

1 BEFORE THE PUBLIC SERVICE COMMISSION
2 STATE OF MISSOURI
3 _____
4 TRANSCRIPT OF PROCEEDINGS
5 HEARING
6 October 1, 2002
7 Jefferson City, Missouri
8 Volume 5
9 _____
10 In the Matter of the Application of)
11 Union Electric Company for Permission)
12 and Authority to Construct, Operate,) Case No.
13 Own, and Maintain a 345 Kilovolt) EO-2002-351
14 Transmission Line in Maries, Osage, and)
15 Pulaski Counties, Missouri ("Callaway-)
16 Franks Line").)
17 _____
18 BEFORE: NANCY M. DIPPELL,
19 SENIOR REGULATORY LAW JUDGE.
20 KELVIN SIMMONS, Chair
21 CONNIE MURRAY,
22 SHEILA LUMPE,
23 STEVE GAW,
24 BRYAN FORBIS,
25 COMMISSIONERS.
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1 JUDGE DIPPELL: We're back on the record with
2 EO-2002-351. It's Tuesday, October 1st, 2002, and
3 Mr. Douglass has retaken the stand and is still under oath.
4 And Mr. Deutsch was in the middle of questions yesterday
5 when we ended, so you may continue.

6 MR. DEUTSCH: Thank you, Judge.

7 GEOFFREY DOUGLASS, having been previously sworn, testified
8 as follows:

9 CROSS-EXAMINATION BY MR. DEUTSCH:

10 Q. Good morning, Mr. Douglass.

11 A. Good morning.

12 Q. Let's see. One of the things we were talking
13 about yesterday was I think you had advised me that there
14 were certain -- I think that you knew the number of property
15 owners along the Bland-Franks line. Can you remind WHAT the
16 number of property owners was?

17 A. I think we estimate -- depending upon which
18 side of the line you would go, it would vary, but about 160
19 property owners.

20 Q. Did you make that determination of how many
21 property owners were affected by Bland-Franks line prior to
22 your filing of your Direct Testimony?

23 A. No, sir.

24 Q. Did you make it prior to the filing of your
25 Surrebuttal Testimony?

1 A. Right about the same time, I believe.

2 Q. So I guess I'm correct in assuming that the
3 issue of what property owners were affected and how many of
4 them and how was really not looked at by Ameren until after
5 the Rebuttal Testimony of the Concerned Citizens was filed?

6 A. Right. It was a response. I believe the
7 Concerned Citizens had suggested that as a potential route,
8 so that's why we looked at that.

9 Q. And in looking at that, did you assess the
10 social impact of a line over there?

11 A. Well, as I stated yesterday, social impact
12 just from the standpoint of number of property owners that
13 would potentially be affected and type of properties that
14 would be affected.

15 Q. Didn't go talk to any of the property owners,
16 did you?

17 A. No, sir.

18 Q. And refresh my recollection. Has anybody told
19 anybody under the Callaway -- excuse me -- the Bland-Franks
20 line that they have a dangerous power line on their
21 property?

22 A. Well, I'm not sure it's dangerous, but to my
23 recollection, no property owner has been contacted in that
24 regard.

25 Q. And did you or did you not tell me that you

1 had physically inspected the properties, gone out and looked
2 at what the properties looked like under the Bland-Franks
3 line?

4 A. I have not physically inspected it. We have
5 our -- by the fact that we have a line there already, our --
6 for instance, Mr. Beerman is very familiar with the route
7 because he's walked it several time in terms of his
8 clearing -- clearing work.

9 Also, a couple of my employees actually have
10 driven the route, but there again, what I would consider a
11 high level, not actually walked the properties.

12 Q. Any idea how many houses are in that corridor?

13 A. No, sir.

14 Q. How about farm structures?

15 A. No.

16 Q. If you could take a look at your Exhibit 5,
17 which is your Direct Testimony. I think -- turn to page 10
18 is where I'm currently looking. Down at the -- starting
19 around line 19, I think it is, there's a question there
20 about landowner contact and your intent to contact every
21 landowner. Do you see that?

22 A. Yes, sir.

23 Q. And your answer to that question about
24 contacting every landowner is that, We're close to having a
25 final route.

1 Do you see that? Your first sentence --
2 second sentence, excuse me, says, Yes, as I mentioned
3 earlier, we believe we're close to having a final route.
4 A. Okay. Yes, sir.
5 Q. Yeah. Have we seen that final route yet in
6 this case?
7 A. I would not call it final because we're still
8 working with individual property owners on possible changes.
9 Q. And you're still working on it now?
10 A. Yes, sir.
11 Q. And, in fact, that's what the rest of your
12 sentence says here is that, Subject to further
13 accommodations we might be able to make. Your route is
14 subject to those further accommodations. Right?
15 A. Right. In other words, we had laid out the
16 initial route at the workshop and we're still getting
17 comments from the public, working with individual property
18 owners on possible changes. So I anticipate that's going to
19 go on for some time still.
20 Q. Yeah. So since the public hearings, you
21 haven't really entered into any agreements that are binding
22 for any accommodations for any property owners?
23 A. There's been one easement that's been acquired
24 since that time.
25 Q. A new easement?

1 A. Yes, sir.

2 Q. Yeah. But other than -- when you're talking
3 about accommodations, I'm assuming that that's an
4 accommodation both to the current easement holders as well
5 as to anybody that you're seeking to acquire easements from.
6 Right?

7 A. Correct.

8 Q. So those who currently have an easement, you
9 haven't really reached a final route with them?

10 A. Well, somebody -- in some areas where we are
11 looking at making the changes, that would be correct. In
12 other words, if there is an easement on, say, a stretch of
13 properties, but we're looking, say, to move the route from
14 what we had proposed to make some type of accommodation,
15 well, then that will require new easements from property
16 owners who already had an easement or some that we don't
17 have an easement from. But basically the written
18 documentation you're talking about would ultimately result
19 in the grant of an easement.

20 Q. So you started the process with the public
21 hearings in November. And as of July 11th of the following
22 year you didn't have a final route and as of today,
23 October 1st, you don't have a final route. And you're going
24 to continue to discuss with landowners accommodations to
25 achieve a final route for how long?

1 A. Well, until all the easements are acquired. I
2 guess in my mind it's never final until we have all the
3 easements, because we're always open to discussing possible
4 changes when we meet with the property owners individually.

5 Q. And am I correct then that what you're telling
6 me is you don't intend to enter into any kind of an
7 agreement that would show the Commission a final route until
8 after this case has been decided by the Commission?

9 A. Well, I could tell you as of today what route
10 is being proposed, but that's also subject to -- there's
11 several areas that the Intervenor's have asked that we look
12 at alternatives. So we've laid out several alternatives in
13 specific areas, so I can't tell you at those points what's
14 final until they, you know, tell us what exactly they want.

15 Q. So your plan isn't final?

16 A. Correct.

17 Q. And you haven't got a final plan to submit to
18 the Commission?

19 A. Well, we -- we laid out a route initially
20 which we said this is our proposed route. But, in my mind,
21 the route is never final until all your easements are
22 acquired because there could be changes to that through the
23 negotiation process.

24 Q. And is that what the rules of the Commission
25 require?

1 MR. LOWERY: I'll object to that, your Honor,
2 calls for a legal conclusion. That's a decision the
3 Commission will have to make, not Mr. Douglass.

4 JUDGE DIPPELL: I'll sustain the objection.

5 BY MR. DEUTSCH:

6 Q. Let's turn to page 11 of your Exhibit 5. Now,
7 starting at page 3 you talk about obtaining the Commission
8 Staff input on the appropriateness of the selected route.
9 And you're describing what you understand to be the Staff's
10 position on that there; is that right?

11 A. The answer to the first question on that page?

12 Q. Yeah.

13 A. Yes, sir.

14 Q. Okay. And apparently the Staff, according to
15 what you have here, believes that this is the best route
16 because of two reasons, as far as I can see that's in there.
17 One is the ability to share part of an existing right-of-way
18 and the other one is because utilizing anything else would
19 simply impact somebody else. Is that your understanding of
20 the Staff's position?

21 A. Yeah. That was my summary, I guess.

22 Q. Has Staff, to your knowledge, gone out and
23 looked at the right-of-way to determine just what the impact
24 of that saving of 25 feet as opposed to using some other
25 corridor might be?

1 A. I'm not aware of what they've done, no.

2 Q. Seen anything from them as far as any kind of

3 a study that they've performed in that regard?

4 A. Nothing that I've seen.

5 Q. In fact, isn't that really something they

6 adopted from you as a reason why the impact on the corridor

7 here is less drastic than it would be somewhere else?

8 A. To be honest with you, I don't know where they

9 obtained their information; however, I know they have, you

10 know, obviously read our information, also attended the

11 public workshops, received comments from property owners,

12 but I --

13 Q. They basically have adopted your reason for

14 why it is that the impact of the Callaway-Franks corridor is

15 less than it might be somewhere else?

16 A. I don't know.

17 Q. They haven't analyzed it themselves though

18 that you know of, have they?

19 A. No. I said I don't know what they've done.

20 Q. And simply impact a separate group of property

21 owners. I take it that that's referring to the suggestion

22 of doing an additional 345 kV line at the Bland-Franks line?

23 A. Well, I don't think that comment came

24 specifically from Bland-Franks. I think the comment would

25 just be to move it anywhere else, you would impact other

1 property owners.

2 Q. But you don't know who those property owners
3 are?

4 A. No, sir.

5 Q. You haven't really tried to evaluate if there
6 are such property owners, what the impact might be?

7 A. Well, if you move it from one place to
8 another, you're affecting other property owners.

9 Q. You're affecting them?

10 A. Correct.

11 Q. I take it when we talk about impact and we're
12 talking about the best route, you do take into some
13 consideration whether the impact is favorable or
14 unfavorable?

15 A. Correct.

16 Q. Whether it's beneficial or not beneficial?

17 A. Yes.

18 Q. Okay. But you really don't know what the
19 effect on any other property owner in any other area would
20 be because you haven't studied it?

21 A. Correct. I would doubt there would be a
22 beneficial effect anywhere else. Assuming it would probably
23 be a similar effect.

24 Q. Because basically power lines on anybody's
25 property is not necessarily something everyone looks forward

1 to?

2 A. Yeah. Most people don't typically ask to have
3 one there.

4 Q. Would you think that the benefit though to the
5 property owners on Callaway -- excuse me -- the Bland-Franks
6 line who are currently living under an unsafe and unreliable
7 line would be --

8 MR. LOWERY: Your Honor, I'm going to object
9 to the continued characterization of that line as being
10 unsafe. Mr. Mitchell's testimony was that if the line
11 becomes overloaded, that it can become unsafe and that's a
12 problem that we need to fix. However, we call for line
13 loading relief to relieve those situations so we don't have
14 an unsafe condition. And I'm going to object to that
15 continuing characterization.

16 MR. DEUTSCH: I guess my recollection of
17 Mr. Mitchell's testimony was different. If Ameren will
18 stipulate that the line is not unsafe and it's really not a
19 problem, then I'm willing to go with that. My understanding
20 from Mr. Mitchell is that this is a problem tantamount to a
21 New Madrid earthquake waiting to happen.

22 MR. LOWERY: Your Honor, I believe the
23 testimony speaks for itself.

24 MR. DEUTSCH: I believe it does.

25 MR. LOWERY: He does not have to make speeches

1 in his questions of Mr. Douglass.

2 JUDGE DIPPELL: I agree that the testimony
3 will speak for itself. I'll have to look more closely at
4 Mr. Mitchell's testimony, but I also believe that his
5 testimony was that the line could be unsafe, not that the
6 line was unsafe, but that overloading could cause safety
7 problems. So I'll ask you, Mr. Deutsch, not to characterize
8 the line as unsafe.

9 BY MR. DEUTSCH:

10 Q. Mr. Douglass, do you think that the property
11 owners that have property under a line which Mr. Mitchell
12 speculates is unsafe and unreliable would be more benefited
13 by having that problem fixed than the people on the
14 Callaway-Franks line where they don't have the problem?

15 A. Well, I think if a property owner perceived a
16 condition to be unsafe, they would expect Ameren to take
17 care of the problem. It wouldn't matter to them where the
18 problem was taken care of, they'd just expect the problem to
19 be fixed.

20 Q. So is that Ameren's policy, that it is only if
21 a property owner perceives that he has a problem that they
22 have an obligation to do anything?

23 A. Well, this project's not proposed because of a
24 perceived condition by a property owner. The project is
25 proposed because of a problem on the system we're trying to

1 correct.

2 Q. Okay. So, hence, there's really no reason to
3 let the people in the Bland-Franks line know that there is a
4 speculative problem?

5 A. I would agree.

6 Q. Because it's really just speculation, isn't
7 it?

8 MR. LOWERY: I'll object to that
9 characterization as well. There's been evidence we have a
10 real and presently existing overloading problem on the line.
11 It's not speculation.

12 MR. DEUTSCH: I thought the testimony was that
13 there could be a problem if certain things happened.

14 JUDGE DIPPELL: Would you repeat your
15 question, Mr. Deutsch?

16 BY MR. DEUTSCH:

17 Q. I think the last question was that there was
18 no reason to advise property owners, is there, Mr. Douglass,
19 because the problem that we're dealing with on Callaway is
20 speculative. Could happen, could not?

21 MR. LOWERY: I'll renew my objection.

22 JUDGE DIPPELL: I'll allow the witness to
23 answer if he knows.

24 THE WITNESS: My understanding is the problem
25 is not speculative.

1 BY MR. DEUTSCH:

2 Q. So it's not speculative, but it's not real

3 enough to advise people that have the problem over on the

4 Bland-Franks line about it?

5 A. Well, I guess I don't perceive that the

6 property owners necessarily have a problem that there's been

7 a reason to advise them of the situation.

8 Q. What about this problem of the lines drooping

9 down because of the load? Isn't that kind of a dangerous

10 situation? Mr. Mitchell did testify that that's one of the

11 things that happens -- or I guess could happen, excuse me?

12 A. I mean, when you get into issuances of

13 clearance and code requirements, I'm not familiar with them.

14 Q. Okay. If, in fact, this problem does exist or

15 could exist on the Bland-Franks line, wouldn't the impact of

16 a new and improved Bland-Franks line actually be beneficial

17 to the property owners along the corridor of the

18 Bland-Franks line?

19 A. Well, from a property owner's standpoint, if

20 there is a problem with the line, I would think as long as

21 it's fixed, they would not care where the problem is fixed.

22 Q. I guess that's probably true, but are you

23 saying they would decline the opportunity to fix the problem

24 if it was on their property?

25 A. No, I didn't say that.

1 Q. So I have to assume that what you're saying is
2 that there is a benefit to be considered that may be
3 positive for the property owners in the Bland-Franks
4 corridor?

5 A. Well, I guess what I stated was if I were a
6 property owner who had that line crossing my property and I
7 was concerned about that, I would expect Ameren to fix the
8 problem and it wouldn't matter to me where they fixed the
9 problem as long as it were fixed.

10 Q. So basically they would go along with whatever
11 you decide was the correct solution?

12 A. Well, if the correct solution involved their
13 property, then obviously they would want to know what was
14 happening on their particular property.

15 Q. So they trust you on that too. Right?

16 A. I wouldn't necessarily say that, no.

17 Q. Let's look at page 12 of your Direct
18 Testimony. Up near the top of the page you're answering the
19 question and in the second full sentence you're discussing
20 the process here, I think, of eminent domain if negotiations
21 break down. Let me look back at the question. Yeah. The
22 process that you're going through?

23 A. The process for acquiring easements.

24 Q. Yeah. Of acquiring them. Acquiring the
25 easements. States there that, We have hired a local real

1 estate appraiser to help us determine fair property values
2 for the easements sought. Is that what that says?
3 A. Yes, sir.
4 Q. Who is that?
5 A. David Nunn.
6 Q. He works for you?
7 A. No. He's an independent appraiser.
8 Q. It says here you hired him.
9 A. I'm sorry. I thought the question was, was he
10 an Ameren employee. No. We've hired him as an appraiser,
11 that's correct.
12 Q. Paying him?
13 A. Yes, sir.
14 Q. He's a witness for you in this case, in fact,
15 isn't he?
16 A. That's correct.
17 Q. Further down in that paragraph, starting at
18 around line 8, you conclude a sentence by introducing the
19 subject of offering just compensation. And it states there,
20 As I discuss further below, in nearly all cases we're able
21 to negotiate a mutually agreeable easement and the line is
22 then built.
23 Do you see that?
24 A. Yes, sir.
25 Q. Do you have an opinion as to whether the fact

1 that you have the right of eminent domain might not
2 influence your great success with obtaining easements by
3 agreement?

4 A. I don't know.

5 Q. Do you know what just compensation is?

6 A. I'm assuming just compensation is more a legal
7 terminology in terms of what they would be required under
8 law to receive.

9 Q. Is just compensation, for instance, what a
10 willing buyer would pay a willing seller?

11 A. That I don't know.

12 Q. If you had a willing buyer and a willing
13 seller, would that be an agreeable formulation for
14 determining the price of property?

15 A. I believe I've never seen the term "just
16 compensation" used in a -- say, a transaction to actually
17 purchase property. More in terms of, you know, easements.

18 Q. It's usually more of a fair market value,
19 isn't it?

20 A. That's my understanding.

21 Q. What's that?

22 A. Well, I think fair market value would be when
23 you have a willing buyer and a willing seller.

24 Q. What happens to fair market value when you
25 have no willing seller because the seller has no will to

1 exercise and the property is going to be taken whether he
2 wants to sell or not?

3 A. Well, our experience is the price increases.

4 Q. From what?

5 A. Well, from what would normally be a fair
6 market value to, in a sense, possibly having to pay a
7 premium because we don't have a willing seller.

8 Q. Is that the case when you proceed to
9 condemnation or is that a procedure that applies when you're
10 seeking the easement by agreement?

11 A. Well, I was more referring to seeking the
12 easement by agreement.

13 Q. Because it forgoes for you the expense of
14 having to condemn the property and seek to pay just what the
15 fair market value is for the property?

16 A. That's correct.

17 Q. So you're willing to pay them the expenses of
18 the condemnation over and above your fair market value that
19 Mr. Nunn decides?

20 A. Well, I wouldn't say it as simply as that. I
21 mean, we do have expenses involved with condemnation, but
22 not that those expenses are tacked on to something that
23 would be determined to be fair market value. But recognize
24 we will in some cases pay a premium to acquire a property or
25 an easement voluntarily rather than having to condemn.

1 Q. If you had to acquire all of your easements by
2 the circumstance of finding willing sellers, what would that
3 do to the cost of obtaining easements?

4 A. Well, I would anticipate it would probably go
5 up. You know, with any type of public project like that
6 when you're talking about a fixed corridor, you know, one
7 particular property owner could hold up a project by not
8 agreeing to sell and thereby driving up the price of the
9 property.

10 Q. Do you think it would change the thinking of
11 Ameren about its procedures and need for acquiring
12 particularly farm properties out in rural areas if they had
13 to pay the price demanded by a willing seller?

14 A. I don't think it would change anything on
15 types of properties, because, you know, by the very nature
16 our transmission lines or other facilities need to cross all
17 different types of property to get from one point or
18 another, so I don't think it would make a difference, say,
19 farmland versus any other property.

20 Q. What about just any property whatsoever? The
21 price of something's higher, do you buy more of it?

22 A. Are you saying does Ameren buy more?

23 Q. Is that the policy of Ameren, to pay more for
24 things?

25 A. No.

1 Q. So I guess the basic laws of economics do
2 apply to Ameren?

3 A. Economics do come into play.

4 Q. And that when something's cheap, you can buy
5 more of it? When it's expensive, you buy less of it?

6 A. Well, from the standpoint of right-of-way
7 acquisition, we're not -- if property were cheap, we
8 wouldn't buy more of a particular piece of property. We're
9 still looking at a particular project that we're acquiring
10 the property for.

11 Q. Probably offer a good opportunity to create
12 more lines?

13 A. I mean, I'm never aware of that happening in
14 the past.

15 Q. Well, you wouldn't be. You're not an
16 engineer, are you?

17 A. No, sir.

18 Q. You don't participate in the electrical grid
19 planning, do you?

20 A. Very little.

21 Q. Yeah. You go out and you basically acquire
22 the properties?

23 A. That's correct.

24 Q. After the decision's been made that you need
25 to have another line?

1 A. Correct.

2 Q. Does just compensation include, for instance,
3 compensation to a landowner for the price of standing
4 timber?

5 A. In terms of what just compensation means under
6 law, I'm not -- I'm not really sure. I guess the way I used
7 it in that terminology would be what's basically a fair --
8 more or less a fair price more or less in tune to market
9 value.

10 Q. Is that a yes or a no?

11 A. Well, I guess it would be, as I would define
12 just compensation -- there again, there may be a legal
13 definition that's different --

14 Q. I'll take yours.

15 A. My definition is just compensation would be
16 what's a fair -- fair negotiated price.

17 Q. Okay. Does that include standing timber?

18 A. We typically don't value timber separately.
19 We value timberland generally so much per acre, but do not
20 value individual trees. Now, what will happen in some cases
21 there may be timber that has some value within the
22 right-of-way and we'll allow the property owner to harvest
23 that timber to get the value out of that.

24 Q. You'll allow the property owner to harvest it,
25 but if he doesn't want to harvest it, you will, won't you?

1 A. Correct. Generally, if it had some value
2 worth harvesting, they would want to or have someone harvest
3 it.

4 Q. Because they don't have a choice. They either
5 have you harvest it and waste it or they harvest it and use
6 it. Right?

7 A. Correct.

8 Q. You value timber, I guess, according to the
9 way you value farmland as I understand Mr. Nunn anyways,
10 that it's worth so much an acre. Right?

11 A. Yes, sir.

12 Q. You don't factor into that what the value of
13 that timber might be to the individual landowner?

14 A. In terms of an economic value you're talking
15 about?

16 Q. You don't try to put an economic value on it.
17 There doesn't have to be one, but what if the landowner has
18 a grove of walnut trees that have been there for 150 years
19 and they kind of like it and don't want to see it gone? Do
20 you put any additional value on those walnuts?

21 A. Well, if you had a situation like that
22 obviously where that meant something to the property owner
23 from the standpoint of possibly sentimental value or
24 something like, that's one of the opportunities where we try
25 to work with the property owner and our engineers to see if

1 there's an alternative to, you know, taking that grove of
2 trees.

3 If it was something that could not be worked
4 out and they had to be taken, then that's where we'd get a
5 situation where obviously the property owner would want to
6 take the trees themselves and reap the value out of those
7 trees.

8 Q. What about if you were somebody like
9 Mr. McDaniel who's great granddaddy planted a tree that you
10 need to take and he'd just kind of like to have it there for
11 sentimental value?

12 A. Yeah. Those are always the difficult
13 situations where you have something like that or a house.
14 And that's just where we really try hard to work with the
15 property owners to try to avoid those situations.

16 Q. And what have your attempts to deal with that
17 problem of Mr. McDaniel yielded so far?

18 A. We've had no contact with Mr. McDaniel on an
19 easement so far.

20 Q. And you probably don't intend to have any
21 until you get this proceeding over with, do you?

22 A. Well, I would assume the proceeding will be
23 over fairly quickly so, no. At this point our easement
24 negotiations have been limited to particular spots where
25 we're looking at alternate changes to the actual route.

1 Q. So basically what you're saying is that once
2 you have the right by eminent domain to take what you want,
3 that what it is that the property owners need becomes a
4 whole lot less of an issue, doesn't it?

5 MR. LOWERY: I'm going to object to that
6 question. That's not been his testimony. The testimony
7 he's given in this hearing and his pre-filed testimony is
8 that we will continue to work with property owners in good
9 faith to accommodate their concerns regardless of our right
10 of eminent domain.

11 MR. DEUTSCH: I think a yes or no would work.

12 JUDGE DIPPELL: You asked him to tell you if
13 that was his testimony?

14 MR. DEUTSCH: I'm trying to summarize his
15 testimony and ask him if I correctly summarized it.

16 JUDGE DIPPELL: All right. I'll overrule the
17 objection and allow the answer.

18 THE WITNESS: Would you mind summarizing it
19 again, please?

20 BY MR. DEUTSCH:

21 Q. Sure. Isn't it true that with regard to
22 Mr. McDaniel, that it is the intention of Ameren to wait
23 until this proceeding is over and if you get a certificate
24 of authority, then what he wants or needs becomes a whole
25 lot less of an issue for Ameren because you can go ahead and

1 just take what you need?

2 A. No. I would say that's not what I've stated
3 earlier.

4 Q. Describe for me what you have stated earlier.

5 A. Well, what our process is, is that we start
6 out with the public workshop process where we lay out a
7 potential route, invite the property owners, public
8 officials to come and actually give us comments on the
9 route. We take that information --

10 Q. Stop right there. And you ask for those
11 comments. What do you do with them?

12 A. Well, what we do is we take them and we look
13 at which ones -- sometimes you get situations that are
14 fairly easy to solve.

15 Q. Take the one we're talking about with
16 Mr. McDaniel. You've contacted him and Senator Sarah
17 Steelman. Both of them say leave his granddaddy's tree
18 alone. What are you going to do?

19 A. I've not looked at the McDaniel -- the initial
20 comment sheet we received from Mr. McDaniel didn't indicate
21 the problem that we've since learned there is on the
22 property. I think when he attended the workshop, he filled
23 out a comment sheet, there was no indication there was a
24 particular problem, you know, on his property so nothing had
25 been looked at yet.

1 However, since he, as well as other property
2 owners have expressed concerns, we'll take a look at that to
3 see if there's anything that can be done to accommodate him.

4 Q. After this proceeding's over?

5 A. Well, since it hasn't been done to date, yes.
6 Most of them -- there have been very few actual easement
7 negotiations so far.

8 Q. That's an interesting point. You know, after
9 today, which we hope we will finish today, the proceeding's
10 not really over, because the Commission hasn't ruled. Do
11 you think you can produce for the Commission as a condition
12 for your certificate how you're going to fix the problem if,
13 in fact, you get one from Mr. McDaniel?

14 A. It would be premature to do that because we
15 haven't had the opportunity to sit down with Mr. McDaniel
16 yet to search out what that problem is. Like I say, we have
17 had several meetings with a group of property owners. You
18 know, the Drennens being a good example, to avoid their
19 house, involved several property owners.

20 We had a meeting with three particular
21 property owners in the area, all very cooperative, working
22 with us to solve the problem. We've laid out several
23 options because it's obviously important to the Drennens to
24 be able to keep that house there.

25 We met with them even before the workshop

1 recognizing they had a -- a different situation than
2 everybody else. Met with them, had their house appraised
3 ahead of time to be able to let them know, you know, what
4 the situation was.

5 Obviously since they wanted to stay, we've
6 offered to actually move the line to the other side of the
7 right-of-way, to move their house to another location on
8 their lot and have even talked about pro--

9 Q. Have you offered --

10 A. -- buying other property in the area to
11 actually be able to accommodate them. So we're still
12 talking about several different options. So that's just an
13 example of things I see happening on other places on the
14 line.

15 Q. Yeah. With regard to the Drennens, do you
16 have anything you can show me that shows what the offer that
17 you described in your Surrebuttal Testimony is to move their
18 house, to buy them a new house, to keep them in the
19 neighborhood, to keep their kids in the same school
20 district?

21 I haven't seen anything from them in writing.
22 I was wondering if you had anything that you have submitted,
23 for instance, to the higher-ups in Ameren that that's what
24 you're going to do?

25 A. Nothing needs to go to the higher-ups in

1 Ameren. It's something within our ability in our group to
2 solve the problem. We've not made any kind of written
3 offers until we know what's going to be done. At that point
4 once the group says, This is where we want the line to go,
5 we'll prepare the easements, present them to them.

6 Q. So you could make that deal?

7 A. We've already offered it.

8 Q. In what form?

9 A. We had a meeting.

10 Q. And could you describe the offer that was made
11 at that meeting?

12 A. We offered to move the line to the other
13 side -- what it involves is the line right now is on the
14 west side of the existing line. So what we offered to do
15 was actually cross over to the east side, go back and then
16 cross over again. That was one potential solution that was
17 offered at the meeting.

18 Q. Yeah.

19 A. A second one being actually to physically
20 relocate the house, because it's very important to them to
21 stay within that geographic area. So they have about an
22 acre, there's still -- the easement will take about a half
23 acre, there's still a half acre, you know, possibly just
24 move the house over within the same property is another
25 option.

1 A third option, which is the one we've been
2 exploring most recently, is actually try to locate property
3 for them in the same area to possibly build another house or
4 relocate their existing house to that property.

5 So, like I said, I look at it that those
6 aren't necessarily all three options. There could be other
7 options. That's why we're continuing to try to discuss the
8 situation.

9 Q. So if you get a certificate of authority from
10 the Commission, is it your testimony here on behalf of
11 Ameren that you're going to do one of those options and
12 you're not going to do what Mr. Wuden said you were going to
13 do when he first approached the Drennens?

14 A. Well, I'm not saying we're going to do one of
15 those three options, because there could be a fourth or
16 fifth option out there that hasn't even been explored yet.
17 I guess what I would say is that our acquisition policy does
18 not change whether we need a certificate for a line or we
19 don't need a certificate for a line. Our policy is the same
20 in all easement acquisition situations.

21 Q. Is that policy in writing?

22 A. No, sir.

23 Q. So we can trust you on it?

24 A. I mean, I'm happy to go through it for you.

25 Q. Oh, you've already gone through it for me.

1 I'm just wondering what the penalty is for you to not follow
2 it or the remedy for the Drennens if you don't follow it.
3 Got any help for me there?

4 A. Well, in terms of the penalty, I think we have
5 a policy which is to try to treat property owners fairly,
6 compensate them fairly. The remedy in terms of us -- the
7 penalty for us is that we would be unsuccessful in our
8 easement negotiations not just on this line, but other lines
9 in the future.

10 I think the trust that you've alluded to is
11 something that we need to keep and build, because it will
12 hurt us in the future if we don't. And we take the power of
13 condemnation very seriously and we use it very sparingly.
14 If we were to abuse that power, obviously that information
15 would come back to the PSC or other regulators and cause us
16 a problem in the future. That's why we don't use it until
17 it's a last resort.

18 We have negotiators that go out and negotiate
19 with property owners and the negotiation process takes place
20 over several months. It's not something that's one call and
21 we condemn the property, which is what you've alluded to.
22 This is a long process of actually working with the property
23 owners.

24 There's a lot of issues that go into it that
25 are non-monetary, how are you going to clear the property,

1 what are you going to do with the timber, with the brush,
2 you know, those type of things. So there's a lot that goes
3 into it. If we ever -- any of the negotiators reach an
4 impasse with a property owner, my policy is that I step in
5 and I contact the property owner. We never condemn anybody
6 until I've had the opportunity to sit down and talk to them
7 also.

8 Q. But those discussions really are only about
9 the details of obtaining the easement and not whether the
10 easement will be obtained, aren't they?

11 A. In most cases when we contact a property
12 owner, we're probably going to need an easement on their
13 property. But, like I said, there are opportunities to work
14 with them possibly for maybe a different location on their
15 property, you know, something like that.

16 But with some situations such as the Drennens,
17 if we actually move the line to the other side, then it
18 would not involve them at all. You know, we would not need
19 an easement on their property.

20 So it varies. Really the negotiations start
21 with, you know, explaining the project to them in detail,
22 find out what their concerns are and then try to work
23 through those concerns.

24 Q. Like you did at the bottom of page 12 with the
25 Jefferson-St. Genevieve and St. Francois County line?

1 A. It's a good example because it's a similar
2 project, a 345,000 volt line. In fact, it's the project
3 Mr. Mitchell mentions in the study, a very similar problem
4 where we have an overloading situation.

5 Q. By the way, is that in Ameren's service
6 territory or is that something you had to bring to the
7 Commission for a certificate?

8 A. Had to bring it to the Commission. You know,
9 you had mentioned that this certificate hearing is a very
10 unique situation. I would argue it's not unique and that's
11 a good example you brought up was Rush Island and
12 St. Francois.

13 We needed a certificate, you know, for that
14 line. A similar project where we had the workshops,
15 presented a route that used the existing corridor, we
16 followed an existing transmission line, very similar types
17 of property, farm, residential. Had very difficult
18 situations where we had to actually relocate some property
19 owners, remove structures.

20 Like I said, very similar situation, but one I
21 feel that we can say we've had pretty much success in that
22 we've acquired 63 of the 64 easements to date and that line
23 is under construction. The only difference being I guess
24 where we did need a certificate in the case, there weren't
25 any intervenors.

1 Q. Yeah. That's what I was wondering. Did you
2 obtain 6-- your testimony here says 61 of 64?

3 A. Yeah. At the time of filing we had 61 of the
4 64 easements acquired. We actually had to file condemnation
5 on the remaining three, but I was able to work out an
6 agreement with those other two property owners, so we really
7 only have one left.

8 Q. Did all of those 63 agree to go peacefully
9 before you obtained your certificate of authority?

10 A. In that case I don't recall the exact number.
11 Normally we're further along in easement negotiations by the
12 time, you know, we would get to this point. So I would --
13 you know, I would -- maybe half or so were acquired before
14 we got the certificate. Like I said, it's not something
15 from a negotiation standpoint we take into consideration.
16 As soon as we're in a position to begin acquiring easements,
17 we typically do that.

18 Q. Yeah. Well, because once you have your
19 certificate of authority, you can condemn them and that
20 gives you pretty good bargaining position, doesn't it?

21 A. We've never used that as a bargaining
22 position, no.

23 Q. Never?

24 A. Well, like I said, the certificate really
25 doesn't come into play when we're negotiating with property

1 owners.

2 Q. Does Mr. Wuden work with you?

3 A. Yes, sir.

4 Q. Has Mr. Wuden ever suggested to a property
5 owner that if they didn't agree to an easement, that
6 condemnation would follow?

7 A. I mean, it's -- I'm getting hearsay, I guess,
8 when it's a situation I was not involved --

9 Q. Certainly are.

10 A. -- in the actual conversation. But, I mean,
11 the situation that was conveyed to me was very similar to
12 the situation I've personally been involved with in
13 negotiating a property owner where you approach them, you
14 know, you tell them what the project is, why you need the
15 project, you know, how it will impact them.

16 If it's a situation like -- like you had
17 mentioned before, typically they didn't come to us and ask
18 to have the line on their property. It's something a lot of
19 times -- especially their initial reaction is very negative
20 to a transmission line project.

21 A lot of times they will ask then, Well, what
22 is the procedure if we don't agree? And in response to a
23 specific question like that, then we would explain the
24 procedure of what I've done, how we negotiate and if we
25 can't reach agreement for any reason, then we would have

1 condemnation. But especially in an initial meeting, we
2 would never mention condemnation unless it was in response
3 to a specific question by a property owner.

4 Q. So I guess it's probably just coincidental
5 that after they learn about what the procedure is, you get
6 your easement?

7 A. I wouldn't necessarily say that's the case.

8 Q. They know what the end result will be, don't
9 they?

10 A. Well, I mean, some property owners actually
11 bring it up and say, We realize you have the right of
12 condemnation or something like that, but we typically would
13 not bring it up to them.

14 Q. Let me ask you if you are in a position, as
15 the guy that could make the deal -- we've had a lot of
16 discussion so far in the testimony about the number of
17 different complaints, concerns, requests for accommodation,
18 complaints as Mr. Lowery would have it.

19 Are you in a position here today to make a
20 commitment on behalf of Ameren with or without it being a
21 condition under oath, that you're going to make the
22 accommodations that have been at any time offered to the
23 landowners in this case?

24 A. I mean, what we've already offered the
25 landowners, like I said, those are options we're still

1 considering. Anything that would come up in the future, if
2 it's typically a monetary issue, it's something that we
3 generally take care of in the real estate department. But a
4 lot of the issues when you're talking about changing the
5 route and stuff like that, it's a joint decision with the --
6 get together with our transmission engineers and they'll
7 help us work out a solution.

8 Q. I'll take that as a no.

9 And I just wanted to reconfirm that basically
10 the impact that you see between -- the difference in impact
11 which favors using the Callaway-Franks line rather than the
12 Bland-Franks line is basically saving 25 feet of easement
13 that might have to be acquired?

14 A. I think that's a big benefit. A lot of it
15 from a social standpoint just that you're only having --
16 you're having the 25 less feet. The other benefit is you
17 don't have to contact additional property owners where you
18 have property owners who have already agreed that -- you
19 know, to put a line on their property. So there's a lot of
20 not only economic, but also social benefits to placing the
21 line on the Callaway-Franks route.

22 Q. But by using the Callaway-Franks line, the
23 current situation would change in that regardless of what
24 easements might be there, we're going to increase from, what
25 is it, a 100-foot easement now to a 225-foot easement?

1 A. Yes, sir.

2 Q. So we're saving kind of, but it's one of those
3 bargains that has some cost to it?

4 A. Well, I guess the comparison being if we were
5 to, as an alternative, put that line in what we call a green
6 field route, in other words, not parallel on the existing
7 line but put it -- say, move it over a few feet on the same
8 person's property, then we would need 150-foot wide
9 easement, so it would presumably be more of an impact.

10 Q. Yeah. And because we don't really have an
11 actual final route, but a proposed route in a vicinity, that
12 line may or may not be exactly where the -- right next to
13 the easement using the extra 25 feet of the existing
14 easement like you plan?

15 A. Right. If we get to a situation where we have
16 a group of property owners who -- you know, a good situation
17 we talk about the Drennens and other ones along Highway 50
18 where it's a very tight corridor trying to get across the
19 highway there due to development.

20 We've looked at several alternatives there and
21 even an alternative that would actually go further to the
22 west and swing out away from the existing line. So if
23 that's an alternative that's acceptable to the property
24 owners, then we will not be paralleling the line at that
25 point.

1 Q. Is that where your Loose Creek Substation will
2 be?
3 A. No, sir. Loose Creek is south of that
4 location.
5 MR. DEUTSCH: I have no further questions.
6 Thank you.
7 JUDGE DIPPELL: Thank you.
8 Commissioner Gaw, did you have questions for
9 Mr. Douglass?
10 COMMISSIONER GAW: Yes. Thank you. I may
11 have to cut it short because agenda will be at 9:30.
12 QUESTIONS BY COMMISSIONER GAW:
13 Q. Good morning, Mr. Douglass.
14 A. Good morning.
15 Q. Can you give me an idea about if the
16 Commission were to approve this application, what's the time
17 frame to acquire the easements?
18 A. We've already begun easement negotiations.
19 Q. I mean to get -- to finish.
20 A. Oh, to complete negotiations?
21 Q. Yes.
22 A. On a project of this size, I would estimate
23 you're looking at least six to nine months. We have quite a
24 few property owners to deal with this on this project.
25 Q. So if you do not acquire the property within

1 six to nine months, is that the point in time when you'd
2 file for condemnation?

3 A. Not necessarily. I mean, it -- like I said,
4 we bend over backwards to try to work with the property
5 owners. I never like to set a drop dead date, but usually
6 within that amount of time we can have enough people, you
7 know, contacting the property owners where we, you know, can
8 have enough meaningful discussions to get something
9 resolved. But at the end of six months or nine months, that
10 doesn't mean, you know, condemnation gets filed that date if
11 we still have a chance to get that thing worked out.

12 Q. What's your drop dead date, if you had one?

13 A. Well, I think we had originally had an
14 in-service date of 2004, but probably that in-service date
15 has been impacted by the -- you know, with the certificate
16 hearing being protracted.

17 And a lot of it too, we aren't as far as along
18 as I would have hoped to have been actually getting in the
19 field on some acquisitions, because we're still looking at
20 some engineering alternatives to reroute some of these
21 things.

