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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing  
March 24, 2017  
Missouri Public Service Commission  
At Jefferson City  
Volume 18

In The Matter of the )  
Application Of Grain Belt )  
Express Clean Line LLC for a )  
Certificate of Convenience )  
and Necessity Authorizing it) )  
to Construct, Own, Operate, )  
Control, Manage, and )  
Maintain a High Voltage, ) File No. EA-2016-0358  
Direct Current Transmission )  
Line and an Associated )  
Converter Station Providing )  
an interconnection on The )  
Maywood-Montgomery 345 kV )  
Transmission Line. )

MICHAEL BUSHMANN, Presiding  
SENIOR REGULATORY LAW JUDGE  
SCOTT T. RUPP  
MAIDA J. COLEMAN  
COMMISSIONERS

REPORTED BY:  
AMANDA N. FARRAR, CCR  
MIDWEST LITIGATION SERVICES

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APPEARANCES

For Grain Belt Express Clean Line, LLC:

MR. KARL ZOBRIST  
MR. JOSHUA HARDEN  
MR. CARY KOTTLER  
MS. ERIN SZALKOWSKI  
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For Show Me Concerned Landowners:

MR. DAVID C. LINTON  
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For the Staff of the Missouri Public  
Service Commission:

MR. KEVIN A. THOMPSON  
MR. NATHAN WILLIAMS  
MR. MARK JOHNSON  
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For Missouri Landowners Alliance;  
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Roseanne Meyer, Matthew & Christina  
Reichert, R. Kenneth Hutchison:

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For the Missouri Joint Municipal  
Electric Utility Commission:

MR. DOUGLAS L. HEALY  
MS. PEGGY WHIPPLE  
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For Rockies Express Pipeline:

MS. SARAH E. GIBONEY  
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APPEARANCES CONTINUED

For Infinity Wind Power:

MS. TERRI PEMBERTON  
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For Missouri Industrial Energy  
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For Wind on the Wires and The Wind  
Coalition:

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For the Wal-Mart Stores:

MR. DAVID WOODSMALL  
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For the International Brotherhood of  
Electrical Workers Local Union 2 and  
Local Union 53:

MS. EMILY PEREZ  
eperez@hammondshinners.com

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

2 (The hearing commenced at 8:30 a.m.)

3 JUDGE BUSHMANN: Let's go on the record.

4 Good morning. Today is March 24th,  
5 2017. It is, hopefully, the final day of the  
6 evidentiary hearing in File No. EA-2016-0358.

7 At this point, we're ready for the final  
8 two staff witnesses.

9 MS. ASLIN: Judge, Casi Aslin for Staff  
10 calls Kathleen McNelis.

11 JUDGE BUSHMANN: Do you solemnly swear  
12 or affirm that the testimony you're about to give  
13 will be the truth?

14 THE WITNESS: I do.

15 JUDGE BUSHMANN: Thank you.

16 KATHLEEN McNELIS,  
17 having been called as a witness herein, having been  
18 first duly sworn, was examined and testified as  
19 follows:

20 DIRECT EXAMINATION

21 BY MS. ASLIN

22 **Q. Could you, please, state and spell your**  
23 **name for the record.**

24 A. It's Kathleen A. McNelis.

25 K-A-T-H-L-E-E-N, A., M-C-N-E-L-I-S.

1           **Q.    And where are you employed and in what**  
2           **capacity?**

3           A.    On the staff of the Missouri Public  
4           Service Commission.  I'm a utility regulatory  
5           engineering manager.

6           **Q.    And are you the same Kathleen McNelis**  
7           **who prepared or caused to be prepared portions of**  
8           **Staff's rebuttal report that has been marked as**  
9           **Exhibit 201?**

10          A.    Yes.

11          **Q.    Do you have anything you wish to correct**  
12          **in that testimony?**

13          A.    No.

14          **Q.    And with that in mind, if you prepared**  
15          **that testimony today, would it be the same?**

16          A.    Yes.

17          **Q.    Is the information in that document true**  
18          **and correct to the best of your belief and**  
19          **knowledge?**

20          A.    Yes.

21                   MS. ASLIN:  Your Honor, Staff tenders  
22                   Ms. McNelis for cross.

23                   JUDGE BUSHMANN:  First Cross would be  
24                   Missouri Landowners.

25                   MR. AGATHEN:  No questions.

1 JUDGE BUSHMANN: Show Me Landowners?

2 MR. LINTON: No questions, Judge.

3 JUDGE BUSHMANN: Rockies Express?

4 MS. GIBONEY: No questions, Judge.

5 JUDGE BUSHMANN: MIEC?

6 MR. MILLS: No questions.

7 JUDGE BUSHMANN: Wal-Mart?

8 MR. WOODSMALL: No questions. Thank

9 you.

10 JUDGE BUSHMANN: Infinity Wind Power?

11 MS. PEMBERTON: No questions.

12 JUDGE BUSHMANN: Wind on the Wires?

13 MR. BRADY: No questions.

14 JUDGE BUSHMANN: MJMEUC?

15 MS. WHIPPLE: No questions, Judge.

16 JUDGE BUSHMANN: Grain Belt Express?

17 MR. ZOBRIST: No questions, Judge.

18 JUDGE BUSHMANN: And I don't have any.

19 No need for Redirect.

20 Thank you. You may step down.

21 MR. JOHNSON: Staff calls Robert

22 Schallenberg.

23 JUDGE BUSHMANN: Do you solemnly swear

24 or affirm that the testimony you're about to give

25 will be the truth?

1 THE WITNESS: Yes.

2 JUDGE BUSHMANN: Thank you.

3 ROBERT SCHALLENBERG,

4 having been called as a witness herein, having been

5 first duly sworn, was examined and testified as

6 follows:

7 DIRECT EXAMINATION

8 BY MR. JOHNSON

9 Q. Could you, please, state your name for  
10 the record and spell it for the court reporter.

11 A. Robert Schallenberg. The last name is  
12 S-C-H-A-L-L-E-N-B-E-R-G.

13 Q. And where are you employed -- oh, excuse  
14 me. I'm sorry. I'm Mark Johnson.

15 And where are you employed and in what  
16 capacity?

17 A. I'm employed by the Missouri Public  
18 Service Commission and my current title is manager  
19 of operational analysis.

20 Q. And did you cause to be prepared or  
21 prepare portions of the staff rebuttal report that's  
22 been marked as exhibit -- as Staff Exhibit No. 201,  
23 both NP and HC?

24 A. I did prepare -- did prepare that. I'm  
25 not -- I'm not sure of the numbers and stuff, but

1 I'll accept the numbers you have given me.

2 Q. And at the time of -- the time you  
3 offered that testimony, was your testimony true and  
4 correct to the best of your knowledge and belief?

5 A. Yes.

6 Q. And since the filing of Staff report's,  
7 have you had any reason to make any updates to your  
8 testimony?

9 A. Yes. The topic is changing. It changes  
10 daily and, so, I have done an update and I have been  
11 able to incorporate the number that's in the  
12 Commission's electronic filing information service,  
13 the number of public comments to the number I was  
14 creating on a matrix.

15 Q. And just to -- just to be perfectly  
16 clear, the portion of the report you authored was  
17 titled summary of public comments?

18 A. Yes.

19 MR. JOHNSON: Judge, at this time I  
20 would ask to have an exhibit marked. I believe we  
21 are on Staff Exhibit No. 207.

22 JUDGE BUSHMANN: That's correct.

23 MR. JOHNSON: Mr. Schallenberg, I'm  
24 handing you what's been marked as Staff Exhibit  
25 No. 207.



1           **Q. (By Mr. Johnson) Could you, please,**  
2           **identify this document.**

3           A. This is the section of the Staff's  
4 rebuttal report on public comments that was filed at  
5 that time and this is an update as of Monday as to  
6 the public comm -- the status of public comments  
7 that we had -- that we've received as of that date.

8           **Q. And generally, what updates have you**  
9           **made to your testimony?**

10          A. I've updated the number of public  
11 comments we've received and I've updated the ratios  
12 of how many of the comments we received that  
13 indicated either that supported the application  
14 being adopted or opposed it. I've updated those  
15 percentages through Monday's numbers.

16          **Q. And is this updated testimony true and**  
17          **correct to the best of your knowledge and belief?**

18          A. It is.

19                 MR. JOHNSON: Judge, at this time I move  
20 to admit Staff Exhibit No. 207. And as  
21 Mr. Schallenberg is the final staff witness, I also  
22 move to admit Staff Exhibit No. 201, both NP and HC.

23                         (Staff's Exhibit 201-NP, 201-HC, and 207  
24 were offered into the record.)

25                         JUDGE BUSHMANN: Any objections?

1                   Hearing none. 201 and 207 are received  
2 into the record.

3                   (Staff's Exhibits 201-NP, 201-HC, and  
4 207 were received into the record.)

5                   MR. JOHNSON: And I tender the witness  
6 for cross.

7                   MR. BRADY: Do you have copies of your  
8 207?

9                   MR. JOHNSON: I do. I'm sorry.

10                  MR. BRADY: Sean Brady. Wind on the  
11 Wires.

12                  MR. JOHNSON: Anybody else need one?

13                  JUDGE BUSHMANN: First cross would be  
14 Missouri Landowners.

15                  MR. AGATHEN: No questions.

16                  JUDGE BUSHMANN: Show Me Landowners?

17                  MR. LINTON: No questions.

18                  JUDGE BUSHMANN: Rockies Express?

19                  MS. GIBONEY: No questions, Judge.

20                  JUDGE BUSHMANN: MIEC?

21                  MR. MILLS: No questions.

22                  JUDGE BUSHMANN: Wal-Mart?

23                  MR. WOODSMALL: No questions. Thank  
24 you.

25                  JUDGE BUSHMANN: Infinity Wind?

1 MS. PEMBERTON: No questions.

2 JUDGE BUSHMANN: Wind on the Wires?

3 MR. BRADY: No questions, Your Honor.

4 JUDGE BUSHMANN: MJMEUC?

5 MS. WHIPPLE: No questions, Your Honor.

6 JUDGE BUSHMANN: Grain Belt Express?

7 MR. ZOBRIST: Just a few. Karl Zobrist  
8 on behalf of Grain Belt Express.

9 CROSS-EXAMINATION

10 BY MR. ZOBRIST

11 Q. Mr. Schallenberg, when you said you  
12 updated these numbers as of Monday, that's  
13 March 20th, 2017?

14 A. Yes.

15 Q. And the current tally is that there are  
16 53 percent of the commenters who have submitted  
17 comments to the Commission's EFIS site, 53 percent  
18 were in support, correct?

19 A. Yes. That's, that's 53 percent of the  
20 public comments that expressed a position, not all  
21 public comments. Some public comments were neutral.

22 Q. But 53 percent of the comments received  
23 did support the application?

24 A. 53 percent of the comments that  
25 expressed a position regarding the application.

1 Not -- there are public comments that we received  
2 that aren't in this count because, for example, some  
3 people asked for public hearings in eight counties  
4 that didn't express a position whether they  
5 supported. That isn't in that percentage because it  
6 didn't...

7 **Q. So, of the number who did express an**  
8 **opinion, 53 percent supported the application?**

9 A. Yes.

10 **Q. Okay. Thank you.**

11 MR. ZOBRIST: Nothing further, Judge.

12 JUDGE BUSHMANN: Redirect by Staff?

13 MR. JOHNSON: No re -- no redirect.

14 Thank you, Judge.

15 JUDGE BUSHMANN: Thank you,

16 Mr. Schallenberg. You may step down.

17 Is counsel for IBEW here? Why don't we  
18 take your witness now. And since this is your first  
19 appearance, you'll need to make an entry of  
20 appearance for the record.

21 MS. PEREZ: Good morning. I'm Emily  
22 Perez. I'm with Hammond & Shinnars in St. Louis  
23 representing the International Brotherhood of  
24 Electrical Workers, Locals 52 -- 53 and 2,  
25 collectively known as the unions or IBEW unions.

1 The unions call Stephen White.

2 JUDGE BUSHMANN: Do you solemnly swear  
3 or affirm that the testimony you're about to give  
4 will be the truth?

5 THE WITNESS: Yes.

6 JUDGE BUSHMANN: Please be seated.

7 STEPHEN WHITE,  
8 having been called as a witness herein, having been  
9 first duly sworn, was examined and testified as  
10 follows:

11 DIRECT EXAMINATION

12 BY MS. PEREZ

13 Q. Can you state and spell your name for  
14 the record, please.

15 A. Stephen White. S-T-E-P-H-E-N W-H-I-T-E.

16 Q. And, Mr. White, by whom are you  
17 employed?

18 A. I'm employed by International  
19 Brotherhood of Electrical Workers Local No. 53.

20 Q. And what is your position?

21 A. Business manager.

22 Q. Did you previous -- previously file or  
23 cause to be filed rebuttal testimony in this case?

24 A. Yes.

25 Q. If you -- I'm sorry. If you were to

1     **answer the same questions today, would your answers**  
2     **be the same?**

3             A.     Yes.

4             **Q.     And was the testimony that you gave true**  
5     **and accurate to the best of your knowledge?**

6             A.     Yes.

7             MS. PEREZ:   I would move to admit the  
8     rebuttal testimony of Steven White, which is marked  
9     Exhibit No. 750.

10            (IBEW Union's Exhibit 750 was offered  
11   into the record.)

12            JUDGE BUSHMANN:   Are there any  
13   objections to that exhibit?

14            Hearing none.   750 is received into the  
15   record.

16            (IBEW Union's Exhibit 750 was received  
17   into the record.)

18            MS. PEREZ:   And I'll tender the witness  
19   for cross.

20            JUDGE BUSHMANN:   First cross would be  
21   Grain Belt Express.

22            MR. ZOBRIST:   No questions, Judge.

23            JUDGE BUSHMANN:   MJMEUC?

24            MS. WHIPPLE:   No questions.

25            JUDGE BUSHMANN:   Wind on the Wires?

1 MR. BRADY: No questions, Your Honor.

2 JUDGE BUSHMANN: Infinity Wind Power?

3 MS. PEMBERTON: No questions.

4 JUDGE BUSHMANN: Wal-Mart?

5 MR. WOODSMALL: No questions.

6 JUDGE BUSHMANN: MIEC?

7 MR. MILLS: No questions.

8 JUDGE BUSHMANN: Commission staff?

9 MS. ASLIN: No questions, Judge.

10 JUDGE BUSHMANN: Rockies Express?

11 MS. GIBONEY: No questions, Judge.

12 JUDGE BUSHMANN: Show Me Landowners?

13 MR. LINTON: No questions.

14 JUDGE BUSHMANN: Missouri Landowners?

15 MR. AGATHEN: Yes, Your Honor. Thank

16 you.

17 CROSS-EXAMINATION

18 BY MR. AGATHEN

19 Q. Good morning, Mr. White.

20 A. Good morning.

21 Q. My name is Paul Agathen. I represent

22 the Missouri Landowners Association.

23 On page 1 of your testimony, you mention

24 that you represent a coalition of IBEW workers which

25 includes Locals 2 and 53, correct?

1 A. Correct.

2 Q. In the last case the IBEW coalition also  
3 had Local 14 -- excuse me, Local 1439; is that  
4 correct?

5 A. Correct.

6 Q. And they dropped out of your coalition?

7 A. That is correct.

8 Q. Did someone from Grain Belt make contact  
9 with you or your representatives about intervening  
10 in this case?

11 A. Yes.

12 Q. And before you intervened, did Grain  
13 Belt explain to you that their project would  
14 displace generation from virtually every coal-fired  
15 plant in the state of Missouri?

16 A. No.

17 Q. Did they mention that the megawatt  
18 output from the Grain Belt project would be equal to  
19 the equivalent of about five baseload coal-fired  
20 plants?

21 A. No.

22 Q. Approximately how many full-time IBEW  
23 members are employed at a typical baseload  
24 coal-fired plant in Missouri?

25 A. We represent two large coal-fired plants



1 in Missouri and I believe I averaged those numbers  
2 at about 142 per, per plant.

3 **Q. The number of people employed at any**  
4 **given plant depends in part on the generation that**  
5 **plant will produce, does it not?**

6 A. It does, yes.

7 **Q. How much generation at one of these**  
8 **plants can be displaced by renewable energy before**  
9 **some women and men will no longer be needed at the**  
10 **plant?**

11 A. I wouldn't have the exact number of  
12 megawatts that would displace workers. I'm just not  
13 sure.

14 **Q. There would be some number, though?**

15 A. There would be some number that could  
16 overtake a coal-fired plant I would assume, yes.

17 **Q. The power plant workers at Ameren are**  
18 **represented by Local 148; is that correct?**

19 A. That I'm not sure of.

20 **Q. They're represented by a different**  
21 **local, though?**

22 A. I would think so, yes.

23 **Q. Did you contact the business manager at**  
24 **that local which represents the power plant workers**  
25 **at Ameren?**

1 A. No.

2 Q. That local, whatever it is, 148 or  
3 whatever, is not a part of your coalition, is it?

4 A. No, sir.

5 Q. Are you familiar at all with the  
6 testimony from the last case by Mr. David Desmond?

7 A. Yes.

8 Q. Your testimony is similar in a lot of  
9 ways to his, but there's some major changes, though,  
10 are there not?

11 A. I'm not aware of what the major changes  
12 would be, no.

13 Q. He testified that Grain Belt will need  
14 approximately 1,000 workers to build the  
15 transmission line in Missouri and you say the number  
16 is 1,500. Do you know what the difference accounts  
17 for?

18 A. Well, it's kind of hard to project that,  
19 but if you look at the total project, you're looking  
20 at line clearance, tree trimming, vendors that  
21 construct wire and parts to build this transmission  
22 line. So, it's just a rough guesstimate. It could  
23 be 1,200.

24 Q. My question is: Why did it go from  
25 1,500 to 1,000?

1           A.     We had conversed about right-of-way  
2     clearance and I'm not sure that when he testified  
3     that was included in his, his testimony to. There's  
4     a lot of prework that goes out to clear foliage,  
5     gate repair, farm use, stuff like that.

6           **Q.     So, the numbers all depend on what you**  
7     **define as being included or excluded?**

8           A.     Yes.

9           **Q.     Were you given those job numbers by**  
10    **Grain Belt?**

11          A.     No.

12          **Q.     By whom?**

13          A.     Dave and I had conversed about what we  
14    thought an average transmission project would look  
15    like, size and duration. Dave Desmond.

16          **Q.     Did Grain Belt mention to you the**  
17    **billions of dollars in federal tax credits that**  
18    **would be given to the wind farm generators?**

19          A.     No.

20          **Q.     Did they discuss with you the potential**  
21    **loss of jobs which might result from their line**  
22    **being built?**

23          A.     No.

24          **Q.     Did they mention that if the Grain Belt**  
25    **line is built, there may be fewer other transmission**

1 **lines built in Missouri?**

2 A. No.

3 **Q. And fewer transmission upgrades?**

4 A. No.

5 **Q. And new generating facilities?**

6 A. No.

7 **Q. These are all jobs that would likely go**  
8 **to IBEW workers, would they not?**

9 A. Possibly, yes.

10 MR. AGATHEN: That's all I have, Judge.

11 Thank you, Mr. White.

12 THE WITNESS: Thank you.

13 JUDGE BUSHMANN: Redirect?

14 REDIRECT EXAMINATION

15 BY MS. PEREZ

16 **Q. Mr. White, do any of the questions posed**  
17 **by Mr. Agathen cause you to rethink or change the**  
18 **testimony that you filed in this case?**

19 A. No, not to change my testimony, but I  
20 did have a comment regarding, I think, the Ameren  
21 power plant that he, he mentioned. If I could  
22 address the Commission?

23 MS. PEREZ: Your Honor?

24 JUDGE BUSHMANN: If you want to, that's  
25 fine.

1 THE WITNESS: Just a quick one-two.

2 We represent power plant workers at the  
3 Thomas Hill and New Madrid Power Plants, they're  
4 approximately 1,200 megawatts, and I did have a  
5 conversation with the general manager to see if such  
6 a project would affect his, pardon me, baseload  
7 coal, excuse me, production in Missouri and the  
8 answer was no. So, that was my looking at will this  
9 affect our coal-fired power plants that we deal with  
10 directly, manpower issues, so...

11 MS. PEREZ: I have no further redirect.

12 JUDGE BUSHMANN: Mr. White, that  
13 completes your testimony, sir. You may step down.

14 THE WITNESS: Thank you.

15 MS. PEREZ: Your Honor, may the IBEW  
16 Unions be excused from the remainder of the hearing?

17 JUDGE BUSHMANN: You may.

18 MS. PEREZ: Thank you.

19 JUDGE BUSHMANN: Mr. Chriss is the next  
20 test -- next witness to testify, and I see he's  
21 testifying by telephone. So, in order to get that  
22 set up, we'll take a short recess and be off the  
23 record for about five minutes.

24 (A short recess was taken.)

25 JUDGE BUSHMANN: All right. We're back

1 on the record and ready for the Wal-Mart witness.

2 MR. WOODSMALL: Good morning, sir.

3 Would you state your name for the record.

4 THE WITNESS: My name is Steve W.

5 Chriss. Last name is spelled C-H-R-I-S-S.

6 JUDGE BUSHMANN: Mr. Chriss --

7 MR. WOODSMALL: Oh, I'm sorry.

8 JUDGE BUSHMANN: Mr. Chriss, before we  
9 go any further, do you solemnly swear or affirm that  
10 the testimony you're about to give will be the  
11 truth?

12 THE WITNESS: I do.

13 JUDGE BUSHMANN: You may proceed.

14 MR. WOODSMALL: Thank you.

15 By the way, this is Dave Woodsmall on  
16 behalf of Wal-Mart.

17 STEVE CHRISS,  
18 having been called as a witness herein, having been  
19 first duly sworn, was examined and testified as  
20 follows:

21 DIRECT EXAMINATION

22 BY MR. WOODSMALL

23 Q. And would you state your title and by  
24 whom you're employed.

25 A. I am director energy and strategy

1 analysis for Wal-Mart Stores, Incorporated.

2 Q. And did you cause to be filed what has  
3 marked as Exhibit 900, your rebuttal testimony?

4 A. Yes.

5 Q. And is the information contained in  
6 there true and accurate to the best of your  
7 knowledge, information, and belief?

8 A. Yes.

9 Q. And if I were to ask you those same  
10 questions today, would you have any changes?

11 A. No.

12 MR. WOODSMALL: With that, Your Honor, I  
13 would offer Exhibit 900, and tender the witness for  
14 cross-examination.

15 (Wal-Mart's Exhibit 900 was offered into  
16 the record.)

17 JUDGE BUSHMANN: Are there any  
18 objections?

19 Hearing none. That exhibit is received  
20 into the record.

21 (Wal-Mart's Exhibit 900 was received  
22 into the record.)

23 JUDGE BUSHMANN: And first  
24 cross-examination would be by Grain Belt Express.

25 MR. ZOBRIST: No questions, Judge.

1 JUDGE BUSHMANN: MJMEUC?  
2 MS. WHIPPLE: None, Your Honor.  
3 JUDGE BUSHMANN: Wind on the Wires?  
4 MR. BRADY: No questions.  
5 JUDGE BUSHMANN: Infinity Wind?  
6 MS. PEMBERTON: No questions.  
7 JUDGE BUSHMANN: MIEC?  
8 MR. MILLS: No questions.  
9 JUDGE BUSHMANN: Commission staff?  
10 MS. ASLIN: No questions, Judge.  
11 JUDGE BUSHMANN: Rockies Express?  
12 MS. GIBONEY: No questions, Judge.  
13 JUDGE BUSHMANN: Show Me Landowners?  
14 MR. LINTON: No questions.  
15 JUDGE BUSHMANN: Missouri Landowners?  
16 MR. AGATHEN: Yes, Judge. Thank you.

17 CROSS-EXAMINATION

18 BY MR. AGATHEN

19 Q. **Good morning, Mr. Chriss.**  
20 A. Good morning.  
21 Q. **Can you hear me all right?**  
22 A. I can.  
23 Q. **My name is Paul Agathen. I represent**  
24 **the Missouri Landowners Alliance.**  
25 **You're testifying here today on behalf**



1 of Wal-Mart stores; is that correct?

2 A. That's correct.

3 Q. And you're speaking for Wal-Mart here  
4 today?

5 A. I am.

6 Q. And Wal-Mart is supporting the  
7 construction of the proposed line; is that correct?

8 A. So, our testimony specifically -- let me  
9 go to my recommendations. One second.

10 Our recommendation is that the  
11 Commission should find that Grain Belt Express meets  
12 the first and fifth Tartan criteria. That's our  
13 position on this docket.

