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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Hearing

February 24, 2004
Jefferson City, Missouri
Volume 7

In the Matter of Aquila, Inc.,)
d/b/a Aquila Networks - L&P) Case No. ER-2004-0034
and Aquila Networks - MPS, to)
Implement a General Rate)
Increase in Electricity.)

In the Matter of the Request)
of Aquila, Inc., d/b/a Aquila)
Networks - L&P, to Implement) Case No. HR-2004-0024
a General Rate Increase in)
Steam Rates.)

KENNARD L. JONES, Presiding,
REGULATORY LAW JUDGE.

CONNIE MURRAY,
ROBERT M. CLAYTON, III
COMMISSIONERS.

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1 P R O C E E D I N G S

2 JUDGE JONES: Good afternoon. My name is
3 Kennard Jones. I am the judge who will be conducting this
4 hearing. Today is Tuesday, February 24, and the time is
5 2:20 p.m. This is hearing -- this is a hearing for Case
6 No. ER-2004-0034, in the matter of the request of Aquila,
7 Incorporated, doing business as Aquila Networks - L&P and
8 Aquila Networks - MPS, to implement a rate increase in
9 electric rates. This case has been consolidated with Case
10 No. HR-2004-0024, wherein Aquila implemented a rate
11 increase for steam rates. ER-2004-0034 is the lead case.

12 We began this hearing yesterday, and as of
13 this far, Aquila witnesses Keith Stamm and Glenn Keefe
14 have testified -- or been examined rather and been excused
15 from the hearing. We left off yesterday with Aquila's
16 witness, Denny Williams, on the stand. However, we have a
17 couple preliminary matters we should deal with first.

18 AG Processing, Incorporated, an intervenor
19 in this matter, has filed a motion to dismiss. The
20 Commission has decided to deny that motion.

21 Secondly, the Staff of the Commission has
22 filed a motion to supplement testimony. Staff wishes to
23 supplement the surrebuttal testimony of Steve Traxler.
24 Aquila has responded to Staff's motion. At this time I
25 need to know if any other parties wish to respond to

1 Staff's motion?

2 (No response.)

3 JUDGE JONES: Seeing no nods of heads, I'll
4 assume that's a no from the attorneys entered in the case.

5 MR. MICHEEL: Judge, I have a question.
6 When did the Commission rule and when was that placed on
7 the Commission's agenda?

8 JUDGE JONES: It wasn't on today.

9 MR. MICHEEL: It was not placed on the
10 agenda? There was no notice given that the Commission was
11 going to rule on the motions to dismiss?

12 JUDGE JONES: The Commission has ruled on
13 that motion as of now.

14 MR. MICHEEL: So the Commission's ruling
15 from the bench?

16 JUDGE JONES: That is correct.

17 With regard to Staff's motion for leave to
18 file supplemental surrebuttal, I think it's necessary that
19 I take up oral argument on this motion. First I'd like to
20 call -- are you familiar with the motion?

21 MR. MEYER: I'm not, your Honor. I'll have
22 to find whoever the attorney is who would be most familiar
23 to discuss that.

24 JUDGE JONES: The motion is signed by
25 Thomas Schwarz.

1 MR. MEYER: We will get him.

2 JUDGE JONES: Okay. We'll come back to
3 that motion until Mr. Schwarz has an opportunity to come
4 down. I should ask, is Aquila also ready to respond to
5 this motion?

6 MR. COOPER: Somewhat, your Honor. I think
7 I'm the right person, if that's the question.

8 JUDGE JONES: That is the question.
9 Yesterday we had questions from the Bench of Mr. Denny
10 Williams. At this time I would like to move on to
11 recross. The City of Kansas City, Missouri is not present
12 and has excluded itself from this cross. I see present
13 Missouri Department of Natural Resources. Do you have
14 cross for Mr. Williams?

15 MS. WOODS: No, your Honor, we do not.

16 JUDGE JONES: Also not present is Sedalia
17 Industrial Energy Users Association and AG Processing.
18 Federal Executive Agencies I thought was present, but
19 isn't now. I'll come back to them.

20 Public Counsel, do you have recross?

21 MR. MICHEEL: I do, your Honor.

22 DENNIS WILLIAMS testified as follows:

23 RE-CROSS-EXAMINATION BY MR. MICHEEL:

24 Q. Mr. Williams, Commissioner Clayton asked
25 you several questions regarding the Sibley AAO. Do you

1 remember those questions?

2 A. Not the specific questions.

3 Q. Okay. Do you remember that he walked you
4 through all of the costs related to all of the AAOs?

5 A. Yes, I recall that.

6 Q. Do you remember your discussion regarding
7 the flow through of the AAOs?

8 A. Yes.

9 Q. The flow through of the deferred taxes?

10 A. In general.

11 MR. MICHEEL: If I may, your Honor, I need
12 to get a couple of exhibits marked. It would probably be
13 easiest to do it. The first one would be the company's
14 response to Public Counsel Data Request No. 1046, which
15 would be Exhibit, I believe, 153.

16 And the next one would be the company's
17 response to Public Counsel Data Request 1047, which I
18 believe would be Exhibit 154.

19 JUDGE JONES: That is correct, Mr. Micheel.

20 (EXHIBIT NOS. 153 and 154 WERE MARKED FOR
21 IDENTIFICATION BY THE REPORTER.)

22 BY MR. MICHEEL:

23 Q. Mr. Williams, do you have in front of you
24 what's been marked for purposes of identification as
25 Exhibit 153, the company's response to Public Counsel Data

1 Request 1046?

2 A. I do.

3 Q. And is that a question regarding how the
4 company's going to treat AAO deferred income tax offsets?

5 A. It is.

6 Q. And was that answered by you, sir?

7 A. It was.

8 Q. And is that a true and correct answer?

9 A. It is true and correct to the best of my
10 knowledge and belief.

11 MR. MICHEEL: With that, I would move the
12 admission of Exhibit 153, your Honor.

13 JUDGE JONES: Are there any objections to
14 Exhibit 153?

15 MR. MEYER: No, your Honor.

16 MR. PAULSON: No objection.

17 MR. COOPER: No objection.

18 MS. WOODS: No objection.

19 JUDGE JONES: Exhibit 153 is admitted into
20 the record.

21 (EXHIBIT NO. 153 WAS RECEIVED INTO
22 EVIDENCE.)

23 BY MR. MICHEEL:

24 Q. And just so we understand, because I think
25 there was some confusion in some answers to Commissioner

1 Clayton yesterday, is the response to this Data Request
2 the company's position with reference to how to treat
3 deferred income tax as associated with the AAOs in this
4 proceeding?

5 A. It is.

6 Q. I've also handed you what's been marked for
7 purposes of identification as Exhibit 154, Public Counsel
8 Data Request 1047. Do you have that in front of you, sir?

9 A. I do.

10 Q. Are you familiar with that Data Request?

11 A. I am.

12 Q. Was that Data Request answered by you, sir?

13 A. It was.

14 Q. Are the answers true the correct to the
15 best of your knowledge and belief?

16 A. They are.

17 MR. MICHEEL: With that, your Honor, I
18 would move the admission of Exhibit 154.

19 JUDGE JONES: Are there any objections to
20 Exhibit 154?

21 MR. COOPER: No objection.

22 MR. PAULSON: No objection.

23 MR. MEYER: No objection.

24 MS. WOODS: No objection.

25 JUDGE JONES: Exhibit 154 is admitted into

1 the record

2 (EXHIBIT NO. 154 WAS RECEIVED INTO
3 EVIDENCE.)

4 BY MR. MICHEEL:

5 Q. This goes to Commissioner Clayton's
6 questions with respect to your answers with respect to
7 flowing through the deferred income taxes. Does this Data
8 Request response indicate that the basis for your claim
9 that the company flowed through the deferred income tax is
10 a work paper from the company's work papers in ER-93-37;
11 is that correct?