22 So, like I said, we -- it's going to be a
23 situation where we're still going to, you know, take the
24 necessary time we need to make sure all -- either make --
25 reach an agreement with the property owners or at least to

1 get to a point where everybody agrees we're at an impasse.

2 Q. So you don't have a time frame --

3 A. Not an ending time frame.

4 Q. -- for when you might file condemnation

5 proceedings if you don't have things negotiated?

6 A. We have not set one yet, no, sir.

7 Q. But you're trying to get something done within

8 six to nine months?

9 A. I would hope that we could, yes.

10 Q. Mr. Douglass, I got the impression that there

11 is sort of a standard way of doing business for Ameren in

12 acquiring easements; is that accurate?

13 A. Yes. I would say so.

14 Q. And part of your way of doing business, as I

15 understood it, was to not bring up condemnation in any of

16 the discussions with the property owners unless the question

17 were asked by the property owner?

18 A. Yeah. Typically, when we make a first call on

19 a property owner, that would never be something that we

20 would bring up, because we don't want to come across as

21 being, you know, threatening or anything like that.

22 Our goal at that meeting is to try to

23 basically flesh out what issues they may or may not have,

24 you know, and try to begin to work towards an acceptable

25 agreement.

1 But typically it does come up a lot of times,
2 you know, because they'll ask, you know, what the process
3 is. And I can understand how a property owner feels. You
4 leave there and the last thing that's in their mind is, boy,
5 he said they've got the right to condemn the property. So I
6 certainly understand how those things can come about.

7 Q. I guess what I'm asking you is whether or not
8 Ameren brings up the subject of condemnation at some point
9 in time if it's not brought up by the property owner and
10 there is not a willingness to negotiate?

11 A. Sure. Yeah. It's --

12 Q. When does that occur?

13 A. Well, at some point when we would reach an
14 impasse and it looks like we cannot reach an agreement with
15 them.

16 Q. How soon does that occur?

17 A. Well, there's no set time, just like there's
18 no set time for how many contacts it takes with a property
19 owner.

20 Q. Would it come up within the first few weeks?

21 A. Not necessarily. I mean, you may --

22 Q. Could it?

23 A. It could, sure.

24 Q. And why would that be?

25 A. Well, if you've met with them several times

1 and you're at a point -- you know, you reach an impasse --
2 you could get a property owner and meet with them one time
3 who could say, I want no part of the project, never call me
4 again and then it would be brought up at that time.

5 Q. So you would at that point in time tell them,
6 Look, you don't have a choice here, we're going to condemn
7 your property if you don't cooperate?

8 A. If we can't work something out, then that
9 would be the last resort, yeah.

10 Q. So has that -- if you're in an area, for
11 instance, where you don't have to get a certificate because
12 it's your service area, could we take negotiations that
13 might have taken place or threats that might have taken
14 place in those areas as Ameren's normal way of doing
15 business after a certificate would be granted in a case like
16 this?

17 A. Our -- our -- yeah, our negotiation process
18 would not change whether a certificate is needed or not
19 needed.

20 Q. Mr. Douglass, do you think that a negotiation
21 in regard to the sale of property without the threat of
22 condemnation is the same as a negotiation with it in regard
23 to the power of the parties to negotiate a fair price?

24 A. I would say it would be different. I can't
25 tell you how it would be different, whether it would result

1 in a -- less of -- a higher price or a lower price, but I
2 acknowledge it would be different or could be different.

3 Q. And in a condemnation proceeding, really we're
4 not talking about whether or not the property is going to be
5 sold. It's a question of how much; isn't that correct?

6 A. That's correct. Once you get to a point where
7 you cannot work out anything with the property owner, when
8 it gets to condemnation -- assuming -- now, there's certain
9 tests we have to meet. We have to demonstrate that we did
10 negotiate in good faith, you know, with the property owner.
11 But assuming we did our job, then it is just a matter of we
12 have a difference of opinion on the -- you know, the value
13 of that easement.

14 Q. And then the price for the property that the
15 commissioners in a condemnation proceeding are supposed to
16 determine, it's supposed to be what the fair market value is
17 on that property, isn't it?

18 A. Well, what the commissioners are supposed to
19 come up with is what impact that easement will have on the
20 property. They'll have to value the property in a before
21 situation and then after situation and then what we'd be
22 required to pay is the difference of the two.

23 Q. Yeah. So that can vary? I mean, if you were
24 condemning -- if you're condemning a number of acres for a
25 substation, then if it came out of a tract, you'd look at

1 the difference in the fair market value before and after?

2 A. Correct. Yes.

3 Q. You'd look at the difference in the same way

4 you're suggesting with a power line going through, what's

5 the difference before and after of the value of the property

6 that the easement is affecting in that case?

7 A. Yes, sir.

8 Q. But fair market value doesn't take into

9 account an individual's desire to sell the property, does

10 it?

11 A. That's correct.

12 Q. And it doesn't take into account whether or

13 not a particular piece of property would be sold by that

14 individual to any buyer that may wish to buy it for any

15 particular price, does it?

16 A. That's correct. And that's --

17 Q. It is totally about the value of that property

18 independent of any desire of the seller to sell?

19 A. That's correct. And that's why we

20 recognize -- like I said before, to avoid condemnation, you

21 know, sometimes we may need to pay a premium because we

22 aren't dealing with somebody who actually has their property

23 on the market or wants to sell their property.

24 Q. And why would you pay more than what you would

25 be able to get in a condemnation proceeding as the price to

1 pay for that property, other than consideration of time and
2 perhaps additional work by your staff and attorneys?

3 A. Right. Time is an issue that generally
4 because negotiations can be protracted, we're getting late
5 in the process, you know, the engineers are anxious to build
6 the line so time comes into play.

7 You know, relations with property owners come
8 into play. That line is going to be on their property, you
9 know, for a long time so we're going to have to deal with
10 these people over the years. And in most cases,
11 condemnation is going to leave a bad taste in their mouth.

12 And we're going to have to be back to them
13 five years, ten years, whatever down the road and ask them
14 if we can -- you know, we need to come on your property to
15 clear or do whatever and still working things out with them.

16 And then there's also the economics. It costs
17 us to hire the attorneys and appraisers, you know, to go
18 through a condemnation proceeding.

19 Q. So Ameren is really looking at it from the
20 standpoint of what Ameren has to do to get to its stated
21 objective of acquiring the property with the least amount of
22 money being spent and the least amount of aggravation in the
23 future?

24 A. Right. I think that's a good -- good
25 summation.

1 Q. But it's not really about whether or not you
2 are looking at it from the standpoint of trying to assist
3 those property owners, except from Ameren's standpoint of
4 trying to accomplish those objectives, is it?

5 A. Well, at the point we would assist the
6 property owners would be early on in the negotiation
7 process. That's where we work with property owners or
8 groups of property owners to maybe see if there's an
9 engineering alternative that would solve a particular
10 situation, like if we're trying to avoid a house or a grove
11 of walnut trees or whatever. That's at that point when we
12 would try to work those things out.

13 After that, once it's been determined whether
14 something can or can't be worked out, then you're correct.
15 Then we get to the situation, the easement now is going to
16 go in this location and then that's when you begin
17 negotiation. And, you're right, that's the process you'd go
18 through to obtain that easement.

19 COMMISSIONER GAW: Okay. Sorry. If it's
20 possible, I may have a few more questions. And I don't know
21 if I could look at that later. I apologize. I know that
22 messes things up.

23 JUDGE DIPPELL: Since the Commissioner has to
24 excuse himself to attend agenda, we're going to go ahead and
25 do redirect based on questions from Commissioner -- or from

1 Mr. Deutsch -- actually, I have a few questions and then
2 we'll have to recall you, Mr. Douglass, to finish up
3 Commissioner questions, if you don't mind.

4 QUESTIONS BY JUDGE DIPPELL:

5 Q. Let me ask a couple questions I had. Kind of
6 switch gears just a little bit.

7 A. Okay.

8 Q. On page 10 of your Direct Testimony down at
9 the bottom you state, Close to having a final route, subject
10 to further accommodations we might make as discussed above.

11 And I just wanted to get a little more detail
12 about that. And maybe you've talked about it -- about the
13 Drennens, we've heard a lot about what you're doing there.
14 What other kind of examples of accommodations have you been
15 negotiating or your team been negotiating?

16 A. Okay. I guess another good example -- and a
17 lot of these came up as a result of some specific situations
18 that the Intervenor group had presented to us. Mr. Deutsch
19 was kind enough to get them together and ask them
20 specifically what it was we could do to accommodate, you
21 know, some of their concerns.

22 Another target area we've looked at is
23 actually changing the route along Highway 50. Like I said,
24 crossing Highway 50, it's a congested area, it's tough to
25 get a line through. We had originally proposed the line at

1 the workshop to be on the west side of the existing line,
2 had comments from property owners at the workshop that that
3 was going to cause them a problem.

4 We've looked at an alternative route on the
5 east side. One of the typical problems you run into with
6 doing that, we're kind of trading off one problem for
7 another, helps one property owner, affects another property
8 owner.

9 We've since even looked at two or three
10 versions of that. One being to make some changes within
11 that corridor crossing over is another opportunity. Another
12 one, we've even looked at totally diverting from the
13 existing transmission line, going further west and swinging
14 around.

15 So we hope to get together with those property
16 owners to present a multitude of possible solutions. And
17 out of that could come other opportunities too, but it's
18 another area where we're in the process of trying to get
19 something worked out.

20 Another example is that the far northern end
21 of the route where we're tapping our existing line at
22 Chamois, we had proposed to -- at the location we had
23 proposed to tap the line was causing a problem for the
24 property owner in that area who's a farmer and the tap
25 structure was going to cause him a problem. So we've agreed

1 to look at moving the tap point further south along the
2 existing line to accommodate his needs. And it looks like
3 that's something that's going to get worked out.

4 Other minor situations, we have a property
5 owner where -- there's a couple of different situations
6 where it's -- it's where we cross the line from an
7 engineering standpoint. You know, we've proposed certain
8 places to cross, but a couple of property owners said, Well,
9 if you could cross either north or south of here, it helps
10 me out.

11 But since it impacts other property owners, we
12 need to contact them, make sure they're in agreement of
13 having it on the east versus the west or whatever. So
14 there's places like that we're still trying to work out.

15 Q. What do you mean by cross the line?

16 A. Cross the existing Central electric line.

17 Q. Okay.

18 A. The way it was originally laid out, we crossed
19 the line in two locations. You want to minimize crossing of
20 the line as much as possible from an engineering standpoint.

21 So there's still several -- you know, many
22 situations. And, like I said, I'm sure other situations
23 will come up as we get into negotiations with the individual
24 property owners. Right now we're trying to target those
25 specific groups where we know there's some concern.

1 Q. Okay. And can you tell me -- I know you've
2 probably been asked this and it's been confusing. Can you
3 tell me how many property owners remain that Ameren does not
4 have easements for at this time for this project?

5 A. We have -- we have 105 easements. We will
6 need approximately 70 more. And I say "approximately"
7 because it depends on some of these reroutes. You know, you
8 may gain another property owner by moving the line, that
9 type of thing, but approximately 70 more.

10 Q. If you put the line in as proposed right now,
11 you would need another 70 easements?

12 A. Seventy, correct.

13 Q. And do you know how many of those easements
14 are in the portion of the line that requires a certificate
15 from the Commission and how much is in Ameren's service
16 territory?

17 A. I don't recall number breakdown of easements.
18 I think from a general standpoint, our certificated area was
19 more the northern portion of the line and our
20 non-certificated area was more in the southern portion,
21 which is where we have most of the easements. But I don't
22 have a breakdown at all.

23 Q. Have you read Ms. Kramer's testimony that was
24 pre-filed in this case?

25 A. Yes.

1 Q. I wanted to ask you about a statement that she
2 made. Do you know if the -- well, let me start out this
3 way. Are you an attorney?
4 A. No, ma'am.
5 Q. But your job is to be the director of the real
6 estate --
7 A. Yes.
8 Q. -- team or division, whichever you call it?
9 A. Yes.
10 Q. Okay. And do you know if the easements that
11 you have collected on this project so far would allow Ameren
12 to build additional lines? I mean, other than -- if they
13 build this line now, do you know if the easements that
14 Ameren has from ACI would allow them to in the future come
15 through and build another line?
16 A. My understanding is it would not. It is a --
17 as people have described, it's a blanket easement. But once
18 the line is built, then that easement is defined to be
19 75 feet on either side of the line as constructed. So it
20 would be limited to just the one line we propose to put in.
21 You couldn't come back at a later date and install another
22 transmission line on their property utilizing the same
23 easement.
24 Q. And are you familiar with a route that the
25 easement will take across Ms. Kramer's property?

1 A. Yes.

2 Q. And in her testimony she indicated that there
3 was a statement made about it being to the east when it was
4 really to the west or vice-versa.

5 A. I don't remember her statement. What we had
6 proposed is -- at the public workshop, we had proposed a
7 route at the southern end that would be further west of the
8 easements that were acquired from Associated.

9 And the reason we did that, there was a house
10 we were trying to avoid and also a comment from another
11 property owner, Mr. Redel, where he wanted us -- at his
12 property we hit the existing line. The southern end we're
13 not paralleling the Central Electric line. It's a route and
14 then we begin paralleling the Central Electric line.

15 So we had proposed a route that was not on the
16 easements. In other words, we would have had to have gone
17 back to Ms. Kramer or whoever the actual person is who
18 represents that property and negotiate a new easement.

19 But because of some of the comments we
20 received at the workshop being unfavorable, people who
21 wanted us to put it where we had originally -- or where
22 Associated had originally proposed, we moved it back to the
23 easements that were acquired by Associated.

24 So I assume that's what she was referring to.
25 The proposal we submitted at the workshop was further west

1 than where it looks like the line will actually be now.

2 Q. So right now what is the proposal for the

3 Kramer property?

4 A. That we would utilize the easement that her

5 father granted on the property.

6 Q. Okay. And have there been any negotiations

7 with Ms. Kramer and her family about the easement?

8 A. At this point there's been just discussions

9 more of a general nature, you know, before some of the

10 meetings. But at this point, no detailed discussions. Like

11 I said, we'll meet with them and talk to them about clearing

12 practices and things like that, but we haven't done anything

13 other than that at this point.

14 But we did sit down with her at the meeting

15 and show her where the easement will be, how far it will be

16 away -- I think she was concerned about a barn on the

17 property, making sure it wasn't on the right-of-way, those

18 kind of discussions.

19 Q. But right now Ameren has an easement for that

20 property?

21 A. Yes, ma'am.

22 Q. And the proposal is to use that easement?

23 A. Yes. That's correct.

24 JUDGE DIPPELL: Okay. That's all the

25 questions I had. Again, Commissioners have some more

1 questions, so I'll have to ask you to stay while we do that.

2 But just to try to keep things moving along, I

3 think I'd like to go ahead if we could just do redirect

4 based on Mr. Deutsch's questions. And is it possible to

5 separate -- keep it separate?

6 All right. Then is there redirect?

7 MR. LOWERY: The company has no redirect, your

8 Honor.

9 JUDGE DIPPELL: Well, that was easy.

10 Okay. In that case I'd like to save the cross

11 based on Bench questions until after all those have been

12 asked, so let's go ahead and I'll ask Mr. Douglass to step

13 down but to remain for recall.

14 And let's go ahead and proceed with the next

15 witness.

16 MR. RAYBUCK: Your Honor, the company would

17 next call to the witness stand Mr. Thomas Beerman.

18 (Witness sworn.)

19 JUDGE DIPPELL: Thank you.

20 You can go ahead, Mr. Raybuck.

21 MR. RAYBUCK: Thank you, your Honor.

22 THOMAS BEERMAN, having been first duly sworn, testified as

23 follows:

24 DIRECT EXAMINATION BY MR. RAYBUCK:

25 Q. Would you please state your full name for the

1 record.

2 A. Thomas G. Beerman.

3 Q. And, Mr. Beerman, by whom are you employed?

4 A. I'm employed by Ameren Services.

5 Q. And what is your position with Ameren

6 Services?

7 A. I am the superintendent of vegetation

8 management in the forestry group.

9 Q. And did you prepare written testimony which

10 was filed on your behalf in this proceeding?

11 A. Yes, I did.

12 Q. You have a document in front of you which has

13 been marked as Exhibit No. 7. This is a document consisting

14 of seven pages of Direct Testimony. Is this the Direct

15 Testimony that you prepared for this proceeding?

16 A. Yes, it is.

17 Q. And do you have any corrections or changes to

18 make to this testimony?

19 A. Not at this time, no, I do not.

20 Q. You also have in front of you a document which

21 has been marked as Exhibit No. 8. This is a document

22 consisting of six pages of Surrebuttal Testimony. Is this

23 the Surrebuttal Testimony which you prepared for this

24 proceeding?

25 A. Yes, it is.

1 Q. And do you have any changes or corrections to
2 make to your Surrebuttal Testimony?
3 A. No, I do not.
4 Q. If I were to ask you the same questions set
5 forth in your Direct Testimony and set forth in your
6 Surrebuttal Testimony, would your answers be the same as
7 contained in those documents?
8 A. Yes, they would.
9 MR. RAYBUCK: Your Honor, I move to admit into
10 the record Exhibit Nos. 7 and 8, and would make Mr. Beerman
11 available for cross-examination.
12 JUDGE DIPPELL: Thank you.
13 Are there any objections to Exhibit Nos. 7 or
14 8 coming into the record?
15 MR. BATES: No objection.
16 MR. DEUTSCH: No objection
17 MS. O'NEILL: No objection.
18 JUDGE DIPPELL: Thank you. I will admit
19 Exhibit Nos. 7 and 8.
20 (EXHIBIT NOS. 7 AND 8 WERE RECEIVED INTO
21 EVIDENCE.)
22 MR. RAYBUCK: Thank you.
23 JUDGE DIPPELL: Any cross-examination from
24 Staff?
25 MR. BATES: No, thank you, your Honor.

1 JUDGE DIPPELL: Office of the Public Counsel?
2 MS. O'NEILL: No questions, your Honor.
3 JUDGE DIPPELL: Intervenors?
4 MR. DEUTSCH: I do have a couple.
5 CROSS-EXAMINATION BY MR. DEUTSCH:
6 Q. Hi, Mr. Beerman.
7 A. Good morning, Mr. Deutsch.
8 Q. I wasn't going to ask you any questions, but I
9 couldn't resist.
10 The one thing I wanted to inquire about, you
11 were at the public hearing -- or the meetings?
12 A. I was at the workshop.
13 Q. The workshops, that's what they're called.
14 A. As a matter of fact, Mr. Deutsch, to clarify
15 that, I was at one workshop. I believe that was in July in
16 Linn. I was not at the original two workshops.
17 Q. The November workshops?
18 A. Right. Correct. I was not there.
19 Q. Have you met otherwise with any of the
20 citizens, the people around there or only through your
21 connection with Ameren at the workshops?
22 A. No, I have not. Not that I'm aware of.
23 Q. Do you recall making a statement to anybody at
24 any time that one of the methods that Ameren contractors out
25 in the rural areas use for controlling vegetation is to

1 spray from helicopters?

2 A. We have done that in rural areas, yes.

3 Q. Do you remember making that statement to

4 anybody?

5 A. I don't recall making the statement. I think

6 the question was asked and I may have said, yes, we do at

7 times use aerial herbicide applications.

8 Q. I didn't see that in your testimony and I

9 guess I wanted to know, do you have intention for this

10 54-mile line to control vegetation by spraying from a

11 helicopter?

12 A. I would have to look at -- get more familiar

13 with the terrain and everything else. I would say at this

14 time we had not used -- excuse me, there's a fly.

15 Q. Persistent devil.

16 A. But last time we did vegetation work on the

17 Bland-Franks right-of-way, we did not use aerial herbicide

18 application. That work was done in 2000 and 2001. We did

19 not use aerial herbicide applications at that time on that

20 right-of-way.

21 Q. Why not?

22 A. The brush densities didn't call for that type

23 of application.

24 Q. So if you had a situation that called for it,

25 you'd do it?

1 A. If the terrain didn't permit us to use another
2 means, it's a tool that we would consider on that -- I can't
3 really answer the question saying that we would until I saw
4 the condition that was there.

5 Q. Okay. Let me ask you a different way then.
6 If a landowner or landowners specifically asked you not to,
7 would that mean you wouldn't?

8 A. We would not.

9 Q. You're willing to commit to that?

10 A. I am willing to commit to that.

11 Q. Okay. And with regard to all the other
12 testimony you have in here about the very fine practices for
13 controlling vegetation and right-of-way of Ameren, are you
14 committing on behalf of Ameren that these policies could be
15 a condition to their grant of a certificate of authority, if
16 they choose to grant one for this project between Callaway
17 and Franks?

18 A. Okay. On my Direct Testimony, that would be
19 correct.

20 Q. Yeah. What about your Surrebuttal Testimony?

21 A. That would be correct on my Surrebuttal
22 Testimony.

23 Q. Okay. So you are committing that these --

24 A. Excuse me.

25 Q. -- will be -- for the record, there's a very

1 persistent fly in this room.

2 JUDGE DIPPELL: I apologize. I have --

3 THE WITNESS: I'm sorry.

4 JUDGE DIPPELL: -- I have no control over it.

5 MR. DEUTSCH: You know, at the public hearing

6 the same thing happened.

7 JUDGE DIPPELL: That's true. We had a spider

8 at the public hearing.

9 MR. DEUTSCH: It's a conspiracy I think going

10 on here with the fly. Excuse me. That's side track.

11 BY MR. DEUTSCH:

12 Q. I wanted to get clarified. You do agree that

13 should this line be built, that the practices that you have

14 described in here and the accommodations that you intend to

15 make, one of which you just stated --

16 A. Right.

17 Q. -- no helicopter spraying if it isn't

18 requested or desired, all of those things will become a

19 condition and you will do what is in your testimony?

20 A. Yes, sir.

21 Q. That's what I needed to know.

22 Where do you live, Mr. Beerman?

23 A. I live in southwest St. Louis County in

24 Fenton, Missouri.

25 Q. Got any power lines on that land?

1 A. Yes. I do have a power line right out in
2 front of my house. It's a three-phase distribution line.
3 Q. How big is that one?
4 A. Well, it rests on -- we've got -- crossarms
5 are 10-foot wide, it's got three wires.
6 Q. Single pole?
7 A. One pole -- actually two poles on my property.
8 Q. 345?
9 A. No, no. 12,000 volts.
10 Q. Yeah. It's a service line distribution?
11 A. Yeah. It serves our subdivision, sure.
12 Q. Smaller than the 161,000 that's already on the
13 Callaway-Franks Line?
14 A. That is correct.
15 Q. Smaller than the 345,000 volt line you're
16 talking about putting on the Bland -- Callaway-Franks Line?
17 A. That is correct.
18 Q. Okay.
19 MR. DEUTSCH: Thank you.
20 THE WITNESS: You're welcome.
21 JUDGE DIPPELL: Thank you.
22 Well, Mr. Beerman, I don't have any questions
23 for you, but I have not had a chance to ask the
24 Commissioners if they have additional questions, so I'm
25 going to have to ask you to remain as well.

1 THE WITNESS: Okay.

2 JUDGE DIPPELL: Is there any redirect based on

3 Mr. Deutsch's questions?

4 MR. RAYBUCK: We have none, your Honor.

5 JUDGE DIPPELL: All right. I'll ask you to

6 step down then and remain for recall.

7 Do you want to call your next witness?

8 MR. LOWERY: Yes, your Honor. We would next

9 call Mr. Gary Fulks.

10 (Witness sworn.)

11 JUDGE DIPPELL: Thank you.

12 Go ahead, Mr. Lowery.

13 GARY L. FULKS, having been first duly sworn, testified as

14 follows:

15 DIRECT EXAMINATION BY MR. LOWERY:

16 Q. Good morning, Mr. Fulks.

17 A. Good morning.

18 Q. Would you please state your name for the

19 record.

20 A. My name is Gary L. Fulks, F-u-l-k-s.

21 Q. And by whom are you employed, Mr. Fulks?

22 A. Associated Electric Cooperative, Incorporated.

23 Q. And could you tell us your position with

24 Associated?

25 A. My position is director of engineering

1 operations.

2 Q. Mr. Fulks, did you prepare written testimony
3 that has been prefiled in this proceeding?

4 A. Yes, I did.

5 Q. You have in front of you a document that I
6 believe has been marked as Exhibit 9 consisting of nine
7 pages. Is this the testimony you just referred to?

8 A. Yes, it is.

9 Q. Do you have any changes or corrections that
10 need to be made to that testimony?

11 A. None that I know of.

12 Q. Mr. Fulks, if I were to ask you the questions
13 set forth in the testimony, would your answers be the same
14 as contained in the testimony?

15 A. Yes, they would.

16 MR. LOWERY: Your Honor, I move to admit
17 Exhibit No. 9.

18 JUDGE DIPPELL: Are there any objections to
19 Exhibit No. 9?

20 MR. BATES: No objection.

21 MS. O'NEILL: No objection.

22 MR. DEUTSCH: No objection.

23 JUDGE DIPPELL: I will admit Exhibit No. 9.
24 (EXHIBIT NO. 9 WAS RECEIVED INTO EVIDENCE.)

25 MR. LOWERY: Your Honor, we make the witness

1 available for cross-examination.

2 JUDGE DIPPELL: Any cross-examination by

3 Staff?

4 MR. BATES: No, thank you.

5 JUDGE DIPPELL: Office of Public Counsel?

6 MS. O'NEILL: No, your Honor.

7 JUDGE DIPPELL: Mr. Deutsch?

8 CROSS-EXAMINATION BY MR. DEUTSCH:

9 Q. Morning, Mr. Fulks.

10 A. Good morning, Mr. Deutsch.

11 Q. In your testimony you talked about the plan

12 that Associated had back in the late '70s to build 135 miles

13 of transmission line?

14 A. That's correct.

15 Q. 345,000 volts?

16 A. That's correct.

17 Q. And you were proceeding with that plan, as I

18 understand it, in acquiring additional easements on what has

19 now come to be known as the Callaway-Franks Line?

20 A. In addition to the part from Thomas Hill to

21 Kingdom City that was part of the 135 miles. We were

22 acquiring all the right-of-way for that project in the 1978,

23 '79 time period.

24 Q. What was the form of public notice or

25 announcement or the procedure for approval that Associated

1 went through in deciding to build that line?

2 A. Well, since Associated borrows money from
3 RUS, we're under the jurisd--

4 Q. Excuse me. What's RUS?

5 A. RUS is the Rural Utility Services, which was
6 formally known as the Rural Electrification Administration
7 back in those days.

8 And as a condition for borrowing money for
9 projects -- and this project was part of a larger project to
10 build a 600-megawatt generator at our Thomas Hill Power
11 Plant in Randolph County along with an interest in a nuclear
12 plant in Oklahoma and a coal mining operation in the Thomas
13 Hill area, it was about a \$1.2 billion loan request, as I
14 recall.

15 And as such, we had to go through the
16 requirements of the National Environmental Policy Act of
17 1979 known as NEPA in order to get RUS approval to borrow
18 the loan funds. And part of that was the environmental
19 impact statement that we had to prepare for the entire
20 project.

21 Q. Okay. And in the course of that how many
22 public hearings did you hold in the Callaway-Franks area?

23 A. I don't recall back in those days that that
24 was a requirement of RUS. It is in today's requirements,
25 but at that time it was published in the local newspapers,

1 the fact that RUS was doing an environmental impact
2 statement on the project. And it did receive approval from
3 RUS which was printed in the local newspapers and printed in
4 the Federal Register in accordance with RUS policies at the
5 time.

6 Q. Have you got available copies of those notices
7 that appeared that would tell the property owners there just
8 what the project consisted of?

9 A. I'm not sure those are still around. That was
10 25 years ago. There are copies of the environmental impact
11 statement that are still around.

12 Q. Did I understand that you were specifically
13 involved in planning that project?

14 A. That's correct.

15 Q. Did you personally, from your own activities,
16 notify or appear before or go to the rotary or the chamber
17 or anybody in the Bland-Franks -- excuse me -- the
18 Callaway-Franks area to advise or discuss or let people know
19 about what the plan was for --

20 A. Not personally. The way our process works is
21 that Associated is owned by six regional G and T
22 cooperatives, in this area Central Electric Power
23 Cooperative headquartered in Jeff City.

24 And our board's policy is to assign the G and
25 T whose area our 345 facilities are built through as our

1 agent to go out and acquire the right-of-way, design the
2 line, construct the line and operate and maintain the line
3 under the direction of Associated.

4 So although I didn't go out personally, I --
5 the right-of-way people were, in fact, working for Central
6 as our agent. And I don't know what they might have done as
7 far as attending rotary meetings or --

8 Q. So if I told you that actually they didn't
9 attend any rotary meetings, that wouldn't surprise you,
10 would it?

11 A. It would surprise me that there wasn't
12 enough -- this was a huge project, a \$1.2 billion loan. It
13 was in all the newspapers, we had a lot of -- a lot of
14 interest from -- from newspapers and local civic groups and
15 it was a --

16 Q. And which ones were those in the -- for
17 instance, how many from Bland?

18 A. Oh, I have no idea where they were. I just
19 remember -- my general recollection is that there was a lot
20 of interest from local people in the area. Newspapers,
21 civic groups, Chamber of Commerce. It was considered to be
22 a rather large economic boom because of the size of the
23 construction and the amount of money that was spent.

24 Q. Remember any of the names or positions? Who
25 were these people?

1 A. No, I don't, sir.

2 Q. But I could trust you that there were people
3 who knew about it?

4 A. Oh, absolutely people knew about it.

5 Q. Okay. I'll trust you on that.

6 A. Thank you.

7 Q. So you don't really specifically know though
8 what it was that people in the area knew, or do you?

9 A. In the general area?

10 Q. Yeah.

11 A. I don't know what the people in the general
12 area knew.

13 Q. Did they know that it was going to be a
14 345,000 volt line?

15 A. It was published in the newspapers, it was --
16 there was an extensive environmental analysis done on the
17 project.

18 Q. And, of course, everybody there read that
19 analysis, didn't they?

20 A. I'm not sure who read it and who didn't, sir.

21 Q. Pretty sure nobody read it.

22 A. No. I'm pretty sure a lot of people probably
23 read it.

24 Q. But you don't know of any from the area that
25 was affected by it?

1 A. By the way, all the state agencies were
2 contacted too for input as part of the RUS environmental
3 process, so there was --

4 Q. At a certain point you dropped the plan.
5 Right?

6 A. We changed the plan.

7 Q. What was the percentage of completion of the
8 work on the plan when it was changed?

9 A. Out of the 135 miles, it seems like it may
10 have been 60 miles that was completed and 75 that wasn't
11 completed is my recollection. I'd have to -- that's --
12 that's a rough number, but it's in the ballpark.

13 Q. Construction completed you mean?

14 A. Construction completed on -- we completed the
15 section from Thomas Hill to Kingdom City. That section of
16 line was completed.

17 Q. No completion though in the area of the
18 Callaway-Franks Line?

19 A. Not -- not at that time. Although our
20 long-range plan was to eventually complete that line section
21 down to Franks. We were able to defer that, as I said in my
22 testimony, because of a deal we worked out with Ameren to
23 buy an undivided half interest in the surplus capacity in
24 Callaway to Bland 345 line.

25 Q. Do you have any knowledge as to whether the

1 landowners involved -- they were approached, as you said, by
2 agents of Central?

3 A. That's correct.

4 Q. You didn't give them a script or anything as
5 to what it was they were supposed to tell these landowners
6 about what they wanted and why?

7 A. I'm sure they were given instructions. We had
8 a strategy.

9 Q. Who gave them those? Central or --

10 A. Central.

11 Q. So you work for Associated?

12 A. That's correct.

13 Q. Okay. So when you say "we," Associated didn't
14 give them a script or any instructions on what to say?

15 A. No. We discussed the right-of-way acquisition
16 with Central and their right-of-way folks actually went out
17 and acquired the property.

18 Q. And did you have any guidelines for them as to
19 what they could, could not, should, should not do or say in
20 acquiring that right-of-way?

21 A. We had some general discussion over
22 right-of-way procedures and --

23 Q. Who did you have that with?

24 A. Central Electric.

25 Q. With the agents or with their --

1 A. No. With their engineering staff.

2 Q. And do you know whether those engineering
3 staff transmitted those discussions, whatever they were, to
4 the Central agents?

5 A. I assume they did, but I don't know that for a
6 fact. I wasn't a party to those discussions.

7 Q. Would it surprise you that a lot of the people
8 that made the easements thought they were making an easement
9 with Central, their own local power distributor?

10 A. Well, Central and Associated are essentially
11 one and the same. They're one of our six owners, so when
12 they make a deal with Central acting as agent for
13 Associated, they're making a deal with Associated.

14 Q. And you think that's pretty widely known that,
15 you know, when you're talking to Central, you're talking to
16 Associated?

17 A. I think if -- if you're talking to Central and
18 you look at an easement form and it says Associated Electric
19 Cooperative on the top, I would ask the question, Gee,
20 what's the difference between Associated and Central?

21 Q. Do you know whether anybody asked that
22 question?

23 A. No. I wasn't involved in those discussions
24 with the property owners.

25 Q. But you would not believe that the property

1 owners were in any way confused or mislead by who it is that
2 they were giving an easement to?

3 A. I think they understood who they were giving
4 an easement to when they signed the easement document.

5 Q. You think so?

6 A. That's my belief.

7 Q. Central agents didn't have any requirement to
8 explain to them that they were doing this -- of course, the
9 Central agents we're talking about, they're the guys on the
10 ground there locally that -- they're Central agents, they
11 deal with people in these communities for Central. Right?

12 A. Central service area is fairly wide spread and
13 probably most of these people had never dealt with Central,
14 they dealt with their local distribution co-op. And they
15 probably really at that time may not have understood the
16 difference between the distribution co-op and Central until
17 somebody explained that to them.

18 Q. Did you actually personally know or ever talk
19 to any of these agents that went out for Central to acquire
20 the easements?

21 A. I can't recall that I talked to any of the
22 agents. I recall talking to their supervisor, the
23 right-of-way supervisor at Central.

24 Q. Who is that?

25 A. A fellow named Ed Hassleman at the time, who's

1 since retired.

2 Q. Yeah. Do you believe that the Central agents
3 explained to the easement -- to the people they were
4 approaching that what they wanted was an easement for a
5 345,000 volt line?

6 A. I think if -- if I was a property owner and
7 someone came to me and said, Gee, I'd like to buy a
8 right-of-way across your property, the first question I
9 would ask is, Where it's going to be? What's it going to
10 look like? Is it going to be a transmission line? Describe
11 it to me, what the structure is going to be, what's the
12 voltage going to be. I think it's reasonable to assume a
13 property owner would ask those type of questions.

14 Q. So it would also be reasonable to assume that
15 all these property owners having a 161,000 volt line already
16 on their property, might assume that it's going to be no
17 bigger than the one they already have?

18 A. I don't think that there would be any basis
19 for them to assume that.

20 Q. The easement documents don't state the size of
21 the line, do they?

22 A. I don't recall on those documents what they --
23 what they say.

24 Q. Central's documents, which I have obtained
25 through a data request, they don't anywhere indicate a

1 345,000 volt line, do they?

2 A. I don't know what you received on the data
3 request. There may have been some that did and some that
4 were blank. If a property owner wanted to particularly
5 modify the easement to reflect that, that has been done.
6 I've known occasions where property owners say, Well, we
7 want all this specified, and we do that. I don't know which
8 of these might have been or what might not have been.

9 Q. Well, if I were to represent to you -- and I
10 guess we could take up a lot of time if you want to go
11 through them, I think there's 105 of them. But if I were to
12 represent to you that actually none of them contain a
13 reference to a 345,000 volt line, would you disagree with
14 me?

15 A. Well, if it's in the record, I wouldn't
16 disagree with you, certainly.

17 Q. Okay. Do you believe that had you continued
18 with your project, which you're still acquiring easement --
19 and as I understand it, even, you know, the area which I
20 think runs roughly south of Loose Creek down towards Franks
21 is where you primarily have obtained Associated easements,
22 you haven't obtained all of the easements in there. Some of
23 them you didn't get at that time in '78?

24 A. That's correct.

25 Q. Do you believe that had you obtained the rest

1 of those easements and all the others you needed and started
2 construction on a 345,000 volt line, that nobody there would
3 have been the least bit surprised at that?

4 A. I can't imagine they would have been. I can't
5 imagine someone would sign an easement without asking
6 questions of what are we signing the easement for. We may
7 not have had a piece of paper that we handed them, but a
8 reasonably prudent person would ask some questions, I think.

9 Q. Why do you think the current 70 or so in
10 the -- well, they're not all in that easement. Why do you
11 think the current group that doesn't really want to sell
12 their property for a power line is surprised to find out
13 that there's an easement for a 345,000 volt line?

14 A. That currently don't want to sell their
15 property? They've already given us -- you mean the ones
16 that have already given us an easement?

17 Q. No. The ones that haven't given you an
18 easement.

19 A. The ones that haven't given us an easement.

20 Q. Yeah. They don't have any notice at all of
21 what your intentions were then or now. Right?

22 A. I don't know.

23 Q. And as far as the ones that you did address
24 your intentions to but they didn't give you an easement, do
25 you remember what any of the reasons were why they might not

1 have wanted to give you an easement at that time?

2 A. No. I don't recall.

3 Q. As I understand it, in addition to assigning
4 easements, the other investment that Associated intends to
5 make in this project is to -- improve is my word, you can
6 give me an engineering term for it. You're going to do
7 something down in Franks?

8 A. That's correct. We --

9 Q. And that is to accommodate basically the
10 addition of capacity that this line is to handle. Right?

11 A. We have to make improvements at Franks to --
12 to add capacity for this project, that's correct.

13 Q. And if you don't have this line at all, let's
14 say that the Bland-Franks line remains the same, do you
15 intend to make those changes at Franks anyway?

16 A. We wouldn't need to make those changes
17 immediately. They would be in the coming years. There
18 would need to be additional improvements made.

19 Q. In fact, you regularly improve your system
20 like that, don't you?

21 A. Yes, we do.

22 Q. So could you tell me what the difference would
23 be for Associated as far as its costs, its expense, its
24 trouble, its interest in this particular project if it were
25 moved over to become a solution of a new line for the needed

1 capacity along the Bland-Franks corridor instead of through
2 the Callaway-Franks corridor?

3 A. Those would -- as I understand your question,
4 I believe those would be the same improvements necessary
5 under either scenario.

6 Q. So basically you do have a problem with the
7 loading problem on the Bland-Franks line? Associated does?

8 A. We -- Ameren has a problem with loading on the
9 Bland-Franks line. And once they increase the capacity into
10 our Franks Substation, then we need to have more capacity to
11 have that power delivered, because more power will tend to
12 want to flow into that area. So we'll have to have those
13 facilities as well as the facilities necessary to terminate
14 the 345 line in our substation.

15 Q. So basically your contribution, as it's been
16 described, to the project that you support, is to do that
17 which you will do no matter where Ameren improves the line?

18 A. Those facilities definitely would have to go
19 no matter where Ameren builds the line. Unfortunately, if
20 Ameren built that line, then we still have a problem in the
21 Rich Fountain area that we'll have to fix in a few years
22 and --

23 Q. And you'd probably like to fix that --

24 A. Well --

25 Q. -- along with this one?

1 A. -- it certainly makes sense to try to fix work
2 together and fix both problems at the same time.

3 Q. Do you have any requirement to come before the
4 PSC to seek approval of projects that you undertake like
5 this to --

6 A. No. Associated is not under the jurisdiction
7 of the Missouri Public Service Commission except related to
8 safety issues. Let me clarify that one.