14 Q. So, are you supporting them or not  
15 supporting them or are you taking a neutral position  
16 here?

17 A. We are generally supportive. However,  
18 just given the structure of the docket in terms of  
19 our recommendations, we have focused on the first,  
20 first and fifth criteria.

21 Q. Understood.

22 The Grain Belt line would go through  
23 eight mostly rural counties in northern Missouri; is  
24 that correct?

25 A. I'm not familiar with the route

1 specifically.

2 Q. Which of those counties did you visit in  
3 conjunction with your testimony here?

4 A. I have not performed any visits in  
5 conjunction with my testimony.

6 Q. In none of those eight counties?

7 A. I have -- I have not performed any  
8 visits in conjunction with my testimony.

9 Q. How many Wal-Mart stores are located in  
10 the eight counties where the line's supposed to be  
11 built?

12 A. I don't know. I don't have that  
13 information with me.

14 Q. However many there are, those stores are  
15 there by virtue of the people who live and work in  
16 the area there, are they not?

17 A. Ultimately, stores are constructed in  
18 order to meet customer demands and provide service  
19 to customers.

20 Q. So, the answer would be yes?

21 A. Generally.

22 Q. Did anyone from Grain Belt tell you  
23 about their telephone survey which showed that the  
24 line is opposed in six of the eight counties where  
25 it's supposed to be built?

1 A. Not to my recollection.

2 Q. **Would Wal-Mart still be behind the**  
3 **proposed line if they had been told that more people**  
4 **who live there oppose the line than support it?**

5 A. Generally, we're supportive of efforts  
6 to bring renewables into markets. We'd look at data  
7 we thought, but I think we would have ended up in  
8 the same place.

9 Q. **Did you attend any of the eight local**  
10 **public hearings which the Commission held in the**  
11 **eight counties where the line is to be built?**

12 A. No.

13 Q. **To your knowledge, did any**  
14 **representative of Wal-Mart stores attend any of**  
15 **those eight local public hearings?**

16 A. Not to my knowledge.

17 Q. **Does Wal-Mart even care what the people**  
18 **think about the line who live and work there?**

19 A. I mean, we certainly care and it's the  
20 Commission's role in this docket in order to balance  
21 the interests of all parties involved.

22 Q. **Well, how can you care what they think**  
23 **when you don't know what they said?**

24 MR. ZOBRIST: Objection; argumentative.

25 JUDGE BUSHMANN: Overruled.

1 A. Can you repeat the question, please?

2 Q. (By Mr. Agathen) Sure. You say you care  
3 what the people who live and work there think about  
4 the line, but you don't know what they said about  
5 what they think about the line; is that correct?

6 A. That's correct.

7 Q. What did Mr. Pence have to say about the  
8 problems the line would cause?

9 A. I don't know who Mr. Pence is.

10 Q. What did Mr. Edwards have to say about  
11 the Grain Belt line?

12 A. I don't know who Mr. Edwards is.

13 Q. But you did manage to read the Grain  
14 Belt testimony, right?

15 A. I did read that.

16 Q. Have you seen the exhibit in this case  
17 of what the Grain Belt line will actually look like  
18 as it crosses through northern Missouri?

19 MR. ZOBRIST: Well, objection, Judge.  
20 That mischaracterizes that document that was  
21 attached to Mr. Nordstrom's testimony, which he did  
22 not prepare. So, that mischaracterizes what came  
23 into evidence with Mr. Nordstrom's testimony.

24 MR. AGATHEN: I don't believe that's  
25 accurate, Your Honor. I think it depicts what the

1 line will look like as it goes through northern  
2 Missouri.

3 JUDGE BUSHMANN: Overruled.

4 You may answer the question, Mr. Chriss.

5 A. I don't recall it offhand. If you can  
6 point me to it, I can look at it.

7 **Q. (By Mr. Agathen) Well, do you fully**  
8 **support the construction of the line, despite the**  
9 **impact on the landscape that it would create in**  
10 **northern Missouri?**

11 A. Could you ask your question again,  
12 please?

13 **Q. Do you fully support the construction of**  
14 **the line, despite the impact that the line will have**  
15 **on the landscape as it crosses through northern**  
16 **Missouri?**

17 A. As I said, we generally support the  
18 construction of the line.

19 **Q. Regardless of its impact on the**  
20 **landscape?**

21 A. Ultimately, between -- again, the  
22 Commission is in the position to weigh the interests  
23 of all the parties in the docket. The Grain Belt  
24 Express and Clean Line are in position to mitigate  
25 and optimize the use of land. And so, to the extent

1 that the Commission believes that Clean Line and  
2 Grain Belt Express will do that, then, you know, we  
3 support what the -- again, would support the  
4 Commission's findings on that.

5 **Q. Regardless of the impact that it would**  
6 **have on the land?**

7 A. Ultimately, all infrastructure projects  
8 have some impact. The key is to minimize and offset  
9 the impacts as far as possible.

10 **Q. Well, I don't think you've answered the**  
11 **question yet. Does Wal-Mart fully support the line,**  
12 **even though it means that it's going to have an**  
13 **impact on the landscape as it goes through northern**  
14 **Missouri?**

15 A. We're not changing our position off of  
16 what's in testimony. So, I would imagine that's a  
17 yes.

18 **Q. But you hadn't seen that picture that**  
19 **we're talking about, had you?**

20 A. I don't recall it.

21 **Q. And Wal-Mart -- or does Wal-Mart fully**  
22 **support the line, even though it means that private**  
23 **property of many people in rural Missouri will be**  
24 **condemned against their will?**

25 MR. WOODSMALL: Your Honor, I'm going to

1 object just to the point that his question says  
2 "fully support." As Mr. Chriss said initially, his  
3 testimony, Wal-Mart's position is just that this  
4 project meets the two criteria of the Tartan  
5 standards. So, fully support, I believe,  
6 mischaracterizes Wal-Mart's position.

7 JUDGE BUSHMANN: All right. I agree.

8 MR. AGATHEN: Well, he backed off of  
9 that, though, and said they do support the line.

10 JUDGE BUSHMANN: I agree with  
11 Mr. Woodsmall. That is a mischaracterization.

12 MR. AGATHEN: Let me try it this way,  
13 Your Honor.

14 **Q. (By Mr. Agathen) Does Wal-Mart support**  
15 **the line, even though it means that private property**  
16 **of many people in rural Missouri will be condemned**  
17 **against their will?**

18 MR. ZOBRIST: Objection; calls for  
19 speculation.

20 JUDGE BUSHMANN: Overruled.

21 Mr. Chriss, if you have an answer, you  
22 may answer, or if you need the question repeated.

23 A. Let's repeat it one more time, please.

24 **Q. (By Mr. Agathen) Does Wal-Mart support**  
25 **the line, even though it means that private property**

1 **of many people in rural Missouri will be condemned**  
2 **against their will?**

3 A. I think ultimately it is responsibility  
4 of the applicant to responsibly deal and arrange the  
5 acquisition of land and so -- and again, you know,  
6 going back to the Commission's jurisdiction and  
7 authority in this case, to the extent that the  
8 Commission is comfortable with the applicant's plan  
9 to acquire land for the project, you know, we're  
10 generally supportive.

11 Q. **And Wal-Mart supports the line, even if**  
12 **it means that property adjacent to the right-of-way**  
13 **will decline in value and that the landowners will**  
14 **receive no compensation for that loss?**

15 MR. WOODSMALL: Your Honor, I'd object  
16 to the extent it's speculative regarding the value,  
17 the loss of value for adjacent land.

18 MR. AGATHEN: There is evidence in the  
19 record, Your Honor, that the land adjacent to the  
20 right-of-way will be devalued.

21 MR. WOODSMALL: But you haven't asked if  
22 Mr. Chriss is aware of any such value or loss of  
23 value.

24 JUDGE BUSHMANN: I'll overrule the  
25 objection.



1 Can you repeat the question, please?

2 MR. AGATHEN: Sure.

3 **Q. (By Mr. Agathen) Wal-Mart fully supports**  
4 **the line, even if it means that property adjacent to**  
5 **the right-of-way will decline in value and that the**  
6 **landowners will receive no compensation for that**  
7 **loss?**

8 MR. WOODSMALL: Your Honor, again, I'd  
9 object on the basis of "fully supports".

10 MR. AGATHEN: I thought I took out the  
11 word "fully."

12 JUDGE BUSHMANN: Mr. Chriss, Mr. Chriss,  
13 do you understand the question?

14 THE WITNESS: I do.

15 A. And ultimately, you know, it's the same  
16 answer as the previous question where, you know, we  
17 have an expectation that the applicant work in the  
18 best interest of all parties involved to acquire  
19 land and that the Commission balances the interest  
20 of all parties in this docket.

21 **Q. (By Mr. Agathen) Well, you didn't answer**  
22 **the question, though.**

23 **Does Wal-Mart still support the line,**  
24 **even if it means that the property adjacent to the**  
25 **right-of-way will decline in value?**

1           A.     So again, to the extent that the  
2     applicant responsibly goes through the land  
3     acquisition process and the Commission finds that it  
4     balances the interests of all parties to go forward,  
5     then, yes, we generally support the line.

6           **Q.     Do you know what a county commission is**  
7     **in Missouri?**

8           A.     I have a general knowledge.

9           **Q.     Does Wal-Mart care what the eight county**  
10    **commissions think about this project?**

11          A.     I believe we do.

12          **Q.     And what do they currently think about**  
13    **this project?**

14          A.     Can you point me to testimony?

15          **Q.     No, sir. I'm asking you what the eight**  
16    **county commissions currently think about the**  
17    **project. You said you care what they think. Now**  
18    **I'm asking you what do they think.**

19          A.     I don't know what they think.

20          **Q.     But you care what they think?**

21                 **Did you make any inquiry as to what the**  
22    **county commissions think?**

23          A.     We did not.

24          **Q.     On a different subject, could you turn,**  
25    **please, to page 8 of your rebuttal testimony.**

1 A. I'm there.

2 Q. Beginning at line 9, you state that many  
3 businesses have renewable energy goals, correct?

4 A. That's correct.

5 Q. And that increasing the availability of  
6 renewable power in Missouri can attract new  
7 businesses into the state, correct?

8 A. That's correct.

9 Q. In your opinion, is it fair to say that  
10 Wal-Mart is near the forefront of businesses that  
11 are interested in renewable energy?

12 A. Did you say forefront?

13 Q. Yes. Near the forefront.

14 A. Yes.

15 Q. Could you list for me all of the cases  
16 where a decision to locate or relocate a Wal-Mart  
17 facility anywhere in the country was determined on  
18 the basis of whether or not Wal-Mart could secure a  
19 supply of renewable energy for some or all of its  
20 electrical power needs?

21 A. There are no specific cases. However,  
22 we spend a good deal of time advocating for the  
23 increase in access to renewable energy both in terms  
24 of access to large-scale resources, as well as the  
25 ability to do renewable energy projects on-site.

1           Q.    But I think at the beginning you said  
2   you're not aware of any such instance; is that  
3   correct?

4           A.    That's correct.

5           Q.    Could you turn, please, to page 9 of  
6   your rebuttal testimony.

7           A.    Okay.

8           Q.    Beginning at line 2 you say that not  
9   only will the Grain Belt line allow the delivery of  
10  500 megawatts of renewable energy into Missouri, but  
11  it will also allow for the delivery of 500 megawatts  
12  of energy from Missouri into the PJM area.  Is that  
13  generally correct?

14          A.    That's correct.

15          Q.    Okay.  Let me go back now to page 6.  
16  Beginning at line 3, you say the proposed line will  
17  be capable of delivering 3,500 megawatts of power  
18  from Kansas to the PJM area, correct?

19          A.    That's my understanding, yes.

20          Q.    And there you say at line 4 that in  
21  addition to that 3,500 megawatts, the line would  
22  allow for the delivery of 500 megawatts from  
23  Missouri to PJM, correct?

24          A.    Yes, that's my understanding of their  
25  proposal.

1 Q. For a total of 4,000 megawatts into PJM?

2 A. That's my understanding.

3 Q. And who told you that that substation,  
4 Sullivan substation in PJM, would be capable of  
5 taking 4,000 megawatts of power?

6 A. Again, that's my understanding from the  
7 applicant's filing.

8 Q. Okay. So, back to page 9, beginning at  
9 line 4, you say that the Missouri to PJM service  
10 will allow Ameren to make greater off-system sales  
11 into PJM, correct?

12 A. Yes, that's my understanding.

13 Q. Are you aware of the fact that based on  
14 the evidence in this case, Ameren has shown no  
15 interest in buying capacity on the Grain Belt line?

16 A. That's my general understanding.

17 Q. To your knowledge, in the recent past  
18 what percentage of Ameren Missouri's off-system  
19 sales have been from fossil fire generation versus  
20 renewable?

21 A. I don't know the specific number, but I  
22 would imagine it's a significant percentage.

23 Q. So, a significant percentage of these  
24 off-system sales into PJM would be from fossil  
25 units, correct?

1           A.     That is my general understanding.

2                   MR. AGATHEN:  Your Honor, I have just a  
3     few more questions, but they deal with highly  
4     confidential material as marked by Wal-Mart.

5                   JUDGE BUSHMANN:  All right.  We'll go in  
6     camera then, be in closed session.  Those in the  
7     audience who are not authorized to listen to highly  
8     confidential information will need to step outside  
9     for a minute.

10                   (REPORTER'S NOTE:  At this point, an  
11     in-camera session was held, which is contained in  
12     Volume 19, Page 1421 through 1423.)

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1 (REPORTER'S NOTE: The proceedings  
2 resumed in open session.)

3 JUDGE BUSHMANN: We're back in open  
4 session.

5 Questions from Commission? (No  
6 response.)

7 We're ready for redirect by Wal-Mart.

8 MR. WOODSMALL: Yes. One question, Your  
9 Honor.

10 REDIRECT EXAMINATION

11 BY MR. WOODSMALL

12 Q. You were asked a highly-confidential  
13 question, and I don't intend to get into  
14 highly-confidential information, about the number of  
15 megawatts purchased in MISO by Texas Retail Energy  
16 and the amount of it that was -- that was renewable  
17 energy. Would the Grain Belt Express project allow  
18 for a greater amount of that to be renewable energy?

19 A. It could.

20 MR. WOODSMALL: Thank you. No further  
21 questions, Your Honor.

22 JUDGE BUSHMANN: Mr. Chriss, that  
23 completes your testimony, sir. You may hang up now.  
24 Thank you.

25 THE WITNESS: Thank you.

1 JUDGE BUSHMANN: And I believe we are  
2 ready for the first Show Me witness.

3 MR. LINTON: Show Me calls Ron Calzone.

4 JUDGE BUSHMANN: Raise your right hand,  
5 please. Do you solemnly swear or affirm that the  
6 testimony you're about to give will be the truth?

7 THE WITNESS: I do.

8 JUDGE BUSHMANN: Thank you.

9 RON CALZONE,  
10 having been called as a witness herein, having been  
11 first duly sworn, was examined and testified as  
12 follows:

13 DIRECT EXAMINATION

14 BY MR. LINTON

15 Q. State your name for the record.

16 A. My name is Ron Calzone, C-A-L-Z-O-N-E.

17 Q. And by whom are you employed?

18 A. I am employed by CZ Engineering. I am  
19 also am a cattle producer. So, I own and operate a  
20 cattle farm.

21 Q. You wear two hats?

22 A. Pardon?

23 Q. You wear two hats?

24 A. Actually, at least two.

25 Q. Have you before you what has been marked



1 as Exhibit 401?

2 A. Yes.

3 Q. And did you prepare that testimony for  
4 this case?

5 A. I did.

6 Q. Do you have any changes to make to that  
7 testimony?

8 A. I do not at this point.

9 Q. If I ask you those questions today,  
10 would your answers be the same?

11 A. They would.

12 Q. Do you believe that those questions and  
13 answers are true and accurate to the best of your  
14 knowledge and belief?

15 A. I do.

16 MR. LINTON: I offer the Exhibit 401  
17 into evidence and tender the witness for  
18 cross-examination.

19 (Show Me's Exhibit 401 was offered into  
20 the record.)

21 JUDGE BUSHMANN: Are there any  
22 objections?

23 Hearing none. 401 is received.

24 (Show Me's Exhibit 401 was received into  
25 the record.)

1 JUDGE BUSHMANN: First cross would be  
2 Missouri Landowners.

3 MR. AGATHEN: I have no questions, Your  
4 Honor.

5 JUDGE BUSHMANN: Rockies Express?

6 MS. GIBONEY: No questions, Judge.

7 JUDGE BUSHMANN: Commission staff?

8 MS. ASLIN: No questions, Judge.

9 JUDGE BUSHMANN: MIEC?

10 MR. MILLS: No questions.

11 JUDGE BUSHMANN: Is Mr. Woodsmall here?  
12 No.

13 Infinity Wind Power?

14 MS. PEMBERTON: No questions.

15 JUDGE BUSHMANN: Wind on the Wires?

16 MR. BRADY: No, thank you.

17 JUDGE BUSHMANN: MJMEUC?

18 MS. WHIPPLE: No questions, Your Honor.

19 JUDGE BUSHMANN: Grain Belt Express?

20 MR. HARDEN: No questions.

21 JUDGE BUSHMANN: Questions from  
22 Commission? (No response.)

23 No need for redirect. Mr. Calzone, that  
24 completes your testimony. Thank you, sir. You may  
25 step down.

1 MR. LINTON: Show Me next calls Mr. Glen  
2 Justis.

3 JUDGE BUSHMANN: Do you solemnly swear  
4 or affirm that the testimony you're about to give  
5 will be the truth?

6 THE WITNESS: I do.

7 JUDGE BUSHMANN: You may proceed.

8 THE WITNESS: You okay on the mic?

9 JUDGE BUSHMANN: Excuse me?

10 THE WITNESS: Microphone okay?

11 JUDGE BUSHMANN: Yes.

12 GLEN JUSTIS,  
13 having been called as a witness herein, having been  
14 first duly sworn, was examined and testified as  
15 follows:

16 DIRECT EXAMINATION

17 BY MR. LINTON

18 Q. State your name for the record.

19 A. My legal name is Paul Glenden Justis,  
20 Jr., spelled J-U-S-T-I-S. I'm commonly known by  
21 Glen Justis.

22 Q. And by whom are you employed?

23 A. I am self-employed under the firm  
24 Acclaim Strategies, LLC. It's a consulting firm.

25 Q. Now, you have before you what have been

1     **marked as Exhibits 400 proprietary, 405-HC.**

2             A.     One moment, please.

3                     Yes.

4             **Q.     Did you prepare those pieces of**  
5     **testimony for this case?**

6             A.     I did.

7             **Q.     Do you have any changes to make to those**  
8     **pieces of testimony?**

9             A.     I do have some corrections I would like  
10    to distribute. May I give those to you?

11            **Q.     Yeah.**

12                    JUDGE BUSHMANN: Why don't we mark those  
13    as a separate exhibit.

14                    MR. LINTON: Yeah.

15                    JUDGE BUSHMANN: So, the next number  
16    would be 420.

17            **Q.     (By Mr. Linton) Could you describe what**  
18     **has been marked as Exhibit 420?**

19            A.     Certainly. This, this is meant to be or  
20    this is a summary of the corrections I'd like to  
21    make to my testimony. The --

22            **Q.     And --**

23                    MR. ZOBRIST: Judge, I want to  
24    interrupt. This is a little bit more than an errata  
25    sheet.

1           **Q. (By Mr. Linton) These are corrections**  
2     **that -- well, let me -- let me ask. Why did -- why**  
3     **have you made this, this exhibit?**

4           A.     Really for the sake of correctness and  
5     expediency. What led me to make these corrections,  
6     and really the first page is a summary and after  
7     that are simply the actually pages showing the  
8     corrections, occurred after, after reviewing  
9     Mr. Berry's surrebuttal testimony. In doing that, I  
10    rereviewed my analysis, determined that there were a  
11    few items from that surrebuttal that I agreed with  
12    and for sake of correctness and expediency, I  
13    decided to accept those and introduce those under my  
14    model.

15           MR. LINTON: The purpose of the exhibit  
16    is just to streamline the cross-examination.

17           MR. ZOBRIST: Well Judge, I would need  
18    to have at least a period of time to have these  
19    reviewed by Mr. Berry so I could consult with  
20    Mr. Berry, because I prepared my cross-examination  
21    based upon what has been prefiled by the  
22    testimony -- prefiled by the witness.

23           JUDGE BUSHMANN: It does seem that for  
24    matter of fairness --

25           MR. LINTON: I have no objection --

1 JUDGE BUSHMANN: -- Grain Belt should  
2 have an opportunity to review these before having to  
3 cross Mr. --

4 MR. LINTON: I have no objection to  
5 that.

6 THE WITNESS: Could I make a general  
7 observation, sir?

8 JUDGE BUSHMANN: Okay.

9 THE WITNESS: What, what you will notice  
10 there in the top three items are items that I do  
11 agree with the items that Mr. Berry identified. And  
12 the very first line there where it reflects original  
13 values, those are the original values from my  
14 analysis. And kind of the last item under No. 4,  
15 which is in gray highlight, what you will notice is  
16 that by virtue of my corrections, the cost of Kansas  
17 wind delivered by Grain Belt Express is lowered.  
18 So, I guess my -- the point I'm trying to make is  
19 that these corrections are moving those results in  
20 favor of Grain Belt Express.

21 MR. ZOBRIST: Well, Judge, I am  
22 gratified to hear that, but I still need to have at  
23 least a few minutes to review this with Mr. Berry.

24 JUDGE BUSHMANN: I agree. Why don't  
25 we -- Mr. Justis, why don't we put your testimony on

1 hold for a little bit, take some additional  
2 witnesses and we'll come back to you shortly when  
3 Mr. Zobrist has had an opportunity to review the  
4 information.

5 MR. BRADY: May I ask, Your Honor,  
6 though, first is it possible we could at least -- if  
7 there's any further description of what the changes  
8 were. I think I'd like to hear what those are  
9 before we take a break. So, that would -- might  
10 help us in reviewing, you know, expediting the  
11 review. Is that possible?

12 JUDGE BUSHMANN: Sure. Mr. Justis, if  
13 you could just -- if there's anything further that  
14 you wanted to add beyond what you just said, you can  
15 let us know that.

16 THE WITNESS: Sure.

17 MR. LINTON: Why don't you go line by  
18 line.

19 THE WITNESS: Why don't I just -- why  
20 don't I just kind of briefly walk you through this  
21 and then will that -- and then we can take that  
22 extra time.

23 MR. ZOBKRIST: And Judge, I have no  
24 objection to that, but I'm just contemplating here  
25 on Friday morning whether fairness prevents these

1 changes at this late date regardless. I mean, I  
2 think the witness should go through it, but this  
3 just may be too late. We have no access to work  
4 papers. We have no ability except to take the  
5 witness's view of these changes and it puts us --

6 JUDGE BUSHMANN: Sure.

7 MR. ZOBRIST: -- in a position where we  
8 can't effectively cross-examine him.

9 JUDGE BUSHMANN: Well, for now let's let  
10 Mr. Justis describe them, we'll then sit him down  
11 and have some time for review and then we'll come  
12 back later and address that.

13 Go ahead, Mr. Justis.

14 THE WITNESS: Thank you, Judge.

15 So, as I mentioned before, the first  
16 line item where it lists item zero, those are the  
17 original values for my levelized cost of energy  
18 analysis. In reviewing Mr. Berry's surrebuttal  
19 testimony, he identified three things that I do  
20 specifically agree with and, again, for correctness  
21 and expediency I'm just accepting those.

22 So, the first item was the transmission  
23 charger should have been applied consistently with  
24 how they were calculated, and Mr. Berry identified  
25 correctly that I'd calculated the transmission



1 charge based on net megawatt hours delivered, but  
2 then I had applied those based on gross megawatt  
3 hours, and that's correct. And as you can see,  
4 there's a resulting decrease in the -- in my  
5 estimate of the cost of Kansas wind delivered via  
6 Grain Belt Express.

7           The second item is is the fact that the  
8 cost of the smaller converter station in Missouri, I  
9 agree that will -- that converter station, because  
10 of the much smaller sizing of it, will be less  
11 expensive than the other two larger converter  
12 stations. Mr. Berry had indicated the value of  
13 100 million versus 500 million and I've accepted  
14 that value.

15           Item No. 3 was the finding that the --  
16 in my analysis I had attempted to calculate the cost  
17 of new AC lines, should they be necessary to be  
18 built, for purposes of delivering additional Iowa or  
19 Missouri wind, and I had some errors in that which I  
20 have corrected.