12 A. That's correct.

13 Q. And is it correct that ER-93-37 was a
14 settled case?

15 A. That is also correct.

16 Q. So you would agree with me that there's no
17 Commission order -- I think you did yesterday, but it's
18 been a long time -- there's no Commission order that
19 specifically allowed the company to flow through these
20 deferred income taxes; is that correct?

21 A. There is no specific order that I'm aware
22 of that required the company to flow through.

23 Q. So that's a decision the company made on
24 its own; is that correct?

25 A. That is the treatment that we followed for

1 our books. That was our decision.

2 MR. MICHEEL: I don't think I have anything
3 more. Thank you, Mr. Williams.

4 JUDGE JONES: Thank you, Mr. Micheel. Are
5 there -- is there recross from Staff of the Commission?

6 MR. MEYER: No, there's not.

7 JUDGE JONES: We now come back to the
8 Federal Executive Agencies. Will there be recross from
9 the Federal Executive Agencies?

10 MR. PAULSON: No, your Honor.

11 JUDGE JONES: Does Aquila have redirect?

12 MR. COOPER: Yes, your Honor.

13 REDIRECT EXAMINATION BY MR. COOPER:

14 Q. Mr. Williams, I believe yesterday you were
15 asked some questions about the effect of items not being
16 mentioned in Commission orders, and then again today,
17 Mr. Micheel has asked you about that very issue. If an
18 item is -- if there's not a disputed adjustment or
19 transaction, would there be a mention of it in an ultimate
20 report and order?

21 A. No.

22 Q. Can you explain to us how the company's
23 books and records for a -- for a test year, for an updated
24 period make their way through to an ultimate report and
25 order of the Commission, just kind of in a general high

1 level fashion?

2 A. If I understand the question, the approach
3 we take in putting together rate cases, you select a test
4 year, and there's literally hundreds of thousands of
5 transactions that are taken from the books and accumulated
6 into your ultimate case. And then there are literally
7 hundreds, perhaps thousands of lines in our model that we
8 use to put together adjustments to that test year, and we
9 summarize our calculation revenue requirement.

10 In the course of the case, the Staff will
11 do relatively the same thing. They'll look at the books
12 and records, and other parties have the same opportunity
13 to do that as well. So from these hundreds of thousands
14 of transactions, ultimately it's culled down to a
15 difference in revenue requirement between us and the other
16 parties, and those will be summarized into issues. I think
17 there's, like, 30 issues in this case.

18 Q. Will any of those transactions, hundreds of
19 thousands of transactions that don't make the issues list,
20 are they likely to be reflected in an ultimate Report and
21 Order from this Commission?

22 A. I would think they would not be reflected
23 in a Report and Order of this Commission.

24 Q. Does that necessarily mean that there was
25 no recovery associated with those items?

1 A. No. In fact, it would be more indicative
2 that there was recovery associated with those items.

3 Q. Now, yesterday Mr. Micheel asked you some
4 questions related to a hypothetical about a non-regulated
5 widget factory. Do you remember those questions?

6 A. I do.

7 Q. And I believe that as a part of your
8 response you suggested that for a non-regulated company
9 extraordinary events might be taken care of through the
10 establishment of a reserve; is that correct?

11 A. That is correct.

12 Q. Now, I believe you also mentioned that that
13 would be a possibility for the regulated environment as
14 well, didn't you?

15 A. That -- certainly that is a method that's
16 employed in a number of jurisdictions.

17 Q. Do you know offhand some of the
18 jurisdictions where that may have been employed?

19 A. For example, in Florida, they have what
20 they call a hurricane reserve. An estimate is made of how
21 often hurricanes occur and what the damage might be and a
22 reserve is established, and a certain amount is built in
23 to rates so that each year it's collected and added to
24 that reserve. There are similar -- similar weather
25 reserves or severe weather reserves that are established.

1 The ones that I'm aware of, North Carolina, Massachusetts,
2 New York, Kansas, I believe. I'm sure there are others.
3 Those are the only ones that I'm aware of.

4 Q. But that would be an alternate method of
5 dealing with extraordinary events, I assume?

6 A. That's correct.

7 Q. I believe in questions from the Bench
8 yesterday, you had discussed the fact that I think the
9 total cost associated with or Aquila's total costs
10 incurred associated with the 2002 ice storm were
11 approximately \$14.2 million, correct?

12 A. That's correct.

13 Q. And I think there also was some discussion,
14 maybe in response to a question from Commissioner Clayton,
15 that the revenue requirement difference between the
16 company and Staff as to that ice storm AAO was
17 approximately 727,000, correct?

18 A. That's correct as well.

19 Q. I'd like to take you through, I guess, a
20 few questions to show if we could -- how we get from that
21 14.2 million to the number that's in dispute between the
22 company and Staff, if I could. And do you have with you
23 Ms. Miller's rebuttal testimony?

24 A. Yes, I do, if you'll give me just a second.

25 Q. Okay.

1 A. Okay.

2 Q. If you'll turn to page 2.

3 A. I'm there.

4 Q. And on approximately line 8, do you see the
5 number 14 point -- 14,280,355?

6 A. Yes.

7 Q. What does that number represent?

8 A. That was the total cost that MPS incurred
9 associated with restoring the service as a result of the
10 ice storm damage.

11 Q. What makes up that total number?

12 A. As Ms. Miller pointed out in her testimony,
13 there is 1 point -- approximately 1.6 million that's
14 considered normal maintenance. Now, what that is, that
15 would be payroll that is normally incurred. We've got
16 union employees that are on the payroll that would
17 normally be working anyway. They were spending their time
18 restoring service. So it was considered normal
19 maintenance. That's an example.

20 Then there's \$3.8 million in asset
21 replacement. That's the actual asset that was replaced, a
22 pole for example. And then there's 569,000 in retirement
23 expenses. That's related to the retirement of assets; for
24 example, a pole that has been broken by the weight of the
25 storm. That leaves the \$8.2 million in incremental costs,

1 and those costs are costs that are over and above those
2 other amounts, incremental costs such as overtime that
3 would not have normally been incurred, payroll for
4 laborers that were brought in from other states, and
5 perhaps some meal allowances.

6 Q. Now, when we talk about the ice storm AAO,
7 which of these costs that you just went over have actually
8 been deferred pursuant to that ice storm AAO?

9 A. Only the 8.2 million of incremental cost.

10 Q. So let's focus for a second -- focus for a
11 second on the 3.8 million of assets replacement as they're
12 described here in the testimony. Would Aquila have had
13 expenses associated with that investment once that plant
14 was deemed to be in service?

15 A. Try the question again.

16 Q. At the point the underlying assets or the
17 assets that underlie that 3.8 million, once they were
18 placed in service, would the company have incurred
19 depreciation expense on those assets?

20 A. Yes, we would have.

21 Q. Would it have been able to book AFUDC once
22 those assets were placed into service?

23 A. Once they're placed into service, they
24 wouldn't have booked AFDC because, by definition, they're
25 in service.

1 Q. Can you tell us approximately what
2 depreciation expense has resulted from those assets since
3 the time of the ice storm to whatever -- what time period
4 would be appropriate? Could you tell us, for instance, as
5 of the operation of law date?

6 A. Well, that's -- that would be -- the ice
7 storm occurred towards the end of January, first of
8 February of 2002 through the operation of law date, which
9 I believe is June 2nd of 2004; that's 28 months. I
10 believe these are probably mostly transmission and
11 distribution assets, and a depreciation rate of those is
12 around 3 percent, slightly over 3 percent per year. So if
13 I try to do that calculation in my head, that would be
14 \$130,000.

15 Q. Of depreciation expense?

16 A. Of depreciation expense.

17 Q. And will that depreciation expense -- will
18 it ever be recovered by the company in rates?

19 A. No, it won't. That's already been
20 depreciated, so all that goes into rate base is -- well,
21 actually a portion of that would, because we're talking
22 about through the operation of law date. The amount that
23 we have in rate base in this case would be the balance at
24 September 30th of '03.

