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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

HEARING

April 1, 2004

Jefferson City, Missouri

Volume 11

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.

REPORTED BY:
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1 JUDGE THOMPSON: I think we can go on the
2 record and start with Mr. Kind; is that correct?

3 JUDGE THOMPSON: Very well. And your
4 testimony has already been received.

5 We've made a stipulation, John, in order to
6 avoid the formulaic direct that we do with each witness.

7 I'll remind you, Mr. Kind. You are still
8 under oath. Go ahead and take your seat. I think this
9 reporter knows how to spell your name so first up for cross
10 is Mr. Dottheim.

11 MR. DOTTHEIM: No questions.

12 JUDGE THOMPSON: Thank you.

13 Ameren, would that be Mr. Raybuck?

14 MR. RAYBUCK: Correct, your Honor. We have no
15 questions.

16 JUDGE THOMPSON: Well, you better just sit
17 right back down then, Mr. Kind. Because it's time for
18 questions from the Bench and I don't have any.

19 Who's our next witness? You know, if we're
20 going to be moving like this all day, I'll buy you guys
21 lunch.

22 MR. DOTTHEIM: Dr. Proctor is the next
23 witness.

24 JUDGE THOMPSON: Dr. Proctor, come on up.
25 Who's going to be crossing Dr. Proctor? Mr. Raybuck?

1 MR. RAYBUCK: Yes, sir.
2 (Witness sworn.)
3 JUDGE THOMPSON: Take your seat and state your
4 name for the reporter and spell your last name, if you
5 would, sir.
6 THE WITNESS: Yes. My name is Michael S.
7 Proctor, P-r-o-c-t-o-r.
8 JUDGE THOMPSON: Mr. Dottheim?
9 MR. DOTTHEIM: Yes, Judge. Dr. Proctor has
10 two pieces of testimony, Rebuttal, which has been marked
11 Exhibit 14, and Cross Surrebuttal that's been marked
12 Exhibit 15. The Cross Surrebuttal there's HC and NP
13 versions.
14 On the Joint Dispatch Agreement his Rebuttal
15 Testimony contains some questions and answers on that
16 subject matter. His Cross Surrebuttal is on least cost
17 analysis. Do you want to address at least for purposes of
18 corrections or being offered into evidence both pieces of
19 testimony or just the Rebuttal?
20 JUDGE THOMPSON: He'll be back on the stand
21 later to talk about least cost analysis?
22 MR. DOTTHEIM: Yes, he will.
23 JUDGE THOMPSON: If part of his testimony
24 that's clearly distinguishable relates only to that issue,
25 then let's introduce it at this time and try to, as much as

1 we can, respect the issue divisions we've imposed on the
2 presentation.

3 MR. RAYBUCK: That's acceptable.

4 JUDGE THOMPSON: So you'll go ahead and offer
5 then his Rebuttal at this time?

6 MR. DOTTHEIM: Yes.

7 DIRECT EXAMINATION BY MR. DOTTHEIM:

8 Q. I would first like to ask Dr. Proctor if he
9 has any corrections or changes to make to his Rebuttal
10 that's been marked as Exhibit 14.

11 JUDGE THOMPSON: Absolutely. Go ahead.

12 THE WITNESS: Yes, I do. On page 13 of the
13 Rebuttal Testimony at line 19, make a change. The sentence
14 begins, Commission costs are included, and it says, The
15 economics favor building the combustion turbines. And I
16 want to change -- strike "favor." This is at line 19 on
17 page 13. Strike the word "favor" and insert instead "become
18 more favorable for."

19 I'll repeat it. At line 19 on page 13, strike
20 the word "favor" and insert the words "become more favorable
21 for."

22 BY MR. DOTTHEIM:

23 Q. Dr. Proctor, do you have any other changes to
24 your Rebuttal Testimony?

25 A. No, I do not.

1 MR. DOTTHEIM: And since we're shortened the
2 procedure for introducing exhibits and the witnesses, at
3 this time I would offer Exhibit 14 into evidence.

4 JUDGE THOMPSON: Do I hear any objections to
5 the receipt of Exhibit 14?

6 MR. RAYBUCK: No objections.

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

10 (Exhibit No. 14 was received into evidence.)

11 MR. DOTTHEIM: And I would tender Dr. Proctor
12 for cross-examination.

13 JUDGE THOMPSON: Thank you very much,
14 Mr. Dottheim.

15 Mr. Raybuck?

16 CROSS-EXAMINATION BY MR. RAYBUCK:

17 Q. Good morning, Dr. Proctor.

18 A. Good morning.

19 Q. I have some questions for you on your Rebuttal
20 Testimony, Exhibit No. 14.

21 A. Okay.

22 Q. Would you turn, please, to page 5 of your
23 Rebuttal Testimony, please?

24 A. Yes. I'm there.

25 Q. At line 14 you indicate that if the JDA, Joint

1 Dispatch Agreement, were amended in the two ways that you
2 indicate there, that the economics of the Metro East
3 transfer would significantly increase.

4 Is that your testimony?

5 A. That's my testimony.

6 Q. And so the focus of your testimony regarding
7 the JDA is on the economics of the Metro East transfer?

8 A. That's correct.

9 Q. And you don't focus on reliability of service?

10 A. No.

11 Q. And you don't focus on the adequacy of
12 service?

13 A. No.

14 Q. Instead, your concern is with the financial
15 impact of the Metro East transfer based on the JDA as it
16 currently exists; is that correct?

17 A. That's correct.

18 Q. And you have two concerns and the first one
19 relates to system energy transfers. Correct?

20 A. That's correct.

21 Q. And just so we're all clear, system energy
22 transfers under the JDA are the sales of energy from UE to
23 AEG and vice-versa. Correct?

24 A. I would call it the transfer of energy rather
25 than the sales, but that's fine. Yeah, the sales between

1 the two.

2 Q. Okay. And this would occur when the other
3 generating party needs energy. Correct?

4 A. No. It would occur when -- when the energy
5 from the one entity is less expensive than what it would
6 cost the other entity to produce it.

7 Q. Okay. And when this transfer or sale occurs,
8 under the current JDA it's priced at incremental cost of the
9 generating party providing the energy. Correct?

10 A. That's correct.

11 Q. And the concern that you have in your
12 testimony, if I understand it correctly, relates to the lost
13 opportunities that UE might experience as a result of
14 transferring power to AEG at incremental costs when it might
15 sell that in the market at a higher price. Correct?

16 A. Well, that's a general concern that I have
17 with the existing Joint Dispatch Agreement. My testimony
18 here is really about how changing that Joint Dispatch
19 Agreement would affect the economics of the transfer.
20 But -- but that is a general concern that I have with the
21 Joint Dispatch Agreement.

22 Q. The general concern relates to the lost
23 opportunity that you see UE experiencing?

24 A. That's -- that's a portion of it.

25 Q. Now, regarding the off-system sales concern,

1 just so I understand it, this concern of yours relates to
2 the share of the profits that you believe should belong to
3 UE as a result of the off-system sales as defined in the
4 JDA?

5 A. Again, that's a general concern that I have
6 with the Joint Dispatch Agreement, that profits from
7 off-system sale are allocated based on load rather than some
8 measure of generation or who supplied that generation to --
9 to make the sale.

10 Q. Okay. Is it fair to generalize that for both
11 of these concerns, what we're talking about here is the
12 financial impact on Missouri ratepayers of wholesale sales
13 of UE's power?

14 A. It would clearly have an impact at some future
15 date in some rate case, yes.

16 Q. And it's a financial impact?

17 A. Yes.

18 Q. And with regard to system energy transfers,
19 we're talking about transfers or sales, if you will, from UE
20 to AEG and vice-versa. Correct?

21 A. That's correct. And it -- and it relates
22 to -- also to the transfer of the Illinois property because
23 now you're going to be serving those customers and serving
24 not from -- not from UE generation to UE load, but from UE
25 generation to what's now CIPS load. And you're going to be

1 serving that at incremental cost.

2 Q. Okay. And I understand that you have some
3 concerns about the Metro East transfer, but I'm just trying
4 to isolate what the system energy transfer is all about.

5 A. Right.

6 Q. And I'm trying to see if you would agree that,
7 in effect, it's a wholesale transaction from UE to AEG or
8 vice-versa?

9 A. I agree with that, yes.

10 Q. And with regard to the off-system sales, would
11 you agree that what we're talking about here are sales of
12 power from the combined UE and AEG system to third parties?

13 A. Yes.

14 Q. So, for example, it would be a sale of the
15 combined UE/AEG system to Kansas City Power & Light, for
16 example?

17 A. Whomever, yes.

18 Q. And your concern, as I understand it, is that
19 Missouri ratepayers are not benefiting from these wholesale
20 sales as much as you think they should?

21 A. As a general concern about the Joint Dispatch
22 Agreement, that is my -- one of my concerns, yes.

23 Q. And, again, this is not an adequacy of service
24 concern?

25 A. No.

1 Q. It's a dollars and cents issue for you?

2 A. That's correct.

3 Q. And as a result, this is an item that's

4 ordinarily addressed in a rate case. Correct?

5 A. It would be addressed in a rate case, yes.

6 Q. And you expect that it will be addressed in

7 the next rate case?

8 A. If the Joint Dispatch Agreement doesn't

9 change, it will be, yes.

10 Q. And let's talk about what happens in any rate

11 case with respect to these wholesale sales. For rate-making

12 purposes, isn't it correct that UE's sales in the wholesale

13 market have been used to reduce UE's revenue requirement in

14 a rate case?

15 A. That's correct.

16 Q. And it's a downward adjustment which tends to

17 make rates lower?

18 A. That's correct.

19 Q. And the greater the profits from these

20 wholesale sales, the bigger reduction -- the bigger the

21 reduction in UE's revenue requirements or UE's cost of

22 service. Correct?

23 A. Correct.

24 Q. Now, when setting the company's revenue

25 requirement in a rate case, isn't it correct that you have

1 to consider all of the company's costs in a comprehensive
2 manner?

3 A. That's my understanding.

4 Q. And the profits from these wholesale sales
5 would be one of many factors used in setting rates for Union
6 Electric?

7 A. Yes.

8 Q. Now, you addressed these same issues in a
9 previous case involving AmerenUE; isn't that correct?

10 A. That's correct.

11 Q. And you filed testimony in the company's last
12 electric rate case, EC-2002-1, on the JDA; isn't that right?

13 A. Yes. Except we call it a complaint case
14 rather than a rate case.

15 Q. Okay. And did you read Mr. Nelson's
16 Surrebuttal Testimony in this case?

17 A. Yes, I did.

18 Q. And did you notice that he attached to his
19 Surrebuttal as Schedule 1 the first several pages of your
20 testimony, your Direct Testimony I believe it was, in the
21 complaint case?

22 A. Actually, I didn't notice that, but if you
23 want me to check, I can.

24 Q. Yeah. Let me --

25 A. Well, I can't check. I downloaded his

1 testimony, I did not download his schedules. So I -- I'm
2 not -- wasn't aware of that.

3 MR. RAYBUCK: May I approach the witness, your
4 Honor?

5 JUDGE THOMPSON: You may.

6 BY MR. RAYBUCK:

7 Q. Dr. Proctor, I'm going to show you what's been
8 marked as company -- or Exhibit No. 6. This is Mr. Nelson's
9 Surrebuttal Testimony. Correct?

10 A. Yes.

11 Q. And he has attached to it as Schedule 1 --
12 bear with me.

13 He has attached to it as Schedule 1 portions
14 of the Direct Testimony that you filed in that complaint
15 case; is that correct?

16 A. That appears to be the case, yes.

17 MR. RAYBUCK: And if necessary, we can provide
18 Dr. Proctor with a copy of that.

19 MR. DOTTHEIM: I have a copy I can provide
20 him.

21 MR. RAYBUCK: That would be appropriate.

22 BY MR. RAYBUCK:

23 Q. Dr. Proctor, I believe you now have a copy of
24 part or all of your Direct Testimony in EC-2002-1; is that
25 correct?

1 A. I believe it's only a part. It appears to be
2 the first four pages.

3 Q. Would you turn to page 3, please, of your
4 Direct Testimony in that case? And it's marked as Schedule
5 1, page 3 of 4 to Mr. Nelson's Surrebuttal Testimony.

6 A. Yes.

7 Q. Would you look, please, at line 6 on page 3?
8 You indicate there in your complaint case testimony that the
9 current Ameren JDA is deficient and, as a consequence, its
10 term -- its terms should not be followed with respect to
11 setting the revenue requirements for UE's Missouri retail
12 customers.

13 Did I accurately --

14 A. I think you read it verbatim.

15 Q. If you look at line 14 further down that page,
16 you were recommending in that testimony that UE's allocation
17 of monthly profit margin be increased because of the lost
18 opportunity to sell into the wholesale electricity market
19 that UE experiences when it transfers electricity from its
20 cheaper resources to meet the load requirements for AEG,
21 slash, AEM.

22 Did I read your testimony correctly?

23 A. You did.

24 Q. And so in that complaint case testimony, what
25 you were recommending was to impute revenues to UE for the

1 purpose of setting a revenue requirement for the company in
2 that complaint case; is that correct?

3 A. That's correct.

4 Q. And when I say imputing revenues, the effect
5 would be to reduce UE's revenue requirement?

6 A. That is correct.

7 Q. And these imputed revenues were revenues that
8 UE would have obtained if the JDA had been changed, as you
9 had recommended, so that UE would have a different
10 allocation of the profits from the off-system sales?

11 A. That's correct.

12 Q. And I believe you proposed a specific amount
13 of revenues which you imputed to UE's cost of service in
14 that complaint case; is that correct?

15 A. I did.

16 Q. Do you recall offhand what that amount was?

17 A. No, I do not.

18 Q. But it was a specific dollar amount?

19 A. Yes, that's correct.

20 Q. Now, you'll recall that the parties to the
21 complaint case were able to settle -- to resolve all of the
22 issues to that case; isn't that correct?

23 A. That's correct.

24 Q. And do you recall the lead negotiators for the
25 Commission Staff for that case?

1 A. I believe Bob Schallenberg was the lead
2 negotiator for the Staff.

3 Q. And were you involved in providing advice to
4 Mr. Schallenberg about what would be an appropriate
5 settlement for the Staff?

6 A. Yes.

7 Q. And is it fair to say that the recommendation
8 in your complaint case testimony to impute revenues was
9 taken into account by Mr. Schallenberg when he assessed what
10 a reasonable settlement would be?

11 A. I -- I do not recall.

12 Q. Well, would it be safe to say -- well, you did
13 provide advice to Mr. Schallenberg?

14 A. I did.

15 Q. Would it be fair to say he didn't ignore your
16 advice?

17 MR. DOTTHEIM: I object. I believe the
18 question has been asked and answered.

19 MR. RAYBUCK: I don't believe it has been,
20 your Honor.

21 JUDGE THOMPSON: I think it was. I will
22 sustain the objection.

23 Please move on.

24 BY MR. RAYBUCK:

25 Q. Now, the Joint Dispatch Agreement has not

1 changed since the complaint case. Correct?

2 A. Correct.

3 Q. And so the language of the JDA as it exists

4 today is the same as the language that existed at the time

5 you filed your complaint case testimony?

6 A. That's correct.

7 Q. Now, in your complaint case testimony you

8 raised the same two concerns about the JDA that you have in

9 the current testimony for this case; isn't that right?

10 A. That's correct.

11 Q. And, again, we're talking about the off-system

12 sales and the system energy transfers?

13 A. That's correct.

14 Q. And in your complaint case testimony, you

15 expressed concerns about pricing these system energy

16 transfers at incremental costs. Correct?

17 A. Correct.

18 MR. RAYBUCK: Now, bear with me just a second,

19 Judge.

20 JUDGE THOMPSON: Certainly.

21 MR. RAYBUCK: Temporarily misplaced a

22 document.

23 JUDGE THOMPSON: That's quite all right.

24 MR. RAYBUCK: Judge, I neglected to bring with

25 me Dr. Proctor's entire complaint case testimony with me. I

1 think I can do it without referring to it, but --

2 JUDGE THOMPSON: Well, do you need a recess?

3 Do you have it in the city or --

4 MR. RAYBUCK: I have it at the office down the

5 street.

6 JUDGE THOMPSON: Would you like a recess to go

7 get it?

8 MR. RAYBUCK: Only if it's convenient.

9 JUDGE THOMPSON: We might as well do this

10 right since we're here to do it.

11 MR. RAYBUCK: Let me try it without and it's a

12 question of what Dr. Proctor's comfortable with.

13 BY MR. RAYBUCK:

14 Q. Dr. Proctor, I'm going to refer you to a

15 portion of your complaint case Direct Testimony that's not

16 contained in the first four pages.

17 A. Okay.

18 Q. And if you're not -- I'll paraphrase or quote

19 to you what it says and if you're not comfortable with my

20 statements, we can get the testimony in front of you.

21 A. Sure.

22 MR. DOTTHEIM: Judge, I think I can go up to

23 the eighth floor and obtain copies of Dr. Proctor's

24 testimony from the Staff.

25 JUDGE THOMPSON: I was going to say, there

1 should be some in the building. And you guys have 50
2 lawyers. Dispatch the lowest on the totem pole to run back
3 and get it.

4 MR. RAYBUCK: At this point I don't think
5 that's necessary, Judge.

6 JUDGE THOMPSON: Very well. Please proceed.
7 Did you want to take up Mr. Dottheim's offer?

8 MR. DOTTHEIM: Well, I was going --

9 MR. RAYBUCK: If you want to dispatch one of
10 your lawyers, you can.

11 MR. DOTTHEIM: Well, I was going to suggest
12 that if Mr. Raybuck is going to question Dr. Proctor from
13 Dr. Proctor's testimony in EC-2002-1, that Dr. Proctor have
14 the opportunity to have a copy of that testimony in front of
15 him.

16 JUDGE THOMPSON: Tell you what. We'll take a
17 recess for 10 minutes and why don't you see if you can scare
18 up the testimony. Okay?

19 MR. RAYBUCK: Thank you, Judge. My apologies.

20 (A recess was taken.)

21 JUDGE THOMPSON: We'll go back on the record
22 and you can resume your inquiry.

23 MR. RAYBUCK: Thank you, Judge.

24 BY MR. RAYBUCK:

25 Q. Before we took the break, I was asking you

1 about your complaint case testimony regarding system energy
2 transfers. And I believe, Dr. Proctor, you now have a copy
3 of that Direct Testimony in front of you; is that correct?

4 A. That's correct.

5 Q. Would you turn, please, to page 7 of your
6 Direct Testimony?

7 A. Okay.

8 Q. At line 18, I'm paraphrasing your testimony,
9 you indicated that it was not appropriate for the JDA, in
10 your opinion, to exclude the opportunity cost of forgone
11 sales to the short-term wholesale electricity market in the
12 determination of the price at which energy was transferred
13 from one company to another.

14 Did I capture that accurately -- or part at
15 least?

16 A. Well, what I indicated is that at the time the
17 JDA was entered into, there wasn't a transparent market for
18 energy. And so it would be very difficult to do the
19 transfers at market price.

20 Q. Okay. Thank you. And I was getting to that
21 point.

22 Just for background, you're saying it's not
23 appropriate, but it was understandable because there was no
24 transparent market for electricity at the time. Correct?

25 A. That's correct.

1 Q. And you defined a transparent market in your
2 complaint case testimony. Correct?

3 A. I'm not sure.

4 Q. Well, if you look at line 22, you indicate
5 there, By transparent, I mean a market where the price at
6 which electricity sells is determined by an independent
7 market facilitator and that price is published for everyone
8 to see.

9 A. Yes. Thank you.

10 Q. I stated your testimony correctly, did I not?

11 A. That's correct.

12 Q. And your testimony was that such a transparent
13 market did not exist at the time you wrote that testimony?

14 A. That's correct.

15 Q. And would it be correct to say that such a
16 tran-- such a transparent market still does not exist?

17 A. That's correct.

18 Q. And that's because there is no -- there is no
19 published index for market prices that would meet your
20 definition of transparent; is that correct?

21 A. That's correct.

22 Q. And would you adopt today the same definition
23 of the transparent market that you would like to see
24 occurring in the midwest which would be applicable to
25 AmerenUE's wholesale sales?

1 A. Yes.

2 Q. When do you believe such a transparent market
3 will come into being, if ever?

4 A. December 1st, 2005.

5 Q. And what is the significance of December 1,
6 2005?

7 A. That's when the day-two markets at the Midwest
8 ISO are planned to begin.

9 Q. And what will happen -- what does the day-two
10 market imply, in your judgment?

11 A. The Midwest ISO as an independent facilitator
12 will run both day-ahead and real-time markets and will
13 publish the results on an hourly basis of what the market
14 prices are throughout the Midwest ISO region.

15 Q. Dr. Proctor, you indicated that day-two will
16 come into being, you believe, December 1, 2005.

17 A. 2004, I'm sorry.

18 Q. Okay. And has the implementation date for
19 day-two slipped before?

20 A. Yes. Previously it was March of this year and
21 it has been moved to December.

22 Q. And why has it been moved, if you know?

23 A. Probably several reasons, but primary among
24 those were issues -- unresolved issues with market
25 participants at the Midwest ISO in terms of protection that

1 they would have from congestion costs. But in addition to
2 that was a lack of readiness to -- to begin implementation
3 of those markets in March.

4 Q. Is it fair to say this is a very complex
5 undertaking for the Midwest ISO to prepare to implement
6 day-two markets?

7 A. Yes.

8 Q. Is it likely, in your view, that the
9 day-two -- that the December 1, 2004 date could slip again?

10 A. It -- it possibly could slip somewhat, but I
11 don't expect it to -- there to be much slippage in that
12 date.

13 Q. But if I understand your testimony, it's
14 possible, in your view, that a transparent market for the
15 wholesale sale of electricity, as you would define it, may
16 not occur until some time after December 1, 2004?

17 A. It will not occur before that date. I'm
18 fairly certain of that.

19 Q. And it's possible that it won't occur until
20 after December 1, 2004?

21 MR. DOTTHEIM: I object. The question's been
22 asked and answered.

23 MR. RAYBUCK: Well, I'm trying to clarify what
24 I thought I heard, Judge. I don't believe it's been --

25 JUDGE THOMPSON: I'll allow it for that

1 reason. That's overruled.

2 THE WITNESS: I think my answer before was,
3 you know, anything's possible. Do I consider it highly
4 likely that that date will slip by any significant amount?
5 And my answer is no.

6 BY MR. RAYBUCK:

7 Q. Okay. Thank you.

8 Dr. Proctor, would you agree that other
9 alternatives exist to pricing these system energy transfers
10 then using a transparent market price as you have defined
11 it?

12 A. Yes. I would agree to that.

13 Q. And have you read Mr. Nelson's Surrebuttal
14 Testimony on this issue?

15 A. Yes.

16 Q. Let me direct you to page 11, please, of his
17 Surrebuttal Testimony.

18 A. Do you have a copy -- extra copy available?

19 Q. I do.

20 A. I will --

21 Q. Do you need an extra copy?

22 A. I'm checking.

23 Q. I may have confused you and everybody else.
24 What I'm referring to is Exhibit 6, Mr. Nelson's Surrebuttal
25 Testimony.

1 A. Yes, I have a copy.

2 Q. You have that in front of you?

3 A. Yes.

4 Q. Would you turn, please, to page 11 of that

5 Surrebuttal? And, in particular, to line 16.

6 A. Yes.

7 Q. Mr. Nelson states there, The transfer pricing

8 at market is a complex analysis to perform in light of the

9 fact that there is not a market price clearinghouse from

10 which to obtain accurate hourly market price information.

11 Would you agree with that statement of

12 Mr. Nelson's?

13 A. Well, I would -- I wouldn't word it exactly as

14 he has worded it. I think you need a market price

15 clearinghouse in order to have accurate hourly pricing

16 information. So I don't -- I don't think it's -- I don't

17 know how to perform the analysis without that.

18 Q. All right. Would you agree that this is a

19 complex analysis?

20 A. I don't know what the analysis is, so I don't

21 know whether it's complex or not.

22 Q. Well, I think you've agreed that --

23 A. If you -- let me explain. If you have a

24 market -- if you have what he's calling a market price

25 clearinghouse that gives you hourly market price

1 information, then you don't need to do any analysis to
2 determine what are the hourly prices. Okay?

3 And absent having those hourly prices
4 available to you from a clearinghouse or independent source,
5 I don't know what kind of analysis you would do in order to
6 obtain hourly prices is -- is my testimony.

7 Q. Okay. Well, let me break that down. Would
8 you agree with Mr. Nelson that currently there is not a
9 market price clearinghouse from which to obtain accurately
10 hourly market price information?

11 A. That's correct.

12 Q. And even if such -- even if such a
13 clearinghouse existed today, would you agree with that that
14 it would be difficult to apply that information to an
15 operating scheme under which there is joint dispatch?

16 A. No, I don't agree.

17 Q. Let me ask you this. Would you agree that if
18 you dispatched the UE and the AEG generating units based on
19 an hourly market price, that this could change the dispatch
20 order?

21 A. I guess anything's possible. I wouldn't
22 anticipate that it would change the dispatch order.

23 Q. Currently the -- the UE and the AEG units are
24 dispatched based on their incremental costs?

25 A. That's correct.

1 Q. And if, for example, the system energy
2 transfers were priced at market, wouldn't you agree that
3 that might change the dispatch order?

4 A. Well, let me -- let me work through it. If --
5 and I'm going to have to make a simplifying assumption that
6 there's no congestion within the Ameren system. Okay? Then
7 the market clearing price would be the same everywhere
8 within that system at all generators and at all loads except
9 for losses -- marginal losses.

10 And units, if they are bid at their
11 incremental cost, the least cost units would be dispatched
12 as they are today. And if they're not dispatched that way
13 today, then I would have a concern as to how they're being
14 dispatched today. So I -- no, I don't see any -- that there
15 would be any difference.

16 Q. Okay.

17 A. Let me -- let me add one thing to that. It
18 may be that the efficiencies that are gained from having a
19 region-wide market would result in lower market prices and
20 that some of the units that are dispatched today are higher
21 cost than they need to be under a region-wide dispatch.

22 So in that sense -- and that doesn't have
23 anything to do with the dispatch order, but it does have to
24 do with what I anticipate to be some savings to both
25 AmerenUE and AmerenCIPS from having the market.

1 Q. Okay. Would you agree that there are a number
2 of alternatives besides market pricing -- hourly market
3 pricing which could be studied here?

4 A. Yes.

5 Q. And the company has listed a couple of options
6 in its Surrebuttal Testimony. Are you aware of that?

7 A. Yes, I was.

8 Q. And you agree that those are options which
9 could be studied?

10 A. I believe Mr. Voytas addressed those options
11 in his Surrebuttal Testimony. And one of the options was
12 incremental cost plus an adder. I don't remember what all
13 the options were, but yeah, there's lots of options that
14 could be considered.

15 Q. All right. The bottom of page 5 of
16 Mr. Voytas' testimony is what I think you were looking for.
17 And he references there the cost plus an adder option at
18 line 19; isn't that correct?

19 A. At his Direct rather than Surrebuttal?

20 Q. His Surrebuttal Testimony, excuse me.

21 A. Yes.

22 Q. And he also references another option -- or
23 another alternative which he describes as a
24 share-the-benefits approach?

25 A. Correct.

1 Q. And do you agree that that is an option which
2 could be studied?

3 A. Sure.

4 Q. And is it possible that that could be superior
5 to the use of an hourly market price?

6 A. As an economist, I would have to say no. Now,
7 in terms of efficiency, if -- if you have a highly
8 competitive market, then pricing at market price is --
9 economic theory says is superior. So as an economist, I'd
10 have to say no.

11 There are possibly other issues that would
12 come into play that -- rather than just pure economic
13 efficiency that might need to be taken into consideration in
14 one's definition of superior. So I'd leave that option
15 open. I don't discount these other options.

16 Q. Okay. Thank you.

17 Let me ask you to turn now to your Rebuttal
18 Testimony in this case and let me ask you a few more
19 questions about the system energy transfer issue. Would you
20 turn, please, to page 10 of your Rebuttal Testimony in this
21 case, Exhibit No. 14?

22 A. Okay.

23 Q. At line 7 you state that, Under the current
24 JDA, the remaining UE customers in Missouri would not
25 receive the full benefit of excess-based load generation

1 that would be available to sell into the wholesale spot
2 market for electricity?

3 A. That's correct.

4 Q. And by spot market you're referring to
5 short-term markets. Correct?

6 A. Yes.

7 Q. And we're talking about hourly and next-day
8 energy markets?

9 A. Correct. Or spot markets would include --
10 they may go a little further than just next day. They may
11 be next week. Generally what's called off-system energy
12 sales.

13 Q. And this is the same issue or concern that you
14 raised in your complaint case testimony?

15 A. That's correct.

16 Q. Let me change topics on you now, Dr. Proctor.
17 You indicated that you -- I believe you indicated you'd read
18 Mr. Nelson's Surrebuttal Testimony?

19 A. That's correct.

20 Q. Would you turn, please, to page 9 of his
21 Surrebuttal Testimony?

22 A. I am there.

23 Q. And you've read this before. Correct?

24 A. That's correct.

25 Q. So I take it you're aware that the company is

1 willing to agree to a condition if the Commission concludes
2 that that's necessary for amending the JDA?

3 A. Yes.

4 Q. You're aware of that?

5 A. I'm aware of that.

6 Q. Now, I want you to assume for the moment that
7 the company had not made this offer. And assume further
8 that the JDA is not changed. You have those assumptions in
9 mind?

10 A. Yes.

11 Q. Now, in the next rate case, the Staff could
12 file testimony similar to what you filed in EC-2002-1; isn't
13 that correct?

14 A. That's correct.

15 Q. There's nothing to stop the Staff from filing
16 such testimony or proposing similar adjustments in the next
17 rate case; isn't that correct?

18 A. That's correct.

19 Q. And between now and the next rate case the
20 rates would not increase; isn't that right?

21 A. That's correct. There's a rate moratorium and
22 by definition until -- well, even without a rate moratorium,
23 until you have another case, the rates aren't going to
24 change.

25 Q. Thank you.

1 So ratepayers aren't going to be paying any
2 more until the next rate case?

3 A. Or less.

4 Q. Or less.

5 Now, assume now that the company -- or excuse
6 me. Assume now the opposite. Assume that the Commission
7 concludes that a necessary condition for this transfer is
8 that the company amend the JDA in the manner indicated in
9 Mr. Nelson's testimony. And assume further that the company
10 does make this amendment.

11 A. Okay.

12 Q. Would you agree that this amendment would
13 significantly increase the economics associated with the
14 Metro East transfer?

15 A. I would agree that it increases the
16 economics --

17 Q. Okay.

18 A. -- for the transfer. I don't know -- we may
19 disagree about what significant is.

20 Q. Okay. Well, would you turn, please, to
21 page 10 of Mr. Nelson's Surrebuttal Testimony?

22 A. Yes, I'm there.

23 Q. At line 8 he discusses the impact of the JDA
24 amendment that the company is willing to make; isn't that
25 correct?