21           The fourth item was as I was -- as I was  
22 working through Items 1 through 3, I also noticed  
23 Item 4 where I had assumed, assumed overbuild of  
24 105 percent consistent with Mr. Berry's original  
25 model. I had applied that in my model against the

1 volume of megawatt hours which serves as the  
2 denominator to the LCOE analysis, but I had not  
3 applied that to the capital cost of that generation.  
4 So, that aligns those two models together. So,  
5 those are -- those are Items 1 through 4.

6 Item No. 2 also applied to the  
7 corrections I made when reanalyzing the project  
8 using Mr. Berry's model. So, for fairness I was  
9 simply trying to reintroduce that same Item No. 2  
10 into my rerun of his model.

11 Now, with that, as I mentioned, then the  
12 subsequent pages are just simply what actually is  
13 changed in the narrative of my rebuttal testimony.  
14 So, the next page over, that value 29 percent used  
15 to say -- I think might have said 33 or something  
16 like that. By virtue of my recalculated LCOE  
17 estimates, Figure 3 is now changed and, again, you  
18 can see the cost of Kansas wind via GBX is now lower  
19 than it was in my original testimony.

20 The next page, which was page 13 of my  
21 rebuttal testimony, is when I updated Mr. Berry's  
22 model using that same Item No. 2 I referred to a  
23 moment ago, that new cost of Grain Belt via GBX was  
24 down to 94.54 in his model with my adjustments.

25 Page 14, again, is simply updating that

1 graph with my new values.

2 On page 16 is my updated cost estimate  
3 of the Grain Belt Express line itself, acknowledging  
4 the fact that the Missouri converter station would  
5 be less expensive than I had originally assumed and  
6 the value I have here is 3.18 billion. I think  
7 Mr. Berry had 3.19 billion if, you know, if he were  
8 to use my same estimate approach.

9 And the last sheet are -- basically is  
10 my schedule PGJ-01 where I, in similar fashion, have  
11 simply updated the values that had changed.

12 So, to summarize, the first page is  
13 simply a summary of the changes. The remaining  
14 pages are where the actual testimony pages were  
15 changed.

16 MR. LINTON: Your Honor, with your  
17 indulgence, then I'll just continue the foundation  
18 of the Exhibits 400 and 405-HC.

19 JUDGE BUSHMANN: Well, why don't we do  
20 that when Mr. Justis comes back --

21 MR. LINTON: Very well.

22 JUDGE BUSHMANN: -- and we can just take  
23 care of all of it at the same time.

24 For now, Mr. Justis, why don't you step  
25 down for now and then we'll come back to you later.

1 THE WITNESS: Thank you, Judge.

2 JUDGE BUSHMANN: I believe we're ready  
3 for Mr. Turner; is that correct?

4 MR. LINTON: Right. Show Me calls John  
5 Turner.

6 JUDGE BUSHMANN: Do you solemnly swear  
7 or affirm that the testimony you're about to give  
8 will be the truth?

9 THE WITNESS: I do.

10 JUDGE BUSHMANN: You may be seated.

11 JOHN TURNER,  
12 having been called as a witness herein, having been  
13 first duly sworn, was examined and testified as  
14 follows:

15 DIRECT EXAMINATION

16 BY MR. LINTON

17 Q. Good morning.

18 A. Good morning, sir.

19 Q. Please state your name for the record.

20 A. John Turner. J-O-H-N T-U-R-N-E-R.

21 Q. And can you state your employer.

22 A. I'm self-employed, retired.

23 Q. Have you caused to be prepared before  
24 you what has been marked as Exhibit 403?

25 A. Yes.

1           Q.    Do you have any changes to make to that  
2 testimony?

3           A.    None of substance.

4           Q.    If I were to ask you those questions,  
5 would your answers be the same today?

6           A.    Yes.

7           Q.    And is your testimony true and accurate  
8 to the best of your knowledge and belief?

9           A.    Absolutely.

10           MR. LINTON: I offer the testimony of  
11 Mr. John Turner into evidence, and tender him for  
12 cross-examination.

13                    (Show Me's Exhibit 403 was offered into  
14 the record.)

15           JUDGE BUSHMANN: Any objections to the  
16 receipt of Exhibit 403?

17                    Hearing none. It is received into the  
18 record.

19                    (Show Me's Exhibit 403 was received into  
20 the record.)

21           JUDGE BUSHMANN: First cross would be  
22 Missouri Landowners.

23           MR. AGATHEN: No questions, Your Honor.

24           JUDGE BUSHMANN: Rockies Express?

25           MS. GIBONEY: No questions, Judge.

1 JUDGE BUSHMANN: Commission staff?

2 MS. ASLIN: No questions.

3 JUDGE BUSHMANN: MIEC?

4 MR. MILLS: No, thank you.

5 JUDGE BUSHMANN: Infinity Wind Power?

6 MS. PEMBERTON: No questions.

7 JUDGE BUSHMANN: Wind on the Wires?

8 MR. BRADY: No questions.

9 JUDGE BUSHMANN: MJMEUC?

10 MS. WHIPPLE: No questions, Judge.

11 JUDGE BUSHMANN: Grain Belt Express?

12 MR. HARDEN: Thank you. Very shortly.

13 CROSS-EXAMINATION

14 BY MR. HARDEN

15 Q. Good morning, Mr. Turner.

16 A. Good morning.

17 Q. Joshua Harden. Mr. Turner, would you  
18 agree that the irrigability of soil depends -- or  
19 the irrigability of land in general depends at least  
20 in part on soil type and composition?

21 A. Yes.

22 Q. And are you familiar with the soil  
23 survey conducted by the U.S. Department of  
24 Agriculture National Resource Conservation Service  
25 which includes maps and types of soil types?

1           A.    Very familiar.

2           Q.    And would you agree that the U.S.  
3 Department of Agriculture NRCS soil survey is a  
4 reliable scientific source of information regarding  
5 soil type and composition?

6           A.    It's pretty good.

7           Q.    And you don't dispute, do you, that  
8 Grain Belt Express would work or attempt to work  
9 with agricultural producers to minimize the impact  
10 of the line on agricultural operations and  
11 producers, do you?

12          A.    I would neither agree or dispute.

13          Q.    Fair enough.

14                You don't dispute, do you, that it would  
15 be in Grain Belt Express's financial and economic  
16 best interest to work with agricultural producers  
17 since agricultural impacts would increase the cost  
18 of the easement agreement to Grain Belt Express?

19          A.    I would suspect that the engineering of  
20 the line, the location of towers with respect to the  
21 need to support the line would outweigh the  
22 cooperation with landowners with regard to their  
23 wishes.

24          Q.    Okay.  Would you agree that farmland is  
25 not homogeneous and that there's unique

1 characteristics to topography and other features of  
2 each farm parcel or farmland?

3 A. Yes.

4 Q. And so, would you agree that a condition  
5 imposed of minor deviations, allowing minor  
6 deviations to the route would give Grain Belt  
7 Express greater flexibility to work with  
8 agricultural producers to, in fact, minimize impacts  
9 to agricultural operations?

10 A. Could you repeat that, please?

11 Q. Sure, sure. Would you agree that a  
12 condition, should this Commission decide to grant  
13 the CCN, a condition opposed -- imposed upon that,  
14 that certificate of allowing Grain Belt Express  
15 minor deviations to the route, okay, would give  
16 Grain Belt Express the needed flexibility to work  
17 with agricultural producers so that they could  
18 minimize the impact of the line and the construction  
19 on agricultural operations?

20 A. It would give them some flexibility.  
21 Would it give them the needed flexibility to  
22 accommodate the needs and wishes of the landowner,  
23 I'm certainly -- I'm certain not in every case.

24 Q. Sure, absolutely.

25 MR. HARDEN: No further questions.



1 Thank you.

2 JUDGE BUSHMANN: Questions?

3 COMMISSIONER RUPP: No.

4 COMMISSIONER COLEMAN: No.

5 JUDGE BUSHMANN: Redirect by Show Me  
6 Landowners?

7 MR. LINTON: Yes, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. LINTON

10 **Q. Mr. Turner, you received a few questions**  
11 **on irrigability -- is that how you pronounce it --**  
12 **irrigation and land topography. Did you do any**  
13 **investigation or study into topology and irrigation**  
14 **possibilities on any of the route in the Clean Line,**  
15 **Grain Belt Express Clean Line route?**

16 A. I did a general study of the  
17 irrigability of the soils and topography along the  
18 Grain Belt route and a fairly detailed study on one  
19 of the tiles along that route.

20 MR. LINTON: Your Honor, I'd like to  
21 have an exhibit marked. This would be Exhibit 421.

22 JUDGE BUSHMANN: That's correct.

23 **Q. (By Mr. Linton) Mr. Turner, what does**  
24 **this Exhibit 421 represent?**

25 A. Tile 16 which is in southern Monroe

1 County is an area of the -- along the proposed route  
2 that I'm very familiar with and consulting with the  
3 soil survey of that area by NRCS and also the USGS  
4 topologic -- topographic survey maps identified the  
5 sites marked in blue as potential irrigation  
6 reservoir sites for the purpose of providing water  
7 for large-scale sprinkler irrigation.

8 **Q. So, these sites are impoundments that**  
9 **the route -- the Grain Belt Express line would**  
10 **potentially interfere with?**

11 A. Well, they are potential sites that the  
12 Grain Belt Express easement would preclude from  
13 construction.

14 **Q. Thank you. I have no further questions.**

15 A. Could I -- could I add one thing to  
16 that --

17 **Q. Absolutely.**

18 A. -- David?

19 The criteria that I used there was a  
20 drainage area of at least 100 acres and not to  
21 exceed 400 acres and a water depth of -- an  
22 unexcavated water depth at the dam of at least 15  
23 feet providing sufficient irrigation for a standard  
24 center pivot of 130 acres with current technology  
25 for water conservation employed.

1 MR. LINTON: I would move for the  
2 admission of Exhibit 421.

3 (Show Me's Exhibit 421 was offered into  
4 the record.)

5 MR. WILLIAMS: Judge, may I inquire just  
6 for some clarification about the exhibit?

7 JUDGE BUSHMANN: You may.

8 MR. WILLIAMS: Mr. Shaw, is what's  
9 depicted on the exhibit --

10 JUDGE BUSHMANN: It's Mr. Turner.

11 MR. WILLIAMS: I'm sorry. Mr. Turner,  
12 is what's depicted on the exhibit -- on the exhibit  
13 it literally says potential irrigation reservoir  
14 sites. Are the depictions that are labeled that way  
15 places where water impoundments could be located?

16 THE WITNESS: In my judgment, yes.

17 MR. WILLIAMS: And then those water --  
18 Nathan Williams. And those -- water from those  
19 impoundments, then, could be used to provide water  
20 to an irrigation system?

21 THE WITNESS: Yes.

22 MR. WILLIAMS: Thank you.

23 JUDGE BUSHMANN: Any objections to 421?

24 Well, first of all, that exhibit is  
25 received into the record.

1 (Show-Me's Exhibit 421 was received into  
2 the record.)

3 JUDGE BUSHMANN: And I believe we have a  
4 commissioner request for information.

5 COMMISSIONER RUPP: Yeah. Thank you,  
6 sir. So, are all the blue areas potential  
7 irrigation reservoir sites or just the two that have  
8 arrows?

9 THE WITNESS: No. All of the blue  
10 spots. The 11 --

11 COMMISSIONER RUPP: Okay. Thank you.

12 THE WITNESS: -- blue patches.

13 JUDGE BUSHMANN: Any other questions of  
14 redirect?

15 MR. LINTON: I have no further  
16 questions.

17 JUDGE BUSHMANN: All right. Mr. Turner,  
18 I believe that completes your testimony.

19 THE WITNESS: Thank you, sir.

20 JUDGE BUSHMANN: You may step down.  
21 I believe we're ready for an MLA  
22 witness.

23 MR. AGATHEN: Thank you, Your Honor.  
24 MLA calls Mr. Joseph J. --

25 JUDGE BUSHMANN: Actually, before we do

1 that, why don't we -- why don't we take a short  
2 break. We'll be in recess for about 15 minutes.

3 (A short recess was taken.)

4 JUDGE BUSHMANN: All right. We're now  
5 on the record and, Mr. Zobrist, you had a motion to  
6 make.

7 MR. ZOBRIST: Thank you, Judge. I've  
8 had a moment to consult with my client because of  
9 the surprise that has been introduced by Show Me in  
10 the case in the form of Mr. Justis's impeachment of  
11 both his rebuttal and surrebuttal and the marking of  
12 what has been marked as, I believe, Exhibit 420 on  
13 the basis of the errors that he has testified to  
14 preliminarily. We move to strike both his rebuttal  
15 and surrebuttal testimony at this time.

16 MR. LINTON: I would oppose that --

17 MR. HEALY: One second, please.

18 JUDGE BUSHMANN: I believe some other  
19 parties may want to joint in that motion.

20 MR. LINTON: Absolutely.

21 MR. HEALY: I'd like to let the record  
22 reflect that MJMEUC would join in that motion as  
23 well.

24 MR. BRADY: Wind on the Wires and The  
25 Wind Coalition would also concur on that motion,

1 join that motion.

2 MS. PEMBERTON: As would Infinity Wind  
3 Power.

4 JUDGE BUSHMANN: And, Mr. Linton, you  
5 had a response.

6 MR. LINTON: Yes. I oppose the motion.  
7 It's not unusual for a witness to have minor changes  
8 to his testimony after looking at the surrebuttal of  
9 a prior witness's testimony and in this case these  
10 are minor changes. Mr. Justis did this in good  
11 faith to move the cross-examination along, and I see  
12 no reason for this motion to carry.

13 MR. ZOBRIST: Judge, this is not good  
14 faith. The surrebuttal was filed on February 21.  
15 If Mr. Justis believed that there was a reason for  
16 him to correct his testimony, it should have been  
17 done within seven to ten days. Today is March 24th,  
18 it's over a month. These are not minor changes. We  
19 have tables. We have testimony that is not -- that  
20 is changed without tracked changes. So, I don't  
21 even know where the numbers are changed. And then  
22 attached to that is a revision of schedule 1 to  
23 Mr. Justis's --

24 MR. LINTON: Your Honor, if --

25 MR. ZOBRIST: -- rebuttal, and it's not

1 in good faith and it's ambush, and the rebuttal and  
2 the surrebuttal should be stricken from the record.

3 MR. LINTON: If Exhibit 420 is  
4 objectionable, we will withdraw 420.

5 MR. ZOBRIST: Well, it's only  
6 objectionable to the extent that it impeaches the  
7 rebuttal and the surrebuttal, and we have testimony  
8 from the witness stand that indicates at least four  
9 categories of errors that have occurred and justice  
10 requires that his rebuttal and surrebuttal be  
11 stricken and he not be permitted to testify.

12 MR. LINTON: Your Honor, this is a --

13 JUDGE BUSHMANN: I think -- I think I've  
14 decided what I'm going to do. I don't think it's  
15 appropriate to strike rebuttal and surrebuttal  
16 testimony. So, that motion is denied.

17 With regard to the exhibit, I'm going to  
18 reserve ruling on that and allow Grain Belt Express  
19 an opportunity to review the information to prepare  
20 any changes that might be necessary to its  
21 examination of Mr. Justis. We'll move him to the  
22 end of the line for witnesses for today. So, that  
23 would occur sometime later this afternoon. I hope,  
24 anyway, that would be enough time for Grain Belt  
25 Express to look at any changes, and then at that

1 time we'll take up a motion to admit 420 into the  
2 record. So, I won't make that decision right now.  
3 I'll do that when Mr. Justis comes back later.

4 MR. ZOBRIST: Judge, I appreciate your  
5 trying to give us an opportunity. I've consulted  
6 with my client. We will not have an opportunity to  
7 be adequately prepared to address these changes  
8 today, but we're going to finish this hearing today  
9 because this is trial by ambush and I'm willing to  
10 take Mr. Justis and cross-examine him even if the  
11 Court -- well, regardless of the ruling on Exhibit  
12 420, we want to finish this case today.

13 JUDGE BUSHMANN: All right. Well, let's  
14 move along. We're ready for Mr. Jaskulski who we  
15 attempted to start.

16 MR. AGATHEN: Thank you, Your Honor.  
17 Before I begin, could I ask one question? We've got  
18 three witnesses scheduled for today. Could they be  
19 excused after they step down from the witness stand?

20 JUDGE BUSHMANN: Yes, they may.

21 MR. AGATHEN: Thank you.

22 JUDGE BUSHMANN: Could you raise your  
23 right hand, sir. Do you solemnly swear or affirm  
24 that the testimony you're about to give will be the  
25 truth?



1 THE WITNESS: Yes, I do.

2 JUDGE BUSHMANN: You may proceed.

3 JOSEPH JASKULSKI,

4 having been called as a witness herein, having been

5 first duly sworn, was examined and testified as

6 follows:

7 DIRECT EXAMINATION

8 BY MR. AGATHEN

9 Q. Would you state your name, please, and  
10 spell it for the record.

11 A. Joseph Jaskulski. Last name is  
12 J-A-S-K-U-L-S-K-I.

13 Q. Did you submit rebuttal testimony for  
14 this case in both highly confidential and NP  
15 versions?

16 A. I did.

17 Q. And are those marked as Exhibit 302-HC  
18 and 302-NP?

19 A. Yes. 300, I think.

20 Q. I think they're marked actually 302 --

21 A. Okay.

22 Q. -- HC and 302-NP.

23 A. Very well.

24 Q. And did you also submit surrebuttal  
25 testimony in both HC and NP form?

1 A. I did.

2 Q. And are those marked Exhibits 302-HC and  
3 302-NP?

4 A. What I have is marked Exhibit 307.

5 Q. 307. I'm sorry. Yes.

6 Did you in your surrebuttal testimony  
7 state that you had made a mistake or an error in  
8 your rebuttal testimony?

9 A. I did.

10 Q. Could you turn to your rebuttal  
11 testimony, I believe it's at page 10, and indicate  
12 what change would have to be made in your rebuttal  
13 testimony to reflect the fact that you said in your  
14 surrebuttal testimony that you had made an error.

15 A. Yes. On line number 192 on page 10 I'd  
16 removed the word "flawed" and I would remove the two  
17 sentences that begin on line 194 and end on one --  
18 line 196.

19 Q. With those changes, if I were to ask you  
20 the question set forth in the rebuttal testimony  
21 today, would your answers be the same?

22 A. Yes, they would.

23 Q. And is that true also for your  
24 surrebuttal testimony?

25 A. Yes.

1 MR. AGATHEN: At this point, Your Honor,  
2 I would move the admission of Exhibits 302-HC,  
3 302-NP, 307-HC and 307-NP.

4 (MLA's Exhibits 302-HC, 302-NP, 307-HC  
5 and 307-NP were offered into the record.)

6 JUDGE BUSHMANN: Any objections?

7 MR. HEALY: No objection from MJMEUC.

8 JUDGE BUSHMANN: Hearing none. Those  
9 are received into the record.

10 (MLA's Exhibits 302-HC, 302-NP, 307-HC  
11 and 307-NP were received into the record.)

12 MR. AGATHEN: Thank you, Your Honor.

13 JUDGE BUSHMANN: First cross -- first  
14 cross would be Show Me Concerned Landowners.

15 MR. LINTON: No questions.

16 JUDGE BUSHMANN: Rockies Express?

17 MS. GIBONEY: No questions, Judge.

18 JUDGE BUSHMANN: Commission staff?

19 MR. WILLIAMS: No questions.

20 JUDGE BUSHMANN: MIEC?

21 MR. MILLS: No questions.

22 JUDGE BUSHMANN: Wal-Mart?

23 MR. WOODSMALL: No questions.

24 JUDGE BUSHMANN: Infinity Wind Power?

25 MS. PEMBERTON: No questions.

1 JUDGE BUSHMANN: Wind on the Wires?

2 MR. BRADY: No questions, Your Honor.

3 JUDGE BUSHMANN: MJMEUC?

4 MR. HEALY: Yes, sir.

5 CROSS-EXAMINATION

6 BY MR. HEALY

7 Q. Mr. Jaskulski, is that correct?

8 A. Yes, it is.

9 Q. Good morning. How are you doing, sir?

10 A. I'm doing fine. Thank you.

11 Q. I have just a few questions.

12 You are the president of Project

13 Performance Group; is that correct?

14 A. That is correct, sir.

15 Q. How many employees does that company  
16 have?

17 A. Technically, we have no employees. I  
18 have contract workers who work for me from time to  
19 time. Three are regular employees, contract  
20 employees.

21 Q. And on page 3 of your rebuttal you state  
22 that you are a LEED accredited professional; is that  
23 correct?

24 A. Yes, I am.

25 Q. And you would agree with me that

1 renewable energy, wind energy in particular has  
2 certain attributes that makes it desirable?

3 A. Yes.

4 Q. And is this your first time giving  
5 testimony to a public utility or public service  
6 commission?

7 A. It is.

8 Q. And you collaborated with Glen Justis in  
9 developing your testimony; is that correct?

10 A. I would not choose the word  
11 "collaborated." He and I spoke on two occasions by  
12 phone.

13 Q. Thank you for the clarification.  
14 And you spoke about the testimony in  
15 this case, though; is that correct?

16 A. Yes.

17 Q. On your rebuttal testimony on page 11 --  
18 do you have your testimony in front of you, sir?

19 A. I do.

20 Q. Page 11, line 207, you started  
21 conversation about the production tax credits?

22 A. Yes.

23 Q. When you first initially analyzed  
24 potential usage of the Grain Belt transmission  
25 service agreement by MJMEUC, did you assume that

1 MJMEUC would take the risk of any PTCs not being  
2 awarded to the wind developer?

3 A. I did.

4 Q. Okay. Has your opinion changed on that?

5 A. Yes.

6 Q. And that's because you reviewed the Iron  
7 Star contract which removed that risk; is that  
8 correct?

9 A. That is correct.

10 Q. And would you agree that there's delays  
11 in the project, the risk of a price change to MJMEUC  
12 under the Iron Star contract does not exist based on  
13 PTCs?

14 A. That is correct.

15 Q. Given that GBX is still pending  
16 regulatory approval, would you agree it's reasonable  
17 for the transmission service agreement between GBX  
18 and MJMEUC to contain some options to terminate --  
19 or, I'm sorry, to take zero?

20 A. I'm sorry. Could you repeat the last  
21 part of that at least?

22 Q. I would. Would you agree that it's  
23 reasonable for the TSA between MJMEUC and GBX to  
24 contain an option to take zero megawatts given the  
25 potential regulatory approval still needed to build

1 this line?

2 A. Yes.

3 Q. Would you also agree, just a general  
4 proposition, that parties don't usually engage in  
5 lengthy negotiations and contracts without the  
6 intent to take advantage of the fruit of those  
7 negotiations?

8 A. No.

9 Q. On page 18, line 380 of your testimony,  
10 it starts with a general question -- actually, I'm  
11 sorry. I apologize. Line 379 is where the question  
12 starts, and it talks about wind energy generating in  
13 Kansas being less expensive -- or the question is is  
14 it less expensive than wind generated in Missouri.  
15 After reviewing the Iron Star and the Grain Belt  
16 TSA, wouldn't you agree that for the option  
17 presented in that particular contract that  
18 represents the lowest cost renewable option  
19 available to MJMEUC?

20 A. No.

21 Q. You would not agree?

22 Can you point to a particular scenario  
23 that you consider a cheaper renewable energy?

24 A. That the -- let me answer it this way.  
25 It is cheaper than any of the bids received by

1 MJMEUC in their September solicitation of wind  
2 proposals. However, that solicitation was expressly  
3 for Kansas wind to be connected to Grain Belt. So,  
4 we really don't know what type of response MJMEUC  
5 would have gotten had they opened up that  
6 solicitation to wind generated in Missouri or  
7 elsewhere. So, I will agree that the Iron Star  
8 Grain Belt combination is lower cost to MJMEUC than  
9 the lowest cost proposal received in September of  
10 2016. However, I don't believe that that  
11 solicitation really opened up competition to all  
12 potential suppliers to MJMEUC.

13 **Q. You would agree, though, that**  
14 **solicitation elicited a number of responses not**  
15 **using a GBX line in response to that RFP, wouldn't**  
16 **you?**

17 A. Correct. I think there were 12 that did  
18 not use GBX and two that did.

19 **Q. And those responses were in MISO and**  
20 **they were not competitive with the GBX Iron Star**  
21 **option, were they?**

22 A. They were higher cost than the Kansas  
23 wind -- or Iron Star GBX combination. I don't know  
24 about competitive. There are other factors that  
25 would enter into determining competitiveness.