25 Q. Through the update period?

1 A. That's correct.

2 Q. Let's talk about that number again. What
3 would be an estimate of depreciation?

4 A. If we look at that, it would be
5 approximately 18 or 19 months of depreciation that would
6 have reduced the asset. So there would be no recovery of
7 the depreciation associated with that during that time.

8 Q. So neither a recovery of nor a recovery on
9 that portion of the investment?

10 A. Right. There would be no recovery of
11 through -- as you point out through June 2nd, no recovery
12 on through the balance that was established as of
13 September 30th.

14 Q. Now, I believe we said the 1.6 million in
15 normal maintenance operating expenses was not a part of
16 the ice storm AAO, correct?

17 A. That is correct.

18 Q. Let's focus then for a second on the
19 8.2 million, which was the total amount deferred pursuant
20 to the AAO associated with the ice storm. Will the
21 company receive a return of that entire amount?

22 A. No, it won't.

23 Q. Why not?

24 A. We began -- as a result of the Accounting
25 Authority Order that allowed us to establish that as a

1 deferred amount, we began amortizing that on February 1st
2 of 2002. Therefore, by the operation of law date, it will
3 already have been amortized 28 months, so there will be no
4 recovery of approximately \$2.8 million, something to that
5 effect.

6 Q. And if the company's proposal as to this
7 issue is accepted by the Commission, will that change your
8 answer? Under the company's proposal, will the company
9 receive a return of those amounts?

10 A. No. This is -- under the company's
11 proposal, the company has proposed in its case to only
12 recover the return of and return on or the return -- the
13 return of these amounts amortized over five years, and the
14 return on those, the balance, the unamortized balance as
15 of September 30th, '03.

16 Q. Do you have that number available? What is
17 the piece of the 8.2 million that the company seeks a
18 return on?

19 A. Approximately \$5.5 million.

20 Q. And again, the difference between the 8.2
21 and the 5.5 million, is that an amount the company will
22 not receive a return of or a return on under the company's
23 proposal?

24 A. That is correct. Under the company's
25 proposal, we will already -- well, we talk about sharing.

1 Under the company's proposal, I believe that a way of
2 stating that would be that we're sharing approximately
3 50 percent already because of the no recovery of or on
4 those amounts.

5 MR. COOPER: That's all the questions I
6 have, your Honor.

7 JUDGE JONES: Thank you, Mr. Cooper.
8 Mr. Williams, you may step down. I should remind you, do
9 not excuse yourself. Chairman Gaw may have questions.
10 Next on the witness list is Aquila's Lisa Starkebaum.

11 MR. COOPER: Yes, your Honor.

12 JUDGE JONES: Ms. Starkebaum, will you say
13 and spell your name, please.

14 MS. STARKEBAUM: Lisa A. Starkebaum,
15 S-t-a-r-k-e-b-a-u-m.

16 JUDGE JONES: And will you raise your right
17 hand.

18 (Witness sworn.)

19 JUDGE JONES: Thank you. You may be
20 seated.

21 LISA A. STARKEBAUM testified as follows:

22 DIRECT EXAMINATION BY MR. COOPER:

23 Q. Ms. Starkebaum, is it your understanding
24 that your testimony has been marked as Exhibits 9 and 137
25 for identification?

1 A. Yes, it is.

2 Q. Do you have any changes or corrections that
3 need to be made to those pieces of testimony?

4 A. No, I do not.

5 MR. COOPER: Your Honor, I would offer
6 Exhibits 9 and 137 and tender Ms. Starkebaum for
7 cross-examination on the Accounting Authority Order issue.

8 JUDGE JONES: Exhibits 9 and 137 are
9 admitted into the record.

10 (EXHIBIT NOS. 9 AND 137 WERE RECEIVED INTO
11 EVIDENCE.)

12 JUDGE JONES: At this time we'll have cross
13 from Missouri Department of Natural Resources. Any
14 questions?

15 MS. WOODS: No, thank you, your Honor.

16 JUDGE JONES: Federal Executive Agencies?

17 MR. PAULSON: No, your Honor.

18 JUDGE JONES: The Office of Public Counsel?

19 MR. MICHEEL: Yes, your Honor.

20 CROSS-EXAMINATION BY MR. MICHEEL:

21 Q. Because I have a hard to pronounce name,
22 can you tell me how to pronounce your name correctly?

23 A. Starkebaum.

24 Q. All right. I'll do my best to get it
25 right, Ms. Starkebaum.

1 Is it correct at page 5, lines 10 through
2 14 of your direct testimony you state that in the last
3 four cases, MPS has been allowed recovery of both the
4 unamortized balance of AAOs and related amortization
5 expense?

6 A. Yes, it is.

7 MR. MICHEEL: May I approach the witness,
8 your Honor?

9 JUDGE JONES: Yes, you may.

10 BY MR. MICHEEL:

11 Q. Ms. Starkebaum, I'm going to hand you the
12 Commission's Report and Order in Case ER-97-394. Is that
13 one of the cases that you list there in your direct
14 testimony of the ones I just discussed?

15 A. Yes, it is.

16 Q. Could you tell me where in that Report and
17 Order the Commission allowed recovery of the deferred
18 depreciation and carrying costs you state at page 5,
19 lines 15 through 14 of 10 through 14 of your testimony?

20 A. Because this is the -- a pretty lengthy
21 document, it'll take me just a few minutes to look
22 through.

23 Q. More time than money.

24 Ms. Starkebaum?

25 A. Yes.

1 Q. I just had a little conference with your
2 attorney. Were you here yesterday when I cross-examined
3 Mr. Williams on that issue?

4 A. I was.

5 Q. And did you hear Mr. Williams tell me that
6 there was no place in the Report and Order in ER-97-394
7 where that could be found?

8 A. I did. And as I was looking at the table
9 of contents, there is nothing listed.

10 Q. And you have no reason to doubt
11 Mr. Williams' testimony, do you?

12 A. No.

13 Q. Let me retrieve that.

14 The next case that you talk about is the
15 2001 rate case. I think it's 2001-262 -- or 2001-672; is
16 that correct?

17 A. That's correct.

18 Q. And is it your understanding that that
19 particular case was a settled black box settlement case?

20 A. Yes, that's my understanding.

21 Q. Did you at all ever review that Report and
22 Order or that Stipulation & Agreement before you did your
23 direct testimony?

24 A. I've read through it, but it's been some
25 time.

1 Q. Did you find anywhere in there where the
2 Commission specifically allowed recovery of the
3 unamortized balance of AAOs and related amortization
4 expense?

5 A. I do not recall.

6 Q. Were you here when I cross-examined
7 Mr. Williams with respect to that Report and Order?

8 A. Yes, I was.

9 Q. And did you hear Mr. Williams answer that
10 there was nothing in the Report and Order in ER-2001-672
11 that allowed MPS to recover the unamortized balance of
12 AAOs and related amortization expense in rates?

13 A. There were several orders that he went
14 through. I'm sure that I did hear that.

15 Q. That there was nothing specific?

16 A. That there was nothing specific, yes.

17 Q. And is it correct that you heard him
18 testify that there was nothing specific in the Unanimous
19 Stipulation & Agreement in that -- attached to that
20 particular Report and Order that allowed specific
21 recovery?

22 A. Yes.

23 Q. And you heard him testify also that there
24 was a specific disclaimer of the parties in that
25 Stipulation & Agreement that specifically said no party

1 agreed to any sort of ratemaking treatment; isn't that
2 correct?

3 A. Yes.

4 Q. Sitting there today, do you have any reason
5 to doubt Mr. Williams' testimony regarding those reports
6 and orders?

7 A. No, I do not.

8 Q. And you believe he was correct and true
9 when he made those statements?

10 A. Yes.

11 Q. So would you agree with me, Ms. Starkebaum,
12 that your testimony at page 5, lines 12 through 14, is
13 simply wrong where you allege that in the past four rate
14 proceedings MPS has been allowed recovery of both the
15 unamortized balance of AAOs and related amortization
16 expense?

17 A. Correct.

18 Q. If you could turn to your Schedule LAS-2,
19 if you could, attached to your direct testimony, ma'am.
20 Let me know when you're there.

