

1 point in time; in fact, new estimates may be
2 farther off the mark in reality than old
3 estimates.

4 In terms of the ability over time to
5 deal with -- and I think the real concern is if
6 these costs are overaccrued, overcollected from
7 customers, that is a mechanism that over time will
8 return the overcollections to customer, but it
9 will work very slowly and will not generally serve
10 to fully correct problems within a generation's
11 time frame, however that is defined.

12 There was discussion this morning
13 that a reserve amortization was approved or -- or
14 I'm sorry, was recommended for UE that was to last
15 40 years. That means if significant amounts are
16 overcollected from customers in that scenario,
17 that would still take 40 years to fully return
18 back to customers.

19 I would also note that the fact that
20 the very existence of these overaccruals and the
21 amount may be disputed in future rate proceedings.
22 It's not something the parties are likely to come
23 together and agree to very quickly. There will be
24 another subject of controversy likely in future
25 rate proceedings.

1 Q Each of these mechanisms would be
2 addressed, I suppose, only in subsequent rate
3 cases? There wouldn't be any interim study, would
4 there?

5 A Well, I believe updated depreciation
6 studies are filed outside of rate cases, so.

7 Q Okay. I wasn't aware of that.

8 A I believe that.

9 Q We don't get those, thank goodness.
10 Okay. And I think you -- you wanted to address
11 either the second or the third item maybe? The
12 shortcomings? Or maybe you already have. Alleged
13 shortcoming.

14 A Oh. I think I -- I totally missed
15 the third one, I haven't mentioned that, and
16 that's the utility's contention that funds given
17 to the Company by customers for this purpose will
18 be reflected as a reduction to rate base and,
19 thus, lower the overall costs. So they will be
20 fully compensated for the use of their funds.

21 Q Well, that -- go ahead and finish
22 your thought and then I want to follow up on that.

23 A Okay. Now, to me, that's not -- I
24 would not characterize that as a safeguard, I
25 would characterize that as a must have. If I'm

1 going to provide funds to the utility, I deserve a
2 return and I should get it. So I don't think it's
3 something that -- there's no bonus points
4 associated with that kind of mechanism.

5 Q That's an increase in the
6 depreciation which would reduce the value of rate
7 base. Correct?

8 A That is correct.

9 Q Okay. We were exploring that
10 earlier, and that's what I -- there are two --
11 this figure would go into the rate making formula
12 in two different places, where it would be
13 subtracted out in one place and then added back in
14 as an expense.

15 A The way I would characterize it, you
16 collect depreciation expense, that shows up as an
17 expense customers pay for, but the amount of that
18 expense is deducted from rate base and, therefore,
19 reduces the overall return customers have to pay.

20 Q Mr. Schwarz deferred that question
21 to you, I think, a little while ago.

22 A I'll talk with him later.

23 Q Good. I guess in total, in
24 consideration of those safeguards, the updated
25 studies and the analysis, the ongoing -- regular,

1 ongoing analysis of these depreciation studies and
2 the estimates on what the cost of removal will be
3 at some point down the line in total, these
4 mechanisms are simply not enough to assume at
5 least some level of accuracy, in your opinion?

6 A Well, over time, as certain assets
7 get closer to their retirement, you may be able to
8 get better, more reasonable, more accurate
9 estimates. So in isolation maybe things will get
10 better in the future. But all the time the
11 Company is adding new plant that may add -- live,
12 you know, 50, 60, 80 years. And cost of removal
13 is being collected on that as well.

14 I don't think you ever get to a
15 point where you can be reasonably assured that
16 customers are paying an accurate level of accrued
17 net salvage in rates under the standard approach.

18 Q In your opinion, do the rate payers
19 get any benefit from the Company having additional
20 -- the extra additional cash flow?

21 A My -- do -- do they get any benefit?
22 Um --

23 Q Is there a -- if you look at it
24 rather than a -- if you look at this issue rather
25 than as a intergenerational equity issue and you

1 look at it as -- as a cash flow issue, is there a
2 -- certainly the Company would have the benefit of
3 having easier access to cash, but does the rate
4 payer correspondingly also receive any benefit or,
5 I suppose, detriment, or is there any interest of
6 the rate payer in the increased cash flow to the
7 Company?

8 A In my view, probably not because it
9 has been alleged that such measures as the
10 standard approach will allow for higher credit
11 ratings which means lower debt costs, okay?
12 There's two problems with that, and I think to
13 some degree this was addressed earlier.

14 The first problem is, in my opinion,
15 I don't believe this issue right now in and of
16 itself is going to drive the credit ratings of the
17 utility. They look at cash flow matters in total.

18 Second of all, even if that were
19 true and the Company -- or the customers get the
20 benefit of the lower debt cost, they're also
21 paying for higher net salvage cost, and I don't
22 think there's any evidence that that's a net wash
23 or a net benefit to the customers.

24 Q Okay. I asked this question of a
25 number of the witnesses. If we were to track my

1 infamous graph of where you have an increasing
2 curve of the actual cost of removal of plant and
3 above that you're going to have the accrual method
4 that would track it, would those lines over time
5 stay parallel to some extent or stay close? Will
6 they converge or will they grow in difference?

7 A I think --

8 Q Is there a way to track that, I
9 guess?

10 A For the foreseeable future, I think
11 they will grow and will increasingly be a larger
12 dollar value associated with this issue in the
13 future if, in fact, this remains an issue.

14 Q Why do you believe that?

15 A Well, I think Mr. Stout said
16 something interesting either yesterday or
17 Wednesday afternoon, that basically the accrual
18 method will keep growing and growing until the
19 point where we reach a, I think he called it a
20 steady state of plant or whatever, which would
21 basically mean that rate base would stop growing.

22 Okay? Generally over time rate base
23 has grown for these companies for a variety of
24 reasons which have been discussed, more customers,
25 more service territory, and inflation, and I don't

1 think seriously you would expect those trends to
2 reverse within the near future.

3 Q There's been discussion that the
4 amount of -- the dollar amount of value of this
5 issue in the case from 1999, the difference in
6 position was roughly \$2.3 million. Do you agree
7 with that?

8 A In this rate proceeding, yes.

9 Q Yes. Does that \$2.3 million reflect
10 both the subtraction of the -- I'll tell you, I
11 don't think that question is going to make sense,
12 so I'll spare everybody.

13 If -- are there any assets that
14 actually have a positive net salvage value at the
15 end of their lives? We spent a lot of time
16 talking about how the cost of removal that is so
17 much greater, but are there any assets that are
18 left that do have a positive value at the end of
19 their lives?

20 A I'm fairly confident the vehicles
21 account for utilities have a positive salvage
22 value. The vehicles used have some resale value.
23 There may be other accounts, but I'm not that
24 familiar with it.

25 Q Is it Staff's position that those

1 estimated net salvage values for those automobiles
2 should be factored in to the amount that will be
3 depreciated over the life of the asset?

4 A No. To the extent, under our
5 approach, to the extent companies actually receive
6 positive proceeds upon the retirement of that
7 asset, those should be accounted for and treated
8 as a credit in the revenue requirement process at
9 the time they are received.

10 Q So they -- so if you had a vehicle
11 with that couple of thousand dollars in -- in
12 value at the end, it's not going to be reduced
13 from the amount that's depreciated over time?

14 A That's my understanding.

15 Q How long have you been with the
16 Commission?

17 A Since 1981.

18 Q '81. Like your work?

19 A Some days better than others.

20 Q So you were around in either the
21 same department or close by when, I suppose, that
22 there was a shift in -- or an evolution of Staff
23 policy on this issue?

24 A I was certainly employed by the
25 Commission.

1 Q Do you recall -- do you recall the
2 circumstances or the time when this shift
3 occurred?

4 A Actually, no. I don't think I was
5 privy to those discussions or to that decision
6 making process.

7 Q Wasn't like everyone was sitting
8 around the office and said, aha, I've got a great
9 idea? Doesn't stick out in your mind?

10 A No, it does not.

11 COMMISSIONER CLAYTON: Okay. I
12 don't believe I have any further questions. Thank
13 you.

14 JUDGE THOMPSON: Thank you,
15 Commissioner Clayton.

16 Commissioner Davis?

17 BY COMMISSIONER DAVIS:

18 Q Mr. Oligschlaeger, what would you --
19 what do you do with an asset that becomes -- would
20 become obsolete before its time? I mean, it
21 hasn't necessarily happened in the gas
22 distribution industry, but, you know, for
23 instance, with the telephone industry taking off
24 as it has, what do you do when a company put --
25 how do you -- how do you treat that in terms of

1 **depreciation?**

2 A If an asset becomes obsolete before
3 its estimated future life is over with and it is
4 retired, then my understanding is that leaves an
5 amount -- positive amount in rate base that
6 basically will be unrecovered by the utility
7 unless a special amortization is undertaken to
8 charge the remaining cost over some period of
9 time.

10 Q Okay. And what would happen if -- I
11 mean, how would you treat that if, say, you know,
12 Laclede Gas builds new pipe to a new subdivision
13 and the growth in the area is explosive, as we
14 have in some areas of the state right now, I mean,
15 how do you -- how do you treat that when, say, a
16 piece of pipe, you know, can't handle the capacity
17 anymore? You know, and it may have only been in
18 use two or three years? How do you treat that?

19 A Okay. Assuming that there are no
20 prudence issues associated with that scenario,
21 and, again, I'm not an engineer, but if they had
22 to rip out the entire section of pipe in order to
23 put new, larger pipe in, and I don't know that
24 that would -- what would be required.

25 I believe you would retire the old

1 pipe and, again, if that did not last as long as
2 originally estimated for depreciation purposes,
3 that would leave some unrecovered investment in
4 rate base. And then you would put the new pipe in
5 to plant in service and it would begin
6 depreciating that and recovering a return on that.

7 Q So let me ask you this. Under --
8 under your methodology, under the way Staff, I
9 guess, is advocating that we do depreciation in
10 this case, if we have unforeseen expenses, you
11 know, say the, you know, say the net cost of
12 removal for, you know, I guess facilities
13 associated with the nuclear power plant or
14 something like that just increase exponentially in
15 ways we never dreamed of, you know, we are just
16 going to pass that all around, all around to the
17 rate payers; is that correct?

18 A To the extent they are like unusual
19 costs of removal amounts incurred by the utility?

20 Q Mm-hmm.

21 A Well, I think there's two different
22 scenarios. Number one, it would hit expense when
23 the Commission -- or when the company incurred it,
24 to the extent the company was in the rate
25 proceeding. We would look at that, those amounts

1 in the test years that appear abnormally high,
2 abnormally low, does it look reasonable in terms
3 of an ongoing basis, then we would recommend rate
4 levels based on that kind of thinking.

5 Now, there could be situations which
6 perhaps you would -- where a truly unusual
7 retirement takes place in which we might consider
8 the idea of some kind of special amortization of
9 the amount and so on to make sure the company has
10 some opportunity to recover its investment in the
11 item.

12 Q I think earlier you testified that
13 you were present here when I asked Mr. Schwarz
14 about, you know, how you would -- how you would
15 bill this if it was an ISRS payment or whatever,
16 and my recollection of what Mr. Schwarz said was
17 that he would basically advocate putting an adder
18 on people's bills or something of that nature.
19 How does what Mr. Schwarz recommended differ from
20 single issue rate making?