1           Q.    That's fair enough.

2                    But you would agree it was the lowest  
3   cost option?

4           A.    Of those, yes. Well, Iron Star was not  
5   in that, but, yes, Iron Star was cheaper than those  
6   proposals.

7                   MR. HEALY: Judge, if we can go  
8   in-camera just briefly.

9                   JUDGE BUSHMANN: We'll go into closed  
10   session. Anybody in the audience that is not  
11   authorized to listen to confidential information  
12   will need to leave, please.

13                   (REPORTER'S NOTE: At this point, an  
14   in-camera session was held, which is contained in  
15   Volume 19, Page 1459 through 1464.)

16                           \* \* \* \* \*

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1 (REPORTER'S NOTE: The proceedings  
2 resumed in open session.)

3 JUDGE BUSHMANN: All right. We're back  
4 in open session.

5 Q. (By Mr. Healy) Just a couple more  
6 questions, Mr. Jaskulski, and I'll be -- I'll be  
7 finished here.

8 Are you generally familiar with how  
9 MJMEUC is set up as an organization?

10 A. My understanding is they are an  
11 organization of municipal utilities through -- that  
12 are located in Missouri. I'm not sure that's  
13 correct. That's my understanding.

14 Q. It's close.

15 Would you agree or are you aware that  
16 it's a nonprofit entity?

17 A. No, I don't know that.

18 Q. Okay. And if I told you we had no  
19 shareholders, you'd have no reason not to believe  
20 me?

21 A. No, no reason at all.

22 Q. And if it doesn't have shareholders and  
23 if it is a nonprofit, all savings would be passed on  
24 to those members, correct?

25 A. I think so. I don't -- seems like

1 they're the only people left to get the savings.

2 Q. And, Mr. Jaskulski, how much are you  
3 being paid per hour today to be here?

4 A. \$300.

5 MR. HEALY: Thank you, Judge. That's  
6 all the questions I have.

7 JUDGE BUSHMANN: Grain Belt Express?

8 MR. ZOBRIST: Thank you, Judge.

9 CROSS-EXAMINATION

10 BY MR. ZOBRIST

11 Q. Mr. Jaskulski, you're a mechanical  
12 engineer, not an electrical engineer?

13 A. That's correct.

14 Q. And is it true that you have not worked  
15 for a company with transmission assets since your  
16 Commonwealth Edison days?

17 A. No, that's not correct.

18 Q. Now, you stated when you worked for  
19 ComEd that you worked in coal-fueled generation  
20 stations; is that correct?

21 A. That's where I spent most of my time,  
22 yeah.

23 Q. Now, in your resume that's attached as  
24 schedule 1 to your direct testimony, isn't it true  
25 that the word "transmission" is never mentioned

1     **there?**

2             A.     That's probably true.

3             Q.     **And, in fact, the first item in your**  
4     **professional profile states that you have experience**  
5     **in large scale/high profile construction**  
6     **projects; is that true?**

7             A.     Yes.

8             Q.     **And that's such as Soldier Field in**  
9     **Chicago and Midway Airport in the Chicago Transit**  
10    **Authority, correct?**

11            A.     That's correct.

12            Q.     **And you've never worked for a wind**  
13    **generation company, correct?**

14            A.     As an employee, no.

15            Q.     **And you've never worked for a utility**  
16    **that only has transmission assets?**

17            A.     That's correct.

18            Q.     **And in your CV you do not hold yourself**  
19    **out as an expert in the field of taxation, correct?**

20            A.     That's correct.

21            Q.     **Now, as I understand it, you didn't have**  
22    **any work papers, per se, in -- with regard to the**  
23    **analysis that you did. Everything that you did is**  
24    **reflected in the schedules to your testimony?**

25            A.     I believe we did file work papers

1 separately.

2 Q. You did not conduct a levelized cost of  
3 energy analysis, correct?

4 A. That's correct.

5 Q. And you did not conduct a levelized  
6 avoided cost of energy analysis, did you?

7 A. That's correct.

8 Q. And you didn't do any production cost  
9 modeling with regard to the effect of the Grain Belt  
10 Express project on wholesale energy costs, correct?

11 A. Can you repeat that?

12 Q. Yeah.

13 A. Sorry.

14 Q. Did you conduct a production cost model  
15 analysis using a tool like PROMOD regarding the  
16 effect of the Grain Belt Express project on  
17 wholesale energy costs?

18 A. No.

19 Q. And you didn't conduct a loss of load  
20 expectation analysis either, did you?

21 A. No, I did not.

22 Q. Now, I just want to make certain I  
23 understand the correction that Mr. Agathen made at  
24 the beginning. Does that relate to the spreadsheet  
25 error that you thought had occurred with regard to

1     **calculating the loss component of costs?**

2             A.     That's correct; although, I would not  
3     characterize it as a spreadsheet error. It was an  
4     error in my interpretation of Mr. Grotzinger's  
5     spreadsheet.

6             Q.     I see. And so, with regard to that  
7     **issue, that is where you said I withdraw my**  
8     **statement that MJM, MJMEUC Data Request 13 contained**  
9     **an error; is that correct?**

10            A.     That is correct.

11            Q.     Now, in your surrebuttal at page 4, if  
12     **I'm reading this correctly, you assume that the**  
13     **Kansas wind farm through which MJMEUC would take**  
14     **service would be 135-megawatt size wind**  
15     **farm; correct?**

16            A.     For the purposes of JG-6, that is  
17     correct.

18            Q.     And, in fact, the Iron Star project is  
19     **to be a 300-megawatt project, correct?**

20            A.     Actually, I believe 400.

21            Q.     Now, let me just ask you a few questions  
22     **about the production tax credit. Are you familiar**  
23     **with Internal Revenue Service Notice 2016-31 that**  
24     **was issued in June of last year?**

25            A.     I don't know it by that number perhaps.

1           **Q. Let me show you a document and see if**  
2 **you can identify that.**

3           **What did I mark that as?**

4           A. 132.

5           MR. ZOBRIST: Mr. Justis, I've handed  
6 you what I've marked as Exhibit 132.

7           **Q. (By Mr. Zobrist) This is an Internal**  
8 **Revenue bulletin that was issued June 6th, 2016, but**  
9 **if you turn to the second page, it relates to the**  
10 **beginning of construction for sections 45 and 48.**  
11 **Are you generally familiar with those provisions and**  
12 **particularly, on the next page, the section 3 with**  
13 **regard to the --**

14          A. I'm sorry. I've lost place here.

15          **Q. Sure.**

16          A. I believe I've seen this document, but  
17 I've seen it in a different format. So, I can't be  
18 sure. I mean, it was off the internet in a more of  
19 a text, plain text format as opposed to formatted in  
20 three columns.

21          **Q. Okay.**

22          A. So, I don't know where you're referring  
23 me to. If you could help.

24          **Q. If you can go to the third page of this**  
25 **document.**

1 A. This is page 1026?

2 Q. Correct. And it says section 3  
3 regarding the extension and modification of the  
4 continuity safe harbor. Do you see that?

5 A. Yes.

6 Q. And are those the provisions with regard  
7 to the production tax credit with which you are  
8 familiar?

9 A. Yes, they are.

10 Q. And am I correct that there is a section  
11 of this IRS notice that relates to disruptions to  
12 continuous construction or continuous efforts tests.  
13 You see that, sir?

14 A. This is at the top of the second column?

15 Q. Correct.

16 A. Yes.

17 Q. And then below that there is a  
18 subsection in parentheses 2 that relates to  
19 excusable disruptions; is that true?

20 A. Yes.

21 Q. And starting that section up at .02, the  
22 disruptions to continuous construction section, that  
23 sentence says in general that Section 4.06(1) of  
24 notice 2013-29 provides that whether a taxpayer  
25 satisfies the continuity requirement will be



1 based -- pardon me, will be determined by the  
2 relevant facts and circumstances, correct?

3 A. That is correct.

4 Q. And then at the bottom of the next full  
5 paragraph that begins with the excusable  
6 disruptions, it provides a list of additional  
7 excusable disruptions and then the first one is A in  
8 parentheses, related to severe weather conditions.  
9 Do you see that, sir?

10 A. I do.

11 Q. And is that your understanding that that  
12 is one of the excusable disruptions?

13 A. Yes.

14 Q. Okay. And then go down to subsection C.  
15 Am I correct that it also states that an excusable  
16 disruption will be delays in obtaining permits or  
17 licenses from federal, state, local, or Indian  
18 tribal governments including, and then it lists a  
19 whole set of agency permits that fall within that  
20 category; is that correct?

21 A. That's correct.

22 Q. And then if you go down to subsection E  
23 in parentheses, an excusable disruption also relates  
24 to interconnection-related delays; is that true?

25 A. Yes.

1           **Q.    And such interconnection-related delays**  
2           **can be such as the completion of construction on a**  
3           **new transmission line or necessary transmission**  
4           **upgrades to resolve grid congestion issues that may**  
5           **be associated with a project's planned**  
6           **interconnection; is that correct?**

7           A.    Yes.

8           MR. ZOBRIST:  Your Honor, I offer  
9           Exhibit 136 I think I marked it as.

10          JUDGE BUSHMANN:  132.

11          MR. ZOBRIST:  Pardon me.  132.

12          (Grain Belt's Exhibit 132 was offered  
13          into the record.)

14          JUDGE BUSHMANN:  Exhibit has been  
15          offered.  Any objections?

16          Hearing none.  It is received.

17          (Grain Belt's Exhibit 132 was received  
18          into the record.)

19          **Q.    (By Mr. Zobrist)  Now, in your analysis**  
20          **of the production tax credit issue, is it fair to**  
21          **say that you presumed that any risks associated with**  
22          **any decrease or phase-out of the production tax**  
23          **credit would be assumed by the purchasers of the**  
24          **energy or the capacity on the Grain Belt Express**  
25          **line?**

1           A.    I believe I said that the -- any such  
2    increase in cost would have to be absorbed either by  
3    the wind farm or by the purchaser of the power and  
4    then said what the impact would be if either of  
5    those -- if either of the two parties absorbed the  
6    cost.

7           **Q.    And if it were not absorbed by the**  
8    **purchaser of the energy, then that risk would likely**  
9    **not be borne by that purchaser's ratepayers or**  
10   **customers, correct?**

11          A.    I'm sorry. Can you repeat that?

12          **Q.    Yeah. If the purchaser of the wind**  
13    **energy does not accept the risk of the reduction of**  
14    **the production tax credit, then it's unlikely that**  
15    **that purchaser's customers or ratepayers would not**  
16    **be subject to any cost resulting from the diminution**  
17    **of the production tax credit?**

18          A.    I'm sorry. There were three not's in  
19    there.

20          **Q.    Let me try again.**

21          A.    Yeah. Thank you.

22          **Q.    Let me try again.**

23          A.    I think the answer is yes to your  
24    question, but with the three not's I just want to be  
25    sure.

1           Q.    We have a situation where the purchaser  
2   of the energy does not accept the risk of a  
3   production tax credit diminution.  Okay?  So, if  
4   that's the premise, that they've not accepted the  
5   risk of the decline in the production tax credit,  
6   then their customers or ratepayers aren't going to  
7   be paying for any costs that result from that  
8   decrease in the production tax credit?

9           A.    Correct.

10           MR. ZOBRIST:  That's all I have, Judge.

11           JUDGE BUSHMANN:  Any questions?

12           COMMISSIONER RUPP:  Yeah, I do.

13           JUDGE BUSHMANN:  Questions from  
14   commissioners.

15           COMMISSIONER RUPP:  Good morning, sir.

16           THE WITNESS:  Good morning.

17           COMMISSIONER RUPP:  I got a little  
18   confused in some of the questioning and the  
19   testimony.  So, I'm going to ask you just to clear  
20   up a couple things in your testimony.

21                    Page 11 you were talking about the do  
22   nothing alternative.  Are you advocating that that  
23   is what should be done or is that just an option  
24   that's available to MJMEUC?

25           THE WITNESS:  That is an option that

1 is -- should be considered whenever an investment  
2 decision is being considered. It doesn't mean that  
3 it is the appropriate choice, and it also should  
4 probably be better phrased as do nothing now is an  
5 alternative that should be always considered.

6 COMMISSIONER RUPP: Okay. And then on  
7 page 18 you were asked about the question on line  
8 379 is wind energy generated in Kansas and  
9 transmitted over Grain Belt Missouri less expensive  
10 than wind generated in Missouri. What is your  
11 answer to that question?

12 THE WITNESS: The answer, based on the  
13 bids that were received that we -- that were shared  
14 with us, it's not. Based on the Iron Star agreement  
15 compared to the lowest bid for Missouri wind and  
16 using the assumptions I used in my surrebuttal  
17 calculations, it is -- Kansas wind is cheaper by  
18 \$3 million annually, Kansas wind over Grain Belt.

19 COMMISSIONER RUPP: Okay. So, where is  
20 the other lower cost wind that...?

21 THE WITNESS: That would be a -- I used  
22 as a proxy for Missouri wind pricing. I think that  
23 would be a confidential answer. I don't -- if I can  
24 answer the question out of camera or in camera,  
25 whatever you call this.

1 MR. HEALY: If I can just briefly. The  
2 RFP responses were considered confidential and we  
3 filed them as HC. I don't know if there's a problem  
4 discussing generality, so long as names and  
5 locations are not attached, but if you're going to  
6 need the details, I would ask go in camera.

7 COMMISSIONER RUPP: Generality is fine.

8 THE WITNESS: I used the lowest price  
9 quoted by a Missouri -- Missouri located wind farm  
10 based on the bids that were received by MJMEUC in  
11 September of 2016.

12 COMMISSIONER RUPP: And that was the  
13 all-in price, the transmission price and everything?

14 THE WITNESS: That was the price at the  
15 wind farm.

16 COMMISSIONER RUPP: At the wind farm.  
17 But didn't factor in the total congestion costs or  
18 transmission costs and everything?

19 THE WITNESS: That price doesn't, but  
20 then the analysis I did in my attached  
21 spreadsheet -- let me get the -- in my surrebuttal,  
22 schedule JJC-6 factors in a congestion adder for the  
23 Missouri wind farm. So, my \$3 million includes that  
24 cost.

25 COMMISSIONER RUPP: Is that titled

1 calculation of Kansas wind cost delivered to  
2 Missouri - highly confidential? Is that the --

3 THE WITNESS: Can you refer me to a  
4 page, please? Thank you.

5 COMMISSIONER RUPP: I have --

6 THE WITNESS: I'm -- Commissioner, I  
7 think you're looking at my rebuttal testimony.

8 COMMISSIONER RUPP: That's right.

9 THE WITNESS: And that was -- that  
10 schedule was effectively superseded by my  
11 surrebuttal schedule.

12 COMMISSIONER RUPP: Okay.

13 THE WITNESS: So, if you can turn to  
14 JYG-6 -- JJC-6, I think.

15 COMMISSIONER RUPP: You're right. I was  
16 in rebuttal. It would help if I had the right  
17 witness. Sorry. I was looking on the wrong  
18 witness.

19 All right. Okay. That's all I had  
20 then.

21 JUDGE BUSHMANN: Any cross based on  
22 bench questions? Show Me Landowners?

23 MR. LINTON: No questions.

24 JUDGE BUSHMANN: Rockies Express?

25 MS. GIBONEY: No questions, Judge.

1 JUDGE BUSHMANN: Commission staff?

2 MR. WILLIAMS: No questions.

3 JUDGE BUSHMANN: MIEC?

4 MR. MILLS: No questions.

5 JUDGE BUSHMANN: Wal-Mart?

6 MR. WOODSMALL: No questions.

7 JUDGE BUSHMANN: Infinity Wind?

8 MS. PEMBERTON: No questions.

9 JUDGE BUSHMANN: Wind on the Wires?

10 MR. BRADY: No questions.

11 JUDGE BUSHMANN: MJMEUC?

12 MR. HEALY: Just a couple, Judge.

13 RECROSS-EXAMINATION

14 BY MR. HEALY

15 Q. Commissioner Rupp asked you about the do  
16 nothing or do nothing now alternative on page 11 of  
17 your rebuttal testimony.

18 A. Yes.

19 Q. And since you've written that testimony,  
20 of course, you're aware that MJMEUC entered into the  
21 Iron Star contract, correct?

22 A. That is correct.

23 Q. And are you aware that MJMEUC has  
24 entered into contracts with its members for 100  
25 megawatts now to deliver to them?



1           A.     I am not aware.

2           Q.     Okay. That was previously introduced on  
3 the record in this proceeding. Would you agree that  
4 at this point MJMEUC's contractually obligated to  
5 honor its contracts with Infinity and Grain Belt and  
6 to proceed with this?

7           MR. AGATHEN: Your Honor, could I have  
8 that question repeated, please?

9           Q.     (By Mr. Healy) Sure. At this point,  
10 based on your understanding, would you agree that  
11 MJMEUC is contractually obligated to fulfill its  
12 obligations with Iron Star and Grain Belt for the  
13 member's demand and contracts with its members?

14          MR. AGATHEN: I would object, Your  
15 Honor. That calls for a legal conclusion.

16          MR. HEALY: This is based off his  
17 understanding, Judge. He testified about the  
18 contracts extensively.

19          JUDGE BUSHMANN: There's been a lot of  
20 testimony about obligation under the contract. So,  
21 I'm going to overrule the objection.

22          A.     Can you repeat it? I'm sorry again.

23          Q.     (By Mr. Healy) I'll try to repeat it in  
24 a simpler way. I apologize. It's kind of --  
25 there's three contract legs here, obviously.

1     **There's a contract between MJMEUC and Grain Belt**  
2     **Express for transmission that's been entered into.**  
3     **There's a contract between MJMEUC and Iron Star**  
4     **for -- that says that we have to provide 100**  
5     **megawatts in order customer's demand and up to 200**  
6     **megawatts, and then, of course, there's the**  
7     **contracts between MJMEUC and its actual members.**  
8     **And at this point there is 100-megawatts contracts**  
9     **between our members and MJMEUC. At this point the**  
10    **do nothing alternative, is that still an option?**

11           A.    No.

12           MR. HEALY: Thank you, Judge. That's  
13    all I had.

14           JUDGE BUSHMANN: Recross by Grain Belt?

15           MR. ZOBRIST: Nothing further, Judge.

16           JUDGE BUSHMANN: Redirect by Missouri  
17    Landowners?

18           MR. AGATHEN: Thank you, Judge.

19                    REDIRECT EXAMINATION

20           BY MR. AGATHEN

21           Q.    Do you recall some questions about the  
22    **RFP that was issued by MJMEUC for wind generation?**

23           A.    Yes.

24           Q.    Or wind energy?

25           A.    Yes, I do.

1 Q. Do you know when that RFP was issued?

2 A. Was issued in mid-August of 2016.

3 Q. And were there any restrictions included  
4 within that RFP?

5 A. Yes.

6 Q. What were they?

7 A. They were for delivery from wind farms  
8 to be connected to Grain Belt's western terminus  
9 station in Kansas.

10 Q. Is there any way at all to determine how  
11 many additional responses they have made -- they may  
12 have received if that restriction had not been  
13 included in the RFP?

14 A. No.

15 MR. AGATHEN: That's all I have.

16 JUDGE BUSHMANN: That completes your  
17 testimony, sir.

18 THE WITNESS: Thank you. And I'm  
19 excused?

20 JUDGE BUSHMANN: You are.

21 Ready for the next witness?

22 MR. AGATHEN: Yes, Your Honor. The MLA  
23 calls Mr. Kurt Kielisch.

24 JUDGE BUSHMANN: Raise your right hand,  
25 please. Do you solemnly swear or affirm that the

1 testimony you're about to give will be the truth?

2 THE WITNESS: I do.

3 JUDGE BUSHMANN: You may be seated.

4 KURT KIELISCH,

5 having been called as a witness herein, having been

6 first duly sworn, was examined and testified as

7 follows:

8 DIRECT EXAMINATION

9 BY MR. AGATHEN

10 **Q. Would you state your name for the record**  
11 **and spell it please.**

12 A. Certainly. My name is Kurt Carl  
13 Kielisch. Kurt with a K. Carl with a C. Kielisch,  
14 K-I-E-L-I-S-C-H.

15 **Q. Did you file rebuttal testimony in this**  
16 **case, which is marked as Exhibit No. 301?**

17 A. I did.

18 **Q. And that includes schedules which start**  
19 **at page 36 of that document?**

20 A. Yes.

21 **Q. If I were to ask you the questions set**  
22 **forth in your rebuttal testimony today, would your**  
23 **answers be the same as those set forth therein?**

24 A. They would.

25 MR. AGATHEN: Your Honor, I would offer

1 Exhibit 301 at this point.

2 (MLA's Exhibit 301 was offered into the  
3 record.)

4 JUDGE BUSHMANN: Are there any  
5 objections to its receipt?

6 Hearing none. It's received.

7 (MLA's Exhibit 301 was received into the  
8 record.)

9 JUDGE BUSHMANN: Cross-examination Show  
10 Me Concerned Landowners?

11 MR. LINTON: No questions, Your Honor.

12 JUDGE BUSHMANN: Rockies Express?

13 MS. GIBONEY: No questions, Judge.

14 JUDGE BUSHMANN: Commission staff?

15 MS. ASLIN: No questions, Judge.

16 JUDGE BUSHMANN: MIEC?

17 MR. MILLS: No questions.

18 JUDGE BUSHMANN: Infinity Wind Power?

19 MS. PEMBERTON: No questions.

20 JUDGE BUSHMANN: Wind on the Wires?

21 MR. BRADY: No questions.

22 JUDGE BUSHMANN: MJMEUC?

23 MS. WHIPPLE: No questions, Your Honor.

24 JUDGE BUSHMANN: Grain Belt Express?

25 MR. HARDEN: Thank you, Your Honor.

1 CROSS-EXAMINATION

2 BY MR. HARDEN

3 Q. Good morning, Mr. Kielisch.

4 A. Good morning.

5 Q. Am I pronouncing your name correctly?

6 A. Yes, you are.

7 Q. Okay. Thank you.

8 So, I just want to make a couple of  
9 things certain from the outset. In this case you  
10 have not done an actual appraisal or a mass  
11 appraisal of real estate in Missouri; is that  
12 correct?

13 A. That is correct.

14 Q. Okay. And because you agree, don't you,  
15 that it would be unlawful for you to conduct any  
16 appraisal in Missouri because you're not licensed as  
17 an appraiser to do that in the state of Missouri.  
18 Is that also correct?

19 A. That is correct.

20 Q. Okay. So again, hope this isn't  
21 cumulative, but to be clear, you in your testimony  
22 and here today are not saying that the Grain Belt  
23 Express project will have any specific devaluation  
24 of any real estate in Missouri because to do so  
25 would be a violation of Missouri state law; is that

1     **correct?**

2             A.     No. To do so, if I was specifically  
3     looking at a piece of property, of real estate, then  
4     that would be, but to have a general opinion on the  
5     impact would not.

6             **Q.     Fair enough. Fair enough.**

7                     **Now, have you been subject to any**  
8     **investigation or disciplinary action by a**  
9     **professional standards or ethics board in the state**  
10    **of Missouri or any other state?**

11            A.     Only in North Dakota.

12                    Let's make this clear. Could you  
13    specify that question?

14            **Q.     I think we're getting to your exception.**  
15    **So, specify whether or not there's been an**  
16    **investigation into a standards violation or an**  
17    **ethical misconduct by a state professional board.**

18            A.     Well, any complaint would result in that  
19    analysis. So, to that degree, I would have to say  
20    there were others, but the complaints were all  
21    dismissed.

22            **Q.     Okay. Fair enough.**

23                    **What I've handed you is a document from**  
24    **the North Dakota Real Estate Appraiser**  
25    **Qualifications and Ethics --**

1 JUDGE BUSHMANN: Excuse me, Mr. Harden.  
2 Do you have any bench copies?

3 MR. HARDEN: Yeah. I wasn't going to  
4 quite admit it -- or offer it quite yet, but I'd be  
5 happy to give you one. There's two. Would you like  
6 more?

7 JUDGE BUSHMANN: I think that's fine.

8 MR. HARDEN: Thank you.

9 Q. (By Mr. Harden) The document that I've  
10 handed you is entitled at the top North Dakota Real  
11 Estate Appraiser Qualifications and Ethics Board; is  
12 that right?

13 A. That is correct.

14 Q. Okay.

15 MR. MILLS: Mr. Harden, do you have  
16 copies for counsel?

17 MR. HARDEN: Can you pass that? Oh,  
18 give me one.

19 MR. MILLS: Thanks.

20 Q. (By Mr. Harden) I'm looking at the  
21 second paragraph, investigations. Looks like it's  
22 marked INV Investigation 214-133. Do you see where  
23 I'm referring to?

