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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

HEARING

December 11, 2003

Jefferson City, Missouri

Volume 1

In the Matter of a Proposed Rule to)
Establish a Procedure for Water) Case No.
Utilities to Establish an) WX-2004-0093
Infrastructure System Replacement)
Surcharge.

BEFORE: _____
RONALD D. PRIDGIN,
REGULATORY LAW JUDGE.
CONNIE MURRAY,
ROBERT CLAYTON,
COMMISSIONERS.

REPORTED BY:
TRACY L. THORPE, CSR, CCR
ASSOCIATED COURT REPORTERS

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1 JUDGE PRIDGIN: Good morning. This is the
2 rulemaking hearing in Case No. WX-2004-0093 in the matter of
3 the proposed rule to establish a procedure for water
4 utilities to establish an infrastructure system replacement
5 surcharge.

6 I am Ron Pridgin. I'm the regulatory law
7 judge assigned to preside over this hearing. It's being
8 held on December 11th, 2003 at the Commission's offices, the
9 Governor Office Building in Jefferson City, Missouri. The
10 time is about 10:15 in the morning.

11 If I could at this time, I would like to get
12 oral entries of appearance beginning with Staff, please.

13 MR. KRUEGER: Keith R. Krueger for the Staff
14 of the Missouri Public Service Commission. My address is PO
15 Box 360, Jefferson City, Missouri 65102.

16 JUDGE PRIDGIN: Mr. Krueger, thank you.

17 On behalf of the Office of the Public Counsel?

18 MR. COFFMAN: John Coffman, PO Box 2230,
19 Jefferson City, Missouri 65102.

20 JUDGE PRIDGIN: Mr. Coffman, thank you.

21 I believe I received comments from
22 Missouri-American Water Company. Is there anyone here to
23 enter an appearance?

24 MR. ENGLAND: There is, your Honor. Let the
25 record reflect the appearance of W.R. England and Dean

1 Cooper on behalf of Missouri-American Water Company. Our
2 mailing address is Post Office Box 456, Jefferson City,
3 Missouri 65102.

4 JUDGE PRIDGIN: Mr. England, thank you.

5 Any other counsel wishing to enter an
6 appearance this morning?

7 MS. VUYLSTEKE: Yes. Diana M. Vuylsteke of
8 the firm Bryan Cave, LLP, 211 North Broadway, Suite 3600,
9 St. Louis, Missouri 63102 appearing on behalf of the
10 Missouri Industrial Energy Consumers.

11 JUDGE PRIDGIN: I'm sorry, Ms. Vuylsteke.
12 Your client again, please.

13 MS. VUYLSTEKE: Missouri Industrial Energy
14 Consumers.

15 JUDGE PRIDGIN: Thank you.

16 Anyone else wishing to enter an appearance?

17 All right. Seeing none, let me inform -- or
18 remind counsel that this is not a contested case and because
19 of that, I will not allow cross-examination of witnesses but
20 we may have questions from the Bench.

21 Let me begin with Staff. Mr. Krueger, do you
22 have any witnesses?

23 MR. KRUEGER: Yes, I do, your Honor. Staff
24 calls Dale Johansen as its witness.

25 JUDGE PRIDGIN: Mr. Johansen, if you would,

1 please come forward to be sworn. I'll note that your hand
2 is raised.

3 (Witness sworn.)

4 JUDGE PRIDGIN: Thank you very much,
5 Mr. Johansen. If you would, please have a seat.

6 And let me just briefly state for the record
7 we don't have any Commissioners on the Bench at the moment.
8 I expect them to join shortly, so there is the smallest
9 chance that a witness may be excused and then recalled for
10 questions, so give the parties a heads-up to that
11 possibility.

12 Mr. Krueger, did you want to lay a foundation
13 or just have Mr. Johansen begin with comments?

14 MR. KRUEGER: Just have him begin with
15 comments.

16 DALE JOHANSEN testified as follows:

17 BY JUDGE PRIDGIN:

18 Q. Mr. Johansen, if you'll briefly identify
19 yourself for the record and make your comments.

20 A. Good morning. My name is Dale Johansen,
21 J-o-h-a-n-s-e-n. I'm the manager of the Water and Sewer
22 Department for the Commission. And I've been involved in
23 the process regarding the development of this proposed rule
24 and we've also been involved in discussions with interested
25 parties since the rule was published initially and I've also

1 reviewed comments that have been submitted regarding the
2 rule which were due to be filed with the Commission on
3 December 4th.

4 I have a couple of exhibits that I would like
5 to offer. The first one is an updated copy of the proposed
6 rule. And in this document language that is shown as red
7 underlined font is proposed additions to the rule that the
8 Staff is suggesting. And language that is shown in red
9 striped-through font are proposed deletions from the rule as
10 published.

11 This rule reflects the comments that the Staff
12 filed on December 4th. One of the things it does not do is
13 reflect any of the comments that the other parties filed on
14 December 4th. We have not yet had the opportunity to review
15 those comments in enough detail to determine whether or not
16 we will have suggested additional changes to the rule as
17 published. So if I could, I'd like to pass those out at
18 this time.

19 JUDGE PRIDGIN: That would be fine,
20 Mr. Johansen. And, Mr. Johansen, let me double check for
21 the record. I see what you've handed me as a five-page
22 exhibit entitled Staff Exhibit No. 1 and it is the proposed
23 rule that's at issue in this case with some recent Staff
24 changes; is that correct?

25 THE WITNESS: That's correct.

1 JUDGE PRIDGIN: All right.

2 THE WITNESS: And those -- the changes that

3 are reflected in this document are the change that's we

4 summarized in a document that we filed along with our

5 comments on December 4th.

6 JUDGE PRIDGIN: All right. I'll label that as

7 Exhibit No. 1 and receive it.

8 (Exhibit No. 1 was marked for identification

9 and received into evidence.)

10 Mr. Johansen, please continue.

11 THE WITNESS: The second exhibit that I also

12 just passed out, down on the bottom right-hand corner it's

13 identified as Staff Exhibit 2. It's a four-page document.

14 What this document is provided for is to show under the

15 Staff's proposed changes to the rule how certain

16 calculations would be performed when an infrastructure

17 system replacement surcharge is being determined.

18 This is similar to a schedule or an exhibit

19 that was provided in the hearing yesterday on the gas

20 surcharge rule. It does go a little bit further than that

21 exhibit did in that there were several questions yesterday

22 regarding how the Staff's language -- suggested language

23 would affect a filing that was made to change a surcharge

24 after it had been initially established.

25 And this exhibit goes that step further in

1 attempting to show how the calculations would be made, not
2 only at the time of the initial filing, but also at the time
3 of a subsequent filing to change a surcharge that had
4 already been established.

5 JUDGE PRIDGIN: All right. Let me show that
6 as being received.

7 (Exhibit No. 2 was marked for identification
8 and received into evidence.)

9 JUDGE PRIDGIN: I'll show Exhibit No. 2 from
10 Staff, it's a four-page document entitled Calculations
11 Related to Proposed Language for 3.650 Pertaining to the
12 Initial Filing of an ISRS Rate Schedule, and that is
13 received into evidence.

14 Mr. Johansen.

15 THE WITNESS: I guess just some additional
16 general comments, and then I'll be glad to answer any
17 questions regarding the exhibits or specific proposals.

18 One of the things I think is important to note
19 is that the Staff is most certainly of the opinion that it
20 is necessary to establish a rule related to the filing for
21 an establishment of the infrastructure system replacement
22 surcharges.

23 While the statute regarding this matter is
24 very detailed, and quite honestly, probably more detailed
25 than most, we do believe it's still necessary to promulgate

1 a rule to reflect what is in that statute and also to
2 establish a process, if you will, as to how these filings
3 will be handled here at the Commission.

4 One of the things that I think is most
5 important about what the rule actually does, it requires the
6 qualifying utilities to provide certain information at the
7 time they file their petition. And our intent in doing that
8 is basically to cut down the amount of time that would be
9 taken up normally through a discovery process.

10 Under the terms of the enabling statute, the
11 Staff has a period of 60 days in which to file a
12 recommendation with the Commission and the Commission has a
13 total of 120 days from the day of the filing in which to
14 issue its order.

15 Section 18 of the proposed rule sets out
16 information that the qualifying utilities would be required
17 to file at the time they submit their petition. We believe
18 that the information being required there is consistent with
19 the statute and it's reflective of the various information
20 and calculations that would be done, but again, we believe
21 it's important that that information be submitted at the
22 time of the filing simply to get the information to the
23 Staff and the Public Counsel in a more timely manner.

24 The two major changes that the Staff is
25 currently proposing to the rule as published are on -- if

1 you refer to Staff Exhibit 1, on page 1, it's about
2 three-fourths of the way down the page. And, again, that's
3 a proposed addition that's shown in red underlined font.

4 What we're trying to do with this proposed
5 addition is a little bit better define what costs are
6 eligible for recovery through the surcharge. The original
7 language in the proposed rule basically was that simply
8 which was pulled from the statute.

9 We believe the language that we're proposing
10 here clarifies a little bit better exactly what we're
11 looking for and how some of the calculations should be made
12 to reflect costs that are -- that would be recovered.

13 Second major change that the Staff is
14 suggesting at this time would be shown on page 4 of Staff
15 Exhibit 1. And that would be near the top of the page there
16 in paragraph G. Some of the comments that were submitted
17 originally had to do with our initial attempt, if you will,
18 to define what net original cost is as used in the statute.

19 We have since had discussions with interested
20 parties, reviewed some of the comments that have been traded
21 back and forth between the parties since the rule was
22 published and also our initial review of the comments that
23 were submitted by other parties on the -- on December 4th.

24 We believe the addition that we -- proposed
25 addition that we have here better defines how the

1 calculations should be made. So those are really an
2 overview of the two major changes.

3 Another change, another proposed addition,
4 which is shown on page 5 of Staff Exhibit 1 in paragraphs O
5 and P, these are items, quite honestly, that the Staff just
6 failed to include in the original rule when it was submitted
7 to the Commission.

8 These are provisions that also are in the
9 proposed rule for the gas infrastructure system replacement
10 surcharge and these are simply additions to reflect those
11 items being in the gas rule and ones that we also believe
12 should be in the rule that applies to water utilities.

13 What I'd like to do now is turn everyone's
14 attention to Staff Exhibit 2. And, again, this is similar
15 to an exhibit that was issued -- that was offered yesterday
16 in the gas rule hearing.

17 What this exhibit does is show how certain
18 calculations would be made regarding the infrastructure
19 system replacement surcharge under the Staff's proposed
20 language that I just discussed on the proposed additions on
21 page 1 and the proposed changes on page 4.

22 Page 1 of this exhibit basically shows how the
23 ISRS costs that are eligible for recovery through the
24 surcharge would be calculated under the language that the
25 Staff now proposes for 3.650(1)(e). What I do here is set

1 out some basic assumptions as to what's going on with the
2 water utility.

3 It basically shows that they're making an
4 annual eligible project additions of \$10 million a year,
5 there are retirements related to those projects of
6 \$1 million a year, it has been 18 months between the end of
7 the last -- company's last rate case and the filing of the
8 surcharge petition. And then I also show some assumed
9 composite depreciation rates and property tax
10 rates.

11 Section B on page 1 then shows how under the
12 Staff's proposed language, the calculation of the eligible
13 depreciation expenses and property taxes would be calculated
14 and then totals that up at the bottom of the page on line 12
15 in Section B under Annual Recoverable ISRS Costs.

16 One thing I would note here in regard to the
17 property tax expense example that I'm showing, it is not
18 only based on the net change in plant that's occurring since
19 the last rate case multiplied times the composite tax rate,
20 but it also assumes that the property tax amount that I've
21 calculated there would be paid within 12 months of the
22 petition filing date.

23 I point that out because the -- that is at
24 issue in a recent case before the Commission. So that's one
25 of the assumptions that I've made in this calculation.

1 If you turn to page 2 of Staff's Exhibit 2,
2 this is reflective of the calculation that would be
3 performed under Staff's proposed language for Section
4 3.650(18)(g).

5 Again, at the top in Section A I set out some
6 basic assumptions to use for the calculation. And then in
7 Section B I show how the calculation under the Staff's
8 proposed language would actually be performed to come up
9 with what I have termed the ISRS rate base that would then
10 be used to calculate the company's allowable increase in net
11 operating income.

12 This is a calculation that is similar to the
13 calculations that the Staff proposed in Missouri-American
14 Water Company's recent surcharge case, but I will say that
15 it does differ to some extent from the calculations
16 presented by the Staff in that case.

17 In this situation one of the things that we
18 are proposing that we do going forward is look only at the
19 plant that is eventually eligible for recovery through the
20 surcharge. Rather than looking at the company's entire
21 plant balances, this calculation under the proposed language
22 focuses in on the plant balances that exist on the company's
23 books that -- for the plant that is recoverable at some
24 point in time through the infrastructure system replacement
25 surcharge.

