
25 parties, it means each one because there's an and it has

1 combined.

2 And then the third place in the agreement is
3 on page 17. This is a general rule. This is article 11,
4 Industry Standards, but the parties agree to conform with
5 all applicable NERC and Regional Reliability Council
6 principles, guides, criteria and standards and industry
7 standard practices and conventions of reliable system
8 operations.

9 Well, clearly the main requirements for the
10 15 percent reserve margin would be one of those Reliability
11 Council standards. So each party's committed to conform to
12 that.

13 Q. Could you please tell me what the NERC acronym
14 stands for? I know, but for the record.

15 A. North something Reliability Council. I can't
16 remember.

17 Q. How about Electric?

18 A. Yeah. Well, I know, but I'm missing some
19 word. It's -- there's -- I think there's five words that
20 have condensed to four in the acronym.

21 Q. So you have to cobble those three sections of
22 the JDA together to come to that conclusion; is that
23 correct?

24 A. I wouldn't say I'd have to cobble. I think
25 each one on its own clarifies that each company has to meet

1 its own reserve margin requirements.

2 Q. Now, last week we also discussed how the
3 timing of the Commission's decision regarding this
4 application would be important because of certain capacity
5 planning decisions that both AmerenUE and Ameren Energy
6 Marketing, or AEM, need to make this summer; is that
7 correct?

8 A. Yes.

9 Q. And you indicated last week, did you not, that
10 Ameren needs the Commission to decide this case by May 1st
11 so that AmerenUE can make plans to cover its reserve margin
12 commitments this summer pursuant to the Joint Dispatch
13 Agreement; is that correct?

14 A. Correct.

15 Q. And you also indicated last week, did you not,
16 that AEM would need to know the Commission's decision for
17 this summer so it can make its planning regarding purchases
18 and sales of its capacity for this summer. Correct?

19 A. Correct.

20 Q. If this Commission doesn't approve this
21 application, making that assumption, AEM would have excess
22 capacity for this summer; isn't that correct?

23 A. That's correct.

24 Q. And wouldn't AEM want to sell this excess
25 capacity this summer so it can increase its earnings?

1 A. Yes.

2 Q. If the transfer's not approved, Mr. Nelson,
3 would AEM and AEG, which is Ameren Generating Company, have
4 concerns that the GENCO's partner in the JDA, AmerenUE,
5 would be getting subsidized by the GENCO?

6 A. Yes, that would be considered.

7 Q. If the transfer's not approved, would AEM and
8 AEG have concerns about the ability to -- ability of Joint
9 Dispatch resources of UE and AEG to meet the load served by
10 AEM and AmerenUE?

11 A. No.

12 Q. And why wouldn't they?

13 A. On an overall basis, Ameren has enough
14 capacity to meet the overall Ameren load and a 15 percent
15 reserve margin.

16 Q. Wouldn't --

17 A. It's just a transfer from one bucket to
18 another, one company to another. Overall, we're fine.

19 Q. Wouldn't AEG and AEM, in fact, want to be
20 assured that AmerenUE would obtain adequate resources to
21 serve its load this summer if this transfer is not approved?

22 A. It's one thing that Ameren will need to
23 consider, including AEM and AEG, yes.

24 MR. MICHEEL: May I approach the witness, your
25 Honor?

1 JUDGE THOMPSON: You may.

2 MR. RAYBUCK: I believe it was marked highly
3 confidential, wasn't it?

4 MR. MICHEEL: It is. And when I ask him
5 questions, we'll go in-camera. It was proprietary, not HC.
6 BY MR. MICHEEL:

7 Q. Let's see. Mr. Nelson, are you familiar with
8 Exhibit 32 that's already been admitted into the record?

9 A. Yes, I am. And I answered questions on this
10 the other day, I believe.

11 MR. MICHEEL: I'm going to have some specific
12 questions about this, your Honor, and since it's
13 proprietary, we're going to have to go in-camera.

14 JUDGE THOMPSON: All right. We will go
15 in-camera at this time. I'm going to trust you,
16 Mr. Micheel, to let me know when we can go back into public
17 session.

18 MR. MICHEEL: I will do my best, your Honor,
19 do my duty.

20 (REPORTER'S NOTE: At this time, an in-camera
21 session was held, which is contained in Volume No. 10, pages
22 858 through 861 of the transcript.)
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1 JUDGE THOMPSON: Okay. We're back in public
2 session. And I don't have any questions for this witness.
3 I haven't heard from the Commissioners, so why don't we
4 simply proceed directly then to redirect and if a
5 Commissioner appears with some questions, we'll just bring
6 you back, Mr. Nelson.

7 MR. RAYBUCK: Thank you, your Honor. I have
8 very brief redirect.

9 CRAIG NELSON testified as follows:

10 REDIRECT EXAMINATION BY MR. RAYBUCK:

11 Q. Mr. Nelson, you were asked some questions by
12 Mr. Dottheim about what the Commission might direct AmerenUE
13 to do to amend the JDA if the Commission determines that
14 that is a condition necessary to approving the Metro East
15 transfer. Do you recall questions by Mr. Dottheim to that
16 effect?

17 A. Yes, I do.

18 Q. And I believe your answers were to the effect
19 that in that context the Commission could direct AmerenUE to
20 make the amendment that you described in your Surrebuttal
21 Testimony. Was that your answer?

22 A. Something similar to that, yes.

23 Q. And by your answer did you mean to comment in
24 any way on the Commission's legal authority to compel
25 AmerenUE to amend the Joint Dispatch Agreement?

1 A. Not at all. I was just saying if the
2 Commission -- what I meant to say was if the Commission did
3 not think the 2.4 million of annual savings was enough, then
4 the company was willing to make that amendment to the JDA
5 which would provide another 7 million in savings per year.