1 A. Excuse me. At which line?

2 Q. Line 8?

3 A. Line 8. Yes, that's correct.

4 Q. And he indicates that according to the

5 company's calculations, the JDA amendment that we're talking

6 about here would further decrease future revenue

7 requirements and increase the value of the transfer by

8 approximately \$7 million per year for a total of

9 \$9.5 million per year. That is his testimony. Correct?

10 A. That's his testimony.

11 Q. Now, would you turn, please, now to page 16 of

12 your Rebuttal Testimony?

13 A. I'm there.

14 Q. Beginning at line 7 you refer to -- and

15 continuing on through line 13, you reference some changes

16 which would result in an additional \$10 million per year

17 which would greatly enhance the economics in favor of the

18 Metro East transfer?

19 A. That's correct.

20 Q. And so you were using a \$10 million figure as

21 a ballpark for what would correspond to a significant

22 increase in the economics associated with the Metro East

23 transfer; isn't that correct?

24 A. That's correct.

25 Q. So if you assume that Mr. Nelson's testimony

1 is correct, that with the JDA amendment there would be
2 \$9.5 million of savings per year, wouldn't you agree that
3 this would represent a significant increase in the economics
4 associated with the Metro East transfer?

5 A. Are you asking me to agree with his number?

6 Q. I'm asking you to make the assumption that his
7 numbers are correct.

8 A. I -- I have a hard time doing that, but would
9 I -- the comparison there would be between his 7 million a
10 year and the 10 million that's on page 16 in my testimony.

11 Q. Well, again, assuming that his numbers are
12 correct, his numbers reflect a \$9.5 million savings, and
13 isn't that the same ballpark that you describe in terms of
14 what would greatly enhance the economics associated with the
15 Metro East transfer?

16 A. If you're asking me is 9.5 million
17 approximately 10 million, my answer is yes.

18 Q. That's partly what I'm asking you. And I'm --

19 A. I want to make sure I understand what you're
20 asking me.

21 Q. If you look at line 11 of your Rebuttal --

22 A. Yes.

23 Q. -- your testimony, if I understand it
24 correctly, is that an additional \$10 million per year would
25 greatly enhance the economics in favor of the transfer?

1 A. That's correct.

2 Q. And my question simply is, by greatly
3 enhance --

4 A. Well, it's only 2.4 million in favor of the
5 transfer by AmerenUE's calculations. And adding 10 million
6 per year to that would greatly -- I mean, that's a factor of
7 almost 3 -- over 3.

8 JUDGE THOMPSON: We're going to have to take a
9 recess at this time. I need to go up to the agenda. Be
10 back as soon as I can. I would expect about 10 minutes or
11 so.

12 Mr. Dottheim?

13 MR. DOTTHEIM: Judge, I was just asking
14 whether you could give us a ballpark figure.

15 JUDGE THOMPSON: That's my ballpark.

16 (A recess was taken.)

17 Please proceed.

18 BY MR. RAYBUCK:

19 Q. Dr. Proctor, before we had our recess, I was
20 asking you about page 16 of your Rebuttal Testimony.

21 A. That's correct.

22 Q. And do you still have that in front of you?

23 A. I do.

24 Q. And at line 11 you were referring to an
25 additional \$10 million per year which, in your view, would

1 greatly enhance the economics in favor of the transfer?

2 A. That's correct.

3 Q. And is it fair to say that an additional

4 \$10 million per year represents a yardstick, if you will, by

5 which you would define a significant increase in the

6 economics associated with the transfer?

7 A. Well, right now the transfer is -- let's say

8 it's 2.4 million by the company's calculations, say it's

9 2.5 million. If you multiply that by 4, that gives you 10.

10 So it's a factor of 4 larger. And what I meant by greatly

11 enhance was relative to -- to the 2.4 economic benefit that

12 the company calculated for the transfer. That's what I

13 meant by greatly enhanced.

14 Q. So you took the 2.4 million and multiplied

15 that by 4 to get \$10 million. Is that what your testimony

16 is?

17 A. No. That's not my testimony. My testimony is

18 that in comparison to the 2.4 million, the 10 million

19 greatly enhances that number. It's by a factor of 4.

20 Q. And that's what I was trying to establish. I

21 may not have done the math properly, but the \$10 million is

22 4 times greater than the \$2.4 million?

23 A. That's correct.

24 Q. And the \$10 million represents an amount

25 which, in your view, would greatly enhance the economics?

1 A. Compared to where they are under the company's
2 study, yes.

3 Q. And --

4 A. It's a relative statement.

5 Q. Okay. And I just want to confirm again,
6 assuming that the numbers in Mr. Nelson's testimony are
7 correct, the \$9.5 million per year, that's the same
8 amount -- that's within a half a million dollars of the
9 \$10 million in your testimony that you believe would greatly
10 enhance the economics?

11 MR. DOTTHEIM: Objection. The question's been
12 asked and answered.

13 JUDGE THOMPSON: Read it back, please.

14 THE COURT REPORTER: "Question: And I just
15 want to confirm again, assuming that the numbers in
16 Mr. Nelson's testimony are correct, the \$9.5 million per
17 year, that's the same amount -- that's within a half a
18 million dollars of the \$10 million in your testimony that
19 you believe would greatly enhance the economics?"

20 JUDGE THOMPSON: Objection sustained.

21 Please move on.

22 BY MR. RAYBUCK:

23 Q. Let me ask you this, Dr. Proctor. Would you
24 agree that the amendment to the JDA which the company is
25 proposing would make the Metro East transfer the least cost

1 resource by a very clear margin?

2 A. I would not agree with that, because I do not
3 agree with the company's study as it has been submitted. I
4 don't think it's -- I think it's deficient so my answer is I
5 don't know.

6 Q. Well, again, assuming the \$9.5 million is
7 correct, wouldn't you agree that that would make the Metro
8 East transfer with the amendment the least cost resource by
9 a very clear margin?

10 A. If you assume the \$9.5 million is correct,
11 yes, that's the margin, so --

12 Q. Great. Thank you.

13 MR. RAYBUCK: I have no other questions.

14 JUDGE THOMPSON: Thank you.

15 Mr. Coffman?

16 MR. COFFMAN: No questions.

17 JUDGE THOMPSON: Okay. We're ready for
18 questions from the Bench. And I'll grab this opportunity to
19 ask a few of my own and then we'll allow you to sit down and
20 wait for the Commissioners to appear, which will happen some
21 time today, I'm confident.

22 QUESTIONS BY JUDGE THOMPSON:

23 Q. Dr. Proctor, you oppose this transfer; is that
24 correct?

25 A. I think my testimony is that the company's

1 study that they've performed is deficient. And my Rebuttal
2 Testimony was aimed at what it would take to provide a study
3 that would be -- would eliminate some of those deficiencies.
4 The fact is --
5 Q. So --
6 A. The fact is, I don't -- because the study's
7 deficient, I don't know whether or not the transfer is
8 non-detrimental.
9 Q. Okay. So your position is not so strong as,
10 yes, I oppose this transfer; rather it is you are not
11 persuaded that the analysis performed by the company and the
12 information offered by the company, the results of that
13 analysis, can be taken at face value?
14 A. That's --
15 Q. You believe more information is necessary?
16 A. That's correct.
17 Q. Okay. So it's possible that the transfer
18 could be non-detrimental?
19 A. That's possible.
20 JUDGE THOMPSON: Okay. I think that's all
21 that I have. Thank you. Why don't you go ahead and take a
22 seat and we'll go on to the next witness. Now, we're done
23 with the JDA until we get the Commissioners back and we can
24 pick up with Mr. Kind and Mr. Proctor. Right? Dr. Proctor,
25 excuse me.

1 So we would then be up to Mr. Massmann, is
2 that correct, who's going to tell us about natural gas?
3 MR. BYRNE: That's correct, your Honor.
4 JUDGE THOMPSON: Great. An exciting change of
5 pace.
6 MR. BYRNE: Don't be too excited yet.
7 JUDGE THOMPSON: Natural gas. I've been
8 seeing electricity in my sleep.
9 (Witness sworn.)
10 JUDGE THOMPSON: Go ahead and take your seat,
11 state your name for the reporter and spell your last name,
12 if you would.
13 THE WITNESS: My name is James J. Massmann,
14 M-a-s-s-m-a-n-n.
15 JUDGE THOMPSON: Now, before we get started,
16 let me just -- you're a company witness. Am I right?
17 THE WITNESS: Yes.
18 JUDGE THOMPSON: Okay. Very well, Mr. Byrne.
19 You may inquire.
20 JAMES J. MASSMANN testified as follows:
21 DIRECT EXAMINATION BY MR. BYRNE:
22 Q. Mr. Massmann, do you have any corrections to
23 your pre-filed Surrebuttal Testimony that's been marked
24 Exhibit 17?
25 A. Yes. I have a correction on page 11, line 20.

1 Prior to the words "the highest," I would like to add the
2 word "typically."

3 Q. Okay.

4 A. The sentence should read, Based on the cost
5 allocation methodology that has been used for years,
6 typically the highest priced gas used in the month is
7 charged to the power plants.

8 Q. Okay. Any other changes to your testimony?

9 A. No.

10 MR. BYRNE: With that, I would offer
11 Exhibit 17, your Honor, and tender Mr. Massmann for
12 cross-examination.

13 JUDGE THOMPSON: Very well. Do I hear any
14 objections to the receipt of Exhibit 17?

15 Hearing no objections, the same is received
16 and made a part of the record in this proceeding.

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

18 JUDGE THOMPSON: Cross-examination, Staff is
19 up first. And I take it that Mr. Dottheim is back in the
20 bullpen and that you will be inquiring?

21 MS. SHEMWELL: That is correct.

22 JUDGE THOMPSON: Very well, Ms. Shemwell.

23 CROSS-EXAMINATION BY MS. SHEMWELL:

24 Q. Good afternoon.

25 A. Good afternoon.

1 Q. I'm Lera Shemwell, I represent the Staff of
2 the Public Service Commission.

3 Sir, would you tell me whether you work for
4 any of the following operating companies? Do you work for
5 AmerenUE?

6 A. I work for Ameren Fuels and Services.

7 Q. Do you work for AmerenCIPS?

8 A. We provide services for them on behalf of them
9 through an agreement.

10 Q. General services agreement?

11 A. Yes.

12 Q. Do you do any work for Cilcorps -- Ameren
13 Cilcorps?

14 A. I have not.

15 Q. Besides Ameren -- it's not Ameren Energy Fuels
16 and Services. It's just Ameren Fuels and Services or AFS?

17 A. Ameren Energy Fuels and Services, also known
18 as AFS.

19 Q. Is AFS a part of Ameren Services --

20 A. No.

21 Q. -- AMS? No.

22 What's the nature of your work for AFS?

23 A. I direct the management procurement of gas
24 supplies, transportation, storage and other services for
25 several affiliates of Ameren.

1 Q. We'll refer to it as AFS if that's all right
2 with you. It's an unregulated affiliate. Right?

3 A. Correct.

4 Q. And you buy gas for all the Ameren affiliates?

5 A. Ameren AFS provides services for all those
6 affiliates. I am involved in buying gas for AmerenUE. I
7 have bought gas for AmerenCIPS, Ameren Energy Generating
8 Company, AFS.

9 Q. And you do the gas purchasing for the Alton
10 LDC that's currently part of AmerenUE. Right?

11 A. Correct. I direct a group that does that.

12 MS. SHEMWELL: I'd like to get an exhibit
13 marked, your Honor.

14 JUDGE THOMPSON: Absolutely.

15 Just want you guys to know that I'm impressed.
16 We're approaching the exhibit level seen only in rate cases.

17 This will be No. 53. And how should we
18 describe this, Ms. Shemwell?

19 MS. SHEMWELL: We should describe it as
20 Mr. Massmann's testimony to the Illinois Commerce Commission
21 April 1st, 2003.

22 Mr. Massmann, you already have a copy. Right?

23 THE WITNESS: Yes. Thank you.

24 (Exhibit No. 53 was marked for
25 identification.)

1 MS. SHEMWELL: I'm sorry, Judge. This is
2 exhibit number?

3 JUDGE THOMPSON: 53.

4 MS. SHEMWELL: Thank you.

5 BY MS. SHEMWELL:

6 Q. Mr. Massmann, you filed this last year exactly
7 a year ago at the Illinois Commerce Commission; is that
8 correct?

9 A. Correct.

10 Q. And it's your testimony to the Commission?

11 A. Correct.

12 Q. And the subject matter is generally the gas
13 procurement activities of AmerenUE for the Alton, Illinois
14 gas system?

15 A. Yes.

16 Q. I thought this would be an efficient way to go
17 through this because I think you describe in here, and if
18 you agree with me, that -- just the way you purchase gas,
19 the contracts generally that are available to that system;
20 is that right?

21 A. Yes.

22 Q. If we could just go through a little of this.
23 On page 3 you describe AmerenUE's gas system. It's in
24 Alton, it serves about 18,000 people. And this is an LDC,
25 so primarily it's for heat -- people using natural gas for

1 heating; is that correct?

2 A. Yes. There are some commercial industrial
3 customers also in addition to the residential.

4 Q. You note there about line 57 that the
5 company's customer load requirements are highly weather
6 sensitive with sharp variations in demand during the peak
7 winter season. And I believe March of 2003 was the peak day
8 for this report. Do you remember?

9 A. This testimony is for the year 2002.

10 Q. Correct.

11 A. I'm sorry. I thought you said 2003.

12 Q. You filed it in 2003.

13 A. Yes.

14 Q. Also, on page 3 you describe the connections
15 to the distribution system, one interstate pipeline,
16 Mississippi River Transmission, MRT, which is a FERC
17 regulated, and to an intrastate, which we know is IGT,
18 Illinois Gas Transmission. Right?

19 A. Yes.

20 Q. IGT is an Illinois regulated --

21 A. Yes.

22 Q. -- pipe?

23 And you note that while you have no on-system
24 storage, you store through MRT out of Louisiana?

25 A. Yes.

1 Q. On the next page, page 4, you describe your
2 policy, which is essentially one to serve your customers,
3 and the last line there at 77, in the most economic way.
4 You're indicating that your gas purchasing decisions are
5 made to serve your customers in the most economic way; is
6 that right?

7 A. Yes.

8 Q. And then below that you describe generally the
9 contracts that are available for that area. You have firm
10 transportation service and the storage with MRT that goes
11 to, at line 84, April 30th, 2007?

12 A. Yes.

13 Q. And that firm transportation storage is a
14 12-month contract; is that right? I think if we turn to
15 page 5, you've summarized in the table and you show
16 contract -- are we getting into HC here? I'm assuming not
17 because this was filed as --

18 MR. BYRNE: This is a public document.
19 There's no HC in it.

20 BY MS. SHEMWELL:

21 Q. If we look on page 5, you describe the MRT
22 firm transportation and show that you're taking I believe
23 20,887 MMBtu in the winter and then 18,000 in off-peak
24 months; is that correct?

25 A. Yes.

1 Q. Could we describe that as your primary source
2 of gas for the Alton LDC?

3 A. Yes.

4 Q. Back on page 4 you describe these contracts
5 and the dates through which they extend. The IGT I think
6 extends through October 1, 2006. You say that at page --
7 line -- page 4, line 90 and 91. Right?

8 A. Yes.

9 Q. And then on page 5 we have this summary of all
10 of the various contracts that you have to serve that area?

11 A. Yes.

12 MS. SHEMWELL: Okay. Judge, you will note
13 some of this is blacked out as highly confidential.

14 JUDGE THOMPSON: Okay.

15 MS. SHEMWELL: And this is a nonproprietary
16 version.

17 BY MS. SHEMWELL:

18 Q. If we look at page 11, the question was, Were
19 these gas supplies generally available throughout the year
20 and on peak days? And you said, Yes, they were available
21 with no exceptions.

22 Is that correct at page 11, line 182?

23 A. Yes.

24 Q. On page 12 at line 220 you're talking about
25 storage withdrawals providing no-notice service. Would you

1 describe for us what no-notice service is?

2 A. It may be best described with an example.

3 Q. Sure.

4 A. On a -- on any particular day we'll make a
5 forecast for what the Alton area would need for gas, say
6 it's 4,000 a day. A portion of that may be supplied by base
7 load, a portion by swing and then a portion by storage.
8 Let's say 1,000 was provided by storage.

9 If the forecast comes in at 5,000, 1,000 more
10 than forecasted, the no-notice storage service will allow
11 us, without us making a nomination or a change to any of our
12 supplies or storage, automatically withdraw an additional
13 1,000 MMBtu to supply that demand.

14 Q. Withdraw from storage?

15 A. Yes.

16 Q. With no notice to MRT?

17 A. Correct.

18 JUDGE THOMPSON: Are we going to get -- soon
19 get close to a detriment?

20 MS. SHEMWELL: Well, Judge, the Alton system
21 is what serves Venice and Meramec in the summer.

22 JUDGE THOMPSON: Okay. And you're going to be
23 revealing a possible detriment if this transfer is --

24 MS. SHEMWELL: I certainly hope so.

25 JUDGE THOMPSON: Very well. Please proceed.

1 I wanted to make sure we were on track.

2 BY MS. SHEMWELL:

3 Q. I would like to have another item marked. In
4 response to a data request from Mr. Sommerer, Data Request
5 No. 6, you described the relationship between the Alton
6 system and the power plants. I'm going to hand that to you,
7 sir.

8 JUDGE THOMPSON: Okay. This will be Exhibit
9 54. Thank you.

10 (Exhibit No. 54 was marked for
11 identification.)

12 MS. SHEMWELL: Judge, before we move on, I
13 would like to move for admission of 53.

14 JUDGE THOMPSON: Okay. Do I hear any
15 objections to the receipt of Exhibit 53?

16 MR. BYRNE: No objections, your Honor.

17 JUDGE THOMPSON: The same will be received and
18 made a part of the record of this proceeding.

19 (Exhibit No. 53 was received into evidence.)

20 BY MS. SHEMWELL:

21 Q. Mr. Massmann, this was part of your response
22 to Mr. Sommerer, wasn't it?

23 A. Yes.

24 Q. And you describe the relationship between the
25 Alton LDC and the power plants Meramec and Venice?

1 A. Yes.

2 Q. Where are Meramec and Venice power plants
3 located?

4 A. The Meramec plant is located near the
5 confluence of the Meramec and the Mississippi River in south
6 St. Louis County. The Venice plant is in Venice, Illinois.

7 Q. Thank you.

8 These are both on the MRT pipeline system; is
9 that correct?

10 A. Yes.

11 Q. And how do those power plants use natural gas?

12 A. Each plant has a simple cycle combustion
13 turbine, approximately 50 megawatts each. Those units are
14 dual fuel, they may use either gas or oil. The steam power
15 plant at Meramec also uses natural gas for flame
16 stabilization. It's coal-fired plant, but they use a small
17 amount of natural gas for operation of the plant.

18 Q. And you describe in this first paragraph the
19 power -- they have alternate fuels, but they use gas and,
20 therefore, the gas needs of the Alton service territory and
21 the power plants are complimentary. Correct?

22 A. Yes. That's in the allocation methodology.

23 Q. And in order to save costs for both gas and
24 electric, it was decided to utilize the MRT gas
25 transportation gas contracts for both distribution, your LDC

1 usage, and electrical generation.

2 Have I read that correctly?

3 A. Yes. That's part of the allocation
4 methodology.

5 Q. And joint usage allows the power plants to
6 have no-notice service. So you have described what
7 no-notice service is. Let me see if I understand how the
8 power plants would use that.

9 In the summer if you have peaks, a hot spell,
10 they could draw on these gas supplies on a no-notice basis;
11 is that accurate?

12 A. No-notice service can be provided a couple of
13 ways. One is through storage. They cannot do that in the
14 summertime with storage. It can only be injected into. MRT
15 has a monthly balancing service and that is a no-notice
16 service.

17 Q. So you can take more than had been planned for
18 any particular day, but -- just so you balance out by the
19 end of the month you're not penalized; is that accurate?

20 A. You have some -- some constraints. You need
21 to balance at the end of the month; otherwise, there will be
22 penalties.

23 Q. Okay. Thank you.

24 How long has Meramec been using Alton gas
25 supplies during the summer?

1 A. The Meramec plant is about 50 years old. I do
2 not know how long it's been using natural gas for flame
3 stabilization. It has been using transportation services
4 that are also used for Alton.

5 Q. Would you describe for us what flame
6 stabilization is?

7 A. Inside the boilers there are areas where coal
8 is injected into the boilers. And there's a flame that is
9 established at that point. If the flame goes out, then
10 there will be raw fuel sent in there and there may be a
11 point where it will ignite.

12 The natural gas provides similar to a pilot
13 light. It's an existing flame there to keep that -- that
14 flame or that fire going in the power plant.

15 Q. So you keep the coal burning as it comes in;
16 is that --

17 A. It's like a pilot light. It keeps -- it
18 assures that the coal will burn as it enters.

19 Q. The Venice power plant has also historically
20 used gas resources of the Alton system?

21 A. It's used the Alton's transportation.

22 Q. For use in the summer for electric generation?

23 A. Yes.

24 Q. Venice had, but as I understand, it was
25 retired in 2002, a gas steam boiler at 430 megawatts?

1 A. Yes.

2 Q. Is that right?

3 A. Yes.

4 Q. Was there any time during the summer that you

5 were not able to provide or meet the gas needs for these two

6 systems?

7 A. In systems do you mean the Alton system or the

8 Meramec and Venice plants?

9 Q. I'm sorry. You were not able to meet the

10 needs of the Meramec and Venice plants in the summer?

11 A. I cannot recall any times when we could not.

12 Q. Thank you.

13 I'd like you to turn to page 8, line 7 through

14 9.

15 MS. SHEMWELL: And, Judge, I believe we're

16 going to get into something potentially HC.

17 JUDGE THOMPSON: Which exhibit are we in?

18 MS. SHEMWELL: I'm sorry. We are in

19 Surrebuttal. Mr. Massmann filed Surrebuttal.

20 JUDGE THOMPSON: Very well.

21 THE WITNESS: Excuse me. What page was that?

22 MS. SHEMWELL: Page 8.

23 BY MS. SHEMWELL:

24 Q. You say the peak day demand -- would you

25 describe what the peak day demand is?

1 A. On page 8 --

2 Q. Just --

3 A. -- line 7?

4 Q. Just what a peak day demand -- what that term

5 means.

6 A. Oh, that's when the largest gas demand is

7 required for one of the systems.

8 Q. And generally in the summer that's going to be

9 electric generation; is that right?

10 A. Correct.

11 Q. Possibly a heat spell as an example.

12 And you specifically say, The peak day demand

13 of natural gas for the power plants has been significantly

14 reduced now that is only used by the two peaking gas-fired

15 combustion turbines and for flame stabilization; is that

16 right?

17 A. Yes.

18 Q. Isn't it --

19 MS. SHEMWELL: Judge, are we in-camera?

20 JUDGE THOMPSON: No, we're not.

21 MS. SHEMWELL: We need to go in-camera.

22 JUDGE THOMPSON: Very well. We will go into

23 closed session at this time.

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

25 session was held, which is contained in Volume No. 12, pages

1 964 through 966 of the transcript.)
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1 JAMES J. MASSMANN testified as follows:

2 CROSS-EXAMINATION BY MS. SHEMWELL:

3 Q. So now instead of going over to Alton or I
4 guess having you arrange those resources, the power plants
5 will have to go out and purchase capacity; is that correct?

6 A. Correct. And we do that for the power plants.

7 Q. Do you have any idea what the demand for this
8 capacity will be?

9 A. For the additional units on Venice?

10 Q. No. I'm talking about what interest there
11 might be in this capacity once it's released and put out on
12 the website.

13 A. I'm not sure that I can quantify or describe
14 that. We do a market analysis every month to determine what
15 transportation capacity releases have been made out there.

16 Q. But this particular capacity has not been
17 released for a number of years; is that right?

18 A. Correct.

19 Q. And now whoever obtains gas for these two
20 power plants will have to go out and bid for the capacity?

21 A. Correct. We can rely on interruptible
22 transportation, try and negotiate a discount on that, or go
23 to the capacity release market.

24 Q. So let's say you go to the capacity release
25 market. You release the capacity from Alton. It's possible

1 there will be other bidders; isn't that right?

2 A. Yes.

3 Q. And it's possible that the other bidders could

4 bid this up to the FERC maximum transportation rate.

5 Correct?

6 A. That is possible.

7 Q. And since it hasn't been out there, you don't

8 really know who might be interested?

9 A. It should be the same players that are out

10 there right now.

11 Q. But, again, it hasn't been released so you

12 don't really -- you're not positive who's going to be out

13 there bidding against you?

14 A. It's -- the transportation capacity will be

15 very similar to other transportation that's being released

16 in the markets today.

17 Q. You state that the power plants have always

18 been charged the market value, but they've never actually

19 paid for maximum rates, have they, for this capacity?

20 A. To the extent that the market is less than the

21 maximum rates, they have not.

22 Q. I'd like to describe call options of which I

23 have a somewhat basic knowledge. Tell me if my description

24 is fair. Call option is somewhat similar to a homeowner's

25 policy, you're paying a premium to the insurer and then the

1 buyer is protected from losses incurred above a deductible.

2 MR. BYRNE: Your Honor, I'm going to object.
3 This is outside the scope of his testimony. I don't think
4 he provided any testimony at all about call options. Not
5 only is it outside the scope of his testimony, I don't see
6 any relevance to the potential detriment.

7 JUDGE THOMPSON: As far as scope goes, you
8 know, in Missouri administrative law we have wide open cross
9 so, therefore, you're not limited in scope to whatever was
10 raised in direct.

11 And as to relevance, perhaps you'll explain
12 that to me.

13 MS. SHEMWELL: We are saying that a call
14 option is one way to estimate the value of Alton's supply
15 portfolio that's being lost to the power plants.

16 JUDGE THOMPSON: That seems remote to me, but
17 I'll give you -- I'll give you a little way to go on that.

18 MS. SHEMWELL: Okay. I'm just trying to
19 define call option at this point.

20 BY MS. SHEMWELL:

21 Q. Can we say it's a financial instrument that
22 gives the buyer the right but not the obligation to buy at
23 future contract?

24 A. I think that's a classical definition of call
25 option.

1 Q. And so it can be used to put a limit or a cap
2 on high gas prices?

3 A. It can be employed in that manner.

4 Q. And are call options -- does that provide one
5 way to estimate the value from the Alton's diversified gas
6 supply portfolio that is being lost as a resource for the
7 power plants?

8 A. I cannot make that conclusion.

9 Q. Have you done any study to estimate the value
10 of the supply portfolio and its loss to the Alton -- I mean
11 to the Venice and Meramec plants?

12 A. The magnitude -- the cost of delivered gas to
13 the power plants in 2003 was approximately \$6.3 million.

14 Q. Would you agree with me that with the current
15 system, having the Alton natural gas available to the
16 electric system provided a type of insurance for those
17 systems that gas would be available, transportation -- or
18 capacity would be available to those plants?

19 A. No. The Alton customers receive
20 transportation primarily. The power plants were always
21 interruptible.

22 Q. But you testified earlier, did you not, that
23 they were never interrupted by the LDC?

24 A. The power plants generally use the gas in the
25 summertime when the LDC is -- load's very -- very low. So

1 the likelihood of them being interrupted is fairly small.

2 Q. So while it's called interruptible, it has
3 been equivalent to firm service for the power plants?

4 A. I cannot say it's equivalent to firm service.

5 Q. But they've never been interrupted you just
6 said?

7 A. Correct.

8 Q. Would you describe what the daily spot market
9 is?

10 A. For natural gas --

11 Q. Yes.

12 A. -- supplies?

13 Q. Yes.

14 A. It's typically in any particular day contact
15 suppliers or use an instrument called ICE, InterContinental
16 Exchange where it's essentially a bulletin board you can go
17 out and buy gas.

18 We will go out to either that, which is sort
19 of a market clearinghouse for different prices of gas or go
20 to individual different suppliers, BP, Oxidental Petroleum
21 and those folks and negotiate a price for that particular
22 day only and get delivery for a particular time in the
23 future. It's not a structured deal where it is for several
24 months in the future. Spot is typically for a much shorter
25 period.

1 Q. And you're using that term "typically." Is it
2 typically more volatile than longer term purchases
3 price-wise?

4 A. Spot can be, yes.

5 Q. And would you describe then in comparison the
6 first of the month purchases, the price?

7 A. Another instrument that we use for buying gas
8 is basing it on first of the month pricing. There's several
9 publications out there. One is called Inside FERC where
10 it's a recognized index. And that index is used in the
11 pricing of the gas. We may have a deal that's several
12 months long and we'll say we'll base it on first of the
13 month index for a particular producing region.

14 Q. Thank you.

15 You earlier described the units --

16 MS. SHEMWELL: I don't know if I'm getting
17 into HC, but I may be so I'd rather be cautious.

18 JUDGE THOMPSON: Very well.

19 MS. SHEMWELL: It will just be momentary.

20 JUDGE THOMPSON: We'll go into closed session.
21 I'll remind counsel that you need to make sure that the
22 people in the room are individuals that have the right to be
23 privy to this information. Is the door locked back there or
24 shut at least? Okay. Should symbolically circle the room
25 with a bell and a book and a candle.

1 JUDGE THOMPSON: Go ahead.

2 MS. SHEMWELL: Thank you.

3 BY MS. SHEMWELL:

4 Q. The units are going in at Venice, right --

5 A. Correct.

6 Q. -- the two new units?

7 Are those peaking units?

8 A. Yes.

9 Q. Okay. And it's important when you have a

10 peak, that you have the gas supply; is that right?

11 Otherwise they don't run?

12 A. Those are natural gas-fired units, yes.

13 And -- yes.

14 MS. SHEMWELL: I think that's all I have

15 that's going to be HC. That is all I'm going to have at

16 this instant that's going to be HC. Thank you.

17 JUDGE THOMPSON: What part of that was HC, the

18 fact that they don't run if there's no fuel?

19 MS. SHEMWELL: That units are going in is HC,

20 that they're going to be putting those units in I believe is

21 still HC.

22 JUDGE THOMPSON: Very well. We'll go back in

23 public session.

24 MS. SHEMWELL: I could be informed

25 differently.

1 MR. BYRNE: The fact that we're putting the
2 units in is public.

3 MS. SHEMWELL: Thank you.

4 JUDGE THOMPSON: So none of that needed to be
5 HC?

6 MS. SHEMWELL: I'm afraid that's correct.

7 JUDGE THOMPSON: Ms. Reporter, would you
8 please put that in the public section of the transcript?
9 Thank you.

10 MS. SHEMWELL: Thank you.

11 BY MS. SHEMWELL:

12 Q. Now that -- or if the Commission approves this
13 transfer, the Alton capacity will no longer be available for
14 Venice and Meramec. Correct?