21 A What Mr. Schwarz recommended, and to
22 be truthful, I haven't specifically discussed this
23 with Mr. Schwarz, it would be the idea of
24 including a surcharge on customer bills to meet
25 some cash flow situation in which more cash was

1 needed by the Company than would be afforded under
2 normal rate making procedures.

3 To the extent that that surcharge
4 was not tied to a specific item of plant in
5 service or to some rate making item, perhaps that
6 would take care of single issue rate making
7 concerns. But there's a lot of legal judgment in
8 there that I'm not particularly capable of
9 offering.

10 Q I believe earlier you testified that
11 you were not involved in the -- I guess it was the
12 Staff decision making process regarding certain
13 policy issues, may have been like the fuel
14 adjustment clause; is that correct?

15 A I know I specifically mentioned my
16 lack of involvement in the net salvage issue. In
17 terms of fuel adjustment clause, I believe my
18 testimony with Commissioner Murray was that that's
19 not really a live issue since for electric
20 utilities, that kind of mechanism is prohibited in
21 this state.

22 Q Are you aware of how many other
23 states have fuel adjustment clause for electric
24 utilities?

25 A Just as a general base of

1 information, I couldn't give you an exact number,
2 but many of them do have some sort of mechanism.

3 Q Would it surprise you to learn that
4 I believe approximately 47 have some sort of fuel
5 adjustment clause?

6 A I wouldn't have guessed quite that
7 high, so I guess my answer is yes.

8 Q Mr. Oligschlaeger, can you help me
9 understand? Missouri is only one of approximately
10 four states that calculate depreciation in this
11 manner, one of only certainly a handful of states
12 that have no fuel adjustment clause for electric
13 utilities.

14 I mean, do you not feel that these
15 thing -- that these issues put the utilities here
16 in Missouri at a comparative disadvantage to
17 utilities in other states?

18 A I believe the answer to that is yes.
19 In terms of the fuel adjustment clause, which
20 isn't -- obviously not entirely written on our
21 hands, I think we have labored to create some
22 alternative approaches that, while perhaps not as
23 permanent or all encompassing as a fuel adjustment
24 clause, help to meet electric utilities to recover
25 their costs of fuel and purchase power costs on a

1 timely basis.

2 So I think we were -- we were aware
3 of the potential problems in that area.

4 Q Mr. Oligschlaeger, the Office of
5 Public Counsel is charged with representing
6 consumers. What do you see the role of the PSC
7 Staff as being?

8 A The role of the PSC Staff is to
9 advise and give recommendations to the Commission
10 on major questions that come before it based upon
11 my understanding of a fair, biased -- fair,
12 unbiased, and balanced viewpoint.

13 Q Okay. Let's get back to that fair
14 and biased viewpoint here for just a second. Mr.
15 Oligschlaeger, can you point to me any significant
16 issue in the last year or two where Staff has
17 looked at the position of a utility and said, yes,
18 they are right? Or they're even close to right?

19 A My universe of experience isn't all
20 encompassing within the Staff, so I can really
21 only refer to cases or projects I had first
22 knowledge of or participated in.

23 I would point you to the fact that
24 we have been able to reach settlement agreements
25 on a number of cases on a number of issues with

1 the utilities which reflect, I guess, a belief on
2 the Staff's part as well as the utilities' part as
3 well as the other parties' parts that that was a
4 fair, balanced, and reasonable resolution of the
5 issues involved. That happened in the MGE rate
6 case, that's happened in other proceedings.

7 Q Do you think it's fair that when the
8 Missouri General Assembly passes a law, that the
9 Commission Staff negotiates a settlement that says
10 yes, we have this lawsuit here, but no, you can't
11 take advantage of it?

12 A I was not directly involved in
13 settlements involving -- which -- I assume you're
14 talking about ISRS. Each party has to give and to
15 take, and to the -- I believe you can assume the
16 fact that the company was able to obtain something
17 from those settlements it wanted that it felt
18 giving up the right to file ISRS cases was
19 something that it could live with under those
20 circumstances.

21 Q On the issue of net salvage, I
22 believe it was your testimony that the, quote,
23 depreciation Staff came up with that; is that
24 correct?

25 A With our current approach?

1 Q Yes.

2 A I believe so.

3 Q Okay. And you're from -- you're not
4 from the depreciation section, you're from --

5 A The auditing section.

6 COMMISSIONER DAVIS: The auditing
7 section. No further questions at this time.

8 JUDGE THOMPSON: Thank you,
9 Commissioner Davis.

10 Commissioner Murray, further
11 questions? Please proceed.

12 BY COMMISSIONER MURRAY:

13 Q Mr. Oligschlaeger, when did you say
14 you started?

15 A September 1, 1981.

16 Q '81?

17 A Yes.

18 Q I had a question on the tip of my
19 tongue, now I need to think for a minute because
20 it disappeared. Oh, you -- Commissioner Davis was
21 just asking you about which department you're in,
22 and you're in the auditing department you said; is
23 that correct?

24 A Yes.

25 Q Do you know why you would be the --

1 one of the two witnesses provided by Staff on the
2 depreciation issue? Aren't there other
3 depreciation analysts that would have been more
4 familiar with the --

5 A My testimony hopefully was intended
6 to primarily cover cash flow and financial issues
7 associated with this particular issue. And my
8 understanding is that our depreciation folks,
9 while they're very well versed in the area of
10 depreciation, may not be as qualified to handle
11 some of the arguments raised by the companies in
12 the area of cash flow and financial impact.

13 Q Okay. Is it -- is it your
14 understanding that the people in the depreciation
15 department maybe don't really understand how cash
16 flow operates?

17 A I have not tried to test their
18 knowledge of that area, so I really cannot
19 comment.

20 Q So you're not aware of how much
21 appreciation they have for the effect of their
22 decisions or their recommendations as to
23 depreciation might have on cash flow?

24 A No, I don't.

25 Q Did you -- I'm sure you read Miss

1 Schad's testimony, didn't you?

2 A Yes.

3 Q And did you take a look at her
4 exhibit that she filed, which was Schedule 8-1 to
5 the -- to her supplemental rebuttal testimony?

6 A Yes.

7 Q And specifically the memo and --
8 well, I guess the rather lengthy memo from John
9 Ferguson, the Chairman of the SDP Current Issues
10 Committee to the membership, Society of
11 Depreciation Professionals?

12 A Yes, I have reviewed that.

13 Q Did you notice the last paragraph on
14 page 1 that carries over to page 2 of that memo,
15 and would you just read that to your -- actually,
16 you can read it out loud.

17 A Okay. The last paragraph on page 1,
18 carrying over to page 2? Okay.

19 The FERC and Rural Utilities Service
20 uniform systems of accounts dictate accrual
21 accounting, but the 1976 NARUC electric and gas
22 uniform systems of accounts do not include this
23 requirement.

24 This system may be perceived to
25 limit how a cash basis proposal can be responded

1 to. However, the accrual accounting requirement
2 can be implied for any electric utility utilizing
3 the NARUC electric uniform system of accounts
4 because the NARUC announced in 1999 that it would
5 no longer maintain it and encouraged entities to
6 follow the FERC uniform systems of accounts.

7 The more recent (1996) NARUC water
8 uniform system of accounts dictates accrual
9 accounting, and I assume that the 1996 NARUC waste
10 water uniform system of accounts does also.

11 Q Is there no uniform system of
12 accounts for gas companies? Or is that included
13 with the electric?

14 A I have a copy of a gas uniform
15 system of accounts in my office, so I assume it
16 exists.

17 Q Separate from the electric --

18 A It is separate, it is highly similar
19 in some ways, but it is separate from electric.

20 Q Okay. So the FERC uniform system of
21 accounts for gas companies, what does it require?

22 A In terms of accrual accounting, it
23 calls for accrual accounting in the same manner
24 the electric one does.

25 Q Okay. And if we adopt the uniform

1 system of accounts in Missouri --

2 A Yes, we have. I'm not sure which
3 version was last formally adopted, but we tend to
4 use the most recent version in any case.

5 Q Okay. And when the Chairman of the
6 -- when John Ferguson described later on in this
7 memo what has been done in Missouri, I -- he kind
8 of questions even whether he's actually reading
9 this right, because -- reading correctly what
10 Missouri has actually done, because he starts out
11 talking about the 1990 MoPub case, is that -- and
12 I'm on page 8-4. Are you there?

13 A Sure. Yes, I am.

14 Q And about the fourth paragraph down
15 in that, he says, at the time, the Missouri
16 electric uniform system of accounts was that of
17 NARUC which did not include an accrual accounting
18 requirement. Do you see that?

19 A Yes.

20 Q Do you agree with that?

21 A I don't know.

22 Q And then he goes on to point out a
23 couple paragraphs later, as is evident from
24 following discussions of 1999, 2001, and 2002,
25 Missouri proceedings in which the Staff adopted

1 true cash accounting, Missouri's later adoption of
2 the 1992 FERC uniform system of accounts that
3 dictate accrual accounting has not precluded
4 Missouri from continuing cash -- a cash basis for
5 net salvage.

6 I think he's indicating that that's
7 rather strange?

8 A From his perspective, I'm sure it
9 is.

10 Q You don't think it's strange to have
11 a system of accounting that we are following, but
12 we choose when to follow it and when not to follow
13 it?

14 A Historically, there have been other
15 areas besides net salvage in which this Commission
16 has chosen a cash basis of rate making, and some
17 of those have even received wide adherence from
18 our utilities and they file rates on that basis.
19 For example, uncollectible accounts and, to some
20 degrees, injuries and damages claims.

21 Q Have we done anything -- has anybody
22 sought a variance, or do we just decide when we'll
23 ignore the rules?

24 A Well, the Commission rules
25 themselves indicate you are not bound by the

1 uniform system of accounts and how you treat for
2 rate making any of the items encompassed within.

3 Q Even though we officially adopt
4 them?

5 A And that's for record keeping,
6 bookkeeping purposes, yes.

7 Q Did you ever, during your tenure
8 here, experience 4 CSR 240-10.020, which is income
9 on depreciation fund investments, that rule? Did
10 you ever experience that being applied?

11 A To clarify, are you talking about
12 the so-called 3 percent rule?

13 Q Yes.

14 A No.

15 Q So, to your knowledge -- to your
16 knowledge, it was never applied?

17 A To my knowledge, it was never
18 applied.

19 Q And that was adopted prior to your
20 service at the Commission; is that right?

21 A That's my understanding.

22 COMMISSIONER MURRAY: Thank you.

23 JUDGE THOMPSON: Thank you,
24 Commissioner.

25 Other questions from the bench?

1 Very well. At this time we will take a ten minute
2 recess.

3 (Off the record.)

4 (Witness sworn.)

5 JUDGE THOMPSON: Please take your
6 seat, state your name for the reporter, spell your
7 last name, if you would.

8 THE WITNESS: Steven with a V, M.
9 Fetter, F as in frank, E, double T as in Tom, Tom,
10 E-R.

11 JUDGE THOMPSON: Thank you. You may
12 inquire.

13 MR. LOWERY: Thank you, Judge.

14 STEVEN M. FETTER, testified as follows:

15 DIRECT EXAMINATION BY MR. LOWERY:

16 Q Good afternoon, Mr. Fetter.

17 A Afternoon.

18 Q Are you the same Steven M. Fetter
19 that previously caused to be filed in this case
20 supplemental direct testimony consisting of 17
21 pages and Schedule SMF-1 previously marked as
22 Exhibit 143?