9 Q. Certainly. So basically by the vehicle of you
10 acquiring the easements for Ameren, Ameren didn't really
11 have to propose any kind of a line for approval of the
12 Commission and then go out and seek the easements. They got
13 the easements and then they sought the approval. Right?

14 A. Well, we acquired the easements originally for
15 Associated, not for Ameren. It worked out that we could
16 contribute those as part of our contribution to this
17 project. And certainly that benefits Ameren being able to
18 build this transmission project.

19 Q. You mentioned that Associated is owned by
20 Central?

21 A. We're owned by six regional G and T
22 cooperatives, one of which is Central Electric Power
23 Cooperative.

24 Q. How does that work, the ownership of
25 Associated?

1 A. It works like the cooperative structure where
2 down on the distribution level the retail customers, the
3 farmers and -- and all the retail customers own the local
4 distribution cooperatives. Those distribution cooperatives
5 formed -- joined together in the late '40s, early '50s to
6 form regional G and Ts to be their power supplier.

7 Q. G and T?

8 A. G and T, Generation and Transmission
9 Cooperative is what it stands for. In 1962, the six
10 G and Ts in Missouri got together and decided to pool all
11 their generation resources and formed Associated to become
12 responsible for their power supplier. And, as such, they
13 own Associated and they each have two representatives on our
14 Board of Directors as far as our governors.

15 Q. Who elects those representatives on your
16 board?

17 A. They're elected by the G and Ts to serve on
18 our board.

19 Q. Who elects the people who elect the people to
20 your board?

21 A. They're elected by -- the distribution
22 cooperatives elect the G and Ts and the retail customers
23 elect the board members of the distribution cooperatives.
24 That's the way the cooperative structure works.

25 Q. So basically if the people who are getting the

1 improvements that Associated wants to make don't really want
2 them, Associated -- or excuse me -- the members, being the
3 recipients of those benefits, have what remedy as far as
4 letting it be known that they would just as soon not have a
5 new power line?

6 A. They can complain to their local distribution
7 cooperative Board of Directors and that Board of Directors
8 could complain to their G and T and the G and T could then
9 bring the issue to Associated's board.

10 Q. What would happen if the local distribution --
11 the level at which retail customers have some vote, what
12 would happen if they voted out all of those directors and
13 put in directors that said we're not going to do this?

14 A. The way the cooperative structure works, those
15 directors are members of the co-op. So they could -- it
16 wouldn't be a non-member of the co-op, it would be a member
17 of the co-op that appoints the directors on the co-op. As I
18 understand, even under the retail -- if you go to retail
19 customer choice type of structure, they would either be a
20 member of the co-op or not a member of the co-op, but --

21 Q. Don't the members elect the directors?

22 A. The members elect the directors on the co-op.

23 Q. Didn't you just tell me the directors were the
24 ones that are in charge of the decision on the local level
25 like at Central?

1 A. At the distribution co-op, they're in charge
2 of the local distribution co-op. Those distribution co-ops
3 elect directors to serve on Central's Board of Directors.

4 Q. Okay. So if you elected people at the
5 distribution co-op who did not want to build a line and
6 they, in turn, elected directors to the Central Board of
7 Directors who vetoed the line, would Associated then not
8 build the line?

9 A. Our governor's structure on Associated
10 requires 8 out of 12 affirmative votes for any action. So
11 there would have to be 8 votes on our Board of Directors to
12 cause any policy change or new policy.

13 Q. So actually the retail customers don't have a
14 very effective method to control your decision-making
15 either, do they?

16 A. Yes, they do.

17 Q. What is it?

18 A. Through the government process.

19 Q. The one you just described?

20 A. Well, when it gets to Associated's board, the
21 fiduciary responsibility of our board is to look after the
22 good of all 750,000 customers on the system. So while there
23 may be negative impacts on one group of customers, the board
24 has a bigger responsibility. And it's a tough decision and
25 they look at that very seriously, but they have to decide

1 what's in the interest of our consumers, of our owners.

2 Q. How seriously do you think they looked at this

3 particular decision to assign easements to Ameren?

4 A. It has been discussed in our board room, it's

5 been discussed at Central's board room, it's been discussed

6 at Three Rivers board room, it's been discussed at the other

7 distribution co-op, Gascosage board room.

8 Q. Do you know of any public meetings among the

9 retail customers anywhere where the matter was discussed

10 prior to the decision being made?

11 A. Prior to the decision?

12 Q. By Associated.

13 A. By Associated in 1978?

14 Q. No. To assign the easements acquired in '78

15 to Ameren for a new power line.

16 A. The only place I know it was discussed in our

17 board room. Our board approved the deal with Ameren.

18 Q. Yeah. That's probably about the only place it

19 was discussed too, wasn't it?

20 A. Well, I'm -- Central does a very thorough

21 report at their board on what our board does. And I'm sure

22 it was discussed at Central's board. And Three Rivers has

23 two representatives on our board. I don't know what they

24 might have discussed at their board room beyond that.

25 Q. Where do you live?

1 A. Springfield, Missouri.

2 Q. Got power lines on your land?

3 A. Not presently, but the former piece of

4 property I owned -- I had 18 acres out south of town and I

5 did have a double circuit 161 kV across the back of my

6 property, lighted steel towers.

7 Q. Not a 345?

8 A. Not -- no, not on my property. It was just a

9 double circuit 161. It was a fairly massive structure.

10 Q. Near your home, near your house, your

11 residence?

12 A. Within 1,000 feet or so.

13 Q. Thousand feet. Further away than 300 feet?

14 A. That's more than 300, yes.

15 MR. DEUTSCH: Okay. That's all the questions

16 I have. Thank you, sir.

17 JUDGE DIPPELL: Thank you.

18 We're going to go ahead and take a break for a

19 little more than 15 minutes. We're going to come back here

20 at 10:30. We can go off the record.

21 (A RECESS WAS TAKEN.)

22 JUDGE DIPPELL: Mr. Deutsch, you'd finished

23 questions; is that right?

24 MR. DEUTSCH: Yes, I had.

25 JUDGE DIPPELL: Okay. I have a few questions

1 for you, Mr. Fulks.

2 QUESTIONS BY JUDGE DIPPELL:

3 Q. Explain to me again -- I was a little confused
4 about the structure of the cooperative structure. Where
5 does Central fit into the picture?

6 A. Central is one of the six G and T co-ops.
7 Used to be referred to as Generation and Transmission before
8 they turned over the generation resources to Associated, but
9 we still call them G and Ts. They're one of our six owners.
10 There's five others around Missouri, one of them is actually
11 headquartered in Vinita, Oklahoma and serves a large part of
12 northeast Oklahoma.

13 Q. And they're all concentrated with Associated
14 to be their --

15 A. To be their power supplier. We build power
16 plants and the high-voltage transmission lines, the 345 kV
17 lines.

18 Q. And what I would think of as a co-op would be
19 the local distribution company?

20 A. Typically, that's what people would think of
21 as their local co-op, would be their local distribution
22 company.

23 Q. Okay. But it was Central that obtained the
24 easements?

25 A. As agent for Associated.

1 Q. Okay.

2 A. Our board assigned them as our agent to

3 acquire the easements as well as to construct the line, part

4 of which was constructed from Thomas Hill to Kingdom City.

5 Central did all the engineering work, right-of-way

6 acquisition, construction. And they -- they currently

7 operate and maintain it on behalf of Associated and we pay

8 all their costs of doing that.

9 Q. Okay. And you talk about -- in your Direct

10 Testimony you mention the Southeast Electric Liability

11 Council and the Southwest Power Pool Engineering and

12 Operating Committee --

13 A. Yes.

14 Q. -- the Reliability Criteria Subcommittee and

15 the NERC Reliability Subcommittee and Assessment Committee

16 are all things that you have served on or are currently a

17 member of?

18 A. That's correct.

19 Q. Can you kind of explain just a little bit

20 about what those councils and committees do?

21 A. Under the North American Electric Reliability

22 Council, otherwise known as NERC, which is the big umbrella

23 organization, there are, I believe, 13 regional reliability

24 councils in different parts of the country.

25 In this area we have three that -- that all

1 come together that we -- actually four, we have MAIN, which
2 Ameren's a member of, the Mid-American Interconnection
3 Network -- Interpool Network. We have MAP, which is
4 Nebraska, Iowa, the Dakotas is all part of another
5 reliability council called MAP.

6 We have the Southwest Power Pool, which is
7 part of Missouri, Kansas, Oklahoma and part of Arkansas.
8 And then we have the Southeast Regional Reliability Council
9 which is Alabama, Georgia, and all the way over to Arkansas.
10 And presently Associated belongs to SER.

11 During -- until about four years ago, we
12 belonged to the Southwest Power Pool, but their rules
13 changed and it became more favorable for us to join SER and
14 we did that. We had a bit of falling out, you might say,
15 with Southwest Power Pool, so we joined SER.

16 Q. And that's Southeast Electric Reliability
17 Council?

18 A. That's the Southeast Electric Reliability
19 Council. So I've had the opportunity in my career to be on
20 various committees both in the regional organization as well
21 as in NERC, the big organization.

22 Q. Can you explain what the various committees --
23 what they're charged with doing, what they do?

24 A. They -- they look at the standards that
25 electric utilities operate under. They develop criteria

1 like reliability criteria, which among other things includes
2 reserve levels. They have transmission planning criteria
3 that -- that talks about what -- how companies should design
4 their transmission system so that we all essentially operate
5 under the same criteria and guidelines.

6 They deal with operational issues, such as
7 inadvertent energy where companies mismatch schedules. They
8 do -- make sure that the system operates at a frequency of
9 60 cycles and that nobody over-generates or under-generates
10 that would cause a reliability impact on the system.

11 This would basically all -- all evolved out of
12 the 1965 blackout in New York City, which received a lot of
13 publicity because there wasn't a standard reliability
14 criteria among the different utilities at that time.

15 So the power industry -- all the utilities got
16 together and formed the National -- North American Electric
17 Reliability Council to come up with a set of standards to
18 make sure that we all operate the same and we all operate in
19 a reliable manner.

20 Q. Okay. Do you happen to know when the 161
21 kilovolt line was built in Callaway-Franks?

22 A. The Chamois to Maries line I believe was in
23 the late '50s. Chamois unit two, which Central -- that was
24 before Associated was formed -- and at that time Central had
25 a generating plant at Chamois. And they built the second

1 unit in 1959, I believe, it was a 50 megawatt unit. And
2 around that time period was when I believe that line was
3 built.

4 Q. So if Associated had continued with its
5 original plans back in the '70s, would that line -- would
6 there be 161 kilovolt line and a 345 kilovolt line there?

7 A. That's correct. That's correct.

8 Q. You discussed at page 5 the regional
9 generation and transmissions are owned by 51 local
10 distribution cooperatives that provide electricity to over
11 750,000 retail customers. Are those all Missouri customers
12 or are some of those Oklahoma, as you mentioned?

13 A. No. They're -- some of those are in Oklahoma.
14 I don't know the exact number in Oklahoma. We have some in
15 southeast Iowa. Three of these distribution co-ops serve a
16 large part of southeast Iowa. We're a member of Northeast
17 Electric Co-op, one of our other six G and Ts.

18 Q. Do you have any idea percentage-wise maybe a
19 rough estimate of how many of those are Missouri customers?

20 A. Probably about -- I would guess about 85
21 percent -- 80 to 85 percent would be Missouri customers.
22 Probably closer to 85 percent.

23 Q. And then about the connection at the Rich
24 Fountain Substation, will that connection be for the purpose
25 of serving Associated's Missouri members or --

1 A. Yes, it would. We have a considerable load
2 growth in that area of our system south of Jeff City. As I
3 said in my testimony, about a 260 percent increase in the
4 load in that area since 1979.

5 And we will need to add some high-voltage
6 transmission support in that area in the next few years. In
7 fact, Central has acquired a substation site at Rich
8 Fountain for the future purpose of tying into our 345 kV
9 line in order to supply the 161 kV system.

10 And, in fact, they built a 69 kV line across
11 that property -- they built it for 161 kV construction, but
12 it's presently energized at 69 kV. Our plan is that
13 eventually when we need that support in the next few years,
14 then we'll energize that line at 161 kV, which will supply
15 power west over into the Osage area, which we have a 69 kV
16 delivery of Central at Osage --

17 Q. Okay.

18 A. -- southeast of Jeff City.

19 Q. So at the bottom of page 8 of your Direct
20 Testimony you say it will provide the needed transmission
21 support for the central Missouri area. Is that what you
22 mean by transmission support?

23 A. Yes. That's right. That's the -- one of the
24 benefits that Associated gets on this project and why we're
25 willing to spend several million dollars at the Franks

1 Substation is in -- because we have an opportunity to
2 connect to this 345 line at Rich Fountain. And that's the
3 one -- the one big benefit to us.

4 If we have a line from Bland to Franks, which
5 the Intervenors have proposed, that has no value to
6 Associated. It doesn't help us supply that load in that
7 area.

8 And if that were the option, as I testified,
9 the cost to Associated if Ameren wanted to build that, the
10 cost at Franks would be the same, but we wouldn't have much
11 interest in contributing any money in that project. It
12 would provide no benefits to us. It has higher losses on
13 the system. It's, from an engineering standpoint, not as
14 good of an alternative for us as the proposed line from
15 Callaway to Rich Fountain to Franks will be.

16 JUDGE DIPPELL: Okay. That's all the
17 questions I have.

18 Again, I apologize. Tuesday mornings are
19 sometimes kind of rough with the Commission agenda, so I'm
20 going to ask you to step down but to remain for recall from
21 Commission questions. Oh, I guess we could go ahead -- did
22 I ask you already?

23 MR. LOWERY: We actually don't have any, your
24 Honor.

25 JUDGE DIPPELL: Sorry. I'll call you back for

1 Commission questions and then we'll do cross-examination
2 based on questions from the Bench.

3 THE WITNESS: Thank you, your Honor.

4 JUDGE DIPPELL: Thank you. Let's go ahead
5 with the next witness then.

6 MR. RAYBUCK: Thank you, your Honor. If we
7 could, we'd like to get a little bit out of sequence and put
8 Dr. Gajda on the stand since he has teaching
9 responsibilities tomorrow and other responsibilities at the
10 University of Missouri-Rolla, if that would be acceptable to
11 you.

12 JUDGE DIPPELL: Would there be any objection
13 to that from the other parties?

14 MS. O'NEILL: No, your Honor.

15

16 MR. BATES: No, your Honor.

17 MR. DEUTSCH: No.

18 MR. RAYBUCK: We will call Dr. Walter Gajda to
19 the stand.

20 (Witness sworn.)

21 JUDGE DIPPELL: Thank you.
22 You may proceed.

23 MR. RAYBUCK: Thank you, your Honor.

24 If I might on a housekeeping matter, I have
25 provided to you several extra copies of the MAIN map. You

1 have in front of you a more compact version of the MAIN map,
2 but I believe it has all the information on it that has been
3 marked as Exhibit No. 52 from yesterday.

4 JUDGE DIPPELL: Okay. Thank you.

5 WATER GAJDA, JR., having been first duly sworn, testified as
6 follows:

7 DIRECT EXAMINATION BY MR. RAYBUCK:

8 Q. Okay. Would you please state your name for
9 the record.

10 A. Walter J. Gajda, Jr.

11 Q. And, Dr. Gajda, by whom are you employed?

12 A. By the Curators of the University of Missouri.

13 Q. And what is your position at the University of
14 Missouri?

15 A. I am a professor of electrical and computer
16 engineering on the Rolla campus.

17 Q. And did you prepare written testimony which
18 was filed on your behalf in this proceeding?

19 A. Yes, I did.

20 Q. You have in front of you a document which has
21 been marked as Exhibit No. 11. It consists of three pages
22 of testimony and it's been marked the Surrebuttal Testimony
23 of Walter Gajda. Is this your Surrebuttal Testimony which
24 you prepared?

25 A. It is.

1 Q. Do you have any changes or corrections to make
2 to it?

3 A. I have none.

4 Q. If I were to ask you the questions set forth
5 in Exhibit No. 11, would your answers be the same as
6 contained in that document?

7 A. Yes, they would.

8 MR. RAYBUCK: Your Honor, I move to admit into
9 the record Exhibit No. 11, and I make Dr. Gajda available
10 for cross-examination.

11 JUDGE DIPPELL: Thank you. Are there any
12 objections to Exhibit No. 11?

13 MR. BATES: No, your Honor.

14 MS. O'NEILL: No, your Honor.

15 JUDGE DIPPELL: Then I will --

16 MR. DEUTSCH: I will object.

17 JUDGE DIPPELL: I'm sorry, Mr. Deutsch.

18 MR. DEUTSCH: Still here. This witness seems
19 to be offering, based upon the testimony I see, an opinion
20 on health effects. I believe his bio does not indicate that
21 he is a doctor nor a member of the healing arts profession.
22 Therefore, he is not qualified to make this opinion and I'll
23 object to it being received as expert opinion. As his
24 personal opinion, I have no objection to it.

25 MR. RAYBUCK: May I respond?

1 JUDGE DIPPELL: Yes, Mr. Raybuck.

2 MR. RAYBUCK: Dr. Gajda is not a medical

3 doctor; however, as his testimony indicates, he does have a

4 doctor of philosophy in electrical engineering, I believe.

5 And as his testimony indicates, he has studied the subject

6 of electromagnetic frequencies and his resume discusses the

7 research he has done over his career. And, therefore, I

8 believe based on the testimony and his resume, he is an

9 expert.

10 But even if that were -- even if you

11 disagreed, I believe that would simply go to the weight of

12 his evidence and, therefore, I believe that the objection is

13 not well founded.

14 JUDGE DIPPELL: All right. I'm going to

15 overrule the objection. I also believe that this testimony

16 can come in. I believe Dr. Gajda is an expert in the field

17 of electrical engineering and with regard to electromagnetic

18 fields, appears to be qualified to give an expert opinion as

19 to the health effects thereof.

20 You're correct, he's not a doctor and the

21 Commission will give that the weight that it deserves. But

22 I'm going to overrule your objection and admit Exhibit

23 No. 11.

24 (EXHIBIT NO. 11 WAS RECEIVED INTO EVIDENCE.)

25 MR. RAYBUCK: Thank you, your Honor.

1 JUDGE DIPPELL: Is there any cross-examination
2 by Staff?
3 MR. BATES: No, thank you.
4 JUDGE DIPPELL: Office of the Public Counsel?
5 MS. O'NEILL: No questions, your Honor.
6 JUDGE DIPPELL: Mr. Deutsch?
7 MR. DEUTSCH: Yes, just a couple.
8 CROSS-EXAMINATION BY MR. DEUTSCH:
9 Q. Doctor, have you got your testimony in front
10 of you there?
11 A. Yes, I do.
12 Q. Could you turn to page 3? Question at the top
13 of the page is, Please describe your own beliefs and
14 conclusions about EMF and 345 kV transmission lines.
15 Is that a correct reading of the question?
16 A. Yes.
17 Q. Could you read your answer?
18 A. Well, what I have is the handwritten copy
19 here, sir. Do you have a --
20 Q. I'll read it for you.
21 A. Go ahead and do that. That's fine.
22 Q. I've seen this problem before. I understand.
23 A. I grabbed the wrong sheet out of the car this
24 morning.
25 MR. RAYBUCK: May I supply Dr. Gajda with a

1 copy?

2 JUDGE DIPPELL: Certainly. That might be
3 helpful later.

4 THE WITNESS: Thanks. Appreciate it.
5 Electromagnetic fields associated with 345 kV lines has no
6 impact on the health of living organisms, including humans.

7 BY MR. DEUTSCH:

8 Q. And that is your belief?

9 A. That is my belief.

10 Q. And based on that belief, that is your
11 conclusion?

12 A. Yes.

13 Q. Do electromagnetic fields have any effect on
14 pacemakers?

15 A. Not 60 hertz fields, not the sort of fields
16 we're talking about here. Higher frequency fields may have
17 significant effects. I'm not prepared to sit here and say
18 microwave ovens, cell phones, things that operate at much
19 higher frequencies have no effect. I simply believe that to
20 be an open question. The issue of 60 hertz fields, however,
21 is, in my opinion, settled.

22 Q. Are you aware that various manufacturers of
23 heart pacemaker equipment caution recipients about
24 high-voltage lines, 345?

25 A. I am aware that as a matter of liability, one

1 cautions about many things. I use ladders although I've
2 seen a suit brought because there was no warning label that
3 you could fall off.

4 Q. So they're just warning because they're
5 worried about somebody suing them, not because it's true?

6 A. I am confident that at 60 hertz there will be
7 no significant impact on a pacemaker's operation under a
8 340 kV line or any other transmission line.

9 Q. Significant?

10 A. Of course.

11 Q. Your testimony says there is no impact, zero.
12 Is it now a little?

13 A. No. I believe it's zero.

14 Q. So it's not --

15 A. When I use "significant," it's in the sense of
16 statistically significant. One can always see in
17 epidemiological data clustering. Now, the question is
18 whether it's statistically significant or not. If it is
19 not, one can quibble about the semantics, but I believe no
20 is the proper --

21 Q. So it really becomes more, again, part of your
22 belief that you're answering here that you don't happen to
23 believe that it's statistically significant?

24 A. All I can bring to the Commission and to the
25 public is my belief.

1 Q. Have you got any of these studies that you've
2 conducted on EMF?

3 A. Do I have --

4 Q. Written documents with you?

5 A. I don't have them with me, but I have written
6 documents.

7 Q. You don't have them. Did you show any to
8 Ameren when they approached you about this case?

9 A. I did not.

10 Q. Is it your testimony that to a scientific
11 certainty there absolutely is no impact on living organisms
12 from a health standpoint, or is it your testimony that there
13 is no evidence to support an inference of adverse impact?

14 A. I'm not sure I understand the semantic
15 difference in the two ways you phrased that question.

16 Q. I guess I'm looking at it from a scientific
17 burden of proof standpoint. Doesn't the question really
18 depend on whether you have to prove the existence or rather
19 you just simply have to prove the non-existence?

20 A. It's very difficult to prove a non-existence.
21 I mean, it can be done in a few mathematical situations, but
22 experimentally, it's extraordinarily difficult. What I can
23 say is that we have done -- the community -- the scientific
24 community has done over 20 years of research. We've spent a
25 lot of money and we have found nothing of significance.

1 Q. How old a man are you, sir?

2 A. I am 60 and a half.

3 Q. I was thinking you're pretty well preserved.

4 I take it you don't smoke?

5 A. I do not smoke.

6 Q. Do you remember back in the '50s when people

7 didn't know that smoking caused cancer and had adverse

8 health effects?

9 A. I remember people calling cigarettes coffin

10 nails back in the '40s and '50s.

11 Q. Because you coughed a lot?

12 A. And they very well knew that they were having

13 an impact on their health.

14 Q. Well, you knew it any way?

15 A. I didn't know it. I know my father did. He

16 stopped before the surgeon general's report was issued.

17 Q. And do you recall that the position the

18 tobacco companies took was there was insufficient evidence

19 to show a connection?

20 A. Yes. And if I were in the business of selling

21 nicotine, it would be a different thing. But if you're

22 suggesting, as I think you are --

23 Q. Yes, I am.

24 A. -- that I have some reason to hide an effect

25 here, you are spectacularly wrong.

1 Q. I'm not thinking you're hiding anything. I'm
2 just wondering and trying to determine what your basis for
3 your beliefs are.

4 A. My education, my research and my thorough
5 reading of the existing literature.

6 Q. Are you being paid a fee to be here?

7 A. Absolutely not. Zero. I pay for my own
8 travel and I have every time I've testified or gone to a
9 public hearing on this matter.

10 Q. Do you get paid for any of these documents
11 that you write for the power industry?

12 A. I write none for the power industry. I wrote
13 one report back in the late 1970's and that paid for a
14 couple of graduate students, but didn't pay me a penny. The
15 University of Notre Dame paid my salary.

16 Q. And that was a Preliminary Screening for
17 Biological Effects of UHV Transmission Line Electric Fields?

18 A. Yes.

19 Q. Final report to the American Electric Power
20 Service Company?

21 A. That's right.

22 Q. Electric Power Service Company asked you to do
23 that report for them?

24 A. AEP built a -- it was a two and a quarter
25 million volt test line in northern Indiana. And at that

1 time I was at the University of Notre Dame on the faculty.
2 They approached me and some biological colleagues to ask us
3 to do a research. But not a penny of my salary was paid by
4 AEP.

5 MR. DEUTSCH: I have no further questions.

6 JUDGE DIPPELL: Thank you.

7 QUESTIONS BY JUDGE DIPPELL:

8 Q. Dr. Gajda, I've got just a couple questions
9 for you. At page 2 of your testimony you stated that the
10 most comprehensive and credible study to date was conducted
11 by the National Institute of Environmental Health Sciences
12 pursuant to legislation enacted by the Congress and you have
13 a cite there to that publication. Oh, I see. That's
14 National Institute of Health publication?

15 A. That's correct.

16 Q. Okay. I'm sorry. I'm trying to decipher my
17 own notes.

18 Okay. Your resume includes some publications
19 regarding audible noise of the electric transmission lines.
20 There's been a little bit of evidence regarding noise
21 impacts by some of the Intervenors in this case and one of
22 the company witnesses testified that he believed that there
23 was an audible noise.

24 Have you done any studies -- do any of your
25 studies look at the biological factors or health effects of

1 audible noises or is it strictly electromagnetic?

2 A. We measured and modeled and tried to
3 understand what was causing the audible noise. Again, this
4 was on a test line that ran at two and a quarter million
5 volts. It was intended to be the next step in the
6 transmission grid in the country, although no one is
7 proposing to go there yet. And in those -- those lines do
8 get noisy, especially when it gets -- when humidity goes up.

9 The only organisms we worked with were
10 insects. And, you know, so we had no opportunity to look at
11 the physiological impacts on, say, larger animals or human
12 beings of audible noise so, no. That's a long answer, but
13 no, I didn't do any work on the health effects of audible
14 noise.

15 Q. Okay. Can you describe in just a little more
16 detail what an EMF is?

17 A. Well, it's an acronym for electromagnetic
18 field. And basically any time you have electrical charge
19 moving, it will affect all of the other charges in the
20 vicinity. We model that effect through what we call fields,
21 which are just shorthand for forces.

22 If you have two charges, they will feel each
23 other. If they're light charges, they will -- at
24 macroscopic distances they will repel. If they're unlike,
25 they will attract.

1 If one charge is in motion, this charge will
2 not only feel that, it will feel another force that's at
3 right angles to the motion called a magnetic force. So a
4 charge in motion, which is what you have in a transmission
5 line, you have an enormous -- a lot of charge in motion at
6 60 cycles per second, will radiate out these forces -- force
7 at a distance.

8 You hear them when you drive under a
9 transmission line, you have your radio on AM, you hear all
10 that static. What is that is the 60 hertz magnetic field
11 and higher harmonics coupling into your radio.

12 We feel them -- I guess I feel them most
13 intensely sitting on my deck at home because the feeder from
14 my house goes right above the deck -- it's about eight feet
15 above the deck. And when the dryer is on and the air
16 conditioner's on, I -- we've measured it, there's a larger
17 field there then there would be under a several hundred
18 thousand volt line off the edge of the right-of-way.

19 So we feel these every day in our living. I
20 mean, Earth has a magnetic field. When we move in that
21 magnetic field, we generate forces, very small ones on the
22 charges in our body.

23 At 60 hertz -- and I'm not a medical doctor,
24 but I've worked with biologists, I've read a lot of medical
25 doctors' work. At 60 hertz what appears to happen is these

1 fields, these forces couple into our body and very mildly
2 heat. It's very small. If you're alive, the heating is
3 insignificant compared to the biological heat that you're
4 giving off by being alive. And as best I have been able to
5 tell, that is the single effect of electromagnetic fields at
6 60 hertz.

7 Q. Do you know what the measurable amount of the
8 heat is? Can you quantify it or --

9 A. You know, it's funny. I should have --
10 it's -- it's several orders in magnitude below the
11 biological heat that your body produces. You know, each of
12 us is giving off so many BTUs per hour since we're alive.
13 And I can't remember if it's two or three orders of
14 magnitude less than that, but it's very small.

15 Now, please understand that I'm not talking
16 here about standing in front of the main battle radar of an
17 agent class cruiser. I mean, there you will be cooked.
18 There's absolutely no question about that. But I'm talking
19 about what we experience in our normal -- in our normal
20 experiences.

21 Q. And when you talk about 60 hertz, that is
22 equivalent to what a 345 kilovolt line would be producing?

23 A. It's what our entire electrical distribution
24 system in the United States runs at. Sixty hertz --
25 sometimes they lose a tad or pick up a tad, but they try

1 very hard to average 60 hertz over the days, weeks.

2 I mean, sometimes you'll run generating a
3 little harder. But, yeah, everything runs at 60 hertz. I
4 mean, once upon a time Medicine in Westinghouse had an
5 argument about whether we had AC or DC and we ended up with
6 AC, but we could have done it with DC.

7 Q. And is there a distance that you can measure
8 the field from a 345 kilovolt line?

9 A. Well, the academic answer, of course, is that
10 the field goes on forever. It falls off as one over the
11 radial distance out from the line squared. So if you're
12 4 feet out, it's a 16th of what it would be at 1 foot. At
13 300 feet, it's 1 over 90,000 of what it would be at 1 foot,
14 if it falls off at the square.

15 Q. And what is it at 75 feet?

16 A. Well, I can't -- I'm not smart enough to
17 divide 75 by 900 in my brain.

18 Q. What's the formula?

19 A. Well, I mean, 75 squared is -- that's
20 embarrassing -- 49 -- something over 5,000, maybe 6,000.

21 MR. LOWERY: It's not embarrassing, Doctor.

22 THE WITNESS: I mean, it's well under a tenth
23 of a percent of what it would be. It's the reason we put
24 these up high, is we're using the air to insulate the -- the
25 energy so it doesn't arc to earth. That's the reason we

1 build them high.

2 JUDGE DIPPELL: All right. I apologize that I
3 cannot just dismiss you because I fear the Commissioners may
4 have a couple of questions also.

5 THE WITNESS: I warned my students. And it's
6 one of the few things people pay for in life, a college
7 education, that they're delighted when they don't get it for
8 a day. So they're not going to be upset.

9 JUDGE DIPPELL: All right. I will ask you to
10 step down and be available for recall.

11 I just want to warn you all that we will have
12 to stop about 5 till 12:00 because the computers are going
13 down in the building at noon and we want to be sure we're
14 off line so we don't mess anything up with the transcript
15 and so forth.

16 But let's go ahead and proceed with the next
17 witness, get the preliminary stuff out of the way.

18 MR. LOWERY: Your Honor, we call David Nunn.
19 (Witness sworn.)

20 JUDGE DIPPELL: Thank you.

21 Go ahead, Mr. Lowery.

22 DAVID A. NUNN, having been first duly sworn, testified as
23 follows:

24 DIRECT EXAMINATION BY MR. LOWERY:

25 Q. Would you please state your name for the

1 record.

2 A. David Nunn.

3 Q. And, Mr. Nunn, by whom are you employed?

4 A. I'm self-employed. I'm an independent fee

5 appraiser.

6 Q. What's the name of your company?

7 A. It's called The Nunn Company.

8 Q. And are you one of the owners of The Nunn

9 Company?

10 A. Yes. I'm one of the partners.

11 Q. Did you prepare written testimony, which was

12 filed on your behalf in this case?

13 A. Yes, I did.

14 Q. You have a document, I believe, in front of

15 you which has been marked as Exhibit No. 10, consists of

16 11 pages. Is that the written testimony to which you refer?

17 A. Yes.

18 Q. It's called Surrebuttal Testimony of David A.

19 Nunn?

20 A. Yes.

21 Q. Do you have any changes or corrections that

22 you need to make to that testimony?

23 A. Not that I know of.

24 Q. If I were to ask you the questions set forth

25 in your testimony, would your answers be the same as given

1 therein?

2 A. Yes.

3 MR. LOWERY: Your Honor, I would offer

4 Exhibit 10 into evidence and tender Mr. Nunn as a witness

5 for cross-examination.

6 JUDGE DIPPELL: Are there any objections to

7 Exhibit No. 10?

8 MR. BATES: No objection.

9 MS. O'NEILL: No objection.

10 MR. DEUTSCH: No objection.

11 JUDGE DIPPELL: Thank you. I will admit

12 Exhibit No. 10.

13 (EXHIBIT NO. 10 WAS RECEIVED INTO EVIDENCE.)

14 JUDGE DIPPELL: Is there any cross-examination

15 by Staff?

16 MR. BATES: No, thank you, your Honor

17 JUDGE DIPPELL: Office of the Public Counsel?

18 MS. O'NEILL: No questions, your Honor.

19 JUDGE DIPPELL: Mr. Deutsch?

20 MR. DEUTSCH: Thank you, your Honor.

21 CROSS-EXAMINATION BY MR. DEUTSCH:

22 Q. Good morning, Mr. Nunn.

23 A. Good morning, Mr. Deutsch.

24 Q. Are you related to Bill Nunn?

25 A. Yes, sir. He was my father.

1 Q. Fine man.
2 A. Yes, sir, he was.
3 Q. I live in your old house now.
4 A. I didn't realize that. I knew you lived on El
5 Marie, but --
6 Q. Your house.
7 A. Small house --
8 Q. Nice house.
9 A. -- small world.
10 Q. Yeah. You indicate in your testimony -- have
11 you got your testimony with you, by the way?
12 A. Yes, sir, I do.
13 Q. Okay. And I didn't get the number, what's the
14 exhibit number on that?
15 MR. LOWERY: It's 10, your Honor.
16 MR. DEUTSCH: Ten?
17 MR. LOWERY: Yeah.
18 MR. DEUTSCH: Thank you.
19 BY MR. DEUTSCH:
20 Q. As I understand it, you state in your
21 testimony that you have inspected the area that we're
22 talking about here, the general area through three counties
23 of the Callaway-Franks line?
24 A. Yes, sir, that's correct.
25 Q. Okay. Did you prepare any kind of a written

1 report of your findings, observations, conclusions for
2 Ameren concerning your visit to the Callaway-Franks line?

3 A. No, I did not.

4 Q. So your testimony here is basically what it is
5 that you have concluded about the work you've done?

6 A. Yes.

7 Q. Now, I think it came up a little earlier, you
8 may have been in the room. It is true that you have been
9 hired by Ameren to assist in appraising properties for the
10 purpose of acquiring the easements in the Callaway-Franks
11 corridor?

12 A. That's not quite accurate. We have done one
13 appraisal for AmerenUE in acquiring -- actually acquiring
14 the entire property. It was the Drennen property. But
15 other than that, we have not done any appraisals.

16 Q. But is it your understanding that you will be
17 called upon, if necessary -- I mean, if they can agree with
18 the landowner on an easement, there's no need for you to be
19 involved, is there?

20 A. Typically, that would be the case in most
21 litigation.

22 Q. Yeah. You're only involved when they need to
23 have expert testimony as to value because there's a dispute
24 over it. Right?

25 A. Yes. And you're assuming that I would be

1 hired by AmerenUE, but that isn't necessarily the case.

2 Q. But you have been hired by them in the past?

3 A. Yes. At various times.

4 Q. They're on your client list?

5 A. They are on my client list. Most of the

6 appraisal work I've done for them, however, has been for

7 their personal holdings. I've done very few appraisals that

8 involved any litigation.

9 Q. You've never done any condemnation? It's in

10 your bio here that you've done work on condemnation cases.

11 A. Yes, I have.

12 Q. Do that for the condemnor or the condemnee?

13 A. Both.

14 Q. I noticed on your client list, it's an

15 impressive list of institutions, but no individuals.

16 A. If I had a list of individuals, it would be a

17 document several inches thick. And no offense to anyone

18 that I've done work for, even some of the -- for instance,

19 some of the members here on the Commission who might be well

20 known on a statewide basis, most people tend to look at the

21 institutional clients you deal with rather than the

22 individuals you deal with.

23 Q. Your testimony at the bottom of page 5 of your

24 Exhibit 10, if you could -- we're going to start there.

25 Now, at line 16 you've been asked a question and they ask

1 you for an opinion, which I'll just -- rather than make you
2 read a question that's 10 lines long, I'll just say that
3 they're asking you for your opinion as to the difference in
4 value, if any, between land with or without power lines. Is
5 that generally what they were trying to get you to offer an
6 opinion on?

7 A. Yes. I believe that's accurate.

8 Q. And I notice at the very bottom of the page on
9 line 23, in support of your opinion that's expressed there,
10 you mention a study that you did for AmerenUE?

11 A. Yes.

12 Q. Is that one of these projects you were engaged
13 by Ameren for?

14 A. That happened to be one instance in which we
15 were involved with the appraisal of the property that did
16 involve a transmission line easement.

17 Q. Was that because the value needed to be
18 determined for a particular property there?

19 A. Yes. It was a matter involving an estimate of
20 compensation for the property owner.

21 Q. And so you basically developed this study as
22 support for the value of a property in Camden County?

23 A. It -- it was done in conjunction with that
24 property and I believe one other property that we'd been
25 hired to appraise. Both of these property owners had not

1 been able to settle with AmerenUE.

2 Q. This is on a transmission line. Right?

3 A. Yes, sir.

4 Q. Was that a 345,000 volt transmission line?

5 A. I believe in that case it was 161. It may

6 have been 345. I don't remember for sure, but I believe it

7 was a 161.

8 Q. So the properties -- I think you mentioned in

9 here that you studied 40 sales --

10 A. That's correct.

11 Q. -- in that study?

12 By the way, do we have that study? Have you

13 brought a copy with you or is it available?

14 A. No. I don't have the study with me. And

15 actually the study was never put in written form because

16 these two cases never went to trial.

17 Q. Oh, so the study you're talking about isn't

18 actually a document?

19 A. It was research that we would have done in the

20 normal course of our appraisal.

21 Q. So what you're really referring to is the

22 research and study is being used in the sense that you did a

23 research study, but you didn't develop a document called

24 study of the health effects or anything like that?

25 A. That's correct.

1 Q. Yeah. Okay. Well, I'm glad you cleared that
2 up, because I was wondering why we didn't have that. That
3 would be a real convenient thing to attach to your testimony
4 and be instructive to all of us.

5 So in the course of your study, you studied
6 40 properties that -- why don't you tell me. The
7 description here indicates -- or I take it from the
8 description that you studied 40 properties that sold with a
9 power line on the property?

10 A. There were approximately 40 sales involving
11 what I would term rural properties. Some of those --
12 approximately half of those, had transmission lines and
13 approximately half of those did not have transmission lines
14 or easements involving transmission lines.

15 Q. By what method did you select the 40 sales to
16 be considered?

17 A. Basically, the same that we would for any
18 appraisal assignment. And it was based upon -- in this
19 instance, the two properties happened to be in Camden County
20 that we were involved with appraising the easements for.

21 So we looked at as many sales as we could find
22 in Camden County that had larger transmission lines on them
23 and that had sold in a relatively recent time period. And
24 then we also tried to find similar sales of properties that
25 did not have those transmission -- those kinds of

1 transmission lines on them.

2 Q. So the similarity across the board as to
3 whether each of the properties with each of the lines were
4 similar to each other or whether the properties with or
5 without the line were similar to some other piece of
6 property was pretty much within your judgment to execute?