6 MR. RAYBUCK: Thank you. I have nothing else,
7 your Honor.

8 JUDGE THOMPSON: Thank you, Mr. Raybuck.

9 You may step down, Mr. Nelson. As I
10 indicated, I'm not going to excuse you yet.

11 Our next witness I believe is Mr. Voytas.

12 MR. RAYBUCK: That is correct, Judge.

13 JUDGE THOMPSON: Nice to see you again,
14 Mr. Voytas.

15 THE WITNESS: Thank you, Judge.

16 JUDGE THOMPSON: I will remind you that you're
17 still under oath. Why don't you go ahead and spell your
18 last name for the reporter.

19 THE WITNESS: Voytas, V-o-y-t-a-s.

20 JUDGE THOMPSON: Okay. And I think all of
21 your testimony has already been offered and received; is
22 that correct?

23 THE WITNESS: Yes, Judge.

24 JUDGE THOMPSON: So we don't need any direct.

25 Our first cross is Mr. Dottheim.

1 RICHARD VOYTAS testified as follows:

2 CROSS-EXAMINATION BY MR. DOTTHEIM:

3 Q. Afternoon, Mr. Voytas.

4 A. Good afternoon.

5 Q. Mr. Voytas, I was going to ask you some
6 questions which I asked other witnesses to this point
7 regarding in your present employment, whether you also
8 perform work for any of the other Ameren Corporation
9 operating companies?

10 A. Yes, I do.

11 Q. Could you please identify the work that you do
12 perform?

13 A. The work that I perform is primarily of a
14 resource planning nature, forecasting nature, load research
15 nature and ad hoc type corporate analysis nature.

16 Q. And when I was referring to the other Ameren
17 Corporation operating companies, I was referring to
18 AmerenCIPS and AmerenCILCO in addition to AmerenUE.

19 I'd like to ask you a similar question
20 regarding Ameren Corporation subsidiary affiliates such as
21 Ameren Energy, Ameren Energy Resources, Ameren Energy
22 Marketing, Ameren Energy Generating, Ameren Energy Fuels and
23 Services, Cilcorps Energy Services, Inc. Do you perform
24 work for any of those affiliates or subsidiaries of Ameren
25 Corporation?

1 A. Yes.

2 Q. And could you identify the nature of the work
3 that you do perform for them?

4 A. For the companies that you mentioned, we do
5 have a section in my group that is entitled market modeling.
6 They're responsible for developing the forward price curve
7 for electricity, the market price curve for electricity and
8 that information is used by other entities.

9 Q. Okay. Thank you.

10 Mr. Voytas, would you agree that the JDA is a
11 relevant and significant factor in determining the benefits
12 that would occur to Missouri customers from the Metro East
13 transfer?

14 A. My testimony is that the Metro East transfer
15 stands on its own merits.

16 Q. Does the JDA play any factor in determining
17 the benefits from the proposed Metro East transfer?

18 A. The change offered by Mr. Nelson would greatly
19 increase the benefits of the proposed transfer.

20 Q. If I could direct you to Schedule 2 of your
21 Direct Testimony. Now, I have a number of questions which I
22 previously directed to Mr. Nelson regarding your testimony,
23 and I'd like to make similar inquiry of you regarding some
24 of those questions.

25 A. I'm on Schedule 2.

1 Q. What costs that currently are allocated to
2 AmerenUE Illinois customers would be assumed by AmerenUE
3 Missouri customers as a result of the Metro East transfer,
4 assuming it was authorized?

5 MR. RAYBUCK: Your Honor, I'm going to object
6 to this as not being pertinent to this part of the
7 questioning. I understand that there is issue creep, but I
8 believe we're getting into least cost analysis here and I
9 don't understand how this relates to the JDA.

10 JUDGE THOMPSON: Mr. Dottheim?

11 MR. DOTTHEIM: I think it's relevant to the
12 JDA from the question itself, but if there's any question
13 that I've asked that AmerenUE thinks is more appropriate for
14 least cost, I certainly don't have objection to asking it
15 then, so long as I don't get into a situation where it's
16 objected to on the basis of relevance because it's asserted
17 that it's not related to least cost.

18 We, in part, tried to structure the case
19 originally because of its -- at least from the Staff's
20 perspective -- unique nature, trying it on party-by-party
21 basis as opposed to try breaking out discreet issues.

22 And then after being directed by the
23 Commission to break it out into discreet issues, in working
24 with Mr. Lowery, we talked about not attempting to create
25 fine lines between issues which ultimately would prevent

1 cross-examination on the basis that it should have been
2 asked in a different portion of the proceedings.

3 JUDGE THOMPSON: I understand that and I'm
4 sensitive to that. I just want to know, does this question
5 relate to least cost or to JDA?

6 MR. DOTTHEIM: It relates to the JDA.

7 JUDGE THOMPSON: Then the objection is
8 overruled. The witness is instructed to answer, if he is
9 able.

10 THE WITNESS: May I please have the question
11 again?

12 BY MR. DOTTHEIM:

13 Q. Yes. In particular, I'd previously referred
14 you to Schedule 2 of your Direct Testimony. What costs that
15 currently are allocated to AmerenUE Illinois customers will
16 be assumed by AmerenUE Missouri customers as a result of the
17 Metro East transfer, assuming the Metro East transfer is
18 authorized?

19 A. On Schedule 2, the far right column, the
20 bottom line shows a total revenue requirement of
21 approximately 114 million. It is that level of revenue
22 requirement that would be transferred to AmerenUE Missouri.

23 Q. And I'd like to direct you to again on
24 Schedule 2, the bottom half of that schedule, five lines,
25 Fuel and Purchased Power for Load, Other Production

1 Expenses, Fuel and Purchased Power for Interchange,
2 Interchange Sales, Total Production Expenses. And I'd like
3 to direct the next question, in particular, to those lines
4 and the numbers that appear there.