1 And, again, in Section B it simply goes
2 through the calculation as to how the Staff believes the
3 rate base, if you will, that's going to be used to determine
4 the increased net operating income would be calculated under
5 this language that Staff is now proposing.

6 And on -- in Section B on line 8, that shows
7 out of the -- for example, out of the \$15 million that -- of
8 eligible replacements that have been -- that are the subject
9 of the surcharge filing, the Staff's calculation would
10 result in \$7 1/2 million of that 15 being used to determine
11 the increased net operating income to be recovered through
12 the surcharge.

13 If you would turn to page 3 then of Staff
14 Exhibit 2 -- and actually pages 3 and 4, what we are
15 attempting to show here is how the language that we are
16 proposing for the rule would be applied at the time that a
17 change is being made to a surcharge that's already in place.

18 The exhibit that was offered yesterday in the
19 gas rule hearing did not include this example, and I know
20 there were several questions about how the process would
21 work under the proposed language when a change was being
22 proposed to an existing surcharge.

23 And pages 3 and 4 are similar in format to the
24 first two pages of the exhibit in that, again, they both set
25 out the assumptions that are used for the calculations.

1 Section B on page 3 shows the calculation of the
2 depreciation expense and property tax that would result from
3 plant projects that have been added since the time of the
4 initial surcharge going into effect. And then at the bottom
5 of Section B on line 15 it shows the cumulative ISRS costs
6 that would be reflected on a going-forward basis at the time
7 the change is made to the initial surcharge.

8 On page 4, as for the initial filing, the
9 calculations on this page would show how the Staff's
10 proposed language for 18G would flow through and what the
11 ISRS rate base would be on a going-forward basis once that
12 first change is made. And that total is shown on
13 line 14 in Section B.

14 And basically what this reflects is that you
15 have -- under the proposed language and it's the Staff's
16 position, you have not only changes that need to be
17 reflected on the plant projects that have been added since
18 the initial filing, but you also have changes that need to
19 be reflected that go back to the time when the initial
20 surcharge was put into effect.

21 And those are basically shown in Section B.
22 The line that is on the left-hand side if you look for line
23 3 in Section B, we have the deductions from the original
24 cost of the plant additions. And then starting on line 8
25 and through line 12 those are deductions that we believe are

1 appropriate that reflect back to the time of the initial
2 filing.

3 And then that would come up with a total
4 deductions that would be used in calculating the ISRS rate
5 base that would be reflective of the company's investments
6 and would be recovered through the surcharge subsequent to
7 the first change being made. And, again, that total is
8 shown on line 14 of Section B.

9 Your Honor, I believe that's all I have at
10 this point. I'd be glad to answer questions that you have.

11 JUDGE PRIDGIN: Mr. Johansen, thank you.

12 Let me see if we have questions from the
13 Bench. Commissioner Clayton?

14 QUESTIONS BY COMMISSIONER CLAYTON:

15 Q. Good morning.

16 A. Good morning.

17 Q. I'd like to start with your Exhibit 2 and the
18 calculations that you ran through because I'm a little
19 confused. First of all, I want to say I appreciate you
20 bringing in kind of a sample calculation. I was one of the
21 people who asked that -- or I think I was the person who
22 asked the question yesterday, but I'm having difficulty
23 following exactly what you've done here so I'd like to ask
24 you some additional questions, if possible.

25 So if you'd go ahead and pull out your

1 Exhibit 2. And my first question is explain to me why you
2 have two sets of calculations for subsection 1E and -- is it
3 18G? I don't understand why you're doing that --
4 A. Okay.
5 Q. -- I guess is my first question. And then the
6 second question, are the four documents -- do they flow from
7 the beginning to end or are they completely separate
8 calculations on each page?
9 A. No. They do flow together --
10 Q. Okay.
11 A. -- first of all. The reason for separate
12 calculations, for example, the first calculation for Section
13 1E, which is shown on page 1 of the exhibit, that's the
14 calculation that would be made to determine the amount of
15 depreciation expense and property tax that would be
16 recovered through the surcharge when the first surcharge
17 filing is made.
18 Q. Okay.
19 A. The -- the similar calculation for that item
20 that is shown on page 3 shows the calculation for those two
21 expense items that you would need to do when the initial
22 surcharge is changed at some point.
23 Q. In a subsequent ISRS rate filing?
24 A. Correct.
25 Q. Okay. I've got that.

1 A. And for this example, what I have used is that
2 between the time of the -- between the time of the last rate
3 case and the initial filing, I've used a period of
4 18 months. And then for the time period from the initial
5 surcharge establishment to the first change, I used an
6 example time period of 9 months.

7 But that's the reason for the two calculations
8 for each section. One reflects the initial filing, one
9 reflects the calculations you would do 9 months later when
10 that initial surcharge is being changed.

11 Q. I think what confused me is the reference
12 under 1E and 18G why -- I mean, the rule is drafted so that
13 1E and 18G mean the same thing. Correct?

14 A. No. They really deal with two different
15 subjects. Section 1E deals with expense items of
16 depreciation and property taxes. Section 18G, as proposed,
17 deals with the calculation of the rate base that you would
18 use to determine the net operating income that the company
19 would receive through the surcharge.

20 Q. Which includes a calculation of taxes and
21 depreciation?

22 A. It includes a calculation of -- reflective of
23 accumulated depreciation in those plant accounts. And the
24 taxes that are applicable to that calculation are actually
25 deferred income taxes, not property tax expense.

1 Q. Okay. The changes that you made in 1E and in
2 18G, those were made after comments were filed?

3 A. No. They were not made after comments were
4 filed on December 4th. They were made based upon
5 discussions that the Staff had with several of the
6 interested parties after the proposed rule was published,
7 but they do not reflect all of the comments that have been
8 filed or that were filed on December 4th.

9 Q. The language that is in this rule is either
10 substantially the same or similar to the gas ISRS rule?

11 A. Yes, it is.

12 Q. Are there any differences between the water
13 and the gas -- and I know you're not a gas person, but is it
14 your understanding that the -- that the rules are
15 substantially similar?

16 A. They are substantially similar. There are
17 some differences simply because the enabling statutes for
18 the two are different in some regards.

19 Q. Well, relating to depreciation -- accumulated
20 depreciation and the arguments that we've had -- not
21 arguments, the discussions we've had relating to the scope
22 of the rule are going to be the same?

23 A. Correct. The -- for example, the proposed
24 changes to Section 1E and the proposed changes to Section
25 18G of the water rule are changes that are also being

1 proposed in the gas rule as it was originally published.

2 Q. Okay.

3 A. The major areas are essentially you change gas
4 utility to water utility. There are differences that are
5 unique to the industries in the enabling statutes, but for
6 the most part they are -- they are similar.

7 Q. In 1E the reference to the cost of eligible
8 infrastructure system replacements is then defined in 18G.
9 Correct?

10 A. No. Actually, in -- for the calculations of
11 depreciation and property tax expenses that would be
12 recoverable pursuant to Section 1E, you are using a
13 different cost basis there. For the depreciation and
14 property tax expenses, you're using the total cost adjusted
15 only to reflect retirements of that particular plant.

16 When you get to the calculation under Section
17 18G, what we're basically trying to do in 18G is better
18 define net original cost --

19 Q. Okay.

20 A. -- versus the original cost basis for
21 calculation of the depreciation of property tax expenses.
22 So there are two different cost basis there that you're
23 using for those calculations.

24 Q. Are you the only Staff witness we're going to
25 hear from today or will we hear from another witness from

1 Staff?

2 A. I believe I'm the only one.

3 Q. You're the lucky one. Okay.

4 A. Yeah.

5 Q. Would it be a fair statement that probably the

6 greatest sticking point in this rule would be the

7 accumulated depreciation associated with types of property

8 listed that are -- that would be included in rates in 18G?

9 A. I believe so, yes.

10 Q. That would be the biggest sticking point.

11 And the statute does not make reference to

12 that type of accumulated depreciation, does it?

13 A. Well, no, it doesn't. But one of the problems

14 that we have here -- and it was reflected in comments I

15 believe that Missouri-American Water Company filed in

16 this -- in this case.

17 One of the comments they made was that the

18 Staff's proposed language which, in essence, is an attempt

19 to define net original cost as used for this process changes

20 the meaning of that term as set out in the statute.

21 The problem with that is, is that there is no

22 definition of net original cost in the statute. So I don't

23 think we're proposing to change the meaning since that

24 meaning is not defined, but I do think we clearly have

25 disagreements on how net original cost should be calculated

1 for purposes of the ISRS filings. That's really, I think,
2 the main sticking point between the Staff and Public Counsel
3 and the other parties.

4 Q. Now, the statute does make reference to
5 accumulated depreciation and accumulated deferred income
6 taxes on the actual ISRS replacements or the replacement
7 property. Correct?

8 A. It does. And that reference is related to
9 changes that occur after the initial filing has been made.

10 Q. So subsequent ISRS filings --

11 A. Correct.

12 Q. -- not the initial?

13 A. Right. And we believe there's a -- there's a
14 clear distinction between the initial filing and subsequent
15 filings. And that's the reason that we -- that we provided
16 the second example of the calculation under 18G and 1E in
17 Staff's Exhibit 2, pages 2 and 4, that show how those
18 calculations would be made at the time a change is made
19 because there is a difference.

20 Q. Prior to passage of House Bill 208 and the
21 revisions in 393.1000, when replacement infrastructure was
22 examined in a general rate case three, four years down the
23 road, however long, how does your draft of the rule compare
24 with what would have been done in a general rate case at
25 some point in the future with -- how do the calculations

1 compare?

2 A. If you focus in on the types of utility plant
3 that are eligible for recovery through the surcharge, the
4 Staff's proposed language and the calculations resulting
5 from that put you exactly at the same point in the surcharge
6 calculation as where you would be if you were doing a rate
7 case instead. There is no difference.

8 The -- the rate base that is being recovered
9 through the surcharge and through the rates, and the
10 surcharge is a rate, is exactly the same calculation that we
11 would be doing in a general rate case when we're looking at
12 that type of plant as what we're proposing here.

13 Q. Except in a general rate case you would
14 have -- all other issues and factors would be brought in to
15 determine rate base and what rates will be paid. Correct?

16 A. Correct. And, again, that's -- that's -- what
17 I hoped to emphasize was if you look at the type of plant
18 that is eligible for recovery through the surcharge and you
19 look only at that type of plant, then the calculations and
20 the end result would be the same in a rate case -- or would
21 be the same under what we're proposing here as it would be
22 in a rate case.

23 Q. Okay. And that is the case because you
24 include accumulated depreciation on property that is
25 actually outside of the replacement property that is subject

1 to the ISRS? Only by including that depreciation it is the
2 same as what you do in a general rate case?

3 A. That's basically correct, yes. And, again,
4 what I would point out though that what -- what we believe
5 is appropriate and what we think the language says and the
6 calculation shows is that, again, we are looking only at the
7 type of plant that is eligible for recovery through the
8 surcharge.

9 Now, granted, we are looking at plant balances
10 that exist for that type of plant that exist that have
11 developed over the years and are not solely resulting from
12 plant additions that have been made between rate cases,
13 that's correct. But, again, we are only looking at the
14 accounts that hold the plant that could eventually be
15 recovered through the surcharge.

16 Q. So what you're saying there is you're not
17 including any depreciation on non-ISRS eligible property?

18 A. Correct.

19 Q. Okay. One of the reasons I assume that's
20 included -- there was some discussion regarding regulatory
21 lag yesterday. And you're familiar with that term?

22 A. Yes.

23 Q. Can you think of a situation in light of this
24 ISRS filing where regulatory lag would be detrimental to the
25 company rather than the consumer in terms of depreciation?

1 Are you following me?

2 A. I think so.

3 Q. The concerns that we heard yesterday was that,
4 generally speaking, if you don't include this depreciation,
5 then you have a regulatory lag that will be harmful to the
6 consumer always. And I didn't have the chance to ask the
7 question, can you have a situation where the company would
8 actually be -- the lag would be hurting the company in terms
9 of whether this depreciation is included?

10 A. I believe so long as you keep your focus on
11 the plant that is eligible for recovery through the
12 surcharge and you're not considering accumulated
13 depreciation and accumulated deferred income taxes on
14 non-ISRS eligible plant, I don't believe you would get
15 there. I think what this process would do would cure the
16 company's regulatory lag for that type of facility. I don't
17 think this calculation would cut -- would potentially cut
18 against the company.

19 Now, I will say what it -- what this does not
20 do, it does not cure any regulatory lag that the company may
21 be experiencing related to non-ISRS plant additions. It
22 does not do that. We don't believe it's appropriate to look
23 at that. So there is regulatory lag as time goes on that
24 may be adversely affecting the company, but it's not related
25 to ISRS eligible plant. It's related to something else.

1 Q. It is your belief that accumulated
2 depreciation on ISRS eligible plant that has not been
3 replaced is authorized by the statute, by including that
4 depreciation. Correct?