7 A. To some degree, yes.

8 Q. And you were doing the study for Ameren. Did
9 they pay you for that?

10 A. Yes. I was paid for the time involved.

11 Q. You didn't think they had any particular
12 answer in mind when you did the study, did you?

13 A. Well, in addition -- not including AmerenUE,
14 any of our clients -- one of the things we make clear when
15 we take an assignment is -- one of the designations I hold,
16 which is a national designation, requires me to essentially
17 be unbiased in what I do.

18 And I make sure they understand that. And
19 that whatever results I come up with, that is the results
20 that I'll have. And if they agree with them, that's fine
21 and if they don't, that's fine. And that is one of the
22 reasons most of my clients hire me.

23 Q. And I take it the results you came up with in
24 Camden County were okay with Ameren because they've hired
25 you again?

1 A. I don't know that that was the reason that
2 they hired me.

3 Q. I'm just asking. They did hire you again for
4 this project here?

5 A. I've been hired prior to that a couple of
6 times and then I've been hired on a somewhat regular basis
7 off and on.

8 Q. So they like your work?

9 A. Yes. They feel that I'm objective about what
10 I do.

11 Q. And you present a good image in court?

12 A. Well, I appreciate that.

13 Q. Tell me, were these 40 sales you analyzed --
14 now I'm understanding that you had 20 sales actually that
15 had power lines on the properties?

16 A. Approximately. There may have been a little
17 more than half that did or a little more than half that
18 didn't.

19 Q. What size were the lines of the less than half
20 that had power lines? What was the power?

21 A. To the best of my recollection, they involved
22 69 kV, 161 kV, and I don't remember if any of the sales had
23 345 kV lines on them or not. There may have been one or two
24 sales, but I'm not positive about that.

25 Q. You haven't seen the MAIN map that Ameren's

1 been kind enough to provide to us as Exhibit like 52 or 53.
2 I don't believe that shows any 345 volt lines in Camden
3 County, but it's hard to tell.

4 A. And that may actually be the case. Like I
5 say, I don't remember if that's the case or not.

6 Q. Okay. So the 40 you studied had power lines
7 of some size on them. By the way, when I talk about a power
8 line, was it in every case at least true that each of the
9 ones that you selected had at least, what, a 69 kV? I mean,
10 it was a transmission line and not a distribution line?

11 A. Yes. I believe that's the case. There may --
12 as I indicated with the possibility of the 345, there may
13 have been a small number of sales, a couple of sales, that
14 did have what would actually be a distribution line, a
15 smaller line on them.

16 But the one thing that we noticed in
17 performing that research and that study was that it didn't
18 seem to make any difference as to the size of the line
19 whether the property sold for a certain amount or not. In
20 other words, a comparison of any of those sales that had
21 transmission lines with other sales that did not essentially
22 showed that the prices paid were similar regardless of the
23 size of the line.

24 Q. And other than to determine that the sales
25 took place and they were similar, did you go out and inspect

1 the properties and see if, you know, like the one that had
2 the transmission line also had a nice home on it or had
3 features that might have made it a little more valuable than
4 the other one? I mean, how comparable were the sales, in
5 your judgment?

6 A. I think they had a pretty high degree of
7 comparability. They all involved unimproved land, so there
8 were no improvements other than maybe some sheds or, you
9 know, very minor outbuildings on one or two of the sales,
10 but for the most part they were unimproved land.

11 Q. How many of the ones you studied had an
12 additional easement for another line to come through in
13 addition to the one that was already there?

14 A. I don't believe that any of them did.

15 Q. How many of them had both a 161,000 volt line
16 and a 345,000 volt line on them?

17 A. Based on what you just indicated to me about
18 the 345 kV line not existing in Camden County, I would say
19 none of them did.

20 Q. How many had a 69 and a 161 together?

21 A. Probably none of them.

22 Q. So from that study you concluded that the
23 value change, if any, between a single transmission line of
24 some size less than 345 does not impact very much the value
25 of land in rural areas that have no transmission lines?

1 A. Essentially that would be true, yes.

2 Q. And you would not conclude from that study
3 that it necessarily establishes that 506,000 volts on two
4 lines does not have an effect on the value of properties as
5 opposed to no lines?

6 A. And I wasn't asked to conclude that
7 specifically, but what I can tell you is that interviewing
8 property owners that did have those transmission lines or
9 buyers that purchased those properties, they were aware that
10 those lines did exist, but -- and I hate to admit this, but
11 like myself, were pretty unaware of any size or what was
12 involved with it other than that easement was actually there
13 and they could see the poles that existed and that's kind of
14 what they dealt with. So --

15 Q. You don't think the value judgments being made
16 at the time that that property was being bargained for with
17 an existing power line of either 69 or 161,000 between a
18 seller who knew it was there and a buyer who knew it was
19 there would have been changed if the seller had indicated to
20 the buyer that next month you're going to get another one
21 that's 345,000 volts coming through?

22 A. I don't know if I could answer that
23 specifically other than to say that that data would indicate
24 that that would be a high probability. Although I would
25 also hedge that a little bit to say it's going to depend on

1 how that line is up.

2 If they're parallel, which is going to be the
3 case to my understanding for the most part in this line, I
4 doubt that that would have any significant impact other than
5 if it had any effect on the use of the property.

6 Q. And how many of the properties you evaluated
7 had power lines of whatever size you looked at within, let's
8 say, oh, 50 feet of a structure, a building, let's say a
9 barn?

10 A. As I indicated, for the most part these were
11 all unimproved sales.

12 Q. I take it then that there also were none that
13 had a power line that was within, let's say, 100 feet of a
14 house, a residence?

15 A. That would be correct.

16 Q. So there weren't any of those. And the
17 comparable aspect of the properties that did have lines that
18 you looked at, were they basically out to where they did not
19 impact upon any structures or residence?

20 A. That would be correct.

21 Q. Would you think your study would justify a
22 conclusion as to value of a property if, in fact, you had a
23 situation that was different in that the line would run,
24 let's say, within 50 feet of a house?

25 A. I would imagine based on some information

1 that -- that I've seen in just the course of my appraisal
2 practice, that there could be, depending on the size of the
3 line, some influence on the value of the property.

4 Q. And, in fact, in your testimony near the
5 conclusion on page 9, you talk about some of these
6 exceptions to your general supposition, your opinion that
7 all things considered, the lines don't make that much
8 difference. Right?

9 A. In general, they don't. But, as you say,
10 there are exceptions. And -- and you've mentioned my
11 testimony here which would include, you know, depending on
12 where the line is located and if it affects to any great
13 degree the bundle of rights that a property owner has.

14 So if it greatly affects their right or
15 ability to use that property, sure, it could have some
16 effect on the value of the property. And certainly we would
17 take that into effect if we were doing an appraisal.

18 Q. Do you believe that any of the properties of
19 the people who are here as the Concerned Citizens, that they
20 are not using any part of it that would not be interfered
21 with by a high-powered line?

22 A. I'm sorry. I'm not sure I understand.

23 Q. That was a pretty compound question. Let me
24 start over with that.

25 Your last statement seemed to indicate that an

1 interference with use would affect the opinion because it
2 would interfere with one of those rights that make-up the
3 bundle of rights of ownership, which is the right to use and
4 occupation; is that right?

5 A. Yes. If -- and I believe if this is an answer
6 to your question, that as long as the -- they're able to
7 essentially use the property to its highest and best use, in
8 other words, if it happens to be an open hay field but they
9 can still reap hay from it, then there's not any significant
10 detriment because of the power line.

11 But if it affects their ability to use the
12 property, if it's very close to a house, for instance, or
13 there's an area where they would normally built a house, but
14 they can't, then yes, it could have an effect on the value.

15 Q. Did your inspection of the Callaway-Franks
16 line indicate to you the number of instances where a use
17 such as that would be impaired because of where the line was
18 going?

19 A. I didn't see any specific properties that this
20 new line might impact, but that doesn't mean that there
21 aren't any. And it's my understanding that there may be
22 some -- some properties where there could be a high impact
23 on value. And, in fact, that Drennen property that I
24 mentioned would be one of those.

25 Q. Drennen is the best example, isn't it?

1 A. Yes. Because essentially --
2 Q. That one's total?
3 A. -- that involved just buying the entire
4 property.
5 Q. And I was going to ask you, when you were told
6 to go out and inspect the route, did you get a document or a
7 map or something that told you where the line was going to
8 be?
9 A. Ameren provided me with a map that showed what
10 I would term as an approximate location for the line.
11 Q. So you don't know exactly where the line that
12 we're talking about would be on any particular property from
13 what you got either?
14 A. No, I don't.
15 Q. And you probably -- just for thoroughness, are
16 you aware of anything that's been given to the Commission to
17 show them exactly where the line would be?
18 A. No, I'm not.
19 Q. And you didn't create anything on your own to
20 say, okay, here's where it will be?
21 A. The only thing I did in an attempt to -- at
22 the request of AmerenUE, in an attempt to answer that
23 request for giving them some comparable sale information so
24 that they could begin the easement purchase process, we
25 assembled as many sales as we could find in Pulaski, Maries

1 and Osage County involving unimproved land.

2 Q. With lines?

3 A. Just unimproved land.

4 Q. Okay.

5 A. Some may or may not have had lines on them. I

6 don't know specifically from memory. But in -- in order to

7 do that so that we'd know roughly what size of acreage to

8 look at in the way of sales, I attempted to, based on the

9 map they gave me, transpose that on to a county ownership

10 map so that I'd know roughly where it went so I could see

11 roughly the sizes of the various properties it might pass

12 through.

13 Q. So from that rough estimation, how many

14 properties did you determine that the line was going to be

15 within, let's say, 100 feet of a structure?

16 A. I wasn't able to do that. Like I said, this

17 was a county atlas or county ownership atlas. And so those

18 are very small in scale and don't show improvements.

19 Q. You talk about this bundle of rights that

20 owners have when they acquire property. And on page 9 of

21 your testimony, if you want to take a look at the top there,

22 you talk about the ownership of property consisting of a

23 bundle of rights and you talk about the effects of a utility

24 easement. You say that the easement has some effect on the

25 right of full possession and quiet enjoyment. That's right,

1 isn't it?

2 A. Yes.

3 Q. And it has some effect on the rest of the
4 property, which you call insignificant, but if, in fact, the
5 rest of the property means a structure nearby, that could be
6 a significant impact?

7 A. As I said before and in the testimony, there
8 would be instances where there could be some significant
9 impact. But for the most part -- for instance, some of the
10 observations that I made about the existence of the current
11 line and assuming that the proposed line would go parallel
12 to this, it appeared that the line ran along fence lines or
13 property lines or along creeks or other natural barriers,
14 valleys where there probably wouldn't be any or -- any
15 significant impact on the use of that property and, thus,
16 the value.

17 But I also saw some instances where it could
18 possibly come close to, you know, a single-family residence
19 or something like that where there could be a more
20 significant effect on value.

21 Q. So actually the right of possession and quiet
22 enjoyment is unavoidably impacted by the presence of a
23 utility easement like this, in some degree, greater or
24 lesser?

25 A. The reason I'm hedging here is in doing an

1 appraisal for any condemning authority for easements,
2 utility easements happening to be one example, while you --
3 and if you look at the value of that property as you're
4 supposed to legally, according to my understanding, before
5 and after with the difference being compensation, as I've
6 indicated in a lot of cases or most cases, you don't see any
7 significant difference in value unless there's some actual
8 land that's taken in fee simple.

9 But as a practical matter, you can't expect
10 someone to sell you an easement for free, so you -- you look
11 at these bundle of rights and say, well, actually, at least
12 initially you're going to lose some use of the property
13 and -- and the ability to enjoy it as you might otherwise.

14 Q. And that's somewhat related to what the
15 purpose of the easement is, isn't it?

16 A. Yes.

17 Q. I mean, if you grant to me an easement to walk
18 across your lawn and I only do it once a month, that
19 easement might not be worth much?

20 A. That's true. And in the end, that easement
21 may not affect your ability to sell that property for the
22 same amount you would if it weren't there.

23 Q. Because it's a rather small impact?

24 A. Yes. And depending on where it's located.

25 Q. But a 345,000 volt line next to a 161,000 volt

1 line, sounds to me like a little bit more of a significant
2 impact.

3 A. Again, it could be, but in most instances if
4 you're dealing with larger acreage -- and it appeared to me
5 looking at these county atlases, that a significant number
6 of these properties would be from 40 to 300-plus acres.

7 If the location of those lines was similar to
8 the places that I observed, and I think there are
9 photographs included here to show some of those, I -- I
10 would suspect that there wouldn't be much, if any,
11 difference in value before and after.

12 Q. So if, in fact, the utility went out of its
13 way to put the lines -- because they have a blanket
14 easement -- and if they went and used it in order to put the
15 lines where they would do the least damage to the right of
16 quiet enjoyment and peaceful possession, then the damage, if
17 any, would be insignificant, at least on that issue?

18 A. Yes. I would agree with that.

19 Q. And, on the other hand, if they used their
20 authority under their blanket easement because they felt
21 they had to or they wanted to or they wanted a nice straight
22 line to, you know, put the line right over your house, which
23 had to be removed, then that would be a significant impact?

24 A. Yes.

25 Q. Also, the right of disposition -- you mention

1 in that same paragraph that the right of disposition as to
2 the entire property is totally unaffected. Are you saying
3 that the landowner has the right to dispossess Ameren if
4 they don't like having the easement?

5 A. The right of disposition would be the right to
6 sell.

7 Q. Yeah. The right to sell to somebody else.
8 Ameren's not going to buy the whole thing. Right?

9 A. Right. In other words --

10 Q. They can't be forced to buy it?

11 A. Correct. What I was saying here is that just
12 because that easement is there doesn't mean you can't sell
13 your property. You would be able to sell your property for
14 some amount of money.

15 Q. Yeah. And, you know, just because chickens
16 have wings doesn't mean they can't fly. But I think you
17 would agree with me that if, in fact, you have a piece of
18 property that everyone views as unsaleable, wouldn't that
19 affect the price that you could get for the property?

20 A. My opinion would be there's no such thing as
21 an unsaleable property. Somebody will pay you something for
22 any piece of property that exists.

23 Q. Okay. I can agree with that. They'll pay you
24 something.

25 You also mention back on page 6 of your

1 testimony that you also don't believe that power lines are a
2 big consideration in valuing property because you've looked
3 at a lot of -- what is it you've looked here -- sheets -- I
4 don't know -- sales sheets -- sale sheets, multi-list
5 service information. You've looked on the sheets and the
6 line's not mentioned; is that right?

7 A. Yes. Essentially, that's correct.

8 Q. If the line's not mentioned, how do you know
9 there's a line on there?

10 A. To answer your question, hopefully, and to
11 give you some examples, there are some multi-list services
12 that will only say if a utility such as electric is there.
13 Some of them do indicate whether there are easements, but
14 typically if they do, they just have a yes or no, but they
15 don't tell you where or what it's for necessarily. It may
16 be for utilities, it may be for something else.

17 Q. Pretty good reason for that too, isn't there?
18 They want to sell that property?

19 A. Well, however, they're liable for that. And
20 as an attorney, you know that there are lawsuits dealing
21 with that. So it's probably not in your best interest to
22 hide anything when you sell to someone.

23 Q. Yeah. Disclosure is in the eye of the
24 beholder. And you said if there's a box for utility
25 easements and you check it, you haven't concealed anything,

1 have you?

2 A. The point is -- that could be true, but in my
3 dealings with real estate salespeople in general, what I've
4 found is the same -- same indication that I've given here is
5 to them they've not seen any significant difference in value
6 to warrant mentioning anything unless it's something unusual
7 where -- as you've indicated, as an example, where it may be
8 right next to or very close to a house.

9 Q. Real estate brokers don't have an obligation
10 to file any kind of a report, for instance, if they try to
11 sell a property and the person they're trying to sell it --
12 they're representing the seller and the buyer comes in and
13 says, I don't like that line, I don't like that utility
14 line, they don't have any obligation to report that
15 anywhere, do they?

16 A. The seller may have to in the seller's
17 disclosure statement. The -- and if that statement that you
18 just said were made to a broker -- and I am a broker, so
19 legally, I would -- I would be on notice if -- if I didn't
20 make that aware to the buyer.

21 Q. The buyer already knows it. He's looked at it
22 and told you.

23 A. Oh, I'm sorry. I thought you meant the
24 seller.

25 Q. No. The broker is representing the seller.

1 The seller knows it's there. Buyer wants to buy the land,
2 seller wants to sell the land. Broker is selling the land
3 for the seller. Right?

4 And the buyer says, I don't like that utility
5 easement. I'll give you 10,000 less, but I ain't going to
6 buy it with that there because it's ugly. Would that show
7 up -- why would that have to show up anywhere if the seller
8 didn't accept the offer?

9 A. That -- that specific transaction or the
10 negotiations that went into that would not show up. But
11 where that would be noticeable is in doing what I indicated
12 with that study in Camden County.

13 Once you looked at that as a sale in
14 comparison with other properties, if that happened to be the
15 case, that would always come up low if you used it as a
16 comparison to other properties, or if it didn't have any
17 effect, it would come up in the same value range as all the
18 other sales that you look at.

19 Q. So let's go further in the analysis and say
20 that that buyer says, I'll give you less money and the
21 seller says, I'm not going to sell it to you. And the next
22 buyer comes along and says the same thing, says, Well, I'll
23 give you less money, but not that much less. And the seller
24 says, Well, I still don't like that. But then finally a
25 buyer comes along and says, Well, I'll give you 5,000 less

1 because I don't like the line. Where would that show up?

2 A. Again, that's going to be something that would
3 show up if -- if you use that in comparison with other
4 properties or if, in doing an appraisal, you'd use that as a
5 sale as well as two or three or four other properties, that
6 sale is going to stand out as being different and outside
7 the typical range of value.

8 Q. But it wouldn't be a whole lot outside the
9 typical range of value if you were dealing with a large
10 amount of money?

11 A. And, again, that boils down to my point. It
12 may be that it's not that big a factor to the buyer. They
13 may use it as a bargaining point. And if the seller is in a
14 hurry to sell the property, that may be a factor that's
15 involved in all this as well. That's why we try to verify
16 sales when -- when we do an appraisal to see what all the
17 motivating factors are.

18 Q. And in the course of doing your study down in
19 Camden County, did you also go out and talk to the current
20 person owning -- who would be the purchaser of that
21 property -- that gave valuable consideration for the
22 property with the line there, do any kind of investigation
23 as to what they did think about it or whether it entered
24 into their consideration or whether they discussed it? Did
25 you do anything like that, or did you just compare the

1 values to see if there was a mathematical correlation?

2 A. As I indicated before, we did interview the

3 buyers to see if that had any impact on what they paid for

4 the property. And --

5 Q. How many did you interview?

6 A. Again, it was roughly half that sample. It

7 may have been a little less than half or a little more than

8 half. I can't remember exactly how much.

9 Q. Half of 40 or half of the less than 20?

10 A. No. Half of 40. It may have been 15, it may

11 have been 20, but it was somewhere in that range. Because

12 we tried to keep the sample relatively even as far as those

13 that had it and those that didn't.

14 Q. Do you think that the placement of additional

15 poles in the ground that is farmland is of no meaningful

16 impact on farmers who are trying to work that land?

17 A. If it doesn't significantly affect their

18 ability to use the property for whatever farming purpose, it

19 probably doesn't have much, if any, impact on value.

20 Q. What if it does have an impact? Who

21 determines that?

22 A. Obviously if I were the one doing an appraisal

23 for an easement, I would tend to look at the placement of

24 that to see where it was in relation to whatever type of

25 farming operation. If it's a hay field, how does it affect

1 the ability to mow.

2 And my experience is and my usual procedure
3 with people when I deal with property owners in condemnation
4 cases, either working on their behalf or working for the
5 condemnor, is to say, Pretend like I'm stupid, tell me
6 everything there is about this property and how you think
7 this is going to adversely affect you.

8 And my experience has been that most people
9 are pretty honest about that. You know, all they expect to
10 be is fairly compensated. And they'll tell you here's what
11 I think and that usually is pretty accurate.

12 Q. And have you ever talked to somebody who did
13 not want to sell their property, did not want to have their
14 property condemned, did not want to sell an easement and
15 found that same attitude, that it's very fair to them, that
16 they have to sell and they're going to get value?

17 A. There are people -- and I would say in most
18 cases involving any kind of condemnation -- that are not
19 excited about it and would probably rather not have it
20 happen. I've gone through it. I wasn't excited about it.

21 But it's something that most people realize is
22 going to happen and so they just want to come out of it
23 being compensated as fairly as possible. And they might
24 obviously be upset about it, but most people are pretty
25 realistic about that. That's not always the case, but most

1 people are.

2 Q. Do you think they're more realistic if, in
3 fact, they believe that the condemnor has exhausted all
4 other reasonable alternatives that would keep them from
5 having to condemn their land?

6 A. I'm not sure I follow your question.

7 Q. The condemnor wants to put a power line across
8 your land and you know that that same condemnor could put a
9 power line across some other piece of land. Do you think
10 that makes the homeowner feel less or more cooperative with
11 your efforts to fix the compensation that he's going to get?

12 A. I don't really have an opinion on that. I've
13 never really dealt with that with any of the property owners
14 that I've been involved with.

15 Q. Top of page 7 -- excuse me -- middle of page 7
16 of your testimony you opined that there was very little
17 difference between a 161 kV and a 345 kV line?

18 A. You're not reading the rest of the sentence.

19 Q. Apart from the fact that the 345 has a wider
20 right-of-way, usually 150 feet versus 100 feet for a 161 kV
21 line?

22 A. And it's also on higher poles.

23 Q. That was what I was wondering about. You
24 start out by saying very little difference and then it takes
25 you five lines to talk about the differences. You sure

1 there's very little difference between a 161 line and a 345
2 line?

3 A. Well, I think it was roughly three lines which
4 included part of the initial sentence, so it wasn't quite as
5 long as you indicated, but I understand what you're saying.

6 My experience in talking to buyers of property
7 where there have been 69, at least 161 kV lines, not very
8 many 345 kV lines, but has been that it's how it affects the
9 use of their property. And if there's a higher pole or the
10 poles are wider apart, that's -- that's significant only if
11 it does affect their ability to use that property.

12 Q. So it would be safe to say that in your total
13 experience and in the studies you have done and in the
14 preparation you have made to develop the opinion you're
15 expressing here, you basically do not have any basis to
16 express an opinion about how people feel about the value of
17 a property that has both a 161 and a 345 kV line on it
18 because you've never seen one of those before?

19 A. I wouldn't say we've never seen one. What I
20 would say --

21 Q. Have you ever appraised one?

22 A. Well, we may have and I wouldn't have known,
23 because --

24 Q. I'm not asking you anything you don't know.

25 A. Well, the only thing I'm saying is the buyer

1 wasn't concerned with it, the seller obviously didn't
2 indicate anything about it, or the property owner, for
3 instance, if we were doing it for a loan for a refinance
4 possibly.

5 If we have done one of those -- to my
6 knowledge, we haven't, but we may have. And it's simply
7 because we don't see any significant value detriment because
8 of the existence of those lines regardless of how wide that
9 easement area is unless it's -- as I've indicated, unless
10 there's something unusual about it. There doesn't seem to
11 be any -- any difference in value and so we've not paid that
12 close of attention, I'd have to admit.

13 Q. On page 8 of your testimony you talk about
14 your own personal experience with 21 acres that you owned
15 with some others outside of Linn. And that had a 165 kV
16 line on it. Is that the Central Electric 161 kV line?

17 A. Yes. In fact, I found that out when I was
18 doing the study. At the time we bought the property we knew
19 it was there, but we didn't know how big it was.

20 Q. Then once you bought the property, you knew
21 the line was there?

22 A. Yes.

23 Q. And that was the same line that's there now?

24 A. That's correct.

25 Q. And that property was bought by you after the

1 line was there?

2 A. Yes.

3 Q. And so you gave what value you and your
4 partners decided that property was worth at that time?

5 A. Yes.

6 Q. And then you sold that property, you and
7 your, as I understand -- did you sell it?

8 A. I sold my interest to my partners who
9 eventually sold the property in its entirety.

10 Q. And when you sold it to them, it had the same
11 line on it it had before when you bought it?

12 A. Yes.

13 Q. And when they sold it, it had the same line on
14 it that it had before when they bought it. How far back in
15 the chain of title did you go to find out what the value of
16 the land might have been before there was a line there, if
17 it had no line?

18 A. Well, I think the point would be, first of
19 all, that we were only -- we were the second owners. The
20 person we bought it from had built that cabin on the lake.
21 And all three of us were appraisers, didn't -- we felt that
22 the value we were giving was a fair value for the property
23 with or without that line there.

24 Q. And, in fact, as appraisers, it sounds like
25 it's a rather uniform belief that those power lines don't

1 affect the value of property anyway. Right?

2 A. Again, where there's no significant impairment

3 on the use of the property. I mean, that's not just a

4 blanket --

5 Q. This one -- this line was not --

6 A. It went over part of the lake where there was

7 a swimming area, there was a sand beach that we had put in.

8 So, you know, we had our kids down there. They'd be down

9 there swimming or --

10 Q. Was the line first or the beach first?

11 A. The line.

12 Q. So when you put the beach there, you knew that

13 the line was there?

14 A. Yes.

15 Q. That was your choice. Did you know or were

16 you aware or maybe it wasn't even the truth yet, that there

17 was another 150-foot easement that went parallel to that

18 161 kV line?

19 A. I didn't know about it, no.

20 MR. DEUTSCH: I think that's all I have.

21 Thank you.

22 THE WITNESS: Thank you. Nice to meet you.

23 JUDGE DIPPELL: Mr. Nunn, I'm going to let you

24 step down with the same conditions. The Commissioners may

25 have questions for you and so I will perhaps recall you

1 after we take our lunch break.

2 Through the wonders of technology, I have

3 discovered that there are no Commission questions for

4 Dr. Gajda. So are there any recross questions based on

5 questions from the Bench from him from Staff?

6 MR. BATES: No, thank you.

7 JUDGE DIPPELL: I asked some questions.

8 MR. BATES: Right.

9 JUDGE DIPPELL: Office of Public Counsel?

10 MS. O'NEILL: No questions, your Honor.

11 JUDGE DIPPELL: Mr. Deutsch, did you have any

12 questions based on my questions?

13 MR. DEUTSCH: No, I don't appear to.

14 JUDGE DIPPELL: And did you have any redirect?

15 MR. LOWERY: No, your Honor.

16 JUDGE DIPPELL: Then Dr. Gajda may be excused.

17 I don't know if that saves his afternoon class or not.

18 DR. GAJDA: It does. Thank you.

19 JUDGE DIPPELL: And you may step down, but

20 please remain to be recalled later.

21 MR. LOWERY: He won't tell his students you

22 caused him to get back on time.

23 JUDGE DIPPELL: In that case, we'll go ahead

24 and break for lunch now and return at one o'clock.

25 Thank you. We can go off the record.

1 (A RECESS WAS TAKEN.)

2 JUDGE DIPPELL: Okay. We've had our lunch

3 break and the Commissioners are still in agenda. I'm not

4 expecting them right away or anything, so we're just going

5 to continue down our list of witnesses and everybody will

6 get a second trip back to the stand maybe.

7 Are there any other AmerenUE witnesses?

8 MR. LOWERY: We have no other witnesses, your

9 Honor.

10 JUDGE DIPPELL: All right, then. Staff?

11 MR. BATES: Thank you, your Honor. We'd call

12 Jim Ketter to the stand.

13 (Witness sworn.)

14 JUDGE DIPPELL: Thank you.

15 You may proceed, Mr. Bates.

16 JAMES L. KETTER, having been first duly sworn, testified as

17 follows:

18 DIRECT EXAMINATION BY MR. BATES:

19 Q. Would you please state your name for the

20 record.

21 A. James L. Ketter.

22 Q. And what is your business address?

23 A. Post Office Box 360, Jefferson City, Missouri

24 65102.

25 Q. By whom are you employed?

1 A. Missouri Public Service Commission.

2 Q. And how long have you been employed with the

3 Commission?

4 A. Twenty-six years.

5 Q. And what is your position with the Commission?

6 A. I'm an engineer on the Staff of the Energy

7 Department working in the electric issues.

8 Q. Mr. Ketter, did you prepare and cause to be

9 filed in this case Rebuttal Testimony which has been marked

10 for purposes of identification as Exhibit No. 12?

11 A. Yes, I did.

12 Q. Are there any corrections, changes or

13 additions to that testimony which you would want to make at

14 this time?

15 A. No.

16 Q. If I asked you the same questions today, would

17 your answers be substantively the same?

18 A. Yes.

19 Q. Are your answers true and accurate, to the

20 best of your knowledge and belief?

21 A. Yes.

22 MR. BATES: Your Honor, with that, I move the

23 admission of Exhibit No. 12 into evidence, and I tender this

24 witness for cross-examination.

25 JUDGE DIPPELL: Thank you. Are there any

1 objections to Exhibit No. 12?

2 MR. DEUTSCH: No objection.

3 JUDGE DIPPELL: Then seeing none, I will admit

4 Exhibit No. 12.

5 (EXHIBIT NO. 12 WAS RECEIVED INTO EVIDENCE.)

6 JUDGE DIPPELL: Let's see. Is there

7 cross-examination by Office of Public Counsel?

8 MR. COFFMAN: Yes. Just a couple things.

9 CROSS-EXAMINATION BY MR. COFFMAN:

10 Q. Good afternoon, Mr. Ketter.

11 A. Good afternoon.

12 Q. You make some conclusions about the proposed

13 transmission line in your testimony, primarily on pages 4

14 and 5. And I thought I would ask you, Mr. Ketter, what type

15 of analysis led you to these conclusions? In other words,

16 was this an engineering analysis that led you to the opinion

17 that the Callaway to Franks route is the best route to

18 provide transmission -- to provide additional transmission

19 in this area?

20 A. I believe that would be the best way to couch

21 it in that, you know, the electrical remedy to the problem,

22 this would provide the best alternative.

23 Q. And that is the best engineering alternative,

24 in your opinion?

25 A. That's right.

1 Q. And when you say on the last line of page 4,
2 your Rebuttal Testimony, that this is the best choice, what
3 other alternatives were you examining? Was there a finite
4 list of options that you were looking at that give you the
5 opinion that this was the best among others?

6 A. I -- I did not have, you know, a list of
7 alternatives to choose from, but the existence of existing
8 easements that were recorded was an underlying advantage for
9 this -- for this route. The other route through the
10 Bland-Franks, the existing route, I agreed with the
11 company's analysis and those -- the downsides or the
12 negative issues around that line for the distance and the
13 impact on a different set of property owners.

14 Q. Would it be fair to say that your analysis was
15 placing the positives and the negatives of this particular
16 proposal side by side and weighing those?

17 A. Yes.

18 Q. Okay. And your analysis was not -- correct me
19 if I'm wrong, was not a comparison of a variety of different
20 routes and an opinion about which of those routes was the
21 best among the list of options?

22 A. It appeared to me that that one that was
23 chosen was -- was an economical route, was an effective
24 route to meet the requirements -- the electrical
25 requirements, because my interest in -- in the line was as

1 far away as the Overton transformers, the other electrical
2 issues in -- in the Missouri transmission network.

3 So I appreciated the load study that was done
4 because it impacted other transmission facilities that I was
5 aware of in the transmission network that this remedy could
6 help relieve.

7 Q. Would you consider your analysis to be an
8 economical analysis?

9 A. You know, I -- I've heard that term through
10 the last couple days, an economical analysis. And I'd
11 picture my analysis as looking down through the regulated
12 companies, because this Commission regulates the rates of
13 that regulated company, Ameren, AmerenUE. And my
14 perspective was looking at the ratepayers' --

15 Q. Okay.

16 A. -- perspective in whole, I think.

17 Q. Yeah. And you and others have testified as to
18 many of the positive economic advantages in this case,
19 partly being the fact that much of the easement along this
20 area has already been acquired?

21 A. That's true.

22 Q. But you didn't do an actual analysis of, you
23 know, say, options A, B and C and estimate or calculate the
24 cost and benefits on each side to determine exactly how much
25 more one option might be more economical than another, did

1 you?

2 A. No, I did not.

3 Q. And I think what I heard you just say, and let
4 me make sure I understand you correctly, that you, in doing
5 your analysis, were looking primarily at whether it would be
6 economic to the utility and then indirectly to the
7 ratepayers of AmerenUE down the road. Correct?

8 A. That's -- that's say -- everyone's perspective
9 is different depending on where they're sitting. Sitting on
10 the Staff, again, the Commission's responsibility is the
11 overall rate determination for -- for AmerenUE customers, so
12 that was one of my perspectives of looking at the
13 application.

14 Q. Did you feel that you were doing an analysis
15 that looked at public interest considerations beyond that,
16 beyond what would be good for AmerenUE and its ratepayers?

17 A. I was well aware of the public input, being
18 at -- at I think most all of the meetings that -- that
19 involved the public.

20 Q. Did you attempt to weigh the interests of
21 other members of the public other than those that would be
22 affected by AmerenUE and its rates in coming to your
23 conclusions in your testimony?

24 A. Well, it was -- through this process I have
25 looked at my own property, my own residence and considered,

1 you know, what would happen if it was in my backyard. And
2 that's a difficult issue to put dollars to or to evaluate,
3 but I did understand what the impact would be on
4 individuals.

5 Q. I'm just trying to understand if that was part
6 of the scope of your analysis. I mean, did the scope of
7 your analysis go beyond looking at the needs and benefits of
8 the AmerenUE system?

9 A. Well, yes --

10 Q. And I think that --

11 A. -- in that --

12 Q. Okay.

13 A. -- my testimony reflects that it's my opinion
14 that an existing route is superior to a new route through
15 the woods.

16 Q. Right.

17 A. In this case, you know, it has to do with the
18 extra 25 feet, but it also would affect even a whole new
19 group of property owners that would be affected if there was
20 a new route that was selected.

21 Q. Okay. The transmission needs that you've
22 identified, and I think many of us understand, could be met
23 with another route, could it not?

24 A. Other transmission additions would
25 alleviate -- could alleviate, you know, transmission

1 loading. But I think in this case, the information that
2 I've seen is that this alternative, of the alternatives that
3 were modeled, provides the best alternative.

4 Q. Okay. And that's from just an overall public
5 interest perspective, in your opinion?

6 A. Well, that -- that -- that portion of it, I
7 think, is the electrical solution.

8 Q. Okay.

9 A. But putting the -- the whole project together,
10 the application as filed by Ameren, it's my opinion that
11 it's in the public interest to -- to provide this
12 certificate to meet the transmission needs for Ameren's
13 system.

14 MR. COFFMAN: All right. Thanks a lot.
15 That's all I have.

16 JUDGE DIPPELL: Thank you.

17 Now, did I jump out of order or -- what you
18 all had proposed was for me to just go with the next party.
19 You didn't want me to go back and get Ameren and then leave
20 Mr. Deutsch for last on cross-examination of Staff's
21 witness? Does it matter?

22 MR. RAYBUCK: No. We have no
23 cross-examination, so it doesn't matter to us.

24 MR. DEUTSCH: That makes it easy.

25 JUDGE DIPPELL: Mr. Deutsch?

1 CROSS-EXAMINATION BY MR. DEUTSCH:

2 Q. Good afternoon, Mr. Ketter.

3 A. Good afternoon.

4 Q. Okay. Let me get this straight, if I can.

5 You work for the electricity department at PSC. You're not

6 involved in planning lines or systems for any utility?

7 A. You're meaning that -- asking a utility to

8 build from A to B?

9 Q. Did you participate, for instance, in the

10 confidential, highly proprietary study that was done by AECI

11 and Ameren?

12 A. No.

13 Q. You wouldn't, would you?

14 A. No.

15 Q. You don't get involved at that level, do you?

16 A. And I think -- if I may insert, that the Staff

17 reviews the technical decisions that are made by the

18 utilities.

19 Q. In those kind of studies, aren't they?

20 A. Yes.

21 Q. I mean, you don't go out and sit at the table

22 while the two sets of engineers from AECI and Ameren cook up

23 the deal and talk about alternatives and talk about plans.

24 You review the result of those meetings, don't you?

25 A. That's correct.

1 Q. And in this case did you have any involvement
2 prior to the submission of the application in January of
3 this year in this plan other than your -- you went to the
4 public meetings. I know --

5 A. That would be the only exception.

6 Q. Did you go to all the public meetings?

7 A. Yes, I did.

8 Q. Okay.

9 A. In -- meaning November. There were two public
10 meetings and then there was a meeting with the group of
11 intervenors.

12 Q. Right. Okay. So you basically review the
13 studies and information that is developed by Ameren. And by
14 the time you review them, basically what you're reviewing is
15 their solution, not yours or mine or Mr. Coffman's or
16 someone else's. What you're looking at is their solution?

17 A. That's correct.

18 Q. And when you are given the information, if
19 they happen to have considered alternatives, you will get
20 the information on what alternatives they did consider?

21 A. What the Staff would get is the application
22 and the opportunity to ask questions of the utility and
23 further determine as many questions as the Staff might have.

24 Q. And did you ask some questions about the
25 application in this case?

1 A. Yes.

2 Q. Did you ask them, for instance, what the
3 property owners along the Bland-Franks route might think
4 about having another line go through there?

5 A. I did not ask that question.

6 Q. Did you ask for any estimates on construction
7 costs for an alternative to put a Bland-Franks line in
8 instead of this one?

9 A. I did not ask that question.

10 Q. Did you ask anything about their analysis,
11 which was just a load flow analysis, as I understand it,
12 concerning something being done different than this on the
13 Bland-Franks line?

14 A. Nothing specific that I recall about -- about
15 that spec--

16 Q. So basically you accepted and then reviewed
17 the proposal that was made as to the best solution by
18 Ameren?

19 A. Well, I think I understood the electrical part
20 of the solution. And I also was familiar with the physical
21 part of the solution, Bland being an important substation
22 for Union Electric and Franks being an important substation
23 for Associated. And I -- I was familiar with I'll say not
24 only the territory, but the electrical problems that those
25 brought to the system.

1 Q. And in bringing that knowledge to bear, what
2 kind of adjustments or modifications did you suggest to the
3 Ameren plan?

4 A. I did not suggest any alterations.

5 Q. So their plan looked pretty good to you?

6 A. Yes, it did.

7 Q. Perfect?

8 A. Perfect in that I didn't offer any conditions
9 on -- in my recommendation.

10 Q. Is it failsafe?

11 A. No. I think the public hearings brought out a
12 number of issues that the property owners had.

13 Q. Is any electrical transmission line that can
14 be built failsafe as far as the electrical transmission
15 system?

16 A. Failsafe to that --

17 Q. Cannot fail.

18 A. Oh, no. It will -- it's mechanical, it could
19 fail.

20 Q. So when you say that this is the best route,
21 am I correct in understanding that what you are saying is
22 that Ameren has analyzed those routes that they have,
23 selected this one, and you agree with that?

24 A. Yes.

25 Q. And you didn't do, for instance, your own load

1 flow study?

2 A. No. The Staff does not have that capability
3 to do that independently.

4 Q. Yeah. And why would you? You don't plan
5 those things, they do. Right?

6 A. That's correct.

7 Q. So really you're pretty much dealing with
8 their information and their analysis and their
9 recommendations?

10 A. Yes. They file their information with their
11 application or file it to get the Commission to approve
12 their application.

13 Q. And you don't really have any kind of an
14 interest or maybe even authority to go outside and get a
15 peer review, ask a competing utility what they think about
16 Ameren's plan, anything like that?

17 A. That's not been the, I'll say, regulatory
18 process. We do -- as I had mentioned, Overton has a
19 connection with utilities to the west, so I'm familiar with
20 the facilities and recognize that there will be impacts.
21 But to ask the utility to give their technical input to
22 other utilities' applications, I have not pursued that.