21 A. I'm there.

22 Q. Is it correct there on line 16 that you
23 subtract the deferred income tax AAOs -- you subtract them
24 from rate base there; is that correct?

25 A. Yes. I was not responsible for making

1 deferred income tax adjustment to rate base.

2 Q. Well --

3 A. Nor does my direct testimony sponsor.

4 Q. That wasn't my question, Ms. Starkebaum.

5 If we'll focus on my questions, this is going to go a
6 whole lot quicker.

7 A. Okay.

8 Q. Is that what it says -- well, let me back
9 fill that. Is Schedule LAS-2 your schedule?

10 A. Yes, it is.

11 Q. Was it prepared by you?

12 A. Yes.

13 Q. Does it show on line 16 that there was a
14 subtraction from net plant for deferred income tax related
15 to AAOs in the amount of \$3,763,054?

16 A. Yes.

17 Q. And is it correct that you subsequently
18 updated those numbers on LAS-2?

19 A. Yes. The one that I'm looking at was for
20 the 12 months ended December 31st, 2002, and we did update
21 the case to September 30th, 2003.

22 MR. MICHEEL: May I approach the witness,
23 your Honor?

24 JUDGE JONES: Yes, you may.

25 BY MR. MICHEEL:

1 Q. Ms. Starkebaum, I'm handing you what I
2 believe to be that updated schedule, and RBO-31, and first
3 of all, looking at that updated schedule, is that the
4 updated --

5 JUDGE JONES: Mr. Micheel, you may want to
6 return to the podium at the microphone if you want to
7 specifically ask a question, or use her microphone. They
8 can't hear you on the webcast if you're standing there
9 without a microphone.

10 MR. MICHEEL: Well, I would hate to
11 disappoint my fans, your Honor.

12 BY MR. MICHEEL:

13 Q. Do you have in front of you the updated
14 schedule there, ma'am?

15 A. Yes, I do.

16 Q. And on that updated schedule, is there a
17 corrected line for the deferred income taxes relating to
18 AAOs?

19 A. Yes, there is.

20 Q. And does that indicate that there was an
21 offset to rate base with respect to the deferred income
22 taxes for AAOs?

23 A. Yes, there was.

24 Q. And is there an RBO-31 sheet attached as
25 page 2 there?

1 A. Yes.

2 Q. And at the top of the sheet I note some
3 handwriting and an LS. Would that be Lisa Starkebaum's
4 initials?

5 A. Yes. I did the referencing for this page.

6 Q. And on RBO-31, is that, again, a specific
7 setout of the deduction of deferred income taxes related
8 to AAOs from rate base?

9 A. Yes.

10 Q. Would you agree with me that Aquila has,
11 per your adjustments, subtracted or offset rate base for
12 the deferred income taxes related to certain AAOs?

13 A. That is correct.

14 Q. Can I retrieve that?

15 A. Yes.

16 Q. And the company made that adjustment
17 because you believe it's a proper adjustment to make;
18 isn't that correct?

19 A. As I stated before, I did not make the
20 deferred income tax adjustment in this rate case.

21 Q. So you don't know if it's a proper
22 adjustment, is that what you're telling me?

23 A. That is above my expertise as Mr. --
24 company Witness Dennis Williams has already testified to,
25 the deferred income tax adjustment that was made.

1 Q. So you just put whatever adjustment they
2 told you to on your schedule; is that correct?

3 A. I was responsible for the inputs into the
4 rate model.

5 Q. So you just keyed in some numbers? I'm
6 trying to understand what you did.

7 A. I took the adjustment that was given to me,
8 yes, and I keyed it into the model.

9 Q. Would you agree with me in MPS's Case
10 No. ER-90-101 the Commission determined that deferred
11 income taxes related to Accounting Authority Orders should
12 be used to reduce rate base?

13 A. I'm sorry. Can you please repeat the
14 question?

15 Q. Sure. Would you agree with me in Missouri
16 Public Service Case No. ER-90-101 the Missouri Public
17 Service Commission determined that the deferred income
18 taxes related to Accounting Authority Orders should be
19 used to reduce rate base?

20 A. That's correct.

21 Q. And Mr. Williams agreed to that, too,
22 didn't he?

23 A. Yes, he did.

24 MR. MICHEEL: If we could just go off the
25 record for a moment, your Honor.

1 JUDGE JONES: No. We'll have to remain on
2 the record.

3 MR. MICHEEL: All right.

4 BY MR. MICHEEL:

5 Q. Ms. Starkebaum, could you turn to
6 Adjustment FPP-30 in your testimony? I believe it starts
7 on page 13.

8 A. Yes, I'm there.

9 Q. And are you the one who calculated the
10 synergies for joint dispatch? Is that where the number is
11 appearing in the testimony, in your testimony?

12 A. Yes.

13 Q. And is it correct that Adjustment FPP-30
14 represents the difference between individual dispatch
15 models for MPS and L&P in comparison to the joint dispatch
16 models; is that correct?

17 A. That is correct.

18 Q. Is it correct that St. Joe Light & Power is
19 no longer dispatched on a stand-alone basis?

20 MR. COOPER: Your Honor, I would object at
21 this time because I -- I guess I fail to see how this
22 connects to the accounting authority issue, and --

23 MR. MICHEEL: I wanted to go off the record
24 to discuss this, because I was told I had to do it all on
25 the record. If you'll look at the --

1 JUDGE JONES: Just a moment, Mr. Micheel.
2 Whether we're on or off the record, relevance is still an
3 issue, isn't it?

4 MR. MICHEEL: Always.

5 JUDGE JONES: So is it or is it not
6 relevant?

7 MR. MICHEEL: It certainly is relevant, and
8 let me explain why I believe it is relevant, your Honor.
9 If you'll look at -- this witness has testified regarding
10 synergy savings from joint dispatch, and if you'll look at
11 the updated proposed calendar of issues and order of
12 witnesses and you will look at the merger synergy savings
13 section, this witness is not listed as a company witness,
14 yet she's offered testimony on that issue.

15 In looking at the schedule -- and that's an
16 issue that I'm responsible for. In looking at the
17 schedule, this was the only opportunity that I had to
18 cross-examine this witness on that issue.

19 MR. COOPER: To my knowledge, your Honor, I
20 don't know that we have been asked to provide
21 Ms. Starkebaum on the issue of merger savings and
22 synergies. If we are asked, I suspect we're more than
23 willing to bring her back when that issue is being tried,
24 rather than going into those issues here on the Accounting
25 Authority Order issue.

1 JUDGE JONES: Mr. Micheel?

2 MR. MICHEEL: However they want to do it.
3 I'm like Burger King, your Honor.

4 JUDGE JONES: The objection is sustained.

5 MR. MICHEEL: Is that a commitment from the
6 company that they will bring Witness Starkebaum back or,
7 your Honor, are you going to direct Ms. Starkebaum to
8 return to provide testimony on the synergies from joint
9 dispatch as she has in her direct testimony at page 13? I
10 do not want to be foreclosed from an opportunity to
11 cross-examine this witness on that issue.

12 JUDGE JONES: On the updated proposed
13 calendar, what day is that issue supposed to be discussed?

14 MR. COOPER: I believe it's Wednesday,
15 March the 3rd, your Honor

16 MR. MICHEEL: I'll be happy to do the
17 cross-examination then. I thought we could finish with
18 Ms. Starkebaum and she could be on her way, but --

19 JUDGE JONES: You said Wednesday,
20 March 3rd?

21 MR. COOPER: Yes.

22 MR. MICHEEL: Yes, merger savings synergy.
23 It says company witness Vern Siemek.

24 JUDGE JONES: Mr. Micheel and Mr. Cooper,
25 her name isn't on the list for March 3rd. Is that your

1 concern, Mr. Micheel?