15 A. It may be through capacity release.

16 Q. But they will have to go out and bid on that
17 capacity along with others?

18 A. Correct.

19 Q. And is that process the same as pretty much
20 you described for the daily purchases of gas? You go out on
21 a bulletin board, see what's out there and --

22 A. It's different bulletin boards. Typically
23 what will happen is for the season we will inquire on the
24 bulletin board what capacity is available, we'll bid on it
25 for -- for whatever period that we feel that we need it.

1 Q. So you're going to buy for a longer period
2 than daily for these power plants?

3 A. Well, we're talking transportation or supply?

4 Q. I'm sorry. Transportation.

5 A. Transportation. We may make arrangements
6 where we will get transportation for a longer period. We
7 have not entered into that yet. And with the new plants
8 that we're installing, we're acquiring a certain amount of
9 firm transportation for those.

10 Q. But prior to this, they have no-notice
11 service; is that right? They could just call up Alton on a
12 daily basis -- you see that you're going to have a big need
13 for that day and you arrange for them to take from the Alton
14 system; is that correct?

15 A. Correct. As a new shipper, they will also
16 have that right.

17 Q. You changed a line in your testimony this
18 morning that I was going to inquire about where you say,
19 Typically the LDCs have paid the highest price of gas; is
20 that right?

21 A. Yes.

22 MS. SHEMWELL: I'd like this exhibit marked,
23 Judge. It is Mr. Massmann's response to Data Request
24 No. 67.

25 JUDGE THOMPSON: Very well. This will be 55.

1 MS. SHEMWELL: This is highly confidential.

2 JUDGE THOMPSON: Is this another exhibit?

3 MS. SHEMWELL: This is another exhibit. And I

4 believe portions of that are highly confidential if

5 you'll --

6 JUDGE THOMPSON: Yes, I see that.

7 MS. SHEMWELL: Or proprietary.

8 MS. SHEMWELL: The proprietary is marked

9 exhibit what, Judge?

10 JUDGE THOMPSON: Okay. Hang on just a second

11 here while I finish marking these.

12 I have DR 67 and Mr. Massmann's response,

13 which I've marked HC. I understand it includes some

14 proprietary or highly confidential information; is that

15 correct?

16 MS. SHEMWELL: That's correct.

17 JUDGE THOMPSON: Okay. Then I have a chart

18 which will be Exhibit 56. And how shall we describe this

19 chart?

20 MS. SHEMWELL: We should describe this as

21 portion of Mr. Massmann's response to Dave Sommerer's Data

22 Request No. 15. And it is highly confidential.

23 JUDGE THOMPSON: Okay. That will be Exhibit

24 56-HC.

25 (Exhibit Nos. 55 and 56 were marked for

1 identification.)

2 BY MS. SHEMWELL:

3 Q. Mr. Massmann, as we turn to Exhibit No. 55,

4 you were responsible for the response to Mr. Dave Sommerer's

5 data request; isn't that right?

6 A. Yes.

7 Q. And Mr. Sommerer was asking in terms of these

8 months in light of your comment that the power plant paid

9 the highest price gas why that was not necessarily the case

10 for these months; is that correct?

11 A. Correct.

12 Q. Your response was that you couldn't reply to

13 all those months, but you would provide a response for some

14 months. And if we turn back to the fourth page, which is

15 again in that four-point font, Judge, and marked

16 proprietary, there are some months here where, in fact, the

17 power plant did not pay?

18 A. May I see that? Is that this?

19 Q. Yes.

20 A. Okay. Thank you.

21 Q. They're the six months, we're starting with

22 July 2003.

23 MR. BYRNE: Your Honor, I'm going to object to

24 the question on the grounds of relevancy because I don't

25 think it goes to whether there's a detriment to this

1 transaction. To the extent that power plants may
2 occasionally not have paid the highest possible price for
3 gas, that's beneficial to Missouri customers, not
4 detrimental.

5 MS. SHEMWELL: But he has testified that they
6 are charged the highest price, and I'm showing that that is
7 not necessarily the case.

8 MR. BYRNE: He said typically the highest
9 price. And, again, to the extent Missouri customers get the
10 benefit of lower priced gas, I don't think that goes to
11 whether there's a detriment.

12 MS. SHEMWELL: But it does go to the
13 testimony, Judge.

14 MR. COFFMAN: Your Honor, it does relate
15 directly to his prepared testimony. I would support the
16 Staff.

17 JUDGE THOMPSON: I understand it relates
18 directly to his prepared testimony. And your purpose is to
19 show that we shouldn't believe his testimony?

20 MS. SHEMWELL: Well, that there are some
21 statements that aren't necessarily completely accurate.

22 MR. BYRNE: He changed the testimony to say
23 typically just because of this and it is perfectly accurate.

24 JUDGE THOMPSON: I'm going to sustain the
25 objection.

1 Please proceed.

2 BY MS. SHEMWELL:

3 Q. Mr. Massmann, what is an operational flow

4 order?

5 A. Typically on a peak day there will be

6 constraints on the pipeline. The pipeline will contact us

7 and say that they're in a high-stress situation, they want

8 to maintain the reliability of their system. They will

9 start to contact interruptibles, start interrupting or

10 curtailing some of those interruptibles, contact other

11 shippers and let them know that there is some reliability

12 risk.

13 Q. The power plants will still be reliant on

14 MRT's -- those pipes, right, that pipeline?

15 A. Yes. They are dual fuel plants, but they

16 could get gas.

17 Q. Is MRT fully subscribed?

18 A. It's my understanding.

19 Q. Does NGPL, National Gas Pipeline, also feed

20 into this area?

21 A. NGPL is an upstream pipe. It feeds into

22 Illinois Gas Transmission's line and then eventually into

23 the MRT system.

24 Q. Is NGPL fully subscribed?

25 A. I cannot say. I'm not sure.

1 Q. I'd like to turn to the discussion of the
2 Fisk-Lutesville system. You buy gas for the Fisk-Lutesville
3 system?
4 A. Yes.
5 Q. Where is that system?
6 A. It's in southeastern Missouri.
7 Q. And Ameren has a small LDC in that area, is
8 that right, the Fisk-Lutesville LDC?
9 A. Correct.
10 Q. LDC stands for local distribution company.
11 Right?
12 A. Yes.
13 Q. And NGPL provides storage services for this
14 Missouri LDC?
15 A. Transportation and assorted services, yes.
16 Q. Firm transportation?
17 A. Yes.
18 Q. How much storage and firm transportation do
19 you have under contract for the Fisk-Lutesville system?
20 A. We have a firm transportation service that is
21 shared with the Alton system. A portion, 530 dekatherms, is
22 allocated to the Fisk-Lutesville area. There is also an
23 FTSG contract.
24 Q. You want to say what that means, please?
25 A. It's a -- it's a firm transportation, but it's

1 on a volumetric basis. You pay per each volume that you use
2 rather than paying a monthly reservation. And they also
3 have a DSS, a Delivered Storage Service.

4 Q. And you make the nominations for the gas for
5 Fisk-Lutesville?

6 A. Yes.

7 Q. And nominate means that you supply -- you
8 order supplies from natural gas marketers or suppliers?

9 A. We -- we purchase the gas from the suppliers,
10 then we nominate it onto the pipelines.

11 Q. What contracts are shared between Alton -- did
12 you mention earlier between Alton and Missouri Fisk system?

13 A. Yes. There's one firm transportation
14 contract. It's in the amount of 8,530 dekatherms. 530
15 dekatherms is allocated to the Fisk-Lutesville area.

16 Q. Is that a growing system?

17 A. I do not believe it is.

18 Q. Did you discuss this contract -- this contract
19 that's shared will actually have to be separated; is that
20 correct?

21 A. Union Electric owns the contract at the
22 moment. At the transfer, Union Electric will do a permanent
23 release to AmerenCIPS of 8,000 dekatherms. That will then
24 support the Alton Illinois gas utility.

25 Q. Was there any discussion of this contract in

1 your application, this shared contract in the application?

2 A. I believe it was omitted from the application.

3 I'm not certain of that though.

4 Q. Was it identified in Direct Testimony?

5 MR. BYRNE: I'm going to object on the grounds

6 of whether it was identified in Direct Testimony as

7 irrelevant.

8 MS. SHEMWELL: I'm getting there, Judge.

9 JUDGE THOMPSON: Overruled.

10 Please proceed.

11 BY MS. SHEMWELL:

12 Q. Is this shared contract a -- oh, would you

13 answer that, please, if you know?

14 A. Could you repeat the question?

15 Q. Was this identified in Direct Testimony?

16 A. I'm trying to recall Direct Testimony. I

17 don't recall seeing it in there.

18 Q. Is this a discounted transportation contract?

19 A. Yes, it is.

20 Q. And discounted means that it's less than FERC

21 maximum rates?

22 A. Correct.

23 Q. Can you guarantee that after this contract

24 expires in October 2006, that the Fisk-Lutesville system

25 will continue to get a discounted transportation agreement?

1 A. We receive discounts depending on what the
2 market conditions are. Right now it's possible to get
3 discounts on firm transportation. I can't say what the
4 market conditions will be in 2006.

5 Q. I'd like to ask you a couple of questions
6 about the application in this case. Are you familiar with
7 that -- with the application?

8 A. I have seen it. I am not that familiar with
9 it though.

10 MS. SHEMWELL: Everyone should have a copy of
11 the application. I'm going to refer to a specific page.

12 JUDGE THOMPSON: Okay.

13 BY MS. SHEMWELL:

14 Q. I'd like to refer you to page 6 of the
15 application.

16 MS. SHEMWELL: Since everyone has it and it's
17 been marked -- it's been marked as an exhibit, Judge.

18 JUDGE THOMPSON: The application has been
19 marked as an exhibit?

20 MS. SHEMWELL: Has the application been
21 marked?

22 MR. BYRNE: It's a pleading.

23 MS. SHEMWELL: It's a pleading.

24 JUDGE THOMPSON: Right. It's part of the
25 record as a pleading, but it has not been marked as an

1 exhibit.

2 BY MS. SHEMWELL:

3 Q. And paragraph 14 of the application says,

4 AmerenUE's Missouri gas business is completely separate from

5 its Illinois gas utility business in Alton.

6 That's not quite correct, is it?

7 A. There is an upstream pipe contract that was

8 omitted.

9 Q. AmerenUE's Missouri gas utility business is

10 served from different pipelines than the one which serves

11 Illinois gas?

12 MR. BYRNE: Your Honor, I'm going to object

13 again to this line of questioning. I believe it's

14 irrelevant. We corrected this omission in testimony before

15 that's been filed. I don't know what relevance it is to go

16 over it here.

17 MS. SHEMWELL: The application is and remains

18 incorrect, Judge.

19 JUDGE THOMPSON: Okay. Where did you correct

20 it?

21 MR. BYRNE: We corrected it in Mr. Nelson's

22 testimony and in Mr. Massmann's testimony, both that have

23 been pre-filed.

24 JUDGE THOMPSON: Show me where.

25 MR. BYRNE: Okay. Well, I guess, first of

1 all, Mr. Massmann's entire Surrebuttal Testimony addresses
2 the interrelationship that was pointed out in Mr. Sommerer's
3 testimony. So that corrects it.

4 JUDGE THOMPSON: Well, okay. Let me ask you
5 this. Have you filed an amended application?

6 MR. BYRNE: We have not filed an amended
7 application.

8 JUDGE THOMPSON: Very well. As long as you've
9 not filed an amended application, then I think she can --
10 there's no way you can say it's irrelevant for her to adduce
11 testimony that shows that the assertions in the application
12 are not true. Okay?

13 MR. BYRNE: Okay.

14 JUDGE THOMPSON: So the objection's overruled.
15 You may proceed.

16 MS. SHEMWELL: Thank you, Judge.

17 BY MS. SHEMWELL:

18 Q. Mr. Massmann, I believe I had asked you about
19 the sentence saying that UE's Missouri gas utility business
20 is served from different pipelines than the one that serves
21 Illinois.

22 That's not --

23 A. Directly. The Alton area is served directly
24 by MRT. The Fisk-Lutesville area is served directed by
25 NGPL.

1 Q. And indirectly?

2 A. There's a common contract at NGPL that serves
3 both utilities.

4 Q. And have we established that, in fact, the
5 contracts are not separate and distinct -- completely
6 separate and distinct?

7 A. That's identified in my testimony.

8 Q. Would you like to point us to where that is?

9 A. On page 4, line 10 begins with the question
10 that identifies that and further continues onto page 5.

11 Q. And it reads, Although NGPL is not directly
12 connected to the Alton, Illinois gas utility, it should have
13 been identified in the application as the pipeline that
14 indirectly -- I'm sorry -- that indirectly serves the
15 utility, period. The Alton, comma, Illinois gas utility in
16 the Fitz-Lutesville, Missouri gas utility share one common
17 firm transportation contract.

18 Did I read that correctly?

19 A. Yes.

20 MS. SHEMWELL: Thank you. I have nothing
21 further for this witness. Thank you, Judge.

22 JUDGE THOMPSON: Thank you. I have a question
23 before we go on. Now, let me understand this. Mr. Sommerer
24 has testified to a detriment relating to this gas
25 interrelationship; is that right?

1 MS. SHEMWELL: Are you asking me, Judge?

2 JUDGE THOMPSON: I'm asking whoever would like

3 to answer my question.

4 MR. BYRNE: Not in the company's opinion,

5 but --

6 JUDGE THOMPSON: Ms. Shemwell, is that why his

7 testimony is offered?

8 MS. SHEMWELL: Mr. Sommerer --

9 JUDGE THOMPSON: Yes.

10 MS. SHEMWELL: -- indicates -- believes that

11 there is a detriment, yes, Judge.

12 JUDGE THOMPSON: And then his testimony is to

13 rebut Mr. Sommerer. Is that not right?

14 MS. SHEMWELL: That's what he stated.

15 JUDGE THOMPSON: Then why in the order of

16 witnesses are we having him prior to him?

17 MS. SHEMWELL: The company puts on its case

18 first, I guess.

19 MR. BYRNE: I think our thought was because,

20 you know, the company -- the company bears the burden of

21 proof in this proceeding, their witnesses have gone first no

22 matter what -- whether they only filed Surrebuttal Testimony

23 or whether they also filed Direct.

24 JUDGE THOMPSON: Well --

25 MS. SHEMWELL: I think that's correct, Judge,

1 whoever has the burden of proof goes first.

2 JUDGE THOMPSON: If Staff has injected the
3 issue that there is a detriment because of the interrelated
4 nature of the gas supply, then isn't Staff, in fact,
5 undertaking the burden?

6 MS. SHEMWELL: I don't think Staff should
7 undertake the burden.

8 MR. COFFMAN: I disagree, your Honor. I'm
9 sorry. Excuse me.

10 JUDGE THOMPSON: In terms of logical order and
11 helping the Commission and the Bench understand what is
12 going on in this case, wouldn't it make more sense to put
13 the witness who is injecting the issue be the first witness
14 and then we go on to the rebuttal? I mean --

15 MS. SHEMWELL: Perhaps, but so long as there's
16 no understanding that Staff does not have the burden in this
17 case.

18 JUDGE THOMPSON: You can argue who has the
19 burden in your briefs.

20 MS. SHEMWELL: It is the company's burden.

21 MR. LOWERY: Your Honor, if I can make a
22 suggestion. And this probably would apply, and I think we
23 agree with you, to the transmission issue. Essentially the
24 same situation exists with that issue that's coming up and
25 perhaps we ought to switch the order when we get there and

1 have the Staff witnesses go first.

2 JUDGE THOMPSON: Right. The Commissioners
3 were complaining after -- or during the SO2 allowance issue
4 that we should have heard from Mr. Kind first because it was
5 Mr. Kind who is asserting that there is a detriment to the
6 public if this transfer is approved and that we find that
7 detriment in the SO2 allowances. Okay?

8 Now, without touching the legal issue of who
9 has to prove what, at least rationally it is more
10 understandable if the witness who is saying, hey, wait a
11 minute, here's a detriment is heard first.

12 MR. BYRNE: And, your Honor, even -- I did say
13 the company has the burden of proof and I do believe we have
14 the overall burden of proof, but you may well be correct
15 that when another party injects an issue, perhaps at least
16 with respect to that issue they may bear the burden of
17 proof.

18 JUDGE THOMPSON: Certainly rationally it is
19 easier to understand. That's all I'm saying. The company
20 in its Direct has said not only is there no detriment but,
21 in fact, there are positive benefits and here's what they
22 are. Correct?

23 And then in response, those who are opposing
24 the transfer, they may say, Well, we don't believe company's
25 assertion that these are benefits, plus we've identified

1 other detriments that company hasn't addressed, here's what
2 they are. And then company in rebuttal says, Oh, no, those
3 potential detriments, they don't really exist and here's how
4 come.

5 Isn't that the logical framework that this
6 whole story is unfolding in? And we're sitting here
7 confused as we can be because the witnesses are being
8 presented in backwards order.

9 MR. COFFMAN: Your Honor, if I might suggest,
10 the actual Direct Testimony in this matter has been done in
11 written format --

12 JUDGE THOMPSON: I understand.

13 MR. COFFMAN: -- and it was presented in that
14 format. The company makes its prima fascia case, opposing
15 parties filed rebuttal identifying detriments and the
16 company got the last word in surrebuttal essentially.

17 JUDGE THOMPSON: Absolutely.

18 MR. COFFMAN: I have to respectfully disagree.
19 I think as far as the cross-examination goes during the
20 hearing, that this is the proper order in recognition of the
21 fact that the company does bear the burden of proof.

22 MS. SHEMWELL: And the burden could --

23 MR. COFFMAN: And while opposing parties may
24 bear the burden of production as far as identifying
25 detriments, at no point does the burden shift in my

1 understanding of the law.

2 JUDGE THOMPSON: Like I say, I'm not
3 interested in ruling from the Bench on who has the burden of
4 proof. That's inappropriate. That's a matter for you all
5 to brief. That's a matter for the Commission to decide on
6 the basis of your written arguments and your citations of
7 applicable authorities.

8 I'm simply suggesting that in terms of logical
9 coherence, that if Mr. Sommerer is the one who has injected
10 the issue of how there's a potential detriment to the public
11 interest if this transaction were to be approved and that
12 that detriment is to be found in gas supply contracts and
13 transportation and the like, then it is easier to understand
14 if Mr. Sommerer is presented first. That's all.

15 MS. SHEMWELL: Our position is, Judge, that
16 this company should have filed in Direct, they didn't, their
17 filing was deficient. Staff had to come in. However, we
18 have no opposition to assisting the Commission in any way we
19 can to understand this case.

20 JUDGE THOMPSON: Assuming that it's not going
21 to have any effect on who has the burden of proof, we'll
22 leave that up in the air, I would just simply suggest that
23 for the further issues, whoever it is that's injecting the
24 issues should be heard first.

25 MS. SHEMWELL: Perhaps we can rearrange the

1 schedule over the lunch hour. We're at 11:30.

2 JUDGE THOMPSON: I see that and I understand
3 that.

4 MS. SHEMWELL: And we can submit a schedule
5 too if the parties agree.

6 MR. COFFMAN: Your Honor, we agreed on this
7 order that was to be -- although while we could not agree on
8 the list of issues, we did agree on the order of witnesses.
9 And at this point I would respectfully object to switching
10 the order and want to discuss it with the other parties, but
11 I don't believe it would be proper since this is not the
12 presentation of direct evidence but, in fact,
13 cross-examination and --

14 JUDGE THOMPSON: Well, it is the presentation
15 of the direct because the direct isn't received into the
16 record until the witness takes the stand. So the fact that
17 you may have read it months ago has nothing to do with when
18 it is actually hitting the record. And so all of the
19 pre-filed direct that has not yet been received, for
20 example, legally does not yet exist. It isn't in the record
21 yet.

22 MR. LOWERY: Your Honor, if I might, I believe
23 the company agrees with you. When the order of witnesses
24 was agreed upon, to be perfectly honest and I was involved
25 in that, the logical progression that you're describing

1 didn't occur to me. I think you're correct and the company
2 has no objection to switching that list.

3 JUDGE THOMPSON: You guys can sort it out over
4 lunch. I only offer it as a suggestion. Okay? As a
5 suggestion because it might help those who have to make the
6 decision understand the points that you're raising and the
7 importance of those points and the relevance of those
8 points.

9 I mean, I'm being called upon to make
10 relevance determinations in objections when the relevance
11 is, is that something is going to show that something that
12 he said is true rather than not -- see what I'm saying?
13 Anyway --

14 MS. SHEMWELL: Judge, if I may.

15 JUDGE THOMPSON: You may.

16 MS. SHEMWELL: I believe I have some exhibits
17 that have not been offered into evidence.

18 JUDGE THOMPSON: 54, 55 and 56. Would you
19 like to offer those now?

20 MS. SHEMWELL: I would, Judge.

21 JUDGE THOMPSON: Do I hear any objections to
22 the receipt of Exhibits 54, 55 and 56?

23 MR. BYRNE: Yes, your Honor. My objection was
24 sustained concerning Ms. Shemwell's questions regarding
25 Exhibit 55. So I would object to the admission of

1 Exhibit 55 and I would not object to the admission of the
2 other exhibits.

3 JUDGE THOMPSON: You need to enunciate the
4 basis of that objection.

5 MR. BYRNE: The basis of that objection is the
6 information contained in Exhibit 55 is irrelevant, the same
7 basis that my objection was sustained. And that it
8 discusses instances where lower priced gas was provided to
9 the Alton -- I mean Venice and Meramec power plants and that
10 does not go to the issue of detriment.

11 JUDGE THOMPSON: I seem to recall that this is
12 a multiple-page exhibit and that that question and objection
13 and sustention of that objection went to one page of, what,
14 six or seven pages? Is that correct?

15 MR. BYRNE: Yeah. I think all six or seven
16 pages address the instances where less than -- where lower
17 priced gas was provided to the power plants.

18 JUDGE THOMPSON: Okay. I kind of had a
19 question when you made that objection because although I
20 recall when you made it, you said the fact that they didn't
21 pay the highest price is a benefit to Missouri ratepayers
22 rather than a detriment. So the question occurred in my
23 mind as well then why are you objecting?

24 MR. BYRNE: Because it's irrelevant.

25 JUDGE THOMPSON: Okay. Any response?

1 MS. SHEMWELL: Yes, Judge. The loss of the
2 benefit by paying the lower price, that's going to be lost
3 to the power plants. And so the loss of that benefit is a
4 potential detriment -- or is a detriment.

5 JUDGE THOMPSON: I'm going to sustain the
6 objection.

7 Do you want to offer this as an offer of
8 proof?

9 MS. SHEMWELL: I do. And I would like to note
10 under 536.070, sub 7, I believe, evidence to which an
11 objection is sustained shall at the request of the parties
12 seeking to introduce the same nevertheless be heard and
13 preserved in the record.

14 JUDGE THOMPSON: That's called an offer of
15 proof.

16 Okay. Mr. Coffman?

17 MR. COFFMAN: Yes. I have no questions of
18 this witness.

19 JUDGE THOMPSON: Very well. We're ready for
20 questions from the Bench and I don't have any questions at
21 this time, so we will let you go back and take a seat,
22 Mr. Massmann.

23 Mr. Sommerer, get started with you. Okay.

24 (Witness sworn.)

25 JUDGE THOMPSON: Please state your name and

1 spell your last name for the reporter.

2 THE WITNESS: My name is David Sommerer,
3 S-o-m-m-e-r-e-r.

4 JUDGE THOMPSON: Thank you. You may inquire.

5 MS. SHEMWELL: Thank you.

6 DAVID SOMMERER testified as follows:

7 DIRECT EXAMINATION BY MS. SHEMWELL:

8 Q. Mr. Sommerer, did you prepare testimony for
9 this case?

10 A. Yes.

11 Q. Is that Rebuttal Testimony?

12 A. That's correct.

13 Q. It's been marked -- do you have the exhibit
14 number?

15 A. I believe that's correct, yes.

16 Q. As an exhibit.

17 MS. SHEMWELL: I'm sorry, Judge. I --

18 JUDGE THOMPSON: I'm looking for it right now.
19 It looks like we're talking about Exhibit 18.

20 MS. SHEMWELL: Thank you, Judge.

21 JUDGE THOMPSON: You only had one piece?

22 THE WITNESS: Yes.

23 BY MS. SHEMWELL:

24 Q. Mr. Sommerer, where do you work?

25 JUDGE THOMPSON: We've stipulated to all those

1 questions. All you need to do is offer the evidence and
2 tender the witness.
3 BY MS. SHEMWELL:
4 Q. Mr. Sommerer, do you have any corrections or
5 additions to your testimony?
6 A. No, I do not.
7 MS. SHEMWELL: Judge, I offer Mr. Sommerer for
8 cross.
9 JUDGE THOMPSON: And do you offer Exhibit 18?
10 MS. SHEMWELL: I also offer Exhibit 18. Thank
11 you, Judge.
12 JUDGE THOMPSON: I do hear any objections to
13 the receipt of Exhibit 18?
14 MR. BYRNE: No, objection, your Honor.
15 JUDGE THOMPSON: Very well the same is
16 received and made a part of the record of this proceeding.
17 (Exhibit No. 18 was received into evidence.)
18 JUDGE THOMPSON: Cross-examination,
19 Mr. Coffman?
20 MR. COFFMAN: No questions.
21 JUDGE THOMPSON: Mr. Byrne?
22 MR. BYRNE: Thank you, your Honor.
23 CROSS-EXAMINATION BY MR. BYRNE:
24 Q. Good morning, Mr. Sommerer.
25 A. Good morning, Mr. Byrne.

1 Q. Mr. Sommerer, my understanding is your
2 testimony relates to the natural gas related aspects of this
3 transaction. Is that fair to say?
4 A. That's correct.
5 Q. And my understanding is you've identified two
6 circumstances relating to the common provision of natural
7 gas to the Alton system and in one case to the AmerenUE
8 Fisk-Lutesville system in Missouri and in another case to
9 the Venice and Meramec power plants; is that correct?
10 A. That's correct.
11 Q. And is that the complete universe, in your
12 mind, of natural gas related detriments that could result
13 from this transaction?
14 A. That was the focus of my testimony. I know
15 there are subsequent issues regarding liabilities, common
16 liabilities, common expenses that are scheduled for later in
17 this proceeding.
18 Q. Okay. But other than that, are these all the
19 natural gas related detriments that you've been able to
20 identify or potential detriments that you've been able to
21 identify?
22 A. That's correct.
23 Q. Okay. I'd like to talk about the
24 Fisk-Lutesville issue first. My understanding is that
25 AmerenUE has a single contract with Natural Gas Pipeline

1 Company of America for natural gas transportation that
2 serves both Fisk-Lutesville and Alton, Illinois system; is
3 that correct?

4 A. That's correct.

5 Q. And my understanding is that the maximum daily
6 contract quantity for that contract is 8,553 MMBTUs a day;
7 is that correct?

8 MS. SHEMWELL: He has some HC in that.

9 THE WITNESS: The number that I have is 8,530
10 per day.

11 BY MR. BYRNE:

12 Q. Okay. And that's a firm transportation
13 contract; is that correct?

14 A. That's correct.

15 Q. Okay. And my understanding is 8,000 of that
16 contract, 8,000 MMBtus a day are allocated to the Alton
17 system; is that correct?

18 A. That's correct.

19 Q. And 530 MMBtus a day are allocated to
20 Fisk-Lutesville; is that correct?

21 A. Yes.

22 Q. Okay. And my understanding is that contract
23 runs until October 31st, 2006; is that correct?

24 A. That's correct.

25 Q. And my further understanding is AmerenUE's

1 plans, if and when the Metro East transfer is approved, are
2 that AmerenUE would continue to hold that contract, but it
3 would make a permanent release of the 8,000 MMBtus a day
4 that are used to serve Alton to CIPS. Is that your
5 understanding?

6 A. That's my understanding, yes.

7 Q. Okay. So would it be fair to say -- so since
8 AmerenUE will continue to hold that contract -- and my
9 understanding, it's a discounted contract too; is that
10 correct?

11 A. That is correct.

12 Q. Okay. And would it be fair to say that any
13 detriment to AmerenUE that might occur from the Metro East
14 transfer related to this contract would not occur while the
15 current contract is in effect, at least until October 31st,
16 2006; is that true?

17 A. I can't agree with that statement. There is
18 an issue about when, according to what you proposed, you
19 post it on the pipeline bulletin board, that will be a
20 pre-arranged release, it will require posting. And,
21 therefore, there will be an auction process which could
22 potentially drive that rate over and above the existing
23 discount rate.

24 Q. But it wouldn't -- and the way AmerenUE
25 proposes to handle it, isn't it CIPS that would be bidding

1 for the capacity, not AmerenUE; isn't that correct?

2 A. That is my understanding, yes.

3 Q. So if the auction process, as you postulate,

4 drove the price higher than the discount, it would be CIPS

5 that would have to pay the higher rate; isn't that correct?

6 A. Potentially that's the way it would work. To

7 the extent that AmerenUE would insulate the remaining piece

8 of that contract -- because the invoice would probably

9 change as well. And as far as the accounting through these

10 reconciliations that take place in Illinois and Missouri for

11 gas costs, there would have to be some sort of process to

12 ensure that the discounted rates for the Fisk-Lutesville

13 system stayed the same.

14 Q. Well, you're not saying, are you, that because

15 CIPS had to bid a higher price on that 8,000, that would

16 make AmerenUE pay a higher rate for the 530 MMBtus that it's

17 not releasing? That doesn't affect the amount that's paid

18 for the quantity of gas that's not released, does it?

19 A. That's correct, that's not what I'm saying.

20 Q. Okay. So under any circumstances, AmerenUE

21 would pay the same price for that 530 MMBTUs through

22 October 31st, 2006; isn't that correct?

23 A. To the extent that there was no allocation of

24 the detriment from CIPS back over to AmerenUE through some

25 sort of reconciliation adjustment, that would be correct.

1 Q. And the company hasn't proposed that, have
2 they?
3 A. No, they have not.
4 Q. And if the company did that, you wouldn't
5 allow them to do that, would you? You wouldn't allow them
6 to flow those costs back through the PGA, would you?
7 A. We would argue that issue, yes.
8 Q. Okay. And then even after 2006, I guess my
9 understanding what would happen is that AmerenUE would need
10 to negotiate a new contract with Natural Gas Pipeline
11 Company for the Fisk-Lutesville system; is that correct?
12 A. That is correct.
13 Q. And I guess is one of your -- is your concern
14 about the detriment or one of your concerns about the
15 detriment that the Fisk-Lutesville system would not be able
16 to get the same discount that it has now on NGPL?
17 A. I think the concern is better stated that once
18 you separate those contracts, they may be negotiated
19 separately. We don't have any assurance that they'll be
20 negotiated together. And even if they are negotiated at the
21 same time, they will be separate contracts, separate LDCs so
22 we don't have any assurances that Fisk-Lutesville will have
23 at least as a good a contract rate as the larger Alton LDC
24 system, which historically has been the case.
25 Q. Well, isn't it true that Mr. Massmann has

1 testified in this proceeding that the Fisk-Lutesville
2 contract would be negotiated along together with all the
3 other Ameren contracts on NGPL and that the Fisk-Lutesville
4 customers would benefit from the leverage that the entire
5 Ameren system could bring to those negotiations?