5 Isn't it true that the numbers that appear for
6 those items, those lines are affected by the current form of
7 the JDA?

8 A. That's correct.

9 Q. If the terms of the JDA were changed as the
10 Staff has proposed in testimony, it would have an effect, an
11 impact on the costs that are currently allocated to AmerenUE
12 Illinois that would be assumed by AmerenUE Missouri
13 customers if the proposed Metro East transfer occurred?

14 A. Again, there are two proposals with the JDA.
15 I've done the analysis on the proposal where the interchange
16 margin on sales is done on the basis of generation, that
17 load, and I am familiar with that change. I've not done any
18 analysis on the other and I do not know the answer.

19 Q. Let me then direct my question to the one
20 change that you have performed your analysis on.

21 A. Okay.

22 Q. Can you answer the question?

23 A. Can you repeat the question, please?

24 Q. Yes. If the term of the JDA is changed as the
25 Staff proposes, the one in particular of allocating profits

1 on generation instead of load, would that have an impact, an
2 effect on the costs that are currently allocated to AmerenUE
3 Illinois customers that would be assumed by Ameren, AmerenUE
4 Missouri customers subsequent to a Metro East transfer?

5 A. If the basis for allocating margin on
6 interchange sales is changed from load to generation, that
7 will have the impact of reducing the revenue requirements of
8 the Metro East transfer. Did I answer your question?

9 Q. Yes, sir.

10 A. Okay.

11 Q. And, again, referring you to your Schedule 2,
12 would you agree that subtracting the line labeled Fuel and
13 Purchased Power for Interchange from the line labeled
14 Interchange Sales represents the profit margin for
15 interchange sales allocated to AmerenUE under the current
16 JDA?

17 A. Yes, I would.

18 Q. And this is a question, in particular, if my
19 recollection is correct, that Mr. Nelson suggested I ask
20 you. And it's again in reference to your Schedule 2 and
21 it's in the further most right column, the two line items
22 Fuel and Purchased Power for Interchange and Interchange
23 Sales.

24 Would you agree that the entries for those
25 lines, which are zero, that that is because under the

1 current JDA, any profit margin being allocated to AmerenUE
2 Illinois customers would not be transferred to AmerenUE
3 customers in Missouri subsequent to a Metro East transfer?

4 A. Under the current structure of the JDA, that
5 is true.

6 Q. And if I could direct you to your Schedule 5,
7 again attached to your Direct Testimony, is the \$25 million
8 in savings that is identified on that schedule additional
9 fuel savings to AmerenUE Missouri customers from the
10 proposed Metro East transfer?

11 A. Yes.

12 Q. And what that is is additional fuel savings?

13 A. What that is is dispatching the existing mix
14 of AmerenUE generation resources against its load with and
15 without the UE Illinois service territory and determining
16 the production cost savings.

17 Q. Would you agree that under the present JDA
18 with the joint dispatch of AmerenUE and AEG's generation
19 resources to meet the loads of AmerenUE and AmerenCIPS, that
20 dispatch will be the same with or without the Metro East
21 transfer?

22 A. No. I think it will be very close, but it
23 won't be the same.

24 Q. How would it be different?

25 A. The way the Joint Dispatch Agreement works is

1 that the generation is dispatched to serve the native load,
2 if you will, AmerenUE first. This generation that is --
3 that will come back to UE Missouri will be used to serve
4 AmerenUE first. Today some of that generation is going to
5 AmerenUE Illinois. So there will be, if you will, more of
6 the -- more economic generation available for AmerenUE
7 Missouri customers. That's why there is a savings.

8 Q. Under the terms of the -- under the terms of
9 the current JDA, will Illinois customers of AmerenUE
10 transferred to AmerenCIPS under the proposed Metro East
11 transfer pay the incremental rather than the average cost
12 for AmerenUE generation?

13 A. Yes.

14 Q. If the pricing terms -- and, again, I'm
15 looking at your Schedule 5. If the pricing terms for energy
16 transferred under the JDA change, would that affect the
17 estimate of \$25 million in additional savings?

18 A. In production cost savings?

19 Q. Yes.

20 A. No.

21 Q. Okay. Mr. Voytas, if the Commission were to
22 find that the cost of the combustion turbine alternative to
23 the Metro East transfer was lower than your estimate, would
24 changing the JDA to increase the benefits to the Metro East
25 transfer be an option that AmerenUE would consider in order

1 to effectuate or have the Commission approve the Metro East
2 transfer?

3 A. Mr. Dottheim, I don't understand your
4 question. If I may explain, I believe Ameren Witness Craig
5 Nelson has already specified in his Surrebuttal Testimony
6 the change in the JDA that the company is willing to make.
7 And that -- on that basis, yes, it depends what the price of
8 the CTG would be, but we'd have to do that analysis to see
9 what the cost benefit was.

10 Q. How much additional benefit is associated
11 with changing the JDA from an allocation of profits on load,
12 changing that to an allocation of profits on the basis of
13 generation?

14 A. The -- the change using the most conservative
15 assumptions that we have is an additional 7.4 million per
16 year benefit.

17 Q. Is there a benefit from that change
18 independent of the Metro East transfer?

19 A. Is there a benefit of that change absent the
20 Metro East transfer? I've really not thought about that.
21 Again, Mr. Nelson is our policy witness and the policy
22 statement made by Mr. Nelson is that with the transfer,
23 we're willing to do this change, so I have no comment.

24 Q. You have not performed a quantification of a
25 change in the JDA from allocating profits on the basis of

1 load to allocating profits on the basis of generation
2 independent of the Metro East transfer, have you?

3 A. I -- I don't -- I don't think so.

4 Q. In your estimate of the benefits from a change
5 in the JDA on the basis of changing the allocation of
6 profits, did you include the benefits that such a change
7 would add to the allocation of profits from off-system sales
8 that you estimated for the 597 megawatts of combustion
9 turbine capacity?