23 Q. It seems to me that the application review
24 process is not a very critical review. Would that be
25 accurate? That you're looking to see whether what the

1 company says makes sense?

2 A. Well, it has to make sense, but then there's
3 also implications of -- as I mentioned earlier, rate-making
4 implications. If Union Electric is given an application or
5 a certificate is granted, that doesn't deal with the
6 rate-making treatment when it comes in service. So
7 they're -- they're still at risk in getting those facilities
8 in the rate base to get recovery.

9 Q. Does that ever not happen?

10 A. Oh, yes.

11 Q. They've built a 345 volt kilovolt line and the
12 Commission refused to let them recoup their rates on it?

13 A. The -- my quick answer was -- generating
14 facilities was my first thought --

15 Q. Right.

16 A. -- that would have been --

17 Q. Prudence?

18 A. Prudence, yes.

19 Q. But as far as the proceeding we're in today,
20 wouldn't you agree that if it is constructed according to
21 the plans -- which, of course, the reason why the
22 application process requires that they tell you everything
23 about this thing, because once you approve it, it's pretty
24 likely it's going to end up in rates unless they have some
25 extraordinary cost overrun or they gold plate the thing.

1 Right?

2 A. That's true.

3 Q. You talked about -- it seems to me anyway --

4 in answer to Mr. Coffman's questions, that the aspect of the

5 case of so many Intervenors in this case objecting to having

6 the line there didn't seem like that was a very big factor

7 in your decision as to whether this was the best solution

8 because you're really more interested in an electrical

9 solution that's going to result in low rates. Am I correct

10 in my assessment of your testimony?

11 A. Well, I recognize and, as I previously

12 mentioned, as an individual, I know that you go and knock on

13 someone's door they're not going to say, Come put it in my

14 backyard. That's just not our nature.

15 Q. So did you prepare anything -- I was looking

16 in your testimony and, in fact, you have stated factually

17 that people don't want it. People don't really care for it

18 much.

19 Doesn't seem to have made -- it's not clear to

20 me what that's in there for because it doesn't seem to have

21 made any kind of difference in your opinion. And I'm just

22 trying to find out if there is any room in the process that

23 you engage in where that component fits, gets evaluated and

24 then comes out in the recommendation?

25 A. That's, I'll say, a subjective thing. It's

1 not analytical for sure. I included it in my testimony
2 as -- as the record would reflect in the local hearings that
3 there was negative sentiment about its location. But I
4 would -- and as I've seen in many other certificate
5 applications, a lot of -- of displeasure with siting
6 transmission lines over property. I think that's just
7 the -- the way it is.

8 Q. So as far as a factor in your consideration,
9 it's probably not a factor because it's present in every
10 consideration that you do?

11 A. Well, if it was Bland-Franks, I would expect
12 those 135 or 150, whatever the number is, would have similar
13 feelings of, I wish it wasn't in my backyard.

14 Q. You expect that. Right?

15 A. Yes. Because I --

16 Q. And you assume that. You haven't talked to
17 any of them, have you?

18 A. A number of them I have.

19 Q. Now, what do they say? Did you tell them
20 about the reason why this line is being proposed over here,
21 to correct loading problems on the line that Ameren has over
22 there?

23 A. I don't -- I -- in my dealings, I try to
24 answer their questions.

25 Q. They didn't ask you about that?

1 A. Not to my recollection.

2 Q. Because, basically, the line isn't going
3 through their area anyway, so why would they. Right?

4 A. You're talking about an alternate line?

5 Q. Yeah.

6 A. Yes. I didn't talk to any other owners.

7 Q. You haven't really evaluated the sentiment of
8 the members of the public who live in the vicinity of that
9 line for a solution to the problem on that line?

10 A. No.

11 Q. And would you agree Ameren hasn't investigated
12 the sentiment of those members of the public either?

13 A. That was the testimony I heard this morning.

14 Q. Does that enter into your consideration as to
15 the alternatives that were evaluated?

16 A. No.

17 Q. Why not?

18 A. It gets back to there were filed easements on
19 record that could be used to build the line that was
20 necessary.

21 Q. So this kind of gets us back to really what
22 the key to your recommendation for approval is, which is
23 basically you already got free easements?

24 A. It's -- it's convenient and it's more
25 economical.

1 Q. Convenient. Could you give me a little more
2 on that? It's clearly more economical.

3 A. Timing. That it -- that it provides a quicker
4 resolution to the -- the problem because they're already on
5 file.

6 Q. Yeah. So is it important to you and the
7 Commission to get a real quick resolution to this problem
8 over -- which I assume you're referring to the Bland-Franks
9 line problem --

10 A. Yes.

11 Q. -- and not to the problem of getting better
12 service to Ameren's customers over in Jeff City with the
13 Loose Creek Substation?

14 A. Those are intertwined.

15 Q. They certainly are.

16 A. The --

17 Q. But I'm not asking you about that. What I'm
18 asking you --

19 A. Right.

20 Q. -- is concerning --

21 A. Right.

22 Q. -- the situation on the Bland-Franks line
23 that, you know, if it's convenient and the convenience is a
24 measure of how fast can we fix this, I'm trying to get an
25 idea of why a problem that you and Ameren have known about

1 since 1997 hasn't been fixed yet, but now it's got to be
2 fixed within a couple of weeks. Maybe you can explain that
3 to me.

4 A. The transmission system needs to be
5 reliable --

6 Q. Yeah.

7 A. -- so --

8 Q. But it hasn't been since 1997.

9 A. Well, you know, there are additions that are
10 made from time to time to -- to bolster up the reliability.
11 So all of UE's customers need to have a -- a vibrant
12 transmission system.

13 Q. As fast as possible?

14 A. Well, there -- there are ways to protect it
15 like the TLRs. They're using those to protect it at this
16 point.

17 But Ameren's customers will benefit by having
18 that extra capacity to market with Associated and other
19 utilities. When Ameren have -- has rates set before the
20 Commission, there are revenues that are recognized for --
21 for the ratepayers of Missouri.

22 So it's important to have a reliable
23 transmission system. And as -- as a ratepayer, I would want
24 my utility to be able to buy cheaper power if it's available
25 so that my rates can stay reasonable without going up too

1 much.

2 Q. So that's another consideration, is to have
3 lower rates faster?

4 A. The faster part is that as the load continues
5 to grow, the problems are going to get worse. So quicker is
6 better than slower.

7 Q. You're an engineer, aren't you?

8 A. Yes, I am.

9 Q. Do engineers, you know, usually pursue
10 engineering objectives in that way, that quicker is the
11 paramount consideration rather than considering all the
12 alternatives and facts and coming up with the best?

13 A. I wouldn't think, as a general rule, that, you
14 know, quicker is the engineering style. Tradition has a lot
15 to do with, you know, where we've been before and where
16 we're headed. That cautious growth or planned growth would
17 be a better basis for engineering judgment.

18 Q. And it sounds to me like, you know, as we
19 discuss this more and more, that your concern for the rates
20 is a substantial concern for you?

21 A. That -- that's, like I said, my perspective.
22 You know, I -- I'm familiar with the State of Missouri, the
23 transmission system. I'm familiar with Ameren's rate-making
24 procedures and the Commission's responsibility in that. So
25 that's kind of where my viewpoint is.

1 Q. And because of that viewpoint, the fact that
2 the easements are already free -- I mean, they're not only
3 there, but they were paid for by Associated. Right?
4 A. Yes.
5 Q. And Associated's rates aren't regulated by the
6 PSC, are they?
7 A. No, they're not.
8 Q. So Ameren gets them for nothing?
9 A. Yes. The easements --
10 Q. So virtually free land is a pretty important
11 consideration in looking at rates, isn't it, for Ameren?
12 A. That would have a significant impact on the
13 overall project, yes.
14 Q. And probably did?
15 A. Yes.
16 Q. And isn't it true then that your
17 considerations are basically oriented towards what the cost
18 of this project is rather than whether the engineering
19 solution is the best one available or an adequate one
20 available and that this is really just too good a deal to
21 pass up?
22 A. If I were trying to weigh my electrical versus
23 speed or other things, I -- my interest was in the
24 electrical solution. So, you know --
25 Q. So did you --

1 A. -- any more than --

2 Q. -- decide that an additional 345 kV line

3 between Bland and Franks would not work as an electrical

4 solution to the overload problem?

5 A. I -- what I liked about the load study --

6 Q. Did you make a determination yourself that

7 that wouldn't work?

8 A. Not that it wouldn't work, but I liked the

9 information that was provided in the load flow study.

10 Q. That you got from Ameren?

11 A. Yes. That --

12 Q. And you didn't run your own?

13 A. No. But it showed the Bland-Franks line and

14 other alternatives that made this Callaway to Franks a

15 better electrical solution. From the loadings that were --

16 that were, you know, projected through the load flow study,

17 you could see what was happening at Overton and other places

18 around the system.

19 Q. But you didn't go back and check that study

20 because you were willing to trust them on having done the

21 study correctly?

22 A. Well, you know, there's -- that's -- that's

23 the base case. They went to -- to the reliability councils

24 and got a 2004 projected load. That's --

25 Q. Well, they said they did?

1 A. Well, yes.

2 Q. And, like I said, there's a good deal of trust

3 that's got to go --

4 A. Well, yes.

5 Q. -- into a review of somebody else's proposal?

6 A. Uh-huh.

7 Q. Of course, if it makes no sense, it makes good

8 evidence that it's not trustworthy; but if it makes sense

9 and it brings out a good solution, why question it? They're

10 not dishonest people, are they?

11 A. If I had a model to run, I would go to the

12 same source to find the whole system modeled so I could put

13 it into my program.

14 Q. And I understand it's the scientific method

15 it's replicating to see if you get the same results?

16 A. That's true. And --

17 Q. But we didn't do that here?

18 A. I didn't.

19 Q. No. Now, I just wanted to confirm that on

20 page 5 of your testimony, this would be your Rebuttal

21 Testimony, line 6 that at least you, on behalf of the PSC

22 Staff, do understand that this is a new line that is being

23 suggested to go through the Callaway-Franks corridor and you

24 don't subscribe to this nonsense about how it was just

25 always there, it was just going to be delayed? Is that what

1 that says there?

2 A. New means that it was going to be constructed
3 in the near future --

4 Q. Well --

5 A. -- but that the property owners -- as I state
6 here, the property owners were surprised to see --

7 Q. So you didn't mean what you said there?

8 A. Well -- that the easements were transferred to
9 AmerenUE and that a new line was a serious consideration.
10 And my meaning there is that a line would be constructed
11 parallel to the existing line.

12 Q. Property owners were surprised to see that the
13 easements were transferred to AmerenUE and that a new line
14 was a serious consideration.

15 Is that what that says?

16 A. Yes.

17 Q. But that's not what it means? It means that
18 the old plan was still alive? Is that what they were
19 surprised at?

20 A. They were surprised to see that the '79 plan
21 was going to come to fruition under UE's construction plan.

22 Q. How many of them did you talk to reference the
23 fact that there was a '79 plan? None of them ever told you
24 that there was a '79 plan, did they, but you knew it?

25 A. Well, there was an easement that was

1 acquired --

2 Q. Sure.

3 A. -- by Central that identified --

4 Q. Sure.

5 A. -- the '79 plan.

6 Q. And we see that in the evidence that

7 Associated, they planned on it. But what I want to know is,

8 is do you have any basis to believe that any of the people

9 that are involved in this thing now, 22 years later, knew at

10 the time that all of this started that there was a prior

11 plan to build a 345 kV line? You don't have any information

12 to base that on, do you?

13 A. Only that, you know, in conversation there was

14 the expectation that the easements that were given would not

15 be used.

16 Q. For anything?

17 A. Right.

18 Q. But that is not correlative to an expectation

19 that they knew what it was that it was going to be used for

20 that it's not going to now be used for, is it? It was just

21 simply that they were told there was a line that was going

22 to go through here, but it's been abandoned. Isn't that

23 what you heard?

24 A. It would never be built.

25 Q. Never be built?

1 A. Right.

2 Q. They didn't say the 345,000 volt line will
3 never be built, just that there was a line planned at one
4 time, but it will never be built?

5 A. That's approximately what I heard, yes.

6 Q. So whether you meant it or not, you were right
7 about this being a new line, at least for the people that
8 you've talked to and you've been involved with since you've
9 been involved in this case, haven't you? It's new to them?

10 A. They've expressed themselves that way, yes.

11 Q. Why is it I don't seem to have any more
12 questions for you, Mr. Ketter?

13 MR. DEUTSCH: Thank you, your Honor.

14 JUDGE DIPPELL: Thank you.

15 Is there any cross-examination by Ameren?

16 MR. RAYBUCK: No, your Honor.

17 QUESTIONS BY JUDGE DIPPELL:

18 Q. I have just a couple questions for you,
19 Mr. Ketter. And I know that there are some Commission
20 questions for you. Let me review my questions here. That
21 one's been answered.

22 In your memorandum that's attached to your
23 testimony, on page 3 of that memorandum, the first full
24 paragraph, you're discussing benefits to mid-Missouri
25 customers and you say, Mid-Missouri customers would benefit

1 from this project. A proposed substation near Linn,
2 Missouri will provide UE additional transmission capacity to
3 serve its customers and an additional interconnection point
4 for AECI to serve its customers. This new substation would
5 provide a point of connection to the 345 kilovolt line that
6 allows connection to distribution substations and then to
7 customer loads.

8 Is the substation near Linn needed to serve
9 mid-Missouri customers in the absence of this 345 kilovolt
10 line?

11 A. That's not -- I don't believe was a
12 prerequisite for this application. It is an additional
13 asset that -- that comes about by having that
14 interconnection point at Linn or Loose Creek, as we've
15 defined earlier. But that was not a piece of the puzzle in
16 determining the initial need for the transmission line.

17 Q. So there's a need for the transmission line
18 and the new substation is just sort of a bonus for those
19 mid-Missouri customers. Is that what you're saying there?

20 A. Yes. And it -- at that point the voltage
21 level is too high to get down to distribution, you know,
22 customers. But it provides that point that Ameren has
23 indicated that might bolster the supply in the Jefferson
24 City area later.

25 Q. And then later in your memorandum toward the

1 back you listed four things that you thought that Ameren
2 should respond to. And then later when your Direct
3 Testimony was filed, you seemed to indicate that those
4 things have been responded to.

5 Did you feel that the property owners'
6 questions about the route selection, one of those items
7 there, was that resolved to Staff's satisfaction?

8 A. It was resolved to my satisfaction. It's
9 apparent that, you know, the property owners still have
10 questions because they're appearing here in this hearing.

11 Q. And what was it -- which property owners'
12 questions about the route selection were you considering
13 there when you filed that?

14 A. At this point after the public hearings in
15 Linn, it was, you know, why does it have to be here, more
16 than the selection of that specific route was a problem for
17 the property owners.

18 JUDGE DIPPELL: Okay. That's all the
19 questions I have for you, Mr. Ketter. But, like I say, I do
20 know that some of the Commissioners have questions for you,
21 so I will ask you to step down, but to remain on call.

22 THE WITNESS: Thank you.

23 JUDGE DIPPELL: Thank you.

24 Are there any other Staff witnesses?

25 MR. BATES: No, your Honor.

1 JUDGE DIPPELL: Does Office of Public Counsel
2 have any witnesses?
3 MR. COFFMAN: We do not.
4 JUDGE DIPPELL: Mr. Deutsch, would you like to
5 call your witnesses?
6 MR. DEUTSCH: Call Claire Kramer.
7 (Witness sworn.)
8 JUDGE DIPPELL: Thank you.
9 You may proceed, Mr. Deutsch.
10 MR. DEUTSCH: Thank you, Judge.
11 MARY CLAIRE KRAMER, being first duly sworn, testified as
12 follows:
13 DIRECT EXAMINATION BY MR. DEUTSCH:
14 Q. Would you state your name?
15 A. Claire Kramer.
16 Q. Spell your last name for the court reporter.
17 A. K-r-a-m-e-r.
18 Q. And where do you live?
19 A. 1005 Ferndale Avenue, St. Louis, Missouri.
20 Q. Are you a property in the area of the
21 Callaway-Franks line?
22 A. Yes, I am.
23 Q. And are you familiar with the reason why we're
24 here for this application?
25 A. Yes, I am.

1 Q. Did you file Direct -- or excuse me --
2 Rebuttal Testimony as a witness in this case?
3 A. Yes, I did.
4 Q. And do you have a copy of that in front of you
5 marked Exhibit 34?
6 A. I do.
7 Q. And have you reviewed that?
8 A. Yes.
9 Q. Is that testimony as set forth in there
10 correct?
11 A. Yes.
12 Q. Do you have any changes that need to be made
13 to that testimony?
14 A. No.
15 Q. Any corrections that you'd like to make?
16 A. No.
17 Q. Any additions that you would like to make to
18 what is in your testimony?
19 A. No.
20 Q. And the testimony that you have before you is
21 true and correct to the best of your knowledge and belief?
22 A. Yes, it is.
23 MR. DEUTSCH: Your Honor, I would offer into
24 evidence as part of the record the Rebuttal Testimony of
25 Mary Claire Kramer, Exhibit 34.

1 JUDGE DIPPELL: Thank you. Are there any
2 objections to Exhibit No. 34?
3 MR. BATES: No objection.
4 MR. LOWERY: No objection, Judge.
5 MR. DEUTSCH: Tender the witness for
6 cross-examination.
7 JUDGE DIPPELL: Thank you. I will admit
8 Exhibit No. 34 into the record.
9 (EXHIBIT NO. 34 WAS RECEIVED INTO EVIDENCE.)
10 JUDGE DIPPELL: Is there any cross-examination
11 by Ameren?
12 MR. LOWERY: No, thank you, your Honor.
13 JUDGE DIPPELL: By Staff?
14 MR. BATES: No, thank you.
15 JUDGE DIPPELL: By Office of Public Counsel?
16 MR. COFFMAN: Yes.
17 CROSS-EXAMINATION BY MR. COFFMAN:
18 Q. Good afternoon, Ms. Kramer.
19 A. Good afternoon.
20 Q. Your testimony speaks to, I guess, statements
21 by AmerenUE regarding accommodation, in other words, an
22 attempt to accommodate property owners.
23 And I believe you state on page 2 of your
24 testimony that there was an offer to move the route further
25 from your barn. And then you have a statement that says,

1 Moving the route further to the east would mean the line
2 would be over my barn or my house.

3 Am I understanding this correctly that Ameren
4 made a proposal to you to move the line somewhat and, in
5 your opinion, that alternative would be worse?

6 A. No. This was not a proposal made to me. This
7 was a proposal that I read in their response to the Public
8 Service Commission. I was surprised to see that, but --

9 Q. How many meetings have you had with AmerenUE
10 regarding the dispute?

11 A. No formal meetings.

12 Q. Have they attempted to contact you and set up
13 a meeting?

14 A. No. None other than the -- the meeting in
15 Linn, no, they have not.

16 Q. Okay. What's been the extent of the
17 accommodation that Ameren has attempted to make for you and
18 your property?

19 A. Well, I spoke to Mr. Douglass briefly at the
20 public hearing in Linn. He didn't really offer any
21 information to me of what they might be willing to do.
22 That's pretty much the extent of it.

23 Q. Did you make any specific requests regarding
24 if a line were to be going somewhere along your property,
25 where you might want it or what you might ask that they do

1 if they were to run a line across your property?

2 A. Yes. I stated where I would rather have the
3 line.

4 Q. Okay. And was there any response to that
5 request?

6 A. He told me he didn't think that it would be a
7 reliable route.

8 Q. Okay. And are you one of the properties for
9 which there appears to be some easement that had been
10 granted to IECI?

11 A. Yes. We have an easement with AECI.

12 Q. And if I recall from your local public hearing
13 testimony, that was -- am I correct in recalling that your
14 father had entered into that --

15 A. Yes.

16 Q. -- easement?

17 So you were not, I guess, party to that
18 transaction at the time?

19 A. No, I was not.

20 Q. Okay. Okay. Do you recall what -- let's see.
21 Has anyone made any representations to you
22 personally about that particular easement and the extent to
23 which it was to be used or what it was for?

24 A. To me personally?

25 Q. Yes.

1 A. No.

2 Q. Okay.

3 A. No. In fact, I didn't even realize there was

4 an easement on this until I got the letter in the mail.

5 Q. Okay.

6 MR. COFFMAN: All right. Thank you. That's

7 all I have.

8 QUESTIONS BY JUDGE DIPPELL:

9 Q. Thank you. I have just a couple questions for

10 you, Ms. Kramer.

11 A. Uh-huh.

12 Q. Are you employed?

13 A. Yes.

14 Q. Who's your employer?

15 A. I own a florist, Alice Waldbart Florist in

16 St. Louis, Missouri.

17 Q. And can you just tell me a little bit about

18 your educational background?

19 A. I have a high school diploma.

20 Q. Do you have any special training in real

21 estate or --

22 A. No, I do not.

23 Q. How about biology?

24 A. No, I do not.

25 Q. Any insurance --

1 A. No, I do not.
2 Q. -- experience?
3 Any electrical experience?
4 A. No, I do not.
5 Q. You stated in your testimony that your
6 property is free of electric transmission lines?
7 A. Uh-huh.
8 Q. There are some electric distribution lines,
9 I'm, assuming on the property?
10 A. No. There's nothing.
11 Q. You have no electricity at all on the
12 property?
13 A. Oh, yeah. We have the local -- the small
14 ones. We have no 161, no 345, nothing like that, no double
15 structures.
16 Q. But you do have a standard --
17 A. Sure.
18 Q. -- line coming into the house?
19 A. Yes.
20 Q. How many acres -- you may have said this
21 before, but how many acres?
22 A. Eighty acres.
23 Q. Do you know if your father was compensated for
24 the easement?
25 A. Yes, he was.

1 Q. And I was a little confused. You made the
2 statement, and it could just be a typo or it may make sense
3 to me now that I read it today.

4 On page 8 at line 7 through 9 you said, Had he
5 had a choice or be condemned. Do you mean -- what do you
6 mean by that exactly?

7 A. Well, had he had a choice, you know -- I mean,
8 if he hadn't signed it, they would have condemned the
9 property.

10 Q. And that's your understanding of what took
11 place, that he didn't have a choice?

12 A. Right. Nobody does. When they come through,
13 they -- they either condemn it or you sign the easement.

14 Q. Okay. At the top of page 5 at line 2 you say,
15 EMF has been the cause of malignancies across our nation?

16 A. Uh-huh.

17 Q. What's your basis for that statement?

18 A. I have just some basic research that I got off
19 the Internet. I have it in my file if you'd like to see it.

20 Q. So you've been studying this, reading
21 articles -- published articles and so forth?

22 A. Correct.

23 Q. Had you been studying that before this issue
24 came up or has this just been --

25 A. No. This has been in the forefront of my

1 mind.

2 Q. Then later on that page further down, on
3 page -- or line 10 you say, There are other corridors
4 equally available to Ameren to build this line which would
5 be better able to bear the burden.

6 In your opinion, what are those other
7 corridors?

8 A. Well, I'm pretty much of the opinion that they
9 could probably build it on the line that everybody's been
10 talking about the past couple of days, the Bland-Franks.

11 Q. And, in your opinion, that would better bear
12 the burden of the line without destroying property values,
13 lifestyles and family farms?

14 A. Well, I think you put the solution where the
15 problem is.

16 Q. Okay. And then on page 7 at line 15 and 16,
17 you also mention additional health concerns if there's
18 spraying of pesticides. What's your basis for that
19 statement?

20 A. Again, basic Internet information that I have
21 in my file if you need it.

22 Q. And have you discussed at all with any of
23 Ameren's -- or any of the electric companies involved, have
24 you discussed at all their maintenance practices?

25 A. No. The only information I got was from

1 Mr. Beerman at the meeting that the Concerned Citizens and
2 Ameren had on July 1st.

3 Q. And does Mr. Beerman's statement today on the
4 record -- were you here for his testimony?

5 A. Uh-huh. Yes.

6 Q. Does his statement today on the record that if
7 a homeowner or a property owner requests no pesticide
8 spraying, there wouldn't be any, does that satisfy you at
9 all?

10 A. Yeah. That would satisfy me.

11 Q. Okay. And I'm assuming you've since looked at
12 a copy of the easement that is on the property?

13 A. Yes, I have a copy here.

14 Q. Well, you don't have any training in law
15 either, do you?

16 A. No.

17 Q. Okay. I think I asked somebody else the same
18 question, they didn't have any training in it either so I'll
19 ask you.

20 Do you know if the easement makes any
21 provision there-- you state on page 9 of your testimony
22 some concerns about if this line comes through, maybe there
23 will be a second line later in the future. Do you know just
24 in your general knowledge if that easement provides for only
25 one?

1 A. This easement provides for only one. My
2 concern is that they'll use this one and in a year, two
3 years, three years, ten years down the line, they're going
4 to come back through and want another one. And that would
5 completely consume my property length-wise. It would be
6 nothing but power lines, that's all.

7 Q. And when you said that this line is going to
8 run corner to corner on your property, is that along one
9 side of the property or is that --

10 A. Right through the middle.

11 Q. -- diagonal?

12 A. Right through the middle.

13 JUDGE DIPPELL: Okay. That's all the
14 questions I had. Again, I'm not certain if the
15 Commissioners have any questions. I'm expecting them to be
16 finished very shortly, so I'll ask you to step down and if
17 you could remain if there are any additional Commission
18 questions. Thank you.

19 Do you have another witness, Mr. Deutsch?

20 MR. DEUTSCH: Yes. I'd call Jill Drennen.

21 (Witness sworn.)

22 JUDGE DIPPELL: Thank you.

23 You may proceed.

24 JILL DRENNEN, having been first duly sworn, testified as
25 follows:

1 DIRECT EXAMINATION BY MR. DEUTSCH:
2 Q. State your name.
3 A. Jill Drennen.
4 Q. Spell your last name for us.
5 A. D-r-e-n-n-e-n.
6 Q. Okay. And where do you live?
7 A. I live in Rich Fountain, Missouri.
8 Q. And is that residence the one that we've heard
9 a lot about in this proceeding that is in an easement that
10 is going to form the Callaway-Franks Line?
11 A. Yes, it is.
12 Q. You're a member of the Intervenor group,
13 Concerned Citizens?
14 A. That's correct.
15 Q. And as a member of that group, did you file
16 Rebuttal Testimony --
17 A. Yes, I did.
18 Q. -- in this case?
19 And have you got a copy of that in front of
20 you?
21 A. I do.
22 Q. And it's marked as Exhibit No. 25?
23 A. Yes.
24 Q. And have you reviewed that testimony?
25 A. Yes, I have.

1 Q. And is it accurate?

2 A. Yes, it is.

3 Q. Do you have any changes that you want to make

4 to what is contained in there?

5 A. No, I don't.

6 Q. Do you have any additions that are germane to

7 what is in there, something you left out?

8 A. No.

9 Q. And is the testimony that you have there true

10 and correct?

11 A. Yes, it is.

12 MR. DEUTSCH: Your Honor, I would offer into

13 the record as evidence the affidavit -- excuse me -- the

14 testimony of the Drennens, Exhibit 25.

15 JUDGE DIPPELL: Is there any objection to

16 Exhibit No. 25?

17 MR. BATES: No objection.

18 MR. LOWERY: No objection.

19 JUDGE DIPPELL: Then I will admit Exhibit

20 No. 25 into the record.

21 (EXHIBIT NO. 25 WAS RECEIVED INTO EVIDENCE.)

22 MR. DEUTSCH: I tender the witness, your

23 Honor.

24 JUDGE DIPPELL: Thank you. Is there any

25 cross-examination by Ameren?

1 MR. LOWERY: No, your Honor.

2 JUDGE DIPPELL: Any by Staff?

3 MR. BATES: No, thank you.

4 JUDGE DIPPELL: Office of the Public Counsel?

5 MR. COFFMAN: Yes, thanks.

6 CROSS-EXAMINATION BY MR. COFFMAN:

7 Q. Good afternoon, Ms. Drennen.

8 A. Good afternoon.

9 Q. How many discussions or communications have

10 you had with AmerenUE about this transmission line?

11 A. I would say probably two.

12 Q. Two. And what were the nature of those two

13 communications?

14 A. The first time that I had a discussion with

15 AmerenUE is when we contacted them ourselves. A neighbor

16 went to one of their workshops that we were not invited to

17 and informed us that they thought the line was going to come

18 and take our home out. So at that time we contacted

19 AmerenUE to find out if that was the case. And we also had

20 to request a meeting with them in order for them to come and

21 talk to us about that issue.

22 Q. What were your experiences as far as the

23 accommodations we've been hearing about? Did Ameren make

24 any offers of accommodation that might mitigate what they

25 otherwise had planned to do to your home?

1 A. At first, no. When we were told about this
2 issue, the representative from their company came in and
3 pretty much told us it was a done deal, I mean, we had no
4 choice in the matter, we should just go ahead and settle and
5 be done with it. It was not until after we did the
6 intervention that they started to make acco-- or tried to
7 make accommodations for us.

8 Q. And what kind of accommodations have they
9 offered you?

10 A. One of the accommodations they offer would
11 mean going around our house. It would mean putting the
12 burden of this line on two of my neighbors. And I really
13 don't feel that's an accommodation on my be-- I mean, it's a
14 accommodation on my behalf, but it's not on them.

15 Q. Okay. Okay. You understand -- was this an
16 offer that you could -- that if you agreed to this, they
17 would then attempt to take that route. Is that --

18 A. That's not how I understood it. It was just
19 something that they wanted to discuss.

20 Q. And I know here in company Surrebuttal
21 Testimony of Geoffrey Douglass, Exhibit 6 -- I assume you've
22 read that Surrebuttal Testimony?

23 A. Yes.

24 Q. And it states that there was some discussion
25 involving your property and the willingness to discuss other

1 options such as buying a nearby replacement property in the
2 same community and school area or moving your home to
3 another property. Were these alternatives discussed with
4 you?

5 A. They were discussed, but as I had told
6 Mr. Douglass before, the option of us even moving to another
7 place in that area is almost zero. People in this area do
8 not sell land. There's nothing ever up in this area for
9 sale. So to me, that's not even an option at this time.

10 Q. Was that put to you as an offer, as something
11 that you understood you could accept and AmerenUE would
12 attempt to make good on that kind of promise?

13 A. I don't know if I would consider it an actual
14 offer. I would say it was in our discussion that we had
15 discussed. But as far as it being a formal offer, no.

16 Q. You're pessimistic that you'd be able to find
17 another home in your school area?

18 A. I'm very pessimistic, yes.

19 Q. And that's based on your opinion that houses
20 don't turn over very often in this area?

21 A. That's correct. We have actually contacted
22 people in this area to try to find land or other homes if
23 our home was taken and we've not had any luck.

24 Q. Okay. Again, I'm trying to understand the
25 nature of these offers, if they are offers. Were these

1 formal proposals that were made to you?

2 A. No, they were not. They were just

3 discussions.

4 Q. They were, in a sense, offering to discuss the

5 potential of some other options?

6 A. I would say that's correct.

7 Q. Are you willing to explore these options

8 further with the company?

9 A. If I -- I would say if I could feel that they

10 were legit offers, yes.

11 Q. But nobody has given you a contract or --

12 A. No.

13 Q. -- a proposal --

14 A. No.

15 Q. -- saying, We will move your house to this

16 location --

17 A. No.

18 Q. -- or we will definitely find you a house of

19 equal value in your school district?

20 A. No. No formal contract.

21 MR. COFFMAN: Okay. Thank you.

22 JUDGE DIPPELL: Thank you. Commissioner Gaw,

23 you have the disadvantage that you just joined us. Do you

24 have any questions right now for Ms. Drennen? I have a

25 couple. Would you like me to go ahead?

1 COMMISSIONER GAW: Please, yes. I'll check
2 and see what I've got here.
3 QUESTIONS BY JUDGE DIPPELL:
4 Q. Ms. Drennen, are you employed?
5 A. Yes, I am.
6 Q. Can you tell me where you're employed?
7 A. At Missouri Veterans Commission.
8 Q. And what's your education?
9 A. I have a high school diploma and I have some
10 computer training classes.
11 Q. Okay. Can you tell me what kind of home you
12 have, what's the structure?
13 A. It is a ranch home with a walk-in basement.
14 Q. Is it a wood frame house?
15 A. Yes, it is -- well, part of it is. The
16 front -- there's part brick in the front and the rest is
17 wood frame.
18 Q. And do you have a basement?
19 A. Yes. I do have a basement, a finished
20 basement.
21 Q. Were you aware of the easement when you
22 purchased this?
23 A. There is no easement on this property.
24 Q. Oh, okay. This is --
25 A. This is one that has no easement.

1 Q. All right. And do you know, are you located
2 in Ameren's service territory?

3 A. No, I am not. They are not part of my service
4 area.

5 Q. Okay. I should have asked that earlier. At
6 page 4 of your testimony at line 16 you said that you
7 believe alternatives exist. Can you tell me what
8 alternatives you think exist?

9 A. Well, I feel like there can be alternatives
10 if -- in Ameren's power to be able to avoid taking people's
11 homes and structures. I mean, I cannot tell you what the
12 alternative is, but I do feel that they have in their power
13 to make an alternative to do that.

14 JUDGE DIPPELL: That's all the questions I
15 have.

16 Commissioner, do you have any questions at
17 this time? What I've been doing is asking everyone to step
18 down and we're going to start with Commissioner questions --

19 COMMISSIONER GAW: That would be fine.

20 JUDGE DIPPELL: -- when the other
21 Commissioners arrive.

22 COMMISSIONER GAW: That would be fine.

23 JUDGE DIPPELL: If you'd go ahead and step
24 down and we'll come back if there's questions later.

25 MR. BATES: Pardon me, your Honor. If I have

1 an additional -- or a cross-examination question for
2 Ms. Drennen based on your questions, should I wait?

3 JUDGE DIPPELL: You can hold that. If there
4 are no other questions, I'll give everyone an opportunity to
5 ask additional questions later.

6 Thank you, Ms. Drennen.

7 THE WITNESS: Thank you.

8 JUDGE DIPPELL: Mr. Deutsch, I believe you
9 have another witness.

10 MR. DEUTSCH: Yes. I'll call Doug McDaniel.
11 (Witness sworn.)

12 JUDGE DIPPELL: Thank you.
13 You may proceed.

14 DOUG MCDANIEL, having been first duly sworn, testified as
15 follows:

16 DIRECT EXAMINATION BY MR. DEUTSCH:

17 Q. State your name.
18 A. Doug McDaniel.

19 Q. How do you spell your last name?
20 A. M-c-D-a-n-i-e-l.

21 Q. And where do you live, Mr. McDaniel?
22 A. I live in a rural part of Osage County just
23 outside of Linn, Missouri.

24 Q. Wouldn't happen to live in the path of this
25 proposed Callaway-Franks line, would you?

1 A. I am very close to that.

2 Q. Were you part of the Intervenor group, the
3 Concerned Citizens in this case?

4 A. Yes, I am.

5 Q. And as part of the Intervenor group, did you
6 file testimony in this proceeding?

7 A. Yes, I did.

8 Q. And is that testimony before you as
9 Exhibit 37?

10 A. Yes, sir.

11 Q. And that's your Rebuttal Testimony filed in
12 this proceeding?

13 A. Yes, sir.

14 Q. Have you reviewed that testimony?

15 A. Yes, sir, I have.

16 Q. Is that testimony accurate?

17 A. Yes.

18 Q. Have you got any changes or additions?

19 A. No, sir.

20 Q. Any corrections?

21 A. No, sir.

22 Q. Do you have anything to add to it whatsoever?

23 A. No, sir.

24 Q. Is it your testimony that that document
25 reflects truly and accurately your testimony in this case?

1 A. Yes.

2 MR. DEUTSCH: Your Honor, I would offer into
3 evidence for the record the Rebuttal Testimony of Doug
4 McDaniel, Exhibit 37.

5 JUDGE DIPPELL: Are there any objections to
6 Exhibit No. 37?

7 MR. BATES: No objection.

8 MR. RAYBUCK: No objections, your Honor.

9 MR. COFFMAN: No objection.

10 JUDGE DIPPELL: Then I will admit Exhibit
11 No. 37.

12 (EXHIBIT NO. 37 WAS RECEIVED INTO EVIDENCE.)

13 MR. DEUTSCH: Tender the witness.

14 JUDGE DIPPELL: Is there any cross-examination
15 by Ameren?

16 MR. RAYBUCK: Yes, a few questions, your
17 Honor. And I have one exhibit to mark. I've given a copy
18 to Mr. Deutsch already. I believe we're up to No. 53.

19 JUDGE DIPPELL: That's correct.

20 (EXHIBIT NO. 53 WAS MARKED FOR
21 IDENTIFICATION.)

22 JUDGE DIPPELL: Proceed.

23 CROSS-EXAMINATION BY MR. RAYBUCK:

24 Q. Good afternoon, Mr. McDaniel.

25 A. Good afternoon Mr. Raybuck.

1 Q. I would like to ask you just a few questions.
2 You have in front of you a document which has been marked as
3 Exhibit 53; is that correct?
4 A. Yes. Yes.
5 Q. And does this contain your responses to
6 certain written questions that Ameren's submitted to you?
7 A. Despite my spelling, yes, sir.
8 Q. Okay. And are your responses to these written
9 questions accurate?
10 A. Yes, sir.
11 MR. RAYBUCK: Okay. Thank you very much. I
12 have no other questions. And I would move to admit
13 Exhibit 53 into the record.
14 JUDGE DIPPELL: Is there any objection to
15 Exhibit No. 53, which is three pages of data requests from
16 Mr. McDaniel?
17 MR. BATES: None from Staff. Thank you.
18 MR. DEUTSCH: No objection.
19 JUDGE DIPPELL: Then I will admit Exhibit
20 No. 53.
21 (EXHIBIT NO. 53 WAS RECEIVED INTO EVIDENCE.)
22 MR. RAYBUCK: Thank you. And we will supply
23 additional copies momentarily, Judge.
24 JUDGE DIPPELL: Thank you.
25 I asked everyone if they had cross-examination

1 then. No. Staff, do you have cross-examination? I'm
2 sorry. I've lost my list.

3 MR. BATES: That's fine. No, thank you,
4 Judge.

5 JUDGE DIPPELL: Office of the Public Counsel?

6 MR. COFFMAN: Yes. I have a couple. Thank
7 you.

8 CROSS-EXAMINATION BY MR. COFFMAN:

9 Q. Good afternoon, Mr. McDaniel.

10 A. Good afternoon, Mr. Coffman.

11 Q. In your Rebuttal Testimony, Exhibit 37, I
12 guess page 8 you state that you have visited and viewed
13 substantially all of the Callaway-Franks corridor. Does
14 this mean that you investigated this on your own --

15 A. Yes.

16 Q. -- visually inspecting the line --

17 A. Yes, sir.

18 Q. -- for the length of the entire line?

19 A. I've seen every inch of it, yes, sir.

20 Q. And did you take an inventory of what you saw
21 or --

22 A. Yes, sir I did. I had a note pad along with
23 me and I counted every structure on the west side of the
24 line. And I counted 24 that would be impacted by this line.