6 A. I've read that testimony and I think that's a
7 hope that Mr. Massmann has, but that's not a guarantee,
8 that's not an assurance that we have that that rate will be
9 the same.

10 Q. Well, do you have any evidence that what
11 Mr. Massmann has testified to is not true?

12 A. I would simply say that it's speculation. And
13 it's difficult to say whether speculation will be true or
14 false in the future.

15 Q. Okay. So you're saying it's speculative
16 whether or not Ameren will be able to leverage all of its
17 systems on NGPL together to benefit the Fisk-Lutesville
18 system? It's speculative whether they will or whether they
19 won't?

20 A. I think the result of that is speculative. I
21 think it's less speculative whether they intend to do it or
22 not. He says they intend to do it. That's not the same
23 thing as a guarantee, but I think it's a good intention.
24 And I really can't say much more than that.

25 Q. Okay. Let's imagine a circumstance where

1 Mr. Massmann was wrong and Mr. Massmann entered into a new
2 contract in 2006 for the Fisk-Lutesville system in which
3 those customers faced unreasonably high costs due to
4 Ameren's failure to properly leverage its position with NGPL
5 or Natural Gas Pipeline Company to the benefit of those
6 customers.

7 Wouldn't it be possible for the Staff or the
8 Office of the Public Counsel -- well, let me back up for a
9 second.

10 My understanding is the costs, like this NGPL
11 transportation costs, are recovered through the company's
12 purchased gas adjustment clause; is that correct?

13 A. That's correct.

14 Q. And it's my understanding that the company
15 makes filings with the Commission to adjust the rate
16 included in its purchased gas adjustment clause?

17 A. That's correct.

18 Q. And it's my understanding that the Staff
19 and -- well, regularly the Staff reviews all of the filings
20 that the company makes under its purchased gas adjustment
21 clause; is that correct?

22 A. On an annual basis there is an audit of those
23 costs.

24 Q. And it's also my understanding that the Staff
25 can and has proposed disallowance in those costs?

1 A. That is correct.

2 Q. Okay. And there would be nothing to prevent
3 you from proposing disallowances in future PGA proceedings
4 involving the Fisk-Lutesville system after October 2006,
5 would there?

6 A. No, I don't believe there would be.

7 Q. Okay. Let me talk about the Alton and Meramec
8 power plants' potential detriment for a minute, if I could.
9 My understanding is that the Alton and the Meramec power
10 plants currently obtain gas through Mississippi River
11 Transmission Corporation's interstate pipeline; is that
12 true?

13 A. That's true.

14 Q. And similar to the situation on NGPL for Fisk
15 and Lutesville, the Alton system also receives natural gas
16 supplies through Mississippi River Transmission?

17 A. That's correct.

18 Q. Okay. And my understanding is that the Alton
19 distribution system basically has first call on the pipeline
20 capacity and the gas supplies as between it and the power
21 plants. Is that your understanding?

22 A. That is my understanding, yes.

23 Q. So basically what it boils down to is when the
24 Alton system doesn't need pipeline capacity and when the
25 Alton system doesn't need gas supplies, that's when they're

1 available for the power plants?

2 A. That is correct.

3 Q. Okay. And my further understanding is to the

4 extent that the power plants use transportation capacity on

5 MRT, that transportation capacity is priced for internal

6 accounting purposes at the capacity release market rate; is

7 that true?

8 A. I think that's the intent of the Ameren study.

9 Whether or not that actually represents the market rate,

10 there are assumptions that are made on those monthly studies

11 in terms of what the length of the releases will be and what

12 releases will be looked at over what time period, but I

13 would say it's an attempt to try and establish what the

14 release rate is for a particular time.

15 Q. Okay. I mean, would it be fair to say the

16 goal is to price it at the capacity release market rate even

17 though there could be arguments about what that rate should

18 be?

19 A. Correct.

20 Q. Okay. And now once the Met-- if and when the

21 Metro East transfer is approved, those power plants, the

22 Venice and Meramec power plants, will have to obtain their

23 own transportation on MRT; is that correct?

24 A. That is correct.

25 Q. And two options that will be available to

1 those power plants is an interruptible contract on
2 Mississippi River Transmission and obtaining capacity in the
3 capacity release markets; is that correct?

4 A. That's correct.

5 Q. Okay. And I guess again I'd like to talk a
6 minute about how this is detrimental to the public. I guess
7 my understanding of that detriment or that potential
8 detriment is that due to the separation of the contracts for
9 the power plants and the Alton system, the power plants
10 might have to pay more for transportation capacity; is that
11 true?

12 A. That is true.

13 Q. And then I guess if they paid more for the
14 transportation capacity, then the company could file a rate
15 case to increase its electric rates; is that true?

16 A. I would say to the extent you have any sort of
17 rate proceeding, whether it's a complaint case or the
18 company files a rate case when those costs flow through the
19 test year, to the extent they're considered, then that would
20 be where the impact is incurred.

21 Q. Okay. Fair enough.

22 But it's true, is it not, that we're in a --
23 AmerenUE's in an electric rate moratorium applicable to both
24 complaint cases and rate increase cases until I think 2006?

25 A. I'm not sure about the time period, but it's

1 my understanding that Ameren is in a rate moratorium.

2 Q. So the impact would come in a rate proceeding
3 instituted as either a complaint or a rate increase case
4 after the end of that moratorium, whatever it happens to be?

5 A. Whenever rates are made effective, that's when
6 the impact would be felt.

7 Q. Okay. And the Commission would have an
8 opportunity to review the costs contained in that complaint
9 case or rate increase case and disallow them if it thought
10 appropriate; isn't that true?

11 A. I think that's potentially true, although
12 there might be some difficulty presented if you have a
13 certain configuration that you've presented here in this
14 case in terms of this is the way it's going to be. You're
15 going to have a stand-alone process for serving Venice and
16 Meramec.

17 I think there's an issue there about how
18 successful the Staff can be in bringing forward whether or
19 not that's appropriate, whether or not the Alton LDC is a
20 viable choice and if that can be used in terms of looking at
21 it and trying to measure the impact.

22 Q. Okay. Because you're not saying, are you,
23 that the Commission would not have the power to disallow
24 costs in a rate case?

25 A. To the extent that there was not pre-approval,

1 I think they have full authority to disallow costs.

2 MR. BYRNE: Okay. Thank you very much. I

3 have no further questions.

4 JUDGE THOMPSON: Thank you, Mr. Byrne.

5 Now time for questions from the Bench and I'm

6 going to have some questions for you, Mr. Sommerer.

7 QUESTIONS BY JUDGE THOMPSON:

8 Q. Would you succinctly state what the detriments

9 are that you see if this transfer is approved?

10 A. Yes. The first detriment relates to this very

11 small system that AmerenUE has in the boot heel.

12 Q. Okay.

13 A. It's called the Fisk-Lutesville system. And

14 we're only dealing with a couple of thousand customers in

15 that system. And traditionally they've relied on a

16 discounted transportation agreement that was shared between

17 the Alton LDC -- and the Alton LDC is over in Illinois and

18 that's what Ameren is proposing to transfer as part of the

19 Metro East case.

20 So my concern was will Missouri still have

21 access to that discounted supply agreement, first of all,

22 until the time that that agreement expires, that's one

23 period. And the second question is, will we still have

24 access to that discounted rate agreement after it expires.

25 The discussion between Mr. Byrne and I about

1 the period before the expiration date really related to the
2 FERC capacity release procedures for permanent releases.

3 Q. Okay. So, in other words, the detriment is
4 that the Fisk-Lutesville LDC may lose access to the
5 discounted supply agreement?

6 A. Especially after the expiration date of the
7 contract, that is absolutely correct.

8 Q. And that's because you believe that
9 Fisk-Lutesville will have to negotiate its own supply
10 agreement separately from the Alton system?

11 A. It either will have to negotiate it or there's
12 no assurance that even if they're negotiated together, that
13 we'll have the same rate as the Alton LDC has.

14 Q. Let's say the transfer doesn't happen. Is
15 there an assurance that they'll continue to enjoy a
16 discounted supply agreement?

17 A. I think that in terms of whether there will be
18 a discount or not is a separate question and that will
19 depend upon market conditions. So there won't be guarantees
20 either way.

21 Q. So then how is there a detriment if there's no
22 guarantee either way?

23 A. Well, we have the current situation where we
24 have a discount. I think it's a valid assumption to say
25 there might be a discount, there could be a discount in the

1 future. To the extent there is and you would have the
2 discount in the Alton LDC and you lose it in the Fisk
3 system, that's a detriment.

4 Q. So you're saying that if the transfer is
5 approved, you believe that the possibility of a discounted
6 supply agreement for the Fisk-Lutesville system is less
7 likely?

8 A. That's correct.

9 Q. Because it has less market power --

10 A. I --

11 Q. -- being small?

12 A. I think that those two systems are married
13 together right now. And all we have is the statement
14 that -- from Mr. Massmann that they intend to negotiate the
15 agreements together.

16 Q. Well, let me ask you a hypothetical question.
17 Because after all, AmerenUE and AmerenCIPS are affiliates
18 within the same corporate family; isn't that right?

19 A. That is correct.

20 Q. Let's say the transfer is approved. As far as
21 you know, is there anything preventing AmerenUE and
22 AmerenCIPS as co-adventurers from negotiating a joint
23 discounted supply agreement for Alton and Fisk-Lutesville?

24 A. Being separate companies, I'm not so sure that
25 that contract can be merged anymore. Right now we're

1 dealing with AmerenUE as an LDC. And I believe their name
2 is on the contract with Natural Gas Pipeline Company, the
3 interstate company.

4 Q. I think the name of that is secret, isn't it?

5 MR. BYRNE: No. That's not secret.

6 JUDGE THOMPSON: Very well.

7 BY JUDGE THOMPSON:

8 Q. Continue.

9 A. And so that being the case when you have two
10 separate LDCs, it could be that you're going to be dealing
11 with two separate contracts.

12 Q. But you don't know, do you?

13 A. I believe that that probably will be the case,
14 that the contract will have to be separate. Or I suppose
15 you could have a situation where Ameren maintains that large
16 capacity level and continues to do a permanent release after
17 it re-institutes the contract. There are a couple different
18 ways you could structure it, but that's the basic of my
19 concern is the assurance that you will have that situation
20 where they are combined.

21 Q. Okay. So how likely would you rate this
22 potential detriment, assuming the transfer goes through?

23 A. In terms of a probability, I really can't give
24 a specific number. I'd say best guess would be it's as
25 likely to happen as not to happen.

1 Q. So 50 percent?

2 A. 50 percent.

3 Q. Okay. And let's say it does happen. All

4 right? Let's say Lutesville is, in fact, treated as a

5 separate contract and let's say that Alton gets a discounted

6 supply agreement and Lutesville does not. What's the money

7 impact we're talking about for the typical ratepayer?

8 A. Okay. And that's an excellent question. And

9 this is where materiality -- you have to define the context

10 of the question. We're dealing with a very small system

11 here and the rates are separate for that very small

12 southeast Missouri system. So all the -- although the

13 impact is only approximately \$10,000 -- and I know that

14 sounds very small --

15 Q. Well, if there's only 1,000 customers, then

16 that makes it big. Right?

17 A. Precisely.

18 Q. Okay.

19 A. And you're dealing with 2,000 customers

20 approximately for Fisk-Lutesville. So 10,000 divided by --

21 Q. Is that 10,000 a month or 10,000 a year?

22 A. It's annual.

23 Q. Okay. So, in other words, you're telling me

24 they're going to pay \$5 more per year?

25 A. Approximately, yes.

1 Q. Are they billed monthly?

2 A. They are billed on a monthly basis.

3 Q. So less than 50 cents per month per customer?

4 A. That would be my estimate of the impact on

5 those customers, yes.

6 Q. Okay. Very well. And that was only one of

7 two detriments you had identified. Right?

8 A. That's correct.

9 Q. What's the other one?

10 A. The other one has to do with the fact that for

11 many years, the Meramec and Venice power plants have relied

12 on dependent -- depended on the gas resources of the Alton

13 local gas company.

14 And any time you have a situation where there

15 is a diversified gas supply portfolio, which Alton has, they

16 have various pricing provisions, those pricing provisions

17 tend to reflect the idea of first of the month pricing,

18 daily pricing, pricing of caps and --

19 Q. Cutting to the chase so that even I can

20 understand it, are you suggesting that if the transfer goes

21 through, then the Meramec and Venice power plants will face

22 higher gas prices?

23 A. That's my belief, yes.

24 Q. Okay. And this, of course, then would be

25 passed through to the Missouri ratepayers who are going to

1 be paying for that electricity. Right?

2 A. That is correct.

3 Q. Okay. And what is the scale of higher gas

4 prices that we're talking about?

5 A. It's a number that is extremely difficult to

6 predict because what Mr. Massmann has suggested is he can

7 re-create the services that he's losing from the Alton LDC

8 on a stand-alone basis, but --

9 Q. First of all, let's isolate that contention.

10 Do you agree or disagree with it?

11 A. I disagree.

12 Q. Why is that, in a simple, succinct statement?

13 A. Right. Stand-alone basis as he suggested,

14 would require contracting for gas on a spot market basis

15 generally. The spot market is highly volatile. It's much

16 more volatile than the monthly market. It's more volatile

17 than obviously fixed price contracts or contracts that you

18 had hedging.

19 Q. So if I understand what you're saying, is that

20 while the mechanism he's pointing to exists and he can try

21 to do what he says he's going to do, you just don't think it

22 would pan out?

23 A. I do not think that you can reconstruct the

24 value that you have with the Alton LDC once it's gone absent

25 injecting a lot more volatility into the gas supply and

1 uncertainty for the Venice power plant.

2 Q. Is that a yes to my question, you just don't
3 think it would happen the way he says it will?

4 A. It is I guess to your question, that's right.

5 Q. Thank you. I'm trying to keep it where I can
6 understand it. All right?

7 Now, does Union Electric have more than one
8 gas pipeline suppliers that it could potentially purchase
9 gas from?

10 A. Yes.

11 Q. Okay. So does Union Electric as a whole, do
12 they buy a lot of gas?

13 A. I would say on a company-wide basis, they're a
14 pretty large buyer of natural gas.

15 Q. So don't they have a certain amount of market
16 power with respect to the suppliers of gas?

17 A. The natural gas market is a deregulated market
18 and your ability to negotiate terms that are significantly
19 different than market prices are somewhat limited. I would
20 say that there is some -- some value in being bigger, but
21 the extent of that value is not tremendous.

22 Q. But isn't that what we were talking about with
23 respect to the first detriment that you identified, the
24 Fisk-Lutesville system, that they were going to be in a poor
25 position to continue to enjoy a discounted supply agreement

1 because they were so small and insignificant?

2 A. Exactly. And I think in the transportation
3 markets, it's a different question. The transportation
4 rates are still regulated by FERC and those are two totally
5 different markets.

6 Q. Okay. So we're not talking transportation,
7 we're talking Meramec and Venice; is that right?

8 A. We're talking both transportation and gas
9 supply when we're talking about Meramec and Venice.

10 Q. Now, in terms of gas supply, you're talking
11 the price of the wellhead; is that correct?

12 A. That's correct.

13 Q. And that's not regulated. Right?

14 A. That is a deregulated market.

15 Q. And can't you buy it from anyone you want?

16 A. You can buy it from whomever you would like.

17 Q. And then you pay to transport that volume of
18 gas, isn't that true, to your place of use?

19 A. That's true.

20 Q. And the transportation we just agreed is
21 regulated?

22 A. That is correct.

23 Q. So I guess I'm failing to understand why
24 Meramec and Venice are going to be left at risk of paying
25 higher gas prices.

1 A. You can picture it as having access to this
2 pool of various gas packages with the Alton LDC that are
3 already in place, they've been negotiated probably on a
4 12-month basis and you have various terms and conditions.
5 You have gas supply packages that can be taken
6 equally. The amount doesn't change on a daily basis. You
7 can have packages that change that you can increase or
8 decrease on a moment's notice. You can have fixed price
9 packages. So you have diversity in that bundle or that
10 package of gas which has value -- tremendous value.
11 Q. Does Union Electric use natural gas at any of
12 its other power plants other than Meramec and Venice?
13 A. I haven't studied that issue. I believe that
14 there are other unregulated power plants out there with
15 their generation operation that have to -- if you have a
16 combustion turbine or you have a combined cycle unit, you're
17 going to have to burn gas. So I believe they have gas needs
18 at various parts of their system.
19 Q. Well, can't they roll the gas needs of Meramec
20 and Venice into a package with all their other plants?
21 A. Well, I think that again, you run into a
22 situation of what the needs of -- are of those power plants
23 and what the delivery points are for the power plants
24 because even though the markets -- the gas --
25 Q. So you're saying no, they cannot?

1 A. No, I don't believe they can. I think it's
2 difficult to do that.

3 Q. Okay. Now, you referred to Meramec and Venice
4 as unregulated plant?

5 A. No. Meramec and Venice are regulated Missouri
6 power plants.

7 Q. Okay. And the power they produce, where is it
8 currently being used, if you know, or if it's even possible
9 to state?

10 A. I think it's difficult to state where that
11 power goes.

12 Q. But as far as you know, would you say that
13 they are using the output of those plants to serve their
14 regulated Missouri load?

15 A. A significant portion of that power output,
16 it's my understanding that that is for Missouri regulated
17 load or Illinois load to serve needs of regulated customers.

18 Q. Okay. Now, you told me that you did not
19 believe they could roll the gas needs of Meramec and Venice
20 into a package with the gas needs of their other Missouri
21 plants. Right? You told me that?

22 A. I don't believe that they can roll the gas
23 needs into --

24 Q. That's just a yes or no. Yes, you told me
25 that or, no, I'm an idiot, I didn't understand. Okay? Yes

1 or no?

2 A. I don't believe that I said that. I don't
3 agree that -- I may have misinterpreted your question.

4 Q. Okay. Because this is an important one and I
5 want to make sure that I do understand your testimony here.

6 Can they or can they not buy power for the
7 Meramec and Venice plants as part of a package with power
8 they buy for other power plants that they own and operate?

9 A. I don't know the answer to that question.

10 Q. You do not know. Okay. Very well.

11 What do you think Mr. Massmann would say, if
12 you have any idea, to that question?

13 A. My belief is, is that for the historical way
14 of serving those power plants or buying gas for those power
15 plants, they have not combined load because you would be
16 combining gas supply that's destined for an unregulated
17 power potentially --

18 Q. I understand historically they've been
19 supplying those plants through the Alton gas supply; isn't
20 that right?

21 A. That's correct.

22 Q. That's the whole problem here is that that's
23 not going to be available, you're suggesting. Right?

24 A. Correct.

25 Q. So I guess they're going to be supplying then

1 if the transfer goes through in a new way. Right?

2 A. Correct.

3 Q. And I'm wondering why this new way couldn't be

4 such that it's just as good from the point of view of the

5 ratepayers as the old way.

6 A. Well, one of the answers is -- to try and get

7 at that question, those power plants are tied to a

8 particular pipeline, Mississippi River Transmission

9 Pipeline. You can't source gas off of another pipeline.

10 Q. So what you're saying is they're tied to a

11 single supplier?

12 A. They are tied to a particular pipeline. There

13 might be many suppliers in the field area.

14 Q. The supply of transportation?

15 A. Precisely.

16 Q. Think of transportation as a service and

17 they're only connected to one pipeline you're saying?

18 A. Right.

19 Q. So as far as transportation goes, they've got

20 to buy from that one pipeline?

21 A. That's right.

22 Q. Okay. But pipeline costs are regulated, you

23 said?

24 A. That's correct.

25 Q. So does it matter which pipeline they buy

1 from?

2 A. Well, again, you only have the one pipeline
3 choice.

4 Q. But it's regulated?

5 A. And it is regulated, although you have the
6 possibility of negotiating discounts.

7 Q. Okay.

8 A. And you do have choices on that pipeline.
9 There are various forms of transportation. Firm
10 transportation is really the highest priority, but it's the
11 most expensive. Capacity release is another option on that
12 same pipeline. You also have interruptible transportation,
13 possibly more costly under certain circumstances than the
14 existing --

15 Q. Well, let me ask you this. Let's say the
16 transfer goes through, but nonetheless, they continue to
17 supply power to those plants through their Alton arrangement
18 just as they've been doing in the past and they account for
19 it through some sort of inter-affiliate transfer. Isn't
20 that possible?

21 A. They may run afoul of certain problems because
22 they're with a separate company.

23 Q. When you say "run afoul of certain problems,"
24 exactly what are those certain problems?

25 A. Well, right now they have internal capacity

1 releases for the Alton system. It's outside of the FERC
2 bulletin board process. I don't think they could have those
3 types of releases, those types of buy and sell releases when
4 you have a separate company.

5 I think that's why Ameren is suggesting that
6 they're going to have to post this capacity, if they indeed
7 do post it, on the bulletin board once the capacity is
8 controlled by Central Illinois Public Service Company.

9 Q. That they would have to post it then for
10 bidding and that kind of thing?

11 A. Correct.

12 Q. And that's simply because it would be between
13 two different but related companies?

14 A. That's correct.

15 Q. Do you think Mr. Massmann would agree with
16 your testimony on that point or not?

17 A. He's probably here. I don't know if he would
18 agree or disagree.

19 Q. Okay. I mean, I guess I'm trying to get just
20 how certain are you on that?

21 A. I am very certain that they would have to post
22 that capacity, they could not do an internal release. I
23 don't think it would be consistent with FERC procedures.
24 That's why the FERC has under Order 636 required this
25 capacity release process so that you can have an open

1 process.

2 Q. I mean, I guess I'm trying to understand why
3 the Alton system couldn't simply buy more gas than it needs
4 and sell that extra gas to AmerenUE to use at Meramec and
5 Venice. They can't do that?

6 A. Well, I think that the Alton system will
7 continue to buy the gas that it needs. And at some point
8 there's going to be situations where they have gas that they
9 don't need. Now, whether or not the power plants can still
10 get access to that supply I think is very questionable.

11 Q. What happens today when the customer buys more
12 gas than they need? What do they -- what can they do with
13 it?

14 A. They try and optimize that resource by either
15 posting the capacity if it's transportation. If it's gas
16 supply, you try and do an off-system type sales arrangement
17 and that's, in essence, what we have with the current
18 situation.

19 Q. That might be where they're trying to sell it
20 for the largest amount of money the market will bear?

21 A. Exactly.

22 Q. But what if they're selling it to a friendly
23 buyer that's not arm's length?

24 A. Well, I think what Ameren is suggesting is
25 that they try and protect the LDC by -- this is a rule, they

1 haven't really followed this rule -- allocating the highest
2 cost of gas over to the power plant. So it's an allocation
3 process that goes on where you have enough supply there,
4 you've nominated or you've ordered enough supply for not
5 only your Alton LDC but your power plants as well and you go
6 ahead and make that allocation then on a monthly basis.

7 Q. Let me ask you this. When gas is transported
8 from the wellhead to the point of use while it's in the
9 pipeline, is that gas -- is it ever the case that the gas is
10 owned by a middleman who then sells it at the delivery point
11 to the user?

12 A. That can happen, yeah. That would be called a
13 bundled deal, bundled arrangement.

14 Q. Why couldn't they do a bundled arrangement
15 where they sell the gas at the point of use part to Alton,
16 part to power plant?

17 A. I think to the extent that Alton had excess
18 supply available and it was now under the control of CIPS as
19 they're suggesting and there was excess supply available,
20 that opportunity may exist to the extent it's consistent
21 with --

22 Q. In other words, hypothetically let's say
23 Ameren Fuels and Services buys the gas. And Ameren Fuels
24 and Services then sells the gas at the point of use either
25 to AmerenUE at the Meramec and Venice power plants or to

1 AmerenCIPS at the city gate for the Alton LDC. Could they
2 do an arrangement like that?

3 A. I -- it may come under the affiliate
4 transaction rules of this Commission to the extent that
5 there is a transaction that is between sister companies. So
6 you have those pricing provisions that are in play, but --

7 Q. That simply ensures that the regulated entity
8 isn't subsidizing an unregulated entity; isn't that correct?

9 A. I think that's one of the main focuses, yes.

10 Q. So couldn't they structure this so that those
11 rules were satisfied in terms of the value that was being
12 transferred?

13 A. I think to the extent that you structured
14 these arrangements consistent with the Illinois Commerce
15 Commission's rules and regulations, because they're another
16 regulator that's involved in this process, and you're
17 consistent with those affiliate transaction rules, I think
18 that possibility exists.

19 Q. Okay. So what it all boils down to, in other
20 words, is with respect to the second detriment that you've
21 identified, it's possible that they could structure the gas
22 supply in the future in such a way that there would, in
23 fact, be no detriment; is that correct?

24 A. I think it would be difficult, but I think it
25 would be possible --

1 Q. Thank you.

2 A. -- to do that.

3 JUDGE THOMPSON: Those are all the questions
4 that I have for you. Thank you very much.

5 I've held you guys away from lunch. We will
6 take an hour and a half for lunch so -- roughly an hour and
7 a half. I'll see you back at quarter till 2:00, 1:45.
8 Thank you. We are adjourned.

9 (A recess was taken.)

10 JUDGE THOMPSON: Back on the record.

11 MR. BYRNE: Your Honor, before we go on the
12 record -- are we finished with Mr. Sommerer or do we get to
13 ask additional questions based on questions from the Bench
14 or how does that work?

15 JUDGE THOMPSON: Until the Commissioners get
16 here, we're done with Mr. Sommerer.

17 MR. BYRNE: Okay. Thank you.

18 JUDGE THOMPSON: I'm holding all the witnesses
19 we've gone through this morning until the Commissioners come
20 down to ask any questions they might have and then we'll do
21 the recross or redirect for each one. I'm unable to figure
22 out any other way to proceed.

23 MR. BYRNE: That makes sense.

24 JUDGE THOMPSON: Now, with respect to
25 Ms. Fischer and Mr. Nelson --

1 MS. SHEMWELL: They actually filed some Direct
2 Testimony on affiliate transactions, so we discussed
3 transmission, but I think -- the order for that, but we had
4 not --

5 JUDGE THOMPSON: Let's just take them in the
6 order we have them here. That's okay. I don't want to
7 cause a difficulty.

8 Mr. Nelson, why don't you come back up, sir.
9 Thank you. I'll remind you you are still under oath, sir.

10 THE WITNESS: Yes, sir.

11 JUDGE THOMPSON: Who's taking the direct?

12 MR. LOWERY: I am.

13 JUDGE THOMPSON: Mr. Lowery, very well. And
14 is this your issue, Lera?

15 MS. SHEMWELL: Yes, it is, Judge.

16 JUDGE THOMPSON: Are we going to see any more
17 of Mr. Micheel or was he just filling in for you?

18 MR. COFFMAN: He may return.

19 JUDGE THOMPSON: We are hanging on that
20 possibility, I assure you.

21 Very well. Mr. Lowery, I guess all you need
22 to do -- his testimony is in, we're done.

23 MR. LOWERY: His testimony's in, yes, your
24 Honor.

25 JUDGE THOMPSON: Lera, Ms. Shemwell?

1 CRAIG NELSON testified as follows:

2 CROSS-EXAMINATION BY MS. SHEMWELL:

3 Q. Good afternoon, Mr. Nelson.

4 A. Good afternoon.

5 Q. I'm Lera Shemwell, representing the Staff of

6 the Commission in this case on this issue.

7 You've testified that you work for Ameren

8 Services; is that right?

9 A. That's correct.

10 Q. And Ameren Services, which I'm going to call

11 AMS, if that's all right --

12 A. Fine with me.

13 Q. -- an unregulated affiliate of the regulated

14 utility --

15 A. Yes.

16 Q. -- AmerenUE?

17 A. That's correct.

18 Q. AmerenUE has asked for a waiver from the

19 affiliate transaction rules in its application. Right?

20 A. Yes. Well, let me correct that. We don't

21 think a waiver is necessary, but if the Commission thinks

22 one is, then we've asked for a waiver.

23 Q. And did you file Direct Testimony about

24 affiliate transactions?

25 A. I don't remember whether it was in my Direct

1 or not. I know it is in my Surrebuttal Testimony.

2 Q. Did anybody else address affiliate
3 transactions?

4 A. Not that I'm aware of.

5 Q. Your testimony regarding affiliate
6 transactions begins on page 15 of your Surrebuttal; is that
7 right?

8 A. Correct.

9 Q. Have you read the Commission's affiliate
10 transaction rules for electric utilities?

11 A. In part.

12 Q. Would you like a copy of that? I have a few
13 questions.

14 A. Not necessarily, but I'll take one.

15 JUDGE THOMPSON: Are we marking this?

16 MS. SHEMWELL: It's the Commission's rules.
17 We can.

18 JUDGE THOMPSON: I seem to recall from when I
19 was at the AHC that rules always have to be proven, so we'll
20 have to mark it. This will be Exhibit 57.

21 (Exhibit No. 57 was marked for
22 identification.)

23 JUDGE THOMPSON: 240-20.010. Correct?

24 MS. SHEMWELL: It's 015.

25 JUDGE THOMPSON: 015. Very well. Thank you.

1 BY MS. SHEMWELL:

2 Q. Mr. Nelson, if I identify this as the

3 Commission's affiliate transaction rules for electric

4 utilities, 4 CSR 240-20.015, would you agree with me on

5 that?

6 A. Yes.

7 Q. And it's been marked Exhibit No. --

8 JUDGE THOMPSON: 57.

9 MS. SHEMWELL: Thank you, Judge.

10 BY MS. SHEMWELL:

11 Q. Are you familiar with the gas rule affiliate

12 transactions rule?

13 A. I've read it in part as well.

14 Q. Can we agree that they're very similar?

15 A. Yes.

16 Q. We've agreed that AMS is an unregulated

17 affiliate. Right?

18 A. Yes.

19 Q. Ameren Corporation is also a nonregulated

20 affiliate of AmerenUE. Right?

21 A. I'm sorry? Did you say Ameren Corps?

22 Q. Ameren Corps.

23 A. Yes. However, they're -- are you talking

24 about being regulated by this Commission? Is that what

25 you're referring to?

1 Q. I am. Is Ameren Corporation regulated by
2 anyone?

3 A. Oh, yes. AMS and Ameren Corps are regulated
4 by the Security and Exchange Commission.

5 Q. No. I'm specifically referring to this
6 Commission. Thank you.

7 Ameren Corporation is a party to the proposed
8 transfer transaction; is that right?

9 A. I'd have to go back and check the asset
10 transfer agreement.

11 Q. It's on the last page, if I recall.

12 A. Yes, it is a party.

13 Q. AmerenCIPS is a party to this transaction.
14 Right?

15 A. Correct.

16 Q. AmerenCIPS is regulated by the Illinois
17 Commission. Right?

18 A. Correct.

19 Q. Does Ameren Corporation receive earnings of
20 AmerenCIPS through a dividend process?

21 A. That question doesn't make a lot of sense to
22 me. Do you want me to break it apart?

23 Q. Does AmerenCIPS dividend its earnings to the
24 Ameren company -- Ameren Corporation?

25 A. Some of its earnings.

1 Q. How often, do you know?

2 A. On a quarterly basis.

3 Q. And does the level of earnings of AmerenCIPS

4 influence the amount of dividend it pays to Ameren

5 Corporation?

6 A. Over the long run, yes.

7 Q. Does the AmerenCIPS Board of Directors

8 determine the amount of the dividend that's paid to the

9 Ameren company -- Corporation, I'm sorry?

10 A. That's my understanding, yes.

11 Q. Is the Board of Directors of AmerenCIPS the

12 same Board of Directors as Ameren Corporation?