23 A Yes.

24 Q If I were to ask you the same
25 questions, would your answers be the same?

1 A Yes, they would.

2 Q Do you have any corrections or
3 clarifications to your prefiled testimony?

4 A Not that I know of at this time.

5 Q Are your answers true and correct,
6 to the best of your knowledge and belief?

7 A Yes.

8 MR. LOWERY: I'd offer Exhibit 143
9 into the record, Your Honor.

10 JUDGE THOMPSON: Any objections to
11 the receipt of Exhibit 143?

12 MS. O'NEILL: No objection.

13 JUDGE THOMPSON: Hearing none, the
14 same is received. It will be a part of the record
15 in this proceeding.

16 MR. LOWERY: Tender the witness for
17 cross examination.

18 JUDGE THOMPSON: Thank you, sir.

19 Mr. Pendergast, looks like you are
20 first up.

21 MR. PENDERGAST: I have no
22 questions, Your Honor.

23 JUDGE THOMPSON: Bless you.

24 Ms. O'Neill?

25 MS. O'NEILL: You know what? In the

1 interest of time, I have no questions right now.

2 JUDGE THOMPSON: And bless you, too.

3 Mr. Schwarz?

4 CROSS EXAMINATION BY MR. SCHWARZ:

5 Q Good afternoon, sir.

6 A Good afternoon.

7 Q On pages 10 and 11 of your
8 testimony, you compare depreciation funding to an
9 employee planning for retirement, saying that the
10 inability to know with absolute precision future
11 annual income, length of career, or retirement
12 income needs adjusted for inflation is not a
13 reason to forgo putting aside cash now for that
14 eventuality. Is that --

15 A That is pretty much what that
16 paragraph says.

17 Q In the context of depreciation, who
18 are you suggesting needs to put aside cash? The
19 customers or the utility?

20 A It would be within the context of
21 the depreciation model where the Company treats it
22 as an expense that is included in customers'
23 rates.

24 Q Okay. But my question was, who
25 needs to put aside the cash?

1 A The cash should be collected for the
2 purpose of depreciation expense.

3 Q Third time's a charm. Who should
4 put aside the cash?

5 A Maybe I'm missing something. Where
6 is put aside in the --

7 Q If you look on line 23 of page 10.

8 A Okay. Okay. So the -- the Company
9 should collect in rates cash which the Company
10 will be responsible to use for retirement or
11 removal of assets, and also representing a return
12 of the large amount of money put forward by
13 investors that the Company used to make a capital
14 addition.

15 Q Is it your understanding that UE and
16 Laclede are proposing to put aside the funds
17 received under their approach to make those future
18 cash outlays?

19 A No, they are collecting depreciation
20 expense with the intent to meet their -- one, the
21 -- the larger portion of the depreciation expense
22 is a return of the previously provided capital
23 expenditure, and a smaller portion is for their
24 future responsibility for retirement or removal.

25 So there's somewhat of a symmetry,

1 although I must say, the money up front is much,
2 much larger than the back end part of that
3 symmetrical equation.

4 Q Would you agree that the sources of
5 cash for a utility are principally rate payers,
6 creditors, and shareholders? I mean, they may
7 find loose change in taxi cabs, but those are the
8 three main sources of cash, are they not?

9 A Those are the main sources.

10 Q Are you aware that over time for any
11 particular vintage of property or -- scratch that.
12 Account, that for any account at any particular
13 point in time, that eventually those -- the
14 accruals that are currently greater than cash
15 expenditures will ultimately reverse and the cash
16 expenditures will be bigger than the accruals?
17 Are you aware of that?

18 A Yeah, I believe within Mr. Stout's
19 testimony, he included some information about the
20 amount accrued and then the removal or retirement
21 expenses will cross and go back and forth, as I
22 would expect, over a long period of time.

23 Q And what will be the credit rating
24 agencies' response in the future when the cash
25 needs are greater than the cash provided by rate

1 **payers?**

2 A The credit rating agency would look
3 at the quality of the management, how they carry
4 on their business, and any strategies they have
5 not only for meeting that obligation, but for
6 meeting every decision they make in the operations
7 of their utility on an ongoing basis.

8 Q Now, sir, on a cash flow basis, I
9 think your testimony and the testimony of other
10 witnesses in this case suggest that the rating
11 agencies specifically look at cash flow in making
12 credit rating decisions.

13 Now, when the cash flow provided
14 from this particular source of funds that the
15 utilities are advocating now reverses itself in
16 the future, what -- how will credit rating
17 agencies view the reduced cash flow at that time?

18 A The credit rating agencies would
19 expect the company management to have a strategy
20 so that in that year, or during those two years
21 when they have to put out more cash than they are
22 benefiting from a depreciation expense included in
23 rates, that their strategy holds up.

24 That it will not reduce financial
25 ratios and coverages to unacceptable levels. It's

1 a part of doing business. And if a company were
2 to forgo the responsibility to manage their
3 company effectively, the credit rating agencies
4 would look very negatively on such a company
5 management.

6 Q Do credit rating agencies, then, if
7 my understanding is correct, do credit rating
8 agencies now think that Missouri utilities are
9 somehow unable or unsure to manage their cash flow
10 needs in the current environment?

11 A I think the rating agencies are
12 concerned about the depreciation policies within
13 the state.

14 Q What kind of a bump in its credit
15 rating will Laclede Gas get if the Commission
16 reverses its position in this case?

17 A I -- I have not -- not only have I
18 not made such an assessment, but -- but that one
19 issue in and of itself, I would not be able to
20 offer an opinion sitting here today.

21 MR. SCHWARZ: Thank you. May I
22 approach the witness?

23 JUDGE THOMPSON: You may.

24 Q (BY MR. SCHWARZ) I'd ask you --

25 MR. SCHWARZ: I'm going to hand him

1 a copy of a statute.

2 Q (BY MR. SCHWARZ) I'm handing you a
3 copy of Section 386.610 of the Missouri revised
4 statutes, and would ask you to read that into the
5 record.

6 A 386.610 --

7 MR. LOWERY: I'm going to object on
8 relevance grounds.

9 JUDGE THOMPSON: Just a moment.
10 Read it back, please.

11 THE REPORTER: "I'm handing you a
12 copy of Section 386.610 of the Missouri revised
13 statutes, and would ask you to read that into the
14 record."

15 JUDGE THOMPSON: The law is always
16 relevant to what we do here. I'll overrule that
17 objection. Please proceed.

18 THE WITNESS: The title of that
19 section is Substantial compliance with
20 requirements of this chapter sufficient, and then
21 the text begins, a substantial compliance with the
22 requirements of this chapter shall be sufficient
23 to give effect to all the rules, orders, acts, and
24 regulations of the Commission, and they shall not
25 be declared inoperative, illegal, or void for any

1 omission of a technical nature in respect thereto.

2 The provisions of this chapter shall
3 be liberally construed with a view to the public
4 welfare, efficient facilities, and substantial
5 justice between patrons and public utilities.

6 Q (BY MR. SCHWARZ) Thank you. Given
7 that statutory provision, would you agree that the
8 function of the Commission is significantly
9 different from that of credit rating agencies?

10 A I mean, it's hard to read that one
11 paragraph out of context, since it was the first
12 thing on the page and it referred to a chapter,
13 which I would guess is many pages before that.

14 But even in the absence of knowing
15 what came before and having served as a
16 Commissioner in another state and having served at
17 a credit rating agency, I can tell you that the
18 duties, responsibilities, and obligations of those
19 two entities would be different.

20 MR. SCHWARZ: Thank you.

21 JUDGE THOMPSON: You done?

22 MR. SCHWARZ: Yes, sir.

23 JUDGE THOMPSON: Thank you.

24 Questions from the bench?

25 Commissioner Murray?

1 COMMISSIONER MURRAY: I didn't know
2 that would come up that quickly.

3 BY COMMISSIONER MURRAY:

4 Q Mr. Fetter, as you heard earlier,
5 I'm sure, because you were in the hearing room,
6 the Staff has suggested as an alternate proposal
7 that if the standard treatment of net salvage were
8 to be continued, that there should be a separate
9 trust fund set up for segregating the accounts
10 related to net salvage. What would be the
11 detriments to mandating a separate fund?

12 A I would view that as a extremely
13 inefficient way to basically take the incoming
14 cash, put it in a low earning account, which I
15 would expect would earn less than the Company's
16 authorized return on equity, and then you would
17 have to subtract from that further the charges
18 that trustees and lawyers and folks like that
19 would do with regard to such an account.

20 And I think it would, you know, to
21 my knowledge, it would be the only such structure
22 for net salvage in the country, and it would show
23 a lack of connection, or a lack of respect between
24 regulator and regulated that I don't think is
25 consistent with a constructive relationship; not

1 only on this issue, but everything that comes
2 between the Commission and the companies within
3 the state that it regulates.

4 Q As a former regulator, are you of
5 the opinion that that relationship between
6 utilities in general and the Commission that those
7 utilities operate under is -- is an important
8 relationship from a perception standpoint?

9 A I'd say the cardinal rule I lived by
10 during my six years on the Michigan Commission,
11 including three years as Chairman, was that
12 communication, open and frank communication
13 between regulators and not only utilities, but
14 also consumer groups and industrial groups, that
15 kind of communication is crucial to the ability to
16 regulate well, to effectuate the public policy
17 within a state.

18 And if there are barriers between
19 the regulators and regulatory staff and those
20 entities where there isn't that kind of -- you
21 know, clearly in -- when you try to build up this
22 trust, there's always somewhat a wariness because
23 of the differing roles of the multiple entities.
24 But to not be able to have that kind of informal
25 communication, I think, seriously handicaps the

1 ability to effectuate the public interest within a
2 state.

3 Q What is your assessment of the
4 importance of regulatory certainty?

5 A Regulatory certainty is extremely
6 important from the financial community's point of
7 view. In all the discussions I've heard over the
8 past two days where the point of initiation of
9 discussion is the net salvage amount, I think the
10 point of initiation of discussion has to be the
11 billions of dollars that investors are putting
12 forward with confidence that over the next 20, 30,
13 40 years, that they will get a return of that
14 investment and a return on that investment.

15 And I think to focus on viewing the
16 net salvage issue in the absence of looking at the
17 precipitating event, which is the investment, I
18 think is not focusing on the right point in this
19 proceeding.

20 Q I had asked Mr. Oligschlaeger
21 earlier about various ways in which a commission
22 could affect the cash flow of a utility during the
23 rate setting process, and I note that in your
24 testimony, you make some reference, if I can find
25 it -- I think it's actually in your attachment,

1 your Schedule SMF-1, which was a Standard & Poor's
2 publication dated January 29, 2004? Do you see
3 that?

4 A Yes, I do.

5 Q And then on page 2 of that schedule,
6 the second to the last paragraph states, the
7 stability that leads to improved credit quality
8 can be supported by legislators and regulators
9 either through rate design or by carving out fuel
10 and commodity expenses and treating them
11 separately from a normal rate case process.