5 A. Yes. We believe that -- that is a reasonable
6 inclusion.

7 Q. Can you point me to any accounting standards
8 book or policies anywhere else that would indicate that this
9 follows the generally accepted standards in accounting?

10 A. Probably not a specific reference, but as we
11 discussed earlier, what we believe this process does is
12 maintain the same situation for the company on -- on a -- in
13 between rate cases as if you are having a rate case every
14 six months or every nine months or every twelve months. We
15 believe that the --

16 Q. That's not true, because no other issues can
17 be brought up in this type of case.

18 A. Right.

19 Q. So you're talking about a very specific
20 section, just one area. It's not like a general rate case,
21 it would be --

22 A. That's --

23 Q. Go ahead.

24 A. That's correct, it is not like a general rate
25 case. And, in fact, what this statute and this process

1 establishes is single-issue rate cases for very limited
2 types of plant. And basically, you know, what -- what I'm
3 saying is that if you're only looking at that plant, this --
4 the language we propose and the calculations that flow from
5 it maintain the status quo from a rate base standpoint for
6 the company as if you were doing a rate case.

7 Q. Since this is single-issue rate-making, the
8 question boils down to whether this accumulated depreciation
9 on ISRS eligible but not replaced plant is included within
10 that single issue?

11 A. That's correct.

12 Q. That's kind of what it comes down to?

13 A. That's -- you've hit it right on the head.

14 Q. We can talk about fairness, we can talk about
15 what's right, what's wrong in the context of a general rate
16 case, but in the end we're stuck with what the legislature
17 gave us. Correct?

18 A. Yes, we are.

19 Q. I used to be on the other end of that, by the
20 way.

21 A. I realize that.

22 Q. Are you an accountant?

23 A. No, I'm not.

24 Q. Any accountants testifying today for Staff?

25 A. No.

1 Q. Just like yesterday.

2 COMMISSIONER CLAYTON: Okay. I don't have any

3 other questions. Thank you very much.

4 JUDGE PRIDGIN: Commissioner Clayton, thank

5 you.

6 Commissioner Murray, do you have any

7 questions?

8 COMMISSIONER MURRAY: Yes. Thank you.

9 QUESTIONS BY COMMISSIONER MURRAY:

10 Q. Good morning, Mr. Johansen.

11 A. Good morning.

12 Q. I've listened to part of this from my office.

13 I've not been able to listen to all of it.

14 And I wanted to go back and ask you for a

15 little bit more explanation as to the treatment of property

16 assuming we didn't -- assuming the ISRS statute were not in

17 effect.

18 A. Okay.

19 Q. And assuming that the company were in for a

20 general rate case and they had added -- they had replaced

21 some property with new property. That new property -- there

22 would be a calculation made as to how much would go into

23 rate base for that new property; is that correct?

24 A. Correct.

25 Q. Now, would you walk us through how that

1 calculation would be made?

2 A. Well, basically if -- let's say you're looking
3 at property that's in a specific account. You would
4 essentially do the calculation as I've set it out on Staff
5 Exhibit 2 on page 2, the calculation that -- that would be
6 made under the Staff's proposal at the time the initial
7 surcharge filing is made.

8 You would review -- the one thing you would be
9 doing differently in a general rate case is that you would
10 be looking at additions of all types of plants, you would be
11 looking not necessarily at just plant that is eligible for
12 recovery through the surcharge.

13 So the -- the scope of the calculation would
14 be different in that regard, but the actual calculation
15 itself I believe would be consistent with the rate base
16 calculation that I show on Section B of page 2 on Staff
17 Exhibit 2.

18 Q. All right. Well, walk me through it, if you
19 would.

20 A. Okay. Basically what we're showing here --
21 and, again, in Section A that I've listed as parameters,
22 that sets out the -- sort of the assumptions that are being
23 used for the calculation. And --

24 Q. Now, as you walk me through it, I want you to
25 substitute -- I want you to do it as if this was a general

1 rate case and there was no ISRS statute.

2 A. Okay. The -- in that regard, the first
3 change -- or the first thing that would be different, some
4 of the assumptions would be different, some of the
5 parameters for the calculation would be different.

6 Q. Such as?

7 A. Such as on line 1 -- Section A, line 1 where
8 we're looking at the balance of plant eligible for recovery
9 through the surcharge at the end of the last rate case, what
10 we would be looking at in a general rate case is the balance
11 of all the plant that resides in a particular account, not
12 just that that could be recovered through a surcharge. So
13 the \$50 million number that I have there could be
14 substantially different, could be substantially higher.

15 Likewise, for --

16 Q. I'm sorry. Let me interrupt you just a
17 moment. When you say "the balance," you're talking about --
18 define "balance" for me.

19 A. That's the net plant balance in the account
20 which was reflective original cost less accumulated
21 depreciation.

22 Q. All right. And that would include an amount
23 for net salvage and --

24 A. Currently it would, yes.

25 Q. Okay.

1 A. Uh-huh. The figure that I show on line 2 in
2 Section A, the \$10 million figure, which for this example
3 reflects water utility plant projects that are -- that are
4 being conducted annually for recovery through the surcharge,
5 again, in a general rate case we would be looking at all
6 plant additions that have been made -- that are made on an
7 annual basis.

8 Q. Well, you would be looking at all additions
9 since the last rate case?

10 A. Since the last rate case, that's correct.

11 Q. Okay.

12 A. So here again, that \$10 million that I'm using
13 in this example would most likely be substantially -- or
14 could potentially be substantially greater. I'm certain it
15 would be greater.

16 Q. Okay.

17 A. Again, line 3, Section A where we're talking
18 about retirements, again, we would not only be looking at
19 retirements related to ISRS eligible plant, but we would be
20 looking to retirements for all types of plant in the
21 particular accounts that we're looking at.

22 Q. And in that calculation of the \$1 million
23 there, what is in that as to the annual retirements?

24 A. That's basically -- when plant is replaced and
25 retired, there's an entry that's made to that account

1 reflecting the retirements. Quite honestly, I'm not exactly
2 sure the details of how those -- how the value, if you will,
3 of those retirements are determined, but there is a -- when
4 new plant goes in, there is an account adjustment made for
5 retirements.

6 In some situations, depends upon the accounts
7 you're looking at, they're done on a vintage basis. I don't
8 think generally speaking -- you know, you don't track a
9 piece of pipe through its life, but there are retirements
10 made.

11 An example of that is in Missouri-American's
12 ISRS filing, they do show that for their plant that they're
13 looking to recover through the surcharge, that there have
14 been additions and retirements to those particular accounts.
15 Again, the details of exactly how that calculation is made
16 I'm not real familiar with.

17 Q. But in the document that you have here related
18 to an ISRS filing, do you know how that calculation was
19 made?

20 A. No. It would be made in the same general
21 approach. Again, if you're -- if it's done on a vintage
22 basis, for example, it -- it -- you would look at
23 replacements that were made for eligible plant of a certain
24 age and then you would retire a certain amount of money
25 off -- off the books related to that age of the facility.

1 Q. And you don't know how that amount you retire
2 off the books is calculated --

3 A. I do not.

4 Q. -- or what goes into that?

5 A. No, I do not.

6 Q. And there's no Staff member testifying here
7 that does; is that right?

8 A. No.

9 Q. Go ahead then.

10 A. Section A, line 4, the time -- the amount of
11 time that's elapsed since the last rate case, that could be
12 the same for the example. It -- it would most likely vary,
13 but that would not be critical.

14 As well, the composite depreciation rate and
15 composite deferred income tax rate shown on lines 5 and 6,
16 those would not necessarily change simply because it was a
17 general rate case versus a surcharge filing.

18 Going into Section B where the calculation is
19 actually made, again, most of the changes that would be made
20 to this calculation in regards to a general rate case versus
21 a surcharge filing would simply be changes in the balances
22 that are shown in that calculation and used in the
23 calculation to reflect that we're looking at all types of
24 plant versus only ISRS eligible plant.

25 And that's really -- throughout this

1 calculation, that's really the only difference that you have
2 in a general rate case versus the calculation made for a
3 surcharge filing.

4 And the effect of that, in essence, is that
5 during a rate case you are recognizing growth in an account
6 that's related to activity that is taking place other than
7 replacements and relocations. You've got main extensions
8 being made to serve new customers, you've got replacements
9 or projects that are undergoing that the company's
10 undertaking that may not qualify for the surcharge but
11 certainly would be projects that you would reflect in the
12 company's rate base at the time of a general rate case.

13 So as far as the steps you would go through to
14 make the calculation, there really aren't any differences.
15 It just -- it's pretty simply the fact that you're looking
16 at a much broader scope of plant in a general rate case than
17 what you're looking at in the surcharge filing.

18 Q. I'm sorry to be pausing here, but I'm trying
19 to digest this document.

20 If you take this document again and comparing
21 it to a general rate case, where is the new property that is
22 being placed in service? Where is the amount shown for
23 that?

24 A. Okay. That's first in Section A, line 2 and
25 then that's carried down because it's -- that's an annual

1 amount. And then that's carried down to Section B, line 1
2 to reflect that it's been more than a year since the time of
3 the last case. So that's in Section A, line 2 and
4 Section B, line 1. Those are the additions that have been
5 made to the ISRS eligible plant since the end of the last
6 rate case.

7 Q. And from that is deducted the accumulated
8 depreciation and accumulated deferred income tax
9 calculations; is that right?

10 A. Correct.

11 Q. And for a \$15 million investment, then a
12 \$7,500,000 addition to rate base is allowed?

13 A. Correct.

14 Q. And the retired property that had accumulated
15 depreciation and deferred taxes amounting to 7 1/2 million,
16 what is done to the rate base to account for the fact that
17 that property is no longer in rate base?

18 A. Well, those -- those entries are made -- there
19 are entries that are made to reflect the retirements and to
20 reflect the additions. And what --

21 Q. What are the entries made to reflect the
22 retirements?

23 A. Well, that goes back to what we were
24 discussing earlier is that any time you retire plant from an
25 account that -- there is an entry made. And, again, I don't

1 know the details of how those entries are determined.

2 I would note that Mr. Grubb is here from
3 Missouri-American. And I'm not sure if he's going to
4 testify, but if he does, I'm confident he can tell you the
5 details of how plant retirements are reflected.

6 Q. When you say that you're treating it exactly
7 the same as in the rate case, isn't that a critical thing to
8 know, how it would be treated in a rate case?

9 A. Well, yes, I mean, it's an important aspect of
10 how those entries are made, but, again, from the standpoint
11 of the -- of there being a difference between the general
12 rate case and this process, again, the only difference is
13 which plant retirements you're reflecting.

14 There is no difference in the methods that you
15 use to do that. It's simply what plants you're retiring.
16 In the rate -- in a general rate case you're reflecting
17 retirements of all types of plant in that account. In the
18 surcharge filing, you're reflecting retirements only for the
19 ISRS eligible plant in that account. The methodology is the
20 same, it's simply that you're -- you're retiring different
21 types of plant.

22 COMMISSIONER MURRAY: Okay. I think that's
23 all I have. Thank you, Mr. Johansen.

24 THE WITNESS: Thank you.

25 JUDGE PRIDGIN: Commissioner Murray, thank

1 you. And Mr. Johansen, I don't have any questions for you.
2 Thank you for your time.

3 Mr. Krueger, any further witnesses from Staff?
4 MR. KRUEGER: No, your Honor.

5 COMMISSIONER CLAYTON: Can I ask one question?
6 JUDGE PRIDGIN: Certainly.

7 FURTHER QUESTIONS BY COMMISSIONER CLAYTON:

8 Q. Before we cut you loose, can I ask you one
9 question? The dispute in the accumulated depreciation issue
10 would only arise in an initial filing; is that correct?

11 A. No, it's not. It would --

12 Q. Would it be a problem in subsequent --

13 A. It would -- it basically flows through.
14 The --

15 Q. Because of the accumulation of the numbers --

16 A. Correct.

17 Q. -- from -- but it all flows -- the problem
18 flows from the initial filing, and then that would throw the
19 numbers off over the history of subsequent ISRS filings?

20 A. Yeah. And if you'll look -- draw your
21 attention to Exhibit 2 again on page 4. At the time you're
22 filing to change an existing surcharge, you -- you look at
23 the deductions that are related to the plant that was
24 included in the initial surcharge, which is -- the
25 statutory -- specific statutory language that exists where

1 it says you will include recognition of accumulated
2 depreciation and accumulated deferred taxes on plant being
3 collected through an existing surcharge. That is shown in
4 Section B there, the calculation in lines 3 through 7.

5 The part that flows through from the initial
6 filing of how you treat those items to start with is shown
7 on lines 8 through 12 of Section B there. I don't think
8 there's any controversy or disagreement about the
9 calculation in Section B there on lines 3 through 7. I'm
10 not aware that there is.

11 The controversy regarding the initial
12 methodology does flow through every time you change it so it
13 would continue to exist, which is the controversy regarding
14 the calculation on this example on lines 8 through 12.