25 Q. And by "structure" you mean any man-made --

1 A. If it was a building and it was standing, I
2 counted it, even if it was a mobile home or a trailer,
3 anything like that. If it was on the ground, I counted it.
4 Q. Within how many feet of the Bland-Franks line?
5 A. Since the proposed line comes within eight
6 foot of my barn, I had a pretty good judge through the
7 windshield of the plane about how far I would have to judge
8 everything else.
9 Q. You viewed this from an airplane?
10 A. Yes, sir. So as we flew over it, and we
11 didn't go very fast, it was a small plane, I counted 24
12 structures. Now, again, I could be off by a few feet.
13 Since it's only eight feet from my barn, I, of course, did
14 not count my barn even though it would be -- I consider it
15 severely impacted by this line.
16 Q. About how many feet from the line would a
17 structure have to be to be included in your list?
18 A. I would consider it as long as it's within
19 100 feet of the existing line.
20 Q. Did you do a similar type inspection of the
21 proposed Callaway-Franks --
22 A. Yes, I did.
23 Q. -- line?
24 And I assume you made an inventory of
25 structures there?

1 A. Yes, I did. I counted 6 structures -- if they
2 took both sides of that line, I counted 6 on the east and 4
3 on the west I believe, a total of 10.

4 Q. Okay. And as far as -- I guess you weren't
5 able to visualize the Callaway-Franks exactly because it
6 hasn't been built?

7 A. Exactly. I just flew along the existing 161
8 kilovolt line.

9 Q. Okay. And that's what you saw along the
10 existing --

11 A. Yes. Yes, sir.

12 Q. -- line?

13 Okay. And your point here is that you believe
14 there would be less structures that would have to be
15 removed --

16 A. Twenty-four versus ten, that would lead me to
17 believe that there would be a lot more structures involved
18 on the Callaway-Franks line versus the Bland-Franks line.

19 Q. Okay.

20 A. And if they're willing to do the crossover on
21 the Bland-Franks line as they say they're willing to do on
22 the Callaway, I would see no reason to touch any structures
23 on the other line.

24 Q. Okay.

25 A. And I apologize, but I did not count the

1 structures on the east side of the Callaway-Franks line.

2 Q. Okay. You state your opinion in your
3 testimony about property values. And I guess you currently
4 have two transmission lines on your property?

5 A. Yes, I do.

6 Q. And is there anything that you could tell us
7 that would substantiate your belief that a transmission line
8 reduces the value of your property where you already have
9 transmission lines?

10 A. In -- as you are probably well aware, that a
11 lot of people from Jefferson City and local areas are moving
12 out to the country. I have a neighbor who had I think about
13 110 acres that he divided up and started selling lots. And
14 sales were brisk until this line was announced.

15 There are currently -- there was already two
16 currently homes next to the 161 kilovolt line. And as soon
17 as this line was announced, they both went up for sale
18 immediately. And some of the folks that had bought lots
19 from the gentleman put their lots of up for sale
20 immediately, and to date they have no offers for those lots.

21 They cannot sell -- they can't get an offer.
22 So I would assume -- well, maybe they haven't dropped the
23 price enough, according to the real estate appraiser, but
24 I'm assuming they would like to get what they put in that
25 property back out.

1 Q. Did you say two lots or more?

2 A. No. There's two homes. Let me clarify when I
3 say homes. They both built basement homes, so they're not
4 really a great deal of above land, but they live in them and
5 they can't sell either one.

6 The other one is a vacant lot that the
7 gentleman's trying to sell. And there's no home on it and
8 he can't get a bid. And it's a wonderful piece of property.
9 I mean, it's right on a highway. Most people would enjoy to
10 live right on a highway out in the country, but since
11 there's a rather large line going there, he's not getting
12 any offers. Obviously there's been a lot of publicity in
13 our county about this.

14 Q. So how long have you lived in this area?

15 A. Well, my family has owned the farm since the
16 early -- late 1700's, early 1800's. So I don't really
17 consider myself an owner or -- I'm just a caretaker until
18 the next generation comes along.

19 Q. I'm trying to get, I guess, to the basis of
20 your opinions about the property values and what the impact
21 would be. I mean, are you someone who regularly follows the
22 real estate section of the paper and --

23 A. Yeah. You know, I've tried to buy a couple of
24 my neighbor's property and so, yeah, I keep up with the
25 value of the prices of land and -- yes, I do. I mean,

1 that's -- yeah, I always like to know what the property
2 values of land are.

3 Q. And based on the fact that these properties
4 that you were just mentioning have been on the market for a
5 while --

6 A. Normally -- as you heard Mrs. Drennen
7 announce, normally property in our area never comes for
8 sale. It's handed down to the next generation, the next
9 generation or it's sold within the family.

10 Again, land normally does not come up for sale
11 in that part of our -- our little piece of the world. So to
12 have three five-acre tracts for sale all at the same time
13 within 500 yards of me is quite unusual.

14 MR. COFFMAN: Okay. That's all I have. Thank
15 you.

16 JUDGE DIPPELL: Thank you.

17 I asked everybody that time.

18 Okay. Commissioner Gaw, do you have any
19 questions for this witness?

20 COMMISSIONER GAW: I may, but are you going to
21 go around again?

22 JUDGE DIPPELL: I can.

23 COMMISSIONER GAW: Are you going to wait for
24 the other Commissioners? If you are, I'll just wait.

25 JUDGE DIPPELL: I'll ask my questions and

1 we'll just take -- my plan is to go back to Mr. Douglass
2 when we're finished with Mr. McDaniel, unless Mr. Deutsch
3 has more witnesses. So let me ask a couple of questions
4 then of Mr. McDaniel. I think that one was answered. Never
5 mind.

6 QUESTIONS BY JUDGE DIPPELL:

7 Q. What kind of horses do you --

8 A. Registered quarter horses. More of a pet than
9 anything.

10 Q. But you get income from both your horses and
11 your cattle?

12 A. Oh, yes, of course.

13 Q. Can you describe -- you say on page 3 that the
14 line will limit your income. Can you describe that a little
15 better for me?

16 A. Love to. I was actually going to expand my
17 barn so that I could expand my cattle herd. The barn I have
18 is quite small and it's old. It's been there for probably I
19 think about 30 years. And it needs to be redone.

20 And I planned on basically doubling the size
21 of it. And as you probably are aware, most farmers are
22 trying to make everything to where it's a one-man operation
23 anymore and that's what I'm trying to get, to where I don't
24 have to have help. And if the easement comes within eight
25 foot, that would be very difficult to do.

1 Where that barn is located -- since my farm is
2 also divided by an easement by the Missouri Highway
3 Transportation Department into three sections, the side of
4 that -- where my barn is, is where my house is and that's
5 where I have electricity and water, so that's where I winter
6 my herd in the wintertime.

7 I also own a piece of ground that is -- what
8 is called the flat ground. That's where my neighbor has the
9 lots for sale, but I don't have any electricity or water up
10 there. As you can imagine, it would cost a great deal to
11 drill another well or even run a water line that far.

12 So it will impact me to the fact that I will
13 not be able to build a bigger barn because they don't allow
14 structures obviously underneath this easement. And I sit,
15 Judge, on the corner of my property, at the edge of it. So
16 there's really -- to the south of me, my land ends at about
17 50 yards. To the west of me, my land ends at about
18 125 yards, but it's again hilly, it's not flat where my barn
19 sits.

20 So I'm left without another location to expand
21 this -- expand my operation. I can't -- I won't be able to
22 do it. All right. And as we all know, as you've probably
23 all read in the papers, if you're not allowed to expand or
24 grow, you usually die as a farmer.

25 So if I am not allowed to expand -- and I'm

1 only -- I'm at the age I'm only going to do this one more
2 time, one more bit of expansion and then that's it. But if
3 I can't do that, I mean, I -- I'm limited.

4 Q. And how many acres total is your --

5 A. My current ownership is a little -- right at
6 100, but again, the farm's been split up. My father owns
7 another 80 across the road that I lease from him.

8 Q. And you talk about a family tree and I
9 probably should have asked Mr. Deutsch this question. It
10 says, See picture in my testimony, but I didn't have a
11 picture.

12 A. I don't have a picture either. I was supposed
13 to bring one. I think Ameren has one. I saw one of their
14 guys there taking a picture of it the other day.

15 JUDGE DIPPELL: Was that supposed to be
16 attached to his testimony?

17 MR. DEUTSCH: I don't remember mentioning
18 anything about a picture. I didn't know he had one.

19 THE WITNESS: I can get you a picture of it
20 though. That's not a problem.

21 BY JUDGE DIPPELL:

22 Q. I just wanted to make sure your testimony was
23 complete.

24 A. Yes, ma'am. It's -- it's a tree that may not
25 mean anything to anybody else, but it's a tree that my

1 grandfather told me he climbed as a young man and watched a
2 mule train go by before World War I. It's a tree that my
3 father played in. I made a fort in it when I was a little
4 kid.

5 It's an old tree. It's got wires hanging out
6 of it. I use it for a corner post and it has been ever
7 since I can remember and has been ever since my father can
8 remember.

9 But if the power line goes through, I mean,
10 the only person -- people standing in front of that right
11 now is the Public Service Commission stopping it from that
12 tree to come down. Because it lies underneath their
13 easement -- or their proposed easement.

14 Q. Okay.

15 A. All right.

16 JUDGE DIPPELL: That's all the questions I
17 have for you. I'm going to ask you to step down and we'll
18 find out if there are some additional questions or any
19 redirect --

20 THE WITNESS: Thank you.

21 JUDGE DIPPELL: -- or recross.

22 Mr. Deutsch?

23 MR. DEUTSCH: Intervenors have no further
24 witnesses.

25 JUDGE DIPPELL: Okay. There was a stipulation

1 when we began that if there were no Commission questions,
2 the affidavits of the other Intervenor witnesses would be
3 admitted. Do you want to go ahead and offer those?

4 MR. DEUTSCH: Yeah. In case that wasn't on
5 the record, I would like to make a record of the fact that
6 we have pre-filed testimony of numerous other witnesses and
7 I would -- I believe I have the agreement of the other
8 parties that just to keep from doing it the long way, that I
9 could request that those be admitted by affidavit. And I
10 was going to identify them just by the exhibit number.
11 There's numerous names that I think --

12 JUDGE DIPPELL: That would be fine.

13 MR. DEUTSCH: Then I would offer for admission
14 as evidence in the record the testimony of members of the
15 Concerned Citizens as set forth in Exhibits 13 through 24,
16 26 through 33, 35 and 36, and 38 through 50. And those are
17 identified by the exhibit list that Mr. Raybuck has prepared
18 and those are the exhibits numbers that I've assigned to
19 those.

20 JUDGE DIPPELL: Thank you.

21 Would there be any objection to those exhibits
22 as listed by Mr. Deutsch?

23 MR. BATES: No objection.

24 MR. LOWERY: No objection.

25 MR. COFFMAN: No objection.

1 JUDGE DIPPELL: Then I will admit Exhibits 13
2 through 23 --
3 MR. DEUTSCH: 13 through 24.
4 JUDGE DIPPELL: I'm sorry. Through 24. 26
5 and 27.
6 MR. DEUTSCH: 26 through 33.
7 JUDGE DIPPELL: And 28 through 33. Sorry. My
8 page broke there. Numbers 35 and 36, numbers 38 through 50.
9 (EXHIBIT NOS. 13 THROUGH 24, 26 THROUGH 33,
10 35, 36 AND 38 THROUGH 50 WERE RECEIVED INTO EVIDENCE.)
11 MR. DEUTSCH: Thank you, your Honor.
12 JUDGE DIPPELL: Well, it is almost 2:30, so I
13 think we should take a short break and come back at a
14 quarter until 3:00.
15 When we return, I will ask Mr. Douglass to
16 return to the stand and Commissioner Gaw can resume his
17 questions there. So let's take a break and go off the
18 record.
19 (A RECESS WAS TAKEN.)
20 JUDGE DIPPELL: Mr. Raybuck?
21 MR. RAYBUCK: Your Honor, may I make a
22 housekeeping observation and a related request? First of
23 all, I have extra copies of Exhibit 53, which you requested.
24 And, second, we have a number of witnesses who
25 it's unclear to me whether they have been released. The

1 Commissioners were not present during their
2 cross-examination and, if possible, we wanted a
3 clarification from you as to whether Commissioners would
4 have questions and whether they need to stay. I believe
5 this applies to Mr. Fulks, Mr. Mitchell and Mr. Beerman.
6 It's clear to us Mr. Douglass is going to go back on, but as
7 to the other three, we were not clear.

8 JUDGE DIPPELL: Right. I did not release
9 anyone today other than Dr. Gajda. And if they can just
10 bear with us for a little while longer, we'll finish
11 Mr. Douglass and then we'll just go back down the list which
12 again I left upstairs. But we'll go back through the list
13 and take it as we get to it.

14 MR. RAYBUCK: Certainly.

15 JUDGE DIPPELL: And I'll release them as we
16 get to them.

17 So if Mr. Douglass could return to the stand.
18 And you were previously sworn, sir.

19 THE WITNESS: Yes.

20 JUDGE DIPPELL: I will ask Commissioner Gaw if
21 he can find where he left off earlier.

22 COMMISSIONER GAW: We'll just pick it up
23 somewhere. Yes, Judge. Thank you.

24 GEOFFREY DOUGLASS, having been previously sworn, testified
25 as follows:

1 QUESTIONS (CONT'D) BY COMMISSIONER GAW:

2 Q. Good afternoon, Mr. Douglass.

3 A. Good afternoon.

4 Q. I don't believe I asked this question of you.

5 I'm interested in knowing if you're aware of what, if any,

6 price was paid for the easements that are being acquired

7 from Associated Electric or its affiliates?

8 A. What price Ameren paid for those?

9 Q. Yes.

10 A. There was no monetary compensation for the

11 easements. They're assigning the easements to us which is

12 part of their contribution to the overall project.

13 Q. All right. Is there an agreement, a contract

14 or something that's in writing that's been signed between

15 Associated or its affiliates and Ameren regarding this

16 project?

17 A. Yes. There's a -- there's a letter of intent,

18 I guess, that describes what each parties are contributing.

19 In other words, that we will build the line, that they'll

20 assign the easements to us. There's that document. And as

21 far as the easements are concerned, there's an assignment

22 document -- three assignment documents, one for each county

23 to assign the easements to us.

24 Q. Okay. And is that document -- is that

25 document a part of our record, do you know?

1 A. The letter of intent or the assignments?

2 Q. Well, when you say -- I guess let me ask you
3 about the letter of intent. Is that letter of intent a
4 memorandum of understanding between the parties? Is that
5 basically what it is?

6 MR. LOWERY: Commissioner Gaw, perhaps I
7 can -- if you don't mind, I can assist you.

8 COMMISSIONER GAW: No, I don't care.

9 MR. LOWERY: The letter of intent is included
10 in Schedule 4 to Mr. Mitchell's testimony and it sets forth
11 in detail what the agreement is. And you do have that in
12 the record.

13 COMMISSIONER GAW: And I guess when you say
14 "what the agreement is," that is the only written document
15 that reflects the agreement that you're referring to?

16 MR. LOWERY: I believe that's correct,
17 Commissioner. That's the only document that reflects AECI's
18 and UE's agreement.

19 COMMISSIONER GAW: That's what I'm after.
20 Thank you.

21 BY COMMISSIONER GAW:

22 Q. Let me ask you, just for purposes of
23 clarification, because I'm trying to understand this width
24 issue in regard to the difference in the widths of these
25 different proposals that were initially being discussed by

1 Ameren.

2 This issue of this saving of 25 feet, which
3 I've heard often, when you're dealing with that issue on the
4 route that's proposed to the Commission, could you tell me
5 again how that 25 feet is being saved, as you say?

6 A. Well, actually the easement that we would get
7 would overlap the existing 100-foot wide easement by
8 25 feet. So, in other words, if we were to build a 345,000
9 volt line on a brand-new right-of-way, our requirements are
10 150 feet for that.

11 Q. Seventy-five feet on either side of the line?

12 A. Yes, sir. In this case, we're going to
13 overlap the existing easement by 25 feet so that's where the
14 difference comes in.

15 Q. So they've got a 100-foot easement, 50 feet on
16 either side of their line currently?

17 A. Yes, sir.

18 Q. So you're going to pick up then half of that
19 50 foot on the one side of their existing line?

20 A. Well, we'll not pick it up. We'll share that
21 area. Their easement -- they're not going to extinguish
22 their easement. Ours will be on top of theirs for that
23 25-foot portion.

24 Q. There's not any problem, I guess, from doing
25 that in regard to the maintenance of the lines or the safety

1 of the lines being that distance apart?

2 A. Right. Nothing from a safety standpoint. In
3 fact, we've even talked to them about some possible
4 synergies in terms of maintenance, working together for
5 someone to take care of that entire right-of-way.

6 Q. Those two lines then -- well, that's not fair.
7 From pole to pole across the two easements then would be
8 100 feet. Am I looking at that correctly?

9 A. If you can bear with me a second.

10 Q. Yes. I'm not sure if I'm right.

11 A. Yes, sir.

12 Q. Yeah. And the wires could actually be closer
13 than that together because of the structures, but --

14 A. That's correct.

15 Q. -- going from the centerline of the two
16 easements, there would be about a 100-foot distance?

17 A. Yes.

18 Q. The Bland-Franks line that currently exists
19 that Ameren has, what's the easement there?

20 A. Hundred and fifty foot.

21 Q. Hundred and fifty feet. So it's from the
22 centerline there and then it's 75 feet over to the end of
23 the easement?

24 A. Yes, sir.

25 Q. Now, if you were to construct another line in

1 that location, what would keep you from overlapping into the
2 existing easement?

3 A. That may be a possibility. To be honest with
4 you, I don't know. It's probably more of an engineering
5 issue.

6 Q. Well, I'm trying to understand what difference
7 it would make between these two things. I understand maybe
8 it's an engineering issue, but you don't know of any reason
9 why you couldn't overlap into that easement, do you?

10 A. No, I do not.

11 Q. Okay. Are you familiar with -- I'm sorry.
12 I'm going to have to see if I can track it down. Here it
13 is.

14 There's an Exhibit marked 51 that is a
15 transmission line easement. I believe it's 51 that's to --
16 that's from the Bakers, Ronald H. and Patience H. Baker to
17 Associated Electric. Have you seen that particular
18 document?

19 A. Yes.

20 Q. Does that document, that easement -- does it
21 give a site over that property as to where that easement
22 lies?

23 A. No. The document itself does not. It's been
24 termed as a blanket easement.

25 Q. And at least toward the bottom -- and I

1 realize maybe there are some exceptions out of there -- this
2 is fairly significant size of property, isn't it? It says
3 something about 193 acres down at the bottom, but without
4 reading the descriptions and drawing it out, I don't know if
5 that's how much is actually there. But did you see that,
6 193 acres more or less?

7 A. That's how I would read it also, 193.

8 Q. So at the time that this particular easement
9 was granted, the owner said, You can build this transmission
10 line anywhere on my property, doesn't make any difference
11 where you put it?

12 A. I think if you go by the legal terms of the
13 document, that would be correct.

14 Q. And they received some compensation for that;
15 is that correct?

16 A. I believe they did.

17 Q. Now, in here I see some reference to \$1,414,
18 I'm thinking no cents but it's a little unclear. Did you
19 see that?

20 A. Yes, sir.

21 Q. So they said you can go anywhere across my
22 property for \$1,414; is that true?

23 A. Well, I mean, there again, I'd be speculating
24 in terms of how the actual negotiations went with that
25 particular property owner; however, the third page is a copy

1 of an aerial photo that it's my understanding in talking to
2 the property owners, this is what the representative at the
3 time gave the property owners to depict where it would be.

4 It's showing that that proposed line would be
5 adjacent to the existing line. So while I agree with you
6 the document itself is a blanket easement, you know, giving
7 them a strip of land over the entire property, our
8 position's been that since a specific location was portrayed
9 to them, that that's where we should build the line today.

10 Q. In other words, while the legal document
11 that's here doesn't give you any -- it doesn't say anything
12 about where the line will be located. Right?

13 A. Correct.

14 Q. You think that there were some discussions and
15 maybe some written material that might have been provided to
16 the Bakers at the time that would have told them where they
17 thought the easement -- where Associated thought the
18 easement would go?

19 A. That's our understanding. And then your
20 consideration was based upon the amount of acreage that
21 would have been included within that easement.

22 Q. But, of course, the property owners, the
23 Bakers at the time, they might have had that represented to
24 them, but the legal document doesn't bind anybody to that
25 description, does it?

1 A. No, sir.

2 Q. So Associated basically was getting the right
3 to do whatever the heck they wanted to within the terms of
4 this easement document so long as it complied with the
5 concept of it being 150-foot easement for electric
6 transmission lines?

7 A. Yes, sir.

8 Q. Do you know if there are any structures on
9 this property at the time?

10 A. I'm assuming that the Baker property does have
11 the existing Central Electric line on their property,
12 because it looks like the drawing I have, that that's an
13 area where we'd be paralleling the existing transmission
14 line.

15 Q. Yes. And actually your answer is responsive,
16 but I was interested in knowing whether there are any
17 buildings, if you know that?

18 A. No, I do not know. I'm sorry. You mean on
19 the property or --

20 Q. Yes.

21 A. -- or within the proposed right--

22 Q. No. On the property.

23 A. No, I don't know.

24 Q. Is it reasonable to assume that there were --
25 that when these easements were discussed or proposed

1 easements were discussed between representatives of
2 Associated and different property owners, that a lot of
3 property owners might have had things represented to them
4 that were perhaps more limiting than the actual easement
5 that they gave?

6 A. I would suspect so, yes.

7 Q. You don't really believe, as I take it, that
8 Associated told the Bakers that we can build this line
9 wherever we want to?

10 A. Yeah. I would assume that was not their
11 intent.

12 Q. You think the Bakers would have probably --
13 well, we're speculating, of course.

14 Is it your experience that if a property owner
15 is giving an easement, they have some idea where they
16 believe that easement is going to track?

17 A. Yeah. I think that would be an obvious
18 question of the property owner at the time. And the
19 easements -- the type that Central has are not that
20 untypical of other utilities. Ameren had similar type
21 blanket easements, you know, in those years.

22 Since then, we've refined ours to a described
23 centerline description because that's typically what
24 property owners want to see anymore. But this type of
25 document is not untypical, but an obvious question from the

1 property owner is going to be, Where's that going to be
2 located on my property and what's going to be on my
3 property?

4 Q. Yeah. But in this case while the sales pitch,
5 I'm using that term loosely, might have been here's where
6 we're putting it, the actual thing that the Bakers gave up
7 was much more extensive than that --

8 A. Yeah. And I don't know --

9 Q. -- from a legal standpoint?

10 A. Yeah. And I don't know what would happen if
11 somebody wanted to put it somewhere else, how verbal
12 representations might have been made. I don't know how that
13 would all work out.

14 Q. You agree that there's not anything in this
15 deed for an easement?

16 A. No. That was my interpretation also.

17 Q. And we don't know if this is representative of
18 the easements that are along this path or not, do we? Do
19 we? I mean, do you know that?

20 A. Yeah. We have reviewed all the easements and
21 I would say this is representative of the easements with
22 the -- there's a couple of exceptions where there is a
23 described centerline --

24 Q. Yes.

25 A. -- but there's only a handful of those.

1 Q. And most of them are blanket easements?

2 A. Yes, sir.

3 Q. And were you able to discern from your review

4 of the other easements whether or not the easements that

5 were actually filed with the court included the filing of

6 any particular drawings or other additional descriptions

7 about where that transmission line was supposed to go?

8 A. It's my understanding nothing else was filed

9 besides the two-page easement document.

10 Q. So do we really have any way of reconstructing

11 what the property owners along the path of this potential

12 transmission line believed at the time about where that

13 easement was going to go on their property?

14 A. The only assumptions I can make is that we --

15 what we received from Associated were copies of their

16 complete files. Not only the signed document, but also

17 their negotiation notes, clearing agreements and also the

18 plat.

19 A couple of things I guess I would surmise to

20 say they knew where, one being the plat showing the location

21 of the line as it crosses their property. The other item

22 being that the easement consideration, they had to use the

23 total length of the easement to come up with an appropriate

24 easement consideration. In most cases that was reflected in

25 some of the negotiation notes.

1 And also -- well, like I said, there was a
2 signed clearing agreement, but that really doesn't have
3 anything to do with the location of the line.

4 Q. You didn't have the opportunity to go out and
5 talk to the original conveyers of these easements or even
6 if -- I assume, to see whether or not the notes that were
7 given to you by Associated or the maps or plat maps were
8 actually the places where these individuals thought the
9 siting was to occur?

10 A. No. We have talked to some property owners.
11 In fact, they're the ones that conveyed that to us when we
12 had actually proposed to change the route a little bit at
13 the southern end. They were some of the ones saying, We
14 agreed to a specific location, therefore, we feel you should
15 honor those agreements.

16 Q. I see. And how many of those individuals did
17 you talk to?

18 A. At the workshop, there were -- I know of two
19 specific individuals who had objected to the -- well,
20 three -- to the route being changed as we proposed at the
21 southern end.

22 Q. So about three people?

23 A. Yes, sir. On that particular segment of the
24 route.

25 Q. Were there more people that you talked to?

1 A. Yes. Well, there were a couple of people that
2 were in favor of the route being changed because it affected
3 them in a favorable manner.

4 Q. Were they individuals who had conveyed
5 easements themselves?

6 A. Yes.

7 Q. Okay. Do you know whether Associated has
8 maintained the easement that supposedly was being given here
9 since the conveyance? Have they mowed the right-of-way?
10 Have they done anything to trim back trees or in any way
11 indicate to the outside world that they had an interest in
12 these easements?

13 A. I'm not -- I'm not asked to know whether they
14 have or not. From looking at it in the field, cases where
15 there is wooded areas, there's no evidence that they cleared
16 the right-of-way in that area.

17 Q. Yeah. Is there any evidence that the property
18 owners to these properties over the course of the
19 20-some-years that these easements -- since these easements
20 were granted have in any way altered their usage of the
21 particular property that they have because of the conveyance
22 of these easements?

23 A. You mean have they altered the use of their
24 property because of the easements?

25 Q. Yes.

1 A. I mean, nothing I would know of.

2 Q. So they continue to use the property as though
3 it were there own?

4 A. Yeah. As well as the existing easement.
5 Typically especially in agricultural areas, even with
6 existence of the line, you know, still people, you know,
7 farm under the lines, that type of thing.

8 Q. Yeah. But they have -- have they continued to
9 do exactly what they were doing before with that property,
10 to your knowledge?

11 A. As far as I could tell. Now, whether or not
12 someone did not build structures because of the location of
13 the easement, I don't, you know, know what they may not have
14 done because of it.

15 Q. And, again, the easements were mostly blanket
16 easements, so unless you go to these drawings that are
17 outside of the legal document, that could be anywhere on the
18 property?

19 A. That's correct.

20 COMMISSIONER GAW: I think that's all I have.
21 Thank you, Mr. Douglass.

22 JUDGE DIPPELL: Thank you.

23 Are there other Commission questions?
24 Commissioner Simmons?

25 CHAIR SIMMONS: I have just have a few.

1 QUESTIONS BY CHAIR SIMMONS:

2 Q. Hello, Mr. Douglass.

3 A. Hello.

4 Q. Just a few questions here. One, I'm trying to
5 determine -- when you set out to do your job, what was the
6 universe of the property owners that would be affected that
7 you would have to deal with? Were you given a number of
8 people that you would be dealing with?

9 A. Well, we presented a route at the public
10 workshop and on that route it was going to affect
11 approximately 175 property owners.

12 Q. Okay. So that's the universe you're working
13 with in terms of the number?

14 A. At that time. Now, since then, there's been
15 some modifications to the route so the number has fluctuated
16 because of that, but yeah, initially 175 was the number.

17 Q. Okay. Now, help me to understand something.
18 When you talk about the adjustments that were made -- and I
19 think that you had a series of meetings and you had some
20 adjustments made. And with those adjustments some of the
21 property owners may have wanted one thing versus the next.

22 How did you come to that conclusion in terms
23 of the adjustments that were made and how many people did
24 you deal with when you made the decision that we're going to
25 either make an adjustment or reroute?

1 A. Okay. Well, it depends. There's kind of
2 several different areas where we've looked at. The first, I
3 guess, adjustment that we proposed was even prior to the
4 workshop was to adjust -- at the southern end when it comes
5 out of Associated's Franks Substation, we're not following
6 the existing transmission line. It's more what I call a
7 green field route.

8 Where we hit the existing Central Electric
9 line we had actually proposed -- and I say proposed route.
10 Associated Electric had a route laid out as evidenced by the
11 existing easements.

12 We proposed to deviate from that by several
13 hundred feet to accommodate one particular property owner
14 where we joined the Central Electric line and also another
15 structure further down where there was a house built at the
16 time that we thought could possibly be on the right-of-way
17 and we wanted to try to avoid that home.

18 That's what we presented at the workshop.
19 There was a negative reaction by a couple of property
20 owners, in fact, one who brought to light that they thought
21 the easement, while it is a blanket easement, should be
22 located where it was portrayed to be by Central Electric,
23 and also another property owner down further where the
24 property had since been subdivided and the reroute would
25 basically take up a complete lot that they subdivided.

1 We decided it was probably more appropriate to
2 put it back where the Associated easements were originally
3 laid thought.

4 Another location further up is what we've
5 talked about in terms of being where the Drennen's house is.
6 Initially we had looked at that area in terms of there was
7 the Drennen's house on one side and another house on the
8 complete opposite side that was more or less going to be
9 probably an either/or.

10 We thought the best route was to be on the
11 west side because that's where it had originally been
12 proposed to be. Because they have quite a few objections,
13 wanted to stay in their house, live in the area, we've made
14 several proposals, that's something that's ongoing to
15 possibly move the route to the other side of the line or to
16 do something different in that area, so that's still going
17 on.

18 Another significant area is what I call the
19 Highway 50 area where we have to cross Highway 50. It's a
20 very congested area there, tough to get across again. Where
21 Associated had laid it out was on the west side of the
22 existing line. That would put the lumberyard's -- part of
23 their building within the right-of-way, which would not be
24 acceptable either. The building would have to be removed.

25 A better alternative looked like was probably

1 to cross over earlier to the east side to avoid that
2 structure. Now doing so impacted some other property
3 owners, so we want to get a group of property owners there
4 together to talk about either east side, west side or even
5 looking at a third route which would totally avoid the area
6 in its entirety. So we're trying to look at several
7 different options.

8 At the far northern end of the route where we
9 tap the line in Chamois, we had proposed to tap basically a
10 field in the river bottoms. The property owner has some
11 concerns about that so we're going to move the tap back and
12 be able to cross in a different location to accommodate
13 their needs.

14 Those are kind of the major segments, I guess,
15 that we've looked at. There's also a couple of what I call
16 minors one. We cross the existing Central Electric line
17 twice. And crossing it is something we don't like to do.
18 You don't want to jump back and forth across the line
19 because then you could affect the reliability of both lines
20 if something would happen.

21 But where we do cross, a couple of property
22 owners have asked can we adjust that crossing a little bit.
23 So we're making some minor adjustments if that will work out
24 in their case. So those are the major ones that come to
25 mind.

1 Q. So are you saying that with a number with your
2 revisions and adjustments, you did this in conjunction with
3 meeting with the property owners, discussing it with the
4 property owners and then making the adjustments accordingly?

5 A. Yes. And it's really an ongoing process. A
6 lot of that is we present what we think is the best route at
7 the public workshop. Based upon that, we take those
8 comments and meetings with property owners, but it's also an
9 ongoing process.

10 Because at this point we are just now starting
11 to gain easement acquisitions. So in contacting property
12 owners, we may discover some other issues that come up and
13 may have to continue to make adjustments in the route, you
14 know, if there's a way we can do it.

15 Q. With some of those adjustments that you made,
16 were the property owners pretty much in agreement with that
17 or was there disagreement between the property owners one
18 way or the other; and, if so, how did you make that
19 decision?

20 A. So far I guess we haven't had -- brought
21 anything to conclusion where there's been disagreement. If
22 there has been disagreement, we're still trying to work
23 through those issues. We haven't had to say, Okay, we've
24 tried but it's got to go here. The ones where we have been
25 able to make the adjustments so far, we've been able to do

1 it and say, This is the adjustment because the property
2 owners agreed to it.

3 CHAIR SIMMONS: That's about the line of
4 questions I have. Thank you, sir.

5 THE WITNESS: Thank you.

6 JUDGE DIPPELL: Commissioner Murray, did you
7 have questions?

8 COMMISSIONER MURRAY: I think I have a couple.
9 Thank you.

10 QUESTIONS BY COMMISSIONER MURRAY:

11 Q. Good afternoon.

12 A. Good afternoon.

13 Q. For the 20 miles that are outside of the
14 company's currently certificated territory, are there
15 easements in place in that 20-mile area?

16 A. The section that's not in our certificated
17 area is where we have the majority of the easements. And I
18 say majority. It was either Commissioner Gaw or somebody
19 had asked me that question earlier today and -- or it was
20 the Judge, I didn't know the answer.

21 Since then I've found out from our office they
22 did a count and they think there's about 13 easements that
23 we do not have within the certificated area. But generally
24 that's the area where we have the easements, we need to fill
25 in the gaps. Where it's the northern end where we need to

1 acquire the majority of the right-of-way.

2 Q. Okay. As you said, in the area where you're

3 not currently certificated, you need approximately how many?

4 A. About 13, I think. And that's an

5 approximation, what I got over the phone today.

6 Q. So how many would you say are currently there?

7 How many easements in that 20-mile --

8 A. I don't remember for sure. It's -- like I

9 said, I'm -- that really hasn't even been something I've

10 actually looked at. Because the way we approach the

11 easement negotiations, we don't look at whether it's inside

12 or outside. But as I recall what somebody told me today, it

13 was maybe 50 within that -- that 20 miles, but that's kind

14 of a guess.

15 Q. Okay. Now, ordinarily you would not even need

16 to come to us for approval so long as anything that you

17 were -- any line that you were installing would be within

18 your certificated area; is that correct?

19 A. Yes. That's my understanding.

20 Q. And I'm a little confused about why we're

21 being asked to approve the entire length rather than just

22 the 20 miles that is outside of your area. And you may not

23 know the answer to that and if you don't, just say so.

24 A. To be honest with you, maybe that's a legal

25 determination. I know past practice has been whenever we

1 need -- a portion of the line is not in our certified
2 territory, our application is for the entire route. So I
3 don't know if it's past practice on our part or Commission
4 requirement.

5 Q. Okay. Do you know how many of the Intervenor
6 have property that is located within that 20 miles that we
7 would be required to approve?

8 A. I -- to be honest, I don't.

9 Q. Okay. Now, is it your experience that
10 utilities don't come to this Commission for approval of
11 easements?

12 A. That's correct.

13 Q. And if the validity or application of an
14 existing easement were to be challenged subject to legal
15 challenge, do you know where that would take place?

16 A. Well, our position has been that that is a
17 valid easement, a valid assignment. But we have said that
18 the recourse for the property owners if they disagree with
19 that, would be through the local courts.

20 Q. It would not be through this Commission then?

21 A. Yes.

22 COMMISSIONER MURRAY: Thank you. I believe
23 that's all I have.

24 JUDGE DIPPELL: Thank you.

25 Commissioner Lumpe, did you have questions?

1 QUESTIONS BY COMMISSIONER LUMPE:

2 Q. Just a couple of follow-ups. The 13 easements
3 not in the certificated area, who are these easements with?
4 Is that with the co-op or --

5 A. Those would be approximately 13 we still need
6 to acquire.

7 Q. All right. So they are not currently
8 easements, they are easements you need to acquire. Somebody
9 else doesn't have an easement there that you're attaching
10 to?

11 A. Correct. Those are the ones the co-op did not
12 acquire initially.

13 Q. Okay. And then some of the property owners,
14 am I correct, that are along this line will not benefit from
15 this line; is that correct?

16 A. Well, that's probably more of a planning
17 issue. My understanding of it is that they will benefit
18 mainly through our connections. Associated Electric will be
19 able to get a connection to this line, which will benefit
20 directly those property owners that they serve in the
21 immediate area.

22 Q. Okay. So indirectly since they are served by
23 Associated and there will be some connection there, then
24 they would benefit from that connection --

25 A. That's my understanding.

1 Q. -- is that your understanding?

2 A. Yes.

3 Q. Okay. And are you continuing negotiations
4 with the property owners?

5 A. Yeah. I would -- I would phrase it really
6 we've just begun negotiations with the property owners.

7 Q. So you're not at a completed -- you haven't
8 said, We're done negotiating and now we're going to go to
9 court?

10 A. No. In most cases -- in fact, the only
11 property owners we've really met with to date are what I
12 call the special circumstances where there's a structure
13 involved or looking at possible engineering changes to get
14 around some structures. We've only actually made contact
15 with two other property owners to actually acquire
16 easements, so we've really just started the process.

17 Q. All right. At the end of the day, however, if
18 you're not able to negotiate an appropriate amount that
19 people want, at the end of that day is it your intent to use
20 condemnation?

21 A. If there's not any other adjustments that we
22 can make in terms of from an engineering standpoint. If we
23 can make adjustments to possibly take care of whatever their
24 issue is, we would try to do that. If not, if we can't and
25 after protracted negotiations if we can't reach agreement,

1 that would be our only recourse, correct, to condemn it.

2 Q. Has Associated met with the people that would
3 be indirectly benefited, as you say? Has Associated met
4 with those people to inform them of that benefit?

5 A. The only part I'm aware of is Associated did
6 attend the public workshops that we had conducted in Linn
7 and Vienna. They had a representative there to answer any
8 questions that would come up at their end. They did not
9 make a presentation, per se, to the benefits, but they were
10 there for that.

11 They were also at the public hearing in Linn,
12 Missouri. And I know any issues that came up at that public
13 hearing that needed to be addressed by Associated, it was my
14 understanding they contacted each property owner after that
15 hearing to talk through those issues and resolve any issues
16 that were left outstanding.

17 Q. So they have talked to each one of those
18 people -- each one of those people that might be affected
19 that are not in your territory?

20 A. I don't know if I'd say each one. I think
21 they were available to answer questions at the workshop, but
22 they did tell me they contacted each person who testified at
23 the public hearing in Linn.

24 Q. But that might not have been some of the
25 people that are along that line that are indirectly maybe

1 benefiting?

2 A. That's correct.

3 COMMISSIONER GAW: Okay. Thank you, sir.

4 JUDGE DIPPELL: If there aren't any other

5 Commission questions, then I'll ask for recross questions

6 based on questions from the Bench. Is there any from Staff?

7 MR. BATES: No, thank you.

8 JUDGE DIPPELL: From the Office of Public

9 Counsel?

10 MR. COFFMAN: No questions.

11 JUDGE DIPPELL: From Mr. Deutsch?

12 MR. DEUTSCH: Thank you.

13 RE CROSS-EXAMINATION BY MR. DEUTSCH:

14 Q. I wanted to follow-up on Commissioner Lumpe's

15 analysis or question for your analysis of this indirect

16 benefit.

17 As I understand your testimony, the indirect

18 benefit to these customers -- we're talking about the owners

19 in the Callaway-Franks Line area -- is not only indirect,

20 but it's rather remote, isn't it? The benefit here is to

21 Associated, which is kind of a parent twice removed of

22 Central and the local distribution where the members get

23 their electricity?

24 A. Well, I guess I was trying to summarize what

25 I'd heard, I guess. The -- my summary of the testimony I

1 heard is that by Associated benefiting, all the member
2 co-ops and, in turn, the distribution co-ops would benefit
3 from that -- the additional capacity.

4 Q. But the benefit you're talking about is pretty
5 diluted by the time it gets back down to the property owners
6 that are under the new Callaway-Franks Line?