13 A. No, it's not.

14 Q. Can you tell me the differences?

15 A. Not without getting an annual report. And I

16 don't know where I would identify -- I would need the proxy

17 statement from AmerenCIPS. I can't do it from memory, no.

18 Q. Okay. Do you know if any of their officers

19 are the same?

20 A. The officers of AmerenCIPS and Ameren

21 Corporation?

22 Q. Yes, that's correct.

23 A. Yes, I do.

24 Q. Are they the same?

25 A. Some of them.

1 MR. LOWERY: Your Honor, if I could just
2 interject a moment, I'm not sure what the relevance of these
3 questions are other than perhaps to establish AmerenCIPS is
4 an affiliate of Ameren Corporation and of AmerenUE for
5 purposes of the rule. And we would stipulate that that is,
6 in fact, the case, if it would help move the proceedings
7 along.

8 MS. SHEMWELL: That's fine. I still have a
9 few other questions. I'm showing it's not an arm's length
10 transaction.

11 JUDGE THOMPSON: Please proceed.

12 BY MS. SHEMWELL:

13 Q. Unfortunately, I wasn't in here for your
14 policy testimony. I was trying to listen upstairs but I
15 didn't get all of it.

16 Did you mention a filing before the ICC
17 showing the impact of this transaction on AmerenCIPS?

18 A. Yes, I did.

19 Q. And did you say that that filing shows the
20 impact of the transaction on CIPS return on equity?

21 A. Yes, I did.

22 Q. Does it have a positive impact on CIPS return
23 on equity? Does it increase the ROE?

24 A. I'm hesitating because it's been a couple of
25 years ago. I think the ROE from the Metro East transfer

1 actually decreased the return on equity of CIPS, but it did
2 not decrease it below the statutory floor that would have
3 allowed an increase during the rate freeze period.

4 Q. Will this transaction increase the earnings of
5 AmerenCIPS?

6 A. Increases the earnings, but as I just said,
7 not the return on equity.

8 Q. Does it increase the level of equity for
9 AmerenCIPS?

10 A. Yes, it does.

11 Q. If we could turn to your Surrebuttal
12 Testimony, page 15, line 21.

13 A. I'm there.

14 Q. Starting on 21, As I explained earlier, the
15 assets at issue were paid for by Illinois customers and
16 nothing about the proposed transaction subsidizes AmerenCIPS
17 regardless of the transfer price.

18 Isn't it true that the transmission assets
19 that are being transferred were paid for by Missouri
20 customers?

21 A. No. I don't think that's true.

22 Q. You don't believe that the transmission lines
23 that are being transferred were paid for by Ameren
24 customers?

25 A. I thought you said Ameren Missouri customers.

1 Q. Yes, I did say Ameren Missouri. The
2 transmission --
3 A. No.
4 Q. -- lines that are being transferred were not
5 paid for by Missouri customers?
6 A. That is correct. Remember, we're talking
7 about Illinois transmission lines that were certificated by
8 the Illinois Commerce Commission. In general -- I'm not
9 going to go through the rate-making allocations, but
10 Illinois plant is in Illinois rate base and Missouri plant
11 is in Missouri rate base.
12 Q. And the transmission lines that are being
13 transferred are in Illinois?
14 A. Are in Illinois rate base. Mr. Wyse can
15 explain the details of that. I know there is an allocation
16 process, but that's the general principle.
17 Q. Are there assets that were paid for by
18 Illinois customers that are not being transferred to
19 AmerenCIPS?
20 A. The generation assets -- depreciation from
21 generation assets were included in cost of service in
22 Illinois and those assets are staying with UE to be
23 allocated to Missouri retail. So from one manner of
24 speaking you could say that Illinois customers did help pay
25 for those generation assets by inclusion of depreciation and

1 cost of service. So the answer to your question is yes, if
2 you're responding from that perspective.

3 Q. And common plant assets that were paid for by
4 Illinois that are not being transferred?

5 A. I don't think so with the exception of -- let
6 me just review the transaction. Generation plant and
7 buildings on the generation sites are staying with Missouri.
8 And then anything related to the T and D business,
9 transmission electric distribution, gas distribution and
10 associated buildings and warehouses are being transferred to
11 CIPS. So I don't know what you mean by common. I mean --

12 Q. Let me give you an example of what I was
13 thinking about.

14 A. Okay.

15 Q. I'm aware that there's a general office
16 building in St. Louis, for example.

17 A. Do you know the purpose of that office
18 building? Is it a -- if it's T and D related, it's being
19 transferred.

20 Q. The Chouteau building.

21 A. I guess I don't know the specific answer. I
22 guess our asset transfer witness could answer that.

23 Q. On page 15, lines 22 and 23, you use the term
24 "subsidy" -- "subsidizes"?

25 A. Yes, I see that.

1 Q. How do you define subsidizes or subsidy,
2 whichever way you choose?

3 A. Well, I can -- the reason I put that in there,
4 basically I was quoting from the purpose of the Exhibit 57,
5 that statement, This rule is intended to prevent regulated
6 utilities from subsidizing their nonregulated operations.

7 So if you're asking me to define subsidy, I
8 meant it to mean what it means in this affiliate transaction
9 rule.

10 Q. If AmerenUE is paid costs for items related to
11 the business that are transferred to CIPS, would that result
12 in a subsidy?

13 A. Could you repeat your question, please?

14 Q. I'm asking if AmerenUE is paid for some of the
15 assets that are being transferred, would that relate --
16 would that result in a subsidy?

17 A. I guess it depends on how much it's paid.

18 Q. Yes. You want to say your definition of how
19 much would constitute a subsidy?

20 A. Possibly.

21 Q. You don't want to say? You do want to say?

22 A. I'm saying depending how much it was paid, it
23 could impact whether there was a subsidy.

24 Q. And what's the level? Are you defining a
25 level --

1 A. No, I'm not.

2 Q. -- of cost?

3 How would you define arm's length transaction?

4 A. I was asked that question by another attorney

5 and I defined it.

6 Should I repeat my definition, sir?

7 Q. It would be very helpful to me.

8 JUDGE THOMPSON: Absolutely.

9 THE WITNESS: I was asked whether I thought

10 this was an arm's length transaction. And I responded in

11 the affirmative and explained at one end of the arm was the

12 Illinois Commerce Commission ensuring that the transfer of

13 the T and D property in Illinois was transferred fairly and

14 appropriately with no subsidy.

15 And I explained at the other end of the arm

16 was the Missouri Public Service Commission ensuring that the

17 property transferred, that there was no subsidy and it was

18 fair and reasonable and no detriment.

19 So, yes, I firmly believe this is an arm's

20 length transaction. Ameren's a regulated monopoly and we

21 have two regulatory commissions that are ensuring that this

22 is a fair transaction.

23 BY MS. SHEMWELL:

24 Q. Ameren Corporation is a regulated monopoly?

25 A. No. I didn't say that. I had no specific --

1 I'm sorry. AmerenUE and AmerenCIPS are regulated monopolies
2 regulated by the two commissions I referenced and by FERC.
3 All three of those agencies will make sure that this is a
4 fair and appropriate transaction with no subsidies.

5 Q. If the Commission does not know the market
6 value of the assets being transferred, how can they
7 determine that it's a reasonable and prudent transaction as
8 you request?

9 A. Well, I have six reasons if you'd let me go
10 through those.

11 Q. I asked the question.

12 A. Okay. Excuse me. I forgot to bring my drink.
13 Can I get that, your Honor?

14 JUDGE THOMPSON: Go ahead.

15 THE WITNESS: Thank you. I've got something
16 caught in my throat.

17 Market value is not pertinent to this
18 transaction because this property's not for sale to the
19 non-affiliate. So that's my first response to your
20 question.

21 My second response is that Ameren and its
22 regulated utilities are regulated by the Securities and
23 Exchange Commission and the SEC will not allow transfers
24 between affiliates -- anything other than net book value.

25 I would ask this Commission keep in mind that

1 we're talking about Illinois property being transferred to
2 another utility in Illinois. So Illinois rate base going to
3 Illinois rate base. That's the third reason.

4 The Illinois Commerce Commission is not going
5 to allow CIPS to pay a premium for these assets and then
6 allow that premium to go in rate base. They would just say
7 no to that kind of a transaction.

8 It doesn't make -- a fifth reason, it doesn't
9 make any sense at all to me that UE Missouri would expect a
10 premium to be paid on Illinois assets so that UE Missouri
11 retail customers would get a windfall that they never had
12 any responsibility for paying for those assets.

13 And, finally, I would like to point out that
14 the T and D property we're transferring has a net book value
15 of 138 million. At the same time, we're re-allocating
16 276 million of generation assets from the Illinois side to
17 the Missouri side. And that re-allocation is occurring at
18 net book value.

19 So there's twice the amount of net book value
20 that's going to Missouri as is going to CIPS. And I'm sure
21 this Commission would not want that property be transferred
22 at a premium.

23 BY MS. SHEMWELL:

24 Q. Mr. Nelson --

25 A. So for all of those reasons, I just don't

1 think a premium makes sense.

2 Q. Would you agree with me that the standard for
3 a waiver from the affiliate transactions rules is that it is
4 beneficial to customers and not not detrimental to the
5 public interest?

6 A. That may be one of the standards, but the
7 entire purpose of the affiliate rules is to prevent a
8 subsidy from -- to a nonregulated company. And as we know,
9 CIPS is regulated. So I don't even think the rules apply in
10 this situation.

11 Q. Ameren Corporation is not regulated, is it?

12 A. It's not regulated by this Commission.

13 Q. And you described a potential windfall.
14 Couldn't any windfall, as you described it, go to offset the
15 liabilities that AmerenUE is retaining as a result of this
16 transaction?

17 A. AmerenUE -- I don't agree with the question,
18 no. AmerenUE is -- Missouri is gaining the use of
19 276 million in generation assets. And along with those
20 assets, the right to use those assets, there are certain
21 liabilities and that's the transaction before this
22 Commission.

23 Q. And they will retain all of the liabilities;
24 is that correct?

25 A. And they will retain all of the generation

1 assets, yes.

2 Q. 98 percent of the liabilities. Correct?

3 A. And 98 percent of the assets. Yes, it's

4 correct. Along with 98 percent of the assets.

5 Q. You have requested a waiver. Correct?

6 A. Only if the Commission thinks the affiliate

7 rules apply.

8 Q. Have you presented any testimony, should they

9 decide that it applies, to show that the transaction is in

10 the best interest of Ameren customers?

11 A. Yes, we have.

12 Q. If this transaction resulted in a rate

13 increase to Missouri consumers, would the transfer then

14 constitute a detriment?

15 A. Are you asking me a hypothetical?

16 Q. I'm asking you if rates increase as a result

17 of this, would that be a detriment?

18 A. Rates cannot increase as a result of this.

19 We're in a rate freeze period.

20 Q. Well, they certainly can increase or decrease

21 after 2006. Right?

22 A. After the Missouri Commission reviews all the

23 expenses and revenue and makes a decision, yes. They may

24 not decrease. I don't know what rates will do.

25 Q. But they could increase. Right?

1 A. Assuming that the Missouri Commission thinks
2 the costs are prudent, yes.

3 MS. SHEMWELL: I think that's all I have.
4 Thank you, Judge.

5 JUDGE THOMPSON: Thank you. Did you want to
6 offer Exhibit 57?

7 MS. SHEMWELL: I will offer Exhibit 57. Thank
8 you.

9 JUDGE THOMPSON: Do I hear any objection to
10 the receipt of Exhibit 57?

11 MR. LOWERY: No objection.

12 JUDGE THOMPSON: Very well.

13 (Exhibit No. 57 was received into evidence.)

14 JUDGE THOMPSON: Mr. Coffman?

15 MR. COFFMAN: Thank you.

16 CROSS-EXAMINATION BY MR. COFFMAN:

17 Q. Good afternoon, Mr. Nelson.

18 A. Good afternoon.

19 Q. I believe you've covered -- or rather
20 Ms. Shemwell covered several of my questions.

21 You did acknowledge that benefit to consumers
22 is one of the standards in the PSC's affiliate transaction
23 rule. Correct?

24 A. Sir, it's been a long time since I've read
25 these. Could you point me to the place?

1 Q. I'm not sure if it's actually on the
2 two-page --
3 A. Okay.
4 MS. SHEMWELL: It should have been covered
5 front and back.
6 MR. COFFMAN: I'm sorry. My copy is missing a
7 page.
8 MS. SHEMWELL: I'm sorry.
9 MR. COFFMAN: You might want to check if --
10 mine only has one side to it. You might want to check and
11 see if the exhibit copy has --
12 MS. SHEMWELL: Thank you.
13 MR. COFFMAN: -- all the pages if you're
14 wanting that in the record.
15 THE WITNESS: Are you asking me about Item 3
16 on the second -- or this is page 4?
17 BY MR. COFFMAN:
18 Q. Subsection 10, it would be page 5. Do you
19 have that page?
20 A. I don't have 5 -- page 5.
21 Q. My copy didn't have it either.
22 A. I see.
23 Q. I'll show you Ms. Shemwell's copy.
24 A. I see on page 4 there are evidentiary
25 standards for affiliate transactions in Item No. 3.

1 Q. Here you go. I'd ask you to take a look at
2 subsection 10, which is the variance section of the
3 affiliate transaction rule. I believe it's subparagraph 2
4 under that subsection 10.

5 A. Okay. I believe I see it.

6 Q. Would you read that into the record, please?

7 A. Yes, sir. A -- this is Item No. 2. A
8 regulated electrical corporation may engage in an affiliate
9 transaction not in compliance with the standards set out in
10 Section 2A of this rule when, to its best knowledge and
11 belief, compliance with the standards would not be in the
12 best interest of its regulated customers and it complies
13 with the procedures required by subparagraphs 10A, 2A and
14 10A, 2B of this rule.

15 There's the use of a double negative so I'm
16 going to -- I'm sorry. What was your question?

17 Q. That's fine. That satisfies the question, to
18 read it.

19 And I assume that refreshes your recollection
20 about what the standard is for receipt of a variance from
21 the affiliate transaction rule?

22 A. Only in part because I still hadn't fully
23 figured out the double negative.

24 Q. Would you like a little more time to review
25 it?

1 A. Yes. If you're going to ask me a question
2 about it.

3 I don't understand that No. 2.

4 Q. That's fine. I think the rule speaks for
5 itself.

6 A. Okay. Thank you. It seems to contradict what
7 you just said, but --

8 Q. Would it be fair to -- would you agree with me
9 that the standard for receiving a variance from the
10 affiliate transaction rule is not the not-detrimental
11 standard which, of course, is another double negative
12 standard?

13 MR. LOWERY: I'd object. He's asking the
14 witness -- that question calls for a legal conclusion about
15 what the not-detrimental standard is and what the variance
16 is. And I don't think the witness has expressed any
17 knowledge about that.

18 JUDGE THOMPSON: Sustained.

19 BY MR. COFFMAN:

20 Q. Mr. Nelson, on page 16 of your Surrebuttal
21 Testimony you have a question there on that page which
22 states that -- first, the question is asked, If the
23 Commission decides that the affiliate transaction rules do
24 apply despite any lack -- besides the lack of any
25 subsidization, should the rules be waived?

1 And you do answer there, Absolutely. Correct?

2 A. Yes, I do.

3 Q. And you then proceed in the next two sentences

4 to state that the transfer is not detrimental to the public

5 standard. Correct?

6 A. Yes, I do.

7 Q. Is it your belief that that is the standard

8 for which the Commission should use in granting a variance

9 from the affiliate transaction rule?

10 A. It's -- clearly when I wrote this, I believed

11 that was part of the standard.

12 Q. Okay. Good enough.

13 A. There may be more. I don't know.

14 Q. Okay. We'll put these double negative

15 standards behind us for a moment.

16 A. All right. Thank you.

17 Q. But regardless of what the standard is, you

18 state that one of the purposes of the affiliate transaction

19 rule is to guard against subsidization of nonregulated

20 operations by regulated utilities. Correct?

21 A. Yes, sir.

22 Q. And is it your understanding of the Office of

23 the Public Counsel's position and belief in this case that

24 there is a concern about nonregulated affiliates benefiting

25 at the expense of regulated customers in this case?

1 A. I realize you may have a concern, but I don't
2 understand that concern.

3 Q. Okay. And I'm not asking you whether that's
4 your position, but that you do understand that that issue
5 has been raised in this case?

6 MR. LOWERY: Objection, asked and answered.

7 JUDGE THOMPSON: Overruled.

8 You can answer.

9 BY MR. COFFMAN:

10 Q. Do you understand that that is an issue
11 between the parties in this case?

12 A. Are you talking about Mr. Kind's testimony?

13 Q. Yes.

14 A. And what, in particular? I'm not exactly sure
15 what you're referring to.

16 Q. Would it be fair to say that we disagree about
17 whether or not the proposed transfer is driven by an attempt
18 to benefit nonregulated affiliates at the expense of
19 AmerenUE and its customers?

20 A. That question's just too general. I don't
21 know which nonregulated affiliates you're talking about.

22 Q. Well --

23 A. I guess I don't understand that's what
24 Mr. Kind is saying.

25 Q. I understand you don't understand, by I

1 think --

2 A. Then I guess I'm going to have to answer no to
3 your question.

4 Q. Okay. Fair enough.

5 Let me ask you about a sentence that you
6 discussed from your Surrebuttal Testimony. You discussed it
7 with Ms. Shemwell and it's on page 15, lines 21 on through I
8 guess to the next page. You state there that, The assets in
9 issue were paid for by Illinois customers.

10 And when you say paid for by Illinois
11 customers, do you mean that the customers of AmerenUE
12 located in Illinois directly compensated the cost of these
13 facilities dollar for dollar?

14 A. No. I was using a very general terminology
15 here. And if I had to rewrite this, I probably would.
16 Clearly assets are -- in a utility are paid for by
17 investors.

18 Q. Okay. And --

19 A. And the cost of those assets is recovered
20 through depreciation by customers. And I was referring to
21 the re-- cost recovery through depreciation from the
22 Illinois customers of UE when I wrote this.

23 Q. So it is your testimony that depreciation was
24 included as an expense that was in some manner used in the
25 calculation of rates paid by AmerenUE Illinois customers?

1 A. Yes, sir. Thank you. I should have written
2 it that way.

3 Q. And isn't it -- to be more precise, isn't it
4 true that regulated rate-making here in Missouri and at
5 least in the past in Illinois was based upon an opportunity
6 to earn not necessarily a dollar for dollar recovery of
7 certain cost and expenses?

8 A. In general, I agree, yes.

9 Q. Okay. Fair enough.

10 Would it be fair to say in a similar way that
11 AmerenUE customers have paid for -- in your general sense,
12 paid for expenses of the Joppa plant?

13 A. AmerenUE customers, which ones?

14 Q. AmerenUE Missouri customers.

15 A. Via depreciation -- no, this is not the same
16 situation, sir, because that's a power contract between
17 two -- two separate corporate entities and we can't ignore
18 the separate entities. Whereas, in the situation I
19 described here, we're talking about a regulated monopoly and
20 rate-making within a regulated monopoly so they're not
21 comparable.

22 Q. Would you agree with me that some expense
23 related to the operation of the Joppa plant has been used in
24 the calculation of AmerenUE Missouri rates?

25 A. To be more precise, I agree that the purchase

1 price of the power under that EE, Inc. UE contract has been
2 included in cost of service and UE's rates.

3 MR. COFFMAN: Okay. I think that's all the
4 questions I have on this subject.

5 JUDGE THOMPSON: Thank you.

6 It's time for questions from the Bench for
7 Mr. Nelson. We have quite a backlog here. You may step
8 down, sir, until the Commissioners come down.

9 Ms. Fischer?

10 (Witness sworn.)

11 JUDGE THOMPSON: Please state your name for
12 the reporter and spell your last name.

13 THE WITNESS: Janis, J-a-n-i-s, Fischer,
14 F-i-s-c-h-e-r.

15 JUDGE THOMPSON: Ms. Shemwell?

16 JANIS FISCHER testified as follows:

17 DIRECT EXAMINATION BY MS. SHEM WELL:

18 Q. Ms. Fischer, did you prepare Rebuttal
19 Testimony in this case that's been marked as Exhibit No. 20?

20 A. Yes, I have.

21 Q. Do you have any corrections to your testimony?

22 A. No, I do not.

23 Q. Is it true and correct to the best of your
24 belief and knowledge?

25 A. Yes, it is.

1 MS. SHEMWELL: I offer the witness for cross,
2 Judge. Thank you.

3 JUDGE THOMPSON: And do you want to offer the
4 testimony?

5 MS. SHEMWELL: I offer Exhibit 20.

6 JUDGE THOMPSON: Okay. Do I hear any
7 objections to the receipt of Exhibit 20?

8 MR. LOWERY: No objection.

9 JUDGE THOMPSON: Very well. That exhibit is
10 received and made a part of the record of this proceeding.

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

12 JUDGE THOMPSON: I think it's actually
13 Mr. Coffman first, isn't it?

14 MR. LOWERY: Oh, is it? My fault.

15 MR. COFFMAN: I have no questions.

16 JUDGE THOMPSON: You go first on Proctor. But
17 you have no questions. Very well.

18 MR. LOWERY: So it is me first.

19 JUDGE THOMPSON: It is you. It is you.

20 CROSS-EXAMINATION BY MR. LOWERY:

21 Q. Good afternoon, Ms. Fischer.

22 A. Good afternoon.

23 Q. I want to make sure I understand your
24 testimony, just the basic premise of it with regard to
25 affiliate transaction rules. You essentially believe the

1 affiliate transaction rules apply to the transfer of these
2 assets in this case. Correct?

3 A. Yes.

4 Q. And your issue with regard to that is that
5 Staff is not sure, is not convinced that the transfer price
6 that has been arrived at between AmerenCIPS and AmerenUE is
7 sufficient for purposes of those rules; is that fair?

8 A. Yes.

9 Q. And that more specifically, you have some
10 concerns about potential future costs or future detriments
11 that might exist. And you've indicated in your testimony
12 that you believe that perhaps the transfer price ought to be
13 augmented in some way to cover that future potential; is
14 that correct?

15 A. Well, I believe that there are current
16 detriments in the transfer transactions, but there also
17 appear to be future detriments also, yes.

18 Q. And if the transfer price was augmented in
19 some fashion to cover either these current or future
20 detriments, that might satisfy Staff or either lead to Staff
21 believing that the rules have been complied with or that a
22 waiver would be appropriate?

23 A. I believe that there are concessions or
24 conditions that could be made to create a situation where
25 the Staff would accept the transfer to be acceptable or to

1 where the Staff would agree that in the instance where
2 the -- their concerns were met that the waiver could be
3 granted.

4 Q. Your issue with regard to affiliate
5 transaction is whether or not the transfer price meets the
6 lower of fully distributed costs or fair market value as
7 provided for in the rule with regard to affiliate
8 transactions?

9 A. Well, while that addresses specifically
10 language in the affiliated transaction rules, I believe our
11 concern is more generally related to what we believe is that
12 the transaction does not appear to be an arm's length
13 transaction and that it doesn't only rely on the difference
14 between the net book versus the market price.

15 There are other -- other considerations or
16 other concerns that we have with the transaction more
17 than -- that go beyond just, say, for example, the
18 difference between net book and market price of an asset.

19 Q. Now, the company's sworn testimony, and I
20 believe you were here when Mr. Nelson testified, is that the
21 electric and gas distribution assets to be transferred have
22 been included in the rates of Illinois customers but not in
23 the rates of Missouri customers. Correct?

24 A. Could you repeat that again?

25 Q. Sure. The company's sworn testimony is that

1 the electric and gas distribution assets that are located in
2 Illinois that are to be transferred have been part of the
3 rate base for Illinois customers, not part of the rate base
4 for Missouri customers. Correct?

5 A. The distribution assets, yes, I believe that's
6 correct.

7 Q. And you don't dispute that statement?

8 A. Distribution assets, no.

9 Q. Now, one aspect of this transfer is that the
10 load in Illinois is going to be transferred to AmerenCIPS.
11 Correct?

12 A. Yes.

13 Q. The customers?

14 A. Yes.

15 Q. And another aspect of the transfer is that the
16 generating capacity used to serve that load is now going to
17 be effectively transferred or freed up to serve Missouri
18 customers. Correct?

19 A. That's my understanding.

20 Q. And the title to the generation is not
21 changing hands. It's owned by UE today and it will be owned
22 by UE after the transfer?

23 A. I don't recollect reading that, but I believe
24 that is the case.

25 Q. To your knowledge, has AmerenUE ever expressed

1 an interest in selling any of these Illinois assets to any
2 third party?

3 A. I have no idea if they have or not.

4 Q. And, in fact, this is the third time that
5 AmerenUE has brought an issue before this Commission to
6 transfer these assets to AmerenCIPS. Is that your
7 understanding?

8 A. I believe that's what's been presented here.
9 I'm aware of reading some documents related to I believe the
10 case in the year 2000, but prior to that or -- I'm not quite
11 sure about the third one, but I believe you're probably
12 correct.

13 Q. And AmerenCIPS itself is an Illinois regulated
14 public utility. Correct?

15 A. Yes. I believe the Illinois Commerce
16 Commission regulates CIPS.

17 Q. Now, before the transfer takes place, AmerenUE
18 uses its own transmission system. Correct?

19 A. I'm not really sure. I'm not that
20 knowledgeable about the transmission system and the physical
21 ownership of that.

22 Q. Let me just explore that just a little bit.
23 You're aware, for example -- and if you don't know, that's
24 fine.

25 But you're aware, for example, that AmerenUE

1 has a transmission system that AmerenUE owns. Correct?

2 A. Yes. I believe they own transmission assets.

3 Q. And AmerenCIPS has a transmission system it

4 owns? It owns transmission assets?

5 A. I would assume that's true.

6 Q. And that those two systems combined are

7 operated as one single system at this time. Do you have

8 that understanding?

9 Well, let me go at it this way. Assume for

10 purposes of my question that AmerenUE has a transmission

11 system, AmerenCIPS has a transmission system and they are

12 operated together as part of one system and one control

13 area. Just assume that.

14 A. Okay.

15 Q. Today, that being the case, AmerenUE uses that

16 transmission system. Correct?

17 A. Yes.

18 Q. And after the transfer, AmerenUE will still

19 use that transmission system. Correct?

20 A. I'm not an engineer and I don't really know

21 about the transmission system, but that appears reasonable.

22 Q. If, in fact, that's the case, that AmerenUE

23 after the transfer, will have transferred those transmission

24 assets and received the net book value for them but is still

25 able to use those transmission assets, isn't that a benefit

1 to AmerenUE?

2 A. Could you define "benefit"? Do you mean
3 better than the situation currently?

4 Q. Well, let's take this example. Let's assume
5 that AmerenCIPS now has the operation and maintenance
6 expenses associated with that transmission. And assuming
7 that to be the case, if AmerenUE is able to continue to use
8 it on the same terms, wouldn't that be a benefit not to have
9 to pay for the operation and maintenance expenses but to
10 still be able to use it?

11 A. I guess I'm not quite sure if we're talking
12 about transmission that had been included in the cost of
13 service to Illinois customers in the past or if we're
14 talking operating maintenance costs of transmission that
15 previously sat with Missouri. I guess I'm not -- I don't
16 quite understand exactly, you know, where the costs were
17 before and --

18 MS. SHEMWELL: Judge, I'm going to object to
19 the continuing -- Ms. Fischer's indicated she's not an
20 engineer, she really doesn't know. Then she's asked to
21 assume certain things and she's indicated her lack of
22 engineering background and --

23 JUDGE THOMPSON: She seems perfectly capable
24 of saying, No, I don't know, I can't answer that. So I'm
25 going to let her continue.

1 BY MR. LOWERY:

2 Q. Let's assume for a moment that AmerenUE had
3 costs that were assigned in Missouri in the past related to
4 operation and maintenance of some of the transmission that's
5 being transferred and will no longer have those costs, but
6 will still be able to use that transmission. That would be
7 a benefit to AmerenUE, would it not?

8 A. I'm not sure if it would be or not.

9 Q. Having the same access to an asset but not
10 having to pay for its maintenance and operation, that's not
11 a benefit in your mind?

12 MS. SHEMWELL: I'm going to object. It's been
13 asked and answered, Judge. She said she doesn't know if
14 there's a benefit.

15 JUDGE THOMPSON: Excuse me?

16 MS. SHEMWELL: She said she did not know if
17 there was a benefit.

18 JUDGE THOMPSON: I will sustain that
19 objection.

20 BY MR. LOWERY:

21 Q. There's also testimony in this case that the
22 company will now for Missouri customers have access to an
23 additional 6 percent of the generation that formerly served
24 the Illinois load. Correct?

25 A. Yes.

1 Q. And the company's testimony at least is that
2 that's beneficial to Missouri. Correct?

3 A. Yes. I believe that is the company's
4 testimony.

5 Q. Assume -- and I'm not asking to you agree with
6 the company's testimony, but assume, in fact, that there is
7 a financial benefit to Missouri customers from having access
8 to that generation. Just assume that for purposes of my
9 question. If, in fact, that's the case, then in addition to
10 the transfer price being paid by CIPS, additional benefits
11 are flowing to AmerenUE. Correct?

12 A. That's possible, yes. I mean, in the scenario
13 or the hypothetical that you present, yes.

14 Q. And there's also testimony in the case that
15 AmerenUE believes that there will be a benefit from being
16 freed from essentially a dual regulatory system, having ICC
17 regulation as part of its operations and Missouri Public
18 Service Commission regulation as other parts of its
19 operation. Do you recall that?

20 A. Yes. I remember reading that.

21 Q. Some benefits you can't necessarily put a
22 dollar figure on. Correct? Would you agree with that?

23 A. Yes.

24 Q. And if it is, in fact, beneficial to AmerenUE
25 to be freed of that dual generation, that could be viewed as

1 an additional benefit in addition to the transfer price as
2 well. Correct?

3 A. It's possible, but not being able to quantify
4 it, I don't know how you could place it in the equation when
5 you're trying to balance detriment versus benefit, so -- I
6 mean, it appears reasonable that there would be benefits not
7 having to in every instance deal with two regulatory or
8 three regulatory bodies, but it's -- it's yet to be seen
9 whether those benefits, you know, in the future could be
10 quantified or not.