15 COMMISSIONER CLAYTON: Thank you.

16 JUDGE PRIDGIN: Commissioner Clayton, thank
17 you.

18 Again, Mr. Johansen, I don't believe I have
19 any questions for you. Thank you very much. You may step
20 down.

21 Mr. Krueger, do I understand no further
22 witnesses from Staff?

23 MR. KRUEGER: That's correct.

24 JUDGE PRIDGIN: Mr. Krueger, thank you.

25 Mr. Coffman, any witnesses on behalf of the

1 Office of Public Counsel?

2 MR. COFFMAN: I just have a few comments.

3 JUDGE PRIDGIN: If you would, please come
4 forward and be sworn.

5 (Witness sworn.)

6 JOHN COFFMAN testified as follows:

7 BY JUDGE PRIDGIN:

8 Q. Mr. Coffman, thank you. Please identify
9 yourself and make your comments.

10 A. I'm John Coffman. I'm the Missouri Public
11 Counsel. And I just want to touch on I think about three
12 issues here.

13 First of all, I wanted to note and -- note my
14 appreciation that Missouri-American is I guess not opposed
15 to specifically line iteming the ISRS charge on their
16 billing, although they do argue that it's -- I guess not
17 necessarily authorized, they do note, which is accurate,
18 that the original concept that was eventually morphed into
19 this legislation came from Pennsylvania through distributary
20 system improvement charge, which is set off as a separate
21 item.

22 The legal matter as to whether it should be
23 set off or not I think is -- is within the Commission's
24 discretion. This is not, as I -- as they pointed out,
25 different legislature. It is not legislation that requires

1 it to be set off as a separate item. Then again, it's not
2 like legislation which passed recently in Kansas which is to
3 some separate rate-making specifically required that it not
4 be set out, simply silent and something that's appropriate
5 for a rulemaking.

6 I would note that the Staff did not do what
7 they did yesterday in the gas ISRS rulemaking, and that is,
8 set out every other parties' comments. And so the -- the
9 Exhibit 1 today which includes some suggested Staff changes
10 do not include any other suggested changes or comments under
11 the suggested changes from other parties.

12 And, first of all, I would urge that if -- to
13 the extent possible, the Commission would make the rule --
14 the ISRS gas rule and ISRS water rule as consistent as
15 possible. Some changes are going to be necessary, but it
16 would be easier for a lot of folks to follow it.

17 One change that was made by -- suggested by
18 Public Counsel and agreed upon by the Staff related to what
19 would be I think Section 9 in both rules. And that is the
20 place in the process where the utility would be submitting a
21 sample notice for comments. And this was requested in this
22 particular rulemaking by Public Counsel comment, D --
23 capital letter D, as in dog. And the suggestion is simply
24 that the rule -- give the Office of the Public Counsel 10
25 days to submit comments regarding the notice and whether our

1 office thought it was helpful or adequate.

2 I won't go through all of the suggested
3 changes in Public Counsel's comments, but would cite what I
4 think are important ones, and would hope that you would give
5 a close look to those suggested changes.

6 They would be comments I, J and K. Sections I
7 and J note that the statute refers to the fact that the
8 Commission still maintains the ability to review the
9 prudence and the reasonableness of these infrastructure
10 improvements, however, in a subsequent rate case.

11 And so I would respectfully suggest that the
12 rule also make reference to those statutory sections, which
13 are in the water ISRS 393.1006.9 and .8. So subsections 8
14 and 9 of 393.1006. And this would potentially eliminate
15 disagreement later as to the fact that even though
16 infrastructure improvements were included in an ISRS, that
17 they are something that the Commission then reviews later
18 for prudence and reasonableness.

19 There is also some confusion and we did not
20 set out specific language, but paragraph J points out that
21 the statute is silent as to what happens if there is a
22 prudence disallowance or some adjustment made for
23 unreasonableness in the later rate case, how that amount is
24 then reconciled because the statute does say the ISRS is
25 rebased to zero.

1 And we suggest that some language explain how
2 the unreconcilable amount is handled. And hopefully this
3 would eliminate unnecessary bickering in that rate case as
4 to what happens to that amount. We suggest the reconciled
5 monies could be held for future ISRS filings and modify
6 those or could be refunded or collected, you know, whether
7 it was a -- I guess an over- or under-collection.

8 My final point I wanted to make here was
9 contained within Public Counsel Comment K, and it refers to
10 the various information in the minimum filing requirements
11 of the proposed rule. And there are particular points here
12 that cause indigestion for utilities. I know in this case,
13 Missouri-American has specifically pointed out some sections
14 that they do not think are appropriate; however, they
15 believe they could be appropriate in the subsequent rate
16 case.

17 And I just wanted to point out that the vast
18 majority of these -- and I might agree with
19 Missouri-American that a couple of them may not be
20 absolutely necessary. They refer to N -- I, M and N. And I
21 don't -- and I'm not agreeing that they are irrelevant to
22 the ISRS process, but they do have some relevance to the
23 subsequent prudence.

24 Simply wanted to urge you that if you make --
25 if you agree with any of their arguments that some of these

1 are not as relevant to the ISRS proceeding, that you not
2 throw the baby out with the bath water because this list of
3 items contained will be extremely helpful and necessary to
4 reviewing the ISRS process.

5 And these are the alphabetic subparagraphs of
6 subparagraph 18. And I'm trying to see if that's also what
7 they have in their -- Staff's latest version here today. As
8 they would have it, it is still subparagraph 18. All of
9 that information is information that we would want to have
10 data requests about. Of course, that's at least 20 days
11 typically until you get that information. Putting it in the
12 rule means that we would get it with the initial filing.

13 It's absolutely necessary for audit and
14 verification. To some degree, this information is going to
15 be helpful as to rate design, that is, how it is to be
16 apportioned between various customer classes. And I think
17 this is very important because of the 60-day time limit.

18 Our office would have to make a recommendation
19 in these ISRS filings based on 60 days, which is must less
20 than we typically are used to turning things around and
21 making recommendations in normal general rate cases. And so
22 this gives us a heads-up and makes it much more likely that
23 we'll have a helpful, meaningful recommendation within that
24 60 days.

25 So that's the most important points that I

1 wanted to raise. And as to notice to consumers, as I said
2 yesterday, I think that the more notice, the better. The
3 more information for consumers, the better. I tend to
4 believe that more notice requirements actually will reduce
5 consumer confusion and I believe the consumers want to see
6 this information and that they should have it and that it's
7 necessary if they are going to provide any input to the
8 Commission involving these ISRS cases.

9 I think that wraps it up and I'm willing to
10 answer any questions.

11 JUDGE PRIDGIN: Mr. Coffman, thank you.
12 Commissioner Murray, any questions?

13 COMMISSIONER MURRAY: Thank you.

14 QUESTIONS BY COMMISSIONER MURRAY:

15 Q. Mr. Coffman, good morning.

16 A. Good morning.

17 Q. I won't ask you some of the same questions I
18 asked you yesterday about the very similar gas rule, but
19 what you just said about the -- I believe it was Section 18,
20 the --

21 A. Yes.

22 Q. -- information requested to be provided.

23 A. Yes.

24 Q. And am I correct that you are saying that you
25 think that the information that is set out there is

1 appropriate to request in an application for an ISRS, but
2 that you agree with the company that subsections I, M and N
3 really could be just as easily -- or just as well provided
4 at the time of the rate case?

5 A. I, I believe is essential as regards to
6 proportionalITY between customer classes. I mean, that's
7 going to be necessary in the ISRS.

8 Q. Maybe we're looking at the wrong one
9 because --

10 A. I'm sorry. I was looking at -- I apologize.
11 I had the gas rule.

12 Q. Okay. My copy of I is an explanation of how
13 the customers will benefit.

14 A. Here we go. Yes. Okay. I, M and N are their
15 particular --

16 Q. And you don't think that that is necessary
17 in-- you don't think that is necessary information at the
18 time of the ISRS application?

19 A. I think that -- I think that N is necessary as
20 relates to short-term debt and interest rates. I and M are
21 important. I think to some extent M is important to
22 understand the -- I think M may be -- may be -- M may be
23 important. I -- I probably is going to be more relevant to
24 a rate case.

25 So in varying degrees, these could be

1 important to the ISRS filings. Obviously there's
2 information there that would be important in a rate case
3 later. Obviously I -- we'd like to have as much information
4 as possible. And to the extent that some of this
5 information would then be helpful later in a rate case, I
6 think there's some benefit to having it earlier rather than
7 later. The information is, of course, contemporaneous. A
8 year or three years down the road it might not be as easy to
9 collect.

10 I'll leave it to the Commission to decide
11 whether each of these are absolutely necessary to the ISRS.
12 I would say as to the -- to the rest of this information, it
13 is essential to coming up with a good recommendation and
14 urge you simply not to throw out the majority of this if you
15 find two or three are not absolutely necessary.

16 Q. And then what I heard you say about notice
17 requirement, presenting a copy of the notice, I'm not sure I
18 understood what you were asking. Were you asking that
19 the -- rather than just submit a copy of the notice to
20 Commission, that you submit it to OPC as well? Is that what
21 you were saying?

22 A. Yes. The way that the Staff suggested the
23 change be made in the gas rule is the way that we would like
24 to see it made to the water rule, which is inserting into
25 the paragraph -- subparagraph 9 of the rule that the Office

1 of the Public Counsel may within 10 days of the utility
2 filing the information submit comments regarding these
3 notices to the Commission.

4 Often that process is done informally in other
5 rate matters for the Commission. And it's just helpful
6 sometimes -- you know, addresses or phone numbers are wrong,
7 sometimes there's suggestions about how information can be
8 organized or described that provide better information.

9 Q. Okay. That's within 20 -- first, they have to
10 submit it within 20 days within the filing of the petition?

11 A. Yes.

12 Q. And then OPC would have 10 days to comment.
13 Do you see that creating any kind of a delay in the --

14 A. I guess --

15 Q. -- in the ISRS?

16 A. That would give the Commission I guess 10 days
17 to make a decision if there was some disagreement between
18 Public Counsel or the Staff and the utility about what the
19 appropriate notice is, unless the Commission were to waive
20 the 20 days and consider it over a few more days.

21 COMMISSIONER MURRAY: Thank you. I think
22 that's all I have.

23 JUDGE PRIDGIN: Commissioner Murray, thank
24 you. Commissioner Clayton?

25 QUESTIONS BY COMMISSIONER CLAYTON:

1 Q. I don't want to go into a number of things
2 that came up yesterday, but I, due to a number of different
3 issues, wasn't able to make it here in a prompt manner
4 yesterday. Does your office have a position with regard to
5 subsection G?

6 A. Subsection G.

7 Q. The accumulated depreciation section.

8 A. We're staying out of that fight.

9 Q. What does that mean?

10 A. We do not have a position on that --

11 Q. So --

12 A. -- particular issue.

13 Q. So no one in your office has thought whether
14 the rule is authorized by the statute or not?

15 A. We have -- we have put some thought to that
16 and decided that that's just not an issue that we wanted to
17 comment on.

18 Q. Well, how about if I ask you to comment on it?
19 Well, if -- that's fine if that's --

20 A. I think -- I think that the issue put forth to
21 you between the Staff and the company is something within
22 your discretion. It -- it is a difficult matter because it
23 is set up as a single-issue rate-making procedure and it
24 uses language that is typically used in a general rate case
25 and we're simply choosing to stay silent on this particular

1 issue.

2 Q. You mentioned in your comments earlier about
3 some other states and comparing similar statutes in other
4 states. How many other states have you looked at in terms
5 of comparable language and authority?

6 A. I don't have copies of the statutes with me,
7 but I'm relatively familiar with the Pennsylvania DSIC,
8 distribution system improvement charge, and I believe
9 Connecticut. And the DSIC was imposed by the public
10 utility --

11 Q. What's the --

12 A. DSIC.

13 Q. And that's Connecticut?

14 A. Yes. Or no, that's Pennsylvania. That was, I
15 believe, imposed by the utility without statutory charge.
16 And Connecticut I believe was by statute, very similar to
17 it.

18 Q. Do you know if those statutes make reference
19 to accumulated depreciation on non-replaced --

20 A. I'm afraid I don't.

21 Q. Okay.

22 A. Afraid I don't know how they contrast that
23 issue.

24 Q. Did you all review whether that issue was
25 contemplated in those states at all?

1 A. Have not.

2 Q. Okay.

3 A. Afraid not.

4 Q. So just Pennsylvania and Connecticut?

5 A. I believe there may be some other states that

6 have things --

7 Q. But just states you've looked at. I don't --

8 A. And I believe from what I've seen, these are

9 the only two that I think have something as close to this.

10 And this has many different -- I wouldn't say that they were

11 identical at all.

12 They both referred to water infrastructure and

13 that's obviously -- I'm not aware of any natural gas

14 procedure that would be similar to the gas rule. And I know

15 I've been -- and have over the years debated concepts like

16 this.