2 MR. MICHEEL: Yes, it is, your Honor. As I
3 was preparing for her AAO testimony, I noted that she had
4 testimony regarding joint dispatch. I looked at the
5 schedule and noted she was not a witness listed by the
6 company then. And I figured since Ms. Starkebaum is here
7 under oath, I could ask my questions and we could be done
8 with it, but I understand Mr. Cooper's relevance objection
9 because this is the AAO section. All I'm asking, your
10 Honor, is that she be placed as a witness on the synergies
11 from joint dispatch. She clearly has direct testimony on
12 that issue.

13 JUDGE JONES: Does any party here object to
14 her being placed on March 3rd's schedule of witnesses?

15 MR. MEYER: No, your Honor.

16 MR. PAULSON: No objection.

17 JUDGE JONES: You'll have to speak into the
18 mike, Major Paulson.

19 MAJOR PAULSON: No objection.

20 JUDGE JONES: Any objection from the
21 Missouri Department of Natural Resources?

22 MS. WOODS: No objection.

23 JUDGE JONES: Seeing no other parties here,
24 then, we will place her name on the March 3rd witness
25 list.

1 MR. MICHEEL: Thank you, your Honor. I'm
2 sorry for the confusion.

3 JUDGE JONES: That's fine, Mr. Micheel.

4 MR. MICHEEL: With that, I am finished with
5 my cross-examination as it relates to the AAO issue of
6 Ms. Starkebaum, reserving my right on the synergies issue.

7 JUDGE JONES: Do we have cross-examination
8 from the Staff of the Commission?

9 MR. MEYER: No, your Honor.

10 JUDGE JONES: And I don't have any
11 questions.

12 Ms. Starkebaum, you may step down.

13 MR. COOPER: I have very brief redirect,
14 your Honor.

15 JUDGE JONES: Actually, the redirect would
16 be questions specific to or in response to questions from
17 the Bench.

18 MR. COOPER: I think I can ask redirect
19 based upon questions from the other parties'
20 cross-examination as well.

21 JUDGE JONES: Mr. Micheel?

22 MR. MICHEEL: I think he can, your Honor.

23 JUDGE JONES: Go ahead, Mr. Cooper.

24 REDIRECT EXAMINATION BY MR. COOPER:

25 Q. Ms. Starkebaum, Mr. Micheel asked you about

1 a statement found on page 5 of your MPS direct testimony,
2 lines 12 through 14. Do you remember that?

3 A. Yes.

4 Q. And I believe that in response to his
5 question, you stated that your answer MPS has been allowed
6 recovery of both the unamortized balance of AAOs and
7 related amortization expense was wrong. Do you remember
8 that?

9 A. Yes.

10 Q. If your statement were MPS has received
11 recovery of both the unamortized balance of AAOs and
12 related amortization expenses, would your answer change?

13 A. Yes.

14 Q. Is it the company's view that it did
15 receive recovery of those items in the cases identified?

16 A. Yes. The company in the past has been
17 allowed to include the unamortized AAO balances in rate
18 base.

19 MR. MICHEEL: I'm going to object.

20 BY MR. COOPER:

21 Q. And let's back up. Mr. Micheel -- and I
22 don't want to put words in his mouth, but I think he heard
23 you say allowed again, and I think that's the
24 distinguishing point here. Is it the company's position
25 that it has received those items -- recovery of those

1 items in the identified cases?

2 A. Yes.

3 MR. COOPER: That's all the questions I
4 have.

5 JUDGE JONES: Thank you, Mr. Cooper. You
6 may step down, Ms. Starkebaum.

7 Now we'll have direct testimony of Staff
8 Witness Trisha Miller. Will you please say and spell your
9 name.

10 MS. MILLER: Trisha D. Miller, T-r-i-s-h-a,
11 M-i-l-l-e-r.

12 JUDGE JONES: Thank you. Will you please
13 raise your right hand.

14 (Witness sworn.)

15 JUDGE JONES: You may be seated.

16 TRISHA MILLER testified as follows:

17 DIRECT EXAMINATION BY MR. MEYER:

18 Q. Ms. Miller, I believe the court reporter
19 was previously provided copies of your testimony for
20 direct testimony marked as Exhibit 10, rebuttal testimony
21 marked as Exhibit 11, and surrebuttal testimony marked as
22 Exhibit 12. Do you have any corrections or additions to
23 make to that prefiled testimony at this time?

24 A. Yes. In my surrebuttal testimony, on
25 Page 6, line 20, it should read page 12, line 9, not

1 page 10, line 9.

2 Q. And do you have any other corrections or
3 additions you'd like to make?

4 A. No, not to my knowledge.

5 MR. MEYER: With those modifications, I
6 would offer Exhibits 10, 11 and 12 into evidence.

7 JUDGE JONES: Exhibits 10, 11 and 12 are
8 admitted into the record.

9 (EXHIBIT NOS. 10, 11 AND 12 WERE RECEIVED
10 INTO EVIDENCE.)

11 MR. MEYER: I believe everything else has
12 been previously waived, so I would tender -- questions, I
13 should say, have been previously waived, so I would tender
14 the witness for cross-examination.

15 JUDGE JONES: Thank you. Are there any
16 questions from the Missouri Department of Natural
17 Resources?

18 MS. WOODS: No, your Honor.

19 MR. PAULSON: No, your Honor, no questions.

20 JUDGE JONES: That was from the Federal
21 Executive Agencies. And the Office of the Public Counsel?

22 MR. MICHEEL: Yes, your Honor, I have
23 questions.

24 JUDGE JONES: You may proceed, Mr. Micheel.

25 CROSS-EXAMINATION BY MR. MICHEEL:

1 Q. Ms. Miller, are you aware that in MPS Case
2 No. ER-90-101, the Commission stated that deferred taxes
3 should be an offset to rate base with respect to AAOs?

4 A. I read the report as you stated. However,
5 I do not recall reading that exact statement.

6 MR. MICHEEL: May I approach the witness,
7 your Honor?

8 JUDGE JONES: Yes, you may.

9 BY MR. MICHEEL:

10 Q. Ms. Miller, I'm handing you a copy of the
11 Commission's Report and Order in ER-90-101 in the matter
12 of Missouri Public Service for authority to file tariffs
13 increasing rates for electric service provided to
14 customers in Missouri. And I'm drawing your attention to
15 page 30 of that order, and this particular paragraph, if
16 you could read that paragraph to yourself and let me know
17 when you're ready.

18 A. Okay. I'm ready.

19 Q. Does that paragraph indicate that the
20 Commission -- well, what does that paragraph indicate?

21 A. It's my understanding after reading it that
22 it says that the deferred income tax related to the AAO
23 deferral, which is included in deferred tax reserve,
24 should be used to reduce rate base as part of the process
25 of setting rates in this case.

1 Q. Thank you very much. And does that
2 language indicate to you, at least in a past case, that
3 the Missouri Public Service Commission has determined that
4 it's appropriate that deferred income taxes related to AAO
5 deferrals be used to reduce rate base?

6 A. Yes, in that case.

7 Q. Would you agree with me in GR-98-140, a
8 Missouri Gas Energy case, that the Staff agreed with the
9 Public Counsel position that AAO deferred taxes should be
10 an offset to rate base even if the unamortized AAO
11 deferred balances are not?

12 A. I am unfamiliar with the deferred tax issue
13 associated with AAOs, so I don't recall that, and I
14 believe Staff Witness Steve Traxler testified on that
15 issue. I mean -- excuse me -- he handled that issue in
16 this case.

17 MR. MICHEEL: May I approach the witness,
18 your Honor?

19 JUDGE JONES: Yes, you may.

20 BY MR. MICHEEL:

21 Q. Let me hand you a copy of the rehearing
22 rebuttal testimony of Charles R. Hyneman in GR-98-140,
23 Missouri Gas Energy, and let me ask you a couple
24 questions. Do you know who Charles R. Hyneman is?