12 Rate design is established as a part
13 of the rate case decision and can be used to
14 promote stability by allocating a greater
15 percentage of fixed costs for recovery through the
16 standard monthly charge. The more common method
17 is a separate cost in the tariff that fluctuates
18 automatically or near automatically as commodity
19 costs rise and fall.

20 The presence of a fuel and purchased
21 power or gas clause that helps a utility manage
22 its exposure to commodity price moves is a
23 positive for credit ratings. Not all are created
24 equal, however, and each mechanism is studied to
25 determine how closely it allows for matching of

1 customer rates with expenses.

2 It -- it seems to me that this
3 report is mentioning some of the ways in which the
4 regulators can affect the cash flow of a utility
5 and, consequently, the utility's credit rating.
6 Do you agree that there are -- there are several
7 ways in which regulators can have that effect?
8 Either positive or negative?

9 A Yes, there are. And, in fact,
10 harkening back to your last question before this,
11 the idea of regulatory certainty, that paragraph
12 also applies to the concept of regulatory
13 certainty, that if a utility makes prudent
14 decisions with regard to its fuel supply or
15 purchased power contracts, it's in the interest of
16 all to have a relatively automatic or near
17 automatic process where they get reimbursed for
18 those costs without having to expend a lot of
19 costs within the hearing room to try to get back
20 those fuel costs.

21 Q And a part of the uncertainty that
22 utilities and/or financial analysts look to with
23 concern is delay that is created by uncertainty.
24 Is that correct?

25 A Certainly.

1 Q With the change in treatment of net
2 salvage that Missouri Commission Staff has evolved
3 to over the past several years, does that take
4 Missouri out of the mainstream in that treatment
5 of net salvage?

6 A Yes, it does.

7 Q And in taking Missouri out of the
8 mainstream, does it make it more or less
9 attractive to the investment community?

10 A Investors, especially in the past
11 few years of volatility, are much more careful
12 where their dollars are invested today than
13 compared to five or ten years ago. And to follow
14 up and answer your question, it would make it less
15 attractive within this state for investors.

16 Q And if a -- hypothetically, if a
17 state commission routinely looked at every utility
18 when -- when it was looking at the utility for
19 rate making purposes, went issue by issue with the
20 goal of keeping the cash flow to a minimum,
21 keeping rates to a minimum, would that be good
22 public policy?

23 A You know, clearly things have to be
24 decided on a case by case basis, but I don't --
25 I've never seen a jurisdiction where decision

1 making or recommendations from staff which are
2 directed at holding the line on rates or holding
3 the line on cash flow are a normal portion of what
4 they put forward. I think that would be viewed
5 very negatively by the financial community.

6 Q And is that because we are supposed
7 to be looking at balancing the interests as we set
8 rates in a rate case?

9 A In fact, the paragraph that Mr.
10 Schwarz asked me to read, the thought that came
11 out of that, even reading it out of context, the
12 thought that clearly came out of that was a
13 striking of a balance between those various
14 entities mentioned within that paragraph.

15 Q And when you do strike a balance,
16 does that lead to a more healthy utility in terms
17 of a utility that's more attractive to investors
18 and that is able to access money externally at a
19 reasonable cost?

20 A I think the ability of a utility to
21 do that serves the interests of all in the state,
22 including rate payers and also regulators.

23 Q So just a goal of keeping the rates
24 as low as possible for an immediate rate case may
25 be shortsighted for those consumers, particularly

1 if you look at the long run. Is that -- do you
2 agree with that?

3 A Well, in fact, ironically, if you
4 held the line on rates, in all likelihood the
5 credit rating of such a utility would go down,
6 requiring it to pay more for what it borrows. And
7 under a proper regulatory framework, those
8 additional costs that they have to pay for that
9 debt should flow through and be paid by rate
10 payers.

11 Q And the issue of net salvage that
12 we, unfortunately, have been hung up on for a long
13 time, with the uniform system of accounts
14 treatment of net salvage, that results in an asset
15 -- the full cost of an asset being paid over time
16 during the period in which that asset is used; is
17 that correct?

18 A Including either some plus or minus
19 for the salvage value at the end, yes.

20 Q So it's actually the cost, the full
21 cost of the asset?

22 A It rolls in the investment up front
23 that I talked about as a very important component.
24 It rolls in the net salvage value, positive or
25 negative, into an equation that allows it to be

1 spread ratably across the service life of the
2 asset to the customers who get the benefit of that
3 asset.

4 Q And if the asset has a predictive
5 positive salvage value at the end of its life,
6 then the company must deduct that amount from the
7 rate base upon which it earns a return. Is that
8 correct?

9 A Yes.

10 Q And even though the company is
11 expending the full amount for the capital
12 structure in the beginning, it must take the life
13 of the asset to get repaid for that expenditure as
14 well as -- and because of that, is able to earn a
15 return on that expenditure. Is that right?

16 A I might have lost the question.

17 Q Well, I probably -- let me try
18 again. When a -- when a company makes an outlay
19 for a capital expenditure, they can't just come in
20 and say, I'm expensing \$7 million this year as a
21 capital expense, they are required to depreciate
22 that asset over the length of the asset. Is that
23 right?

24 A In fact, earlier I talked about
25 symmetry. I guess symmetry under the Staff

1 proposal would mean that the 7 million or 7
2 billion spent up front would be expensed in that
3 year, or over the course of a five year average.

4 I don't think that's appropriate. I
5 think it should be spread out over the life of the
6 asset, the same consistent with my view of how net
7 salvage should be treated.

8 Q And, indeed, capital expenditures
9 are -- I mean, that's the traditional way to treat
10 capital expenditures, is it not?

11 A Yes, it is.

12 Q And is a part of that reason -- do
13 you think the reason for treating capital
14 expenditures that way that there would be extreme
15 volatility, and in many years significant rate
16 shock, if customers were charged for capital
17 expenditures as they were made?

18 A Of course, that would happen. And
19 what I think would be the worst thing about it is
20 you would not be charging the customers who
21 benefit from that asset during its life, you'd be
22 charging the ones who happen to be rate payers on
23 the day or the year that it went into service.

24 And, you know, that's kind of also
25 my view of why I -- I have problems with this --

1 the Staff concept where it gets charged to
2 whichever rate payers happen to be on the hook at
3 -- during the time of that retirement or removing
4 as opposed to the rate payers who enjoyed the use
5 of that asset during -- during its service life.

6 Q And it hasn't really been mentioned
7 in this proceeding that I recall, but I've seen it
8 several times in testimony and I see it in your
9 testimony where the treatment that Staff
10 recommends is referred to as a deferral of net
11 salvage.

12 And I've -- I've thought about why
13 it's referred to as a deferral, and basically, it
14 is deferring the cost of the removal of an asset
15 that is currently in use to a future period. Is
16 that right?

17 A It -- it's being deferred until
18 after the asset is retired or removed, and that's
19 when it triggers the rate treatment. Which I
20 think is a problem in my mind.

21 Q And on page 11 of your testimony,
22 you state at line 8 that deferral of net salvage
23 amounts results in inflated rate base and cost of
24 service, thus increasing utility rates in the long
25 run and damaging the economic viability of the

1 service territory.

2 The inflated rate base results
3 because the net salvage is -- net salvage cost is
4 not accrued and is not subtracted from rate base
5 over time. Is that right?

6 A It remains in the rate base.

7 Q And in the long run, it would be
8 increasing utility rates, as I understand it, for
9 a number of reasons, but somewhere in your
10 testimony you point out that -- there's kind of a
11 double whammy, or a double subsidy to the current
12 rate payers by assuming the approach that Staff
13 has gone to following the position that it took in
14 this original case.

15 A If they -- in addition to putting
16 off net salvage to later on and then amortizing
17 current amounts held in depreciation reserves that
18 were held for that purpose, but if they're
19 amortized now to current rate payers, then
20 basically the rate payers who are enjoying the use
21 of the assets today are getting subsidized from
22 the rate payers of the prior generation who paid
23 into that account, and they will be secondly
24 subsidized by the rate payers in the next
25 generation or two generations down the road who

1 will pay on a -- on the Staff's cash basis based
2 on its five year average around the time of
3 retirement or removal of the asset.

4 Q And I know that somebody is going to
5 challenge you on the fact that you said being held
6 for that purpose, but although the money is not
7 put into an account that is forced to sit idle
8 earning a very secure rate of return, that does
9 not means that the company does not have to
10 account for those amounts that have been
11 collected, does it?

12 A Not only does -- does the company
13 have to account for such obligations, but a
14 stronger credit rating will allow that company the
15 ability to run its business, not only that aspect,
16 but everything having to do with its business more
17 easily because it would have ready access to the
18 capital markets at reasonable terms on a timely
19 basis.

20 Q And if at some future time Laclede
21 were to come back to the Commission and say, gee,
22 we just incurred this huge expense to retire a
23 piece of property and tried to somehow put that
24 expense into rates, is it likely, in your opinion,
25 that the Commission would allow that to happen?

1 A Back when I was a commissioner, I
2 believed that rate payers should only be charged
3 for expenses one time and not multiple times for
4 the same thing. And so if -- if it had already
5 been figured in depreciation expense, I would
6 expect that this Commission would not allow it to
7 be paid a second time.

8 Q I would expect that as well. On
9 page 15, at line 13, you talk about if the
10 Missouri Commission were to support the Staff
11 position in this case, the rating agencies would
12 make an assessment of the reasons for the decision
13 and determine whether they support and modify
14 their current view of the state regulatory
15 environment further downward.

16 In your opinion, have the rating
17 agencies already factored in our initial decision
18 in this case?

19 A I -- I think they've -- they've
20 taken some rating actions that in part were driven
21 by depreciation, both depreciation results from
22 the past and also the pendency of -- of this
23 matter. But rating agencies ultimately will make
24 their judgments about the regulatory climate in
25 this state based on your decision as opposed to

1 what Staff says or opposed to what went on in the
2 past with other commissioners.

3 They will read the decision that
4 comes out of this proceeding and make a judgment
5 of how well reasoned it is, and that -- that will
6 color their view of how they view the regulatory
7 climate. And they would communicate that view,
8 whether it's the same as they hold now or better
9 or worse, they would communicate that to
10 investors.

11 Q And in that Missouri has had no
12 clear policy on its treatment of depreciation of
13 net salvage, would it be likely that a decision
14 coming out of this case on remand would be
15 considered to be establishing a clear policy?

16 A I think the fact that this case has
17 been under consideration for many years within
18 several different forums, I think it has drawn an
19 enormous amount of attention within the financial
20 community.

21 And so, you know, maybe normally a
22 depreciation decision carries a certain amount of
23 weight. I think this depreciation decision will
24 carry much more weight than probably any
25 depreciation decision I've seen during my time

1 within the credit rating community.

2 Q And do you think a decision to go --
3 to return to the standard method would have a
4 positive effect, would have any up -- upgrades in
5 the near term or the long term or --

6 A It clearly would have a positive
7 impact on the view of the financial community of
8 the regulatory climate. It would have a positive
9 impact on the credit profiles of the parties to
10 this case, and potentially other utilities within
11 the state. Whether that positive is enough to
12 lead to a change in watch status or outlook or a
13 change in rating level, you know, it's -- it's too
14 difficult to sit here and say that.

15 I -- but I think a decision going
16 with the standard method that's used in virtually
17 every state within the country would be viewed as
18 positive for the regulators and also for the
19 regulated.