17 And I think Commissioner Murray probably is

18 familiar through the NARUC Water Committee activities that

19 this has been discussed for a long time with regard to water

20 as obviously the area that it was first envisioned anywhere.

21 But great variety of different ways this issue has been

22 approached in different states.

23 Q. Would you agree that this ISRS concept

24 accelerates the ability of a company to recoup costs --

25 A. Yes.

1 Q. -- for this type of equipment?

2 Other than time, does it provide any other

3 benefits to the company?

4 A. I mean, it certainly provides them with more

5 revenue.

6 Q. Well, it's revenue that they would be able to

7 receive later on. It accelerates it, it moves it sooner.

8 They're able to collect it sooner rather than later. Would

9 you agree with that assessment?

10 A. That assumes that the water utility will --

11 overall cost of service will be increasing. There's the

12 possibility that a utility could over-earn, that its cost of

13 service could drop below what the current -- approved

14 revenue requirement says is appropriate. And so --

15 Q. But all things being equal, if monies are

16 spent to replace equipment, it moves the ability to collect

17 from the ratepayers at a point sooner in time than in a

18 general rate case?

19 A. True. But, however, if we were only operating

20 under the general rate case procedure, a utility could only

21 recover costs if overall in a total company basis, they

22 required additional revenue. The ISRS procedure,

23 unfortunately, in my opinion, allows a utility to recover

24 for a single-issue item regardless of whether overall there

25 is a revenue requirement deficiency.

1 Q. Okay. Did your office have a position on
2 House Bill 208? Did you all take a position in the
3 legislature?
4 A. We did with regard to Senate Bill 125. This
5 issue with regard to House Bill 208 was never the subject of
6 a public hearing. It was --
7 Q. Well, but the language was.
8 A. It was added on.
9 Q. Yeah.
10 A. If you consider what was debated with regard
11 to Senate Bill 125 the same thing, yes, we testified in
12 opposition of that bill.
13 Q. In opposition?
14 A. Yes.
15 COMMISSIONER CLAYTON: Okay. I don't think I
16 have any other questions. Thank you.
17 JUDGE PRIDGIN: Commissioner Clayton, thank
18 you.
19 Mr. Coffman, I don't have any questions.
20 Thank you very much. Will the Office of the Public Counsel
21 have any further witnesses?
22 MR. COFFMAN: No, sir.
23 JUDGE PRIDGIN: All right. Thank you very
24 much. You may step down.
25 This looks to be a pretty natural place to

1 break for lunch. Unless I'm seeing any objections or strong
2 objections, I think about one o'clock or so would be a good
3 time to reconvene.

4 All right. In that case, we will recess this
5 hearing. We will reconvene at one o'clock. We are off the
6 record.

7 MR. KRUEGER: May Mr. Johansen be excused?

8 JUDGE PRIDGIN: Seeing no objections,
9 Mr. Johansen may be excused.

10 (A RECESS WAS TAKEN.)

11 JUDGE PRIDGIN: Good afternoon. We're back on
12 the record. It is about 10 after 1:00 in the afternoon.
13 We're reconvening the hearing in Case No. WX-2004-0093.

14 Mr. Coffman, I believe we completed witnesses
15 and evidence from the Office of Public Counsel; is that
16 correct, sir?

17 MR. COFFMAN: That's correct.

18 JUDGE PRIDGIN: All right. And, Mr. England,
19 I would call on you next, but I understand that you wish to
20 relinquish your position to Ms. Vuylsteke.

21 MR. ENGLAND: Yes, your Honor. I believe
22 we're probably the most adverse to the proposed rule and
23 would appreciate it if we could go last.

24 JUDGE PRIDGIN: Certainly.

25 Ms. Vuylsteke, any witnesses on behalf of

1 Missouri Industrial Energy Consumers?

2 MS. VUYLSTEKE: Judge, we do not have any
3 witnesses. We did not file comments in this proceeding. We
4 intervened in this proceeding to potentially react to the
5 other parties. We do support the proposed rule and unless
6 the Commissioners have any specific questions for us, we'd
7 like to waive any other comment at this time.

8 JUDGE PRIDGIN: Ms. Vuylsteke, thank you. Let
9 me see if we have any questions at this point. Commissioner
10 Murray, do you have any questions?

11 COMMISSIONER MURRAY: I don't. Thank you.

12 JUDGE PRIDGIN: Ms. Vuylsteke, thank you very
13 much for your appearance.

14 Mr. England, any witnesses on behalf of
15 Missouri-American Water Company?

16 MR. ENGLAND: Yes, your Honor. Mr. Ed Grubb.

17 JUDGE PRIDGIN: All right. If you would, sir,
18 please come forward to be sworn. Note that your right hand
19 is raised.

20 (Witness sworn.)

21 JUDGE PRIDGIN: Thank you very much, sir. If
22 you would, please have a seat.

23 And Mr. England, do you prefer to lay a
24 foundation or do you wish Mr. Grubb to simply give comments?

25 MR. ENGLAND: I think to have him give

1 comments.

2 JUDGE PRIDGIN: That's certainly fine.

3 EDWARD GRUBB testified as follows:

4 BY JUDGE PRIDGIN:

5 Q. Mr. Grubb, if you'll briefly identify yourself
6 and give your comments to the Commission.

7 A. My name is Edward J. Grubb. I am director of
8 rates and revenue and the assistant treasurer for
9 Missouri-American Water Company.

10 Similar to what Mr. Coffman did, I would just
11 like to address that the comments of the company that we put
12 in on this issue of the rulemaking we'll let stand on their
13 own. I do have just a few comments of a few of the issues
14 within our comments.

15 The first issue concerns the -- obviously the
16 depreciation issue that Staff has included in its rule--
17 proposed rulemaking. And I'd like to turn to --
18 specifically turn to page -- page 4 of 5 and it's paragraph
19 18G of which we are very concerned about.

20 In earlier discussions by Mr. Johansen he
21 talked about this calculation in terms of his Exhibit 2.
22 And what I would like to just go over is I believe that the
23 calculation that Mr. Johansen did in Exhibit 2 that
24 supports -- or is part of this paragraph G we believe does
25 violate the terms and the letter of the House Bill 208 in

1 that he is assigning into the calculation of the ISRS
2 revenues depreciation, and in this case, deferred taxes
3 associated with non-ISRS eligible plant that was in the
4 prior rate case and identify any utility plant that is in --
5 that is in the company's current rate base as non-ISRS
6 eligible because of the nature of the House Bill 208's
7 provisions.

8 So to the extent that whatever plant was
9 included in the rate base of St. Louis County in their last
10 rate case should be construed and identified as non-ISRS
11 eligible because it's in the company's base rates today.

12 I tried to go through Mr. Johansen's Exhibit 2
13 here, Staff's Exhibit 2, and there are some 80 lines of
14 information and over 60 numbers in here, so I wasn't able
15 over the lunch hour to be able to go over everything but a
16 couple things I'd like to mention here.

17 On page 2 of his Exhibit 2, Staff has
18 identified for illustrative purposes \$50 million as the
19 balance of all plant eligible for recovery through an ISRS
20 at the end of the last rate case. Because it was in the
21 last rate case rate base, it is not eligible for ISRS
22 recovery.

23 Therefore, to truly reflect the schedule, that
24 \$50 million should be set to 0. And then if you did the
25 math going down the schedule, that 0 times 2 percent

1 depreciation rate would cause line B3 on that schedule to be
2 0 and then line B5 would be the 8 percent times the 0 so
3 that number on line B -- I'm sorry, B5 would also be 0.

4 So if you went through Mr. Johansen's exhibit
5 and used the proper definition of line A1, then his ISRS
6 rate base on line B8 should be the \$15 million that he has
7 identified on line B1.

8 Basically the last comment on this schedule is
9 the A1 line of \$50 million in talking and thinking through
10 this -- what this number represents, there really is no
11 practical way in the company's financial reporting system to
12 find out how much is on the books as of the last rate case
13 related to infrastructure replacement.

14 So even if it was adopted from a practical
15 point of view, we just could not produce the number. It's
16 just a physical impracticality.

17 The second point concerns the noticing of our
18 customers. We believe strongly that it is very important to
19 inform our customers of the surcharge. We just ask that the
20 Commission keep in mind the cost of doing that. The company
21 is planning on this first ISRS to send a brochure to its
22 customers as the -- as the infrastructure surcharge is
23 implemented. And those brochures will be mailed out
24 probably after the first of the year to the first customers
25 who receive the surcharge. That's all the comments I have.

1 JUDGE PRIDGIN: All right, Mr. Grubb. Thank
2 you. Let me see if we have any questions from the Bench.
3 Commissioner Murray?
4 COMMISSIONER MURRAY: Thank you.
5 QUESTIONS BY COMMISSIONER MURRAY:
6 Q. Good afternoon, Mr. Grubb.
7 A. Good afternoon.
8 Q. Yes, I wanted to ask you on page 8 of the
9 company comments, footnote 2, you say --
10 A. I have that.
11 Q. -- Even if the cost of retirements could be
12 legally considered in calculating ISRS revenues, it would
13 not be appropriate to do so under generally accepted
14 accounting principles.
15 Would you elaborate on that, please?
16 A. Where on the page are you, about? You're on
17 page 8?
18 Q. I'm on footnote 2.
19 A. Footnote 2.
20 Q. And I assume you're saying there according to
21 generally accepted accounting principles it wouldn't be
22 appropriate to determine the original cost by this method.
23 A. The impact of retirements is -- and I'll just
24 go back and give an example. We retire a main going down
25 South Street, we know what year that was installed in and we

1 know what the cost is of that main. And we'll just say, for
2 example, the cost was \$100,000.

3 In -- under generally accepted accounting
4 principles and in concert with utility regulation, the
5 utility plant in service is reduced by the \$100,000 and then
6 the offset would be a reduction in the accumulated reserve
7 for depreciation.

8 And there's where the -- you know, if you
9 take -- what I think is trying to be done here is take into
10 consideration the retirements on the plant side but not
11 necessarily taking on the impact of the retirements on the
12 accumulated depreciation side. So when you do a retirement,
13 there is no rate base reduction, there's no rate base
14 impact. It comes out of plant and it comes out of the
15 reserve.

16 Q. And according to the methodology that Staff is
17 employing here, it's only coming out of the accumulated
18 depreciation side. Is that what you're saying?

19 A. In looking at Mr. Johansen's exhibits, he is
20 only taking the retirements in the calculation of the --
21 this is on page 1 -- the retirements of the -- out of the
22 calculation of the depreciation expense and the property tax
23 expense.

24 And his calculation on page 1 in the
25 theoretical sense basically matched our calculation in our

1 ISRS filing. They're not really doing anything with, quote,
2 retirements. What they're doing is Staff is looking at the
3 depreciation, the accumulated reserve and taking that
4 reserve from plant that's already in rate base.

5 Q. But there is some plant that's being
6 retired --

7 A. That's correct.

8 Q. -- correct?

9 A. That's correct.

10 Q. So is that not being accounted for under
11 Staff's proposed calculations?

12 A. In this -- these schedules here, I have not
13 seen that being done here. And I have not had a chance to
14 go through it in a thorough sense. I've been able to go
15 through the first two pages, but I don't see where Staff is
16 recommending anything with, quote, retirements. They're
17 doing something with the accumulated reserve on the existing
18 plant that's in the current rates right now.

19 Q. And deducting that from the amount that would
20 be recoverable for the new ISRS property?

21 A. That -- that's correct.

22 Q. So what would be the result -- what would be
23 the bottom line result of that?

24 A. Of what the Staff is recommending on their
25 Exhibit 2?

1 Q. Yes.

2 A. I believe they would under-calculate the level
3 of the ISRS revenues as mandated or outlined in House Bill
4 208. It would reduce it significantly.

5 Q. But if you reduce plant in service, aren't you
6 reducing the revenue requirement? Aren't you reducing the
7 rate base?

8 A. For retirements?

9 Q. Yes.

10 A. No. You would be reducing the plant, that's a
11 correct statement, but the other side of the accounting
12 entry, if you will, would be the reduction to the reserve
13 account, which is -- since it's a reduction to rate base, by
14 reducing it, you're lowering the reduction for it. So it's
15 basically an offset.

16 Q. Okay. And the calculation that Staff has made
17 is only taking in half of the picture --

18 A. In looking --

19 Q. -- is that correct?

20 A. -- at the page 2, they are -- they're pulling
21 out the accumulated reserve on what I'll call non-ISRS
22 property since it is in rate base.

23 Q. And they're not pulling out anything for
24 retirement?

25 A. I don't see it on their new schedule here that

1 they handed out this morning.

2 Q. And there's no tie to any actual property
3 that's being retired anywhere in Staff's calculation; is
4 that right? I mean, it's based on a type of plant, a
5 category of utility plant; is that right?

6 A. That's correct.

7 Q. And on your footnote -- on the footnote 2,
8 back to that, first of all, I understand that the company is
9 saying that we cannot legally consider the non-ISRS
10 property -- the retirements of non-ISRS property in
11 calculating the ISRS revenues. That's the first
12 proposition, as I understand it.