24 A. I do.

25 Q. Okay. And tell me if I read this



1 paragraph correctly. The respondent, Kurt Kielisch,  
2 was on line for discussion. The complaint alleges  
3 bias and a general lack of competency. A detailed  
4 discussion took place. Did I get that part right?

5 A. You did.

6 Q. Some of the issues of concern discussed  
7 included the value was based on sales from a  
8 different county. The agricultural market is very  
9 location-specific. Therefore, using sales outside  
10 of the locale may be disleading. Have I gotten that  
11 right so far?

12 A. You have.

13 Q. Disregard of the income approach when  
14 the investor is buying, an explanation should be  
15 provided when exclude -- when excluding of an  
16 approach to value, did not state mineral property  
17 rights, did not appear to pair similar sales with  
18 similar properties with transmission lines. Have I  
19 gotten everything accurate so far?

20 A. You have read it correctly.

21 Q. Thank you. No. 5: The lack of support  
22 for time adjustment. 6: Lack of reasoning or  
23 support for reconciliation. The board concludes the  
24 report shows fundamental issues that are deficient.  
25 Based on the allegations and review of all the

1 information provided, the board determined there was  
2 probable cause to believe a violation occurred. Joe  
3 Ibach moved to proceed with disciplinary action.  
4 Tim Timian seconded the motion. Then it goes  
5 through the various names of the board. All voted  
6 yes to the motion. The vote was unanimous. The  
7 motion carried.

8 Has this incident subsequently been  
9 referred to the attorney general of North Dakota?

10 A. No, not to the attorney general.  
11 There -- it is still in the negotiation stages at  
12 this point and we have refuted their charges. We  
13 believe they are also very bias and they lack  
14 foundation and, so, we have continued discussion  
15 with them at this point.

16 Q. Thank you, Mr. Kielisch.

17 Now, you are familiar with the Uniform  
18 Standards of Professional Appraisal Practice, are  
19 you not?

20 A. I am, yes.

21 Q. And is it or is it not your contention  
22 that the analysis that you provided in your rebuttal  
23 testimony conforms to the standards established by  
24 the Uniform Standards of Professional Appraisal  
25 Practice, which I guess we'll call it -- is it

1 **USPAP?**

2 A. USPAP for short.

3 **Q. USPAP, I'll use that.**

4 **So, is it your contention that the**  
5 **analysis that you provided in your rebuttal**  
6 **testimony conforms to the standards established by**  
7 **those uniform standards, the USPAP?**

8 A. No. It doesn't have to be. This is  
9 consulting. Consulting is not in the USPAP and  
10 there are no standards in consulting.

11 **Q. Okay. There are no stand -- there are**  
12 **no standards in consulting?**

13 A. Well, let's clarify that one. No  
14 standards -- USPAP has standards, standards 1,  
15 standards 2, standards 3 and so forth. What I'm  
16 saying is there are no standard 1, 2, 3, or 4, what  
17 have you, for consulting in USPAP. As a matter of  
18 fact, the USPAP has dropped consulting out of its  
19 authority.

20 **Q. Okay. But, Mr. Kielisch, would you**  
21 **agree with me that even in the consulting context,**  
22 **so that one could assess the quality of the**  
23 **consultation that some professional -- that some**  
24 **professional standards should be applied?**

25 A. Well, certainly.

1 Q. Okay. Thank you.

2 Wouldn't it make sense that as an  
3 appraiser in with consulting that you would use the,  
4 the USPAP as a -- as a standard that you would apply  
5 to your own work?

6 A. Again, the USPAP does not apply --

7 Q. No. I --

8 A. -- to real estate consulting --

9 Q. Right. My question --

10 MR. AGATHEN: Excuse me. Could the  
11 witness finish his answer, please.

12 MR. HARDEN: Certainly.

13 A. So, I don't see why it would have to --  
14 there are no standards in the USPAP that deals with  
15 consulting.

16 Q. (By Mr. Harden) I understand that.

17 A. Okay.

18 Q. And it's your professional opinion that  
19 it would not -- using those standards would not be  
20 appropriate or right or -- is that your testimony?

21 A. I think you're talking in circles. Not  
22 using standards of something doesn't exist.

23 Q. Okay. Now, you provide a definition of  
24 sorts on page 5 of your rebuttal testimony for  
25 market value; is that correct?

1 A. Yes, that would be correct.

2 Q. And again, with the understanding that  
3 they don't apply, that market value definition that  
4 you provide is different than the market value  
5 definition which is provided in the USPAP; is that  
6 correct?

7 A. Oh, it's much more lengthy in USPAP and  
8 that's why I started in laymen's terms what it is.  
9 This wasn't a definition of USPAP.

10 Q. Sure. So, in your definition of market  
11 value, you don't -- you don't mention the concept of  
12 putting in any conditions into the market value; is  
13 that correct?

14 A. Boy, you better explain that one. I'm  
15 not following you.

16 Q. Sure, sure. In the -- in the USPAP  
17 definition of market value, actually in the  
18 comment -- and we can subject to check. I have it  
19 here. -- it talks about the appraiser putting in  
20 conditions into the definition of what he deems  
21 market value, people's perceptions, etc., etc. You  
22 don't -- when you define market value, you've  
23 already said that it's not the same as the USPAP  
24 definition, but you don't attempt to put any  
25 conditions on establishing the market value; is that

1 correct?

2 A. Well, what do you mean by conditions?

3 Q. Okay.

4 A. Can you elaborate that?

5 Q. Absolutely.

6 A. I'm not really following you.

7 Q. So, and please correct me if I get the  
8 USPAP understanding wrong. USPAP provides a comment  
9 as to what it means by these conditions and it says  
10 that generally they fall into three categories: The  
11 relationship, knowledge, and motivation of the  
12 parties, the seller and buyer, who the parties are  
13 to the transaction. No. 2: The terms of the sale.  
14 Is it cash? Is it equivalent cash? No. 3: The  
15 conditions of the sale. And then it cautions  
16 appraisers. It says appraisers are cautioned to  
17 identify the exact definition of the market value  
18 and its authority applicable in each appraisal  
19 completed for the purpose of market value. So, when  
20 I say conditions, I'm referring to that definition  
21 and that comment within the USPAP.

22 A. Okay. Well, I do think my answer on the  
23 page that you cited clarifies that in laymen's  
24 terms. And again, this is not an appraisal. So,  
25 I'm not giving a value to a specific piece of

1 property.

2 Q. Sure. And to a certain extent, I kind  
3 of agree with you. So, let's talk about Category  
4 No. 1, the relationship, knowledge and motivation of  
5 the parties. Would you agree that this category  
6 affects one of the major themes of your testimony,  
7 which is the perception of a would-be buyer?

8 A. The relationship between the buyers?  
9 No. A perception is a buyer's perception. That  
10 isn't in direct relation with another individual.  
11 What they're talking about there is if you happen to  
12 have a brother or sister or family relation,  
13 something like that.

14 Q. Okay. Would you agree that it says in  
15 essence that before you try to determine people's  
16 perceptions that you should determine what the  
17 relationship, knowledge, and motivation of the  
18 potential buyers are?

19 A. Yeah, generally.

20 Q. Okay. And then you write on page 5,  
21 line 8 through 11 of your testimony, essentially the  
22 value of property is based on the perception of the  
23 buyer. Understand that perception drives value is  
24 the foundation in analyzing the effect that  
25 electrical transmission lines have on property

1 value. Is that correct?

2 A. That is correct.

3 Q. And then further down on page 6 you  
4 provide a buyer's perception is based on what they  
5 hear, see and read. And then paraphrasing, you say  
6 we're a nation that gets a lot of our information  
7 from a whole bunch of different sources, and you  
8 list some, one being the internet. Did I correctly  
9 paraphrase that testimony?

10 A. Yes.

11 Q. Okay. And then, as I understand your  
12 testimony, in an endeavor to figure out what  
13 people's perceptions are regarding HV high voltage  
14 transmission lines you Googled do high voltage power  
15 lines pose a risk to health; is that correct?

16 A. Yes. As an example of what, what is out  
17 there, yes.

18 Q. Sure. But from that search -- well, let  
19 me ask you this: Are you generally familiar with  
20 the concept of selection bias?

21 A. Yes.

22 Q. Okay. Would a decent definition of  
23 selection bias be a selection of individuals, groups  
24 or data for analysis in such a way that proper  
25 randomization is not achieved, thereby ensuring that



1 the sample obtained is not representative of the  
2 population intended to be analyzed? Is that a  
3 fair --

4 A. That sounds like a quote out of a  
5 textbook, but --

6 Q. Actually, I Googled it.

7 A. Oh, there you go. Yes.

8 Q. But is that a fair definition?

9 A. I would say, yes.

10 Q. Okay. All right. So, just to make  
11 sure. When you Googled this, the phrase, you didn't  
12 make any attempt to discern what percentage of the  
13 potential real estate buying public would actually  
14 in the very first instance go and Google that  
15 question to begin with, did you?

16 A. That is correct.

17 Q. Okay. So, we run into the same similar  
18 problem, don't we, for instance when -- well, let  
19 me -- let me move on.

20 You didn't make any attempt to calculate  
21 what weight or what fraction of the potential buyers  
22 would do that search; is that also correct? What  
23 weight -- those people who did do that search, you  
24 didn't make any attempt to go, well, how many of  
25 those people only put a little bit amount of weight

1 in the things that they get off the internet?

2 A. That would be correct.

3 Q. Okay. So, having neither taken into  
4 account the initial selection bias of the people who  
5 would Google that to begin with, okay, or the  
6 necessary weight that the people who would Google  
7 that, okay, in your testimony did you conflate all  
8 of that to the perception of the general public?

9 A. I gave -- in my testimony, I was stating  
10 that this is an example of what the general public  
11 would receive on such a Google. You can actually  
12 Google any different way you like, and I've done  
13 several of them, and you will come up with a very  
14 similar type of response. This was just one  
15 example.

16 Q. Sure. So, say, as opposed to a Google  
17 search for do HVTL lines cause a health risk, you  
18 might put in do HVTL lines create a health benefit,  
19 in which case you might get those people who -- you  
20 would get a different set of results?

21 A. Well, you might. I highly doubt that.

22 Q. Likewise, you did the same thing with  
23 YouTube; isn't that correct? The same methodology  
24 applied to YouTube?

25 A. Yes.

1           Q.    And in order to discern the market value  
2    impact, which as you explained is a function of  
3    perception, you then got a bunch of results back  
4    from YouTube and assumed that those results  
5    reflected the perception of the entire population of  
6    potential buyers of real estate.  Is that also  
7    correct?

8           A.    Again, an example of what an individual  
9    would receive if they went to YouTube with that type  
10   of search.

11          Q.    Okay.  Now, I just want to make sure,  
12   Mr. Kielisch.  You, yourself, do not believe  
13   everything that you read on the internet; is that  
14   correct?

15          A.    No, I do not.

16          Q.    Okay.  Okay.  Going back to the USPAP,  
17   which I understand doesn't apply here.  Would you  
18   agree that the USPAP defines a mass appraisal, okay,  
19   as a process of valuing a universe of properties as  
20   of a given date using a standard methodology  
21   employing common data and allowing for statistical  
22   testing?

23          A.    Yes, and concluding a value.

24          Q.    Okay.  So, with the understanding that  
25   it doesn't apply, when you look at a mass set of

1 real estate and try to determine the impact of a  
2 transmission line or any other variable like you did  
3 in this case or you at least proffered the studies,  
4 would that more or less fit within the definition of  
5 a mass appraisal under the USPAP?

6 A. No.

7 Q. Okay. Would you agree that even in  
8 consultation, consultation work as opposed to the  
9 strict definition of appraisal, that it would make  
10 sense for a person who is engaged in your line of  
11 work to use methodology and some standards which are  
12 generally accepted by an appraiser's peers?

13 A. Methodology, yes.

14 Q. Okay. Methodology.

15 A. Sure.

16 Q. Okay. Getting into some of the specific  
17 studies that you conducted. Would you agree that a  
18 multiple regression analysis is a statistical  
19 analysis which is performed to try to determine the  
20 relationship between an event like a real estate  
21 sale and multiple variables like whether or not  
22 there's a transmission line or it could be other  
23 things, distance from a grocery store or any number  
24 of different variables? Would you agree with that,  
25 that that's what a regression analysis is or

1 **multiple regression analysis?**

2 A. Yeah, the multiple regression analysis,  
3 I'm not so sure I agree with this event concept, but  
4 the multiple regression analysis is a methodology,  
5 statistical methodology designed to extract a  
6 variable of which you are trying to conclude if  
7 there is a value or not to that one singular  
8 variable amongst many.

9 Q. **Amongst many?**

10 A. Yes.

11 Q. **Okay. So, you've got a whole bunch of**  
12 **variables and you're trying to determine the impact**  
13 **of one of those specific variables. Do I have the**  
14 **right idea there?**

15 A. Well, you would have to have at least  
16 two.

17 Q. **Okay. For multiple?**

18 A. No. Just for a --

19 Q. **Oh, just for --**

20 A. -- a regression.

21 Q. **Okay.**

22 A. Yeah, that wouldn't be multiple. That  
23 would be regression.

24 Q. **Got you. Okay.**

25 **Do you agree that in a multiple**

1 regression analysis if there's an important  
2 relationship between the number of observations,  
3 which in this case is real estate sales, right, and  
4 the number of independent variables?

5 A. Correct.

6 Q. And would you agree that as the number  
7 of variables increase, so too must the number of  
8 observations for your regression analysis?

9 A. In the ideal, ideal world, yes.

10 Q. Okay. So, conversely, would it be  
11 accurate to say that the fewer number of  
12 observations in a regression analysis, the less  
13 confidence one can have in the relationship of the  
14 variables to what you're -- the event or the sale or  
15 the observation?

16 A. Well, and this is an interesting  
17 question because this is where the understanding of  
18 real estate and appraisal cross over as pure  
19 statistical type of analysis. Statistical analysis  
20 is simply a tool in the belt of a professional that  
21 he can utilize and to understand what the study is  
22 doing. So, even as few as, you know, five or six  
23 observations to what that variable you're looking  
24 for can be very useful and very instructive, if you  
25 understand what you're doing and if you understand

1 the market and if you have looked at all those  
2 variables independently.

3 **Q. Okay. So, respectfully, I think I kind**  
4 **of understand the answer to the question that I,**  
5 **perhaps, did not ask.**

6 **So, let me -- so, in a multiple**  
7 **regression analysis, I'm talking about the tool,**  
8 **right?**

9 A. Yes.

10 **Q. The tool. Is the tool more useful if**  
11 **you've got more, more variables per observation or**  
12 **is it less useful?**

13 A. I think you meant it the other way  
14 around.

15 **Q. Well --**

16 A. You said more variables per  
17 observations. An observation would be a sale.

18 **Q. Right.**

19 A. So, I think you meant more sales per  
20 variable.

21 **Q. Yes.**

22 A. Okay.

23 **Q. Thank you, sir.**

24 A. All right.

25 **Q. So, is that accurate?**

1 A. Generally --

2 **Q. Is the tool more --**

3 A. Yeah.

4 **Q. -- useful then?**

5 A. Generally speaking. And understand that  
6 statistics was never designed for real estate  
7 analysis. Statistics was actually designed in the  
8 social sciences into regression analysis and there,  
9 of course, you have the ability to expand your  
10 study, for instance, adding new people. The problem  
11 with real estate is they don't have that ability.  
12 You can't just go create more sales. You are --  
13 you're given what you have and that is what you need  
14 to work with and then by your expertize in the field  
15 and understanding value in real estate you can  
16 narrow the error, if you will, of the analysis to a  
17 point where it is giving a very good result or  
18 supportable result I should say.

19 **Q. Do you agree that in your impact study**  
20 **number one you used 70 sales in -- well, first of**  
21 **all, as a general rule of thumb in the appraisal**  
22 **consultation business how many -- how many variables**  
23 **should you have per observation?**

24 A. Well, in statistics and -- the ideal in  
25 statistics is 15 per. However, you can have as



1 little as five per if you have a high quality study.

2 **Q. So, in your impact study number one you**  
3 **used 70 sales and specified 21 independent variables**  
4 **for roughly 3.5 sales for every one independent**  
5 **variable; is that correct?**

6 A. I guess that would be right. I didn't  
7 run that.

8 **Q. And for your study number two you used**  
9 **21 -- or 91 sales and specified 18 independent**  
10 **variables for a ratio of roughly five sales per**  
11 **independent variable; is that also correct?**

12 A. My study number two?

13 **Q. Yeah.**

14 A. Okay.

15 **Q. Your impact study number two.**

16 A. Right. That was by Sanders & Colwell,  
17 and I just participated in assistance in that. I  
18 did not write the study.

19 **Q. Okay. And would you also agree that**  
20 **it's important in a statistical analysis to remove**  
21 **outliers from the data set you are analyzing to**  
22 **increase the accuracy of the prediction?**

23 A. Correct. And an outlier, to understand  
24 that, of course, in real estate is you have to look  
25 at the actual sale, examine that sale to determine

1 whether or not it would be an outlier in the greater  
2 scheme of the market.

3 Q. So, in your impact study number one of  
4 the Illinois -- of the central Illinois transmission  
5 line sales, you had six sales which ranged from  
6 30 acres to 165 acres and you have one sale of  
7 700 -- or I'm sorry, 879.9 acres; is that correct?

8 A. That's correct.

9 Q. Would you agree that in -- well, let me  
10 ask you this. So, in comparing properties in an  
11 attempt to isolate the effect of a particular  
12 variable like a transmission line, would it be  
13 appropriate to include one property out of whatever  
14 data set that it was, I believe of eight properties,  
15 in which the one property is located directly  
16 adjacent to a coal-fired power plant when the rest  
17 of the properties that are examined are not?

18 A. Yes. We examined that. We looked at  
19 that and concluded it was.

20 Q. That it was appropriate?

21 A. Yes.

22 Q. Finally, would you -- would you also  
23 agree that when performing an appraisal or  
24 consultation either with whatever statistical tool  
25 that you choose to employ, that it's important not

1 to cherry-pick data and to use all of the data  
2 within a given set so that you're not cherry-picking  
3 sales which conform to a predetermined outcome?

4 A. Okay. That's kind of a loaded question.  
5 The cherry-picking concept is to pick sales that  
6 would benefit you, even though there are other sales  
7 that may not. However, you do have to understand  
8 that when you're looking at sales, there are many  
9 factors that you have to put into them to see  
10 whether they should be included or not. In our  
11 studies we stated what those factors were, what our  
12 parameters were, and those sales that fit into those  
13 parameters and factors were included.

14 MR. HARDEN: No further questions.

15 JUDGE BUSHMANN: Did you intend to offer  
16 Exhibit 133?

17 MR. HARDEN: Yes, please.

18 (Grain Belt's Exhibit 133 was offered  
19 into the record.)

20 JUDGE BUSHMANN: Are there any  
21 objections to its receipt?

22 MR. AGATHEN: No, Your Honor.

23 JUDGE BUSHMANN: Exhibit 133 is received  
24 into the record.

25

1 (Grain Belt's Exhibit 133 was received  
2 into record.)

3 JUDGE BUSHMANN: Redirect by Missouri  
4 Landowners?

5 MR. AGATHEN: Yes, Your Honor. Just a  
6 few.

7 REDIRECT EXAMINATION

8 BY MR. AGATHEN

9 Q. With respect to Exhibit 133, that's the  
10 document from the North Dakota. Do you have a copy  
11 of that?

12 A. I do.

13 Q. Could you explain the background of what  
14 led to these alleged allegations?

15 A. Certainly. This was a power line case  
16 in North Dakota where the opposing -- there was an  
17 opposing appraiser and, of course, I was on the  
18 other side. I was giving testimony for the  
19 landowner. The power line company went to suit and  
20 they lost the suit. The jury did find in favor of  
21 the landowner, and after that the opposing appraiser  
22 filed a complaint on the encouragement of the power  
23 line company's attorney. We have the email with her  
24 telling her to do that. So, this complaint really  
25 came out of the desire of the power company to, if

1 you will, punish me. Also, the desire of the  
2 individual to limit competition in the state of  
3 north -- North Dakota.

4 **Q. And what's the current status of this**  
5 **complaint?**

6 A. Current status is we're still in the  
7 negotiation. We, we hold and contend and we have  
8 very significant proof that we did the appraisals  
9 correctly or I did the appraisals correctly, that  
10 the potential errors that the board saw, notice they  
11 word -- used the word "may" and "potential" in there  
12 or "probable," that they are not viable in their  
13 argument. We have already employed a USPAP expert  
14 who has given -- has written us an opinion to that  
15 effect, as well as other individuals who have given  
16 us opinion to that effect. So, we're right now  
17 still discussing it with the attorney from the North  
18 Dakota board on dropping charges.

19 **Q. Thank you.**

20 **Did this particular complaint, I think**  
21 **you said it dealt with valuation of a certain**  
22 **specific piece of property?**

23 A. Yes, it did.

24 **Q. Do any of these allegations have**  
25 **anything at all to do with the evaluation that you**

1 **did for this case, which was not dealing with a**  
2 **valuation of a specific piece of property?**

3 A. No, they do not.

4 **Q. Could you explain why?**

5 A. Well, in the complaint in North Dakota  
6 was specific to the property that I was valuing or  
7 appraising. What I'm doing here is a consulting.  
8 Consulting is looking at the broader picture and  
9 really to the question does high voltage  
10 transmission lines impact property value, in  
11 specific agricultural property value, for almost all  
12 of the properties that are being dealt with on this  
13 line deal with agricultural properties and not  
14 urban, suburban or, you know, those type of  
15 residential properties. So, this is an opinion of  
16 the impact. The other would be an opinion of value.

17 **Q. Thank you.**

18 **Do you recall some questions dealing**  
19 **with a perception of the electric magnetic fields**  
20 **and the impact that public's conception might have**  
21 **on property values?**

22 A. I do recall a question about public  
23 perception, yes.

24 **Q. Do you have any doubt based on your**  
25 **professional experience that a significant portion**

1 of the public have a concern with the impacts of HV  
2 trans -- HV transmission lines based on health  
3 concerns, whether legitimate or not?

4 A. That topic comes up on a regular basis.

5 Q. And so, there is a public perception  
6 that, in some people's mind at least, that there is  
7 a danger?

8 A. Yes.

9 Q. And what impact, even if there's no  
10 foundation for that perception, what impact is that  
11 going to have on the property values?

12 A. Well, the property values that are  
13 dealing with agricultural property values, the  
14 impact would have -- the biggest concern of those  
15 working in and in close proximity to the power  
16 lines, that would be the farmers and the farm help.  
17 The rural residential, which there are some  
18 properties that are being dealing with a rural  
19 residential concept, there their concern would be  
20 more to their individual health and their children's  
21 health.

22 Q. One other question. You were asked  
23 about one of your studies in this particular case  
24 where you included property adjacent to the coal  
25 plant in your analysis. Could you explain why you

1 **thought that was reasonable?**

2 A. Yes. That property was used for purely  
3 agricultural purposes, as were all the other  
4 properties in our analysis and the presence of a  
5 coal plant across the road would not impact the use  
6 of the property for agricultural purposes.

7 MR. AGATHEN: That's all I have, Judge.

8 JUDGE BUSHMANN: Mr. Kielisch, that  
9 completes your testimony, sir.

10 THE WITNESS: Thank you.

11 JUDGE BUSHMANN: You may step down now.  
12 You're excused.

13 Why don't we take the final MLA witness  
14 before breaking for lunch.

15 MR. AGATHEN: MLA calls Mr. Don  
16 Lowenstein.

17 JUDGE BUSHMANN: Do you solemnly swear  
18 or affirm that the testimony you're about to give  
19 will be the truth?

20 THE WITNESS: I do.

21 JUDGE BUSHMANN: You may be seated.

22 LOUIS DONALD LOWENSTEIN,  
23 having been called as a witness herein, having been  
24 first duly sworn, was examined and testified as  
25 follows:



1 DIRECT EXAMINATION

2 BY MR. AGATHEN

3 Q. Would you state your name and spell it  
4 for the record, please.

5 A. My name is Louis Donald Lowenstein.  
6 L-O-U-I-S, Donald, L-O-W-E-N-S-T-E-I-N.

7 Q. Mr. Lowenstein, did you prepare rebuttal  
8 testimony for this case, which has been marked as  
9 Exhibit No. 300?

10 A. Yes, sir. I did.

11 Q. Do you have a change to make to that  
12 testimony?

13 A. I have a very slight change on page 17,  
14 line number 10. I would like to strike the last six  
15 words, "GBE after the line is energized," and  
16 replace it with, "line during construction," so that  
17 it directly answers the question.