20 Q So we have the potential to do -- to
21 have an effect far beyond the decision we make in
22 this case on this issue; is that what you're
23 saying?

24 A Without a doubt. I think any time a
25 Commission is -- is within less than a handful of

1 other commissions, going in a direction different
2 than 47 commissions, nothing prevents you from
3 going in that direction, but you had better write
4 a pretty good decision explaining why things are
5 different here.

6 Q We should also understand the import
7 of what we are doing when we make a decision like
8 that, should we not?

9 A Without a doubt.

10 Q And it should be supported by
11 extremely good evidence that there is a compelling
12 -- well, maybe not a compelling need, but
13 certainly a very reasonable need to change
14 longstanding policy? Would that be your position
15 as well?

16 A I think investors would want to have
17 you explain why things should be different here
18 than virtually everywhere else. And if you can't
19 make that explanation in a significant manner,
20 then they will probably discount what you have to
21 say.

22 COMMISSIONER MURRAY: Thank you.

23 THE WITNESS: Thank you.

24 JUDGE THOMPSON: Thank you,
25 Commissioner.

1 Commissioner Davis?

2 BY COMMISSIONER DAVIS:

3 Q Mr. Unfettered?

4 A Yes, sir.

5 Q How are things in New Jersey?

6 A I haven't been there for a while.

7 Q You are a former New Jersey
8 Commissioner, correct?

9 A I was a Michigan Commissioner.

10 Q Michigan, I'm sorry. But you now
11 reside in New Jersey, correct?

12 A Yeah. I figured it was safer to
13 leave the state when I finished being a
14 commissioner.

15 Q Okay. Now, is New Jersey one of the
16 -- one of the states that has a -- adopted a
17 similar depreciation method as like Missouri and
18 Pennsylvania?

19 A I believe New Jersey, Pennsylvania,
20 and maybe Georgia. Someone told me it was
21 possible Georgia as well.

22 Q Do you know anything about the New
23 Jersey Commission's rationale in adopting this
24 methodology?

25 A Just vaguely. I think Pennsylvania

1 and New Jersey, it's driven either by statute or
2 by prior court decision. So I believe the
3 Commissioners are somewhat limited in their
4 ability to go in a different direction. But I'm
5 not 100 percent sure.

6 Q They don't just negotiate a
7 settlement and work around the statute?

8 A Well, a lot of unusual things happen
9 in New Jersey, so that's possible.

10 COMMISSIONER DAVIS: Here in
11 Missouri, we do that because we're special. No
12 further questions.

13 JUDGE THOMPSON: Thank you,
14 Commissioner.

15 Recross based on questions from the
16 bench? Mr. Pendergast?

17 MR. PENDERGAST: No, Your Honor.
18 Thank you.

19 JUDGE THOMPSON: Ruth?

20 MS. O'NEILL: Thank you, Judge.

21 CROSS EXAMINATION BY MS. O'NEILL:

22 Q Mr. Fetter, I'm going to follow up
23 on a little bit of your discussion with
24 Commissioner Murray regarding what would happen if
25 the Commission's report and order in this case

1 again directed that the method proposed by the
2 Staff was to be put in place as part of this case.

3 You were aware that there were --
4 the Public Service Commission in Missouri has
5 ruled in this case in the past, and that's why
6 we're back here with the -- with the Staff's
7 method of depreciation, net salvage, right?

8 A I know that this case has been in
9 various forums, and that the -- the initial
10 decision might have been gone in the Staff
11 direction.

12 Q You're not even sure what decision
13 initially got made; is that your testimony?

14 A I believe it was the Staff decision.

15 Q Okay. And you're not actually here
16 on behalf of Laclede, you're here on behalf of the
17 intervenor, Ameren UE; is that right?

18 A Yes.

19 Q And, as a practical matter, this is
20 your first foray into this particular case? You
21 weren't involved at any other proceedings?

22 A This particular case, this would be
23 my initial involvement.

24 Q And just to put this idea in
25 perspective of the reaction that the investment

1 community may have to a report and order, are you
2 also aware that there have been two subsequent
3 rate cases for Laclede since the report and order
4 came out in this matter?

5 A You're saying the initial report and
6 order?

7 Q There have been two more rate cases
8 since then?

9 A I just generally would know that.
10 Not specifically.

11 Q And if -- and if in those two
12 subsequent rate cases there were settlements which
13 did not set forth that depreciation would be done
14 by what Laclede and Ameren have been calling the
15 standard method, would you expect that the
16 investment community who looks at regulated
17 utilities would be aware of that fact?

18 MR. PENDERGAST: I'm going to object
19 to that question, Your Honor. I'm going to object
20 to the question on the grounds that those two
21 settlements specifically provided that nothing in
22 those settlements, particularly when it came to
23 depreciation methodology, would be used in any
24 manner in any judicial review proceeding or any
25 subsequent proceeding to prejudice the interests

1 of Laclede.

2 And I have a feeling that somehow
3 that's what it's being used for now, so I would
4 object to the question and the witness being
5 required to answer it.

6 MS. O'NEILL: I'm, Your Honor, I'm
7 just trying to find out the basis for his
8 knowledge about his prediction about what's going
9 to happen in this case. I don't want to get into
10 the merits of those settlements at all, I just
11 want to know if he's aware of them.

12 JUDGE THOMPSON: Objection is
13 overruled. You may answer if you can.

14 THE WITNESS: My view is whatever
15 has come before, the decision made by these
16 Commissioners on the record that we're developing
17 right now will carry, if not the major weight on
18 this decision, potentially the total weight of
19 investor views on this issue.

20 Q (BY MS. O'NEILL) Would that be your
21 position even though because there have been
22 subsequent rate cases, rates cannot change as a
23 result of this decision?

24 A I think the reason --

25 MR. PENDERGAST: I'm going to object

1 to that because it calls for a legal conclusion.

2 MS. O'NEILL: He's an attorney.

3 JUDGE THOMPSON: Please read back
4 the question.

5 THE REPORTER: "Would that be your
6 position even though because there have been
7 subsequent rate cases, rates cannot change as a
8 result of this decision?"

9 JUDGE THOMPSON: Objection
10 sustained.

11 Q (BY MS. O'NEILL) Mr. Fetter, you
12 are an attorney?

13 A I am.

14 Q You're not a -- an engineer.

15 A No.

16 Q You're -- in fact, I believe you
17 testified in your deposition that your
18 depreciation training, in fact, is limited to what
19 you got at the university -- the school in
20 Michigan for public utility regulators,
21 commissioners, and staff; is that correct?

22 A I would say the bulk of my
23 depreciation training came when I sat at a podium
24 like the Commissioners here and relied on
25 reviewing issues in rate cases and benefiting from

1 interacting with advisory staff and the decision
2 making process and listening to the staff,
3 litigation staff as they would put forward their
4 views on depreciation.

5 Q And in how many litigated rate cases
6 while you were a commissioner did the issue of
7 depreciation bring forth witnesses for you to
8 listen to on the bench?

9 A Well,. within Michigan, we were
10 within an appellate structure, and so the cases
11 were done before administrative law judges, and
12 then the three commissioners would review the
13 record as a whole as an appellate body would.

14 And so, you know, just guessing how
15 many rate cases occurred during the six years,
16 it's hard to say because the issues, as I note in
17 my deposition, the key issues during my service
18 were financial stresses on Consumers Power and
19 Detroit Edison. So we had very unusual cases, but
20 depreciation did come up within the context of
21 several rate cases during my six years.

22 Q Now, you had discussed some concern
23 you had about what happens when a regulatory
24 agency issues a decision that's not, you know,
25 part of that mainstream pack. Does the investment

1 community always react negatively when a
2 regulatory body issues a decision outside the
3 mainstream?

4 A No. In fact, I thought I made it
5 clear in my answer to Commissioner Murray that the
6 investment community would read that decision and
7 look for reasons that would set a jurisdiction
8 apart from the mainstream, why things would be
9 different in that jurisdiction as to merit going
10 in the direction that only a -- less than a
11 handful of states had gone.

12 Q And the investment community you're
13 talking about isn't necessarily people who are --
14 not necessarily be limited to people who are in
15 Missouri, correct?

16 A Oh, I'd say more of the investment
17 comes for capital expenditures by the utilities
18 within this state, more of that incoming funds
19 through debt and equity investors, I would guess a
20 majority is from outside the state.

21 Q Okay. So a number of these people
22 who would be influenced are people who are not
23 going to have to pay the rates. Correct?

24 A The investors who would live outside
25 the state would not have to pay the rates.

1 MS. O'NEILL: No further questions.

2 JUDGE THOMPSON: Thank you, Ms.

3 O'Neill.

4 Mr. Schwarz?

5 MR. SCHWARZ: Nothing. Thank you.

6 JUDGE THOMPSON: Very well.

7 Redirect based on questions from the bench? Mr.

8 Lowery?

9 MR. LOWERY: No redirect, Your

10 Honor.

11 JUDGE THOMPSON: You may step down,

12 Mr. Fetter. You are excused. Thank you very

13 much.

14 MR. SCHWARZ: May I have a brief

15 recess at this time?

16 JUDGE THOMPSON: You may, yes,

17 indeed.

18 (Off the record.)

19 JUDGE THOMPSON: We'll go back on

20 the record. We are ready to do recross based on

21 questions from the bench for Mr. Oligschlaeger.

22 And according to my little chart here, I believe,

23 Ms. O'Neill, that you're up.

24 MS. O'NEILL: Your Honor, I don't

25 have anything else to ask Mr. Oligschlaeger.

1 JUDGE THOMPSON: Very good. Mr.
2 Lowery or Mr. Byrne?

3 MR. BYRNE: Yes, Your Honor.

4 MARK L. OLIGSCHLAEGER, testified as follows:

5 RECROSS EXAMINATION BY MR. BYRNE:

6 Q Mr. Oligschlaeger, in response to
7 Commission questions, you answered you provided a
8 lot of testimony, lot of information about
9 depreciation methodologies; is that true?

10 A That is true.

11 Q Isn't it true that you are
12 completely untrained in depreciation? Isn't that
13 true?

14 A In terms of setting depreciation
15 rates and so on, I would agree I do not possess
16 expertise.

17 Q And, for example, you're not a
18 depreciation engineer; is that right?

19 A That is correct.

20 Q And you're not an engineer?

21 A Yes, that is correct.

22 Q And you've never spent one hour or
23 even one minute in a training class that had to do
24 with depreciation?

25 MR. SCHWARZ: I'm going to object.

1 This is not only cumulative, the witness has
2 already answered all these questions.

3 MR. BYRNE: Your Honor, I don't
4 think it is cumulative, and I think he's testified
5 for a long time about depreciation matters and I'm
6 entitled to ask him about his training and
7 expertise in that area so that it can be --

8 JUDGE THOMPSON: I think he agreed
9 he was not an expert.

10 MR. SCHWARZ: He's already answered.

11 JUDGE THOMPSON: Mr. Byrne, I think
12 you've gotten where you wanted to go. Why don't
13 you move on to something else.