13 But then you say even if we could, that would
14 not be appropriate under generally accepted accounting
15 principles. And I guess I'd like you to, if you can, walk
16 me through why that would not be appropriate under generally
17 accepted accounting principles.

18 A. We're still on the footnote; is that correct?
19 I guess just going back to in talking about generally
20 accepted accounting principles, the accounting principles
21 state that when you retire an asset under utility
22 accounting, the utility plant is reduced and as is the
23 reserve for those actual retirements.

24 So if you could legally include it in -- in
25 calculating the revenues, you shouldn't because there is no

1 impact in calculating ISRS revenues for the physical
2 retirement of an asset with the exception of its impact on
3 depreciation expense and the property taxes. That would be
4 where I think this cite is going, this footnote is going
5 with that.

6 Q. You mean there is no impact in the way Staff
7 has calculated it other than accumulated depreciation and
8 taxes?

9 A. That's right.

10 Q. But that if you were going to include it, you
11 should include the impact of the reduction of plant in
12 service?

13 A. Reduction of plant in service and the reserve.
14 It just offsets both of it so there's no impact on the rate
15 base or the net cost of the ISRS assets.

16 Q. So if it were to be -- if we could legally
17 consider those properties and we were to do so according to
18 generally accepted accounting principles, we would do so by
19 recognizing a reduction of plant in-service?

20 A. That's correct.

21 Q. And we would offset that with the reduction in
22 accumulated depreciation and --

23 A. That's correct.

24 Q. -- so the impact would be 0?

25 A. That's correct.

1 Q. And the way Staff has calculated it, it only
2 recognizes the half of the calculation that --
3 A. As --
4 Q. -- reduces the amount that the company can
5 earn revenue on; is that right?
6 A. As I look at the schedule and real quick I see
7 some numbers that appear to be reducing the company's
8 investment and -- for plant retirements, but one of the
9 things I need to do is go through that schedule in a little
10 bit more detail to truly understand what all the
11 calculations are.
12 Q. Did you just see it today --
13 A. I just got it --
14 Q. -- as well as the rest of us?
15 A. -- this morning, yes.
16 Q. I'm glad I'm not the only one that it takes a
17 while to absorb.
18 COMMISSIONER MURRAY: Okay. I think that's
19 all I have. Thank you.
20 JUDGE PRIDGIN: Commissioner Murray, thank
21 you.
22 Commissioner Clayton?
23 COMMISSIONER CLAYTON: Thank you, Judge.
24 QUESTIONS BY COMMISSIONER CLAYTON:
25 Q. Good afternoon. I apologize for being late.

1 I got detained upstairs. Seems to be a regular occurrence
2 for me.

3 I'd just like to talk about this accumulated
4 depreciation. You were in the room when I asked some
5 questions of Mr. Johansen?

6 A. Yes, I was.

7 Q. And I apologize for this also. I haven't read
8 the written comments, but I'm assuming that you all would be
9 objecting to the definition under 180 or whatever it is --
10 18G?

11 A. That is correct.

12 Q. Okay. And your company believes that the
13 accumulated depreciation on equipment not being replaced
14 should not be included in determining the net original cost
15 of the infrastructure system replacements. Correct?

16 A. Any accumulated depreciation and deferred
17 taxes on any non-ISRS plant or plant that is currently in
18 the company's rate base in the last rate case should be
19 excluded from the calculation of the ISRS revenue
20 calculation.

21 Q. And you would agree that that would be quite a
22 bit different than what would happen in a general rate case?

23 A. Yes. In a general rate case, everything is
24 taken into consideration as of a point in time.

25 Q. And this depreciation question on non-ISRS

1 plant you see as being beyond what is authorized in the
2 statute?

3 A. Yes, I do. I -- in looking at the statute --
4 and the cite from the statute and the proposed rule is --
5 you know, Section 1A1 where they say, you know, that the
6 revenues necessary to produce net operating income equal to
7 the eligible water utility's weighted cost of capital
8 multiplied by the net original cost of eligible
9 infrastructure system replacements including recognition of
10 accumulated deferred taxes and accumulated depreciation
11 associated with eligible infrastructure system replacement.

12 So the company believes it's very specific and
13 that the deduction or the reduction of the investment for
14 deferred taxes and the accumulated depreciation is specific
15 to those infrastructure replacements that are being included
16 in the -- in the surcharge.

17 Q. In that section the words that you didn't read
18 on the end, which are included -- quote, which are included
19 in a currently effective ISRS, closed quote, considering
20 that there's no currently effective ISRS, how would we
21 include any accumulated deferred income taxes or accumulated
22 depreciation?

23 A. Well, that was a point that was made in the
24 hearings a few weeks ago. You're right. I mean, if you
25 read it specifically, the very first ISRS would be simply

1 the total plant ISRS investment that would be included in
2 the surcharge.

3 But I think from the company's perspective, I
4 think when you say currently effective ISRS, once this ISRS
5 goes into effect, it's a currently effective ISRS and,
6 therefore, it should include any depreciation of deferred
7 taxes associated with that ISRS investment that is going
8 into the surcharge at that time.

9 Q. So in subsequent ISRS filings there will be
10 a -- presumably there would be a currently effective ISRS to
11 offset --

12 A. That's correct.

13 Q. -- correct?

14 Well, in an initial ISRS, there would be no
15 offset, correct, like you would have in a subsequent?

16 A. I think that's a literal reading of this. The
17 company didn't file it that way. We actually took the
18 depreciation deferred taxes on those assets and reduced
19 the --

20 Q. And I probably ought to say we ought to focus
21 on the rule. I don't want to get into the specifics of a
22 case because then I get stern looks from the judge.

23 But so you would agree with that literal
24 reading --

25 A. Yes. Yes, I would.

1 Q. -- of the statute?

2 Did you participate in the -- in the
3 legislative process associated with Section 393 and House
4 Bill 208?

5 A. To the extent that I was asked to support --
6 provide support for some calculations and numbers, there was
7 a lot of questions by the various parties involved in it
8 and -- but I never traveled to Jefferson City.

9 Q. Okay. That's fine.

10 A. Yeah.

11 Q. Can you just very briefly just give me the
12 purpose behind the ISRS concept?

13 A. I think the purpose behind the ISRS concept at
14 the top -- for the company's -- at the top of the company's
15 list is simply to have the company have the ability to
16 accelerate its main replacement program, to be able to get
17 up to a level of \$25 million or so a year and replacing
18 infrastructure in the St. Louis County service area. And
19 honestly there are benefits from that from our customers
20 being able to upgrade the aging infrastructure in that
21 service territory.

22 Q. And the concept is that the ISRS would be
23 determined in almost an identical manner as in a general
24 rate case?

25 A. In the sense that you have a rate of return,

1 you have depreciation, you have property taxes, you have a
2 rate base that you're trying to develop specific to that
3 ISRS infrastructure, yes.

4 Q. In a general rate case though you look at
5 other factors. You would agree with that?

6 A. We look at many, many factors.

7 Q. Cost, expenses, labor?

8 A. Correct.

9 Q. But you would also look at the accumulated
10 depreciation which is listed in subsection G. Correct?

11 A. The accumulated depreciation is one piece of
12 the company's rate base.

13 Q. And specifically in a general rate case, you
14 would look at the accumulated depreciation on non-ISRS
15 equipment and plant?

16 A. That's correct.

17 Q. Okay. Do you believe that the company, other
18 than benefiting in accelerated time, benefits in any other
19 way from the ISRS statute other than just simply
20 accelerating the process? Are there other benefits to the
21 company? I say the company, a utility. I don't mean --

22 A. One of the things it does, it avoids costly,
23 time-consuming rate cases that simply absorbs the resources
24 within the company and I think that's a benefit to the
25 company.

1 It's also a benefit to our ratepayers because,
2 you know, to get up to a level where the company would like
3 to be, we would have to file annual rate increases and then
4 each and every year, you know, the rate increase or the rate
5 expense -- rate case expense we expend to litigate the case
6 is running between 700,000 and 750,000 dollars. Instead of
7 doing that every year, we do it once every three years. And
8 we have to come in every three years because of the mandate
9 within House Bill 208.

10 Q. Other than the saving of cost in a rate case,
11 would you see any other financial gains that a utility could
12 benefit under an ISRS other than the acceleration of the
13 replacement program?

14 A. From something other than non-financial?

15 Q. Well, actually I'm asking about financial.

16 A. Financially, it is -- there is a benefit to
17 the company because you don't have the lag, the extended lag
18 between spending the money and getting recovery of those
19 funds.

20 Q. The regulatory lag that this statute and this
21 rule would deal with, by excluding the accumulated
22 depreciation on non-ISRS plant creates a -- would always
23 create a positive regulatory lag for a utility, would it
24 not?

25 A. I guess I'm not sure -- when you say "positive

1 regulatory" --

2 Q. Positive to the company. I mean a financial
3 positive. In terms of regulatory lag, you can have I guess
4 positive and negative. I don't know the exact terms of what
5 are used, but --

6 A. I guess a negative regulatory lag would be
7 that the company makes an expenditure and then at some point
8 in the future has rates to cover that expenditure. That
9 would be my definition of negative regulatory lag.

10 We still have negative regulatory lag in that
11 we're making these expenditures. In this current ISRS we
12 have pending we made expenditures in 2000 and 2002 that
13 we're still waiting for recovery of in this ISRS and then
14 ultimately in the final determination in the rate case. So
15 I don't think necessarily it's a positive regulatory lag,
16 but it lessens the negative aspect of the regulatory lag.

17 A positive regulatory lag would be, for
18 example, if for some reason say our chemical expense vendors
19 give us the chemicals for free. I mean, we would have no
20 expense but embedded in rates would be an -- a recovery of
21 some amount of chemical expense. That to me would be the
22 positive side of regulatory lag

23 COMMISSIONER CLAYTON: Judge, I don't think I
24 have any further questions.

25 COMMISSIONER MURRAY: Judge, I do.

1 JUDGE PRIDGIN: Thank you, Commissioner
2 Clayton.
3 Commission Murray?
4 COMMISSIONER MURRAY: Thank you.
5 FURTHER QUESTIONS BY COMMISSIONER MURRAY:
6 Q. It's often good to have somebody else question
7 for a while. It stimulates the thinking I think a little
8 bit.
9 I wanted to ask you, there seems to be a
10 feeling that the company will get a windfall by not
11 including accumulated depreciation and accumulated deferred
12 taxes on the currently in place property.
13 But I want you to explain why that is not so,
14 because -- and I think -- you can tell me if I'm wrong, but
15 I think it's because, as you explained, that in a rate case,
16 although you would be including -- in a general rate case if
17 you were putting in a new piece of property, you would
18 include an offset for accumulated depreciation and
19 accumulated deferred taxes, but in addition to that you
20 would include a reduction plant in service.
21 A. In a general rate case -- I guess the comments
22 made by -- that the company would over-earn or, you know,
23 have a windfall, I think if you have a general rate case and
24 rates are set, for example, let's -- in the last St. Louis
25 County case we had rates set in May of 2001.

1 Since that time, rate base has been growing
2 rapidly because of the infrastructure replacement that we're
3 doing. We're also doing other infrastructure replacements,
4 replacing booster stations, replacing pieces of our plant --
5 treatment plants, purchasing transportation equipment,
6 things of that nature.

7 I don't think there's an over-earnings issue
8 or possibly a windfall because our plant expenditures, our
9 capital expenditures significantly are greater than our
10 internally generated funds being generated currently by --
11 by the operation.

12 Q. Okay. You're not really answering what I'm
13 trying to get at here. And I'm just trying to look at the
14 dispute over how you calculate the net original cost of the
15 infrastructure system replacements. And I want to compare
16 that to how you would calculate the cost -- the net original
17 cost of an infrastructure system replacement in a general
18 rate case absent an ISRS statute.

19 A. I think they're -- in a general rate case, you
20 use a test year. In the current rate case of the company
21 it's 2002. So the rate base which would include your
22 utility plant, your reserve, your deferred taxes would be
23 out of a point in time. So the rates are set to include all
24 plant at that point. So if you're looking at a general rate
25 case, you develop a rate base, which includes the plant, the

1 reserve, deferred taxes.

2 On the ISRS side of it, you know, we're
3 developing an ISRS surcharge, you take the plant, the
4 reserve and the deferred taxes associated with that ISRS.
5 If you have another general rate case beyond the setting of
6 the ISRS, which we're about to have, everything is set back
7 to zero and we start from, you know, the zero of the ISRS
8 surcharge this coming April.

9 Q. All right. But to establish the surcharge,
10 you have to arrive at a net original cost of the new
11 property that's going in, new infrastructure?