10 A. I don't understand your question. Could you
11 repeat it very slow?

12 Q. Yes. I'll try. In your estimate of the added
13 benefits from a change in the JDA, change of the allocation
14 of the profits, did you include the benefits that such a
15 change would add to the allocation of profits from
16 off-system sales that you estimated from -- excuse me, that
17 you estimated for the 597 megawatts of combustion turbine
18 capacity?

19 A. Mr. Dottheim, we did the anal-- is it a yes or
20 no answer?

21 Q. Please provide an answer yes or no, if you
22 can. And if you need to explain, explain.

23 A. I don't know. That's not what my analysis
24 performed.

25 Q. And what did your analysis perform?

1 A. In regards to the Metro East transfer, my
2 analysis performed what impact changing the JDA would have
3 on the Metro East transfer. In regards to the CTG analysis,
4 what we did was we made the assumption that 50 percent of
5 the output -- when the CTGs were in the money, 50 percent of
6 those sales, those margins would be done into the market and
7 would be credited to those CTGs.

8 Q. And you just referred to your market analysis?

9 A. Yes, I did.

10 Q. Okay. In that market-to-market analysis, you
11 assumed, did you not, that only 50 percent of the time that
12 the combustion turbine generators run that they would sell
13 to the off-system market?

14 A. I assume that they run 100 percent of the time
15 when they're in the money and 50 percent of those hours
16 would be selling into the market, yes.

17 Q. Was the profit from the 50 percent of sales
18 all allocated to AmerenUE?

19 A. Yes.

20 Q. In the case of no transfer, would the
21 percentage of profits from off-system sales allocated to
22 AmerenUE change?

23 A. In the case of no transfer, would the
24 allocation change based on --

25 MR. RAYBUCK: Your Honor, I would object to

1 this as being asked and answered. I believe it's been
2 established multiple times that absent Metro East, company
3 would not be proposing to amend a change to the JDA.

4 JUDGE THOMPSON: Objection is sustained.

5 Please move on.

6 BY MR. DOTTHEIM:

7 Q. Mr. Voytas, is there some additional load
8 involved in the JDA beyond just the load of AmerenCIPS?

9 A. The load in the JDA is the load of Ameren
10 Energy Marketing Company, which includes load beyond that of
11 AmerenCIPS.

12 Q. Would you agree that by the current terms for
13 transfer pricing on the JDA, the benefits to AmerenUE are
14 significantly less than the benefits to AmerenCIPS and AEM?

15 A. Would I agree that the benefits -- benefits in
16 terms of operating advantages, in terms of production costs
17 or all of the above?

18 Q. All of the above.

19 A. I haven't done the complete analysis. I don't
20 know.

21 Q. In your Surrebuttal Testimony you present a
22 few options to pricing energy transfers at market price.
23 Did these include a share of the benefits approach and
24 incremental costs plus an adder?

25 A. No, they did not.

1 Q. Mr. Voytas, is it likely that any options for
2 transfer price -- transfer price considered would
3 significantly increase the benefits to Missouri customers
4 from the Metro East transfer?

5 A. Is it likely that any options ---

6 Q. For transfer pricing --

7 A. -- for transfer pricing --

8 Q. -- that would be considered would
9 significantly increase the benefits to Missouri customers
10 from a Metro East transfer?

11 A. Mr. Dottheim, I do not have enough information
12 to answer that question.

13 Q. Mr. Voytas, do you know if there are any
14 transmission charges included in the JDA for AmerenUE's use
15 of the AmerenCIPS transmission system?

16 A. I am familiar with the section of the JDA that
17 refers to transmission charges. I'm not familiar with the
18 actual costs or what they are.

19 Q. Are there transmission charges included in the
20 JDA for AmerenUE's use of the AmerenCIPS transmission
21 system?

22 A. I don't know.

23 Q. And I assume you wouldn't know if there are
24 any charges included in the JDA for AmerenCIPS' use of the
25 AmerenUE's transmission system?

1 A. I don't know.

2 Q. Mr. Voytas, would you anticipate a change in
3 the JDA relative to transmission charges after the Metro
4 East transfer?

5 A. I believe my response on -- on transmission
6 charges was I don't know and I don't know.

7 Q. Okay. Thank you.

8 Do you anticipate changes to the JDA will need
9 to be made prior to AmerenUE's participation in the Midwest
10 ISO's day-ahead energy market?

11 A. We're waiting for final rules to see what it
12 says. Until I see those rules, I can't judge that.

13 Q. Mr. Voytas, earlier this afternoon I had
14 marked as an exhibit Exhibit 52 [sic], a number of pages,
15 documents that have been identified as being associated with
16 a January 15th meeting respecting AmerenUE, the Staff, and
17 the Office of Public Counsel. Do you have a copy of those
18 documents?

19 A. No, I do not.

20 MR. RAYBUCK: I'm sorry. Which exhibit is
21 that?

22 MR. DOTTHEIM: I'm told that I really should
23 be referring to 51. I believe 52 is the JDA.

24 THE WITNESS: Thank you.

25 BY MR. DOTTHEIM:

1 Q. Mr. Voytas, I handed you a copy of what's been
2 marked as Exhibit 51. Do you recognize those documents?
3 A. All three documents are Exhibit 51?
4 Q. Yes, sir.
5 A. Okay. Yes, I do recognize this.
6 Q. And the two sets of multiple documents that
7 are stapled together, do you recognize those as the
8 documents that were distributed on January 15th to the
9 attendees and also e-mailed to attendees in Jefferson City?
10 A. Yes, I do.
11 Q. Okay.
12 MR. RAYBUCK: Mr. Dottheim, if you're going to
13 inquire further, I think we would need to go into an
14 in-camera session.
15 MR. DOTTHEIM: Okay. My inquiry is very
16 limited, but just out of concern that the documents are
17 highly confidential, maybe it's best that we go in-camera.
18 JUDGE THOMPSON: Very well. We will go
19 in-camera at this time.
20 (REPORTER'S NOTE: At this time, an in-camera
21 session was held, which is contained in Volume No. 10, pages
22 879 through 883 of the transcript.)
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1 RICHARD VOYTAS testified as follows:

2 CROSS-EXAMINATION BY MR. DOTTHEIM:

3 Q. Mr. Voytas, would your response to the
4 question I've asked a couple of times -- I've made reference
5 to the AmerenUE generation changing as a result of the Metro
6 East transfer. Would the Ameren Corporation, both
7 AmerenCIPS in addition to AmerenUE, would the dispatch
8 change as a result of the Metro East transfer occurring?