14 MR. BYRNE: Okay. Can -- can I ask
15 him if he's ever read a book on depreciation?

16 JUDGE THOMPSON: Yes, you may.

17 Q (BY MR. BYRNE) Have you ever read a
18 book on depreciation?

19 A Heavens, no.

20 Q Have you ever read a depreciation
21 study in total?

22 A Not in total, no.

23 Q Do you know -- there's been some
24 testimony about the Wolf and Fitch book on
25 depreciation that's been in this proceeding. Do

1 you know the title of the Wolf and Fitch book?

2 MR. SCHWARZ: Judge, I'm going to
3 again object. I mean, we can -- we can be here
4 till next Wednesday listing separately all of the
5 depreciation texts that Mr. Oligschlaeger
6 admittedly has not read.

7 JUDGE THOMPSON: This question was
8 whether he knew the title. I'll let you answer
9 that question and then I want you to move on. Go
10 ahead.

11 THE WITNESS: I do not know off the
12 top of my head the title of the Wolf and Fitch
13 text.

14 Q (BY MR. BYRNE) Okay. Fair enough.
15 You provided some testimony in response to one of
16 the Commissioners about safeguards. Do you
17 remember discussing safeguards with the
18 Commissioners?

19 A Yes, I do.

20 Q And I think you testified that the
21 safeguards that the companies have presented apply
22 to any method of depreciation, treating net
23 salvage that's been discussed in this proceeding.
24 Do you remember providing that testimony?

25 A Yes.

1 Q And, for example, your testimony, I
2 would take it, says that those safeguards apply to
3 the Staff's current method of treating net
4 salvages and expense. Is that true?

5 A Yes.

6 Q Let's go through them and see how
7 they apply to treating net salvages and expense.
8 One of the safeguards is that there are periodic
9 depreciation studies. Is that true?

10 A Yes.

11 Q And if you treat net salvage as an
12 expense, how is that going to be affected by the
13 periodic depreciation studies?

14 A My reference was to depreciation
15 studies in total. Those would reexamine the
16 average service lives on a periodic basis.

17 Q How would the net salvage expense be
18 affected by a periodic depreciation study?

19 A Under the Staff's approach, it would
20 not be affected.

21 Q So that safeguard doesn't apply
22 under the Staff's approach, right?

23 A As it specifically applies to net
24 salvage, that is correct.

25 Q Okay. Let's move on to some other

1 safeguards. Um, a second safeguard that we have
2 is that the net salvage is added into the
3 depreciation reserve and then the depreciation
4 reserve is deducted from the rate base, allowing
5 the rate payers to earn a return on that. Do you
6 recall that as a safeguard?

7 A Yes.

8 Q And does that safeguard apply when
9 you treat it as an expense?

10 A Applies to depreciation expense in
11 total, whether it includes a net salvage component
12 or not.

13 Q But it wouldn't apply to net
14 salvage, would it? Because net salvage is being
15 treated as an expense. It doesn't add on to rate
16 base and doesn't provide the rate payers with
17 interest at the rate of the Company's overall rate
18 of return, does it?

19 A Under the Staff's current approach,
20 not the approach in the 1993 99-315 proceeding.

21 Q So under Staff's current approach,
22 that safeguard does not apply, correct?

23 A Not to net salvage in isolation.

24 Q Okay. Let's move on to the third
25 safeguard, and that is everything gets trued up in

1 the end because it credits to the depreciation
2 reserve, right? Isn't that the third safeguard?

3 A Yes.

4 Q And would that apply if you treated
5 net salvage as an expense?

6 A That would apply to depreciation
7 expense in total with or without the net salvage
8 component.

9 Q But it would not apply to the net
10 salvage component, right?

11 A Not in isolation.

12 Q Okay. In other words, the net
13 salvage piece when you treat it as an expense,
14 there could be winners and losers because you
15 could over or underestimate what the expense level
16 should be and there's no true-up mechanism, right?

17 A Like all expenses, that is true.

18 Q Okay. in response to some of
19 Commissioner Gaw's and Commissioner Clayton's
20 questions, you discussed amortization of
21 overaccruals?

22 A That is correct.

23 Q And I believe in response to
24 Commissioner Clayton's question, you -- you
25 discussed how the Staff's methodology would work.

1 I think he asked you to go through it and explain
2 to him how it worked. Do you remember that?

3 A How the overaccrual amortization
4 would work?

5 Q No, no, I think that was in response
6 to Commissioner Clayton's question, but
7 Commissioner Gaw, I think, asked you to explain in
8 detail how the Staff's method worked. Do you
9 remember that line of questioning?

10 A Are you talking about the net
11 salvage?

12 Q The net salvage.

13 A Yes. I do remember.

14 Q Let me ask you, I'd like to briefly
15 go through an example using some numbers that are
16 in the record of how the overaccrual of net
17 salvage combined with the Staff's treatment of net
18 salvage as an expense would work. Okay?

19 A All right.

20 Q In Ameren UE's last rate case, Miss
21 Schad in previous testimony today testified that
22 Ameren UE had an overaccrual based on Staff's
23 method of about a billion dollars in depreciation
24 reserve. Were you here when Ms. Schad testified?

25 A I don't recall that number. I will

1 accept it.

2 Q Okay. And of that number, she said,
3 she agreed that approximately \$345 million of the
4 overaccrual was attributable to net salvage
5 overaccrual. Okay?

6 A I recall that.

7 Q And in the -- in the Ameren UE rate
8 case, that overaccrual -- the Staff's proposal to
9 amortize that overaccrual --

10 MS. O'NEILL: Your Honor, these
11 questions are not responsive to questions from the
12 bench. These are referencing Rosella Schad's
13 testimony. These are recross, not cross the first
14 time.

15 MR. BYRNE: That's not true, Your
16 Honor, Commissioner Clayton asked about the
17 amortization, and I'm running through an example
18 of how the amortization works.

19 JUDGE THOMPSON: I'll allow it.

20 Q (BY MR. BYRNE) Okay. Three hundred
21 and forty-five million dollars of net salvage
22 overaccrual over -- amortized back to the rate
23 payers over 40 years, okay?

24 A Yes.

25 Q Would you agree that that's \$8.625

1 million per year?

2 A Eight point two what?

3 Q Eight point six two five.

4 A That would seem to be in the
5 ballpark.

6 Q Okay. And Miss Schad also
7 testified, did she not, that the depreciation
8 expense -- I mean the net salvage expense allowed
9 in that case under Staff's method was \$10 million
10 a year or thereabouts. Is that correct?

11 A I seem to recall that, yes.

12 Q Okay. So if you took that \$10
13 million and subtracted the \$8.625 million that was
14 being amortized back over the next 40 years, would
15 it be fair to say that the -- the net amount of
16 net salvage being paid is approximately 1. --
17 let's call it \$1.375 million? Per year?

18 A That is what you get if you net the
19 two numbers.

20 Q Okay. But wait. Aren't the rate
21 payers also getting rate base treatment of the
22 \$345 million that's still in the depreciation
23 reserve? Don't they earn a return on that in
24 addition? At the overall return of the Company?

25 A Yes, and the amortization is to give

1 that back to the customers over 40 years.

2 Q Okay. But in year one, you know,
3 right after the rates are set, you're getting an
4 amortization amount of \$8.625 million, right?

5 A Right.

6 Q Plus that would still be a deduction
7 to rate base at that point, so you're getting,
8 what, 8 or 9 percent of \$345 million? In rate
9 base reduction? Isn't that right? Which is
10 something along the lines of 25 or \$30 million?

11 A If the customers have provided that
12 money to UE, yes, that return should be
13 calculated.

14 Q Okay. So by my math, the way I add
15 it all up, you got a positive amount of \$1.3
16 million after you offset the amortization of the
17 alleged overaccrual back, so you end up with a
18 positive \$1.3 million, but then that's reduced by
19 25 or \$30 million, so Ameren UE's looking at
20 negative net salvage paid by today's customers of
21 about, say, \$25 million; is that right?

22 A Yes, and that is promised upon the
23 belief that customers have overpaid for that item
24 in the past.

25 Q So do you think negative \$25 million

1 is the right amount to allocate to Ameren UE's
2 customers today?

3 A I am not familiar with how these
4 numbers are derived or the issue in the UE
5 complaint case.

6 Q Commissioner Davis asked -- well, a
7 couple of Commissioners have talked about the, you
8 know -- well, Commissioner Davis asked a question
9 about we're one of about four states that
10 calculate depreciation this way? Do you remember
11 that?

12 A Yes.

13 Q But would it be fair to say Missouri
14 doesn't necessarily calculate it the way Staff has
15 proposed?

16 A I don't understand the question.

17 MS. O'NEILL: Could Counsel clarify
18 whether he means in this case or what he's talking
19 about?

20 MR. BYRNE: I mean overall. Let me
21 clarify, ask it a better way.

22 Q (BY MR. BYRNE) Isn't it fair to say
23 that Missouri's all over the board in different
24 cases? Isn't it true, for example, in the Ameren
25 UE case --

1 MS. O'NEILL: Objection, compound
2 question.

3 Q (BY MR. BYRNE) Isn't it true
4 Missouri's all over the board on this issue?

5 A Pending further Commission feedback
6 of which we will certainly receive in one form or
7 another, I believe we're at a consistent position
8 as we speak right now.

9 Q Really. Do you think there was a
10 consistent position between St. Louis County Water
11 Company and this case in its original order?

12 A I think the Staff took a -- assuming
13 County Water was done on the, what you would call
14 the pure cash method, there was a difference. I
15 believe we are currently, "we" being the Staff,
16 are treating cost of removal as an expense.

17 Q Do you think Ameren UE treats cost
18 of removal as an expense?

19 A It is my understanding, based upon
20 the testimony filed in this case, that the
21 settlement did not deviate from the standard
22 method.

23 Q How about Kansas City Power & Light?
24 Do they treat depreciation -- or net salvage as an
25 expense?

1 A I don't believe they've had a rate
2 proceeding in recent years. I would presume their
3 depreciation rates are set on the standard method.

4 MR. BYRNE: Thank you. No further
5 questions.

6 JUDGE THOMPSON: Thank you, Mr.
7 Byrne.

8 Mr. Pendergast?

9 MR. PENDERGAST: I have another
10 potential exhibit. Actually, it's two pages, Your
11 Honor, and they both go together. Should we make
12 them one?

13 JUDGE THOMPSON: Are they stapled?

14 MR. PENDERGAST: They are not.

15 JUDGE THOMPSON: Let's make them
16 two. How shall we describe this?

17 MR. PENDERGAST: Laclede Group, Inc.
18 statement of consolidated cash flows.

19 JUDGE THOMPSON: This one?

20 MR. PENDERGAST: Information from
21 the Laclede Group, Inc.'s statement of
22 consolidated cash flows.

23 JUDGE THOMPSON: This will be
24 Exhibit 158, and then you say that No. 159 is the
25 Laclede Group, Inc. statement of consolidated cash

1 flows?

2 MR. PENDERGAST: Yes.

3 JUDGE THOMPSON: You may proceed if
4 you are ready.

5 MR. PENDERGAST: Thank you, Your
6 Honor.

7 RECROSS EXAMINATION BY MR. PENDERGAST:

8 Q I'd like to begin by just putting a
9 comment you made in response to a question from
10 Commissioner Murray into perspective, and I
11 believe you indicated to her that the amount of
12 funds being generated for Laclede were sufficient
13 to cover its dividends, capital budget, and its
14 other cash requirements. Do you recall that?