7 A. That I don't know.

8 Q. You were here when Mr. Fulks was testifying --

9 A. Yes.

10 Q. -- about the corporate organization for the
11 cooperatives?

12 A. Yes, sir.

13 Q. And Associated is at the top?

14 A. That's my understanding.

15 Q. And they kind of run the transmission system?

16 A. Generation, I guess, and transmission.

17 Q. Generation and transmission. And then they
18 have six subsidiary cooperatives, including Central?

19 A. That's my understanding.

20 Q. Central serves this area?

21 A. I'm assuming.

22 Q. Do they have the 161,000 kilovolt line --

23 A. Yes.

24 Q. -- that's going to be paralleled by this new
25 line?

1 A. Yes.

2 Q. Okay. So it's their line that's there that's
3 a transmission line?

4 A. That's my understanding.

5 Q. And then there's also potentially a
6 distribution company, perhaps subsidiary to them, that
7 actually provides retail service below their level?

8 A. That's my understanding.

9 Q. And the benefit of this connection that's
10 going to be gained by the Callaway-Franks Line is a
11 connection to be obtained by Associated?

12 A. Well, it's my understanding in listening to
13 the testimony, Associated receives the benefit of an
14 approved substation at Franks and also the potential tie-in
15 at the Rich Fountain facility.

16 Q. And as far as the Franks Substation, you also
17 heard testimony that no matter what the solution to the
18 problem that we're dealing with here, whether it is a new
19 Bland-Franks line or whether it's a Callaway-Franks Line,
20 they have to do what they have to do at the Franks
21 Substation no matter what?

22 MR. LOWERY: Your Honor, I'm going to object
23 to this continuing line of questioning. Mr. Deutsch is
24 essentially restating Mr. Fulks and Mr. Mitchell's
25 testimony, neither who have been released. And I believe

1 the evidence is that they're the more appropriate people to
2 answer these questions. If the Commission is interested in
3 that information, I believe that's a more appropriate
4 vehicle to elicit it.

5 JUDGE DIPPELL: Mr. Deutsch, did you want to
6 make a response?

7 MR. DEUTSCH: Yeah, I think I do. I'm trying
8 to question this witness who has been here during the
9 testimony and I'm wondering if he heard any of it and
10 refreshing his recollection, because apparently he didn't.
11 I don't know any other way to pursue it.

12 MR. LOWERY: Judge, I would submit that
13 whether Mr. Douglass heard the testimony or not is
14 irrelevant to these proceedings.

15 JUDGE DIPPELL: I'm going to overrule your
16 objection because I think that these were questions that
17 were asked from the Bench and so it's a proper line of
18 questioning on recross. However, I will agree that
19 Associated's witness are still subject to recall and
20 perhaps --

21 MR. DEUTSCH: I can tie it up with them then.

22 BY MR. DEUTSCH:

23 Q. We won't talk about the corporate structure.
24 But you would agree that the indirect benefit that is gained
25 by the users of electricity that are in the area of a line

1 don't benefit from that directly from Associated, do they?

2 A. Well, I didn't recall hearing that from their

3 testimony.

4 Q. And was I correct -- I think that you

5 clarified to Commissioner Simmons that all of the

6 adjustments that you went through and the modifications you

7 went through, I think there were, like, four major

8 considerations that you were given, separate ones, none of

9 those are actually adjustments that have been made?

10 A. Well, I would say they would not be until the

11 actual easements have been signed, that's correct.

12 Q. And so they'll also not actually be made

13 likely until after this proceeding is concluded and you have

14 your certificate of authority?

15 A. Well, our time line is not dependent upon the

16 certificate. I mean, we're continuing to negotiate with all

17 the property owners.

18 Q. And when did you most recently last negotiate,

19 for instance, with Mr. Samson, whose property now will be

20 taken because you're going to try to avoid the lumberyard at

21 Highway 50?

22 A. I don't recall where the Samson -- well, I do

23 recall the Samson property. We have not made -- the Samson

24 property, if it's the one I recall, currently has an

25 easement on it.

1 One of the alternatives we're looking at to
2 avoid the Highway 50 corridor would be to swing the line
3 further to the west, which would probably have a greater
4 impact on that property. What we want to do is try to get
5 all the property owners that would be affected by that
6 decision together and hopefully come up with a collaborative
7 solution to the problem.

8 Q. How many property owners are affected by that?

9 A. I'm guessing maybe six or seven.

10 Q. What have you done to get them together?

11 A. We've not done that yet.

12 Q. And what are your plans for doing it, say,
13 next week?

14 A. We do not plan to do it next week.

15 Q. You don't plan to do it while this proceeding
16 is still alive, do you?

17 A. Well, the proceeding has nothing to do with
18 the time frame for getting it together.

19 Q. Of course not. But you don't intend to do it
20 until this proceeding is completed, do you?

21 A. What I stated was the proceeding does not come
22 into play with the time frame for getting it done. The time
23 frame is we're trying to tackle what I would term some of
24 the easier areas first, involve property owners, because
25 that be will be more complex just by the number of people we

1 need to get together.

2 MR. DEUTSCH: That's all the questions I have.

3 Thank you.

4 JUDGE DIPPELL: Thank you.

5 Is there redirect?

6 MR. LOWERY: No redirect, your Honor.

7 JUDGE DIPPELL: That concludes -- I can't

8 remember if we did redirect from Mr. Deutsch's questions.

9 MR. LOWERY: No redirect to anything, your

10 Honor.

11 JUDGE DIPPELL: All right. Thank you.

12 Then, Mr. Douglass, you may be excused.

13 THE WITNESS: Thank you.

14 JUDGE DIPPELL: And we'll recall Mr. Beerman

15 to the stand. I guess I should ask first if there are any

16 Commission questions for Mr. Beerman before he retakes the

17 stand.

18 CHAIR SIMMONS: I don't have any, Judge.

19 JUDGE DIPPELL: Commissioner Gaw?

20 COMMISSIONER GAW: I don't think I do either.

21 JUDGE DIPPELL: We had redirect I believe for

22 you. Was there any recross based on --

23 MR. DEUTSCH: No recross

24 MR. RAYBUCK: No redirect.

25 JUDGE DIPPELL: Mr. Beerman, you may be

1 excused. I apologize you had to hang around this afternoon.

2 Mr. Fulks, I think there may be some questions

3 for you. Mr. Fulks was previously sworn and we finished his

4 cross-examination so we're ready for questions from the

5 Bench.

6 Commissioner Simmons, did you have any

7 questions for Mr. Fulks?

8 CHAIR SIMMONS: I do not, Judge.

9 JUDGE DIPPELL: Commissioner Murray?

10 GARY L. FULKS, having been previously sworn, testified as

11 follows:

12 QUESTIONS BY COMMISSIONER MURRAY:

13 Q. Mr. Fulks, can you refresh me on what your

14 testimony was concerning? I didn't bring your testimony

15 back to the hearing room.

16 A. Associated's involvement in this project and

17 the benefits it brings to Associated for participating with

18 Ameren in this joint project.

19 COMMISSIONER MURRAY: Okay. I don't think I

20 have any questions. Thank you.

21 JUDGE DIPPELL: Commissioner Lumpe?

22 QUESTIONS BY COMMISSIONER LUMPE:

23 Q. Mr. Fulks, the statement has been made that a

24 line would have to be taken out of service to allow new

25 construction -- a proposal of doing new construction along

1 this particular line and that it would have to be taken out
2 of service to do that. Would you elaborate on that?

3 A. I believe the issue was if we were to use only
4 the existing right-of-way of the Maries to Chamois 161 kV
5 line and build a double circuit on that same right-of-way,
6 could we do that without taking a line out of service, was
7 the gist of what I thought I heard. And the answer is, no,
8 you'd have to take the line out of service to do that.

9 Q. You'd have to take the full line out?

10 A. Yeah. From terminal to terminal there are no
11 intermediate connections on that line. It's kind of like an
12 express highway on the 161 kV system, which was built back
13 in the late '50s, generally speaking, in that time period.

14 And that was the high-voltage highway at the
15 time before we stepped up to the 345 kV, because our load
16 grew and we needed more capacity in the system so you
17 increase the voltage to supply power to your customers.

18 So in order to do that, you have to take the
19 full line out of service. And so that creates an inherent
20 reliability problem during the time period you're doing the
21 construction.

22 And, frankly, nobody asked about is that a
23 good engineering solution. And my answer would be, no,
24 Associated would not support that as a good engineering
25 solution. The -- the only value of the high-voltage grid,

1 the 345 grid, is based on what underlies that grid.

2 So if you take out what the underlying system
3 is, that diminishes the value of the 345 system. So these
4 things have to work together. And it didn't seem like to me
5 a practical engineering solution, not something Associated
6 would be view favorably.

7 Q. How long would it take to do that if you were
8 to take it out? Is it years or --

9 A. I --

10 Q. -- months?

11 A. Based on my experience, we're probably talking
12 about a year of construction time. That's -- Ameren may
13 have a different schedule, but based on my experience
14 building -- being involved in several 345 kV lines, I
15 suspect that project would be a minimum of a year.

16 Q. So there would be no way to serve the other
17 utilities, your co-ops while that was out?

18 A. It would impose a reliability problem. To the
19 extent that all the other facilities were in service during
20 that time period, hypothetically you might survive. The
21 alternative is if a storm came through and trips some lines
22 out, you may have a lot of customers in the dark.

23 Q. But there would be -- theoretically, they
24 would be served, they wouldn't be out of power for a year;
25 is that correct?

1 A. No. They wouldn't be out of power for a year.
2 We're talking about from time to time there would be outages
3 in the area. And customers tend to get very upset about
4 outages in their area --

5 Q. Yes, they do.

6 A. -- our customers do.

7 Q. I think all customers do.

8 On page 6 of your Surrebuttal Testimony the
9 suggestion, as you say, has been made that you paid less
10 than fair sums for the easements and you say that's
11 absolutely not true. Would you elaborate on that?

12 A. When we go out and acquire right-of-way for a
13 transmission line, our process is very similar to the
14 testimony we heard from Ameren earlier today.

15 We look at what the value of the property
16 taking is. We have appraisers that look and compare the
17 taking of this property versus other property that's sold in
18 the area, try to come up with a fair value for that property
19 and -- and offer that to the property owners.

20 To the extent that the property owners don't
21 feel that's fair value, then they have the opportunity to go
22 to court through a condemnation process in which the court
23 will appoint three commissioners to go out and determine the
24 value of the property and report back to the court what that
25 value is.

1 Q. Do you have condemnation power?

2 A. Yes, we do.

3 Q. Associated does. Okay. So where you say that

4 none of the easements were taken by condemnation and if the

5 property owner was dissatisfied, they need not have granted

6 the easement -- but if they had not granted the easement,

7 you would have used your condemnation powers; is that

8 correct?

9 A. We could have. The ultimate -- you try to

10 avoid that as much as you can. Nobody likes to go to court.

11 But the backstop is that if you can't reach an agreement

12 with a property owner, then you go to court and the court

13 assigns three commissioners to determine what the fair value

14 of the property is.

15 Q. And it's not the case that since it was the

16 co-op and there was a promise or alleged promise that this

17 easement would never be used, that people gave less value or

18 didn't require the full value?

19 A. No. We would never go out and spend money

20 without the intent of making useful value of the money. We

21 wouldn't give money people money for right-of-way we'd never

22 use. That's a ridiculous assumption on someone's part. We

23 fully intended to use that right-of-way.

24 Q. At some point?

25 A. At some point. And if this project doesn't

1 happen, then I assume that right-of-way will revert back to
2 us -- it will be an interesting discussion with Ameren --
3 but some day there will be a line built on the right-of-way
4 to support the loads in the local area.

5 Q. It's your contention that no one told these
6 people this is never going to be used?

7 A. No. I don't believe that ever happened.

8 Q. All right. And you agree that there is a
9 benefit, albeit maybe indirect, to the co-op to the
10 construction of this line?

11 A. It's a definite benefit and a large benefit.
12 Not just a small benefit. We need support in that central
13 Missouri area to serve our growing load.

14 In my testimony I pointed out that local
15 distribution co-ops in that area have grown 260 percent
16 since 1979. And we have to be able to serve that load.
17 Typ-- right now it's served through a 69 kV network operated
18 by Central Electric Power Cooperative and that network is
19 running out of gas. It's too small to handle the load.

20 So our plan is to build 161 kV transmission to
21 the area. But we don't have a really good source for that.
22 And the benefit we see is having a source at the Rich
23 Fountain Substation which we negotiated with Ameren as part
24 of our benefits on this project is to receive that 345 --
25 the 161 transformer option there at Rich Fountain, which

1 will be used then to move power into the 161 system, which
2 will move power into the 69 system at various points to
3 serve our members in the area. So it's a huge benefit for
4 us to have that.

5 If we were -- as I testified this morning, if
6 we were to go to the option where we went from Bland to
7 Franks, like the Intervenor would like to talk about, that
8 provides no benefit to Associated. All it does is force
9 more power from Ameren's system into our system and overload
10 the Franks transformer.

11 Why would I put any money in that project?
12 That has no value to us. But having the ability to have it
13 at Rich Fountain through the alternate that we negotiated
14 with Ameren is a win/win for both companies. We can tap
15 that, we can use that to deliver power to our members and
16 save us from building that same line five or six years from
17 now. So that's certainly a benefit to us.

18 Q. And in allowing Ameren to use these easements,
19 were you compensated fully for that?

20 A. Our contribution as part of this project was
21 to donate the easements, which we think have a lot of value.
22 In addition, we're spending over \$3 million at the Franks
23 Substation to allow their line to connect into our
24 substation.

25 So part of our contribution -- and they're

1 spending quite a bit more money on building the transmission
2 lines. So our contribution is to -- is to donate this
3 right-of-way that we paid for in 1978 and 1979 to the
4 project.

5 Q. So your contribution to it is the easements
6 and then UE's contribution is building the line from which
7 you will benefit?

8 A. And we supply the substation terminal
9 facilities at Franks and a transformer that costs over a
10 million dollars at the Franks Substation.

11 Q. Okay. Thank you.

12 A. Because the additional power that comes in
13 will overload the existing transformer, so we have to
14 increase our transformer capacity.

15 COMMISSIONER LUMPE: All right. Thank you,
16 Mr. Fulks.

17 JUDGE DIPPELL: Thank you.

18 Commissioner Gaw, do you have any questions?

19 QUESTIONS BY COMMISSIONER GAW:

20 Q. Good afternoon, Mr. Fulks.

21 A. Good afternoon, sir.

22 Q. I'm trying to follow your conversation with
23 Commissioner Lumpe. When we're talking about Rich Fountain,
24 I know there's been testimony about that before, but we've
25 been -- there's been the map that was up on the screen, I

1 don't know if you saw it, I believe it was yesterday. Where
2 is Rich Fountain located?

3 A. It's -- on that map it's on the 345 kV line
4 about --

5 MR. LOWERY: Commissioner Gaw, if I could just
6 interrupt, this will probably help you. It's depicted on
7 this map if that helps you.

8 THE WITNESS: That helps me too.

9 COMMISSIONER GAW: Probably would if I can
10 just identify where we are from --

11 MR. LOWERY: I think Mr. Fulks could come up
12 and show you on that MAIN map, I'm sure, if that would be
13 helpful.

14 BY COMMISSIONER GAW:

15 Q. Mr. Fulks, if you use this map for me because
16 that's what I've been looking at all the time.

17 A. I'll draw a little X approximately where that
18 line would be located.

19 Q. All right.

20 A. It would be on the new line right-of-way about
21 in this area south of Chamois.

22 Q. For purposes of the record, you're showing an
23 X on this MAIN map looks like south and west of Chamois and
24 north and west of Bland along the current 161 Associated
25 line --

1 A. Yes.

2 Q. -- would that be accurate?

3 A. That's accurate.

4 Q. Okay. Thank you.

5 Now, just so I can follow you, when you're

6 talking about how going down from Bland to Franks would not

7 help with Associated's -- and I guess it's really -- is it

8 Central's power problems in the area?

9 A. It's Central's distribution member --

10 customers in that area, yes, sir.

11 Q. All right. And the problem that you would

12 have again if there was not -- if the route was constructed

13 from Bland down to Franks is that you still would not be

14 able to get power over to the Rich Fountain area --

15 A. Yes.

16 Q. -- is that correct?

17 A. Yes. Not much farther past, so electrically

18 it's far interior to having a source at the Rich Fountain

19 site off the 345 kV network.

20 Q. Where's the additional load growth that you

21 were describing earlier located?

22 A. Typically it's south of the Jefferson City

23 area, north of the Lake of the Ozarks area and over south of

24 the Hermann area, in that area from Hermann to -- between

25 Hermann and Sullivan.

1 Q. All right. And is there a transmission line
2 that currently links up all of those areas that you
3 described?

4 A. There's a fairly extensive 69 kV network that
5 ties through all those areas that currently supplies the
6 load.

7 Q. That wouldn't be shown on this MAIN map, would
8 it?

9 A. No.

10 Q. Because I believe it goes down to 115 to 161
11 kV?

12 A. That's correct. It's not shown on the MAIN
13 map.

14 Q. So I can't see it by looking at this map?

15 A. No, sir.

16 Q. But that line that you're describing, is it an
17 east/west line?

18 A. The -- we have at the Rich Fountain Substation
19 a plan to -- in fact, we already own a substation site there
20 which we acquired. And we've recently built a new 69 kV
21 line that goes from Osage, which is west of there, over to
22 Linn, which is east of there. And that line is built for
23 161 kV construction in anticipation that some day we would
24 build a Rich Fountain 345/161 substation in order to tie
25 into that system.

1 Q. Now, I'm just trying to picture this a little
2 better. Is that entire system tied in with an east/west
3 line of 161 that would go clear over to Hermann? Let's see.
4 I'm trying to see where Hermann is. Pardon me. Where is
5 Hermann located from the Callaway plant?

6 A. East.

7 Q. It's east?

8 A. East of Callaway probably 20 miles, perhaps
9 40.

10 Q. Yeah. Okay. So this problem you have with
11 the power, does it stretch from Hermann west and down into
12 the -- into the Lake area south of Jeff City?

13 A. Actually, yeah. We have a substation down at
14 Barnett, Lake of the Ozarks, which is the next 161 to 69
15 input we have into the system. So we go from there all the
16 way up to Chamois without any additional 161 to 69 kV
17 transformation. And then we go over east of Hermann at Big
18 Creek on our system and then we go down at Sullivan. So we
19 have this fairly large void are --

20 Q. Yes.

21 A. -- without a strong input into.

22 Q. Okay.

23 A. Therein lies the problem.

24 Q. The input?

25 A. The input. You need a strong input to move

1 path -- for power to flow into that area.

2 Q. Yeah. And the Rich Fountain proposal that you
3 have would provide that input?

4 A. Oh, we think it's a beautiful location.
5 Centralized in the middle of this big void area that we have
6 and provides an ideal place, which is why I base my
7 statement that I think this has great benefits for
8 Associated and Central and ultimately the member co-ops in
9 that area.

10 Q. Yeah. Now, again, I want to understand why
11 you're drawing a distinction. The description of the
12 portion of the grid that you were describing earlier, it
13 would appear, unless I'm missing something, to cross the
14 line between Callaway and Bland. Am I missing that?

15 A. The -- we do have a 161 kV line that crosses
16 between that line. And we have looked at that as a
17 potential input into the system and it doesn't compare
18 nearly as favorable as the Rich Fountain Substation site.

19 Q. Okay. Explain that for me, if you would.

20 A. It's just the electrical performance of the
21 system. When we run the load flow models and we test the
22 two different options, we find that the option which we
23 called Rosebud, I believe, down on the crossing point of the
24 Bland line, wasn't nearly as strong as providing power into
25 the area.

1 And under certain contingencies up in the
2 western part of the area, it was a little bit too far away,
3 which would cause us to build additional facilities sooner
4 in the future.

5 Q. So the mileage that you pick up going west
6 from the Rosebud site to the Rich Fountain site helps with
7 the western part of your area?

8 A. Better than it would over to -- having that
9 substation to the east.

10 Q. Yeah. How much difference is there, do you
11 recall? Do you know that?

12 A. I don't recall the numerical numbers. But
13 most of our load is -- we have a lot of load north of the
14 Lake of the Ozarks area and south of the Jeff City area.

15 Q. Is that where your growth is --

16 A. That's where --

17 Q. -- mainly?

18 A. Mainly.

19 Q. Do you currently have a --

20 A. Let me answer that a little differently.

21 Q. That's fine.

22 A. We have higher load growth in the area. We
23 have growth in both areas. I'm not saying we don't have any
24 growth in the east. I'd say we have a higher load growth in
25 that area.

1 Q. That's what I thought your answer was, but
2 thank you for clarifying it.

3 A. Okay.

4 Q. Do you currently have a problem on overload of
5 your 161 line from Chamois to I think it's Maries or should
6 I say Franks? I don't know.

7 A. I don't recall any overloading problems with
8 that line. We have some loading problems on our 161 to 138
9 kV tie with Ameren at Maries. There's a 100 MVA transformer
10 that transforms between the 161 voltage and their 138 kV
11 voltage and that shows up as causing operating -- potential
12 operating problems from time to time.

13 Q. What's causing that?

14 A. The power wants to flow from the 161 into the
15 138 system.

16 Q. Yeah. And how do you fix that again?

17 A. You try to add system improvements in the
18 right place to reduce that power flow. And we have
19 operating guides in effect now to keep those facilities from
20 becoming overloaded.

21 Q. Is that one of the places where you're going
22 to do some work if this line is built on that connection
23 there at Franks -- between Franks and Maries?

24 A. We're adding additional transformation at
25 Franks and that may tend to unload some of the flows through

1 the other line, if I recall right.

2 Q. Okay. Would that do that if you constructed
3 that regardless of whether or not the 345 line were
4 constructed along the current plan from Chamois -- or from
5 Callaway to Franks? Is that apples to oranges in
6 comparison?

7 A. I didn't hear what you were comparing it to.
8 If you were comparing that line to what?

9 Q. No. I'm trying to see whether or not the fix
10 or the additional work that you're going to do there between
11 Maries and Franks if this line is built, would have the same
12 result if the line went from Bland to Franks.

13 A. The issue of the Maries transformer loading is
14 a separate problem from serving the load up in that area.

15 Q. Yes. Is it the same problem regardless --
16 would you -- if the line --

17 A. I believe that's --

18 Q. -- hypothetically were built from Bland --

19 A. Bland --

20 Q. -- to Franks, would you still have to
21 construct the same kind of a transformer?

22 A. I don't -- yeah, I don't think there's any
23 difference between those two plans on the Maries transformer
24 load.

25 Q. Yeah. That's what I was asking. Thank you.

1 A. Okay.

2 Q. If you know, do you ever -- when you are
3 trying to acquire easements for transmission lines, is it
4 necessary for Associated or any of its affiliates to come to
5 the Commission or is there any jurisdiction of the
6 Commission as far as you know, to rule about whether or not
7 that should be done?

8 A. That question was raised this morning. As I
9 explained, Associated isn't under Commission jurisdiction
10 except for safety issues related to operation of the
11 transmission system.

12 Q. So I guess I've got sort of a curiosity
13 question.

14 A. Uh-huh.

15 Q. If Associated had decided to go ahead and
16 build this line, would we be here?

17 A. We wouldn't have a reason to be here.

18 Q. I mean, from a legal standpoint.

19 A. Yeah. Well, we're here for the Commission, I
20 believe, to approve Ameren's building the line. If
21 Associated built it, then we wouldn't need Commission
22 approval. We already own much of the right-of-way and we
23 could acquire the rest of the right-of-way and some day
24 probably will.

25 Q. Could Associated have gone ahead and finished

1 the easements up along this line and entered into an
2 agreement to sell the line after it was constructed by
3 Associated to Ameren?

4 A. Well, we have some hurdles to jump through
5 when we sell property just like the investor owned who
6 was -- when they sell property. But the first part of where
7 you were going is we could have acquired the right-of-way
8 and had a complete set of right-of-way for Ameren. That
9 wasn't what we negotiated.

10 Q. Yeah. There might have been some difficulties
11 in actually transferring the lines after the --

12 A. Once they're constructed and those assets
13 would be -- we'd have to seek RUS approval to sell those.
14 We have an indenture agreement and we'd have to go to the
15 trustee and get approval from the indenture to sell assets.

16 Q. So this is more straightforward?

17 A. Very much so.

18 COMMISSIONER GAW: I believe that's all.
19 Thank you, sir.

20 THE WITNESS: Thank you.

21 JUDGE DIPPELL: Thank you. I believe that's
22 all of the Commission questions.

23 Is there cross-examination by Staff?

24 MR. BATES: No, thank you.

25 JUDGE DIPPELL: Office of the Public Counsel?

1 MR. COFFMAN: No more questions. Thank you.

2 JUDGE DIPPELL: Mr. Deutsch?

3 MR. DEUTSCH: Yes. Thank you.

4 RECROSS-EXAMINATION BY MR. DEUTSCH:

5 Q. Just a couple of clarifications. In response
6 to Commissioner Lumpe's questions about acquisition of the
7 right-of-way, I noticed that you referred continuously that
8 we wouldn't do that and we couldn't do that and we would do
9 this and we would do that.

10 I wanted to make clear, Associated did not on
11 its own behalf with its own employees acquire that
12 right-of-way, did it?

13 A. No. As I explained this morning, Central
14 Electric -- our policy is to assign the G and T whose area
15 is the facilities are being built as Associated's agent to
16 build the facilities.

17 And we assign Central as our agent to acquire
18 the right-of-way, to construct the line, to operate and
19 maintain the line. So Central was operating under
20 Associated's oversight, but they were using their people to
21 do the work, yes, sir.

22 Q. And so when you stated to Commissioner Lumpe
23 that no one ever told anybody in the area that the line
24 wouldn't be built, you don't really have any direct
25 information or way to know that, do you?

1 A. I had that discussion with Central staff and
2 they assure me that nobody in Central staff ever made the
3 statement that the line would not be built.

4 Q. And who was this you talked to in Central
5 staff?

6 A. Ralph Schulte.

7 Q. And who did he talk to about -- I take it he
8 didn't have the discussions either?

9 A. Those would be the right-of-way people. They
10 had -- some of those people reported to Mr. Schulte and
11 Mr. Shaw at the time. Don Shaw is the general manager
12 and --

13 Q. Did you ever talk to those agents in the
14 field?

15 A. No, I haven't.

16 Q. But I guess you trust Mr. Schulte to tell you
17 the truth, that he wouldn't do something that would be
18 reprehensible, would he?

19 A. I absolutely trust Mr. Schulte and that
20 Mr. Schulte's telling me the truth.

21 Q. And, of course, we trust you to tell us that
22 what they're telling you was true in what they told you.
23 Right?

24 A. I hope you do.

25 Q. Also, you testified about the benefit to

1 Associated. Are you a co-applicant on this application?

2 A. No, we're not. We're not under -- as I

3 explained, under the Commission jurisdiction for this.

4 Q. Are you aware that the application that was

5 filed here is entirely to address the overloading on the

6 Bland-Franks line and at no point mentions any purpose to

7 reward or to benefit Associated?

8 A. I can't imagine why it would mention that

9 since Ameren is explaining why they need the line.

10 Q. But they need it, they say, to fix the problem

11 on the Bland-Franks line.

12 A. Absolutely. There's a problem on the Bland to

13 Franks line that Ameren needs to fix. And we've been

14 working with Ameren's planning engineers for some time to

15 get that problem fixed.

16 Q. So if there were no problem on the

17 Bland-Franks line, there would still be a need for the

18 Callaway-Franks line so you could get a connection to Rich

19 Fountain?

20 A. In a few years there will be a need for that

21 line.

22 Q. Yeah. But you can get it through going

23 through collaborating with Ameren rather than having to do

24 it yourself?

25 A. Having two utilities work together to build a

1 common project seems to me like it's in the public interest,
2 both their public and our public interest, to minimize cost
3 and essentially kill two birds with one stone.

4 Q. Well, that's a characterization to be put on
5 it. It could be that the two utilities are conspiring
6 together too?

7 A. Conspiring to -- to deliver low cost --

8 Q. Conspiring to -- you and Ameren are the only
9 ones that cooked up this idea, weren't you?

10 A. We're the only ones involved in the project
11 because we're the only ones that have facilities affected by
12 the project.

13 Q. Anybody come to the Commission and ask them
14 about what you ought to do on the project before you cut the
15 deal?

16 A. I have no idea.

17 Q. You sure didn't, did you?

18 A. No. We have no -- we went to our Board of
19 Directors, which is our governor and explained the issues to
20 our board. And they approved the project and thought it was
21 great for both companies and the customers of both
22 companies.

23 Q. So you think that the line ought to be granted
24 because it will enhance the capabilities of Associated to
25 serve its customers?

1 A. I think it solves the initial problem that
2 Ameren presented, and that is the overload of the Bland to
3 Franks existing transmission line.

4 Q. But you testified that you don't think it's a
5 good idea to just build another Bland-Franks line because
6 that wouldn't benefit Associated as you would like?

7 A. I'm saying that's not the best alternative.

8 Q. Because it wouldn't --

9 A. I'm saying if they build that alternative, I
10 would have no interest in putting \$3.4 million into that
11 project --

12 Q. I thought --

13 A. -- strictly to help Ameren solve a problem on
14 their transmission line.

15 JUDGE DIPPELL: Mr. Deutsch, if you'll let him
16 answer your questions, then we might get some answers.

17 BY MR. DEUTSCH:

18 Q. Yeah. Excuse me, Mr. Fulks. I thought that
19 you had testified this morning that regardless of how the
20 problem on Bland-Franks is solved, the overloading problem,
21 that the 3.4 million that you need to spend down in Franks
22 will be spent either way?

23 A. No. I'm saying that it will cost 3.4 million
24 either way. Whether we pay any of that or not is a
25 different question. And what I said as a follow-up to that

1 is there's no particular reason that I would go to our board
2 and say, If we build Bland to Franks, we should spend
3 3.4 million. Because all that does is push more power into
4 our system and overload the Franks transformer. It doesn't
5 give us any benefit, so why would I be willing to spend
6 money for that?

7 Now, if we with the Callaway to Rich Fountain
8 to Franks, that provides benefits. Now I'm willing to
9 negotiate putting some money into this project and
10 contributing right-of-way to the project and testifying
11 before the Commission to try to get the project built,
12 because I believe it's in the public interest to build that
13 project.

14 Q. Certainly in Associated's?

15 A. It's in our public interest and I believe --

16 Q. Are you the public?

17 A. -- it's Ameren's public interest.

18 Q. Associated is the public?

19 A. Associated represents our 750,000 customers.

20 We tr--

21 Q. Associated represents the public?

22 JUDGE DIPPELL: Mr. Deutsch, please, one at a
23 time.

24 BY MR. DEUTSCH:

25 Q. Just one last question. Commissioner Gaw

1 asked you about the location of this huge growth in your
2 load. I heard your description. What was the growth in
3 Osage County?

4 A. I don't know county by county. I know by --
5 we looked at distribution co-op. And actually we looked at
6 Gascosage system, which is on the south end, and Three
7 Rivers system, which is on the -- most of the northern part,
8 all the northern part.

9 Q. What was the growth in Maries County?

10 A. I don't -- sir, I don't know county by county
11 what the growth was. I --

12 Q. What was the growth in the area of Maries,
13 Osage and Pulaski?

14 A. Well, the entire Three Rivers system, which
15 was probably most of those, was somewhere probably in the
16 260 percent range.

17 Q. Although --

18 A. But, again, I haven't broken out Gascosage.

19 Q. But --

20 A. I look in this --

21 JUDGE DIPPELL: I think answered his question.

22 THE WITNESS: I'm sorry.

23 BY MR. DEUTSCH:

24 Q. You testified in response to a question from
25 Commissioner Gaw that the growth was south of Jeff City,

1 above the Lake. Now, is Osage County south of Jeff City?

2 A. Yes. I believe -- I believe -- I'm not

3 familiar with the counties.

4 Q. Oh.

5 A. You're asking the wrong guy. This is not my

6 part of the state. I live in Springfield. I can't tell you

7 where the county boundaries are up here. I can tell you

8 where our distribution co-op systems are.

9 Q. The growth in the state that you were

10 referring to is south of Jefferson City, north of the Lake

11 of the Ozarks?

12 A. And an area over south of Hermann and --

13 Q. Do you know what county that's in?

14 A. -- and north of Sullivan.

15 Q. Do you know what county Sullivan is in?

16 A. No, I don't, sir.

17 Q. Do you know what county Hermann is in?

18 A. I flunk the county test, I'm sorry.

19 MR. DEUTSCH: Okay. That's all the questions

20 I have. Thank you, Mr. Fulks.

21 JUDGE DIPPELL: Thank you.

22 Is there any redirect?

23 MR. LOWERY: Just very briefly, your Honor.

24 JUDGE DIPPELL: This includes redirect from

25 Mr. Deutsch's previous cross-examination as well.

1 MR. LOWERY: That's correct.

2 REDIRECT EXAMINATION BY MR. LOWERY:

3 Q. Mr. Fulks, I was hoping you could provide just
4 a little bit more information to Commissioner Gaw in
5 relation to his question about the letter of intent that he
6 asked earlier.

7 A. Very well.

8 Q. On your testimony, your Surrebuttal Testimony
9 at page 8 contains a description of the letter of intent; is
10 that correct?

11 A. That's correct.

12 Q. Just to confirm for the Commission, is it your
13 testimony that these are the major features, the relevant
14 features of the agreement, the bargain that's been struck
15 between Associated and Union Electric?

16 A. I tried to represent it that way, yes.

17 MR. LOWERY: That's all I have, Judge.

18 JUDGE DIPPELL: Thank you.

19 Mr. Fulks, you may be excused.

20 THE WITNESS: Thank you.

21 JUDGE DIPPELL: Thank you.

22 And I believe Mr. Nunn is next. While he's
23 making his way up here, let me see if there are any
24 Commission questions for Mr. Nunn.

25 Was there any redirect for Mr. Nunn or --

1 MR. RAYBUCK: I don't believe so, Judge, but
2 just a moment.

3 JUDGE DIPPELL: Was there any recross? I
4 believe I may have asked him a question or two.

5 All right, then. Mr. Nunn, you may be
6 excused.

7 Oh, I'm sorry, Mr. Raybuck. Did you say you
8 had one more?

9 MR. LOWERY: No, we don't.

10 JUDGE DIPPELL: You may be excused, Mr. Nunn.

11 MR. NUNN: Thank you.

12 JUDGE DIPPELL: Thank you.

13 That brings us then to Mr. Ketter. And I know
14 there's some questions for him. And he was previously sworn
15 and we went through cross-examination.

16 Commissioner Simmons, do you have any
17 questions?

18 CHAIR SIMMONS: I do not.

19 JUDGE DIPPELL: Commissioner Murray?

20 COMMISSIONER MURRAY: Yes, I do. Thank you.

21 JAMES L. KETTER, having been previously sworn, testified as
22 follows:

23 QUESTIONS BY COMMISSIONER MURRAY:

24 Q. Good afternoon, Mr. Ketter.

25 A. Good afternoon.

1 Q. Do you know how many of the property owners
2 that are Intervenor in this proceeding live within the
3 20 miles that are outside of AmerenUE's certificated area?

4 A. No, I do not.

5 Q. So I guess it follows that you don't know how
6 many of the Intervenor live inside of AmerenUE's
7 certificated area that's being -- where the application is?

8 A. I do not know the answer to your question, but
9 in looking at the service territory of AmerenUE that's
10 certificated by this Commission, it appears that two-thirds
11 or maybe 70 percent of the mileage is within the area that's
12 served by Union Electric and then the rest of that would be
13 served by the local cooperatives in the southern end of the
14 project.

15 Q. So in terms of the overall project, it's a
16 pretty small percentage that we would ordinarily be asked to
17 approve; is that correct?

18 A. It's -- it appears to be the past policy that
19 if a portion of the line is outside of the service
20 territory, that the company would ask for a certificate for
21 the complete line to include either the portion that was
22 inside the service territory or outside.

23 Q. And do you know why that is? Do you know if
24 they have to ask us -- if they have to get approval for the
25 entire line or just for the portion that lies outside their

1 territory?

2 A. I don't know have a legal opinion to address
3 that except that that's just been the common practice that I
4 have observed. As was pointed out earlier, I believe in
5 counsel's opening statement, that court cases have defined
6 that if it's -- a project is within the service territory of
7 the company, that they do not have to ask specific
8 permission for a certificate.

9 Q. And utilities don't have to come to this
10 Commission for approval of easements. Is that your
11 understanding?

12 A. That's my understanding, yes.

13 Q. Do you know what the total number of
14 structures that would need to be moved -- do you know the
15 total number of structures that would need to be moved as
16 the line is proposed?

17 A. I haven't made a count of those, no.

18 Q. So do you know if there is a currently
19 existing easement for any or all of those structures?

20 A. In the testimony today it was pointed out that
21 the Drennen home is on a piece of property that the easement
22 was not given. So there is no existing easement on that
23 property. To my knowledge and recollection, I don't believe
24 there's another structure that's in that same category.

25 Q. Okay. So, in other words, the other

1 structures would lie in areas in which there is an easement?

2 A. I wouldn't be that exclusive. I have no
3 knowledge of those, but I'm not certain about that.

4 Q. Do you know if the Drennen home is within the
5 20 miles that are outside of AmerenUE's certificated
6 territory?

7 A. I would place it within Union Electric's
8 service territory in that most all of Osage County --
9 there's about 16, 17 sections, square miles, that aren't in
10 UE's service territory in Osage County. In Maries County,
11 the line goes just south of Vienna and Freeburg is north of
12 Vienna. And I would put that in AmerenUE's certificated
13 area.

14 The certificated area is done section by
15 section, so there is a possibility that their -- that their
16 home in the Freeburg area was not, but it appears to me that
17 it's in the area that's been certified to Union Electric. I
18 would assume that they are -- and from Ms. Drennen's
19 testimony, that they are served by the cooperative in that
20 area because the cooperative service territory would overlap
21 Union Electric's.

22 Q. But you believe that Union Electric has a
23 certificate to serve their location?

24 A. In the Drennen location, yes.

25 Q. Okay. So ordinarily if it were not for the

1 20 miles that lie outside of Union Electric's certificated
2 area, the company would not even be coming to us for
3 approval to put the line at the Drennen property; is that
4 right?

5 A. That's correct.

6 Q. And it's your position that this is needed for
7 reliability concerns --

8 A. Yes.

9 Q. -- is that right?

10 A. Yes. For the stability of the transmission
11 network, that this addition will provide reliability
12 benefits for the transmission system.

13 Q. And that includes, of course, the customers of
14 the transmission system in Missouri?

15 A. Yes.

16 Q. Since you've been on the Commission, have you
17 been involved in any cases where approval of transmission
18 lines has been sought?

19 A. Yes.

20 Q. You have. When was the last one, do you
21 recall?

22 A. This spring Union Electric asked for
23 permission to build the Rush Island-St. Francois line, a 345
24 connection, which, like this case, a portion of that was
25 outside of their service territory.

1 Q. And do you recall when the last one was before
2 that?

3 A. My next recollection is a transmission line
4 north St. Louis -- was your question that required the
5 certificate?

6 Q. That, yes, required --

7 A. Required the certificate.

8 Q. -- required the company to come to us for
9 approval.

10 A. I have to go back a few more years then.
11 Early '90s. Union Electric needed to build a transmission
12 line in the south part of their service area around the Lake
13 which tapped a Show-Me power line for their source, but came
14 through an area that was not certificated and the
15 application was before this Commission.

16 Q. Was that as contentious as this one, do you
17 recall?

18 A. Fewer intervenors, but the EMF question was of
19 more concern at that point.

20 COMMISSIONER MURRAY: All right. I think
21 that's all I have. Thank you, Mr. Ketter.

22 JUDGE DIPPELL: Thank you.

23 Commissioner Lumpe?

24 QUESTIONS BY COMMISSIONER LUMPE:

25 Q. Mr. Ketter on page 3, I wonder if you would

1 clarify that for me. The sentence is, The blanket easements
2 agreed to by the property owners in the 1970's allow
3 construction of a line on the property but only specified,
4 slash, identified by the centerline of the line as actually
5 built. Since no line has been built, a specific easement
6 has not been established in some cases.