18 Q. If I were to ask you the questions in  
19 the rebuttal testimony today, with that change,  
20 would your answers be the same today as those set  
21 forth therein?

22 A. Yes, sir. They would be.

23 MR. AGATHEN: I would offer Exhibit 300  
24 at this time, Your Honor.

25

1 (MLA's Exhibit 300 was offered into the  
2 record.)

3 JUDGE BUSHMANN: Any objections?

4 Hearing none. 300 is received.

5 (MLA's Exhibit 300 was received into the  
6 record.)

7 JUDGE BUSHMANN: Cross-examination by  
8 Show Me Landowners?

9 MR. LINTON: No questions.

10 JUDGE BUSHMANN: Rockies Express?

11 MS. GIBONEY: No questions, Judge.

12 JUDGE BUSHMANN: Commission staff?

13 MS. ASLIN: No questions.

14 JUDGE BUSHMANN: MIEC?

15 MR. MILLS: No questions.

16 JUDGE BUSHMANN: Infinity Wind Power?

17 MS. PEMBERTON: No questions.

18 JUDGE BUSHMANN: Wind on the Wires?

19 MR. BRADY: No questions, Your Honor.

20 JUDGE BUSHMANN: MJMEUC?

21 MR. HEALY: Just a couple, Judge.

22 CROSS-EXAMINATION

23 BY MR. HEALY

24 Q. Mr. Lowenstein, how are you doing today,  
25 sir?

1 A. Fine. Thank you.

2 Q. You are president of the Missouri  
3 Landowners Association; is that correct?

4 A. That is correct.

5 Q. You don't purport to represent the  
6 interests of all Missouri landowners, do you?

7 A. No, sir. Just that -- the members of  
8 our organization.

9 MR. HEALY: That's all I have. Thank  
10 you, sir.

11 JUDGE BUSHMANN: Grain Belt Express?

12 MR. HARDEN: Thank you.

13 CROSS-EXAMINATION

14 BY MR. HARDEN

15 Q. Good morning, Mr. Lowenstein.

16 A. Good morning.

17 Q. I'm Joshua Harden.

18 Just very quickly. Now, are you a CPA,  
19 sir?

20 A. I am.

21 Q. Okay. You're not a licensed real estate  
22 appraiser in the state of Missouri; is that correct?

23 A. No, sir.

24 Q. And you're not a barred attorney in the  
25 state of Missouri either?

1 A. I'm a licensed CPA.

2 Q. Okay. Got you. But you're also --  
3 you're not an attorney; is that correct?

4 A. No, sir.

5 Q. Thank you.

6 And I know it sounds silly, but you're  
7 not a county assessor, right?

8 A. No.

9 Q. And you are aware that county assessors  
10 have certain annual educational requirements?

11 A. For the items that they are required to  
12 assess, I would assume that's true.

13 Q. Okay. Would it be fair to say that much  
14 of your testimony is dedicated to the idea that  
15 Grain Belt Express cannot or any particular county  
16 cannot project what the tax revenues will be from  
17 the project in the future?

18 A. That is a part, but that is not the  
19 majority. That is roughly one-third of my  
20 testimony.

21 Q. Okay, okay. And there's a  
22 substantial -- would you -- would you agree that  
23 there's a substantial amount of your testimony which  
24 also deals with the future projection -- let me back  
25 up and strike that question.

1                   Your conclusion is that it's very  
2   difficult or impossible for property taxes to be  
3   predicted for this project, is that right, because  
4   you don't know how the business is going to --

5           A.    I don't think I would use the word  
6   difficult. They are impossible.

7           Q.    Okay. Fair enough. Fair enough.

8                   And much of your testimony is dedicated  
9   to agricultural business in northern Missouri; is  
10  that also correct?

11          A.    Yes, sir. I spoke about agritourism.

12          Q.    Agritourism, okay.

13                   And would you agree that any specific  
14  projection of agricultural tourism in the future  
15  would equally be impossible to predict with any  
16  degree of specificity?

17          A.    No, I wouldn't agree with that.

18                   MR. HARDEN: Okay. I have no further  
19  questions.

20                   JUDGE BUSHMANN: Questions?

21                   Redirect by Missouri Landowners.

22                   MR. AGATHEN: Thank you, Judge. Just  
23  one question.

24

25

1 REDIRECT EXAMINATION

2 BY MR. AGATHEN

3 Q. Mr. Lowenstein, you were asked if you  
4 are a county assessor, which you said you are not,  
5 correct?

6 A. That is correct.

7 Q. Did you attempt to overcome your lack of  
8 experience in that area by consultation with the  
9 state tax commission?

10 A. Yes, sir. A big part of my business  
11 that I do every day is of a consultive nature and  
12 it's based on obtaining facts, focusing on the  
13 objective of the problem, looking at options,  
14 drawing conclusions. And for the purpose of this  
15 testimony I spent a significant amount of time with  
16 the Clinton County Assessor, Clinton County  
17 Collectors and the Missouri State Tax Commission.

18 Q. Could you describe briefly your  
19 communications with the state tax commission.

20 A. Sure. I had a working relationship with  
21 one of the primary people on the Missouri State Tax  
22 Commission. That person didn't guide me through my  
23 testimony, but, in fact, provided factual feedback  
24 and framework for me to work within.

25 Q. To look at the correctness of your

1 **testimony?**

2 A. Correct. Every word of my testimony was  
3 reviewed by the Missouri State Tax Commission for  
4 factualness.

5 MR. AGATHEN: That's all I have, Judge.

6 JUDGE BUSHMANN: Thank you, sir. That  
7 completes your testimony. You're excused.

8 THE WITNESS: All right.

9 JUDGE BUSHMANN: Let's break for lunch  
10 right now. We'll be in recess until 1 o'clock.

11 (A lunch recess was taken.)

12 JUDGE BUSHMANN: All right. Let's go  
13 back on the record.

14 We are ready for our final witness.

15 And, Mr. Linton, you want to start your --

16 MR. LINTON: Yes. I got some questions  
17 remaining on laying the foundation.

18 JUDGE BUSHMANN: Yes. Why don't you  
19 start from the top.

20 GLEN JUSTIS,  
21 having been called as a witness herein, having been

22 first duly sworn, was examined and testified as

23 follows:

24

25

1 DIRECT EXAMINATION

2 BY MR. LINTON

3 Q. All right. Would you, please, state  
4 your name for the record.

5 JUDGE BUSHMANN: Just a second. Just a  
6 reminder, Mr. Justis, you're still under oath.

7 THE WITNESS: I understand.

8 JUDGE BUSHMANN: Okay. Go ahead.

9 Q. (By Mr. Linton) Please state your name  
10 for the record.

11 A. Glen Justis.

12 Q. And would you state your employer.

13 A. I'm self-employed by a firm Acclaim  
14 Strategies, LLC.

15 Q. Now, have you before you what has been  
16 marked as Exhibits 400 proprietary and 405-HC, as  
17 well as 420?

18 A. I believe so, yes.

19 Q. Did you prepare all of these exhibits?

20 A. I did.

21 Q. Do you have any changes to make to the  
22 totality of these exhibits?

23 A. I have the changes that I proposed  
24 earlier today and I would still like to, to offer  
25 those as, as, as corrections.



1           Q.    And if I were to ask you the questions  
2    contained in the testimony today, would your answers  
3    be the same as, as adjusted by Exhibit 420?

4           A.    Yes, they would.

5           Q.    Is your testimony true and accurate to  
6    the best of your knowledge and belief?

7           A.    Yes, it is.

8           MR. LINTON:  I offer the testimony into  
9    evidence and offer the witness for  
10   cross-examination.

11                    (Show Me's Exhibits 400, 405-HC and  
12    420-HC were offered into the record.)

13           JUDGE BUSHMANN:  Okay.  I'm going to  
14   take up first 400 and 405.  And just to clarify, 405  
15   is HC?

16           MR. LINTON:  Yes.

17           JUDGE BUSHMANN:  I thought that was  
18   proprietary, but it's an HC document?

19           MR. LINTON:  Oh, excuse me.  I'm sorry.  
20   Yes, 400 started out as HC and then --

21           JUDGE BUSHMANN:  So, 400 is proprietary,  
22   but not 405?

23           MR. LINTON:  405 is HC and there -- the  
24   court reporter also has a non-proprietary version.

25           JUDGE BUSHMANN:  So, are there any

1 objections to the receipt of Exhibits 400 and 405?

2 Hearing none. Those are received into  
3 the record.

4 (Show Me's Exhibits 400 and 405-HC were  
5 received into the record.)

6 JUDGE BUSHMANN: Now, are there any  
7 objections to 420?

8 MR. ZOBRIST: Yes, Judge. We do object  
9 to 420. It is more than an errata sheet. It is a  
10 change in testimony. We have not had time to assess  
11 it. The witness has had over 30 days since the  
12 filing of surrebuttal. We've received no advanced  
13 notice of anything and it is unfair at this point to  
14 attempt to change testimony on this wholesale basis  
15 on the very day that the witness testifies. So, we  
16 object to Exhibit 420.

17 JUDGE BUSHMANN: And, Mr. Linton, your  
18 response?

19 MR. LINTON: Yes. It was a good faith  
20 effort to make adjustments that Mr. Justis thought  
21 were appropriate in light of Mr. Berry's surrebuttal  
22 testimony. Again, it was made in good faith. If  
23 applicant had wanted to cross-examine Mr. Justis,  
24 this information would have been provided. This  
25 just gave applicant an opportunity to review how to

1 cross-examine Mr. Justis on these issues.

2 JUDGE BUSHMANN: Okay. Well, here's  
3 where I am on this exhibit. Under Commission Rule 4  
4 CSR 240-2.130 Section 10 it says that no party shall  
5 be permitted to supplement prefiled prepared direct,  
6 rebuttal or surrebuttal testimony unless ordered by  
7 the presiding officer or the Commission. A party  
8 shall not be precluded from having a reasonable  
9 opportunity to address matters not previously  
10 disclosed which arise at the hearing. I think that  
11 this rule applies in this situation. I think it  
12 gives the Commission some discretion in what to do  
13 with this sort of situation where a correction could  
14 step over the line into supplementing testimony.

15 My opinion is that I've provided Grain  
16 Belt Express with a reasonable opportunity to  
17 address matters not previously disclosed by giving  
18 several hours to review and an opportunity to  
19 cross-examine the witness. There is an additional  
20 reason why I'm going to admit the exhibit and that  
21 is because Mr. Justis has already previously  
22 testified that some of the information provided in  
23 his testimony is not correct, and I think the  
24 Commission has an obligation to use correct  
25 information to the extent possible in reaching its

1 determination. So, for that reason I'm going to  
2 overrule the objection and receive 420 into the  
3 record of the hearing.

4 (Show Me's Exhibit 420-HC was received  
5 into the record.)

6 JUDGE BUSHMANN: First cross-examination  
7 would be by Missouri Landowners Alliance.

8 MR. AGATHEN: No questions, Your Honor.

9 JUDGE BUSHMANN: Rockies Express?

10 MS. GIBONEY: No questions, Judge.

11 JUDGE BUSHMANN: Commission staff?

12 MR. WILLIAMS: No questions.

13 JUDGE BUSHMANN: MIEC?

14 MR. MILLS: No questions.

15 JUDGE BUSHMANN: Infinity Wind Power?

16 MS. PEMBERTON: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MS. PEMBERTON

19 Q. Good afternoon, Mr. Justis.

20 A. Good afternoon.

21 Q. I want to talk to you a little bit about  
22 the MISO planning reserve requirements.

23 A. Uh-huh.

24 Q. In your work papers you've assumed a  
25 capacity factor of 80.5 percent. Is that a correct

1 value?

2 A. For what?

3 Q. For combustion turbines that would need  
4 to be brought on line to offset any wind that would  
5 be coming in for purposes of planning requirements.

6 A. I believe, if I understand what you're  
7 referring to, I assumed 80.5 percent, let me think  
8 about this for just a moment please, on the  
9 combined-cycle plant, which was consistent with  
10 Mr. Berry's original testimony. So, I thought that  
11 was a reasonable number for that purpose and I  
12 accepted it.

13 Q. And let me make sure that I understand  
14 exactly what that means. So, for the purposes of  
15 the Infinity contract with MJMEUC, the 200 megawatt  
16 of wind that would be coming on line via the Grain  
17 Belt Express project, you're suggesting that 160  
18 megawatt of CT would be necessary to support that  
19 200 megawatt of wind, correct?

20 A. No. If -- I might have misunderstood  
21 your prior question. You were referring to the, the  
22 combined cycle or the amount of -- in other words,  
23 there's the issue of how much credit something is  
24 giving versus how much of a capacity cost adder that  
25 I had made in my testimony. So, it's unclear to me

1 whether we're referring to the capacity amount that  
2 MISO would, you know, credit a resource --

3 **Q. We'll get to that --**

4 A. -- a resource such as combined cycle  
5 versus how much they would credit a resource such as  
6 wind, and I honestly don't remember which number  
7 went with which without looking back at my  
8 testimony.

9 **Q. So, if I'm looking at your work papers**  
10 **and it shows me that you have assumed a supplemental**  
11 **capacity requirement percentage of 80.5 percent on**  
12 **your calculated LCOE column --**

13 A. Okay.

14 **Q. -- in your work papers.**

15 A. So, okay. So, thank, thank you for  
16 clarifying.

17 **Q. Sure.**

18 A. So, I be -- so, and I misspoke earlier.  
19 That 80 percent, 80.5 percent capacity adder was,  
20 was a capacity cost adder on top of wind.

21 **Q. So, is my assumption correct that in**  
22 **order to support, if you have 200 megawatt, does**  
23 **it -- if you have 200 megawatt of wind coming on**  
24 **line, that means that 160 -- if you take that 200**  
25 **times the capacity factor of 80.5, that means 160**

1 **megawatt of CT would need -- would be necessary?**

2 A. It depends on the -- that's a  
3 utility-specific issue. The -- my understanding of  
4 how the RTO such as MISO applied this planning  
5 reserve requirement -- so, they have a planning  
6 reserve requirement that might be, let's say,  
7 nominally 15 percent. It varies by RTO. Each  
8 individual utility is responsible for demonstrating  
9 that they have met their capacity reserve margin  
10 requirements. So, the RTOs themselves such as MISO,  
11 they don't -- they don't specifically impart that  
12 penalty, but my, my opinion and the basis for which  
13 I've done my analysis assumes the potential buyers,  
14 the vast majority of potential buyers would be  
15 utilities having an obligation to serve. Those  
16 utilities would have an obligation to meet their  
17 reserve requirements and if you had an asset that  
18 you're considering as an energy asset that only had  
19 to begin with, in this case, 19.5 percent credit,  
20 those utilities would naturally incorporate the  
21 anticipated additional cost to fulfill the remaining  
22 amount of capacity.

23 Q. Well, I'm not asking about cost. I'm  
24 just asking you how much CT you think is, is, is  
25 necessary based on your work papers. What you

1 assumed in your work papers, an 80.5 percent  
2 supplemental capacity requirement. So, am I not  
3 correct in saying if you take the 200 megawatt for  
4 the PPA between Infinity and MJMEUC and multiply  
5 that by your 80.5 percent, that that equates to  
6 160-megawatt of gas that you're suggesting would  
7 potentially be required to support that wind?

8 A. Potentially, but, again, it's a -- it is  
9 handled on a utility-by-utility basis.

10 Q. I understand that. Okay.

11 A. Yes, yes.

12 Q. All right. Thank you.

13 A. Yes. And the purpose of that, to  
14 clarify, is to basically to afford the opportunity  
15 to compare apples to apples in the LCOE analysis.

16 Q. Okay.

17 A. Whether a given utility is -- you know,  
18 each utility is its -- is in its own capacity  
19 position. So, some may have a short-term surplus,  
20 some may have a near-term deficit, whatever it may  
21 be, so...

22 Q. Understood.

23 A. But the, the, the whole purpose of doing  
24 that, which I believe is consistent with the  
25 underlying purpose of a levelized cost of energy



1 analysis is to put each of those assets on equal  
2 footing.

3 Q. Okay.

4 A. So, that is the -- that is the logic and  
5 the reason why I did that.

6 Q. Okay. Thank you for that.

7 MS. PEMBERTON: May I approach the  
8 witness?

9 JUDGE BUSHMANN: You may.

10 Q. (By Ms. Pemberton) Would you, please,  
11 read into the record the title of --

12 MR. LINTON: Excuse me.

13 MS. PEMBERTON: Oh, I'm sorry, Counsel.

14 MR. LINTON: May I have a copy?

15 MS. PEMBERTON: I'm sorry, Counsel.

16 Yes, you may. I apologize.

17 Q. (By Ms. Pemberton) Would you, please,  
18 read into the record the name of this -- the name of  
19 this document.

20 A. This is the MISO 2016-2017 planning  
21 resource auction results dated April 15th, 2016.

22 Q. Okay. And would you, please, go to --  
23 turn to it's -- the number at the bottom is going to  
24 be slide eight, but I believe it's the third page in  
25 this document.

1 JUDGE BUSHMANN: And just for  
2 clarification, has that been marked already as 877?

3 MS. PEMBERTON: I have it marked. I  
4 haven't introduced it yet. Yes, we had a number  
5 change on that exhibit.

6 JUDGE BUSHMANN: Thank you. Go ahead.

7 **Q. (By Ms. Pemberton) So, are you on --**

8 A. I'm sorry.

9 **Q. -- slide eight?**

10 A. Yes, I am.

11 **Q. Okay. So, on the, the first row on**  
12 **slide eight is identified as the PRMR, which is the**  
13 **planning reserve margin requirements.**

14 A. Uh-huh. And I assume this is -- I have  
15 not studied this before. So, I assume this is by  
16 zone. In other words, the top, as it says, the top  
17 column or the top row is local resource zone.

18 **Q. Right. So, that's my understanding.**  
19 **So, we're looking at the -- if you go to the far**  
20 **right --**

21 A. Yes.

22 **Q. -- far right column on that top line,**  
23 **the PRMR line, and we have a system reserve**  
24 **requirement of 135,483. Do you see that number?**

25 A. I do.

1 Q. And then the next line directly beneath  
2 that is the total offer submitted. So, this is the  
3 what's identified there as the FRAP, which is the  
4 fixed resource adequacy plan. So, that essentially  
5 you would agree with me that that is the amount of  
6 capacity that's available for MISO?

7 A. I assume this -- that would be  
8 correct --

9 Q. Okay.

10 A. -- for the 2016 and 2017 planning.

11 Q. Okay. So, if you go to the far right  
12 column, we have a number there of 141,524?

13 A. That's correct.

14 Q. And subject to check on my math, would  
15 you agree that the difference between the available  
16 capacity for the MISO system versus the planning  
17 reserve requirements, that's a value of 6,041  
18 megawatt?

19 A. That sounds about right.

20 Q. Okay. So, in other words, there's  
21 additional capacity available in the MISO system?

22 A. For this period of time --

23 Q. Okay.

24 A. -- and assuming that I'm understanding  
25 this, this report, yes.

1 Q. Sure. And do you know -- and you would  
2 agree with me that Missouri is in zone 5 in MISO?

3 A. I believe it is, yes.

4 Q. Well, we can confirm it. If you flip  
5 back a page on page 6.

6 A. I sometimes get these zones mixed up.  
7 Yes.

8 Q. Yeah. And that's understandable.

9 A. Yes, Missouri is in MISO zone 5.

10 Q. Okay. Thank you.

11 So, if we go to the very bottom row of  
12 page 8.

13 A. Uh-huh.

14 Q. And we have the auction clearing price  
15 per megawatt day.

16 A. Uh-huh.

17 Q. And that value for zone 5, if we're  
18 looking at the zones up top and we follow Z5 down to  
19 the bottom, we have a value of \$72 per megawatt  
20 day --

21 A. That's correct.

22 Q. -- you would agree with me?

23 Going back to your work sheet that we  
24 were talking about before where we identified the  
25 80.5 percent of the supplemental capacity

1 requirement. The line directly underneath that, the  
2 row directly underneath that one is for CT fixed  
3 costs year one in dollars per kilowatt year?

4 A. Uh-huh.

5 Q. And you have a value of 154?

6 MR. BRADY: I'm -- that document is  
7 highly confidential. So, before you start --

8 MS. PEMBERTON: You're right. My  
9 apologies.

10 JUDGE BUSHMANN: Do we need to go in  
11 camera?

12 MR. BRADY: I think. I just want to  
13 confirm.

14 MS. PEMBERTON: Let me -- let me  
15 confirm.

16 MR. ZOBRIST: Yeah. We're okay with  
17 that number being disclosed.

18 MR. BRADY: Isn't it their number or...?

19 MS. PEMBERTON: No. I think -- well --

20 THE WITNESS: It's actually --

21 MS. PEMBERTON: It's theirs.

22 MR. ZOBRIST: I think we provided the  
23 number and he used it.

24 MR. BRADY: Okay.

25 Q. (By Ms. Pemberton) So, we're at the 154

1 per kilowatt year?

2 A. Uh-huh.

3 Q. So, I'm going to do a little math on the  
4 fly here. So, if we go back to the slide eight, the  
5 \$72 that is the auction clearing price for zone 5 of  
6 MISO and that, that value is -- I'm going to have to  
7 convert it, right, because it's in megawatt per  
8 year -- or per day. So, I would take the \$72 times  
9 365 days of the year to get a megawatt year value of  
10 26,280. Does that sound reasonable?

11 A. I'd have to confirm that, but I suppose  
12 so.

13 Q. Okay. Subject to check then.

14 So, then I would divide that. In order  
15 to get to an equivalent kilowatt year value, I'd  
16 have to divide that by 1,000?

17 A. Uh-huh.

18 Q. And so, when I do that, I get a value of  
19 \$26.28?

20 A. Subject to confirmation.

21 Q. Okay. So, essentially, what I'm looking  
22 at in comparing it to your \$154 per kilowatt year  
23 versus the actual zone Z5 MISO, what they value as  
24 the clearing price of \$26.28, correct?

25 A. I'm not ready to agree to that.

1           **Q. You would agree with, subject to check**  
2           **on my math, though?**

3           A. Subject to check. I mean, I actually,  
4 as part of my work on this, this case, had reviewed  
5 this and had -- wasn't actually curious and actually  
6 one of the questions in one of the data requests  
7 was, well, what if -- what if the capacity was  
8 priced at the, you know, the recent auction prices  
9 and when I recall doing the math I don't remember  
10 coming up with a number that that was that different  
11 from the 154. So, subject to check, yes.

12           **Q. Okay. But you didn't disagree with the**  
13           **steps that we just went through? We would take \$72**  
14           **times 365 days in a year to convert that to a**  
15           **megawatt year and then whatever that megawatt year**  
16           **value is I would then divide that by 1,000 to**  
17           **convert it into kilowatt hour -- kilowatt per year?**  
18           **That --**

19           A. I think that's right.

20           **Q. Mechanically that works?**

21           A. I think so, yes.

22           **Q. Bear with me here.**

23                   And so, what portion of the -- when  
24           **you've done your LCOE calculation, what portion of**  
25           **that or what percentage did you attach on the**

1 **weighting of that \$154 value?**

2 A. I don't follow your question.

3 **Q. So, what --**

4 A. It depended on which -- so, what I  
5 assumed was the value that also was utilized by  
6 Grain Belt for sake of convenience for the lack of a  
7 better term, I believe that number was, was  
8 reasonable based on a long-term perspective on what,  
9 you know, what the all-in cost of a combustion  
10 turbine would be and then that value was applied to  
11 each individual resource, including the combined  
12 cycle resource based on whatever the additional  
13 capacity that was needed.

14 **Q. So, does it represent, like, 30 percent**  
15 **of your overall LCOE value? 60 percent? I mean,**  
16 **what -- how is that --**

17 A. It really varies by plant. One of the  
18 things that's interesting is that by virtue of the  
19 inherent nature of an LCOE calculation, you're  
20 dividing by megawatt hours, which is determined by  
21 capacity factor times nameplate. Right? So, so --

22 **Q. Well, I guess what --**

23 A. -- depending on the resource the  
24 percentage that that makes up can vary.

25 **Q. Okay. Well, you've stated a value of**



1 90 -- what is your value here? I believe it's  
2 97.03, but that would be subject to check. Just a  
3 minute.