25 A. Yes.

1 Q. And who is Mr. Hyneman?

2 A. He's a Staff utility regulatory auditor of
3 the Commission.

4 Q. And does that appear to be his testimony in
5 the case that I mentioned, GR-98-140?

6 A. Yes.

7 Q. Could you turn to page 5 of that testimony,
8 and I'm specifically focusing on lines 14 through 20.

9 A. Okay.

10 Q. Could you read those into the record?

11 A. The reality is that the SLRP deferred taxes
12 are caused by the timing difference between what -- excuse
13 me -- when MGE takes an income tax deduction for SLRP
14 amortization expense and the time for the SLRP
15 amortization expenses recognized, in quotations, on the
16 income statements for financial reporting and regulatory
17 accounting purposes.

18 Q. Could you turn to page 7 of that testimony,
19 and I'm focusing on lines 4 through 7, and read that into
20 the record.

21 A. Do you want me to begin with the first
22 sentence there?

23 Q. That's fine.

24 A. This is not the case. Deferred taxes
25 result when a cost is expensed in the income statement in

1 a period different from when it is recognized as a tax
2 deduction on the tax return.

3 Q. And then again, could you turn to page 7 of
4 that testimony, starting on line 21 and read through over
5 to page 8, line 4.

6 A. Should the determination of whether or not
7 deferred taxes are included in rate base be contingent on
8 whether the related asset is in rate base?

9 No. As described above, inclusion of
10 deferred taxes as a rate base offset and specific
11 inclusion of the related asset in rate base are manually
12 exclusive. There is no asset in MGE's rate base that is
13 related to pensions, OPEDs, or rate case expense, yet the
14 deferred taxes related to these expenses are included in
15 rate base.

16 Q. And finally could you turn to page 9 of
17 that testimony and read into the record for me lines 13
18 through 21.

19 A. Deferred taxes recognized in cost of
20 service for setting the rates represent an expense
21 covered -- excuse me -- expense recovered in rates
22 currently for which the company has no current cash
23 outlay. The company has the use of the funds generated by
24 these prepaid taxes until the funds are required for
25 higher tax liabilities in the future.

1 Including all deferred taxes created
2 through the ratemaking process in rate base is proper
3 ratemaking treatment. This ratemaking treatment provides
4 compensation to the ratepayers who have paid dollars
5 related to income tax expense in rates that the company
6 will not have to pay to the government until sometime
7 later. Including deferred taxes in rate base is unrelated
8 to whether the asset itself is included in rate base.

9 Q. Thank you very much.

10 Would you agree with me in MPS rate
11 Case ER-97-394, Staff included the AAO deferred taxes as
12 an offset to rate base in its testimony and accounting
13 schedules?

14 A. As stated earlier, I'm not familiar with
15 the treatment of deferred taxes related to AAOs.

16 MR. MICHEEL: May I approach the witness,
17 your Honor?

18 JUDGE JONES: Yes, you may.

19 BY MR. MICHEEL:

20 Q. And I'm going to be handing you a portion
21 of Staff's accounting schedule from ER-97-394. And let me
22 give you a little time to look over that accounting
23 schedule there. On the front page does that say
24 Case No. ER-97-394?

25 A. Yes, that's correct.

1 Q. And then on the second or the third page of
2 that item, does it indicate Accounting Schedule 2
3 Williams?

4 A. Yes, that's correct.

5 Q. And does it indicate Case No. ER-97-394?

6 A. Yes. That's correct.

7 Q. And do you see the section there that says
8 subtract from net plant, right below line 11?

9 A. Yes.

10 Q. Does that indicate that those items are
11 going to be subtracted from rate base?

12 A. It appears so, yes.

13 Q. And do you see line 19 there that says
14 deferred income taxes AAO?

15 A. Yes. Line 19?

16 Q. And -- yes. Does it indicate there on
17 Staff's accounting schedules that the Staff proposed to
18 subtract \$951,950 from rate base related to the deferred
19 income taxes for AAOs in that case?

20 A. As far as proposing, I'm not for sure. I
21 wasn't involved in this case. It might appear on the
22 schedule. I cannot speak for proposing for the Staff at
23 that time.

24 Q. But --

25 A. Nor in this case.

1 Q. But Staff's schedules -- accounting
2 schedules that they file with the rate case set out their
3 proposed accounting treatment in the rate case; isn't that
4 correct? And if you don't know, that's okay, too.

5 A. I don't know.

6 Q. Okay.

7 A. Plus, I don't know when this was made, if
8 this is filed.

9 Q. Well, let me ask you --

10 A. Or exactly what time.

11 Q. At the top of that sheet there, does it
12 indicate that it was filed on 9/15/97?

13 A. My emphasis with it is usually that's
14 whenever it's printed out by Staff, so I don't know. It
15 could have been the filing date in 1997, but I'm
16 unfamiliar with the case records.

17 Q. Are you aware that the Commission Staff in
18 this case presented accounting schedules?

19 A. I do know that it is practice now to, yes.

20 Q. And do you know whether or not on those
21 accounting schedules they had a rate base accounting
22 schedule like this rate base accounting schedule?

23 A. Again, I haven't seen the file case from
24 the '97 case, but based on practices today, I would assume
25 that there would be an accounting schedule associated with

1 it.

2 MR. COOPER: As a matter of fact, I guess
3 what I would propose, your Honor, is that perhaps we take
4 notice of those accounting schedules from the 97-394 case.

5 MR. MICHEEL: I'm not interested in doing
6 that, your Honor. If Mr. Cooper wants to cross-examine
7 this witness and do it, that's fine.

8 MR. COOPER: Well, if we're going to read
9 portions of them, I think it suits -- I guess I would
10 object to picking pieces without going ahead and taking
11 notice of the entire schedules.

12 JUDGE JONES: I think we should take notice
13 of the -- well, how voluminous is the schedule? How many
14 pages is it?

15 MR. MICHEEL: Mr. Co--

16 JUDGE JONES: Do you have the schedule or
17 do you have just a portion of it, Mr. Micheel?

18 MR. MICHEEL: I was given a portion of the
19 schedule from my witness. I don't know how large the
20 schedule is, how voluminous it is. It seems to me if
21 Mr. Cooper wishes the Commission to take judicial notice
22 of all these schedules, he should get them, copy them and
23 provide them to the Commission. I don't have a problem
24 with him doing that.

25 JUDGE JONES: I understand that. We'll

1 deal with that again, Mr. Cooper, when and if you
2 cross-examine the witness. But at this time, Mr. Micheel,
3 since that issue is up, you have sufficiently identified
4 the pages on which she's testified.

5 MR. MICHEEL: And I've already finished
6 with this line of questioning, sir. So to the extent
7 there's an objection, I would just say, too late.

8 JUDGE JONES: Objection overruled, then.

9 MR. MICHEEL: I just want to retrieve that
10 schedule. May I approach the witness again, your Honor?

11 JUDGE JONES: Yes, you may.

12 BY MR. MICHEEL:

13 Q. I'm handing you, Ms. Miller, a copy of a
14 portion of the direct testimony of Steven C. Carver in
15 Case No. ER-93-37. And does that indicate on the front
16 page that the MPSC Staff is the sponsoring witness of that
17 testimony?

18 A. Yes, that's correct.

19 Q. And so does that indicate to you that
20 Mr. Carver was appearing as a witness on behalf of the
21 Staff of the Public Service Commission in that proceeding?

22 A. Yes, that's correct.

23 Q. And if you could, turn to page 35 of that
24 testimony.

25 A. Okay.

1 Q. And I'm looking at lines 19 through 24
2 there. Could you read that to yourself.

3 A. Okay.

4 Q. Does that indicate that Mr. Carver
5 recommended a rate base offset for the AAO deferred taxes?

6 A. Yes, it does state that he modified the
7 company's model to recognize a monthly calculation
8 deferred income tax reserves which were to reduce the
9 carrying cost deferral in a manner similar to the revenue
10 requirement rate base offset for both the deferred tax
11 reserve and depreciation reserve. As far as saying make a
12 reduction of rate base, I don't -- I can't testify to a
13 conclusion on that.