9 A. Okay. Let me make sure I've got the
10 assumptions right. Under the existing JDA structure,
11 post-Metro East transfer, would the dispatch of the Ameren
12 units change?

13 Q. Yes.

14 A. Under the assumption that the load is the same
15 and the generation sources are the same, that should be
16 pretty much close to the same or on a total system basis.

17 MR. DOTTHEIM: Thank you for your patience. I
18 have no further questions at this time.

19 JUDGE THOMPSON: Thank you, Mr. Dottheim.

20 Mr. Micheel?

21 MR. MICHEEL: No questions of Mr. Voytas on
22 this particular issue.

23 JUDGE THOMPSON: Thank you, Mr. Micheel.

24 Okay. At this time I'm going to ask you to
25 step down, Mr. Voytas. We'll bring Mr. Moore back. As I

1 indicated before, Commissioner Clayton had some questions
2 for Mr. Moore.

3 Mr. Moore, I'll remind you that you're still
4 under oath.

5 Commissioner Clayton.

6 JAMES C. MOORE, II testified as follows:

7 QUESTIONS BY COMMISSIONER CLAYTON:

8 Q. Shifting gears is not easy, is it? Changing
9 gears on different issues.

10 First of all, I want to apologize for dragging
11 you back on this issue. It is the position of the company
12 that -- obviously that ITS trading in SO2 allowances are
13 being done in a prudent manner?

14 A. Yes, sir.

15 Q. I'm assuming you're in charge of SO2 allowance
16 trading. Correct?

17 A. Currently I am, yes.

18 Q. Senior trading analyst?

19 A. Senior emissions trader is my title.

20 Q. Sounds awfully high power.

21 A. Yeah.

22 Q. If something with a title including emissions
23 can be cool, it sounds good.

24 If we were to assume that a mistake is made in
25 planning over the course of a long time and that perhaps SO2

1 allowances would run out, does the company believe that --
2 if we make that assumption, that there's a mistake in the
3 trading, that there would be a detriment to the ratepayer in
4 Missouri?

5 A. I think that's a fair assumption, if there
6 were mistakes made that were identified to us.

7 Q. So if there were environmental problems that
8 had to be addressed in the future, that there could be a
9 problem for the ratepayer because the ratepayer would have
10 to pay part of the cost of that?

11 A. That's correct.

12 Q. Okay. Is it the company's position that it is
13 within the Commission's phase 1 order -- or phase 1 credit
14 sale order?

15 A. Yes, sir.

16 Q. So it's your position that you're in
17 compliance with that order?

18 A. Yes, we are.

19 Q. Which means that you have sold not more than
20 half of your SO2 credits?

21 A. That is correct. Well, when you say credits,
22 we have not sold half of our phase 1 allocations.

23 Q. Allocations. I apologize for using terms that
24 may not be applicable. We'll use allowances -- or
25 allocations. Which would you prefer?

1 A. In that particular case, the way the stip is
2 written, it's phase 1 allocation of allowances.

3 Q. Okay. So it is the company's position that it
4 has sold not more than half of its SO2 allowances?

5 A. Much less than half, yes.

6 Q. Is it the position of the company that it has
7 sold any phase 2 allowances?

8 A. Well, as we discussed earlier, it's my belief
9 that -- we have sold allowances that have a vintage of 2000
10 or later, which in this proceeding has been identified as
11 phase 2 allowances. Those phase 2 -- quote, unquote phase 2
12 allowances that were sold were allowances that we earned
13 through trading transactions.

14 Q. Let me ask you to define for me what a phase 2
15 allowance would be. What would that include?

16 A. The way it is understood in this proceeding is
17 that it's an allowance with a vintage of 2000 or later. In
18 the emission business nobody refers to allowances as phase 1
19 or phase 2. It's not a common definition.

20 Q. So it would be a 2000 or later. Is that the
21 year?

22 A. Yes, sir.

23 Q. Okay. And then the phase 1 in terms of this
24 proceeding would mean what?

25 A. Allowances that have a vintage of 1995 through

1 1999.

2 Q. Okay. So then in using this definition of
3 phase 2 as it is mentioned in the testimony, the company
4 would agree that it has sold some of those, quote, phase 2,
5 unquote, allowances?

6 A. Yes, sir.

7 Q. And that would include any allowance from year
8 2000 into the future?

9 A. Correct.

10 Q. Okay. Does the company believe that it needs
11 to request permission to make those sales or is the company
12 within its right to make those sales without permission?

13 A. The company in my -- our position -- the
14 company's position is that we have the right to sell those
15 allowances.

16 Q. I really do not know what the circumstances
17 were in the prior case. Do you know why the Commission
18 granted authority --

19 A. I wasn't the --

20 Q. -- in the prior case? Were you involved in
21 that?

22 A. I'm sorry. Yeah, I was involved initially. I
23 helped prepare the request. I left Ameren's -- I think it
24 was Union Electric at the time -- employment in August of
25 '98 and the Stipulation Agreement was agreed to in I believe

1 December of that year. So I was no longer employed by the
2 company when the stipulation was agreed to.

3 Q. Okay. Would you describe to me the process
4 of -- does the federal government make these allowances
5 for -- grant these credits or does the company have to buy
6 these credits from the company? I'm talking about an
7 initial granting, not trading on a liquid market.