11 Q. Staff hasn't quantified what the -- in Staff's
12 view the transfer price ought to be, has it?

13 A. No. We haven't been able to determine that
14 because of --

15 Q. Well, my question was, has Staff quantified
16 what the transfer price ought to be?

17 A. No.

18 Q. And, in fact, that's not something that is
19 easily quantified, is it?

20 A. Well, there are pieces of the transaction that
21 are more easily-- lend themselves to being quantified as to
22 where the Staff would believe they should fit and other
23 areas where you may have a known -- say, for instance, in
24 the area of liabilities, you may know of a future
25 obligation, yet you can't measure. That would be a

1 situation where, you know, we would believe that there's a
2 detriment, but we wouldn't be able to actually quantify it.

3 Q. If, for example, there's some future liability
4 that comes due in the future and Missouri now has 6 percent
5 more of that liability, you wouldn't be able to quantify
6 that sitting here today, would you?

7 A. Could you repeat that?

8 Q. Let's just take an example. One of the
9 Staff's concerns that the Staff has expressed is that there
10 are certain liabilities that might come due in the future --
11 we don't really know, but might come due in the future. And
12 before the transfer, Missouri would essentially have 92
13 percent of that responsibility. You're with me so far?

14 A. Yes.

15 Q. And later Missouri would have 98 percent of
16 that responsibility, at least in theory. Correct?

17 A. Yes.

18 Q. But because we don't know what the future's
19 going to bring and we don't know what the amounts of those
20 might be, we can't quantify it. Correct?

21 A. I guess it would depend on the type of
22 liability. I believe there are some -- for instance, in
23 reviewing Ameren's 10K, there are some liabilities -- even
24 though we don't know for certain, there has been an estimate
25 made by the company and I believe those would be known

1 future liabilities that would occur. We just don't know how
2 much at this point.

3 Q. Let's assume there's one that there's not a
4 present estimate.

5 A. Uh-huh.

6 Q. If there's not an estimate, you really can't
7 quantify it today, can you?

8 A. No.

9 Q. And those are really future cost impacts that
10 might or might not impact rates in the future. Correct?

11 A. They could affect rates in the future, yes.

12 Q. And they might not affect rates in the future?
13 We don't know; isn't that correct?

14 A. Yes. We wouldn't know to date for certain.

15 Q. And am I correct that the company's rates
16 wouldn't change until at least 2006 because the existing
17 rate moratorium?

18 A. That's true.

19 Q. And even then when rates are set, the rates
20 are going to be set based upon a comprehensive review of all
21 of AmerenUE's cost and all of AmerenUE's revenues, not just
22 a particular liability item that might or might not relate
23 to the transferred assets. Correct?

24 A. Well, at the time that the next rate case
25 comes to the Missouri Staff, we will review all of the

1 expenses and all of the revenues that are within the test
2 year and do our regular annualization normalization. I
3 think our concern here is is that --

4 Q. I'm sorry to interrupt you, but I think the
5 answer to my question is yes then, isn't it? You'll look at
6 all the revenues and all the costs and you'll normalize and
7 you may propose disallowances and only then would the affect
8 of any particular item potentially be known on rates.
9 Correct?

10 A. Yes.

11 MR. LOWERY: That's all I have, your Honor.

12 JUDGE THOMPSON: Thank you, Mr. Lowery. Now
13 it's my turn.

14 QUESTIONS BY JUDGE THOMPSON:

15 Q. First, I have some questions that Commissioner
16 Murray and Commissioner Clayton have directed me to ask.
17 I wonder if you could give me a list of the
18 conditions that Staff would impose on this transaction in
19 order to make it acceptable?

20 A. Related to affiliated transaction rules or
21 just in general or --

22 Q. Related to everything. As far as you know, is
23 there such a list anywhere?

24 A. Well, not to be specific, but during our
25 discussions with the company from the date, let's say, of

1 the prehearing until last week or maybe even this week,
2 there have been a number of considerations as to conditions
3 that would allow the Staff to -- that if put forward as
4 amendments to the transfer agreement, that Staff could find
5 acceptable to recommend that the transfer occur.

6 Q. Okay.

7 MS. SHEMWELL: Judge, I'm sorry to interrupt,
8 but some of this has been the result of settlement
9 discussions and I'm not sure --

10 JUDGE THOMPSON: Well, if I ask her to reveal
11 something that's privileged, you jump up and object. Okay?

12 MS. SHEMWELL: I will.

13 JUDGE THOMPSON: Thank you. I appreciate
14 that.

15 THE WITNESS: And I will try to avoid those
16 areas.

17 BY JUDGE THOMPSON:

18 Q. You can only talk about some of them. Am I
19 right?

20 A. Right.

21 Q. You've only had a little piece of this case?

22 A. Right.

23 Q. Okay. And your little piece of this case is
24 affiliate transactions; is that correct?

25 A. And also related to the liabilities that are

1 included in the transactions.

2 Q. Liabilities and affiliate transactions. Okay.

3 So can you tell me what the conditions are
4 that need to be imposed on this transaction from Staff's
5 point of view with respect to affiliate transactions and
6 liabilities?

7 A. In the area of liabilities, we have -- our
8 main concern -- and I believe this was reflected in my
9 Rebuttal, although I have received additional information
10 from that time that gives me a clearer view of what the
11 transaction actually includes.

12 We believe that -- the Staff believes or I
13 believe that there are certain liabilities within the
14 balance sheet of AmerenUE that have not been completely
15 analyzed as to if part of those liabilities should be
16 transferred to AmerenCIPS. And that would be in the area of
17 a liability where there were common obligations.

18 And in reviewing the work papers provided by
19 Mr. Getz, we have identified some liability accounts where
20 we would agree that we have a comfort level that what was
21 being proposed would be acceptable. And then there were
22 also other liabilities that included sub-accounts where we
23 would still believe that a portion of those liabilities
24 should be transferred to AmerenCIPS.

25 And if -- if we could come to agreement with

1 the company as to how to allocate some of those common
2 liabilities and Staff would be able to agree that that --
3 that the consideration there or that the liabilities were
4 being transferred appropriately, we would find that
5 acceptable.

6 Q. Okay.

7 A. I believe there's one area though in the area
8 of liabilities where we have not been able to come to any
9 agreement. And that is -- I don't think it's -- I'm sure my
10 attorney will tell me if I -- in the area of environmental
11 concerns.

12 And this goes to what we've become aware of in
13 reviewing the 10K of Ameren, is that there are a number of
14 environmental potential liabilities out there. And a number
15 of them are related to generation assets that we would be
16 concerned if Missouri was expected to accept 6 percent --
17 which would be considered, I believe, the amount to be
18 transferred to Illinois -- if Missouri were to be required
19 to into the future accept those liabilities as ours.

20 Q. So the condition would be then that those
21 liabilities not be transferred?

22 A. Either -- either the 6 percent remain the
23 responsibility of AmerenCIPS or that there be some
24 compensation or consideration given, which we never were
25 able to actually quantify because it's -- the amounts are

1 unknown at this time as to what those future liabilities may
2 eventually be.

3 Q. Okay. Well, what about the affiliate
4 transaction piece of this thing? What condition or
5 conditions would Staff need to impose on the transaction
6 with respect to that?

7 A. I believe the affiliated transaction rules and
8 how they apply to the transfer go back to Staff's belief
9 fundamentally that the transaction was not an arm's length
10 transaction and that there was the possibility of the
11 regulated utility AmerenUE subsidizing the non-regulated
12 parent.

13 But that if -- if the conditions or concerns
14 of the Staff related to the transfer in all the areas
15 besides just liabilities were met, that the Staff would be
16 able in this instance to recommend that the affiliated
17 transaction rules be waived or that because of our
18 intercession in the case and looking out on the behalf of
19 UE, that we would find with the conditions that the
20 transaction could move forward or be approved.

21 JUDGE THOMPSON: Okay. Thank you very much.

22 Now, two of the Commissioners have asked me to
23 give you some homework and two out of the three is all it
24 takes. So your homework, Staff, is to compile a written
25 list of all of the conditions of every kind and every area

1 that Staff believes need to be imposed on this transaction
2 in order to make it acceptable.

3 MS. SHEMWELL: Yes, sir.

4 JUDGE THOMPSON: Thank you. And can we get
5 that tomorrow?

6 MS. SHEMWELL: Yes, sir.

7 JUDGE THOMPSON: Thank you very much.

8 BY JUDGE THOMPSON:

9 Q. Now, I have myself from questions for you.

10 And you stated that you saw some current
11 detriments and some future detrments in this transaction;
12 isn't that correct?

13 A. Yes.

14 Q. What are the current detrments that you see?

15 A. Well, I guess this goes back to more my
16 understanding of the transaction in general rather than just
17 in the area of liabilities.

18 I believe in the area of the Joint Dispatch
19 Agreement there is a detriment with -- and I am not the
20 expert on the JDA. I think there have already been
21 witnesses to that testify to that.

22 But that the way the off-system sales are
23 allocated between the parties to the JDA with it being based
24 on load rather than generation, that creates a detriment as
25 the transfer is set up currently because part of UE's load

1 will be transferred to AmerenCIPS.

2 Q. Okay. Let me make sure I understood what you
3 said. You have to remember to keep it simple enough for me
4 to follow. Okay?

5 A. Okay.

6 Q. Very simple. Pretend I'm your five year old.
7 You believe there's a detriment with respect
8 to the allocation of off-system sales?

9 A. The way the current JDA is defined --

10 Q. Right.

11 A. -- off-system sales and how they allocate
12 those sales are based on load.

13 Q. Okay.

14 A. UE's --

15 Q. Let me stop you for a minute.

16 A. Okay.

17 Q. What is an off-system sale?

18 A. When -- and you may be going a little bit
19 beyond my understanding, but I believe I have the
20 fundamentals.

21 Q. I know if it goes beyond your understanding,
22 it certainly goes beyond mine. Pretend this is show and
23 tell.

24 A. Okay.

25 Q. What is an off-system sales so that all the

1 10 year olds can understand it?

2 A. When AmerenUE and AEG are generating from
3 their units, they are generating to meet their load or what
4 their customers need. And as they bring those units on, if
5 there is additional power that their customers don't need,
6 they sell it to someone else.

7 Q. Thank you. That was a very good explanation.
8 I was able to follow that.

9 So it's extra power that they do not need to
10 meet their load requirement?

11 A. That's my understanding.

12 Q. And so if they've met their load that they
13 need to meet and they have extra power, they can sell this
14 to people who might happen to need power at that moment?

15 A. Right.

16 Q. Okay. And I assume there are profits to be
17 made doing this?

18 A. Yes.

19 Q. And your concern is with how those profits are
20 allocated?

21 A. Yes.

22 Q. Okay. And why is that a detriment potentially
23 to Missouri ratepayers?

24 A. It kind of -- if you consider a fraction --

25 Q. Okay.

1 A. -- say --

2 Q. Are you concerned that Missouri ratepayers

3 will not get the big fraction they're entitled to?

4 A. Their fraction or the numerator, which

5 determines the percentage of the off-system sales that go to

6 Missouri, will be reduced because the load transfers to

7 Illinois or AmerenCIPS. The numerator changes.

8 Q. Okay. So basically they won't get as much

9 credit as they should? They won't be allocated as large an

10 amount?

11 A. Right. The way the current JDA arrangement

12 is, yes.

13 Q. Okay. Now, that's a JDA issue. Right?

14 A. Yes.

15 Q. I mean, we've already heard about the JDA from

16 other witnesses. Is that an additional JDA issue or is that

17 part of the same issue that we were hearing about from

18 Dr. Proctor and others?

19 A. That's the same issue.

20 Q. Okay. So do you have other detriments in

21 mind?

22 A. My understanding is -- beyond that is probably

23 in the area of liabilities, which I believe we will be

24 discussing tomorrow, but --

25 Q. I want to hear about them now.

1 A. We believe that there are detriments in the
2 fact that when you look at the liabilities in total of
3 AmerenUE, a portion of those liabilities that should be
4 transferred to AmerenCIPS is not reflected in the current
5 transaction being proposed.

6 Q. Okay. Am I understanding that -- what, Union
7 Electric's going to keep these liabilities instead of
8 transfer them?

9 A. Right.

10 Q. And what kind of liabilities are these? I
11 mean, a liability is a debt. Right? Something you have to
12 pay at some point?

13 A. It's a future obligation. And there are
14 short -- what they -- we would consider current liabilities,
15 which are usually you're obligated to pay within a year or
16 less time. And then there are long-term liabilities, which
17 obligate you beyond a year.

18 Q. Okay.

19 A. Staff's concern is that there may be some
20 liabilities on the books of AmerenUE that rightfully -- and
21 I guess we could use the example of 6 percent since that has
22 been discussed related to generation.

23 That if there were common liabilities that had
24 in the past been shared between Illinois and Missouri, that
25 we believe rightfully 6 percent, for example, of those

1 common liabilities should be transferred to AmerenCIPS. And
2 we don't see that or it's not apparent in the information
3 that has been provided.

4 Q. Okay. Now, without going into detail, have
5 you identified the specific liabilities or are you just
6 saying you're afraid there might be such liabilities?

7 A. When Mr. Getz provided his work papers to
8 support his Supplemental -- or Surrebuttal Testimony, excuse
9 me, he provided a page that represented the balance sheet of
10 AmerenUE at the end of December 31, 2003, which listed all
11 the liabilities on the books and the dollar amount at that
12 date.

13 He also provided pages behind that that
14 explained into what I would consider sub-accounts and it was
15 short descriptions as to what those liabilities were for.
16 And then the short descriptions are what Staff was able then
17 to make a determination of -- some of them it was quite
18 apparent that they should remain with Missouri.

19 And then there were some that it isn't
20 obvious. Especially -- there are some sub-accounts under
21 liabilities that are identified as corporate Missouri. And
22 then if you go through the whole list of sub-accounts under
23 that liability, we see no reference to corporate Illinois.

24 And our belief is that all of the common
25 liabilities for the corporate, Illinois and Missouri, reside

1 in that corporate Missouri sub-account. And those are the
2 accounts where we believe that a certain allocation should
3 be made so that part of those liabilities would go to
4 AmerenCIPS. But we, at this point, have never been able to
5 determine an exact dollar amount, but --

6 Q. So you can't tell me what the monetary impact
7 of this might be?

8 A. Well, if we took Mr. Getz's work papers and we
9 went through the sub-accounts, we could identify corporate
10 Missouri liabilities and also in his work papers it has a
11 dollar amount.

12 We could take our 6 percent of that and say we
13 believe that's what should go to Illinois. That would be
14 better than where we're at now where none of it goes to
15 Illinois. But I believe in working with the company, we
16 probably could come to a better number that might be higher
17 or lower than that, but the 6 percent would at this point
18 probably be our best guess.

19 Q. Okay.

20 A. And we could quantify that by running the
21 numbers.

22 Q. Let me make sure I'm following you. Under the
23 JDA, your concern is that Missouri is not going to get its
24 fair share of the profits from off-system sales?

25 A. Right.

1 Q. And with respect to liabilities, your concern
2 is that AmerenUE is keeping too many liabilities?

3 A. Right.

4 Q. Okay. For example, if they have -- if they
5 have a corporate account for furniture in the office,
6 6 percent of that should go with CIPS, for example?

7 A. That doesn't sound like a liability account,
8 but I think --

9 Q. Sounds more like an asset account, doesn't it?
10 What about what they owe on the furniture in the office?

11 A. Yeah. Let's just say that would be --

12 Q. Okay.

13 A. -- what our point is.

14 Q. You can see my deep understanding of these
15 accounting concepts.

16 Now, Commissioner Murray, who is listening
17 upstairs, asks weren't the liabilities originally shared
18 because the generation was used for both Missouri and
19 Illinois?

20 A. If I'm -- when I think of generation and
21 liabilities associated with generation, I'm thinking in my
22 mind of along the line of the environmental liabilities.
23 And I believe whoever benefited from the generation should
24 be responsible for paying the liability.

25 Q. Is that a yes?

1 A. Ask me once again.

2 Q. Okay. Isn't it true that the liabilities were
3 originally shared, that is, rolled into one account, because
4 the generation was used both in the Missouri service areas
5 and in this Illinois Metro East service area?

6 A. I would -- I would believe that the expenses
7 that would be the other side of the equation related to a
8 liability would appear in cost of service and that that
9 should have been reflected in both Illinois ratepayer and
10 Missouri ratepayer rates, yes.

11 Q. Okay. Well, if on a going-forward basis, the
12 generation now is only going to be used in Missouri, why
13 should Illinois keep any part of these liabilities?

14 A. Well, this is where I think you need to make
15 the distinction between a current liability and a long-term
16 liability. And in the area of environmental liabilities
17 where we don't know what the cost of, say, a clean-up at a
18 generation site may be in the future, but we do know that
19 the generation at that site benefited both Illinois and
20 Missouri customers and we would not want to preclude
21 Illinois from paying their fair share of future liabilities
22 associated with cleaning up a generation site that they
23 benefited from.

24 Q. That's very clear. Thank you. I understand
25 that.

1 That's the kind of liability you're talking
2 about?

3 A. Yes.

4 Q. Okay. That would be a long-term contingent
5 liability. Right? Because it might never manifest at all?

6 A. That's true. I mean, at -- at this point if
7 you look at the 10K, they have identified some potential
8 liabilities, but there are also unknown liabilities that may
9 never have even been thought of today.

10 But we would not want to shift the burden into
11 the future for those unknown liabilities to Missouri when --
12 because Illinois benefited from that generation in the past,
13 that they shouldn't pick up part of that possible future
14 unknown.

15 Q. Okay. I understand that.

16 So there are two. Are there any more
17 detriments that you see from your small piece of this
18 puzzle?

19 A. Okay. When you're saying my -- the JDA and
20 the liabilities, I guess when I think of the liabilities,
21 there's two parts of that. There is the environmental
22 unknown liabilities and then there's the other example I
23 tried to explain with Mr. Getz's work papers where the
24 common corporate Missouri --

25 Q. Right.

1 A. -- items --

2 Q. In other words, there's like overhead

3 accounts --

4 A. Yeah. That -- that's --

5 Q. -- that sort of thing?

6 A. Right.

7 Q. And you're suggesting that there are corporate

8 accounts where, in all fairness, 6 percent of those common

9 corporate liabilities really should be allocated with this

10 service area because it's 6 percent of the AmerenUE system?

11 A. Yes.

12 Q. Okay. And so 6 percent of those liabilities

13 should go with that operation?

14 A. Unless they could -- you could demonstrate to

15 us why it shouldn't, yes.

16 Q. Okay. And then these environmental

17 liabilities, this is sort of the ticking time bomb. It may

18 turn into something, it may not, but the Illinois ratepayers

19 should be on the hook to clean up their proportionate share

20 of whatever that might be?

21 A. Yes. Yes.

22 Q. Do you see any other liabilities -- or excuse

23 me, detriments other than these three?

24 A. Those would be the only ones that I would want

25 to elaborate on because of my somewhat limited scope in this

1 case.

2 Q. Okay. And with respect to conditions, if we
3 said, for example, that the transaction will be structured
4 so that Missouri will get its fair share, whatever that
5 might be, of off-system sales revenues, that would satisfy
6 your concern with that detriment; is that right?

7 A. I think the use of the term "fair share" would
8 be something that would be argued forever.

9 Q. Well, assuming, you know, we threw all the
10 lawyers out of the room and we got down to brass tacks, we
11 somehow figured out those numbers so that you could say what
12 the fair share was, maybe it's 6 percent, I don't know.
13 Assuming we can arrive at a number, would a condition
14 requiring that Missouri was allocated that number, would
15 that satisfy Staff's concerns with respect to that possible
16 detriment?

17 A. In my mind of fair share, I would say yes.

18 Q. Okay.

19 A. If it would meet my understanding of that,
20 yes.

21 Q. Very well. I understand.

22 MS. SHEMWELL: Judge, might I just interject
23 that Mr. Proctor might be a good one to ask on the JDA
24 issues and he's coming back.

25 JUDGE THOMPSON: I intend to whale away at

1 Mr. Proctor later this afternoon.

2 MS. SHEMWELL: Thank you, Judge.

3 JUDGE THOMPSON: Thank you.

4 BY JUDGE THOMPSON:

5 Q. Now, with respect to environmental unknowns,
6 if this transaction said that Illinois ratepayers would
7 remain liable for their proportionate share of any clean-up
8 that was necessary representing the years that they
9 benefited from 6 percent of the generation of the various
10 generation sites, would that satisfy your concern on that
11 ground?

12 A. Yes.

13 Q. Okay. And with respect to the other one, if
14 you sat down with the accountants from the company and you
15 went through all the accounts and you chopped 6 percent off
16 each of the ones you thought should be split between the two
17 jurisdictions, would that satisfy your concern on that
18 ground?

19 A. I guess I first would want to sit down with
20 them and try to understand in a little more detail what each
21 of those sub-accounts represented. And then if there were
22 accounts that were just common, 6 percent would be
23 reasonable, yes.

24 Q. Okay. But maybe a different percentage would
25 be applicable to certain accounts --

1 A. Yes. There may be --

2 Q. -- depending on the activity?

3 A. -- some common accounts that we would come to

4 understand that Missouri should pay, you know, all of it.

5 Q. Okay. Well, maybe --

6 A. Or none of it.

7 Q. -- some where Illinois should pay all of it?

8 A. Right.

9 Q. Really depends on what activity that account

10 reflects. Right?

11 A. Yes.

12 Q. And where it occurred?

13 A. Yes.

14 Q. Okay. Very good.

15 And that gets me into another question, this

16 question of where it occurred. With respect to its

17 operations in Illinois, is Union Electric regulated by the

18 Illinois Commerce Commission if, you know?

19 A. Yes, I believe they are.

20 Q. Okay. So why is the Missouri Public Service

21 Commission involved in this transaction? Do we not have an

22 Illinois utility proposing to transfer its assets to another

23 Illinois utility?

24 MS. SHEMWELL: I believe that is asking for a

25 legal conclusion. Certainly Ms. Fischer can give her

1 opinion, but --

2 JUDGE THOMPSON: Thank you. I'd like her to.

3 THE WITNESS: Could you repeat the question

4 again?

5 BY JUDGE THOMPSON:

6 Q. Well, in other words, the assets that are

7 being transferred are located in Illinois; isn't that true?

8 A. Yes.

9 Q. Okay. And to the extent it operates in

10 Illinois as a utility, AmerenUE is regulated by Illinois;

11 isn't that true?

12 A. Yes.

13 Q. And CIPS is regulated by Illinois; isn't that

14 true?

15 A. Yes.

16 Q. So why is this Commission involved in this

17 transaction, if you know?

18 A. Well, from my perspective, the transaction

19 includes more than just the assets. It includes

20 liabilities.

21 And I think from my understanding, we are in

22 agreement that we -- or I should maybe not say agreement,

23 but we have been able to settle our issues related to the

24 actual assets being transferred. But the fact remains that

25 we have problems with the liabilities and the consideration

1 not being given or the lack of liabilities being
2 transferred.

3 Since AmerenUE is a basket full of liabilities
4 and assets, being able to break out which assets and which
5 liabilities remain with Missouri and Illinois, that's why
6 we're involved in the transaction, I believe.

7 Q. Okay. Okay. Well, I won't ask you any more
8 legal questions because that's just not fair.

9 A. I appreciate that.

10 Q. I'm sure the many, many lawyers out there have
11 been listening to these questions.

12 So when you indicated that you believe the
13 compensation is insufficient, that has to do with these
14 three detriments that you've identified for me. Right?

15 A. Well, I believe there are probably other
16 detriments, but those are the ones that I'm aware of or that
17 I have been involved in.

18 Q. I only want to hear about the ones you're in
19 charge of.

20 A. Yes.

21 Q. Because I'll ask other people about the
22 others.

23 Okay. And the environmental one, you would
24 agree, is speculative?

25 A. The amount that's reflected in the 10K for --

1 they break it out I believe in 5, 10 pages of that document
2 addressing asbestos, SO2, a number of different
3 environmental issues. And they also have an estimate of
4 what they anticipate at this point their liability to be.
5 So it is somewhat speculative, but there are in the 10K
6 numbers that --

7 Q. So it's not as speculative as all that?

8 A. No. There are unknowns that no one is aware
9 of that are not in the 10K and maybe those will never
10 materialize, but there are known liabilities related to
11 environmental concerns that are reflected and can be
12 somewhat quantified today.

13 Q. Okay. Very good.

14 This 10K you're talking about, that's the
15 Ameren report to the Securities and Exchange Commission?

16 A. Yes.

17 Q. And is that in evidence, do you know?

18 MS. SHEMWELL: It is not, but we have it here
19 available for the Commission.

20 JUDGE THOMPSON: Are you planning to put it
21 into evidence?

22 MS. SHEMWELL: Yes.

23 JUDGE THOMPSON: Thank you.

24 MS. SHEMWELL: Would you like us to do it now?

25 JUDGE THOMPSON: I think that would be a good

1 thing. I didn't think there was quite enough paper in the
2 case yet.

3 MS. SHEMWELL: We agree.

4 JUDGE THOMPSON: This will be Exhibit 58.
5 What year is this for?

6 THE WITNESS: 2003.

7 MS. SHEMWELL: 2003. Judge, I have the entire
8 10K, which is 184 pages.

9 JUDGE THOMPSON: We'd like them all.

10 MS. SHEMWELL: All right. We will get them
11 all for you. We additionally have, I thought, ones that
12 refer specifically to environmental that I have in my hands
13 right now.

14 JUDGE THOMPSON: Okay. Why don't we do those
15 now and then you can supplement the rest when you get an
16 opportunity. How's that?

17 MS. SHEMWELL: Yes, sir. This will be exhibit
18 number --

19 JUDGE THOMPSON: Fifty-eight.

20 Do I hear any objections to Exhibit No. 58, a
21 portion of Ameren's 10K for 2003?

22 MR. LOWERY: I don't think so, but could I
23 take a look at it before I answer that question?

24 JUDGE THOMPSON: You may. Is this secret?

25 MS. SHEMWELL: It is not. It is a public

1 document. Would you like to go ahead and mark the entire
2 document, reserve that number and then I'll supplement --

3 JUDGE THOMPSON: Yeah. We'll reserve No. 59
4 for the remainder. This portion is 58 and we'll reserve 59
5 for the rest of it. That way we can conveniently keep the
6 sections separate, if necessary, if that's helpful in some
7 way.

8 MR. LOWERY: Your Honor, we have no objection
9 with the understanding we're going to admit the rest of it
10 for completeness as another exhibit.

11 JUDGE THOMPSON: Correct.

12 MR. LOWERY: Thank you.

13 (Exhibit No. 58 was marked for
14 identification.)

15 JUDGE THOMPSON: Well, since I'm now making
16 you put in additional exhibits, I think I'd better stop
17 before I get in trouble.

18 Thank you very much for your testimony. I'm
19 going to ask you to step down now in case one of the
20 Commissioners or one or more of the Commissioners have
21 additional questions for you. We will hold you here.

22 And who's our next witness? I've heard from
23 two of the Commissioners that we don't have questions for
24 the witnesses we've already gone through, but I haven't
25 heard from the chairman. So I can't really change the way

1 we're proceeding until I know that he doesn't have questions
2 for any of the people we've had on the stand today;
3 otherwise, we'd start back at the top of the list doing
4 recross and redirect.

5 Are there any of the witnesses that have been
6 here today that were not planning to be here tomorrow? I
7 know you would all like to not be here tomorrow.

8 You're Mr. Massmann?

9 THE WITNESS: Correct.

10 JUDGE THOMPSON: Why don't you come up here,
11 Mr. Massmann, and we're going to finish you off. That's not
12 actually as threatening as it may have sounded. Thank you,
13 sir. I'll remind you that you're still under oath.

14 THE WITNESS: Yes.

15 JUDGE THOMPSON: And I think we stopped before
16 any questions from the Bench with you.

17 JAMES J. MASSMANN testified as follows:

18 QUESTIONS BY JUDGE THOMPSON:

19 Q. You're the witness on gas, am I right?

20 A. Yes.

21 Q. Okay. And were you here for the testimony of
22 Mr. Sommerer?

23 A. Yes.

24 Q. And have you read Mr. Sommerer's testimony?

25 A. Yes.

1 Q. Okay. With respect to the Fisk-Lutesville LDC
2 in the boot heel area of Missouri, Mr. Sommerer indicated
3 that he saw a possible detriment in the loss of a discounted
4 supply agreement. Did you hear that testimony?

5 A. Yes.

6 Q. What is your opinion with respect to that
7 detriment?

8 A. I disagree. In the current contract, the
9 period ends October 2006. Fisk-Lutesville area will
10 maintain their current rates. Beyond that period, it's hard
11 to say what the market would be, but we will use the full
12 negotiating strength we have of the Alton capacity, the
13 AmerenCIPS capacity and any other capacity we have that
14 comes due at that time and negotiate on behalf of all of
15 those parties at the same time.

16 Q. Is this an area of Ameren's business that you
17 are personally in charge of?

18 A. Yes.

19 Q. And as the person who has -- who is in charge
20 of it, do you feel that it is likely or unlikely that
21 Fisk-Lutesville will lose the benefit of a discounted supply
22 agreement?

23 A. It's unlikely. We've done this in several
24 other situations before with Panhandle, Trunkline, PEPCO and
25 previously with NGPL and we've been successful in each case.

1 Q. Okay. So if I understand your testimony, your
2 position is that the detriment that Mr. Sommerer has
3 outlined with respect to Fisk-Lutesville is realistic, but
4 not likely?

5 A. Correct.

6 Q. Okay. Now, he also testified with respect to
7 the Meramec and Venice power plants --

8 A. Yes.

9 Q. -- did you hear that testimony?

10 And I gather they are presently being supplied
11 from the Alton gas supply?

12 A. They're using those assets, yes.

13 Q. Okay. And that's resulting in some way in
14 favorable rates or a favorable supply or something of the
15 sort; is that correct?

16 A. No. They're being -- the costs are being
17 allocated at market rates. Although they may use the
18 transportation, the Alton gas utility is being credited
19 based on the market rates.

20 Q. So what do you understand exactly as the
21 detriment that Mr. Sommerer identified with respect to those
22 plans?

23 A. I see no plausible detriment.

24 Q. So here you don't even see it as plausible?

25 A. No.

1 JUDGE THOMPSON: Okay. I think that's all the
2 questions I have for you. So it would be time then for
3 recross based on my questions from the Bench. And I
4 believe, Ms. Shemwell, you would be the first one up.
5 RECROSS-EXAMINATION BY MS. SHEMWELL:
6 Q. Mr. Massmann --
7 A. Yes.
8 Q. -- from your response it seems that you
9 indicate you can't guarantee that Venice and Meramec will
10 not pay any higher price?
11 A. They will continue to pay market rates for the
12 transportation.
13 Q. Didn't we agree this morning that they hadn't
14 been paying market rates?
15 A. No. I don't recall -- they are being charged
16 on accounting basis based on what the market rates are for
17 other capacity releases that are being performed.
18 Q. Okay. But it could be different -- we're
19 saying we didn't know the market rate for this particular
20 capacity release, right, because it hasn't been out there?
21 A. It's very similar to other capacity that's
22 being released.
23 Q. This particular piece hasn't been?
24 A. The capacity that Alton -- the excess capacity
25 that Alton occasionally has has not been out there.