14 Q. And would you read his question and answer
15 starting at line 6 through 9 there. The question is, how
16 do --

17 A. Aloud?

18 Q. No, to yourself.

19 A. Okay.

20 Q. Does that testimony by Mr. Carver indicate
21 that the company MPS recognized the same rate base offset
22 for AAO deferred taxes?

23 A. Were you speaking of just lines 6 through
24 9? Is that what you said, or 12?

25 Q. Yes, 6 through 9. I mean, you can read

1 further if you want.

2 MR. MEYER: At this point I'm --

3 THE WITNESS: Again, I would have to say --

4 MR. MEYER: At this point I'm going to
5 interpose an objection. Certainly the witness can read
6 and say what the testimony in these previous cases state,
7 but she has stated that she is not an expert on this
8 particular topic.

9 JUDGE JONES: Mr. Micheel?

10 MR. MICHEEL: I didn't hear her state that
11 she wasn't an expert on this particular topic. I heard
12 her state that she wasn't testifying on this particular
13 topic. Now, if the Staff is telling me that they're
14 presenting an accountant that is unfamiliar with
15 depreciation, things like that, I'd like to voir dire this
16 witness and perhaps request that her entire testimony be
17 stricken if she's not an expert accountant.

18 MR. MEYER: I did not say she was not an
19 expert in this entire area. It's on the particular line
20 of questioning that has been pursued in the extreme recent
21 past.

22 JUDGE JONES: So expert was a bad choice of
23 word?

24 MR. MEYER: Well, no. I believe she
25 testified that she was not prepared to study in this

1 particular area, the deferred tax issue.

2 JUDGE JONES: Mr. Micheel, are you
3 intending on pursuing this area?

4 MR. MICHEEL: This is my last question on
5 this area, your Honor.

6 JUDGE JONES: Go right ahead. The
7 objection is overruled.

8 MR. MICHEEL: And if the witness can't
9 answer or doesn't know, she can say, I don't know and
10 that's an okay answer.

11 JUDGE JONES: Will you restate the
12 question?

13 MR. MICHEEL: Will you read back the
14 question, Kellene?

15 THE REPORTER: "Question: Does that
16 testimony by Mr. Carver indicate that the company MPS
17 recognized the same rate base offset for AAO deferred
18 taxes?"

19 THE WITNESS: Were you speaking of page 35?

20 BY MR. MICHEEL:

21 Q. Yes.

22 A. I'm sorry. I was looking at page 36. It
23 was on the AFUDC rate. He does state on here that the
24 only income tax quantification presented by the company
25 concerned evaluation of the rate base offset. This offset

1 for deferred income taxes was quantified by multiplying
2 the composite federal and state tax rate times the amount
3 of total carrying costs, regardless of whether the
4 carrying cost rate included an equity component. As I
5 indicated, this quantification was employed solely for the
6 basis purpose and did not affect the amount of carrying
7 costs actually deferred.

8 Q. Thank you very much. I can retrieve that.

9 I want to ask you a few questions about the
10 AMFM AAO for St. Joseph Light & Power that you testify
11 about. Have you reviewed the Commission's Report and
12 Order in Case No. EO-91-247?

13 A. Yes.

14 Q. And that's been admitted in this case as
15 Exhibit 152; is that correct?

16 A. I believe so, yes.

17 MR. MICHEEL: May I approach the witness,
18 your Honor?

19 JUDGE JONES: Yes, you may.

20 BY MR. MICHEEL:

21 Q. I'm handing you a copy of Exhibit 152. If
22 you could look at the first page and then turn to the
23 fifth page, I want to ask you a few questions about that.
24 Is that the Commission's Report and Order that granted
25 St. Joe Light & Power what we've been calling here the

1 AMFM system AAO, and that stands for automated mapping
2 facilities management system?

3 A. That is correct, yes.

4 Q. And is it correct that the Commission in
5 that case indicated that costs for the AAO would be
6 amortized over a six-year period?

7 A. I believe in the Report and Order it says
8 over the six-year period used to depreciate the project's
9 hardware and software costs.

10 Q. So the Commission specifically set out a
11 six-year period; is that correct?

12 A. Yes, but it's associated with the hardware
13 and software costs.

14 Q. Are you aware of any Commission decision
15 that explicitly changed the six-year amortization period
16 in that Order?

17 A. No.

18 Q. Did you undertake an effort to find out if
19 there was any other Commission decision that changed that
20 order?

21 A. Yes.

22 Q. And did you find a Commission decision that
23 changed that six-year period?

24 A. No, not to change the six-year period over
25 the property's hardware and software costs.

1 Q. Is it correct that the Staff has
2 approximately \$45,000 of expense built into its case to
3 reflect the AMFM AAO?

4 A. Yes.

5 Q. And we would find that on the Staff's
6 accounting schedules, would we not?

7 A. Yes, I believe so.

8 Q. Is it correct that, according to Aquila,
9 only \$22,380 -- there's only \$22,380 of the remaining
10 balance as of September to amortize for the AMFM project;
11 is that correct?

12 A. Yes.

13 Q. So even though Aquila only has \$22,380
14 remaining to amortize, Staff wants to build in rates the
15 ability for the company to recover \$45,000 on a
16 going-forward basis; is that correct?

17 A. Yes, that is correct. Based on ratemaking
18 principles we took a 12-year period that was based on the
19 update period associated with what the company had
20 proposed to follow out the test year and update concept.

21 Q. And you indicate that the reason the Staff
22 is doing that, as you just said, is it's based on -- your
23 words in your testimony -- traditional ratemaking
24 principles; is that correct?

25 A. Can you reference the page, please?

1 Q. Sure. Just bear with me a minute here.
2 I'm looking at your surrebuttal testimony, and I'm looking
3 at page 15, and I'm focusing on the question and answer
4 that starts at line 11. And on line 13 you give the
5 answer, the Staff maintains the position based on
6 traditional ratemaking principles; is that correct?

7 A. Yes, that is.

8 Q. Would you agree with me that deferrals of
9 costs from one period to another period for development of
10 a revenue requirement as AAO deferrals do violates the
11 traditional method of setting rates?

12 A. I'm sorry. Can you repeat the question,
13 please?

14 Q. Certainly. Would you agree with me that
15 the deferral of costs from one accounting period to
16 another accounting period for development of a revenue
17 requirement as AAO deferrals do violates the traditional
18 method of setting rates?

19 A. I believe in my research -- I might be
20 wrong -- but I think it was decided that an AAO is not
21 considered retroactive ratemaking of some sort. I'm
22 not -- I'm not clear. I don't know.

23 Q. So you don't know whether or not the
24 deferral of costs from one period to another period for
25 the development of the revenue requirement violates

1 traditional ratemaking methods?

2 A. The deferral, such as, in this instance, an
3 AAO --

4 Q. Yes.

5 A. -- to other ratemaking periods, correct?

6 Q. Yes.

7 A. To reflect that expense in ratemaking?

8 Q. Let me back fill here. What you do when
9 you have an AAO, you have an expense occurred in a certain
10 accounting period, and absent the AAO, that expense would
11 be dealt with in that accounting period; is that correct?

12 A. Yes.

13 Q. But the deferral allows you to take an
14 expense from a previous accounting period and trans-- pick
15 it up, save it in a holding account, in this case I
16 believe it's Account No. 186, miscellaneous deferred
17 debits in the FERC system of accounts, and seek recovery
18 in rates in a different accounting period than when the
19 expense was initially recognized; isn't that correct?

20 A. That's correct, except for currently it's
21 now 182 for the L&P. I believe in the '91 Order it
22 directed it to be accounted into the 186 account.

23 Q. And that's what we're talking about.

24 A. Yes.

25 Q. I understand there's some question about

1 whether it's 186 or 182.3, but for that order --

2 A. It was 186.

3 Q. -- it was 186. And my question is, that
4 deferral violates traditional ratemaking, does it not?

5 A. Considering that AAO has been included in
6 rates in the past by the Commission, I would have to say
7 that the Commission does not see it as violating
8 ratemaking principles.