7 And my question is, how do we know where the
8 easement is then if -- when you say it hasn't been
9 established? Is it within some parameter or is it anywhere?

10 A. The easement -- and we've talked about Exhibit
11 No. 51, which is a -- one of those blanket easements. And
12 Mr. Douglass talked a little bit about that earlier about
13 the easement that's given or that's signed by the property
14 owner encompasses the outside of their property.

15 And in this case, it said there would be a
16 line that would be built, would be -- would -- the
17 centerline was 75 feet on either side would define the
18 easement after construction. So after the line is built,
19 the easement shrinks from the outside property line to the
20 75 feet on either side of the centerline as built.

21 Q. So the easement does not currently exist as an
22 easement, it becomes an easement after the line is built.
23 So does that mean the line could go anywhere and then you'd
24 say, okay, now, here's the easement?

25 A. That's why we call them blanket easements.

1 It's just, I think, a generic determine.

2 Q. And these were all blanket easements?

3 A. Yes.

4 Q. I just have one more question for you. I've

5 had some concern that -- well, that I know there's been some

6 testimony that this will benefit people in Missouri, the

7 co-op, UE, etc. Will it have benefits beyond Missouri?

8 A. It will have. The reliability councils that

9 we've talked about throughout this -- the hearing on the

10 national level and on the regional level where reliability

11 councils intersect in Missouri -- it seems like that's our

12 duty is to tie these councils together here in Missouri.

13 But these additions will relieve overloads

14 that many other utilities and customers have to live with

15 and operational constraints. What it allows Ameren is

16 better access to markets, and that means sell and it also

17 means buy. It will allow Associated better access to

18 markets, which is buying and selling. And --

19 Q. Does Associated --

20 A. -- so it benefits their customers.

21 Q. Does Associated go beyond Missouri or are all

22 of its clients in Missouri? Does it sell power beyond

23 Missouri?

24 A. Well, we know that there are some in Oklahoma,

25 because part of their G and T operate in Oklahoma. They do

1 have some customers in Iowa. I'm not aware of others, but
2 predominantly in Missouri.

3 Q. Should we have any concern about allocation of
4 these benefits so that the people -- the construction of
5 this is just not placed on Missouri's citizens?

6 A. In -- in this case, Union Electric is
7 proposing to build. When that -- should it become used and
8 useful, that may be an issue for this Commission in
9 rate-making.

10 When -- under the current scheme of things,
11 there's an allocation of the facilities between Missouri
12 jurisdictional, Illinois and -- and federal or F-E-R-C or
13 FERC jurisdictional revenues. So we have a mechanism to
14 capture some of the benefits through that under our current
15 scheme of regulation.

16 COMMISSIONER LUMPE: Okay. Thank you,
17 Mr. Ketter.

18 JUDGE DIPPELL: Commissioner Gaw, do you have
19 questions?

20 QUESTIONS BY COMMISSIONER GAW:

21 Q. Unfortunately, for some. I'm afraid I'm
22 delaying our time here.

23 But, Mr. Ketter, in following up on
24 Commissioner Lumpe's inquiry about who benefits from this
25 construction, is it your understanding that this

1 construction from Ameren's standpoint is to deal with
2 congestion that currently exists along their transmission
3 line that connects the north and south portions of the
4 network in Missouri?

5 A. Yes. I believe that's -- let's say the first
6 entry point of -- that brought the need for this
7 application.

8 Q. All right. And there's some notations
9 about -- in earlier testimony about, first of all, that the
10 number of incidences where there was excessive load on the
11 line from -- I guess that currently exists from Bland to
12 Franks; is that right?

13 A. Yes.

14 Q. And I was just curious about the change in the
15 number of incidents because there was some discussion by one
16 of Ameren's witnesses that the last year that they noted I
17 think was 2001, you remember that? That the number of
18 incidences had gone down from the previous year?

19 A. Yes.

20 Q. But there was also -- you could also look at
21 it a different way, that the number of incidences had just
22 spiked in 2000. And I'm curious about whether or not you
23 can explain how come those numbers are jumping around in
24 2000?

25 A. I think the easy answer is the market was at

1 work. There was testimony about the north/south bias. The
2 north of the United States has coal plants, the south has
3 gas or oil. So there was a lot of transfer. And the demand
4 is what causes these -- the loading.

5 Some of it had to do with timing of outages.
6 The Callaway plant was mentioned as one that would greatly
7 impact the number of times it was constrained. I -- if
8 that's sufficient, I think my answer is the market.

9 Q. And when you say "the market," you're talking
10 about the sale of electricity on the wholesale market from
11 generators or marketers?

12 A. That's a part of the market, but Associated
13 and Ameren buying and selling is part of the market also.

14 Q. Buying and selling for their native load?

15 A. For all reasons. If they had excess to sell
16 that the market would pay them a premium for or if they
17 could buy cheaper than they could generate.

18 Q. Okay. So we're talking about wholesale
19 transactions?

20 A. Yes.

21 Q. And some of these transactions might have
22 involved companies that were selling electricity generated
23 in states north of Missouri to states south of Missouri?

24 A. Yes.

25 Q. And those transactions resulted could have

1 contributed to the congestion on that Bland to Franks line?

2 A. I think all of these external market forces
3 contributed, but it affected -- it could affect and has with
4 these loading relief requests of Ameren having access for
5 their customers or to sell, you know, to make money.

6 So it's -- it's a big problem. It's a dynamic
7 problem, changes hour by hour. So, you know, I'm trying to
8 voice the Ameren customers participation here. If the
9 lights stayed on, everything's okay. But with a high
10 loading, if there's no -- if there are no other options
11 available and a line goes out, then the potential for
12 service interruption is there.

13 Q. But that is because of the additional usage of
14 that line, at least to some significant extent, by those who
15 don't own that transmission line?

16 A. That's correct.

17 Q. And the line itself there that we're talking
18 about was constructed from monies that were received from
19 ratepayers of Ameren; is that correct?

20 A. Yes.

21 Q. They pay for all of it?

22 A. That's correct.

23 Q. That's how you figure and calculate your rates
24 is determining how much it costs to build different assets,
25 including transmission; is that correct?

1 A. That's correct.

2 Q. And not only did -- they will also be asked, I
3 assume, to help construct or help pay for the construction
4 of whatever line we end up with on this case?

5 A. It will come out of Ameren resources that may,
6 like I said, come back to this Commission for inclusion
7 rates.

8 Q. Would it surprise you if they didn't argue
9 that whatever they construct here should be included as a
10 part of their rate base?

11 A. I would expect that, yes.

12 Q. Have you ever seen them argue against that?

13 A. Not in transmission line issues.

14 Q. Okay. And yet despite that, a good part of
15 the reason that we're being -- we're looking at the
16 construction of this line has nothing to do with Ameren or
17 Associated or their customers, does it?

18 A. Well, I was trying to -- to bring up the --
19 the level of consciousness that a reliable system is in the
20 best interest of Ameren's customers. But in -- if I go back
21 to the load flow studies, the initial bias, as I recall, was
22 1,000 megawatts going through. So the load flow identifies
23 external loads that impact the system.

24 Q. Yeah. And those external loads -- and I
25 assume when you say "external," let me ask you this, you're

1 talking about outside of Ameren?

2 A. Yes.

3 Q. Those external loads are part of the reason

4 that Ameren believes there's a need to strengthen this

5 north/south connection?

6 A. Well, it identifies itself in overloading of

7 their lines.

8 Q. Yes. The answer is yes. Is that a yes?

9 A. And the question was?

10 Q. My question was whether or not these outside

11 transactions that do not involve Ameren or Associated, for

12 that matter, are part of the reason why we're being -- why

13 Ameren believes there's a need to strengthen this line?

14 A. Yes.

15 Q. And, as I believe you testified earlier, some

16 of those transactions don't have anything to do with

17 Missourians?

18 A. They may not.

19 Q. Do you know how long condemnation has been

20 around as a right of a public utility in Missouri?

21 A. I don't have any personal knowledge, but I

22 would expect when we had electric utilities, we had eminent

23 domain, but that's just a guess on my part.

24 Q. How long have you been around this business?

25 A. 1976.

1 Q. Before 1976 for sure --
2 A. Oh, yes.
3 Q. -- would you say?
4 A. I'm thinking about 1913 when the Commission
5 was founded.
6 Q. You think it probably goes back to that time
7 frame?
8 A. You know, it was mentioned earlier that we're
9 not, you know, building railroads anymore, but I expect
10 maybe the railroads had to use some of the same instruments.
11 Q. And 1913 was the year that we started seeing
12 state regulation of utilities; is that correct?
13 A. Yes.
14 Q. Somewhere in that area anyway. I don't want
15 to pin you down to a particular time, but is that your
16 understanding?
17 A. Yes.
18 Q. And there was a desire -- you've read history
19 on this, haven't you?
20 A. Some, yes.
21 Q. There was a desire to try to get electricity,
22 from the State's perspective, out to customers in Missouri.
23 Would that be correct?
24 A. Yes.
25 Q. And it was strong enough that -- well,

1 condemnation is a pretty serious thing, don't you agree?

2 A. Yes. That's a heavy hammer.

3 Q. Yeah. It's not something that is given to

4 everybody?

5 A. No.

6 Q. Generally, wouldn't you say that it's given

7 because there is some public policy interest where in that

8 particular case, whether it's utilities or railroads or

9 highways, there's some public interest in seeing that

10 property -- some public good in that case somehow overrides

11 the strong ethic we have about the importance of private

12 property ownership?

13 A. Yes. I would agree.

14 Q. And would you say when it was contemplated

15 back in 1913, that -- well, let me ask you this. Missouri

16 is a bundled state, are we not?

17 A. Bundled you're talking about rates from

18 generation to transmission to retail service?

19 Q. Yes.

20 A. Yes.

21 Q. We're not a deregulated state in the sale of

22 electricity?

23 A. No.

24 Q. And there is a basic requirement, and I don't

25 want to say anthem, but maybe it is in the statutes, that we

1 want to make sure as a matter of public policy, that
2 utilities serve their native load?

3 A. Yes.

4 Q. And that has historically been the case?
5 That's been part of the driving policy behind laws in this
6 state, wouldn't you say?

7 A. Yes. And that's how utilities built their
8 systems to serve their loads locally.

9 Q. And the policy of allowing condemnation, that
10 was adopted and went hand in hand with the policy of
11 developing the electric grid and generation to serve
12 Missouri interests, wouldn't you say?

13 A. It -- as I recall, it's in the public interest
14 and I presume that we're, for the most part, responsible --
15 or the Commission's responsible for the citizens of
16 Missouri.

17 Q. Yeah. This condemnation right isn't a federal
18 right that we're looking at. It's a state law; is that
19 correct?

20 A. That's correct.

21 Q. Let me ask you this, Mr. Ketter.
22 Hypothetically, if I created a line that was going to be
23 built by a regulated utility in the state of Missouri that
24 was outside of its service area, that went across from one
25 point in the state to another point in the state along the

1 state's boundaries, the beginning was at one -- at
2 Missouri's boundary with Illinois, let's say, and the ending
3 was at Missouri's boundary with Arkansas. And all along
4 that line there were no connections to anybody in Missouri.
5 You following me so far?

6 A. Yes.

7 Q. But the line did allow the transfer of
8 electricity across Missouri from Illinois to Arkansas.
9 Mr. Ketter, would it be in the public interest of the people
10 of the state for that transmission line to be built?

11 A. It sounds like interstate commerce to me in
12 that realm. I don't see the benefit directly in that case,
13 but I would expect that there might be other lines that
14 might want to cross other borders that would find it in the
15 public interest. I think that the FERC has set their
16 jurisdiction on interstate commerce. Direct benefit in
17 that -- from A to B, no, but if there's some kind of
18 other -- there may be other benefits, but I can't define
19 them.

20 Q. In my hypothetical I didn't give you any, did
21 I?

22 A. No.

23 Q. Now, in the current environment that we have
24 under current federal rule, utility companies like Ameren
25 who own transmission lines, do they have a preference to

1 serve their native load in states like Missouri?

2 A. I believe they do.

3 Q. And, to your knowledge, is there anything that

4 at the present time indicates otherwise?

5 A. Well, the FERC has --

6 Q. The present time.

7 A. At the present time, the way we are today?

8 Q. Yes, sir.

9 A. From the utility's standpoint? Oh, yes. They

10 are still, I think, responsible and responsive to their

11 native load.

12 Q. And I guess I'm asking you whether the federal

13 government by rule or otherwise today says something

14 contrary to that state purpose that we have in Missouri to

15 serve native load first?

16 A. Whether there are?

17 Q. Yes.

18 A. Yes. The FERC has published proposed --

19 Q. I'm talking about what's in effect today.

20 A. Okay. What's in effect today to open the

21 transmission system has started to erode that traditional

22 native load preference. Just as we talked about the TLRs,

23 there are rules that would impact native load if you follow

24 all of the alternatives that -- that would follow.

25 The -- supplying the native load has always

1 been a close issue for the states, each individual state,
2 and for utility -- for utilities typically because that's
3 been their constituency.

4 Q. But today there is nothing from the federal
5 government that says that it is illegal or somehow
6 prohibited for a company who owns a transmission line to
7 give priority to its native load; is that correct?

8 A. Correct.

9 Q. Now, I know what you were getting to. There
10 are rules proposed today; is that correct?

11 A. Yes.

12 Q. Apparently by the FERC that would change that
13 dramatically. Is that not correct?

14 A. That's correct.

15 Q. And, in effect, at least under the current
16 proposal, isn't it true that the native load presumption
17 that some states have like Missouri, at least as far as
18 transmission is concerned, would go away?

19 A. That appears to be part of the plan, yes.

20 Q. And so the federal government can come in and
21 say it doesn't matter whether this is your transmission
22 line, Ameren, or whoever, Associated, whoever, everybody has
23 equal access to that line regardless of whether you own it
24 or not?

25 A. Equal access is one of the market objectives

1 that FERC is pursuing.

2 Q. And they want to go around and say you're

3 going to have to sell rights to that line maybe at the

4 auction block on the day of market, some other new form of

5 marketing that they're proposing?

6 A. Right. Sell, and Ameren have to be one of the

7 bidders.

8 Q. Yeah. So we could authorize the construction

9 of this line by Ameren; is that correct?

10 A. Yes.

11 Q. They could build the line; is that correct?

12 A. Yes.

13 Q. The ratepayers could be charged the

14 construction for the line; is that correct?

15 A. In a subsequent case they may, yes.

16 Q. Missourians could lose their property,

17 including some of their houses?

18 A. That may be the effect of the line, yes.

19 Q. And then the federal government come in and

20 say, Missourians, you don't get first rights to use this

21 line?

22 A. That's a possibility.

23 COMMISSIONER GAW: I think I'll stop. Thank

24 you, Mr. Ketter.

25 JUDGE DIPPELL: Okay. Commissioner Murray,

1 you had a follow-up?

2 FURTHER QUESTIONS BY COMMISSIONER MURRAY:

3 Q. Mr. Ketter, while relief of transmission
4 constraints within Missouri benefits customers outside of
5 Missouri as well as customers within Missouri, transmission
6 constraints also harm -- transmission constraints within
7 Missouri also harm Missouri customers; is that right?

8 A. Well, there's -- there are ways that the
9 constraints are taken care of. The transmitting loading
10 relief is requested to change it, to keep the system stable,
11 but it would affect all of the customers.

12 Q. Inside and outside of Missouri?

13 A. Yes.

14 Q. Both the benefits as well as the detriments
15 would affect customers across state lines; is that correct?

16 A. When -- when the transfer of power is limited,
17 then there will be impact on many customers.

18 Q. Now, Ameren is required by FERC to provide
19 transmission access to external loads across its
20 transmission system, is that correct, at least to the extent
21 it has transmission capacity --

22 A. Right.

23 Q. -- available?

24 A. There's a FERC tariff that would define their
25 responsibilities there.

1 Q. And that is current law?

2 A. Yes.

3 Q. So under current law can AmerenUE relieve any

4 constraints on its existing transmission by refusing to

5 allow transmission access to external loads?

6 A. That's a FERC issue, but, you know, there are

7 rules that apply to, you know, how they can schedule -- they

8 have to schedule that with Ameren. And there are rules to

9 apply that if it's not available of how to remedy that, but

10 that's, again, on a federal level.

11 Q. And a part of that is through transmission

12 TLRs; is that right?

13 A. The loading relief is more of an operational

14 constraint for reliability. That's -- that's something that

15 the reliability councils have used to protect the system.

16 How you get on and get off and how much you pay is the FERC

17 responsibility.

18 Q. And protection of the system means protection

19 of the system for everybody?

20 A. Yes. If it -- there's a lot of redundancy

21 that's put into it to ensure reliability. And it's in the

22 best interest of all the customers that the system remains

23 reliable whether it's, you know, in Missouri or Illinois

24 because other things from other states might affect our

25 systems. They're built to disconnect from problems, but

1 it's better not to have a problem that would affect
2 reliability.

3 Q. And physically -- the system from a physical
4 standpoint is not separable by state lines, is it, in terms
5 of the way electricity flows?

6 A. Electrons pay no attention to states lines.
7 It's strictly the physics of where the electron finds the
8 least resistance.

9 Q. And that is true regardless of how many years
10 ago we may go back into the past or how many years in the
11 future that we may go in terms of any laws that are
12 applicable; is that right?

13 A. That's right. We can -- we could change the
14 regulatory laws, but the laws of physics are still going to
15 apply.

16 Q. Okay. I lost my train of thought. I had a
17 follow-up to that, but let me go on to the next train of
18 thought here.

19 In terms of the cost of this transmission
20 line, is it your understanding that the other Missouri
21 customers that will benefit, those customers that are not UE
22 customers but those of Associated Electric, have already
23 agreed to be contributing to the cost of that line
24 financially through donation of easements and --

25 A. I think Associated has represented their

1 customers and have signed the contract. I'm a co-op member
2 so, you know, I had more than just a casual interest in it.
3 But the co-ops have had excess capacity and bought and sold
4 on the market. So I think that's an advantage to me as a
5 cooperative member to have access to and from AmerenUE's
6 system and the contributions they've made in this project.

7 Q. And Associated will be contributing to the
8 cost of the transmission line?

9 A. In that they contributed the portions of the
10 easements that they have and they will make other
11 interconnection facilities available in the substations to
12 connect the systems together.

13 Q. Okay. And those are things that would have
14 otherwise caused UE to expend money; is that correct?

15 A. Kind of depends on how the agreement is
16 written, but basically that one utility would come inside
17 the substation and the utility who's going to receive the
18 connection would have all the breakers and the transformers
19 to use on their system. So it's, I'll say, typical of other
20 agreements that I've seen in the system, utility systems.

21 Q. Okay. And as to how much of the remainder of
22 the cost of the line will be included in AmerenUE's rates
23 after it becomes used and useful, that will be determined in
24 a future rate case before this Commission; is that correct?

25 A. Yes.

1 Q. Is that your understanding?

2 A. You know, when the application was filed, the
3 horizon was a 2004 time frame. And, of course, it's going
4 to be further than that probably. And I'm sure the
5 Commission's aware that there's a rate moratorium on Union
6 Electric's rates that it's -- at this time it's hard to
7 predict when that next case might be.

8 Q. And, in any event, it is to be determined in
9 some future rate case?

10 A. That's where the UE customers' rates would be
11 adjusted, yes.

12 Q. And at that time would all normal rate-making
13 considerations be applied such as whether any of the costs
14 should be allocated to other than the customers of AmerenUE?

15 A. That's a possibility.

16 Q. Is that ordinarily the case in a rate case,
17 that all relevant matters are considered?

18 A. If it's a used and useful facility, typically
19 what I have seen is it's the allocation of the benefits that
20 would be at issue in the case, is what's the federal
21 percentage of that -- that revenue that it generates and
22 what's the Missouri jurisdictional portion of that that we
23 would capture for the benefit of the customers.

24 Q. And the customers would only be required to
25 pay for that which benefits them; is that correct?

1 A. That's correct.

2 COMMISSIONER MURRAY: Thank you. That's all I

3 have.

4 JUDGE DIPPELL: Thank you.

5 Are there any further Commission questions?

6 All right then. Let's see. It's about a quarter to 5:00.

7 I'm going to ask for a nod from the court reporter to see if

8 she's available to stay until after 5:00. She says yes. So

9 I think we can still wrap this up today if everybody's

10 willing. Is there any recross based on questions from the

11 Bench from the Intervenors?

12 MR. DEUTSCH: No questions.

13 JUDGE DIPPELL: From the Office of Public

14 Counsel?

15 MS. O'NEILL: No questions.

16 JUDGE DIPPELL: From Ameren?

17 MR. LOWERY: No questions, Judge.

18 JUDGE DIPPELL: Any redirect?

19 MR. BATES: A few, your Honor. Your Honor, do

20 you want to go straight on? I'm sorry. Did I --

21 JUDGE DIPPELL: Yes.

22 MR. BATES: I misunderstood. Thank you.

23 REDIRECT EXAMINATION BY MR. BATES:

24 Q. Mr. Ketter, I just have a few questions.

25 First of all, there was some question about the thoroughness

1 of your review process of the application and how you went
2 about doing that. Could you detail that for the Commission,
3 please?

4 A. Well, you know, the application indicated kind
5 of a broad brush of what the utility was requesting. As
6 with the previous applications for transmission facilities,
7 I asked questions about the load flow studies that were
8 underlying the electrical need of that transmission.

9 And the Staff frequently talks with the
10 transmission planning group of Union Electric on their
11 projects. And, of course, prior to the application being
12 filed, I attended the meetings at Linn and Vienna which had
13 provided a lot of the background of what the application was
14 about when it was filed.

15 Q. Are all those steps that you just detailed
16 normal when you're reviewing an application of this type?

17 A. Yes.

18 Q. Was there anything regarding this particular
19 application that you did not do that you've done in the past
20 or that you would regularly do with an application?

21 A. No.

22 Q. And were you able to satisfy yourself as to
23 whether or not this application was in the public interest?

24 A. Yes.

25 Q. Let me also ask you, I believe you said

1 something about the elements of your judgment, that one of
2 them was the quicker the better as far as getting a line
3 constructed. Would you explain that a little more fully?

4 A. These lines are built based on load growth
5 anticipation. And many times the dollars don't need to be
6 spent in -- to forestall the problem, so it needs to be
7 timed such that the completion of the project meets the
8 needs of the system.

9 I'm aware of the history of the Bland-Franks
10 circuit through the reports that are done through the
11 reliability councils so, you know, I recognize that from
12 just the information that the Staff would have available
13 through its normal operations. But the improvements that
14 are being made will be done to improve reliability and to
15 increase the capacity. So those things are still of
16 importance even though fast doesn't mean to miss any bases.

17 Q. Do I understand your testimony then to be that
18 not only is this project in the public interest, but that a
19 delay might cost the company and ultimately the ratepayers
20 more money?

21 A. I think that the money part is maybe
22 speculat-- speculative. It would be based on what the
23 market would do. But reliability can be enhanced by the
24 addition of this line. And the customers -- even they don't
25 see or feel that improvement, it -- it -- it allows the

1 company to provide the safe and reliable service that the
2 customers expect.

3 Q. And do I understand then that you believe that
4 if this line is built as Ameren has proposed, that it will
5 enhance reliability for the consumers?

6 A. Yes.

7 MR. BATES: Thank you.

8 JUDGE DIPPELL: Thank you.

9 Mr. Ketter, I believe that we're finished with
10 you and you may be excused.

11 THE WITNESS: Thank you.

12 JUDGE DIPPELL: And we have the three
13 Intervenor witnesses that were left, beginning with
14 Ms. Kramer. Is the Commission going to have any questions
15 for Ms. Kramer?

16 COMMISSIONER GAW: I don't think so.

17 JUDGE DIPPELL: And Ms. Drennen, who's the
18 second witness and then Mr. McDaniel.

19 All right then. Is there any redirect -- or
20 recross, let me start there, for Ms. Kramer? I asked a few
21 questions from the Bench. Staff?

22 MR. BATES: No, your Honor.

23 JUDGE DIPPELL: Office of Public Counsel?

24 MS. O'NEILL: No, your Honor.

25 JUDGE DIPPELL: Mr. Deutsch -- or, no, it was

1 your witness. Company?

2 MR. LOWERY: No, your Honor.

3 JUDGE DIPPELL: Any redirect, Mr. Deutsch?

4 MR. DEUTSCH: No redirect.

5 JUDGE DIPPELL: And for Ms. Drennen was there

6 any recross based on questions from the Bench from Staff?

7 MR. BATES: One, your Honor.

8 JUDGE DIPPELL: Then let's ask Ms. Drennen to

9 come back to the stand.

10 Thank you very much, Ms. Drennen --

11 THE WITNESS: You're welcome

12 JUDGE DIPPELL: -- for sticking around.

13 Go ahead, Mr. Bates.

14 JILL DRENNEN, having been previously sworn, testified as

15 follows:

16 RE CROSS-EXAMINATION BY MR. BATES:

17 Q. Ms. Drennen, I just have one question. I just

18 want to clarify an answer you gave earlier. I believe in

19 answer to Judge Dippell you stated that you didn't believe

20 you lived within Ameren's service territory; is that

21 correct?

22 A. That's correct.

23 Q. Are you a customer of a co-op?

24 A. Three Rivers Co-op.

25 Q. And that's how you meant to answer, rather

1 than saying that it was direct -- that you were directly in
2 Ameren's service territory; is that correct?

3 A. That's correct. That's who we have service
4 from. As far as I know, I didn't think we were in Ameren's
5 service territory.

6 Q. It wasn't meant to be a hostile question. I
7 just wanted to clarify.

8 MR. BATES: Thank you.

9 JUDGE DIPPELL: Any redirect?

10 MR. DEUTSCH: No redirect.

11 JUDGE DIPPELL: I didn't ask Office of Public
12 Counsel and I didn't ask the company.

13 MR. LOWERY: No further questions.

14 MS. O'NEILL: No questions.

15 JUDGE DIPPELL: And our final witness was
16 Mr. McDaniel. And was there any recross of Mr. McDaniel? I
17 can't remember if I asked any questions. Mr. Bates?

18 MR. BATES: No, thank you.

19 JUDGE DIPPELL: Office of Public Counsel?

20 MS. O'NEILL: No questions.

21 JUDGE DIPPELL: Company?

22 MR. LOWERY: No, your Honor.

23 JUDGE DIPPELL: Mr. Deutsch, was there any
24 redirect?

25 MR. DEUTSCH: No. I don't think so. No

1 redirect.

2 JUDGE DIPPELL: All right then. Mr. McDaniel,
3 you may be excused.

4 MR. MCDANIEL: Thank you.

5 JUDGE DIPPELL: And I believe that concludes
6 the testimony part. I wanted to wrap up a few housekeeping
7 matters with counsel and discuss briefing schedules, but I'm
8 going to take just a 10-minute break and then come back and
9 discuss that, give us all a chance to stretch our legs so
10 let's go off the record.

11 (A RECESS WAS TAKEN.)

12 JUDGE DIPPELL: I just wanted to get counsel
13 back together to discuss briefing schedules. Typically our
14 briefing schedule is to file the initial briefs 20 days
15 after the transcript comes in, which this one should be
16 here by the tenth working day. So that would make it --
17 that would make it about November 4th would make initial
18 briefs due.

19 Anybody got any objections before I say it is
20 so?

21 MR. RAYBUCK: Could we consult with our
22 calendars, Judge, and workloads and see if we'd like to ask
23 for more time?

24 JUDGE DIPPELL: I'm sure the Intervenors
25 wouldn't mind more time.

1 MR. DEUTSCH: Take as much time as you want.
2 MR. LOWERY: We don't want to go too far.
3 MR. DEUTSCH: I won't tell your client.
4 Mr. Ketter will.
5 MR. LOWERY: Judge, if we could have 30 days
6 after the transcript is due, I think that will be better
7 given our calendars and a particular situation I have in
8 early November.
9 JUDGE DIPPELL: So that would make it
10 November 14th.
11 And then do you all feel the need for reply
12 briefs?
13 MR. LOWERY: I think probably so, your Honor.
14 I think we'd like to have that option.
15 MR. DEUTSCH: Yeah. I think I would certainly
16 like to have the time to reply.
17 JUDGE DIPPELL: Do you need more than 10 days
18 after initial briefs for reply briefs?
19 MR. DEUTSCH: When's Thanksgiving this year,
20 do you know?
21 JUDGE DIPPELL: I believe it's the 28th of
22 November.
23 MR. DEUTSCH: Before is okay, after's okay.
24 On is bad.
25 MR. LOWERY: Judge, I guess I would suggest

1 the Friday after Thanksgiving -- not the day after
2 Thanksgiving, but the next Friday.

3 MR. BATES: Excuse me, Judge. Do we know
4 whether or not the Commission will be open for sure on the
5 day after Thanksgiving for filing?

6 MR. LOWERY: I was talking about a week from
7 that date, Bruce.

8 MR. BATES: Oh, I'm sorry. Thanks.

9 JUDGE DIPPELL: I'm okay with that if all the
10 parties are. That would be -- no, that would be the 6th of
11 December for reply briefs. The Commission may want to move
12 faster I don't know, but --

13 MR. RAYBUCK: If they do, we'll be glad to
14 accommodate them.

15 JUDGE DIPPELL: For now I'll direct that
16 initial briefs be filed on November 14th and reply briefs
17 filed on December 6th unless you get an order from me saying
18 otherwise.

19 Commissioner Murray wanted to ask me -- or
20 wanted me to ask you all to be sure and brief the legal
21 issues related to the exact standard of review for approval
22 of this. We've been saying in the public interest, but the
23 statute actually says convenient and necessary, and we'd
24 appreciate your legal analysis on how that plays in.

25 Also, she asked that you brief why the

1 application needs -- why the approval needs to be for the
2 full length of the line and not just the 20 miles that's
3 outside Ameren's service territory.

4 And she asked that you brief whether the
5 Commission has any statutory jurisdiction to review
6 easements.

7 I don't believe we have any late-filed
8 exhibits we're expecting. I think everything came in and I
9 got copies for everyone.

10 I would like to ask you when talking about --
11 especially the company, when talking about what the Federal
12 Energy Regulatory Commission requires and doesn't require,
13 that you be sure to cite that authority.

14 And, as always, your brief should cite to your
15 evidence when you're making your case.

16 MR. RAYBUCK: Judge, could I ask a clarifying
17 question about the FERC authority? Were you asking us to
18 brief the relevant items of existing FERC regulations?

19 JUDGE DIPPELL: Well, I know there's been a
20 lot of testimony at various times saying that the FERC
21 requires us to do this and the FERC requires us to do that.
22 So I'd like some authority for what it is that the FERC
23 requires.

24 MR. RAYBUCK: Certainly.

25 JUDGE DIPPELL: If that's necessary to make

1 your case. I guess if it's not necessary to make your case,
2 then -- I haven't quite got all those regulations memorized.

3 I think that's all I have. Are there any
4 other procedural matters?

5 MR. DEUTSCH: I just had more of a question.
6 In cases in the past the Commission has at least indicated a
7 desire to have Findings of Fact. I take it by the absence
8 of any specific reference that you basically want legal
9 briefs with argument?

10 JUDGE DIPPELL: I would very much welcome
11 proposed Findings of Fact and Conclusions of Law. I thought
12 if your briefs were clear enough, that that wouldn't be
13 necessary. But you are invited to make those proposed
14 Findings of Fact and Conclusions of Law and submit them with
15 your briefs.

16 You can submit them with either your initial
17 or reply briefs, but at this time I won't direct that you
18 are required to file those. I do not, however, want reply
19 briefs that reply to other people's proposed Findings of
20 Fact and Conclusions of Law.

21 MR. DEUTSCH: That's why I usually separate
22 them because the briefs are usually pure argument and you'd
23 like to have at least a statement of facts.

24 JUDGE DIPPELL: Right.

25 Any other questions?

1 Thank you very much. Thank you for your
2 patience through my technological experiments and thank you
3 for getting done early.

4 You may all be excused. That concludes this
5 hearing. We can go off the record.

6 WHEREUPON, the hearing was concluded.

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1 I N D E X
2 AMERENUE'S EVIDENCE

3	GEOFFREY DOUGLASS	
	Cross-Examination by Mr. Deutsch	291
4	Questions by Commissioner Gaw	322
	Questions by Judge Dippell	336
5	Questions (Cont'd) by Commissioner Gaw	494
	Questions by Chair Simmons	508
6	Questions by Commissioner Murray	513
	Questions by Commissioner Lumpe	516
7	Recross-Examination by Mr. Deutsch	519
8	THOMAS BEERMAN	
	Direct Examination by Mr. Raybuck	343
9	Cross-Examination by Mr. Deutsch	346
10	GARY L. FULKS	
	Direct Examination by Mr. Lowery	351
11	Cross-Examination by Mr. Deutsch	353
	Questions by Judge Dippell	373
12	Questions by Commissioner Murray	526
	Questions by Commissioner Lumpe	526
13	Questions by Commissioner Gaw	533
	Recross-Examination by Mr. Deutsch	544
14	Redirect Examination by Mr. Lowery	552
15	WALTER GAJDA, JR.	
	Direct Examination by Mr. Raybuck	381
16	Cross-Examination by Mr. Deutsch	384
	Questions by Judge Dippell	390
17	DAVID NUNN	
18	Direct Examination by Mr. Lowery	395
	Cross-Examination by Mr. Deutsch	397

19 STAFF'S EVIDENCE

20	JAMES L. KETTER	
21	Direct Examination by Mr. Bates	430
	Cross-Examination by Mr. Coffman	432
22	Cross-Examination by Mr. Deutsch	438
	Questions by Judge Dippell	455
23	Questions by Commissioner Murray	553
	Questions by Commissioner Lumpe	558
24	Questions by Commissioner Gaw	561
	Further Questions by Commissioner Murray	574
25	Redirect Examination by Mr. Bates	579

1	INTERVENOR EVIDENCE	
2	MARY CLAIRE KRAMER	
	Direct Examination by Mr. Deutsch	458
3	Cross-Examination by Mr. Coffman	460
	Questions by Judge Dippell	463
4	JILL DRENNEN	
5	Direct Examination by Mr. Deutsch	469
	Cross-Examination by Mr. Coffman	471
6	Questions by Judge Dippell	475
	Recross-Examination by Mr. Bates	583
7	DOUG MCDANIEL	
8	Direct Examination by Mr. Deutsch	477
	Cross-Examination by Mr. Raybuck	479
9	Cross-Examination by Mr. Coffman	481
	Questions by Judge Dippell	487
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	EXHIBITS INDEX	Marked	Rec'd
2	Exhibit No. 7		
3	Direct Testimony of Thomas Beerman		345
4	Exhibit No. 8		
5	Surrebuttal Testimony of Thomas Beerman		345
6	Exhibit No. 9		
7	Surrebuttal Testimony of Gary Fulks		352
8	Exhibit No. 10		
9	Surrebuttal Testimony of David Nunn		397
10	Exhibit No. 11		
11	Surrebuttal Testimony of Walter Gajda		383
12	Exhibit No. 12		
13	Rebuttal Testimony of James L. Ketter		432
14	Exhibit No. 13		
15	Rebuttal Testimony of Darin Arbes		492
16	Exhibit No. 14		
17	Rebuttal Testimony of Mary Lois Arbes		492
18	Exhibit No. 15		
19	Rebuttal Testimony of Byron P. Baker		492
20	Exhibit No. 16		
21	Rebuttal Testimony of Bonnie J. and Ronald H. Baker		492
22	Exhibit No. 17		
23	Rebuttal Testimony of Sheldon and Lisa Bauer		492
24	Exhibit No. 18		
25	Rebuttal Testimony of Darrell and Lori Bax		492
26	Exhibit No. 19		
27	Rebuttal Testimony of Dennis and Rhonda Bax		492
28	Exhibit No. 20		
29	Rebuttal Testimony of Mary C. Bexten		492
30	Exhibit No. 21		
31	Rebuttal Testimony of D.L. and Barbara Bishop		492
32	Exhibit No. 22		
33	Rebuttal Testimony of Felix and Viola Boehm		492

593

ASSOCIATED COURT REPORTERS
573-636-7551 JEFFERSON CITY, MO
573-442-3600 COLUMBIA, MO

1	EXHIBITS INDEX (CONT'D)		
		Marked	Rec'd
2	Exhibit No. 23		
3	Rebuttal Testimony of Steve and Joyce Boehm		492
4	Exhibit No. 24		
5	Rebuttal Testimony of Howard Doyle		492
6	Exhibit No. 25		
7	Rebuttal Testimony of Alvin and Jill Drennen		470
8	Exhibit No. 26		
9	Rebuttal Testimony of Dale and Lana Hackmann		492
10	Exhibit No. 27		
11	Rebuttal Testimony of David and Donna Hackmann		492
12	Exhibit No. 28		
13	Rebuttal Testimony of Sean Hackmann		492
14	Exhibit No. 29		
15	Rebuttal Testimony of Linus and Florence Kever		492
16	Exhibit No. 30		
17	Rebuttal Testimony of Patrick and Tammy Kliethermes		492
18	Exhibit No. 31		
19	Rebuttal Testimony of Thomas Knollmeyer		492
20	Exhibit No. 32		
21	Rebuttal Testimony of Carolyn Koenigsfield		492
22	Exhibit No. 33		
23	Rebuttal Testimony of Herbert Kramer		492
24	Exhibit No. 34		
25	Rebuttal Testimony of Mary Claire Kramer		460
26	Exhibit No. 35		
27	Rebuttal Testimony of Eric C. May		492
28	Exhibit No. 36		
29	Rebuttal Testimony of Larry May		492
30	Exhibit No. 37		
31	Rebuttal Testimony of Doug McDaniel		479
32	Exhibit No. 38		
33	Rebuttal Testimony of Norbert Mengwasser		492

594

ASSOCIATED COURT REPORTERS
573-636-7551 JEFFERSON CITY, MO
573-442-3600 COLUMBIA, MO

1	EXHIBITS INDEX (CONT'D)		
		Marked	Rec'd
2	Exhibit No. 39		
	Rebuttal Testimony of Edward J. Nichols		492
3	Exhibit No. 40		
4	Rebuttal Testimony of Francis A. Platt		492
5	Exhibit No. 41		
	Rebuttal Testimony of Edward and Patricia Redel		492
6	Exhibit No. 42		
7	Rebuttal Testimony of Victor and Mabel Renkemeyer		492
8	Exhibit No. 43		
9	Rebuttal Testimony of Bernard Samson		492
10	Exhibit No. 44		
	Rebuttal Testimony of Edward J. Schaefer, Jr.		492
11	Exhibit No. 45		
12	Rebuttal Testimony of Paul Scheulen		492
13	Exhibit No. 46		
	Rebuttal Testimony of Stanley E. Strobe		492
14	Exhibit No. 47		
15	Rebuttal Testimony of Dorothy Thomas		492
16	Exhibit No. 48		
	Rebuttal Testimony of Ted and Alice Waldbart		492
17	Exhibit No. 49		
18	Rebuttal Testimony of Ted Waldbart (Lee Waldbart Trust)		492
19	Exhibit No. 50		
20	Rebuttal Testimony of James R. Wieberg		492
21	Exhibit No. 53		
	Data Requests from Douglas McDaniel	479	480
22			
23			
24			
25			