8 A. Okay. The EPA allocates the allowances at a
9 zero cost basis to the company originally. It was
10 originally allocated 30 years after allowances starting in
11 19-- some time in '94 we received '95 through 2024. Every
12 year since then they allocate another year's worth of
13 allowances and we've had allowances allocated through 2033.

14 Q. What are those based on? How do they allocate
15 those to companies?

16 A. The basis for the allocation methodology was
17 the 1990 Clean Air Act Amendments. There was a baseline
18 time frame, and I believe it was '85 through '87 on the heat
19 rate -- heat -- the heat rate -- not the heat rate, the heat
20 input at our power plants. That was given -- that was the
21 basis whereby EPA divided up the total allowances in the
22 country across all power plant units.

23 Q. All power plants or just certain types of
24 power plants?

25 A. All fossil-fired power plants above a certain

1 megawatt level, and I believe it was 50 megawatts.

2 Q. Fifty. So that would bring in all coal and
3 gas?

4 A. Yes, sir.

5 Q. And then there wouldn't be any allowances for
6 hydro?

7 A. Hydronuclear, no, sir.

8 Q. Okay. If we were to make the assumption that
9 there are no changes in environmental policy, say, in the
10 next 10 years, which I pick as an arbitrary date, within the
11 next 10 years, is it the company's position that its bank of
12 SO2 credits would not be depleted under the current
13 strategy?

14 A. If rule -- if the laws were not changed, we
15 currently have enough allowances to comply for the next
16 10 years absent any additional sales trading activity.

17 Q. With no trading activity?

18 A. With some -- definitely with no trading
19 activity. With some trading activity, depending on the
20 amount, there would become -- there would come a time where
21 10 years into the future we would deplete our allowance
22 bank.

23 Q. Are you able to determine if we had no change
24 in environmental policy at the federal policy, at what point
25 in the future would the bank be depleted?

1 A. As it currently stands, it would not be
2 depleted through 2033 unless we engage in additional sales.

3 Q. Okay. The current strategy of trading, does
4 it call for a certain amount to be sold on an annual basis?

5 A. Yes, sir.

6 Q. And how many --

7 A. Currently my direction is that we would do
8 30 million this year, 30 million in 2005, and 30 million in
9 2006. But that is just a -- a budget line item that changes
10 as we enter the year.

11 Q. And how many allowances does the company
12 currently have?

13 A. If you could be more specific as to -- I mean,
14 to answer your question, we have allowances that are -- can
15 be used currently and then, of course, we have all these
16 allowances out through 2033. In total, through --

17 MR. BYRNE: Excuse me, your Honor. I think
18 this might be highly confidential and we need to go
19 in-camera. I apologize for interrupting.

20 COMMISSIONER CLAYTON: I'll tell you what.
21 Before we do that -- because I don't want to take the time
22 to do that. I think I can progress quickly to a conclusion
23 here if you'd give me a second. And as I progress to a
24 conclusion, if it's still HC, then let me know.

25 BY COMMISSIONER CLAYTON:

1 Q. Does it make a difference in your analysis who
2 would be elected President in the fall?

3 A. It's -- it's -- it's an uncertainty. The
4 current administration has policies in place and the EPA is
5 proceeding down this path on the Interstate Air Quality Rule
6 and the Mercury Rules. And it would be my assumption that
7 if a different President was elected, that the EPA direction
8 would be changed -- could be changed dramatically, but most
9 assuredly would be changed somewhat.

10 Q. So the company's analysis would change
11 November 5th, the day after the election, if someone else
12 was elected President?

13 A. Well, the -- we would have to go back and
14 look -- of course, it wouldn't happen overnight because the
15 new administration would take time putting in an EPA chief
16 and it would take time for them to change direction, but it
17 definitely would have an impact, in my opinion.

18 Q. Say if Ralph Nader were elected President,
19 would that be a change in analysis?

20 A. Yes, sir.

21 Q. Significant change?

22 A. Highly significant.

23 COMMISSIONER CLAYTON: I don't think I have
24 any other questions. Thanks for coming back. I appreciate
25 it.

1 THE WITNESS: Thank you for your time.

2 JUDGE THOMPSON: Thank you, Commissioner.

3 Recross based on Commissioner Clayton's
4 questions, Mr. Dottheim?

5 RECROSS-EXAMINATION BY MR. DOTTHEIM:

6 Q. Mr. Moore, in regards to some questions that
7 were asked by Commissioner Clayton which goes back to the
8 matter of phase 1, phase 2, the use of that terminology, is
9 a factor in what you've indicated is those in the industry
10 not using that terminology -- is a factor in that due to us
11 being beyond the time frame for what is generally referred
12 to as phase 1; that is, we are beyond 1999 and we are in --
13 we're 2000 and beyond?

14 A. Yes, sir, it is.

15 Q. As far as the projections or what has actually
16 occurred in the way of sales, swaps, loans, does the company
17 project -- does AmerenUE project that within the next three
18 years it will approach, meet, go beyond the 50 percent limit
19 that appears in the Commission's order in Case
20 No. EO-98-401?

21 A. Assuming that the prices stay relatively high,
22 we're -- in the range where we're at right now in the 250 to
23 300 dollar level, no, we would not approach the
24 800-some-odd-thousand allowance.

25 Q. And as far as your analysis for what is likely

1 to occur or may occur in the way of legislation relating to
2 SO₂, in particular, as far as additional rules or any
3 changes in rules, are there any trade publications in
4 particular that you rely on?