12 A. That's correct.

13 Q. And the company's position is that to arrive
14 at that cost for the purposes of the surcharge until the
15 rate case that you take the original cost, you deduct from
16 that any accumulated depreciation on that particular
17 property to date --

18 A. That's correct.

19 Q. -- plus any accumulated deferred taxes on that
20 particular property to date?

21 A. That's correct.

22 Q. And that gives you the original net cost of
23 that infrastructure on that cost and a surcharge is
24 established?

25 A. That's correct.

1 Q. And then at the next rate case tell me what
2 happens with that.

3 A. At the next rate case -- well, we'll just use
4 the current rate case that's pending right now. We're
5 proposing this ISRS, which is all the infrastructure, the
6 associated accumulated depreciation and the associated
7 deferred income taxes -- accumulated deferred income taxes.

8 Those dollars for all three of those elements
9 will be part of the next rate base for the current rate
10 case. It sort of just will get rolled into -- with all
11 aspects of the rate case. It will become part of that rate
12 case.

13 Q. All right. So that in the meantime, during
14 the -- what will it be -- six months or so that this ISRS
15 surcharge will be in effect?

16 A. It will go into effect December 31st and then
17 it will be eliminated April 16th of next year.

18 Q. All right. So for that period of time, the
19 company will be earning an amount on that infrastructure
20 through the surcharge. Is that amount greater than the
21 amount the company would earn on that particular
22 infrastructure if it were calculated in accordance with a
23 general rate case?

24 A. It would be about the same because you're
25 going to roll it into the base rates. So the -- in this

1 case the company's position was \$3.8 million. We'll have
2 the surcharge in place December 31st through April 16th and
3 when the new rates in the next rate case are set on
4 April 16th, that \$3.8 million revenue requirement will be
5 rolled into the total revenue requirement when the new base
6 rates are set.

7 Q. And then all of the factors -- every factor
8 that is normally considered in a general rate case will be
9 considered to determine the revenue requirement of the
10 company in total?

11 A. That's correct.

12 Q. But in the meantime, between now and
13 April 16th, are you getting more for that infrastructure
14 percentage-wise than you would -- then you will after
15 April 16th for that particular property?

16 A. I don't know. Because what's going to happen
17 is we're going to have in the rate case the true-up period,
18 which will go until the end of November. We actually will
19 have more depreciation and more deferred taxes being
20 included in the rate case and we have more plant investment
21 for infrastructure going beyond the August date because our
22 cut-off for this infrastructure was August when we filed --
23 filed the ISRS.

24 So it's real-- I mean, it's really difficult
25 to be able to focus on just the ISRS. We can do that, we

1 know what the revenue requirement for that ISRS plant is,
2 but when you roll it in, you're looking at all the aspects,
3 you're looking at rate of return, you're looking at
4 everything. And it's real difficult to slice out what would
5 the revenue requirement be for the new base rates for that
6 investment.

7 Q. All right. So, in your opinion, then is it
8 unlikely that the company would earn any more on this new
9 investment than it would be allowed under a general rate
10 case?

11 A. No. We would earn -- what we have in the ISRS
12 would be earned in the -- in the base rates.

13 Q. Okay. You said the last rate case was
14 May 2001?

15 A. St. Louis County's rates went into effect in
16 May of 2001, yes.

17 Q. And since that time any property that has been
18 put into place, whether ISRS or non-ISRS property -- what
19 happens to accumulated depreciation for property that's put
20 into place between rate cases?

21 A. The reserve will increase for that property.
22 You begin -- once a piece of an asset is placed into
23 service, you begin calculating depreciation expense on the
24 asset, which will increase the reserve.

25 Q. Okay. But as the accumulated depreciation

1 reserve is increased, is the rate base normally reduced by
2 that -- by an offsetting amount?

3 A. That is correct, yes.

4 Q. But that property's not yet in rate base; is
5 that right?

6 A. That's correct.

7 Q. So is that just taken into the calculation in
8 determining the rate base for that property at the time of
9 the next rate case?

10 A. That's correct, yes.

11 Q. So any accumulated depreciation is not lost if
12 it's not included in the ISRS? It's considered at the time
13 of the rate case?

14 A. Ultimately a utility will go through a rate
15 case. And at that time in the context of that general rate
16 case not only the reserve but the plant and all other
17 aspects are considered in setting the utility's rates from
18 that point forward, yes.

19 It's never lost. It will stay on the books of
20 the company until one of two things happens, you know, the
21 plant is retired or you set new rates to allow the company
22 to earn on the new plant since the last rate case.

23 Q. And what the Staff is wanting to do here is
24 they don't want to limit their calculations to the property
25 that's been placed in service since the last rate case.

1 They're wanting to look at property that was in place in
2 rate base and just take the calculations for accumulated
3 depreciation and accumulated deferred income tax and not do
4 anything in terms of reducing the -- making a reduction to
5 rate base for the retirement?

6 A. That's correct. They want to take some of the
7 accumulated reserve and accumulated deferred taxes on the --
8 and I believe I characterized Mister -- Staff's schedule
9 here, they want to take those two elements from what is
10 characterized as plant eligible for recovery through an ISRS
11 at the end of the last rate case, which as I stated earlier,
12 that's not a correct statement. There is no eligible
13 recovery for ISRS at the end of the last rate case.

14 But they -- for the sake of this schedule,
15 they want to take those two elements of depreciation and
16 deferred taxes from that number from the last case and bring
17 it to the current ISRS.

18 Q. And they're expanding that definition of plant
19 eligible for ISRS recovery and making it just any plant
20 that's like that, same categories of plant; is that right?
21 That could be in the future included in an ISRS?

22 A. Could you repeat that?

23 Q. Probably you don't want me to repeat it the
24 way I said it. Let me try again.

25 Any plant that is eligible for an ISRS has to

1 be new plant, does it not?

2 A. It has to be new plant, it has to be mains or
3 replacement -- replacement of old existing worn-out mains,
4 has to be --

5 Q. Stop just a second. And I'm not going to have
6 you go through the whole list because there is a whole list.

7 A. Yes, there is.

8 Q. There are different categories of properties.

9 A. Yes.

10 Q. But all of those categories are only eligible
11 for an ISRS when new plant is being put in place; is that
12 right?

13 A. That's correct, yes.

14 Q. So any existing property in any one of those
15 categories will never be eligible for an ISRS?

16 A. That's right. We may have put a new main in
17 to replace an existing main in the year 2000. Even though
18 it's an infrastructure replacement, it is not an eligible
19 infrastructure replacement as defined by House Bill 208.

20 Q. And that is what Staff is trying to include as
21 an eligible infrastructure replacement?

22 A. That is correct.

23 Q. And then I just wanted to ask you if you know
24 in terms of the Pennsylvania distribution infrastructure
25 surcharge -- I think it's the DIS--

1 A. Distribution system infrastructure charge.

2 They don't call theirs a surcharge.

3 Q. It's DSIC, isn't it --

4 A. Right.

5 Q. -- not DISC?

6 Do you know if that legislation had any
7 similar language to our statute about the net original cost
8 of eligible infrastructure system replacements?

9 A. Their statute is -- it was significantly
10 different from ours in that the Pennsylvania statute was
11 maybe two paragraphs long. And as a result of only being
12 two paragraphs long, they had to -- the Commission put some
13 rules together to guide the utilities in making the
14 infrastructure -- the DSIC come -- come to a working
15 document.

16 In that rulemaking, they decided that only two
17 aspects would be -- would be included. One is the actual
18 plant being invested in and then that would be offset by the
19 depreciation -- accumulated depreciation on those
20 investments. There was no allowance or calculation to bring
21 into the accumulated reserve any reserve from prior plant
22 additions similar to what this proposed rule is stating.

23 Q. All right. So the Pennsylvania -- the
24 implementation of the Pennsylvania law has been done in the
25 manner that the company is suggesting the Missouri law has

1 to be implemented here; is that right?

2 A. With the exception of deferred taxes.
3 Pennsylvania does not take into consideration deferred
4 taxes.

5 Q. So that actually you get a little better
6 return in Pennsylvania then what you're suggesting here?

7 A. That -- that's correct. Plus, they -- when
8 they file their DSIC, they get it implemented within 10
9 days; whereas, Missouri is 120 days. Missouri has built in
10 some extra safeguards and review processes in the whole
11 legislation.

12 COMMISSIONER MURRAY: Now I think I'm
13 finished. Thank you.

14 JUDGE PRIDGIN: Commissioner Murray, thank
15 you.

16 Commissioner Clayton?

17 COMMISSIONER CLAYTON: Thank you.

18 FURTHER QUESTIONS BY COMMISSIONER CLAYTON:

19 Q. How many states in which American Water
20 operates is there such an ISRS or DCES or whatever, an
21 infrastructure replacement surcharge?

22 A. I'm aware of Pennsylvania pretty thoroughly
23 because that's been around for '95, '96, '97 time frame.
24 Illinois and Indiana have recently passed legislation on an
25 infrastructure surcharge, and those two I'm a little less

1 familiar with because of just the newness of their
2 legislation in the last year or so.

3 Q. Connecticut? Are you all in Connecticut?

4 A. Not anymore.

5 Q. And forgive me, I'm not sure. Are you with
6 Missouri-American or with American Water?

7 A. I'm Missouri-American. I'm the assistant
8 treasurer.

9 Q. Okay. Assistant treasurer. Did you come from
10 New Jersey or are you homegrown?

11 A. Well, I was born and raised in Philadelphia.

12 Q. Philadelphia.

13 A. Yeah.

14 Q. How long did they take in Illinois and Indiana
15 to go through the ISRS calculation? If they do it in
16 10 days in Pennsylvania, how long does it take in Indiana
17 and Illinois?

18 A. To my knowledge, Illinois has not filed for an
19 ISRS as of yet. Indiana I'm not sure about.

20 Q. Okay.

21 A. Both of those companies recently went through
22 rate increase -- general rate increase cases, so they may be
23 getting geared up in the very near future to go through
24 their process.

25 Q. I could have fun with that and I'm not going

1 to belabor that point.

2 Let me go back to this discussion about the
3 accumulated depreciation. And this has been my first
4 occasion to really dig into this depreciation and I'm
5 getting dangerous with it because I'm starting to understand
6 parts and not understand other parts. The rates that were
7 set for St. Louis County were established back in 2001.
8 Correct?

9 A. That's correct.

10 Q. And a rate base was established and upon that
11 rate base, rates were set. Correct?

12 A. That's correct.

13 Q. Depreciation will continue to accumulate from
14 that time on your existing plant. As time passes, your
15 depreciation is going to go up?

16 A. That's correct.

17 Q. Okay. And rate base will decline based --
18 just based on that depreciation issue, not on --

19 A. With no other investment --

20 Q. Everything else being equal, no new
21 investment, no --

22 A. No retirements and if you just don't retire
23 and don't make any additional investments --

24 Q. Well, but a retirement is a wash. I mean,
25 your rate base doesn't change. Right?

1 A. You're right. I thought you were just
2 focusing on the reserve. The reserve will keep going up
3 absent anything else.

4 Q. So if you just look at all things else--
5 everything else being equal, your depreciation will rise and
6 your rate base will decrease --

7 A. That would be correct.

8 Q. -- as time passes?

9 And, again, this does not take into
10 consideration a multitude of factors. Theoretically, rates
11 that are in operation right now in St. Louis County are
12 based on a rate base -- if you look at depreciation, a rate
13 base which is lower than it was when rates were set. And
14 the infrastructure replacement surcharge takes into
15 consideration the new investment in ISRS eligible property
16 and then its own depreciation. Correct?

17 A. That's correct.

18 Q. New infrastructure investment is one of -- is
19 a consideration that offsets the rising depreciation in
20 affecting rate base. Does that make sense? Maybe it
21 doesn't make sense.

22 A. You're -- when you make infrastructure
23 investments, I think you're saying that increases rate base
24 and any depreciation -- accumulated depreciation that is
25 recorded through depreciation expense reduces rate base.

1 And so to the extent that both go up at the same level, your
2 rate base may stay even.

3 Q. Theoretically?

4 A. Theoretically, assuming everything else.

5 Q. All else being equal?

6 A. All else being equal.

7 Q. Okay. By including accumulated depreciation
8 on the non-ISRS property, you believe that's an additional
9 factor or an additional issue outside of the single-issue
10 rate-making?

11 A. That's correct. They are taking into
12 consideration other rate-making issues.

13 Q. And it is not a factor of depreciation within
14 the single-issue rate-making?

15 A. That's correct.

16 Q. Once an ISRS is put into place, the company
17 will be collecting its original rate based on the original
18 rate base from 2001 and the new investment, the new ISRS
19 infrastructure investment which is in the form of a
20 surcharge. Correct?

21 A. That's correct.

22 Q. So it's collecting two rates.

23 In a general rate case, the depreciation on
24 the non-ISRS property is taken into consideration while in
25 this situation with the two rates it is not. So the company

1 would be collecting on -- this may not be right, but would
2 be collecting on a rate -- on a declining rate base and a
3 new infrastructure, new investment rate base for the ISRS;
4 isn't that right? Or is that not right or have I put
5 everyone to sleep?