4 So, this is on your errata sheet that  
5 I'm referencing that we just had admitted. And so,  
6 based on your updated numbers -- and this is I  
7 believe the last page on your summary of corrections  
8 and your table. It would actually be the first  
9 page. My apologies. It would be the table on the  
10 front. And you've got in your row four for wind  
11 capacity overbuild you have a value of 93.77. I  
12 guess my question is: What percentage of the \$154  
13 that you've assigned --

14 A. I'm not -- I'm not following this. I do  
15 apologize.

16 Q. Do you need me to point you to where I'm  
17 talking about on your page?

18 A. That would be helpful, please.

19 Q. Okay. So, I'm looking at the exhibit  
20 that we just entered in, and this is your --

21 A. Oh, okay.

22 Q. -- summary of corrections and table.

23 A. Yes.

24 Q. And so, on row four or what I have  
25 identified that looks like it's numbered as row

1     **four, the wind capacity overbuild?**

2             A.     Uh-huh.

3             **Q.     If you go over and you've got the -- if**  
4     **you look at the columns up at the -- the columns up**  
5     **at the top, this one is headed Kansas wind via GBX.**

6             A.     I'm following you now.

7             **Q.     You follow that down.**

8             A.     Yes.

9             **Q.     So, I have a value -- or your updated**  
10    **value of \$93.77.**

11            A.     Uh-huh.

12            **Q.     And my question is: How much of the**  
13    **\$154 that you've assigned in your calculation makes**  
14    **up and comprises that 93.77?**

15            A.     I'm not sure it's a significant portion.  
16    I would have to go specifically look at it.

17            **Q.     Okay. So, is 60 percent reasonable?**  
18    **70 percent?**

19            A.     I think that would be a little bit high.  
20    I mean, if you want, we could calculate it on the  
21    fly, but...

22            **Q.     I'm happy to let you.**

23            A.     So, but I don't think I have that -- I  
24    don't think I have that broken out, that particular  
25    component of the cost broken out on a per megawatt

1 hour basis explicitly. So, it would be difficult  
2 for me to, you know, to go through those  
3 calculations.

4 **Q. Okay. But you wouldn't disagree with me**  
5 **that a 60 percent value probably -- I won't go to**  
6 **70, but say 60 percent would be reasonable if it's a**  
7 **significant amount of --**

8 A. I'd say 50 percent might be more  
9 correct.

10 **Q. Okay. And how would we calculate**  
11 **exactly what that value is? Can you calculate that**  
12 **for us, please?**

13 A. I can try.

14 **Q. Okay.**

15 A. It will take a moment or two.

16 **Q. That will work.**

17 A. Is that all right?

18 **Q. Yes, please.**

19 A. It's actually 34 percent.

20 So, when I look at the delta -- in other  
21 words, if I were to remove the capacity cost adder  
22 and recalculate the LCOE, leaving everything else  
23 constant, the LCOE goes from 93.77 down to 62.20  
24 and, so, that delta then divided by the 93.77. I  
25 believe you asked me what, what was it as a

1 percentage of the 93.77.

2 Q. Uh-huh.

3 A. I get 34 percent.

4 Q. Okay. All right. Thank you for that.

5 MS. PEMBERTON: At this time I would  
6 like to move to have Exhibit 877 admitted into the  
7 record.

8 (Infinity's Exhibit 877 was offered into  
9 the record.)

10 JUDGE BUSHMANN: Any objections?

11 MR. AGATHEN: Yes, Your Honor. I  
12 haven't seen a copy of it yet.

13 MS. PEMBERTON: My apologies,  
14 Mr. Agathen.

15 MR. AGATHEN: No objection.

16 JUDGE BUSHMANN: 877 is received into  
17 the record.

18 (Infinity's Exhibit 877 was received  
19 into the record.)

20 MS. PEMBERTON: Let me give staff a  
21 chance to weigh in real quick. Sorry.

22 MR. WILLIAMS: No objection.

23 JUDGE BUSHMANN: Counsel from any other  
24 parties have objections?

25 Very good. Do you have any further

1 questions, Ms. Pemberton?

2 MS. PEMBERTON: I have no further  
3 questions.

4 JUDGE BUSHMANN: Thank you.

5 Any questions from Wind on the Wires?

6 MR. BRADY: Yes, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. BRADY

9 Q. Good afternoon, Mr. Justis.

10 A. Good afternoon.

11 Q. I am Sean Brady. I am attorney for Wind  
12 on the Wires and The Wind Coalition.

13 How are you today?

14 A. I'm well. Thank you.

15 Q. Good. Turning to, let's see, the  
16 materials you prepared, the supplemental materials  
17 that you prepared today, Exhibit 420, sir, that I'm  
18 holding up here today.

19 A. So, is that the --

20 Q. Yeah.

21 A. So, that is No. 420?

22 Q. Yes.

23 A. Thank you. I'm having trouble keeping  
24 track of the exhibit numbers.

25 Q. Sure.

1 A. Yes, No. 420.

2 Q. The third sheet, schedule PJGJ-01 we've  
3 already -- this is -- counsel?

4 MR. LINTON: Oh.

5 MR. BRADY: This sheet.

6 MR. LINTON: Okay. Thanks.

7 MR. ZOBRIST: And Judge, pardon me.

8 Mr. Brady just kind of reminded me of something.

9 I'm seeing attached to Exhibit 420 are two tables,  
10 one and two, and they do contain highly confidential  
11 information. So, if there's any --

12 MR. BRADY: I'm going to -- go ahead.

13 I'm sorry.

14 MR. ZOBRIST: Well, if there's any  
15 inquiry on that, we need to go into in camera, and  
16 then this exhibit should be marked as an HC or at  
17 least two versions provided to the Commission.

18 JUDGE BUSHMANN: And you're referring to  
19 these --

20 MR. ZOBRIST: To exhibit --

21 JUDGE BUSHMANN: -- the schedules?

22 MR. BRADY: Yes.

23 MR. ZOBRIST: Well, it's actually --

24 JUDGE BUSHMANN: One schedule.

25 MR. BRADY: Schedule P -- it's

1 identified at the top schedule PGJ-01 highly  
2 confidential, corrected in red.

3 JUDGE BUSHMANN: All right. Then I'm  
4 going to change the classification of this entire  
5 exhibit and it will now be Exhibit 420-HC. And  
6 parties will just need to let me know if we need to  
7 go in camera to talk about any of that.

8 MR. WILLIAMS: And Judge, are you, I  
9 guess, directing Show Me to provide a non-HC version  
10 as well?

11 JUDGE BUSHMANN: I think for --

12 MR. LINTON: I would -- I would suggest  
13 mark the entire thing as HC because it's --

14 JUDGE BUSHMANN: I think --

15 MR. WILLIAMS: I mean, at this point,  
16 but the entirety is not HC, is it? It's only those  
17 two schedules that are confidential, correct?

18 MR. LINTON: I'll leave that up to Grain  
19 Belt. If they want a non-HC version, we can provide  
20 that.

21 MR. WILLIAMS: Well, the way I look at  
22 it is the public ought to see as much of the  
23 document as it can.

24 JUDGE BUSHMANN: I don't -- since this  
25 was an errata sheet exhibit during the hearing, I

1 don't think that we need to have an NP version. So,  
2 I think just changing classifications is going to be  
3 sufficient.

4 MR. BRADY: And then to the point that  
5 Mr. Zobrist raised about talking about potentially  
6 confidential, my line of inquiry is just going to  
7 refer to the 80.5 credit, so that is a public  
8 number.

9 MR. ZOBRIST: That's correct.

10 MR. BRADY: And see how far we can get  
11 with, with that and try and stay out of in camera.

12 Q. (By Mr. Brady) So, Mr. Justis.

13 A. Yes.

14 Q. Ms. Pemberton -- Ms. Pemberton was just  
15 asking you questions about the 80.5 percent capacity  
16 credit.

17 A. Well, it's an adder. It's an adder.

18 Q. Okay. Capacity value adjustment. I  
19 believe you have it identified in the -- in the  
20 table.

21 A. Which particular line item, please?

22 Q. So, we're on schedule PGJ-01 of  
23 Exhibit 420-HC.

24 A. Yes.

25 Q. And it is line 1 under input



1     **assumptions, it says capacity value adjustment.**

2             A.     Okay.

3             **Q.     Right?**

4             A.     Let me see here.    Yes, yes.

5             **Q.     Is that what you're calling the 80.5 --**

6             A.     Yeah, yeah.    Well --

7             **Q.     -- percent as well as a --**

8             A.     No, no.    May I clarify?

9             **Q.     Well, I guess I just want to -- we're on**  
10     **80.5 percent and I guess I'm going to ask you --**

11            A.     80.5 percent was the capacity added on  
12     top of wind.

13            **Q.     Okay.**

14            A.     This value here and I think if I'm  
15     understanding which one you're -- wait.    Are you  
16     looking at the first line of the first page or the  
17     first line of the second page?

18            MR. BRADY:   May I approach the witness,  
19     Your Honor?

20            JUDGE BUSHMANN:   Yeah.

21            A.     I just want to make sure I'm answering  
22     the right question.

23            **Q.     (By Mr. Brady)   This line right here.**

24            A.     Oh.    Yes, thank you.

25            MR. BRADY:   Mr. Linton, what I showed

1 him was right here.

2 MR. LINTON: Okay.

3 MR. WILLIAMS: May I inquire is this  
4 from table one or table two?

5 MR. BRADY: Down at the bottom. You're  
6 right, table --

7 THE WITNESS: It's the first table.

8 MR. BRADY: Table one.

9 THE WITNESS: Yes. For the first table  
10 under PGJ-01.

11 **Q. (By Mr. Brady) So, that is a -- I'm**  
12 **sorry. Can you repeat what you just said? You**  
13 **clarified that this is a capacity generation in**  
14 **addition to wind?**

15 A. Right. So, this first table, just to  
16 clarify if it's valuable, is everything on this one  
17 page relates to the wind example and, as indicated  
18 in the title, these are the adjustments I made to  
19 Mr. Berry's model when I went through to validate my  
20 calculations to basically compare the models using  
21 similar inputs, similar methodologies to confirm  
22 that the numbers came out about the same. And so,  
23 so, yes, Mr. Berry had, had incorporated what I  
24 believe was a 19.5 percent capacity credit and my  
25 view is we need to take the inverse of that, which

1 would be basically one minus 19.5 percent, which  
2 gets you to 80.5 percent.

3 **Q. And so, that's to make wind equivalent**  
4 **to natural gas, correct?**

5 A. Well, it's basically to put all the  
6 options that were analyzed under the LCO -- LCOE  
7 analysis on an equivalent basis where that it had --  
8 so that 100 percent of the nameplate basic capacity  
9 was all creditable as dispatchable capacity by  
10 MISO.

11 **Q. Okay.**

12 A. Okay.

13 **Q. So --**

14 A. So, that logic applied to all the  
15 different resources in the LCOE.

16 **Q. So, is it -- is it your understanding**  
17 **that wind energy delivered via the Grain Belt**  
18 **Express could be sold -- or purchased by utilities**  
19 **in MISO or PJM?**

20 A. Could you repeat, please?

21 **Q. Is it your understanding that the energy**  
22 **from -- delivered through the Grain Belt Express**  
23 **could be purchased by utilities in MISO or PJM?**

24 A. Certainly, assuming it was constructed  
25 as planned.

1           **Q.    And that it could be purchased -- it**  
2           **could be purchased for a wind RFP?**

3           A.    What do you mean for a wind RFP?

4           **Q.    If a utility were to issue a request for**  
5           **proposals for wind energy --**

6           A.    Yes.

7           **Q.    -- this could be used for that?**

8           A.    Absolutely.

9           **Q.    And in that instance your capacity**  
10          **credit wouldn't be -- your adjustment here would not**  
11          **apply?**

12          A.    I disagree with that.

13          **Q.    And why?**

14          A.    Because the utility will still have to  
15          adhere and comply with its total reserve margin  
16          requirement.  So, the -- assuming in the longer term  
17          when, you know, predominantly utilities are short  
18          capacity, we have to distinguish between the  
19          position in the next one or two or three years  
20          versus what's going to happen, you know, 20, 25  
21          years out.  Those utilities may, in fact, go through  
22          an RFP process, purchase that wind energy, but  
23          they're going to then have to think about, well,  
24          where do I get my capacity from to meet my reserve  
25          requirements.  So, they can treat those separately,

1 but, but from the per -- but from the perspective of  
2 them evaluating that RFP compared to other  
3 alternatives, they're going to -- they're going to  
4 have to include the fact that that wind energy  
5 they're receiving does not include significant  
6 dependable capacity credit, because they're going to  
7 compare that against other options that do.

8 **Q. But they've already made that comparison**  
9 **prior to issuing a wind RFP?**

10 A. Maybe.

11 **Q. Well, if they're -- all right. If it's**  
12 **an RFP for wind, it's for wind energy?**

13 A. Uh-huh.

14 **Q. Not for wind energy plus gas, under my**  
15 **assumption?**

16 A. Yes, but they would have -- they would  
17 have made that determination as part of a broader  
18 resource plan and in that case they might have  
19 decided to separate their purchase of capacity from  
20 their purchase of energy, but I think in all  
21 circumstances they were going to consider one way or  
22 the other the impact of the fact that the wind does  
23 not have dispatchable capacity of significance.

24 **Q. But I guess the question I had was in**  
25 **a -- if a utility was issuing a wind RFP, the bids**

1 that were coming in --

2 A. Uh-huh.

3 Q. -- would not be including the addition  
4 of your capacity value adjustment?

5 A. That's probably correct, yes.

6 Q. Did you happen to see, review  
7 Mr. Goggin's surrebuttal testimony?

8 A. Yes, I did review Mr. Goggin's or I read  
9 through it. I didn't study it in detail.

10 Q. Okay. And Mr. Goggin -- give me a  
11 second.

12 And Mr. Goggin challenged your wind  
13 energy capital cost, correct?

14 A. Yes, he did.

15 Q. And he had cited updated data from EIA?

16 A. I didn't see significant reference to  
17 updated data from EIA.

18 Q. Okay.

19 A. Maybe I -- maybe I'm missing it. I  
20 actually do have that -- is this the cross  
21 surrebuttal testimony?

22 Q. Yes. And it should be page 4.

23 A. So, right. So, that 18.77 comes from  
24 the, the latest version of the EIA report that I  
25 had.

1           **Q.    And his -- and if you look down to line**  
2           **83, 82 and 83.**

3           MR. LINTON:   Just to -- just to  
4           interject here.

5           THE WITNESS:   I'm sorry.   I'm sorry.

6           MR. LINTON:   Are there confidential  
7           information here that you need to be concerned  
8           about?

9           MR. BRADY:   This confidential  
10          information was -- you had -- you had produced a  
11          spreadsheet with the wind energy capital costs, that  
12          whole -- that whole spreadsheet was identified as  
13          confidential, but that's public.

14          MR. LINTON:   I'm just -- I'm just --  
15          okay.   I'm just --

16          MR. BRADY:   I appreciate that.   And  
17          plus, I was going to read from nonconfidential.

18          MR. LINTON:   Just raising the question.

19          MR. BRADY:   Thank you.

20          **Q.    (By Mr. Brady)   So, on -- you have**  
21          **Mr. Goggin's cross surrebuttal testimony in front of**  
22          **you?**

23          A.    I do.   What page was that again?   Page  
24          8?

25          **Q.    Page 4.**

1 A. Page 4. Excuse me.

2 Q. Lines 80 to 83.

3 A. Got it.

4 Q. And starting on line 81 it says  
5 specifically the actual national average overnight  
6 capital cost in that document is \$1,686 per  
7 kilowatt, while the regional cost for wind projects  
8 in SPP is lower at \$1,536 per kilowatt and he cited  
9 updated data as of January 2017 in footnote 5. Do  
10 you see that?

11 A. I do see that.

12 Q. Did you rely on the updated data from  
13 January 2017?

14 A. No, I did not. I relied on data that  
15 was in the report from November I believe it was.

16 Q. Okay. Thank you. Moving on to a  
17 different topic.

18 A. Uh-huh.

19 Q. Going back to Exhibit 420, the table we  
20 were at before, table one.

21 A. Yes, sir.

22 Q. Let me know when you have that in front  
23 of you.

24 A. Table one of PGG -- PGJ-01?

25 Q. Yes.



1 A. Yes.

2 Q. So, you've got Item No. 5 in the far  
3 left-hand column?

4 A. Uh-huh.

5 Q. Do you see that?

6 And it's described as wind energy  
7 production tax credit phase-out factor?

8 A. Right.

9 Q. And the next column says Mr. Berry's  
10 value was 80 percent?

11 A. Uh-huh. Yes, I see that.

12 Q. Do you have -- do you dispute the  
13 calculation as beyond -- strike that.

14 Do you dispute the value that Mr. Berry  
15 calculated at 80 percent? I realize you think it  
16 should be at 60 percent, but the value at  
17 80 percent, do you think his testimony is correct on  
18 that?

19 A. Well, I think his -- I think his  
20 original testimony was correct. I mean, in other  
21 words, I think he -- I think he properly applied the  
22 80 percent.

23 Q. Correct. That's what -- I just wanted  
24 to see if you agreed --

25 A. Right, right.

1           Q.    -- with those numbers. I understand you  
2 **think --**

3           A.    Right.

4           Q.    -- there should be a different value.

5           A.    There are other changes here embedded  
6 there, right.

7           Q.    **Okay. Thank you.**

8                   MR. BRADY: Those are all the questions  
9 I have, Your Honor.

10                   JUDGE BUSHMANN: Cross-examination by  
11 MJMEUC?

12                   MR. HEALY: Yes, Your Honor.

13                               CROSS-EXAMINATION

14           BY MR. HEALY

15           Q.    **Mr. Justis, how are you doing this**  
16 **afternoon?**

17           A.    I'm doing well. Thank you. How are  
18 you?

19           Q.    **Doing well.**

20           A.    Good.

21           Q.    **I'd like you to start on page 4, lines 9**  
22 **through 10 in your surrebuttal, please.**

23           A.    Well, bear with me a moment. Oh, here  
24 it is. That reference again, please.

25           Q.    **Page 4.**

1 A. Yes.

2 Q. And lines 9 through 10.

3 Do you still stand by your opinion that  
4 the Iron Star and GBX contracts are of questionable  
5 economic value or viability?

6 A. My, my -- well, I do in the context of  
7 what I meant by this statement, yes.

8 Q. And you reviewed the MJMEUC Iron Star  
9 contract, correct?

10 A. I did.

11 Q. And the MJMEUC GBX transmission service  
12 agreement, correct?

13 A. I did.

14 Q. Those contracts viewed by themselves,  
15 high capacity wind contract 20 year with 2 percent  
16 annual adders, would you agree standing by  
17 themselves, that represents a good deal?

18 A. I do not dispute that the deal that has  
19 been on the table for MJMEUC is a good deal.

20 Q. Okay. And you would expect that if the  
21 opportunity arose for MJMEUC and the line was built  
22 that MJMEUC would exercise all the options available  
23 to it to complete that deal, wouldn't you?

24 A. I do not have an opinion on that because  
25 I don't know what other options MJMEUC may have.

1 Part of my view there rests in the nature of  
2 MJMEUC's transmission service agreement which gives  
3 them the opportunity to take zero quantity. As I  
4 would --

5 **Q. That's fine. You can stop there.**

6 **Did you hear Mr. Jaskulski's testimony**  
7 **earlier today?**

8 A. I did not.

9 **Q. You were absent when he testified?**

10 A. Partly I was, yes.

11 **Q. Okay. Well, part of his testimony was**  
12 **he thought that MJMEUC was locked into these**  
13 **contracts since we have 100 megawatts now firm**  
14 **commitment from our members. Do you share that**  
15 **commitment that Mr. -- or that opinion Mr. Jaskulski**  
16 **has?**

17 A. I don't without having further details  
18 on the specifics of those contractual commitments.  
19 I've seen many contracts written in many different  
20 ways and, you know, I would have to examine the  
21 nature of the contracts.

22 **Q. Would you agree that natural gas prices**  
23 **are currently at historical lows?**

24 A. I don't know that they are historical  
25 lows. They're certainly -- they're low compared to

1 recent years.

2 Q. Is there a period of time you can point  
3 me to when adjusting for inflation they were lower  
4 than they are now?

5 A. I cannot at this point, no.

6 Q. Would you agree in the past natural gas  
7 prices have been higher?

8 A. They have at times, yes. At times they  
9 have been quite a bit higher.

10 Q. Would you agree that natural gas at  
11 least in the past has been subject to price  
12 volatility?

13 A. Absolutely.

14 Q. Would you agree that natural gas prices  
15 could increase in the future?

16 A. Yes.

17 Q. When you did your analysis and gave your  
18 testimony, you didn't attempt to address the  
19 benefits of wind energy, did you?

20 A. I don't follow the question. It seems  
21 open ended. The benefits with respect to what?

22 Q. It's actually off a DR you'd previously  
23 answered. Some of the benefits of wind energy, of  
24 course, are the fact of its low emission profile,  
25 low price volatility for fuel, talk about some of

1 the benefits of wind energy as well as the demand  
2 for renewable energy by many corporations and  
3 individuals. And my question is simply the point  
4 when you gave your analysis did you include those  
5 additional benefits of wind energy in your analysis  
6 when concluding the value?

7 A. I did not.

8 Q. Okay. If I can turn you to your  
9 rebuttal testimony on pages 10 and 11, please.

10 Actually, just page 10.

11 A. Yes.

12 Q. And you caused a -- and sort of even  
13 kind of ran over it with going here. You performed  
14 a LCOE study when you did your testimony; is that  
15 correct?

16 A. That's correct.

17 Q. Okay. In figure 3 is it true that you  
18 showed Kansas wind via the Grain Belt Express to be  
19 the lowest cost option among the wind renewables  
20 that you compared in that particular comparison?

21 A. That is true with the assumption, and I  
22 think this is an important point, in my analysis I  
23 assumed a new dedicated AC line would have to be  
24 built for those Iowa and Missouri options, which may  
25 or may not be actually true in reality.

1           **Q. But you did come to the conclusion that**  
2 **Kansas wind via GBX was the cheapest of the**  
3 **alternatives presented, correct?**

4           A. The cheapest of these three that I  
5 analyzed, yes.

6           **Q. And again, in that particular analysis**  
7 **you didn't consider emission costs or values**  
8 **associated with rex or any other attribute of wind**  
9 **energy?**

10          A. That is correct.

11          **Q. I'd like to have you turn to page 14 of**  
12 **your rebuttal.**

13          A. I'm there.

14          **Q. Okay. If you look at figure 4.**

15          A. Uh-huh.

16          **Q. And you, again, came to the same**  
17 **conclusion, is that correct, regarding the three**  
18 **wind alternatives in that particular figure, that**  
19 **Kansas wind via GBX was the cheapest alternative?**

20          A. That, that is -- that is correct, again,  
21 with the same assumption that I mentioned earlier.  
22 My -- there's a little bit of an apples-to-oranges  
23 comparison here. Again, the purpose of this figure  
24 is to attempt to show the level of matching between  
25 my model and Mr. Berry's model when you incorporate

1 equivalent assumptions. However, I believe in  
2 Mr. Berry's model he did not have transmission costs  
3 associated with the Missouri wind option. So, you  
4 do see a larger discrepancy between my value, which  
5 is that kind of yellow bar it says 146.79 versus  
6 122.35. But the bottom line is, to answer your  
7 question, yes, assuming that new lines were  
8 necessary, new dedicated lines were necessary for  
9 Iowa and wind, they, according to this, they would  
10 be more expensive.

11 Q. Okay. Thank you, sir.

12 On lines 4 and 5 of the same page when  
13 you performed your LCOE study, you said you  
14 submitted the, quote, correct methods and input  
15 values into Mr. Berry's model. Is that correct?

16 A. That's what it states here, yes.

17 Q. Okay. Those changes are represented on  
18 what's been marked your schedule PJG-01 that's  
19 marked HC?

20 A. Yes. The -- and that would, of course,  
21 be the corrected version.

22 Q. Okay. Now you can turn to page 6 of  
23 your surrebuttal, please.

24 A. Yes.

25 Q. You stated in lines 20 to 21 that there



1 were, quote, many other alternatives exist to  
2 MJMEUC's PPA with Iron Star; is that correct?

3 A. Yes.

4 Q. But you didn't perform any outside  
5 analysis other than what was contained in the  
6 testimony from MJMEUC as what those alternatives may  
7 be; is that correct?

8 A. I did not perform any such analysis, no.  
9 Well, let me -- let me back up a little bit. In  
10 my -- in figure 1 on page 11 there's limited  
11 analysis of alternatives, but the context of this  
12 statement here was really referring to the fact that  
13 to determine what is claimed to be a \$10 million  
14 savings, you have to have a clear idea of what that  
15 next best alternative is and my view was that there  
16 wasn't sufficient information on really what that  
17 next best alternative.