5 A. Yes, sir.

6 Q. And what are those trade publications?

7 A. I read -- Air Daily is an industry trade
8 publication, Environmental Finance is an international
9 magazine devoted to the environmental area. There's Power
10 Daily. There's several magazines that I read on a regular
11 basis.

12 MR. DOTTHEIM: Thank you again, Mr. Moore.

13 THE WITNESS: Thank you.

14 JUDGE THOMPSON: Thank you, Mr. Dottheim.

15 Mr. Micheel?

16 RECROSS-EXAMINATION BY MR. MICHEEL:

17 Q. Commissioner Clayton asked you some questions
18 regarding whether or not AmerenUE would have enough SO₂
19 allowances using its current trading strategy. Do you
20 recall those questions?

21 A. Yes, sir.

22 Q. And I believe that your answer was you would
23 through 2033; is that correct?

24 A. That is what I answered.

25 Q. I want you to assume for me that AmerenUE had

1 a trading strategy to sell -- to achieve \$17.8 million of
2 revenue on a going-forward basis.

3 A. Okay.

4 Q. Is it correct that making that assumption,
5 AmerenUE would only have enough SO2 allowances available to
6 trade through 2010?

7 A. Yes. I indicated earlier that is -- on a
8 quick look yesterday, that is what I determined.

9 Q. Okay. Commissioner Clayton also asked you
10 about phase 2 allowances and you indicated that there were
11 different vintages and that you've done trading and swaps
12 with respect to the phase 2 allowances. Do you recall those
13 questions?

14 A. Yes, sir.

15 MR. MICHEEL: Your Honor, I think I'm going
16 get into a specific number here, so out of an abundance of
17 caution I would just ask that we go in-camera.

18 JUDGE THOMPSON: We will go into closed
19 session at this time.

20 (REPORTER'S NOTE: At this time, an in-camera
21 session was held, which is contained in Volume No. 10, pages
22 896 through 897 of the transcript.)
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1 JAMES C. MOORE, II testified as follows:

2 QUESTIONS BY JUDGE THOMPSON:

3 Q. I have a question for you from Chairman Gaw.

4 A. Okay.

5 Q. One question. And, of course, that means

6 everybody else gets another crack at you, but that's the way

7 it goes.

8 A. Okay.

9 Q. The questions is, can you explain why the

10 company does not believe that it needs approval from the

11 Commission to engage in trafficking of phase 2 SO2 credits?

12 A. It was my understanding that -- when I came

13 back to the company in January of 2000, I spoke with our

14 legal Staff and the wording in the stipulation, I went over

15 that with our attorney at the time, Mr. Jim Cook, and we

16 agreed that it did not preclude us from selling phase 2

17 allowances.

18 Q. That was the Stipulation and Agreement that

19 was placed in evidence some time earlier, I believe?

20 A. From 98-401, I believe. Is that the number?

21 Q. EO-98-401?

22 A. Yes, sir.

23 Q. And that would Exhibit 50?

24 A. Yes, sir.

25 JUDGE THOMPSON: Great. Thank you very much.

1 Mr. Dottheim, do you have any questions based
2 on that?

3 MR. DOTTHEIM: No questions.

4 JUDGE THOMPSON: Mr. Micheel?

5 MR. MICHEEL: No questions.

6 JUDGE THOMPSON: Okay. Mr. Byrne, redirect
7 based on Commissioner Clayton's questions and Commissioner's
8 Gaw question.

9 REDIRECT EXAMINATION BY MR. BYRNE:

10 Q. Just one based on Commissioner Gaw's question.
11 Mr. Moore, is it your interpretation of the
12 Commission's order that the only limitation on our ability
13 to sell SO2 allowances is that we are not allowed to sell
14 50 percent of phase 1 allowances?

15 MR. MICHEEL: I'm going to object. That calls
16 for a legal conclusion.

17 MR. BYRNE: He's been asked questions about
18 this from the Bench. And am I not allowed to clarify what
19 his understanding of the order is?

20 JUDGE THOMPSON: Well, since he's the one in
21 charge of doing the trading and since Commissioner Gaw's
22 question certainly asked him to respond to exactly this
23 point, I'm going to overrule the objection.

24 THE WITNESS: Repeat the question, please.

25 BY MR. BYRNE:

1 Q. Yes. Is it your understanding that the order
2 that we've been discussing in Case No. EO-98-401 permitted
3 the company -- or the only limitation it placed on the
4 company's selling SO2 allowances was that the company could
5 not sell 50 percent of its phase 1 allowances? Is that your
6 understanding?

7 A. That is my understanding.

8 MR. BYRNE: Thank you. No further questions.

9 JUDGE THOMPSON: Thank you. You may step
10 down, Mr. Moore. You're not scheduled to be back, are you?

11 THE WITNESS: No, sir.

12 JUDGE THOMPSON: Then you are excused. Thank
13 you very much for your testimony.

14 THE WITNESS: Thank you, your Honor.

15 JUDGE THOMPSON: Now then, we have Mr. Voytas
16 for questions from the Bench.

17 Do you have any questions for Mr. Voytas?

18 Neither do I.

19 Why don't you step up. Mr. Raybuck, time for
20 redirect. Are you planning to be here tomorrow, Mr. Voytas?

21 THE WITNESS: Yes, Judge.

22 JUDGE THOMPSON: I will warn you all now that
23 when we get to five o'clock, I intend to adjourn.

24 MR. BYRNE: Thank you for taking Mr. Moore
25 before the end of the day.

1 JUDGE THOMPSON: Quite all right. It was my
2 understanding he wasn't going to be back.

3 MR. RAYBUCK: I just have a few questions on
4 redirect, Judge.

5 JUDGE THOMPSON: Very well.

6 RICHARD VOYTAS testified as follows:

7 REDIRECT EXAMINATION BY MR. RAYBUCK:

8 Q. Mr. Voytas, in response to one of
9 Mr. Dottheim's questions, he asked you about your analysis
10 whereby you analyzed the impact of the JDA amendment whereby
11 the company would be allocating the profits based on
12 generation rather than load. Do you recall Mr. Dottheim
13 asking you questions about that?