15 A Yes. That's not exactly what I
16 said. I think I clarified it to say that a credit
17 -- Standard & Poor's credit rating agency report
18 indicated that internally generated funds were
19 almost sufficient to cover the construction
20 expenditures plus dividend --

21 Q Fair enough. Fair enough. Almost.
22 And these particular facts that are out of our
23 2003 annual report which I believe you say you had
24 reviewed since your deposition?

25 A Yes.

1 Q Are not inconsistent with that
2 statement, but I wanted to go ahead and look not
3 just at 2003, but also 2002 and 2001, and
4 information on cash flows and Laclede's annual
5 report is provided for all three of those years.
6 Is that correct?

7 A That is correct.

8 Q And if you look at the various
9 sources of cash flow that are depicted there and
10 then the various items where the cash goes out,
11 namely in capital expenditures and dividends, does
12 that show that for 2001, we had a negative amount
13 of \$19 million?

14 A Yes, it does.

15 Q Okay. And in 2002, was that a
16 negative amount of \$24 million?

17 A Yes, it does.

18 Q And in 2003, was that a negative
19 amount of \$1 million?

20 A Yes.

21 Q And if we try and look at maybe some
22 of the causes for those changes, because it did go
23 up to only a negative \$1 million in 2003, could I
24 direct your attention to the deferred tax portion?
25 You see the line there that has 15.4 million in

1 2003?

2 A Yes.

3 Q And in 2002, that was 5.7; is that
4 correct? Million?

5 A That is correct.

6 Q And then in 2001, it was 3.5 million
7 negative?

8 A That is correct.

9 Q Okay. And that's a fairly
10 significant increase in deferred taxes for 2002
11 and then 2003; is that correct?

12 A Yes, and I would note that having a
13 net negative deferred tax for a particular year is
14 somewhat unusual.

15 Q Okay. But are you aware of whether
16 or not certain bonus accelerated depreciation was
17 passed as a result of the Patriot Act in 2002?

18 A I have heard the term "bonus
19 depreciation" and am vaguely familiar with what
20 you're talking about.

21 Q And would that tend to go ahead and
22 increase your source of cash flow from deferred
23 taxes?

24 A Again, a very general understanding
25 is yes.

1 Q Okay. And, in fact, in 2002, we had
2 a increase of -- to 5.7 million and then to 15.4
3 million once again in 2003; is that correct?

4 A That's correct.

5 Q Do you know when that bonus
6 depreciation is expected to expire?

7 A No, I do not.

8 Q Do you have any reason to believe --
9 or do you know whether it's going to expire in
10 2004, or if there's going to be any change in
11 2004?

12 A I do not.

13 Q Okay. Well, assume for me, if you
14 will, that it is going to go ahead and expire in
15 2004. To your knowledge, would that significantly
16 reduce the amount that's coming from deferred
17 taxes?

18 A Making that assumption, I would
19 expect, all other things being equal, a reduction
20 in the deferred tax benefits available to Laclede.

21 Q Okay. You were asked some questions
22 about an MGE settlement, I believe, and what kind
23 of treatment was provided for with respect to the
24 net salvage issue. Do you recall that?

25 A Yes.

1 Q And I think you also answered that
2 there had been a stipulation and agreement
3 involving Ameren UE and its treatment of the
4 depreciation issue. Are you aware of that?

5 A Specifically relating to net
6 salvage, yes.

7 Q And I think your comment was that in
8 the Ameren UE settlement, that the standard method
9 was repaying including the standard method of net
10 salvage costs; is that correct?

11 A That is my understanding reading the
12 testimony in this proceeding.

13 Q Do you view that as a Commission
14 endorsement or Staff endorsement of the standard
15 approach and the standard treatment of net salvage
16 costs?

17 A I believe the conventional view or
18 stipulation of agreement that it is not an
19 endorsement by either the Staff or Commission of
20 any particular rate making methodology.

21 Q Okay. And would your -- have the
22 same position as far as the MGE settlement was
23 concerned?

24 A Yes, I would.

25 Q You were asked some questions by

1 Commissioner Gaw regarding the issue of whether or
2 not these net salvage costs will be estimated are
3 certain to occur. Do you recall those?

4 A Generally.

5 Q And I think you basically indicated
6 that one of the concerns, perhaps the major
7 concern underlying Staff's method was a concern
8 over whether the amounts that are currently being
9 accrued for net salvage costs through the
10 estimation process will ever be incurred. Do you
11 recall that?

12 A That is one of the concerns, yes.

13 Q Okay. Do you recall us having a
14 discussion during the deposition where we talked
15 about the need in trying to make policies for the
16 future to take into account what's happened in the
17 past?

18 A I hate to -- no, I don't recall that
19 discussion.

20 Q Okay. Well, let me ask you, in
21 setting rates and fashioning policies, do you
22 think it's wise for the Commission to review
23 what's happened in the past?

24 A Certainly.

25 Q Okay. And if the Commission is to

1 do that with respect to this particular issue,
2 would it be fair to say that if the Commission
3 were to look at the past, that at least for the
4 last 50 years and perhaps longer than that,
5 utilities have been incurring net salvage costs?

6 A Well, I -- I think utilities have
7 probably been incurring net salvage costs over
8 their history. If that's what you mean, yeah.

9 Q So I, you know, wanted to try and
10 make it a modest time frame, but I will accept
11 forever and ever, at least since they've been in
12 business. But they have been incurring those net
13 salvage costs since they started; is that correct?

14 A Yes.

15 Q And I think generally speaking --
16 well, I think you've already testified that you're
17 aware that those net salvage costs have been
18 increasing over time; is that correct?

19 A That is the recent -- well, perhaps
20 over several decades trend, I believe, yes.

21 Q Okay. And part of that is because
22 we've continued to have inflation over time?

23 A I would think that would affect the
24 overall level of costs.

25 Q And part of that is because we've

1 had -- continued to have increases in rate base
2 over time?

3 A That, I would also assume would have
4 an impact.

5 Q Okay. So if the Commission sitting
6 here trying to decide what to do on this issue, or
7 more importantly if it's trying to explain to a
8 court why it has decided to do something
9 different, or trying to explain to the investment
10 community why it's trying to do something
11 different, if it has this 70 or 80 or 100 years
12 history of net salvage costs being incurred, a
13 history of inflation occurring, has this history
14 of net salvage costs going up, and there is
15 nothing in the record that disputes that or
16 suggests anything different, can you explain to me
17 what changed in the world to where they don't
18 continue to go ahead and recognize that history in
19 the future?

20 A Well, if I assume that the future
21 will proceed in line and extrapolating from the
22 past, then we may not be here -- or if the Staff
23 assume that, we may not be here today. I believe
24 the future generally doesn't behave in that kind
25 of predictable fashion. If I'm asked to predict

1 .what'll happen in the future, I think the best way
2 to go is to extrapolate from the past.

3 Q Okay. Well, let me ask this, then.
4 What evidence has Staff presented in the record in
5 the five years that this case has been either
6 before this Commission or before the Court that
7 has demonstrated that what has happened in the
8 past will not happen in the future?

9 A Staff cannot foretell or predict the
10 future, so I think it's in essence asking us to
11 prove a negative.

12 Q Let me ask you this. What evidence
13 has the Staff provided that the rate of inflation
14 that has affected net salvage costs in the past
15 will not continue to go ahead and affect them in
16 roughly the same way in the future?

17 A That may be a reasonable assumption
18 if you go down that road.

19 Q What I'm asking you is, what
20 evidence has Staff provided that suggests that
21 won't be the case?

22 A That we have proposed an alternative
23 rate of inflation or anything along those lines?
24 I am not aware that that kind of evidence was
25 presented.

1 Q Have you presented any evidence on
2 inflation whatsoever?

3 A I am not familiar with all of the
4 record of this proceeding in the past. I am not
5 aware of such evidence.

6 Q Okay. What evidence have you
7 presented to this Commission to show that net
8 salvage costs which have been incurred for decade
9 after decade after decade at an increasing rate
10 will not continue to go ahead and be incurred in
11 the future at an increasing rate?

12 A Again, I don't think we have
13 provided an alternative scenario on which to
14 calculate a standard method type approach.

15 Q Okay. Let me ask you this, Mr.
16 Oligschlaeger. If I were to come before this
17 Commission in our next rate case and I were to go
18 ahead and say, I've just discovered that service
19 lives are estimates, that they're not known,
20 they're not measurable, they're not verifiable,
21 that sometimes they change, that I can't predict
22 what's going to happen in the future, and even
23 though net service lives, like net salvage costs,
24 have been conservatively estimated, that I just
25 have this concern about not being able to tell the

1 future and so I'd feel a lot more comfortable
2 being able to recover my entire capital
3 expenditures each year, expense them, how far do
4 you think I would get with that particular
5 approach with the Staff?

6 A With the Staff?

7 Q Yes.

8 A I think that would be a long, uphill
9 climb to try to convince Staff.

10 Q If you were on the Staff under those
11 circumstances, would you want to go ahead and see
12 some evidence from me to show that those net
13 salvage -- or that those service life estimates
14 were wildly inaccurate if you were going to buy
15 that particular approach?

16 A I think I would expect to see, yeah,
17 evidence supporting that contention, that service
18 lives cannot be reasonably and accurately
19 predicted.

20 Q Okay. Would you want to go ahead
21 and have some evidence that the future is going to
22 be markedly different from the past?

23 A Anyone hoping to change depreciation
24 rates to a significant degree would probably need
25 to introduce such evidence.

1 Q And would you recommend to this
2 Commission that they absolutely require that kind
3 of evidence before they would go ahead and adopt
4 that particular kind of approach?

5 A I think we would tell the -- or
6 recommend to the Commission that the burden of
7 proof would rest upon the party -- proposing party
8 in that case and they should meet that burden of
9 proof before their recommendations be adopted.

10 Q So that would be a yes?

11 A I think so.

12 Q Thank you. You mentioned in
13 response to Chairman Gaw, you discussed the ISRS,
14 and I'm not going to say the whole thing because
15 we've said it several times before already. You
16 know what the ISRS is?

17 A I do.

18 Q You talked about how in some way it
19 disturbed the traditional approach to rate making?

20 A It was a modification to traditional
21 rate making.

22 Q And one of the concerns in
23 traditional rate making is that we have a matching
24 rate base and revenues and other expenses, would
25 you generally agree with that?

1 A Sure.

2 Q And in particular with rate base,
3 that's important because sometimes if you add rate
4 base, you'll add customers and get new revenue,
5 and you don't want to recognize one without the
6 other. Would that be correct?

7 A That's correct.

8 Q Now, are you aware that under the
9 ISRS mechanism, the only eligible plant that can
10 be recovered by the utility with that particular
11 approach is non-revenue producing facilities?

12 A As a general matter, I would agree
13 with that.

14 Q So at least with respect to the
15 facilities that are subject to recovery under the
16 ISRS, we don't have a problem with revenue and
17 rate base matching, do we?

18 A I would still think we do. What
19 you're asserting is that the new plant additions
20 are not caused by new customers. That does not
21 mean in the alternative that you still have new
22 customers coming on, but producing new revenues
23 that are not being reflected in the ISRS
24 mechanism.

25 Q Well, to the extent we have new

1 customers coming on, that's going to require new
2 investment, new service lines and so forth and so
3 on, new meters?