9 MR. MICHEEL: May I approach the witness,
10 your Honor?

11 JUDGE JONES: Yes, you may.

12 BY MR. MICHEEL:

13 Q. I'm handing you a copy of the Commission's
14 Report and Order EO-91-358 and EO-91-360, in the matter of
15 application of Missouri Public Service for issuance of
16 Accounting Authority Order relating to its electrical
17 operations. This is the Sibley rebuild and the Western
18 rebuild Report and Order. I'm going to ask you to focus
19 on the first paragraph on page 205 of the commission's
20 reported decision there. And let me know when you're
21 ready.

22 A. Okay.

23 Q. Have you had a chance --

24 A. You want me to read the whole page or just
25 that paragraph?

1 Q. Just that paragraph.

2 A. Okay.

3 Q. Is this the Commission's Report and Order
4 in EO-91-358 and EO-91-360?

5 A. Yes, that's correct.

6 Q. Could you read the first sentence of the
7 first paragraph of page -- it's 205 in the Commission
8 reporters -- into the record?

9 A. The deferral of costs from one period to
10 another period for the development of a revenue
11 requirement violates the traditional method of setting
12 rates. Would you like me to continue or just the first --

13 Q. That's enough. Now, my question, does the
14 Commission indicate in that Report and Order that the
15 deferral of costs from one accounting period to another
16 accounting period violates the traditional method of
17 setting rates?

18 A. I'm sorry. Could you repeat your question?

19 Q. Sure. Would you agree with me that the
20 Commission indicated there that deferral of costs from one
21 accounting period to another accounting period, like AAOs
22 does, violates their traditional method of setting rates?

23 A. Yes, as I just stated in the first
24 sentence, violates the traditional method of setting
25 rates.

1 Q. So you would agree with me that the AAO
2 procedure is not traditional ratemaking; isn't that
3 correct?

4 A. No, because it later states that rates are
5 usually established based upon a historical test year,
6 which focuses on four factors; the rate of return the
7 utility has an opportunity to earn, the rate base upon
8 which a return may be earned, depreciation costs of plant
9 and equipment, and allowable operating expenses.

10 Q. And how does that vitiate the fact that
11 deferrals from one accounting period to another accounting
12 period are not traditional ratemaking?

13 Let's unpack that. That first item that
14 you read, how does that change the fact that the deferrals
15 of accounting -- deferrals from one accounting period to
16 another accounting period violate traditional ratemaking?
17 Help me with that. I don't understand.

18 A. I was -- from the allowable operating
19 expenses, it says later on in the second paragraph that
20 deferral costs -- wait. Deferral of costs should be
21 allowed only on a limited basis.

22 Q. And that's when the Commission issues an
23 AAO, isn't that correct, Ms. Miller?

24 A. Yes, that's correct.

25 Q. So it's nontraditional ratemaking to allow

1 an AAO; isn't that correct?

2 A. Yes.

3 Q. And the Commission indicates that in its
4 Report and Order?

5 A. Uh-huh.

6 Q. And I'm not trying to trick you.
7 Nonetheless, the Commission allows companies to get AAOs
8 and use the nontraditional ratemaking accounting; isn't
9 that correct?

10 A. Yes, but it's an application process,
11 correct? Sorry. I didn't mean to ask you a question.

12 Q. That's all right. This is the first time
13 you've testified?

14 A. (Witness nodded.)

15 Q. I'm trying to be nice.

16 MS. WOODS: It shows.

17 BY MR. MICHEEL:

18 Q. Would you agree with me, Ms. Miller, that
19 AAO deferrals violate the principles of test year and
20 matching?

21 A. Yes.

22 Q. So would you agree with me that if the
23 Staff had been consistent applying the principles of
24 ratemaking, the Staff would have opposed all AAOs?

25 A. I'm sorry. Can you repeat that, please?

1 Q. Sure. If the Staff, as you say in your
2 testimony that Public Counsel is violating the ratemaking
3 principles of test year and matching in our proposal, and
4 I guess it's your position that you're using traditional
5 accounting?

6 A. Uh-huh.

7 Q. If that's the case, wouldn't the Staff be
8 opposed to all AAOs?

9 A. No, because based on Commission precedence,
10 and the AAOs have been allowed in rates by the Commission,
11 we do not oppose them.

12 Q. Okay. Fair enough. I want to ask you some
13 questions now about the construction accounting testimony
14 that you have.

15 A. Okay.

16 Q. In your surrebuttal. Is it correct that
17 construction work in progress, which we call CWIP, when
18 construction work in progress is placed in service, you no
19 longer capitalize the interest on the investment; is that
20 correct?

21 A. Yes.

22 Q. And that's because the plant's been placed
23 in service?

24 A. Yes, that's correct.

25 Q. Would you agree with me that an Accounting

1 Authority Order allows a company to defer the depreciation
2 and the carrying costs; is that correct?

3 A. I'm sorry?

4 Q. Would you agree with me that the AAO in
5 this case for the Sibley rebuild allows the company to
6 defer the depreciation and the carrying costs related to
7 that project; is that correct?

8 A. Yes.

9 Q. And would you -- would you agree with me
10 that there is no depreciation expense being capitalized
11 when the plant is not in service or there is no
12 depreciation expense when a plant is not in service; isn't
13 that correct?

14 A. There's -- I'm sorry. Can you --

15 Q. Well, let me try a different way. A
16 company only receives depreciation on an asset after it's
17 placed in service; is that correct?

18 A. Yes.

19 Q. So there's no depreciation while the plant
20 is being built because it's not in service; is that
21 correct?

22 A. Under normal accounting practices, yes.
23 However, in this case, I don't --

24 Q. I understand that's Mr. Traxler's issue.

25 A. It might have varied.

1 Q. Would you agree with me that the return the
2 Commission allowed to the deferrals represents a return on
3 new incremental investment until such time as that
4 incremental investment is placed into rates?

5 A. The costs that were associated with the
6 plant before it was reflected -- it was placed in service
7 before it was -- excuse me -- reflected in the rates was
8 included in the AAO balance.

9 Q. Would you agree with me in this case that
10 Staff is recommending amortization of the deferred amount
11 and rate base treatment for the remaining balance?

12 A. Yes.

13 Q. Would you agree with me, then, that the
14 company is earning a return on the return deferred and a
15 return on depreciation expense deferred?

16 A. They are receiving a return on the
17 unamortized balance of the AAO.

18 Q. And would you agree --

19 A. And return of. Excuse me.

20 Q. And would you agree with me that results in
21 the company earning a return on the -- a return on the
22 return deferred expense deferred?

23 A. The costs that once again were incurred by
24 the company before the plant was -- the plant -- the costs
25 associated with the plant in service before they reflect

1 in the rates and the plant was placed in service, yes.

2 Q. Would you agree with me that the
3 depreciation and maintenance expense are both income
4 statement items?

5 A. Yes.

6 Q. And is it correct that carrying charges --
7 and when I say carrying charges, I mean the return
8 deferred portion of the AAO -- are flowed through the
9 company's income statement at the time the return in
10 deferred; is that correct?

11 A. I'm sorry. Can you please say that again?

12 Q. Sure. Would you agree with me that the
13 carrying charge and the return deferred is flowed through
14 the company's income statement at the time the return is
15 deferred?

16 A. Under normal circumstances, I'd agree, yes.

17 MR. MICHEEL: Thank you for your time. I
18 appreciate it.

19 JUDGE JONES: Thank you. This looks like a
20 good time to take a short ten-minute break. We'll
21 reconvene at four o'clock.

22 (A BREAK WAS TAKEN.)

23 JUDGE JONES: Okay. At this time the
24 secretary of the Commission has received a Writ of
25 Prohibition from the Circuit Court here in Cole County to

1 stay a portion of these proceedings. Right now the
2 Commission is trying to determine how and whether to
3 proceed with the remaining portion of this case.

4 And in light of that, we will discontinue
5 the hearing today and reconvene tomorrow at nine o'clock.
6 Okay? That means you can leave.

7 WHEREUPON, the hearing of this case was
8 recessed until February 25, 2004.

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