14 A. Yes, I do.

15 Q. And I believe your answer was that this would
16 reduce the revenue requirements for the Metro East transfer.
17 Was that your testimony?

18 A. That was my testimony.

19 Q. And what does that mean in terms of your least
20 cost analysis?

21 A. That means the merits of the Metro East
22 transfer relative to the case of adding CTGs is further
23 enhanced.

24 Q. Mr. Dottheim also asked you some questions
25 about the load under the JDA. And let me ask you some

1 questions to clarify that. The load -- the load under the
2 gen-- under the JDA is established by -- well, strike that.

3 Do you know if AEM is a party to the JDA?

4 A. Yes, AEM is a party to the JDA.

5 Q. Well, let me correct that. Do you have the
6 JDA in front of you?

7 A. I do not have the JDA in front of me.

8 Q. The parties to the JDA are -- let me get that
9 in front of you.

10 MR. RAYBUCK: May I approach the witness and
11 give him that, Judge?

12 JUDGE THOMPSON: You may.

13 BY MR. RAYBUCK:

14 Q. According to the title page of the -- let me
15 get my copy of it.

16 According to the title page of the Joint
17 Dispatch Agreement, it's an agreement between Union
18 Electric, Central Illinois Public Service Company, and
19 Ameren Energy Generating Company. Correct?

20 A. That's correct.

21 Q. And is it correct then that AEM is not a party
22 to the agreement?

23 A. That's correct.

24 Q. Now, the load under the JDA is determined by
25 the load of Union Electric and AEG, if you know?

1 A. That's correct.

2 Q. And do you know if there is a power supply
3 agreement between AEG and AEM?

4 A. Yes, I do.

5 Q. And what's your understanding of that power
6 supply agreement between AEG and AEM?

7 A. My understanding of that power supply
8 agreement is that it's at a fixed price through 2006.

9 Q. And that's an agreement whereby AEG is selling
10 power to AEM; is that correct?

11 A. That's correct.

12 Q. And so under the Joint Dispatch Agreement, the
13 load -- the combined load is the load of Union Electric and
14 also AEG; is that correct?

15 A. That's correct.

16 MR. MICHEEL: Your Honor, I'm going to ask he
17 not lead this witness. This is redirect, not
18 cross-examination. And I let it go a couple times, but --

19 JUDGE THOMPSON: Thank you, Mr. Micheel.

20 I will warn counsel that you're not allowed to
21 lead the witness on redirect.

22 MR. RAYBUCK: I understand, your Honor. I was
23 intending to clarify what I thought was not going to be
24 something controversial and I will not attempt to lead the
25 witness.

1 BY MR. RAYBUCK:

2 Q. Do you recall the question, Mr. Voytas?

3 A. Could you please repeat it?

4 Q. Well, how would you describe the load of the
5 parties under the Joint Dispatch Agreement?

6 A. The load under the parties to the Joint
7 Dispatch Agreement is either served by AmerenUE or Ameren
8 Energy generating units.

9 Q. Great. Thank you.

10 You were asked by Mr. Dottheim about some of
11 the options that might be addressed by the party -- by the
12 parties under this collaborative process for looking at
13 options to the incremental costs, pricing for system energy
14 transfers. Do you recall questions to that effect?

15 A. Yes, I do.

16 Q. And I believe Mr. Dottheim asked you about
17 certain options and I believe he asked you about a
18 share-the-benefits approach. Am I correct in that regard?

19 A. I remember that.

20 Q. And I believe he also asked you about an
21 option involving the transfer pricing at cost plus an adder?

22 A. That's correct.

23 Q. Now, do you -- I'm not sure the record is
24 clear on this so I would like to clarify that. Do you
25 recall addressing these options in your Surrebuttal

1 Testimony?

2 A. Yes, I do.

3 Q. And let me direct you to page 5 at line 18 of

4 your Surrebuttal.

5 A. Yes, I'm there.

6 Q. And are these the options that could be

7 analyzed, in your view, under the collaborative process that

8 you had referred to in your testimony?

9 A. It was not meant to be a conclusive list.

10 It's just an example of some of the options that could be

11 discussed. I think I state that Staff and OPC may have

12 additional approaches. This is not an all-inclusive list.

13 MR. RAYBUCK: Thank you. I have no other

14 questions.

15 JUDGE THOMPSON: Thank you, Mr. Raybuck.

16 You may step down, Mr. Voytas.

17 It's 10 minutes to 5:00 so we're going to

18 ahead and adjourn for the day. When we return tomorrow,

19 Mr. Kind will be on the stand just as he was at the

20 beginning of the day today. Thank you all very much. We

21 are adjourned.

22 WHEREUPON, the hearing was adjourned until

23 April 1, 2004 at 9:00 a.m.

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Exhibit No. 21
Surrebuttal Testimony of James C. Moore, II

Exhibit No. 43
Company response to OPC Data Request 625
(received as offer of proof)

Exhibit No. 44
Partial response to OPC Data Request 503

Exhibit No. 45
Evolution Market price forecast for SO2

Exhibit No. 46
Company's response to OPC Data Request 665

Exhibit No. 47
SO2 Sales.XLS 2002, 2003, 2004

Exhibit No. 48
Company's response to OPC Data Requests
655, 656, 672

Exhibit No. 49
Allowance Inventory 1/28/04.XLS

Exhibit No. 50
Order approving Stipulation and Agreement in
Case No. EO-98-401

Exhibit No. 51
Company work papers

Exhibit No. 52
Joint Dispatch Agreement