1 Q. And on the natural gas they have often been
2 paying lower than market rate; isn't that right?

3 A. No.

4 Q. Wasn't that the statement that we changed this
5 morning?

6 A. We added the word "typically." Typically we
7 were charging them the higher price. It's very difficult to
8 allocate or to assess which gas supply packages are actually
9 being attributed to the power plants. To try to be fair,
10 whenever we can determine which packages are really
11 associated with the power plants, we do that. In those
12 cases where we cannot, we charge the higher price to the
13 power plants.

14 Q. Didn't we discuss though a number of
15 circumstances where they did not pay the highest price?

16 A. Yes. But we never got into the reasons why.
17 Most --

18 MR. BYRNE: Your Honor, this goes beyond the
19 questions from the Bench. And, in fact, I successfully
20 objected to this line of questioning when she crossed him on
21 it.

22 JUDGE THOMPSON: I recall.

23 MS. SHEMWELL: You were asking the detriment
24 and he said he saw none, Judge. I'm trying to establish
25 that, in fact, I think Mr. Sommerer has identified a

1 detriment.

2 JUDGE THOMPSON: Okay. I'm going to give you
3 some rope on this.

4 MS. SHEMWELL: But I think I'm -- I've got one
5 more.

6 BY MS. SHEMWELL:

7 Q. Is the Alton system supply always spot market?

8 A. No. We buy a number of packages. There will
9 be base old, some term, swing packages.

10 Q. And in the future it will be spot market?

11 A. No. It will continue to be as it is now.

12 MS. SHEMWELL: Thank you.

13 JUDGE THOMPSON: Thank you. I see we're
14 beyond time to take a break for the reporter, so we'll take
15 10 minutes here, come back at 3:30 by that clock and it will
16 be time for Mr. Coffman then to recross. Okay? Very good.

17 (A recess was taken.)

18 JUDGE THOMPSON: Mr. Coffman?

19 MR. COFFMAN: I have no questions on recross.

20 JUDGE THOMPSON: Bless you, Mr. Coffman.

21 JUDGE THOMPSON: Okay. Redirect, Mr. Byrne?

22 MR. BYRNE: Just a few, your Honor.

23 REDIRECT EXAMINATION BY MR. BYRNE:

24 Q. Mr. Massmann, in response to one of Judge
25 Thompson's questions, you stated I believe that there was no

1 plausible detriment related to the power plant issue -- the
2 Venice and Meramec power plant issue. Do you recall that
3 testimony?

4 A. Yes.

5 Q. Do you believe there's any plausible detriment
6 to customers or to the public related to the Fisk-Lutesville
7 aspect of this case?

8 A. No.

9 Q. Okay. Earlier on cross-examination from
10 Ms. Shemwell, you spoke of the overall cost of natural gas
11 to the Venice and Meramec facilities. Do you recall that
12 discussion?

13 A. Yes.

14 Q. And I believe you said that the total cost of
15 the gas was \$6.3 million a year. Do you recall that?

16 A. Correct.

17 Q. Okay. Of that \$6.3 million a year, how much
18 of the cost is attributable to natural gas transportation?

19 A. Approximately 60,000.

20 Q. And is it true that that \$60,000 of natural
21 gas transportation is basically what's at issue with regard
22 to the Venice and Meramec power plants?

23 A. That's correct. That's the amount that would
24 be allocated to the Alton.

25 Q. And do you think after this transfer is

1 complete, that the Venice and Alton plants will be able to
2 get natural gas transportation on basically the same terms
3 that they get it now?

4 A. Yes. The market will basically be what it is.
5 Right now it's discounted at times. We intend to continue
6 to get those discounts in the future, but even if we can't,
7 if we're required to go back to MRT's FERC regulated
8 tariff --

9 Q. Well, yeah, let me ask you that. What if
10 Mr. Sommerer is correct and let's say, for example, you had
11 to pay 10 percent more for pipeline transportation for the
12 Alton -- or the Meramec and Venice power plants. How much
13 more per year would you have to pay?

14 A. That would be approximately \$6,000 a year
15 more.

16 Q. And what, in your opinion, is the worst case
17 scenario for how much more the Venice and Meramec plants
18 would have to pay for pipeline transportation?

19 A. The worst case would be, having to revert to
20 MRT FERC regulated tariff, the maximum rate is about
21 16 cents. That would require cost of about \$160,000 per
22 year.

23 Q. So an increase of 100,000 over what we paid
24 last year; is that true?

25 A. Correct.

1 Q. Okay. And my understanding is in order to
2 recover that cost, the only way to recover the increase
3 costs would be in a rate proceeding; is that true?
4 A. Correct.
5 Q. An electric rate proceeding?
6 A. Correct.
7 Q. And we have a rate moratorium until 2006?
8 A. Correct.
9 Q. And let me ask you the same question that I
10 believe the Judge asked you about Fisk-Lutesville. If you
11 looked on -- if we did incur that extra \$100,000 a year cost
12 and if after 2006 we were permitted to recover it through
13 our electric rates, do you know how much per customer that
14 would increase customers' electric rates in Missouri?
15 A. That would be -- the \$100,000 over 1.2 million
16 customers, that works out to be about 8 cents per year per
17 customer. On a monthly basis, that's about .7 cents per
18 customer per year.
19 Q. Per month you mean?
20 A. Per month, excuse me.
21 Q. And that's the worst case scenario?
22 A. Yes.
23 Q. Okay.
24 MR. BYRNE: That's all the questions I have.
25 JUDGE THOMPSON: Thank you, Mr. Byrne.

1 You are excused, Mr. Massmann. Have a nice
2 trip home.

3 THE WITNESS: Thank you.

4 JUDGE THOMPSON: Much as I would like to
5 recall Mr. Kind and start working through the witnesses
6 we've been stacking up, I'm instead going to ask for
7 Mr. Pfeiffer.

8 Now, I notice we've got Pfeiffer, Proctor, Bax
9 and Kind and the issue is transmission access and service.
10 Am I correct in suspecting that Mr. Pfeiffer is not the one
11 who identified the detriment here?

12 MR. BYRNE: That's correct, your Honor.

13 JUDGE THOMPSON: Who is the person that
14 identified the detriment?

15 MR. HENNEN: I believe Dr. Proctor.

16 JUDGE THOMPSON: Do we have a probable with
17 taking Dr. Proctor first?

18 MR. HENNEN: The company does not, no.

19 MR. DOTTHEIM: And ultimately the Staff does
20 not. As far as the matter of which party should --

21 JUDGE THOMPSON: We're leaving burden of proof
22 out of this.

23 MR. DOTTHEIM: Fine.

24 JUDGE THOMPSON: This is just logical
25 consistency.

1 MR. DOTTHEIM: We have no problem with
2 Dr. Proctor taking the stand.
3 JUDGE THOMPSON: Mr. Coffman?
4 MR. COFFMAN: I'm going to lodge an objection.
5 JUDGE THOMPSON: If you're going to lodge an
6 objection, then he's not going to go. So you're objecting.
7 What's the basis of your objection?
8 MR. COFFMAN: That the order of witnesses that
9 we now have was agreed upon by the parties
10 JUDGE THOMPSON: Fine with me then.
11 Mr. Pfeiffer, sorry about that.
12 MS. SHEMWELL: Judge, I need to mention
13 something, please.
14 JUDGE THOMPSON: Please.
15 MS. SHEMWELL: Mr. Sommerer will not be
16 available tomorrow.
17 JUDGE THOMPSON: Mr. Sommerer will not be
18 available tomorrow?
19 MS. SHEMWELL: He will be available on Monday,
20 if that's necessary.
21 JUDGE THOMPSON: Well, you know, I guess we
22 could take Mr. Sommerer and finish up with him now that
23 we've made everybody, you know, come up here ready to start
24 with transmission. You should have mentioned that earlier.
25 MS. SHEMWELL: I apologize.

1 JUDGE THOMPSON: Let's do Mr. Sommerer. I
2 apologize.

3 MS. SHEMWELL: Mr. Sommerer just reminded me.

4 JUDGE THOMPSON: All I can do is apologize and
5 say, you know, lawyers know what it's like hanging around a
6 courthouse trying to get a case tried. For the rest of you,
7 this will convince you, I hope, don't ever sue anybody or be
8 sued. It's just a terrible experience for everyone
9 involved.

10 Okay. Mr. Sommerer, now, we are ready for
11 questions from the Bench. And I'm done with my questions
12 and I don't see any Commissioners, so let's go to recross
13 and the first recrosser is Mr. Coffman.

14 MR. COFFMAN: No recross.

15 JUDGE THOMPSON: Mr. Byrne?

16 DAVID SOMMERER testified as follows:

17 RE-CROSS-EXAMINATION BY MR. BYRNE:

18 Q. Good afternoon, Mr. Sommerer.

19 A. Good afternoon.

20 Q. Let me ask you this. You got some questions I
21 believe from Judge Thompson concerning Ameren's ability to
22 negotiate for gas supply packages and transportation
23 packages using all of its affiliates; in other words, using
24 the full negotiating power of AmerenCIPS and AmerenCILCO and
25 AmerenUE and Ameren Generating Company. Do you remember

1 those questions?

2 A. Yes, I do.

3 Q. And, I mean, aren't you familiar -- having

4 reviewed our gas supply operations and policies, I mean,

5 aren't you familiar with the fact that we have a track

6 record of doing that in terms of negotiating with pipelines,

7 in terms of negotiating with producers? Are you aware of

8 that track record?

9 A. I am aware of Ameren's contracting practices

10 and I know that they tend to combine their negotiations.

11 But the point that I would make is I don't know that that's

12 going to result in a combined rate, because you do have

13 contracting practices that are separated between

14 jurisdictions.

15 Q. Okay. But at least you would agree with me

16 that there is a history of them negotiating those things

17 together, negotiating contracts across companies with the

18 same counter-party and using the power of all the companies

19 together in negotiations with that counter-party?

20 A. That's correct.

21 Q. Okay. Would it be fair to say that Ameren,

22 counting all of its affiliates, is a major transporter on

23 both the Mississippi River Transmission Corporation and

24 Natural Gas Pipeline Company?

25 A. I need a little bit of clarification on

1 "major."

2 Q. One of the largest five shippers on those
3 pipelines?

4 A. I'm not so sure about MRT. The Alton system
5 isn't significant in terms of MRT's total contracted
6 capacity. As you know, Laclede is the major shipper and I
7 suspect Illinois Power is one of the larger shippers as
8 well. As far as Natural Gas Pipeline, I think they are a
9 significant shipper on Natural Gas Pipeline.

10 Q. And if Ameren consummates the proposed
11 acquisition of Illinois Power, presumably that would enhance
12 our position on Mississippi River Transmission?

13 A. It certainly would increase your contracted
14 capacity, yes.

15 Q. Okay. Let me ask another question. We've
16 talked a lot about economics. I just want to make sure.
17 Your concerns about the Venice and Meramec plants are not
18 reliability issues, are they?

19 A. I would say only to the extent that you used
20 to rely on capacity release and it was really an internal
21 capacity release -- really more of an allocation of unused
22 Alton transportation capacity. And if you go over to
23 interruptible transportation, obviously there's a different
24 priority there.

25 Q. And I guess what I was getting to is a little

1 bit of a different point. Isn't it true that those
2 generating facilities are dual fueled and they can run off
3 either natural gas or I think it's fuel oil?

4 A. I believe the current CTG units are dual fuel
5 as far as the ones --

6 Q. So for the current units, if for whatever
7 reason gas wasn't available, they would have the alternative
8 of getting fuel oil?

9 A. To a certain extent, yes. There are usually
10 some constraints about tank holding capacity, but it would
11 be another source or another option for you, yes.

12 Q. I mean, you're not concerned that -- are you,
13 about the reliability of the electric generation? The
14 company's just absolute inability to generate electricity as
15 opposed to the price they might have to pay for gas or
16 transportation capacity?

17 A. Any concern regarding that area would simply
18 relate to the fact that to the extent your range for
19 interruptible transportation that is interruptible --
20 subject to interruption, it hasn't been that way in the
21 past, so that would really state my concern in that area.

22 Q. Except that it has been subject to
23 interruption if the Alton system needs the gas supplies;
24 isn't that correct?

25 A. That is correct, yes.

1 Q. Okay. Speaking of the -- on the cost issue
2 again, doesn't AmerenUE and, in fact, all gas utilities have
3 some incentives to keep their PGA rates low?

4 A. There is some indirect incentive, I would
5 agree with that, yes.

6 Q. I mean, for example, they'd want to avoid
7 disallowances if they could, which might result if they paid
8 too much for gas?

9 MS. SHEMWELL: I think this is getting well
10 beyond the scope of your questions, Judge.

11 JUDGE THOMPSON: Just a sec. I'm responding
12 to another question.

13 Very well. Are you objecting that he's
14 exceeded the scope of recross?

15 MS. SHEMWELL: That's correct.

16 JUDGE THOMPSON: Read back the, question
17 please.

18 THE COURT REPORTER: "Question: I mean, for
19 example, they'd want to avoid disallowances if they could,
20 which might result if they paid too much for gas?"

21 JUDGE THOMPSON: I don't think I asked
22 anything about that, so I'm going to sustain the objection.

23 BY MR. BYRNE:

24 Q. Okay. One last line of questioning then,
25 Mr. Sommerer. I believe in response to some questions

1 earlier you expressed some concern about Fisk-Lutesville
2 being a very small system. Do you recall that?

3 A. Yes, I do.

4 Q. And I guess the problem is a little, tiny,
5 small system standing about itself, if it did have to stand
6 by itself, would have difficulty in acquiring gas supplies
7 and transportation at competitive rates. Is that part of
8 the problem?

9 A. Yes.

10 Q. And I guess also standing by itself it's
11 difficult to hedge gas supplies for a small system. Is that
12 part of your concern about it being a small system?

13 A. That's also true, yes.

14 Q. And wouldn't it be true that one thing that
15 AmerenUE could do to mitigate that is to consolidate the
16 PGAs of small systems in Missouri?

17 A. That certainly is one option. There are a lot
18 of factors associated with that particular proposal, one of
19 them being the historical relationship between the pipeline
20 that serves a community and perhaps combining that with
21 other pipelines that don't serve the same community. But
22 it's really a question of averaging rates and how far you
23 can go with averaging those rates before you run into
24 subsidization of --

25 Q. Well, is that a realistic possibility for

1 mitigating this problem that you've identified of the small
2 isolated system? Obviously subject to whatever details need
3 to be worked out, but is that one thing that could be done
4 to mitigate this problem you've identified?

5 A. Not necessarily. The problem that I
6 identified, although it's related to the size of that
7 particular community, you would still be concerned about the
8 potential loss of the transportation agreement, which was
9 really what I pointed out to begin with in testimony. So
10 that, to me, is the discreet issue that's there, but part of
11 the result or the detriment is the size of that system. And
12 I guess if the system were 500,000 customers, the detriment
13 could be spread.

14 Q. And I guess what I was -- I realize one
15 problem that you identified was related to the contract, but
16 another problem you also talked about was after the contract
17 expires, that system not having enough negotiating power in
18 the marketplace. So that's more what I was talking about.

19 A. Yes.

20 Q. Would the Staff be open to considering
21 consolidation of the PGAs for the various systems in
22 Missouri?

23 A. I really can't, without consulting the rest of
24 the Staff, give you a good perspective on that. I can give
25 you my perspective which would be we're always open to

1 improvements and we would look at those proposals as they
2 came in.

3 MR. BYRNE: Thank you, Mr. Sommerer.

4 JUDGE THOMPSON: Thank you, Mr. Byrne.

5 Ms. Shemwell, redirect?

6 MS. SHEMWELL: Thank you.

7 REDIRECT EXAMINATION BY MS. SHEMWELL:

8 Q. Mr. Sommerer, when you were discussing with
9 Judge Thompson earlier power to the power plants, what did
10 you mean by power?

11 A. Well, I think there was an earlier discussion
12 that talked about the power that supplies the power plant.
13 And I just want to make a clarification that it's really gas
14 supply that supplies the power plant. It's not power.

15 But when I heard those questions, that's how I
16 interpreted them was what's the source of the input or
17 what's the supply. So when I was asked about the power for
18 the power plants, I was interpreting that as what's the
19 supply for the power plants.

20 Q. Gas supply?

21 A. That is correct.

22 Q. Mr. Byrne asked you about Alton and I guess
23 the gas could be -- does the Alton LDC have significant
24 needs for gas in the summer?

25 A. Not nearly as significant as their needs in

1 the wintertime. Generally it's only for, I would say, water
2 heating use and for storage injection. That would be the
3 only need.

4 Q. Judge Thompson was discussing with you
5 alternate arrangements that might be made for the power
6 plants. Do you have an opinion as to whether any would be
7 as good as the present arrangement?

8 A. I think it would be difficult to replicate. I
9 know that Ameren has suggested a stand-alone basis. And the
10 Judge and I were discussing whether there were some middle
11 person that could replicate that and I think my answer was
12 it's possible, but it would be difficult. And there aren't
13 any free lunches, so I think it might be costly as well.

14 Q. What do you mean by "costly"?

15 A. Well, simply to go back to my original
16 proposition that I think there is value in that Alton supply
17 portfolio. And I don't think that the highest cost of gas
18 is always allocated to the Alton power plants.

19 And I think we have apples and oranges here.
20 We have Mr. Massmann suggesting that he will go to the spot
21 market -- extremely volatile market to supply those power
22 plants. They haven't supplied the power plants that way in
23 the past.

24 Q. Judge Thompson was asking you earlier about a
25 friendly release among affiliated companies and would such a

1 friendly release be workable. Would it be workable?

2 A. Again, I think it would be extremely difficult
3 to put together. It may be something that's possible, but
4 the marketer would want to receive some sort of compensation
5 clearly. And you would be dealing with a fairly complicated
6 transaction to put all that together, re-create the same
7 sort of flexibility you have with the Alton system supply.

8 Q. Are there issues with the FERC?

9 A. Any time that you have capacity that you want
10 to release, unless it's really an allocation amongst the
11 same company, I think you would be dealing with a situation
12 where you would have to post it. So I think we would be
13 talking about posting the capacity if we have a transfer.

14 Q. So Judge Thompson was talking about can CIPS
15 do this and that's the kind of situation that you're
16 suggesting would need to be posted?

17 A. That's correct.

18 Q. Where is it posted?

19 A. It's posted on the pipeline bulletin board,
20 electronic bulletin board.

21 Q. Judge Thompson had mentioned that perhaps CIPS
22 would be willing to continue this. Has Ameren suggested
23 that arrangement?

24 A. No, they have not.

25 Q. Is there a way that the Commission could

1 condition this agreement so that that could be replicated?

2 A. I would think in terms of some sort of

3 hold-harmless condition where there was an agreement that

4 the new agreements that Mr. Massmann will have to put in

5 place as a stand-alone operation will be no worse than the

6 current situation with the Alton LDC.

7 Q. Mr. Byrne asked about mitigating the risk of

8 Fitz-Lutesville. Do you have any other suggestions about

9 how to mitigate that risk?

10 A. I think the best way to deal with that risk is

11 to simply require Ameren to not only negotiate the

12 Fisk-Lutesville Natural Gas Pipeline contract with Alton,

13 but to make sure the Fisk-Lutesville's contract rate is no

14 higher than Alton's contract rate.

15 MS. SHEMWELL: Thank you. That's all I have.

16 JUDGE THOMPSON: Thank you, Ms. Shemwell.

17 Mr. Sommerer, you're excused.

18 MS. SHEMWELL: Thank you for allowing us to go

19 today, Judge.

20 JUDGE THOMPSON: That's quite all right.

21 Now we'll go onto Mr. Pfeiffer.

22 You are?

23 MR. HENNEN: Mr. Hennen.

24 JUDGE THOMPSON: Very well. And you will be

25 inquiring. Let me get my little cheat sheet here so I know

1 who's next. Okay. So that would be Mr. Dottheim, you're
2 going to be crossing?

3 MR. DOTTHEIM: Yes, Judge.

4 JUDGE THOMPSON: You may inquire, Mr. Hennen.
5 Oh, wait a minute.

6 (Witness sworn.)

7 JUDGE THOMPSON: Would you please state your
8 name and spell your last name for the reporter?

9 THE WITNESS: Edward C. Pfeiffer,
10 P-f-e-i-f-f-e-r.

11 JUDGE THOMPSON: Thank you.
12 Now you may inquire.

13 EDWARD C. PFEIFFER testified as follows:

14 DIRECT EXAMINATION BY MR. HENNEN:

15 Q. Mr. Pfeiffer, by whom are you employed?

16 A. Ameren Services.

17 Q. And what is your position with Ameren
18 Services?

19 A. I'm the director of transmission planning and
20 services.

21 Q. And did you prepare or cause to be prepared
22 your Surrebuttal Testimony that's been marked as Exhibit 13
23 in this proceeding?

24 A. Yes.

25 Q. And do you have a copy of that before you?

1 A. Yes, I do.

2 Q. And does your Surrebuttal Testimony consist of
3 a title page and seven pages of questions and answers?

4 A. Yes.

5 Q. And do you need to make any corrections to
6 your testimony at this time?

7 A. No.

8 Q. Is your testimony, to the best of your
9 knowledge, true and correct?

10 A. Yes.

11 Q. If you were asked these same questions that
12 are contained in your Surrebuttal Testimony today under
13 oath, would your answers be the same?

14 A. Yes.

15 MR. HENNEN: Your Honor, I would offer
16 Exhibit 13 be admitted into evidence and I tender
17 Mr. Pfeiffer for cross-examination.

18 JUDGE THOMPSON: Thank you. Do I hear any
19 objections to the receipt of Exhibit 13?

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

22 (Exhibit No. 13 was received into evidence.)

23 JUDGE THOMPSON: Mr. Dottheim, you're up, sir.

24 MR. DOTTHEIM: Thank you.

25 CROSS-EXAMINATION BY MR. DOTTHEIM:

1 Q. Good afternoon, Mr. Pfeiffer.

2 A. Good afternoon.

3 Q. Now, Mr. Pfeiffer, you mentioned the cost to
4 AmerenUE to receiving transmission service from AmerenUE
5 generation assets located in the AmerenCIPS-owned portion of
6 the system after the Metro East transfer in your Surrebuttal
7 Testimony, do you not?

8 A. Just to make sure I got the right place where
9 I reference it --

10 Q. Well, in particular, I would refer you to
11 page 3, lines 19 to 22, and also page 7, lines 4 to 6.

12 A. Page 7? Okay.

13 Q. And, again, at those two places, you mention
14 the cost to AmerenUE to receiving transmission service from
15 AmerenUE generation assets located in the AmerenCIPS-owned
16 portion of the system after the proposed Metro East
17 transfer?

18 A. Yes.

19 Q. Yeah. Is there any other place in your
20 Surrebuttal Testimony where you discuss the cost to AmerenUE
21 for transmission service?

22 A. I believe on page 4 I may have said something
23 about it also.

24 Q. Okay. And where on page 4, in particular?

25 A. Line 20 and 21.

1 Q. Okay. Anywhere else?

2 A. Not that I recall without reading it in total.

3 Q. I'd like to refer you to page 3, again, line

4 13.

5 A. Yes, sir.

6 Q. And you use the word "nothing" in the sentence

7 that starts at page 13. Does the word "nothing" in that

8 sentence also include cost to AmerenUE for transmission

9 service?

10 A. I believe that's what I was referencing, that

11 there's no impact to the cost of the -- or transfer of the

12 assets on the transmission services associated with delivery

13 of that capacity of the load -- or energy.

14 Q. Now, Mr. Pfeiffer, what is your understanding

15 of how the pre-Metro East transfer costs to AmerenUE for

16 transmission service are determined by the Missouri Public

17 Service Commission?

18 A. As far as how the rates are made?

19 Q. Or the costs themselves are determined.

20 A. I am not an expert on rates. I can't really

21 testify as to how Missouri sets rates. I was discussing how

22 transmission service is charged.

23 Q. And we're talking about rates for transmission

24 service or rates addressing transmission costs?

25 A. We are -- I'm sorry. I didn't understand that

1 last question.

2 Q. Well, you were indicating that you were not an
3 expert on how rates are determined, if I can characterize
4 what you said. And I was trying to determine when you said
5 rates, what in particular you were referring to.

6 A. I was trying to answer your question. What I
7 was trying to answer in this testimony is that I did not see
8 that there would be any additional transmission service
9 charges associated with the transfer, any change in the
10 transmission service charges.

11 Q. And do you have an understanding of how the
12 Missouri Commission addresses the matter of an electric
13 utility recovering its cost respecting transmission service?

14 A. Not per se. If you have a specific there --
15 in general, I'm not sure of the question. I'm sorry.

16 Q. Subsequent to the Metro East transfer and
17 everything else staying the same, will there be any changes
18 in the Missouri Commission's method of determining
19 transmission costs or the amount of transmission costs that
20 are to be recovered from Missouri retail customers?

21 A. I don't know.

22 Q. Mr. Pfeiffer, subsequent to the Metro East
23 transfer that's been proposed, do you know whether the
24 transmission costs for Missouri retail customers will be
25 based on the rate base of transmission assets owned by

1 AmerenUE or based on the rate base of transmission assets
2 owned by Ameren in total?

3 A. I don't know.

4 Q. Mr. Pfeiffer, does AmerenUE currently pay
5 AmerenCIPS any charges for its use or potential use of the
6 transmission assets owned by AmerenCIPS?

7 A. I believe the Ameren transmission system is
8 operated as a single entity with a single tariff. How that
9 tariff is calculated, I'm not certain.

10 Q. Are there any circumstances that you are aware
11 of under which AmerenUE might have to pay additional charges
12 for its use or potential use of the transmission assets
13 owned by AmerenCIPS?

14 A. Not as I understand the operation of our
15 system and what would be happening with the transition of
16 the MISO, no.

17 Q. If Ameren participates as it presently -- as
18 it presently is scheduled to do in the Midwest ISO through a
19 contractual agreement with Great America, when the MISO
20 day-two market starts up, what protection will AmerenUE have
21 against having to pay any congestion costs to the Midwest
22 ISO?

23 A. We are attempting through the calculation of
24 financial transmission rights to make sure that AmerenUE is
25 held harmless from congestion in that day-two market.

1 Q. Is it likely that the financial transmission
2 rights, the FTRs, allocated to Ameren will result in Ameren
3 always paying zero congestion costs, or is it more likely
4 that the FTRs allocated to Ameren will at times either
5 result in Ameren having to pay some level of congestion
6 costs or receive some level of revenues above what it is
7 charged for congestion costs?

8 A. My understanding of the agreement and the
9 stipulation was that we were supposed to attempt to
10 negotiate or to identify a set of financial transmission
11 rights which would allow us to break even on total. Net
12 zero is what I -- is my understanding.

13 Q. If there is the likelihood of FTRs allocated
14 to Ameren not always resulting in zero congestion costs,
15 will there have to be some form of agreement how the
16 residual costs or revenues are to be allocated to AmerenUE
17 and AmerenCIPS?

18 A. I assume so.

19 Q. Could the relative amount of transmission
20 assets held by AmerenUE or AmerenCIPS possibly be used as a
21 basis for this allocation?

22 A. Possibly. I don't know that that's the intent
23 at this time.

24 Q. Could a hold-harmless condition respecting
25 costs involve a determination that the allocation of

1 residual costs or revenues to AmerenUE or AmerenCIPS not be
2 based on each entity's ownership of transmission assets?

3 A. It could.

4 Q. Are transmission revenues presently allocated
5 between AmerenUE and AmerenCIPS?

6 A. I'm not familiar with the accounting.

7 Q. Are you familiar as to how transmission
8 revenues would be allocated or assigned between AmerenUE and
9 AmerenCIPS if the Metro East transfer is approved?

10 A. No.

11 Q. Have you participated in any study of the
12 revenue requirement impact on AmerenUE's transmission costs
13 and revenues if the Metro East transfer is approved?

14 A. No.

15 Q. Are you aware of any Ameren study respecting
16 the revenue requirement impacts on AmerenUE's transmission
17 costs and revenues if the Ameren Metro East transfer is
18 approved?

19 A. No.

20 Q. Mr. Pfeiffer, do you know if transmission
21 charges are covered in the Joint Dispatch Agreement?

22 A. No.

23 Q. Then you're not aware whether the Joint
24 Dispatch Agreement addresses how transmission revenue from
25 the combined systems network and point-to-point transmission

1 service tariffs would be assigned under the JDA after the
2 proposed Metro East transfer?

3 A. No.

4 Q. And you're not aware then as to how, under the
5 present JDA, combined systems network and point-to-point
6 transmission service tariff revenues would be assigned
7 presently prior to the proposed Metro East transfer?

8 A. No.

9 MR. DOTTHEIM: If I could have a moment,
10 please.

11 JUDGE THOMPSON: You may.

12 I hope that's cupcakes, Ms. Shemwell.

13 MS. SHEMWELL: I'm sorry, Judge. Nothing so
14 exciting. It's the 10K's.

15 BY MR. DOTTHEIM:

16 Q. Mr. Pfeiffer, are you aware of which
17 transmission assets will be transferred from AmerenUE to
18 AmerenCIPS under the proposed Metro East transfer?

19 A. In general, yes.

20 Q. Okay. Could you identify what your
21 understanding is as to which transmission assets facilities
22 will be transferred from AmerenUE to AmerenCIPS under the
23 asset transfer agreement?

24 A. My understanding is that all AmerenUE
25 transmission assets in Illinois except for the river

1 crossing will be transferred to AmerenCIPS.

2 Q. Does that involve AmerenUE transmission assets
3 respecting the Venice power plant?

4 A. The transmission assets, yes.

5 Q. Does the asset transfer agreement cover the
6 transfer of transmission assets facilities respecting the
7 Electric Energy, Inc. transmission facilities assets?

8 A. The AmerenUE lines that connect to Electric
9 Energy, Inc.

10 Q. Are covered by the asset transfer agreement?

11 A. I believe those are in Illinois, yes.

12 Q. Are any AmerenUE assets facilities or assets
13 of the transmission nature respecting the Pinckneyville
14 combustion turbine generators, are they covered by the asset
15 transfer agreement?

16 A. The transmission assets to which it connects,
17 yes.

18 Q. Are there any transmission assets facilities
19 respecting the Keokuk power station covered by the asset
20 transfer agreement?

21 A. Yes.

22 MR. DOTTHEIM: Again, if I could have a
23 moment.

24 JUDGE THOMPSON: You may.

25 BY MR. DOTTHEIM:

1 Q. Mr. Pfeiffer, is it your testimony that as
2 long as the Ameren transmission system is operated as a
3 single control area, the AmerenUE generation assets
4 connected to AmerenCIPS-owned portion of the Ameren
5 transmission system will be granted transmission rights as
6 an AmerenUE -- as AmerenUE network resources?