4 A To some degree.

5 Q And that kind of facility cost would
6 not be recoverable through the ISRS, would it?

7 A Revenue producing?

8 Q Yes.

9 A Again, it's my understanding it is
10 not.

11 Q You also had a discussion about
12 various safeguards, and when they were applicable
13 and when they weren't, and I'd like to return just
14 a moment to the financing one that we had
15 discussed earlier. Okay? Do you recall that one?

16 A Yes.

17 Q And that's the one where total
18 borrowings can't exceed your regulated rate base.
19 Is that correct?

20 A As I recall.

21 Q Okay. Assume for me, if you will,
22 that your total borrowings have gotten to a point
23 where they are equal to your regulated rate base.

24 A All right.

25 Q If you are to borrow \$50 million

1 under those circumstances and immediately use it
2 to pay for cost of removal, would you be able to
3 do that?

4 A Let me review the document. Your
5 question is if your total borrowings were already
6 equal to your total regulated rate base and you
7 desired to borrow 50 million additional dollars
8 for net salvage activities, would you be able to
9 do that?

10 Q Yes.

11 A Someone from financial analysis with
12 more understanding of the total context of this
13 document might be able to better answer. My
14 understanding is that Laclede would not.

15 Q I want to ask you this. If you took
16 that \$50 million and you used that to pay for your
17 removal costs, as we've established before, those
18 costs are being included in depreciation reserve
19 which is being deducted from rate base; is that
20 right?

21 A Under the standard method?

22 Q Yes.

23 A Yes.

24 Q Under those circumstances, if you
25 reduce those by \$50 million because you've now

1 paid for them, would the deduction from your rate
2 base be \$50 million less?

3 A If you received 50 million in funds
4 for precollection of these costs, yes, your rate
5 base would be 50 million less.

6 Q And, therefore, they would be back
7 in parity again, the amount borrowed and the rate
8 base would be the same again; is that correct?

9 A Because you didn't have to borrow
10 the money?

11 Q No, you borrowed the money, but you
12 also increased your rate base by taking care of
13 the removal costs.

14 A Okay. Precollection reduces rate
15 base. Actually expending the money would increase
16 the rate base. If you spend \$50 million -- to
17 some degree the rate base impact would depend upon
18 the actual amount compared to the previous
19 estimated accruals, but, in general, yes, that
20 would bring rate base back up.

21 Q Okay. So if you ever got to that
22 situation, and you were saying, boy, I need to
23 borrow some more money with this limitation; in
24 fact, the Commission could basically say, well, if
25 you're going to borrow some money, you better use

1 it to pay salvage costs or use it to invest in new
2 rate base; is that correct?

3 A I would assume the Commission has
4 the power to establish that sort of condition upon
5 your borrowing.

6 Q Well, assuming that it wanted that
7 condition to remain in effect, those would be the
8 two alternatives. Correct?

9 A And those two alternatives would be?

10 Q To spend it either on capital
11 additions that would increase your rate base so
12 that your rate base continues to equal your
13 borrowings, or to go ahead and pay for removal
14 costs so that the deduction to rate base is less
15 and your rate base continues to equal your
16 borrowings.

17 A I think both ways to get you with an
18 increased rate base, yes.

19 Q You said that under the expensing
20 method, I believe, that utilities will go ahead
21 and continue to receive their net salvage costs;
22 is that correct?

23 A Yes.

24 Q And I think you and I would both
25 agree that that's a rough justice kind of comment,

1 that because it's treated as an expense item, that
2 depending on what averages you use and where the
3 spikes are and that sort of thing, that you're not
4 likely to go ahead and recover it, no more, no
5 less, like you do today. Would that be accurate?

6 A Well, with an expense that spikes,
7 the hope is you set rates that allow the utility
8 to recover the costs over a reasonable length of
9 time.

10 Q But we can't guarantee that that's
11 going to happen, can we?

12 A No.

13 Q And, you know, what we'll be
14 recovering under those circumstances, if Staff's
15 approach is adopted, is we'll be recovering the
16 cost to remove plant that's no longer serving
17 customers; is that correct?

18 A I believe so.

19 Q Okay. Can you today on behalf of
20 the Staff pledge that, with the exception of maybe
21 a prudence review, pledge that Staff will never
22 make a used and useful argument when it comes to
23 permitting recovery of those expenses? "Pledge"
24 may be a bad word. Can you guarantee that?

25 A We haven't made such an argument in

1 the past extrapolating forward to the future, I
2 would not expect to use that argument in the
3 future.

4 Q Is that a guarantee?

5 A I am not in a position to guarantee
6 anything to you, Mr. Pendergast.

7 Q Can you make me any guarantees on
8 behalf of the Office of Public Counsel?

9 A I don't think they've authorized me
10 to do that.

11 Q Are you aware of Public Counsel
12 basically recommending to this Commission that
13 certain costs not be included in rates because
14 they're related to plant that's no longer used and
15 useful, at least in their view?

16 A I vaguely recall an issue in the
17 Missouri American Water case that may have
18 pertained to what you're talking about.

19 Q Okay. Can you offer any guarantees
20 that if those issues are raised and those
21 recommendations are made in the future, that they
22 will not be adopted and we will be able to recover
23 those costs?

24 A No, I cannot.

25 MR. PENDERGAST: Okay. I think

1 that's all I have. Thank you.

2 JUDGE THOMPSON: Very well.

3 MR. PENDERGAST: And, Your Honor,
4 I'd move for the admission of Exhibit 158 and 159,
5 and I think I also have 150 outstanding.

6 JUDGE THOMPSON: Yes, indeed you do.
7 Any objections to the receipt of 150? The Staff
8 rec from GF-2004-0025. Hearing none, the same is
9 received and made a part of the record of this
10 proceeding.

11 Any objections to the receipt of
12 Exhibits 158 and 159? Laclede Group, Inc.'s
13 consolidated -- statement of consolidated cash
14 flows. We have the entire document and an
15 excerpt. Objections? Hearing none, the same are
16 received and made part of the record of this
17 proceeding.

18 We're going to take about a five
19 minute recess before we start with the redirect,
20 because my ride, I've got to make sure she doesn't
21 leave. So we will be in recess, then, briefly.

22 (Off the record.)

23 JUDGE THOMPSON: You may inquire.

24 REDIRECT EXAMINATION BY MR. SCHWARZ:

25 Q Mr. Oligschlaeger, if there are

1 discrepancies between anything you said and
2 anything Miss Schad said regarding the technical
3 aspects of depreciation computations, it's safe to
4 say that Miss Schad's testimony represents Staff's
5 position on the technical issues of depreciation
6 calculations; is that true?

7 A I wasn't aware I had testified on
8 such technical depreciation matters, but if I did
9 and if there is a discrepancy, by all means, the
10 Commission should give much greater attention to
11 Miss Schad's testimony.

12 JUDGE THOMPSON: Mr. Oligschlaeger,
13 I will urge you to answer yes or no questions with
14 a yes or a no. Thank you.

15 THE WITNESS: All right.

16 JUDGE THOMPSON: Please proceed.

17 Q (BY MR. SCHWARZ) Mr. Pendergast
18 asked you if Staff would agree to a Laclede
19 proposal to expense its capital expenditures in a
20 year. Do you recall that?

21 A Yes.

22 Q Would Laclede's outside auditors
23 approve such a proposition?

24 MR. PENDERGAST: I'm going to
25 object, calls for speculation.

1 JUDGE THOMPSON: Sustained.

2 Q (BY MR. SCHWARZ) To the extent that
3 it would have to comply with generally accepted
4 accounting principles in representations in the
5 financial statements. You are a CPA, are you not?

6 A Yes, I am.

7 MR. PENDERGAST: I'm still going to
8 object.

9 JUDGE THOMPSON: I sustained the
10 objection. Now, if you want to ask him about
11 generally accepted accounting principles, go
12 ahead.

13 MR. SCHWARZ: Thank you.

14 Q (BY MR. SCHWARZ) Would generally
15 accepted accounting principles as applied to
16 financial statements preclude that?

17 A Yes.

18 Q Mr. Pendergast also asked you a
19 series of questions, I think it was Mike, about
20 upward trends in cost of removal and inflation.
21 Do you recall those?

22 A Yes.

23 Q Is it -- and I think you indicated
24 that, to your knowledge, Staff hasn't contested
25 the phenomenon of inflation; is that correct?

1 A That's my understanding.

2 Q In this case, is it Staff's position
3 that the -- or is Staff contesting the standard
4 method as an accurate estimator of net salvage
5 decades into the future?

6 A Yes.

7 Q To your knowledge, Staff is not
8 contesting in this case the estimate of average
9 service lives for these mass property accounts?

10 A To my knowledge, yes.

11 Q I think Mr. Byrne asked you some
12 questions about the Staff's proposed amortization
13 in the EC-2002-1. Do you remember those
14 questions?

15 A Yes.

16 Q Let me ask you this. If
17 depreciation expense computed for a particular
18 account is \$10.32 million per year, that's what's
19 actually reflected in the expense that's computed
20 by the Company on its books and records, is it
21 not?

22 A Yes.

23 Q So that the \$8.625 million
24 amortization is not technically considered an
25 offset to that particular depreciation expense; is

1 **that --**

2 A That's my understanding.

3 Q **The amortization is directly of the**
4 **reserve?**

5 A Yes.

6 MR. SCHWARZ: That's it.

7 JUDGE THOMPSON: Very well. You may
8 step down, Mr. Oligschlaeger.

9 That concludes the hearing in this
10 matter. I have been instructed to tell you that
11 written objections to Exhibits 135, 136, and 141
12 are due by Monday at -- Monday by 5 p.m. Responses
13 due Friday, I assume the same time. That's Judge
14 Dippell's notes.

15 And Exhibits 151, 152, 53, 54, 55,
16 56, 57, the depositions have not been offered --

17 MR. SCHWARZ: We would certainly
18 like to offer them at this time.

19 JUDGE THOMPSON: Very well.

20 MR. LOWERY: And we offer the two
21 that were proffered by Ameren, Your Honor.

22 JUDGE THOMPSON: Any objections on
23 any of them?

24 MS. O'NEILL: No, Your Honor. I do
25 have my written objections to the prior exhibits

1 here. Could I give you Judge Dippell's copy?

2 JUDGE THOMPSON: Yes, please.

3 Anything else at this time?

4 MR. PENDERGAST: Your Honor, just to
5 double check, did your notes reflect Exhibits 134
6 and 135 being admitted into evidence?

7 JUDGE THOMPSON: 134 was received
8 over objection, and 135 is one of the three --

9 MR. PENDERGAST: Oh, excuse me, I'm
10 sorry, I meant 138.

11 JUDGE THOMPSON: 138?

12 MR. PENDERGAST: Yes.

13 JUDGE THOMPSON: 138 was received
14 over objection.

15 MR. LOWERY: And, Your Honor, just
16 for the record, briefs, one round of simultaneous
17 briefs are due on November 2.

18 JUDGE THOMPSON: That is correct.
19 One round simultaneous briefs November 2.

20 MR. LOWERY: Thank you.

21 JUDGE THOMPSON: Anything more? We
22 are in recess. Have a nice weekend. Goodbye.

23 (Off the record.)
24
25

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