6 A. It could be right assuming the company is not
7 making any additional investments other than infrastructure.
8 I mean, that's a possibility. In Missouri-American's case,
9 that's not the case right now. You know, we're making other
10 investments besides the infrastructure.

11 Q. The term "double dipping" popped up in some of
12 the discussion in this case. And it's your position that
13 this is not double dipping in going to the ratepayers?

14 A. I do not believe it is. The current rates are
15 set on a rate base. And we'll just say for St. Louis
16 County's purposes it would be as -- the rate base as of
17 December of 2000. That's -- you know, that's the rate base
18 there.

19 And the surcharge will be set to recover the
20 capital costs, the depreciation expense and the -- and the
21 property taxes on all investment after that date. So there
22 are two different time frames and two different rates
23 designed to recover a level of cost to the company.

24 COMMISSIONER CLAYTON: Okay. Well, I
25 appreciate your patience with me.

1 Thank you, Judge.

2 THE WITNESS: Thank you.

3 JUDGE PRIDGIN: Thank you, Commissioner.

4 I don't believe I have any questions.

5 Mr. Grubb, thank you very much for your testimony today. We

6 appreciate it.

7 Mr. England, any further witnesses?

8 MR. ENGLAND: I believe so. There's no

9 cross-examination?

10 JUDGE PRIDGIN: That's correct.

11 MR. ENGLAND: I have a few comments then.

12 JUDGE PRIDGIN: Always wise to double check

13 before you volunteer.

14 MR. ENGLAND: Absolutely. Not with

15 Mr. Coffman and Mr. Krueger in the room.

16 (Witness sworn.)

17 W.R. ENGLAND testified as follows:

18 BY JUDGE PRIDGIN:

19 Q. Thank you, very much, Mr. England. If you

20 would, please have a seat and briefly identify yourself and

21 make your comments.

22 A. I'm Trip England, I'm the attorney for

23 Missouri-American Water Company. And I'd like to approach

24 my comments from a little different tact.

25 I believe that the rules are not necessary and

1 that the rules that you have in front of you, if you feel
2 the need to implement such rules, are not consistent with
3 the dictates of the statute.

4 Why aren't the rules necessary? Well, first
5 of all, the statute insofar as water infrastructure is
6 concerned really only applies to Missouri-American Water
7 Company. There's only one water company in the state that
8 can take advantage of this that I'm aware of.

9 And that water company is currently before
10 you, I believe it's case WO-2004-0116, with the petition to
11 implement their first ISRS. That petition was filed without
12 the benefit of rules. The information contained in that
13 petition was apparently sufficient and adequate for all
14 parties to assess, review and analyze the company's filing.

15 That information was adequate, it was accurate
16 and the fact that there are only three issues brought to you
17 in the context of that case should tell you that. And as I
18 understand, you all are going to have to reach a decision in
19 that case here in the very new future. And once you do, in
20 my opinion the template at least for water ISRS filings is
21 going to be pretty well set. So I don't think there's
22 really going to be a need for the rulemaking that you have
23 in front of you.

24 Now, secondly, if you still feel bound and
25 determined to implement rules, the ones that you have in

1 front of you don't meet the parameters of the statute. As I
2 understand, the statutory authorization for rulemaking is to
3 promulgate rules only to the extent such rules are
4 consistent with and do not delay implementation of the
5 provisions of this section.

6 In our written comments we've indicated to you
7 all the additional notice procedures that have been proposed
8 in this rule, the additional information that needs to be
9 contained in the filing really do nothing more than delay,
10 if you will, or raise barriers to the filing of the
11 application. We were able to do this last fall without the
12 need for a rule, we'll be able to do it in the future and I
13 believe the information we provided was sufficient.

14 The rules themselves are actually
15 inconsistent, as you have heard, and understand particularly
16 with respect to the calculation of net original cost. And I
17 think you heard some testimony yesterday that net original
18 cost is a term of art used in the rate-making process that
19 has been around for a number of years.

20 And up until now it wasn't a very difficult
21 concept for everybody to agree upon. And I would submit
22 that the definition that Staff is proposing both in their
23 original rules and now in their supplemental rules as filed
24 with their comments I believe on December 4th are
25 inconsistent with the general concept of net original cost

1 that we've all been dealing with for many, many years. And
2 those are my comments. Thank you.

3 JUDGE PRIDGIN: Mr. England, thank you. Let
4 me see if we have any questions from the Bench.

5 Commissioner Murray?

6 COMMISSIONER MURRAY: Thank you.

7 QUESTIONS BY COMMISSIONER MURRAY:

8 Q. Mr. England, the information requirements that
9 are set out in Section 18 of the rule, can you tell me if
10 any of those -- or which of those requirements in the
11 proposed rule the company did not supply for its current
12 ISRS application?

13 A. Not off the top of my head. But you're right,
14 a number of them were supplied in that application but some
15 of them were not, I don't believe. But off the top of my
16 head I can't identify them specifically for you.

17 Q. And did the company supply everything that
18 they were asked to supply?

19 A. As far as I know. And the fact is, again,
20 that the only issues we brought to you were the three that
21 we enumerated in the issues list would lead me to believe
22 that everything else was in pretty good shape, pretty good
23 order.

24 Q. So you didn't have complaints that you weren't
25 giving enough information?

1 A. Not -- not to my knowledge, no.

2 Q. And then the -- your reiteration of the fact
3 that Staff's interpretation of net original cost of the
4 infrastructure system replacements is a new interpretation
5 of net original cost, you're basing that on your experience
6 in the regulatory environment over how many years?

7 A. Well, I didn't realize I was going to get
8 cross-examined on this. You know, your -- it will be
9 30 next spring.

10 Q. Okay. And it's your understanding that net
11 original cost is interpreted in the way that the company is
12 interpreting it here, which is you take the cost and you
13 deduct from the cost of that asset any accumulated
14 depreciation and accumulated deferred taxes on that
15 particular asset?

16 A. That's correct. In every analysis that I've
17 ever done or worked on with anyone, if you're just looking
18 at what I call the major revenue requirement associated with
19 a piece of plant, you look at the return on the investment
20 and the investment is net of any accumulated depreciation on
21 that investment. In this case they've also included deferred
22 taxes.

23 And then the ongoing expenses, which is I
24 think on page 1 of Staff's calculation are depreciation and
25 taxes. Those are usually your big items. That doesn't

1 necessarily hit every one of them, but it hits the big
2 ticket items.

3 Q. And then sometimes you also get into the issue
4 of whether property was contributed, and that's not included
5 in original cost?

6 A. No. That's -- I'm not an accountant, but --
7 and how you technically account for that, I don't know. But
8 when you get down to the net you're right, contributed
9 property is out of there as well.

10 COMMISSIONER MURRAY: All right. I believe
11 that's all I have. Thank you, Mr. England.

12 THE WITNESS: You're welcome.

13 JUDGE PRIDGIN: Commissioner Murray, thank
14 you.

15 Commissioner Clayton?

16 COMMISSIONER CLAYTON: Thank you, Judge.

17 QUESTIONS BY COMMISSIONER CLAYTON:

18 Q. Is Missouri-American Water mentioned in the
19 statute by name?

20 A. No, it's not.

21 Q. What is the definition of who is affected by
22 this statute?

23 A. If you give me a minute, I think I've got it
24 here. I just need to find it. I believe it's 393.1003.1.
25 And it talks about in the middle of that the recovery of

1 costs for eligible infrastructure system replacements made
2 in such county where a charter form of government and with
3 more than 1 million inhabitants.

4 Q. That would be St. Louis County?

5 A. Exactly.

6 Q. It's a pesky thing called the Missouri
7 Constitution that disallows special legislation by
8 particular counties, but this is basically for St. Louis
9 County; is that correct?

10 A. That's my understanding, yes.

11 Q. Are there other private companies other than
12 Missouri American Water that are operating in St. Louis
13 County at this time, are you aware?

14 A. If there are, I don't believe they meet the
15 dollar amount thresholds when they talk about the IRS
16 revenues must be at least \$1 million. But to answer you,
17 years ago there were some small water and sewer companies,
18 but I believe they were in Jefferson County, and of course,
19 St. Charles County which wouldn't qualify. I don't believe
20 there are any left in St. Louis County.

21 Q. Are you in a position to provide some
22 certainty to the Commission that there will be no other
23 companies operating that would meet the statutory definition
24 in the future?

25 A. I'd hate to have to guess right or die, as I

1 like to sometimes say, but I honestly to the best of my
2 knowledge know of no other company that would qualify. That
3 doesn't mean someone --

4 Q. Not today, not in the future?

5 A. I can't -- I can't speculate in the future,
6 but it would be, in my opinion, Missouri-American Water
7 Company or its successor.

8 Q. Okay. The information that is requested in
9 the rule, I believe you stated that the company supplied
10 that information during the pending case, I suppose, or
11 supplied it without a problem?

12 A. Correct. As a matter of fact, I think most,
13 if not all, of that information was provided in the actual
14 petition itself.

15 Q. So the information requested, at least that
16 information would not provide any hardship on the company --

17 A. Not at all.

18 Q. -- in setting it in a policy or -- I mean,
19 setting out in the procedure for how this filing would
20 work --

21 A. Correct.

22 Q. -- correct?

23 In -- well, I don't think I can ask that
24 question.

25 As opposed to an initial ISRS filing but in

1 subsequent ISRS filings, is it a fair statement that there
2 will be additional accumulated depreciation than what would
3 be included in an initial ISRS filing?

4 A. My -- and not having calculated one, you're
5 kind of asking me off the top of my head.

6 Q. Me neither.

7 A. My opinion would be probably. I think the
8 second ISRS or the subsequent ISRS before the next general
9 rate case would be sort of a roll-up of the first ISRS plus
10 the new investment and the related depreciation,
11 depreciation reserve, etc., with that new ISRS investment.

12 Q. In your opinion, isn't Staff trying to -- and
13 use your term roll up -- trying to roll other depreciation
14 into this initial ISRS calculation?

15 A. Correct. But as Mr. Grubb I think accurately
16 stated to you, it's not ISRS plant if it's plant from a
17 prior rate case. In other words, they are bringing into the
18 equation prior accum-- or excuse me, accumulated
19 depreciation on plant that was already in base rates, which
20 is specifically prohibited by the legislation as non-ISRS
21 plant.

22 Q. You mentioned the traditional definition of
23 net original cost of eligible infrastructure system
24 replacements or net original cost and where -- and I know in
25 your vast -- your many years of experience, but can you give

1 me an idea is that a generally accepted accounting principle
2 or -- the definition that you used?

3 A. I believe so. And it's sort of generally
4 accepted for rate-making purposes. You know, the big
5 item -- you take your original cost of your plant and the
6 first thing you deduct from it, in my opinion, is the
7 accumulated depreciation. That's going to be your big
8 ticket item.

9 Then you've got other deducts, the deferred
10 taxes, as Commissioner Murray pointed out, contributed plant
11 and then I'm sure there's some others. But the big ticket
12 item is usually accumulated depreciation.

13 Q. In your many years of experience, have you
14 ever dealt with single-issue rate-making?

15 A. Yes, I have.

16 Q. Could you give me a context of when that -- or
17 what type of case that would have been? And I don't want
18 specifics, but generally speaking.

19 A. It -- essentially the legal definition is the
20 consideration of something less than all relevant factors,
21 and it can run the gambit. Typically historically this
22 Commission actually allowed single-issue rate-making for
23 small utilities who would implement changes in existing
24 charges, perhaps increases, because they were fairly
25 diminimus or inconsequential in the grand scheme of things.

1 More recently the Commission Staff, Public
2 Counsel have become more vigilant in objecting to that type
3 of filing. So you don't see nearly as much single-issue
4 rate-making now as you did in the past. In my opinion,
5 which will not be shared by most people in this room, I
6 think that's a shame because it sort of overlooks a little
7 common sense.

8 COMMISSIONER CLAYTON: I don't think I have
9 anything further. Thank you.

10 JUDGE PRIDGIN: Commissioner Clayton, thank
11 you.

12 And, Mr. England, I don't believe I have any
13 questions for you. Thank you very much, sir.

14 MR. ENGLAND: Thank you.

15 JUDGE PRIDGIN: I'll let you put your lawyer
16 hat back on. Do you have any other witnesses on behalf of
17 Missouri-American?

18 MR. ENGLAND: I may have. I don't think so,
19 but let me just double check.

20 JUDGE PRIDGIN: Certainly.

21 MR. ENGLAND: We're fine. No other witness.

22 JUDGE PRIDGIN: No further witnesses; is that
23 correct, Mr. England?

24 MR. ENGLAND: That's correct.

25 JUDGE PRIDGIN: I don't believe I have anybody

1 else who has entered an appearance. Is there anyone else
2 who wishes to testify concerning this proposed rule?
3 All right. Any other comments, anything else
4 counsel needs to bring to my attention before we adjourn?
5 All right. Seeing nothing, that will conclude
6 this rulemaking hearing. Thank you very much for your
7 comments. We will go off the record.

8 WHEREUPON, the hearing was adjourned.

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