7 A. Yes.

8 Q. Would you please provide a definition of
9 network resources?

10 A. Network resources are those resources
11 specified by corporate planning, the agent for the load that
12 are used to serve the requirements of the native load.

13 Q. Would the ability of AmerenUE to designate
14 network resources within the Ameren control area change
15 after functional control of the transmission system has been
16 transferred to the Midwest ISO?

17 A. Not that I know of. I would say no.

18 Q. Would the ability of AmerenUE to designate
19 network resources connected to the AmerenCIPS-owned portion
20 of the Ameren transmission system change if that system was
21 divided into two control areas, an AmerenUE and AmerenCIPS
22 control areas?

23 A. I don't believe that would affect the ability
24 to specify designated resources, no.

25 Q. Is it likely that AmerenUE and AmerenCIPS will

1 continue to operate in a single control area without a Joint
2 Dispatch Agreement that addresses their joint transmission
3 assets?

4 A. Would you repeat the question, please?

5 Q. Sure. Is it likely that AmerenUE and
6 AmerenCIPS would continue to operate in a single control
7 area without a Joint Dispatch Agreement that addresses their
8 joint transmission assets?

9 A. I don't know. I'm not aware of any intention
10 to either split the control area or void the JDA.

11 Q. Do you know if the JDA were terminated, would
12 AmerenUE need to be prepared to operate in a control area
13 separate from the present common control area with
14 AmerenCIPS?

15 A. I'm not certain that that would be a
16 requirement.

17 Q. Do you have an opinion as to what is the
18 likelihood of the present single common control area being
19 split into two control areas?

20 A. Yes, I have an opinion that it will not be
21 split into two control areas.

22 Q. If it's a situation, as you've just indicated,
23 that you don't see that it is likely that the present common
24 single control area might be split into two control areas,
25 then isn't the expected cost of holding AmerenUE harmless

1 against such an event almost zero?

2 A. Yes.

3 Q. Now, the Staff in this proceeding has proposed

4 that Ameren agree to a hold-harmless position respecting

5 transmission facilities being transferred to AmerenCIPS, has

6 it not?

7 A. Yes.

8 Q. And Ameren's position respecting the Staff's

9 proposal is, is it not, that Ameren is unwilling to enter

10 into a hold-harmless condition with respect to AmerenUE

11 being able to designate its generation assets connected to

12 the AmerenCIPS-owned portion of the Ameren transmission

13 system as network resources in the event that Ameren is no

14 longer a single control area?

15 A. It seems unnecessary.

16 MR. DOTTHEIM: May I have a moment, please?

17 JUDGE THOMPSON: You may.

18 BY MR. DOTTHEIM:

19 Q. Mr. Pfeiffer, are you aware of the Federal

20 Energy Regulatory Commission's order of November 21, 2002

21 respecting Ameren Services Company application on behalf of

22 Ameren's Public Utility Company subsidiaries respecting the

23 Ameren merger with CILCO?

24 A. Yes.

25 Q. Are you aware in the November 21, 2002 order

1 of the FERC, the order conditionally authorizing merger and
2 granting waivers and authorizations, is there a reference
3 therein to a hold-harmless agreement?

4 A. Specifically, I'm not aware of that context.

5 MR. DOTTHEIM: I'm sorry. A moment, please.

6 JUDGE THOMPSON: Take your time.

7 MR. DOTTHEIM: May I approach the witness?

8 JUDGE THOMPSON: You may.

9 THE WITNESS: Thank you.

10 BY MR. DOTTHEIM:

11 Q. Mr. Pfeiffer, in particular, I'd like to
12 direct you to page 6 of the copy that I've provided to you.

13 A. Yes, sir.

14 Q. And I'd like to ask you to read into the
15 record paragraph 32. And, again, this is -- what I've
16 handed is you a copy of the November 21, 2002 order
17 conditionally authorizing merger and granting waivers and
18 authorizations of the Federal Energy Regulatory Commission.
19 And the citation is 101 FERC, paragraph 61,202.

20 A. Paragraph 32, applicants recognize the need
21 for interim market power mitigation measures during the
22 period from the date the acquisition's consummated to the
23 date the upgrades are completed and in service.

24 They proposed two interim measures. First,
25 for the Springfield market applicants, agree to pay

1 Springfield the difference between Springfield's incremental
2 cost to generate and the in to synergy price adjusted to
3 account for transmission costs, losses and ancillary service
4 charges for each hour when constraints on the Ameren or
5 CILCO transmission systems prevent Springfield from
6 importing the energy that it wishes to import to serve its
7 native load.

8 This hold-harmless transmission congestion
9 condition will be in effect until the identified
10 transmission system upgrades for the Springfield area are
11 completed or if other upgrades are agreed to by appl--
12 excuse me, applicants and Springfield until applicants -- I
13 did it again -- applicants have discharged their portion of
14 the responsibilities for constructing those or other
15 upgrades.

16 Second, for wholesale customers purchasing in
17 the Ameren and CILCO markets, applicants agree to extend any
18 existing fixed contract which is due to expire before the
19 upgrades proposed for these markets are completed through
20 the month in which construction is actually completed.

21 Q. Thank you.

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

24 JUDGE THOMPSON: You may.

25 MR. DOTTHEIM: Thank you, Mr. Pfeiffer. I

1 have no further questions at this time.

2 JUDGE THOMPSON: Thank you, Mr. Dottheim.

3 Mr. Coffman?

4 MR. COFFMAN: I have no questions.

5 JUDGE THOMPSON: Okay. Questions from the

6 Bench.

7 THE WITNESS: Yes, sir.

8 QUESTIONS BY JUDGE THOMPSON:

9 Q. Mr. Pfeiffer, am I correct that you did not

10 identify any detriments having to do with transmission

11 assets or service?

12 A. I am not aware of any due to this transfer.

13 Q. Okay. Have you read the testimony that was

14 filed or pre-filed by Dr. Proctor --

15 A. Yes, sir.

16 Q. -- Mr. Bax and Mr. Kind?

17 A. Dr. Bax-- Dr. Bax? Proctor and Bax, yes.

18 Q. You have not read Mr. Kind's testimony?

19 A. If I did, it doesn't jump out at me at the

20 moment.

21 Q. All right. And am I correct that you only

22 filed Rebuttal -- or Surrebuttal Testimony; is that right?

23 A. Yes, sir.

24 Q. So your testimony was intended to respond to

25 the testimony of who?

1 A. Predominantly Mr. Bax and Dr. Proctor.

2 Q. Okay. And what detriments, if any, did

3 Dr. Proctor identify in this transaction with respect to

4 transmission assets for service?

5 A. I'm not certain that he really found any

6 detriments. There was some concern in the event that Ameren

7 ceased to operate as a single control area and that should

8 that happen, that there might be the need for some

9 mitigation.

10 Q. What's a single control area?

11 A. The AmerenUE and AmerenCIPS, well, load and

12 generation operate as a single entity. The load within that

13 circle operates in a homogenous manner.

14 Q. Is this pursuant to what's been called a Joint

15 Dispatch Agreement?

16 A. It is -- it is in part able -- enabled by a

17 Joint Dispatch Agreement, yes.

18 Q. What are the other parts, if you can say so

19 succinctly?

20 A. Basically we draw a circle around the two --

21 the service territories of those two operating companies and

22 operate them as if they were a single entity.

23 Q. As far as you know, is there any likelihood

24 that that's going to stop in the future?

25 A. I am not aware of any intention.

1 Q. Okay. Was this the only concern raised by
2 Dr. Proctor that you're aware of?

3 A. I believe it's the only one -- or the
4 predominant one certainly to which I addressed my
5 Surrebuttal Testimony.

6 Q. Okay. What about Mr. Bax?

7 A. I think his problem was predominantly the same
8 as Dr. Proctor's with some other issues I think, which he
9 clarified by changing some words about access to the system,
10 I want to say priority access to the system, which I didn't
11 understand since as a transmission owner/provider, we're not
12 authorized to give priority to anybody. The system was
13 operated neutral to all participants.

14 Q. Okay. Non-discriminatory or --

15 A. Non-discriminatory.

16 Q. -- non-preferential manner?

17 A. Yes.

18 Q. So the only detriment then, if I'm correct,
19 that you're aware of identified by either of those two Staff
20 witnesses is the possibility of the end of the single
21 control area operation; is that correct?

22 A. Yes, sir.

23 Q. And would you consider that possibility to be
24 very likely, not very likely, or unlikely?

25 A. Unlikely.

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

3 I do not know -- I'm reluctant to let you go
4 because I don't know if the chairman has any questions for
5 you. Were you planning to be here tomorrow?

6 THE WITNESS: I may be now.

7 JUDGE THOMPSON: Well, I'm sorry about that,
8 but I think we're stuck with it, so thank you. I'm going to
9 ask you to step down now.

10 Who's the next witness?

11 MR. DOTTHEIM: Mr. Bax.

12 JUDGE THOMPSON: Mr. Bax. Let's get started
13 with Mr. Bax.

14 MR. FREY: Your Honor, if I might have a
15 moment prior to --

16 JUDGE THOMPSON: You may.

17 Mr. Hennen, are you going to be doing the
18 cross on Mr. Bax?

19 MR. HENNEN: Yes, I am, your Honor.

20 JUDGE THOMPSON: Okay. Very good.

21 While he's taking his minute, I'll go ahead
22 and swear you in.

23 (Witness sworn.)

24 JUDGE THOMPSON: Please take your seat. Go
25 ahead and state your name for the reporter and spell your

1 last name, if you would.

2 THE WITNESS: Alan J. Bax, B-a-x.

3 MR. FREY: Judge, we have an exhibit that's
4 being prepared as we speak that we would like to introduce
5 in connection with Mr. Bax's testimony here and I was
6 wondering if we could have --

7 JUDGE THOMPSON: Didn't expect to get this
8 far, huh?

9 MR. FREY: -- five minutes.

10 JUDGE THOMPSON: That's fine. We'll probably
11 not finish with him today so you may be able to do it
12 tomorrow morning. Mr. Dottheim, do you have something?

13 MR. DOTTHEIM: Yes, Judge. And the reason why
14 we even ask the Court's -- excuse me, the Commission's
15 patience on this is that the document that's being worked on
16 resolves an outstanding item between the Staff and the
17 company. It's something that resolves a matter that
18 otherwise we would have to take up during the transmission
19 issue that we think we have resolved.

20 JUDGE THOMPSON: Okay. So what do you want me
21 to do, give you a recess now?

22 MR. FREY: Yes, if possible.

23 JUDGE THOMPSON: How long?

24 MR. FREY: Ten minutes.

25 JUDGE THOMPSON: Great. We'll take

1 10 minutes.

2 (A recess was taken.)

3 JUDGE THOMPSON: Do you have some good news

4 for me there, Denny?

5 MR. FREY: Yes.

6 JUDGE THOMPSON: What is the good news? You

7 settled the whole case?

8 MR. FREY: Not quite.

9 JUDGE THOMPSON: Some small portion thereof?

10 MR. FREY: Yes.

11 JUDGE THOMPSON: Great.

12 MR. FREY: We had an issue that sprang up --

13 or an item, I should say, that sprang up later that raised a

14 concern, but that concern has now been resolved.

15 JUDGE THOMPSON: So we are now happy regarding

16 the 3.8 kV switch gear at the Venice plant?

17 MR. FREY: Right. And we want to submit that.

18 JUDGE THOMPSON: I want you to know I wasn't

19 sleeping thinking about that.

20 MR. LOWERY: You might also recall, your

21 Honor, that we had settled the asset transfer list issue and

22 we've never actually put anything on the record on that.

23 JUDGE THOMPSON: That's true. I want you to

24 know you're on my Christmas card list because of that, all

25 of you. Anything else you settle, don't feel constrained

1 not to.

2 You know, I look at this witness list and I
3 see -- I know this is counting some people twice because
4 they're under more than one issue, but I count 11, maybe 13
5 people we've still got to get to. When you guys set this
6 thing up, why did you think we were going to do 15 people a
7 day? Had you not ever been here before?

8 MR. COFFMAN: It was our original idea to do
9 witness by witness.

10 JUDGE THOMPSON: Even going witness by
11 witness, I don't know how you would have fit them all in in
12 five days, you know. You figure that a normal base here is
13 four witnesses a day. My experience, that's the normal
14 base. Oh, well. We'll leave that for another time.

15 So, Mr. Frey, are you ready to inquire? I
16 think we've sworn him in. We swore you in. Right?

17 THE WITNESS: Yes, Judge.

18 MR. FREY: Yes, thank you, your Honor. Thank
19 you for your patience in granting that brief recess because
20 I think, as was indicated off the record, an item arose
21 basically just a couple of weeks ago that did raise some
22 concerns; however, the Staff -- for the Staff, but the Staff
23 has engaged in some discussions with the company and that
24 issue has now been resolved to the Staff's satisfaction. So
25 it does not exist.

1 We would like to offer into the record Exhibit
2 60 -- I believe it's Exhibit 60 which memorializes that
3 agreement.

4 JUDGE THOMPSON: Okay.

5 MR. FREY: If I might.

6 JUDGE THOMPSON: We'll call this the Switch
7 Gear Agreement.

8 Please proceed.

9 Do I hear any objection to the receipt of the
10 Switch Gear Agreement? Unless you want to call it something
11 else.

12 MR. LOWERY: No objections.

13 JUDGE THOMPSON: Great. The same is received
14 and made a part of the record of this proceeding.

15 (Exhibit No. 60 was marked for identification
16 and received into evidence.)

17 MR. LOWERY: Your Honor, if I could just make
18 one record comment for the record about it, there is an
19 issue that Staff has raised in the case about whether or not
20 AmerenUE's prayer in our application where we ask for such
21 incidental authority is too broad. We have agreed with
22 Staff that any permission to approve transfer of assets here
23 would include permission to enter into the agreement that
24 we've agreed to pursuant to Exhibit 60.

25 JUDGE THOMPSON: Great.

1 MR. LOWERY: Thank you.

2 JUDGE THOMPSON: Have at him.

3 MR. FREY: Thank you, your Honor.

4 ALAN J. BAX testified as follows:

5 DIRECT EXAMINATION BY MR. FREY:

6 Q. Mr. Bax, do you have any corrections or

7 additions to your Rebuttal Testimony which has been marked

8 for purposes of identification as Exhibit 16?

9 A. Yes, I do. On page 4 of my Rebuttal

10 Testimony, line 6, instead of the term "bus ties," I would

11 like it to read "bus tie points."

12 JUDGE THOMPSON: What line is this on page 4,

13 Mr. Bax?

14 THE WITNESS: Line 6.

15 JUDGE THOMPSON: Thank you. Bus tie points?

16 THE WITNESS: Yes.

17 JUDGE THOMPSON: Okay.

18 THE WITNESS: On line 21 I want to replace the

19 word "priority" with the term "network resource."

20 JUDGE THOMPSON: Okay.

21 THE WITNESS: And on -- in line 3 --

22 JUDGE THOMPSON: Same page?

23 THE WITNESS: Same page, page 4. On line 3,

24 the comma after "lines" and change the "and" at the end of

25 the sentence to "but not."

1 JUDGE THOMPSON: Okay.

2 BY MR. FREY:

3 Q. Is that all, Mr. Bax?

4 A. Yes.

5 MR. FREY: With that, your Honor, I would

6 offer Exhibit 16, Mr. Bax's Rebuttal Testimony, into

7 evidence and tender the witness for cross.

8 JUDGE THOMPSON: Do I hear any objections to

9 the receipt of Exhibit 16?

10 MR. HENNEN: No objections, your Honor.

11 JUDGE THOMPSON: Very well. The same is

12 received and made a part of the record of this proceeding.

13 (Exhibit No. 16 was received into evidence.)

14 JUDGE THOMPSON: Mr. Coffman?

15 MR. COFFMAN: No questions.

16 JUDGE THOMPSON: Mr. Hennen?

17 MR. HENNEN: Thank you, your Honor. Before I

18 begin with Mr. Bax, I'd like to get one -- make one

19 clarification regarding the Switch Gear Agreement.

20 JUDGE THOMPSON: Yes, sir.

21 MR. HENNEN: Apparently it was unclear whether

22 or not Staff was in favor of entering into this and that is,

23 in fact, the case. They agree to enter into this agreement,

24 in case there was any doubt.

25 JUDGE THOMPSON: I assumed that since

1 Mr. Frey offered it into evidence.

2 MR. FREY: That's the case, your Honor.

3 JUDGE THOMPSON: Very good. I see there's no
4 signature there. Do I have to poll?

5 Mr. Coffman, are you happy with this?

6 MR. COFFMAN: We -- I don't have any reason to
7 believe that we wouldn't be okay with it. We haven't
8 reviewed it all yet, so --

9 JUDGE THOMPSON: Very well. I will ask you
10 that question again tomorrow.

11 MR. COFFMAN: That would be fine.

12 JUDGE THOMPSON: Thank you.

13 Please proceed Mr. Hennen.

14 MR. HENNEN: Thank you, your Honor.

15 CROSS-EXAMINATION BY MR. HENNEN:

16 Q. Good afternoon, Mr. Bax.

17 A. Good afternoon, Mr. Hennen.

18 Q. I'd like to refer you to page 4 of your
19 testimony where you say that you're concerned that the
20 property transfer may have an impact on the transmission
21 capability to transmit power generated from the AmerenUE
22 plants in Illinois to Missouri retail load; is that correct?

23 A. Yes.

24 Q. And when you refer to transmission capability
25 in your testimony, you are referring to the electrical load

1 carrying capability of the lines to be transferred from
2 AmerenUE to AmerenCIPS. Correct?

3 A. The capability of the transmission lines, the
4 available transmission capability.

5 Q. Thank you.

6 Mr. Bax, you are not aware of any existing
7 limitations on the AmerenUE or AmerenCIPS transmission
8 systems that prevent AmerenUE from receiving energy from any
9 of its generating plants in Illinois, are you?

10 A. No.

11 Q. So as far as you know, none of the AmerenUE
12 transmission lines in Illinois are overloaded or constrained
13 today such that power from AmerenUE plants in Illinois
14 cannot be delivered to AmerenUE load. Correct?

15 A. With respect to historical adders, I'm not
16 aware -- I'm not aware of that.

17 Q. You're not aware of any constraints today?

18 A. No.

19 Q. Thank you.

20 Mr. Bax, you are an electrical engineer,
21 aren't you?

22 A. Yes.

23 Q. So you're generally aware of the factors that
24 dictate the load carrying capability of a transmission line?

25 A. Yes.

1 Q. And what are those characteristics?

2 A. You have the manufacturer's specifications,
3 you're looking at the -- you have thermal limitations,
4 voltage limitations, stability limitations depending on what
5 exactly is the loading at the time of -- as you're taking a
6 snapshot of the system.

7 Q. Can you think of any other characteristics?

8 A. The transmission lines have a -- have a rating
9 capacity that's specified by the manufacturer by its design.

10 Q. Okay. So ownership of a transmission line has
11 no impact on the load carrying capability of the line, does
12 it?

13 A. Only in how you might -- only in how you might
14 determine these -- these before-mentioned thermal stability
15 voltage limitations.

16 Q. Are you aware of any differences between the
17 way AmerenUE and AmerenCIPS evaluate those things you just
18 described?

19 A. No.

20 Q. So the mere transfer of ownership of the
21 transmission lines that may be transferred from AmerenUE to
22 AmerenCIPS as a result of this proceeding will not impact
23 the transfer capability of those transmission lines, will
24 it?

25 A. Not as -- not if you have this -- probably not

1 as you -- if you have the -- taking the snapshot of -- but
2 you're dependent upon, if you will, good utility -- take
3 into account good utility practice.

4 Q. Okay. So if there are no constraints today on
5 the AmerenUE lines in Illinois, the mere transfer of the
6 transmission lines to AmerenCIPS will not create any
7 overloads or constraints on those lines, will it?

8 A. All things being equal? All things being
9 equal, no.

10 MR. HENNEN: Thank you, your Honor. No
11 further questions.

12 JUDGE THOMPSON: Very well. Time for
13 questions from the Bench, Mr. Bax, and that means me.

14 QUESTIONS BY JUDGE THOMPSON:

15 Q. Am I correct in understanding that you see a
16 potential detriment to the public interest if the proposed
17 transfer is approved?

18 A. I see -- I see a possible detriment in the
19 fact that the -- the system is currently operated as one
20 control area.

21 Q. So the detriment has to do with the
22 possibility that it will no longer be operated as a single
23 control area?

24 A. That is -- that is the -- the premise of the
25 testimony, yes.

1 Q. Okay. Were you here for the testimony of
2 Mr. Pfeiffer?

3 A. Yes.

4 Q. Did you hear Mr. Pfeiffer testify that that is
5 not likely to occur?

6 A. Yes.

7 Q. And that there are no plans for it to no
8 longer be operated as a single control area?

9 A. Yes. I heard that.

10 Q. So in the face of his testimony do you believe
11 that your concern is remote?

12 A. If there are -- if there are appropriate
13 changes to the Joint Dispatch Agreement, if there are --

14 Q. So you believe there need to be some changes
15 to the Joint Dispatch Agreement; is that right?

16 A. Yes, I do.

17 Q. And that's regardless of whether or not it's
18 operated as one control area or more than one?

19 A. Well, I -- I'm -- I believe that it's operated
20 as one control area.

21 Q. Well, what --

22 A. And --

23 Q. I'm sorry. Continue.

24 A. I'm sorry. I believe that it's operated as
25 one control area mainly -- mainly of the -- by the Joint

1 Dispatch Agreement.

2 Q. So what are the changes you would like to see
3 to the Joint Dispatch Agreement?

4 A. The main change was that the revenues
5 associated with the off-system sales would be -- would be a
6 portion by the generation and not by load as it currently
7 is.

8 Q. So it's currently apportioned by load?

9 A. Yes.

10 Q. And so CIPS gets some of it. Right?

11 A. Well, that -- it would be AmerenUE and it --
12 we're talking about the generation, so it would probably be
13 AEG.

14 Q. AG?

15 A. AEG.

16 Q. AEG, that's the unregulated --

17 A. Yes.

18 Q. Is that the entity sometimes referred to as
19 GENCO?

20 A. Yes.

21 Q. Okay. And AEG has generating units. Right?
22 Yes or no?

23 A. Yes.

24 Q. Thank you.

25 And AmerenUE has generating units. Right?

1 A. Yes.

2 Q. Okay. And you believe it should be allocated
3 based on generation; is that correct?

4 A. On -- right. On -- on the output.

5 Q. Were you here when I was questioning
6 Ms. Fischer some time ago?

7 A. No, your Honor.

8 Q. You were not?

9 A. I was not.

10 Q. Okay.

11 A. I was not here for the -- for her whole --

12 Q. I was asking her about detriments and she told
13 me that one of the detriments had to do with off-system
14 sales and the possibility that Missouri was not getting a
15 large enough share of these. Is this the same thing you're
16 talking about?

17 A. Sounds like it, yes, uh-huh.

18 Q. Okay. And as far as you know, is Ameren
19 prepared to change from a load-based allocation to a
20 generation-based allocation?

21 A. As I understand it, there's been -- there has
22 been settlement negotiations on that topic, yes.

23 Q. But not finalized?

24 A. Not to my knowledge.

25 Q. All right. Is that the only detriment that

1 you have, that you're aware of?

2 A. That I -- and from -- I had said in my
3 testimony that I wanted to -- I would like to be held --
4 have a hold-harmless clause concerning transmission service.

5 Q. Explain that to me. I know what a
6 hold-harmless clause is, but I'm not aware of how it applies
7 to transmission service.

8 A. There's a pos-- under the possibility of the
9 fact that there -- that they may not operate as one
10 controlled area in the future.

11 Q. Okay. You want who held harmless?

12 A. AmerenUE.

13 Q. In the event of?

14 A. In the event -- in the event that the transfer
15 of assets is approved in this case and a hold-harmless
16 clause for AmerenUE as to transmission charges that may --

17 Q. Transmission shortages?

18 A. Charges.

19 Q. Charges. Okay. So, in other words, you don't
20 want AmerenUE to have to pay more. Is that it? Is this to
21 keep costs from going up?

22 A. Unduly, yes.

23 Q. And these are costs relating to what?

24 Transmission of what? Electricity, I assume. From where to
25 where?

1 A. Well, we're in the -- in the -- we're talking
2 about transferring assets in Illinois.

3 Q. Right.

4 A. And so in regards to the possible transfer, we
5 have -- they do have -- AmerenUE's currently -- under
6 current contract has 40 percent of the Joppa unit, the EEI
7 unit.

8 Q. But now that -- as I understand the issue with
9 the Joppa unit, that is owned by EEI; isn't that correct?

10 A. There's a -- it's a consortium.

11 Q. I thought that AmerenUE owned 40 percent of
12 EEI, which operates the Joppa unit. Am I out of space or is
13 that correct?

14 A. No. That's correct.

15 Q. And there's a contract -- a 30-year contract
16 that's due to expire. Right?

17 A. Correct.

18 Q. And under this contract AmerenUE has been
19 getting 40 percent of the output of the Joppa plant?

20 A. Yes.

21 Q. Okay. What does that have to do with the
22 hold-harmless issue you've been talking about? Is it the
23 same issue?

24 A. No. I mean, the -- I'm talking about the
25 transmission lines that connect from Joppa to Cape

1 Girardeau.

2 Q. Okay. Well, let's say that Ameren -- that
3 this contract expires and Ameren no longer gets any power
4 from Joppa. All right? Then the cost of transmission over
5 those lines doesn't matter. Right? Right?

6 A. Not unless you're -- unless there's future --
7 perhaps future plants.

8 Q. Okay. Who owns those transmission lines now?

9 A. There are -- there are two lines that AmerenUE
10 owns.

11 Q. Are they part of the assets that are to be
12 transferred to CIPS?

13 A. Yes.

14 Q. Okay. And so if I understand what you're
15 saying, you want the transfer to include a condition that
16 CIPS, when it takes ownership of those lines, cannot
17 increase the cost of the transmission that AmerenUE would
18 pay; is that correct? Am I cutting to the heart of it
19 there?

20 A. Yes.

21 Q. Okay. Thank you.

22 Now, has Ameren been willing to give that sort
23 of guarantee?

24 A. There's been -- there's been negotiations.

25 Q. Okay.

1 A. I'm not --

2 Q. I have a question here from Commissioner

3 Murray. She would like to know, would you like Union

4 Electric to be held harmless from having to ever pay more

5 than it pays now? Yes or no?

6 A. No.

7 Q. No. Okay. Would you like Union Electric to

8 be held harmless from having to pay more in the future than

9 it would have had to pay absent the transfer?

10 A. I believe that's -- I believe that's what

11 the -- all -- all things being equal, yes.

12 Q. So the latter is what you would like?

13 A. Yes.

14 Q. Okay. Thank you.

15 So those are the detriments that we've

16 identified. Right?

17 A. Yes.

18 Q. The allocation of off-system sales and the

19 cost of transmission. Right?

20 A. Right.

21 Q. Okay. Great.

22 JUDGE THOMPSON: I have no more questions for

23 you, Mr. Bax. Thank you very much. I'm going to have you

24 step down now because it could be that the chairman will

25 have some questions for you.

1 I see it's 10 after 5:00. We're going to go
2 ahead and stop for the day. So when we come back
3 tomorrow -- yes, Mr. Dottheim. Are you going to throw a
4 wrench into my plans?

5 MR. DOTTHEIM: Judge, I don't think so. Staff
6 just wanted to inquire. Your earlier directive that the
7 Commission desires a list of conditions --

8 JUDGE THOMPSON: I've spoken to the chairman
9 during the last break and I can assure you that he concurs
10 in that request.

11 MR. DOTTHEIM: The Staff would like to inquire
12 as far as the timing that the Commission would like to
13 receive that list tomorrow.

14 JUDGE THOMPSON: I think ASAP would explain it
15 very well.

16 MR. DOTTHEIM: Okay.

17 JUDGE THOMPSON: The sooner we have it, the
18 sooner we can start asking people questions about the
19 conditions.

20 MR. DOTTHEIM: Certainly.

21 JUDGE THOMPSON: I don't know that anybody
22 needs to stay here all night working on it, Mr. Dottheim.

23 MR. DOTTHEIM: Understood.

24 JUDGE THOMPSON: Perhaps if you can get it to
25 us some time tomorrow.

1 MR. DOTTHEIM: Yes. As expeditiously as
2 possible.

3 JUDGE THOMPSON: Yeah. Because, you know, if
4 we get to the end of the day, we finish the case, we haven't
5 seen it yet, then there's going to be all kinds of questions
6 about it and no opportunity to ask anybody. Right?

7 MR. DOTTHEIM: Correct. Thank you very much.

8 JUDGE THOMPSON: I appreciate that.

9 Anybody else have anything they want to raise?
10 Mr. Lowery?

11 MR. LOWERY: Your Honor, I just had a question
12 about will the company have some opportunity to respond to
13 this document that the Commission has asked for?

14 JUDGE THOMPSON: That's exactly what we want
15 is an opportunity to grill you guys about this document.
16 Maybe grill is the wrong word.

17 MR. LOWERY: Instead of respond.

18 JUDGE THOMPSON: Inquire.

19 MR. LOWERY: Thank you.

20 You understand we're just -- let me clarify.
21 Staff has indicated through testimony of various people that
22 maybe they wouldn't be having heartburn about this
23 transaction if there were certain safeguards. So the
24 Commissioners, naturally enough, have come to the question,
25 Well, what are those safeguards. Right? That's a

1 reasonable question given the circumstances.

2 That isn't to say that the Commissioners have
3 decided, Oh, great, we're going to take this list of
4 safeguards and impose them on the transaction, but certainly
5 they want to know what they are. And then they're going to
6 want an opportunity to ask people questions about them. All
7 right? Can you do this? Would you do this? How much would
8 this cost? You know, all those kinds of questions that
9 naturally come to mind.

10 MR. DOTTHEIM: Judge, a question for
11 clarification. I had assumed regarding this list that what
12 the Commission was interested in was what the Staff already
13 has set out in testimony and in its statement of positions
14 as to conditions.

15 JUDGE THOMPSON: Right.

16 MR. DOTTHEIM: That this is not some --

17 JUDGE THOMPSON: Let's cut to the chase. If
18 there's some new ones you thought of that you haven't
19 previously mentioned, put them in there too maybe under a
20 different heading so the company can see that these are new.

21 MR. DOTTHEIM: That's the reason for the
22 question, because if it's a list of what is already
23 contained in the testimony and statement of positions, I
24 think the company has had an opportunity to address those
25 items in its Surrebuttal Testimony and statement of

1 positions.

2 JUDGE THOMPSON: I understand.

3 MR. DOTTHEIM: Thank you.

4 JUDGE THOMPSON: Thank you. Thank you.

5 Anyone else?

6 Okay. We are adjourned until tomorrow at

7 9:00 a.m.

8 WHEREUPON, the hearing was adjourned until

9 April 2nd, 2004 at 9:00 a.m.

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