18 Q. But you stated there was other  
19 alternatives, but you failed to do the analysis of  
20 those other alternatives, correct?

21 A. I did not do any analysis beyond what is  
22 already in the surrebuttal.

23 Q. Would you agree with me that congestion  
24 pricing can be somewhat accurately predicted up to  
25 five years out?

1           A.     Somewhat accurately predicted up to five  
2     years out? I think that's -- in my view, that's a  
3     stretch.

4           **Q.     Okay.**

5           A.     I think -- I think you can -- I think  
6     you can predict it maybe one or two years out, but  
7     the inherent nature of congestion pricing, which is  
8     driven by LMPs, is volatile and it's difficult to  
9     forecast in general. So, in my view, once you reach  
10    kind of that four or five, six year period it really  
11    becomes more questionable.

12           **Q.     Do you have your data request in front**  
13    **of you by any chance?**

14           A.     I do have my data request in front of  
15    me.

16           **Q.     If I can direct you to PGJ No. 17.**

17           A.     Bear with me. I need to find the --

18           **Q.     And I can bring it to you.**

19           A.     -- the MJMEUC ones.

20           **Q.     Correct. Yes, sir.**

21           A.     This is in the -- this is in the first  
22    data request?

23           **Q.     I believe so. Yes, sir.**

24           A.     Well, okay. So, there's HC and non-HC.  
25    I'm sorry. Which number again?

1           **Q.    Number 17.**

2           A.    Yes, I have that in front of me. Is  
3 this the one regarding rex?

4           **Q.    No. That's PG -- or PJ 17. This is PGJ**  
5 **17. I looked at the wrong one as well at first. I**  
6 **can bring it to you if you would like me to.**

7           A.    That would be fine, if you don't mind.

8           **Q.    It's at the bottom of the page.**

9           A.    Yes. Thank you.

10          **Q.    Okay. Could you read the first three**  
11 **sentences of that answer to PGJ 17?**

12          A.    Where it begins it depends?

13          **Q.    Yes, sir.**

14          A.    It depends on the time horizon.

15 Congestion costs are difficult to forecast as stated  
16 by Mr. Grotzinger on page 5, line 23 in his rebuttal  
17 testimony. In my view, for periods beyond five  
18 years out, I do not believe congestion costs should  
19 be included.

20          **Q.    And that's your answer to that data**  
21 **request, correct?**

22          A.    That is correct.

23          **Q.    When you looked at Crystal Lake in your**  
24 **surrebuttal, did you do any congestion analysis of**  
25 **that scenario?**

1           A.    I did not.  At least I don't believe I  
2    did.

3           Q.    Okay.  Crystal Lake is where Crystal  
4    Lake one, two and three wind projects were located?

5           A.    I'm sorry?

6           Q.    Oh, is Crystal Lake where Crystal Lake  
7    projects one, two and three, northern Iowa, is that  
8    where they're located?

9           A.    I believe so.  I didn't hunt it down on  
10   the map.

11          Q.    And without getting into HC numbers, one  
12   of the criticisms in your surrebuttal is that  
13   Mr. Grotzinger failed to consider congestion costs  
14   for delivery within MISO of Grain Belt Express.  Did  
15   you have the opportunity to review what was marked  
16   schedule JG 8, highly confidential, in  
17   Mr. Grotzinger's testimony?

18          A.    Not that I -- not that I recall.  I'd  
19   have to see it.

20          Q.    Okay.  You have a fairly high  
21   familiarity with MISO and the markets contained  
22   therein?

23          A.    Reasonably high.  I wouldn't say I'm an  
24   expert specifically at how MISO operates, but I'm  
25   knowledgeable.

1           **Q.    Okay.  Are you familiar with congestion**  
2           **issues at Crystal Lake?**

3           A.    I'm familiar that there are congestion  
4           issues.  Not specifically, though, what those levels  
5           are surrounding Crystal Lake.

6           **Q.    If I can turn you back to your**  
7           **surrebuttal.**

8           A.    Yes, sir.

9           **Q.    Page 10, line 14.**

10          A.    Yes.

11          **Q.    You state that Crystal Lake three has a**  
12          **starting price of \$19.55 per megawatt hour; is that**  
13          **correct?**

14          A.    That's what's -- that's what's written  
15          here, yes.  That's what I believed at the time.

16          **Q.    And is that what you believe today?**

17          A.    I believe that's correct.  If that's --  
18          if I wrote the contract correctly.

19          **Q.    If I were to tell you that was the price**  
20          **in 2016, not the price in 2021, would that change**  
21          **your opinion as to what that price should be?**

22          A.    Does --

23          **Q.    You can strike the question.  I phrased**  
24          **that poorly.**

25                   **The 19.55 price, would it be fair to say**

1 **that represents the price in 2016?**

2 A. I don't recall specifically when that --  
3 when that began.

4 Q. **Do you know what the price for Crystal**  
5 **Lake three is in 2021?**

6 A. I do not.

7 Q. **If I can direct you to your schedule**  
8 **PGJ-03, Exhibit F, it's just about the last page in**  
9 **that schedule.**

10 A. Schedule P -- I'm sorry. PGJ.

11 Q. **Number 3. It's the Crystal Lake**  
12 **contract that you had attached to your testimony.**

13 A. I apologize. I don't -- attached to my  
14 surrebuttal?

15 Q. **Yes, sir.**

16 A. Apparently, I do not have that attached.

17 Q. **I think your attorney's approaching to**  
18 **hand that to you.**

19 A. Thank you.

20 Q. **And you see where it says Exhibit F,**  
21 **fixed rate?**

22 A. I do.

23 Q. **And it says contract years one through**  
24 **16, corresponding prices next to them?**

25 A. Yes.

1 Q. And if I were to tell you that year one  
2 was 2016 through the summer of 2017, and then each  
3 year after that was a one year set-off, would you  
4 have any reason not to believe that?

5 A. I would not, no.

6 Q. So, if you look at line 6 would actually  
7 be December 2021 and that contract price is \$21.58  
8 per megawatt hour?

9 A. That's what I see here, yes. Is that  
10 when the contract begins?

11 Q. That's actually when the GBX Iron Star  
12 contract begins.

13 And we're trying to compare apples to  
14 apples here, correct, sir?

15 A. Yes. In general, I would agree with  
16 that.

17 Q. So, it would be fair to examine the same  
18 time periods, correct, for the pricing of the  
19 contracts when you're trying to compare energy  
20 sources?

21 A. Yes.

22 Q. Okay. I'm going to turn you to page 11  
23 of your surrebuttal, table one.

24 A. Table one, yes.

25 Q. Yes, sir. And you say Crystal Lake

1     **three delivered into MISO and that tables says**  
2     **\$19.55; is that correct?**

3             A.     **Yep, that's right.**

4             Q.     **From what I told you, would you agree it**  
5     **should be say \$21.58 if you're looking at a 2021**  
6     **scenario?**

7             A.     **I agree.**

8             Q.     **And the 21.58 price is higher than both**  
9     **Iron Star analysis one, MJMEUC tranche one, and**  
10    **MJMEUC tranche two rate, correct?**

11            A.     **I'm sorry. Please -- I was trying to**  
12    **track where you were on the table. Please repeat**  
13    **the question, if you may.**

14            Q.     **The 21.58 price associated with Crystal**  
15    **Lake, is that price higher than both the MJMEUC**  
16    **alternatives on that same table?**

17            A.     **Yes.**

18            Q.     **And you would agree with me that the**  
19    **MJMEUC alternative is actually cheaper than Crystal**  
20    **Lake three, correct?**

21            A.     **I would, yes.**

22            Q.     **Okay. But when you're determining the**  
23    **actual cost of energy inside an RTO, there's more**  
24    **than the contract price, would you agree with that?**

25            A.     **I'm sorry. When you determine what?**



1           **Q.    The actual price of energy.  You have**  
2           **your contract price for the energy --**

3           A.    You mean the price of energy for the  
4           buyer or just the general wholesale market?

5           **Q.    Both.  Let me take a step back.  I**  
6           **understand your question.**

7                   **What's an LMP?**

8           A.    It's the price of a particular node.  
9           It's the marginal cost of energy at that moment in  
10          time.

11          **Q.    Okay.  And usually when you sell energy**  
12          **to a load-serving entity, you have an injection**  
13          **point which is where you sell the energy; is that**  
14          **correct?**

15          A.    Well, you have an injection point where  
16          you receive the energy and then you have a delivery  
17          point where it's taken off the load.

18          **Q.    All right.  Thank you.**

19                   **And if you have a contract price for**  
20          **where you receive that energy, you would take the**  
21          **difference of those two, correct?  In other words,**  
22          **if your contract price was X, you would have to look**  
23          **at the LMP price to see whether you had a gain or**  
24          **loss on that sale of energy?**

25          A.    You would, but you'd also have to think

1 about -- assuming you're a load-serving entity,  
2 right. You'd look at that on both ends.

3 Q. So, you'd have to look at both ends.  
4 And that's correct.

5 A. Which basically would then lead to the  
6 effective congestion charges.

7 Q. Thank you. I appreciate it. That saves  
8 a whole line of questions. You're ahead of me.

9 A. Faster's better.

10 MR. HEALY: And Judge, I need to go in  
11 camera at this point.

12 JUDGE BUSHMANN: We'll be in closed  
13 session. Everybody in the audience that's not  
14 authorized to listen to confidential information  
15 will need to step outside.

16 (REPORTER'S NOTE: At this point, an  
17 in-camera session was held, which is contained in  
18 Volume 19, Page 1570 through 1578.)

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1 (REPORTER'S NOTE: The proceedings  
2 resumed in open session.)

3 JUDGE BUSHMANN: We're back in open  
4 session.

5 MR. HEALY: Mr. Justis, would you agree  
6 that MISO transmission costs at least on average  
7 grow more than 2 percent annually?

8 A. I haven't specifically seen those, those  
9 figures, but I do -- I would agree that they've  
10 probably been on the incline.

11 **Q. Okay. The hypothetical we just**  
12 **discussed in camera, without getting into the**  
13 **numbers, you can purchase FTRs. What's FTRs?**

14 A. It's a firm transmission right.

15 **Q. And you can do that to create a hedge**  
16 **against LMP price differentials, correct?**

17 A. In general, yes, you can.

18 **Q. Okay. But you have to pay for those,**  
19 **correct?**

20 A. Well, it depends on the market you're  
21 within. Some markets allow either basically FTR  
22 forwards or FTR options.

23 **Q. Okay. Do you know what a DNR is?**  
24 **Designated network resource?**

25 A. Oh, yes. Thank you.

1           Q.    Okay.  So, you might get some if you  
2   make, for instance, a generator a DNR inside of  
3   MISO, you might obtain some FTRs that way?

4           A.    Uh-huh.

5           Q.    You would agree with that?

6           A.    Yes.

7           Q.    But you might be lucky to get 40 to  
8   50 percent, would you agree with that, if the FTR is  
9   ever needed?

10          A.    Quite frankly, I'm not knowledgeable  
11   enough on the specifics of the allocations of FTRs  
12   to agree or disagree with that.

13          Q.    All right.  Would you be able to state  
14   an opinion that on FTRs you're not given by MISO a  
15   designation, you have to pay for the market process?

16          A.    General, yes, through an option or  
17   something similar.

18          Q.    And those FTR prices, at least usually  
19   from my observation, tell me if yours is different,  
20   inside the market are based on historical activity  
21   to reflect the cost and the value of those FTRs; is  
22   that correct?

23          A.    You mean the historical LMPs?

24          Q.    Yes, sir.

25          A.    Generally speaking, yes.  I've done

1 recent studies in Texas where clearly the -- in that  
2 case it's congestion revenue rights are largely  
3 driven by historical observations of LMPs.

4 **Q. Okay. Let's go back to Crystal Lake**  
5 **just in general. Even if Crystal Lake is**  
6 **competitive with GBX, are you familiar with the**  
7 **actual generator site? And I believe you testified**  
8 **to this earlier and I apologize I've asked this**  
9 **twice.**

10 A. The generator size?

11 **Q. Site. Is there room for additional**  
12 **expansion?**

13 A. Oh, oh, okay. I don't know.

14 **Q. Okay. You would agree, though, that**  
15 **even if there is room for additional expansion**  
16 **there, putting more energy into congested LMP**  
17 **usually results in more congestion; is that correct?**

18 A. Well, if you add -- if you assume you  
19 have congestion of -- if you basically have, you  
20 know, a region that is already suppressed and you  
21 add more, it will become further suppressed.

22 **Q. Okay. Mr. Berry testified earlier that**  
23 **a lot of the best wind sites inside of MISO have**  
24 **already been used and that's why they're congested**  
25 **because they've been built up quite a bit. Would**

1     **you agree with that assessment?**

2             A.     I haven't specifically studied that.  
3     Certainly there's been significant amounts of  
4     development in MISO, particularly Iowa.

5             **Q.     One second.**

6             MR. HEALY:   Thank you, Mr. Justis.  I  
7     have no further questions.

8             THE WITNESS:  Thank you.

9             JUDGE BUSHMANN:  Mr. Zobrist, I'm  
10    assuming you have fairly extensive  
11    cross-examination?

12            MR. ZOBRIST:  At least a half an hour.

13            JUDGE BUSHMANN:  Why don't we just take  
14    a short break before we get started with that.  
15    We'll be in recess for about ten minutes.

16            (A short recess was taken.)

17            JUDGE BUSHMANN:  All right.  We're back  
18    on the record.

19            MR. LINTON:  Mr. Justis took a few  
20    calculations subject to check.  I would like to give  
21    him the opportunity to check those, if he needs to.

22            JUDGE BUSHMANN:  From the previous  
23    cross-examination?

24            MR. LINTON:  Right.

25            THE WITNESS:  I'm unable to do that at

1 this point.

2 JUDGE BUSHMANN: Okay. Well, let's move  
3 along. We're ready for cross-examination by Grain  
4 Belt Express.

5 MR. ZOBRIST: Great. Thank you. Thank  
6 you, Judge.

7 CROSS-EXAMINATION

8 BY MR. ZOBRIST

9 Q. Mr. Justis, have you ever testified  
10 before the Public Service Commission before?

11 A. Not in person.

12 Q. So, although you worked for Ameren for  
13 roughly 15 years, you never appeared before the  
14 commission during that time?

15 A. That's correct. I did submit prefiled  
16 written testimony I think once, maybe twice in the  
17 90s.

18 Q. Now, as I understand your consulting  
19 business today, you also work with manufacturing  
20 professional services, retail services and  
21 hospitality industry?

22 A. To a limited extent. The vast majority  
23 of my work is with utilities and energy companies.

24 Q. Are you aware that a number of  
25 manufacturing and retail companies have policies

1 that support the purchase of renewable energy?

2 A. Yes, sir.

3 Q. Now, in the course of your consulting  
4 business relating to energy issues and when you  
5 provide reports and testimony like in this case, you  
6 rely upon government reports issued by the U.S.  
7 Department of Energy?

8 A. I have at times, yes.

9 Q. And, in fact, you've got a map that was  
10 published by the national renewable energy  
11 laboratory on page 9 of your direct; is that  
12 correct?

13 A. I think so. Why don't I find that to  
14 just make sure we're speaking the same language.  
15 You mean my rebuttal testimony?

16 Q. Correct, your rebuttal testimony.

17 A. And what page is that?

18 Q. Nine.

19 A. Yes, sir.

20 Q. And throughout your rebuttal testimony  
21 you have references to the annual energy outlook for  
22 the year 2016. It's been published by the U.S.  
23 Energy Information Administration.

24 A. I do have those. I think those  
25 references were principally in the context of the



1 capital cost estimate and underlying assumptions.

2 Q. And they're cited in footnotes to your  
3 rebuttal and surrebuttal, correct?

4 A. They are.

5 Q. Okay. And you also cite and rely upon  
6 reports issued by organizations like MISO, SPP and  
7 WECC, W-E-C-C in all caps, correct?

8 A. That is correct.

9 Q. And including companies who have  
10 provided services to them like Black & Veatch?

11 A. I'm not following that part of your  
12 question.

13 Q. Yes. Black & Veatch prepared a study  
14 for WECC that you cited in your rebuttal testimony,  
15 correct?

16 A. Yes, sir.

17 Q. Okay, okay. Now, you're familiar with  
18 production cost modeling, correct?

19 A. I am.

20 Q. And you performed production cost  
21 modeling, right?

22 A. Well, so, production cost --

23 Q. That's a yes or no, sir. Did you --  
24 have you performed production cost modeling?

25 A. I have performed production cost

1 modeling, yes.

2 Q. And you did not perform any production  
3 cost modeling in this case, correct?

4 A. That is correct.

5 Q. And so, you did not provide or perform  
6 any production cost model studies or analysis on the  
7 affect of the Grain Belt Express project on  
8 wholesale prices?

9 A. That is correct.

10 Q. Okay. Now, if you'll turn your  
11 attention, please, to your rebuttal testimony at  
12 page 8.

13 A. Yes.

14 Q. If you look at lines 4 and 5, you state  
15 that you didn't believe there was a need for the  
16 Grain Belt Express service because there was  
17 adequate transmission service through the existing  
18 RTO structure, correct?

19 A. That's correct.

20 MR. ZOBRIST: Nathan, could I ask you  
21 just to go one way a little bit to the left or to  
22 the right, please. Pardon me. I'm sorry.

23 THE WITNESS: That would be good for  
24 both of us.

25 MR. ZOBRIST: Yeah. Thank you. Thank

1 you. Appreciate it.

2 Q. (By Mr. Zobrist) And do you recall that  
3 in a data request that we sent you, I believe it was  
4 the first set and I've got copies here if you don't  
5 have them, that you stated that you did not perform  
6 any engineering or economic analysis that showed  
7 anything about the cost to acquire transmission  
8 service through the RTOs and delivering wind power  
9 in a way that is more effective than acquiring  
10 service through Grain Belt Express?

11 A. I had not done that in terms of the  
12 relevant economics, no.

13 Q. You did not do that, correct?

14 A. I did not do that. I believe your  
15 question related to the economics.

16 Q. Right. And this was DR No. 5 that was  
17 directed to you, correct?

18 A. Let me find that just to make sure I'm  
19 not misspeaking, please.

20 MR. ZOBRIST: Just so we've got it,  
21 Judge, I'm going to offer, have it marked. I marked  
22 it as Exhibit 136.

23 A. Thank you, sir.

24 JUDGE BUSHMANN: Your next number was  
25 134. Do you want to make it 136?

1 MR. ZOBRIST: Judge, I've reverse  
2 numbered. So, I've got 134 and 135 coming up. I  
3 got a little confused.

4 Q. (By Mr. Zobrist) Do you have Exhibit 136  
5 before you, sir?

6 A. I do.

7 Q. And in response to Data Request 5 marked  
8 PGJ 5, you stated you had not performed the analysis  
9 that you were inquired about in that request,  
10 correct?

11 A. That is correct.

12 Q. Okay.

13 MR. ZOBRIST: Judge, I move the  
14 admission of Exhibit 136.

15 (Grain Belt's Exhibit 136 was offered  
16 into the record.)

17 JUDGE BUSHMANN: Any objections?

18 Hearing none. It's received.

19 (Grain Belt's Exhibit 136 was received  
20 into the record.)

21 Q. (By Mr. Zobrist) And if you'll move down  
22 to Data Request 12-B, which is on the next page. Do  
23 you have that, sir?

24 A. I believe so, yes.

25 Q. Okay. It says regarding the statement

1 on page 8, line 9 of your testimony that, quote,  
2 there is adequate transmission service through the  
3 existing RTO structure, closed quote. You are asked  
4 in subsection B is your position that the  
5 transmission service referenced in this statement is  
6 available today without any transmission upgrades,  
7 correct?

8 A. That's correct.

9 Q. And your answer was no?

10 A. That's correct.

11 Q. And moving down to subpart D of that  
12 PJ -- PGJ 12 data request it stated if the answer to  
13 part B is no, and you just confirmed it was,  
14 correct?

15 A. That is correct.

16 Q. Okay. If the answer to part B is no,  
17 have you performed any cost estimates of the  
18 necessary upgrades, and you stated in response I  
19 have not performed such analysis, correct?

20 A. That is correct.

21 Q. But is it fair to say that in the work  
22 papers and the calculations that you did prepare in  
23 this case you accepted Grain Belt Express' estimates  
24 of upgrades?

25 A. I'm not sure. I think there were some

1 upgrade costs in there that I -- that I had seen in  
2 the application perhaps.

3 **Q. You didn't dispute or challenge them,**  
4 **did you?**

5 A. I didn't dispute or challenge them. I  
6 chose to use them for convenience. There's just too  
7 many -- quite frankly, for analysis there's just too  
8 many separate variables to pick apart every single  
9 one.

10 **Q. Okay. Thank you.**  
11 **You did not perform your own levelized**  
12 **avoided cost of energy in this case, correct?**

13 A. I did not. My references were to the  
14 one that was in the EIA study.

15 **Q. Now, let's move to I think it's**  
16 **schedule -- schedule one of your rebuttal and**  
17 **although it's marked highly confidential, I don't**  
18 **think what I'm going to ask you about is**  
19 **confidential.**

20 A. Let me -- bear with me. I need to find  
21 that.

22 **Q. Sure.**

23 A. I have paperwork everywhere here, sir.

24 I'm sorry. That was the first sheet of  
25 PGJ-01?

1 Q. Correct.

2 A. Yes, sir.

3 Q. On Item 2.

4 A. Yes.

5 Q. This relates to Grain Belt Express  
6 capital cost?

7 A. Yes.

8 Q. Do you see that, sir?

9 A. Yes.

10 Q. Now, you adjusted the capital cost there  
11 based upon a WECC, W-E-C-C, transmission expansion  
12 planning report that was prepared by Black & Veatch  
13 back in February 2014, correct?

14 A. That is right.

15 MR. ZOBRIST: Judge, I've got a full  
16 copy of his report, but I was only going to refer to  
17 one page and I can either put the whole report in or  
18 I can just do the two pages and I'll distribute to  
19 counsel what I'm going to show, and I marked this as  
20 Exhibit 134.

21 JUDGE BUSHMANN: I have no objection to  
22 the two pages, unless counsel object to it.

23 MR. LINTON: I have no objection as long  
24 as the witness can identify it within the context,  
25 but I do want to see it.

1 MR. ZOBRIST: Sure. Do you want the  
2 whole report or --

3 MR. LINTON: Yeah. Yeah, let me have  
4 those two just for comparison.

5 Q. (By Mr. Zobrist) Mr. Justis, my only  
6 question is going to be on page 1-2.

7 A. Yes.

8 Q. It's section 1.3 regarding variability  
9 of cost. Do you see that, sir?

10 A. I do.

11 Q. Now, in the second sentence of this  
12 section regarding variability of cost it states it  
13 is imperative to note, however, that transmission  
14 lines and substations are all unique and the cost of  
15 a specific line or substation may be significantly  
16 different than the cost provided here due to a  
17 variety of factors. Is that correct?

18 A. That's what it says, yes.

19 Q. And this is what Black & Veatch is  
20 telling the Western Electricity Coordinating  
21 Council?

22 A. And I agree with the statement.

23 Q. And the final statement in this section  
24 1.3 provides, quote, The cost here should be used as  
25 a guide to develop approximate costs for new



1 **transmission, but should not be used to measure the**  
2 **cost or cost effectiveness of any specific**  
3 **transmission facility. Is that what that says?**

4 A. It does.

5 MR. ZOBRIST: Okay. Judge, I move the  
6 admission of Exhibit 134. As I said, I'm only  
7 really interested in that one page, so, but I've  
8 marked them both.

9 (Grain Belt's Exhibit 134 was offered  
10 into the record.)

11 JUDGE BUSHMANN: Any objections to the  
12 receipt?

13 Hearing none. That exhibit is received  
14 into the record.

15 (Grain Belt's Exhibit 134 was received  
16 into the record.)

17 Q. (By Mr. Zobrist) But in this case until  
18 we received, late this morning, your Exhibit 420, we  
19 hadn't received any recognition by you that you were  
20 going to make an adjustment with regard to the  
21 Missouri converter station, correct?

22 A. I believe that's correct if I'm  
23 understanding your question. I had not until today  
24 indicated my agreement with that difference in  
25 price.

1 Q. Okay. Thank you.

2 Now let me ask you some questions about  
3 the capital cost of wind generation.

4 A. Certainly.

5 Q. Do you recall that Mr. Berry used an  
6 estimate of \$1,637 per kilowatt; whereas, you in  
7 your estimate used a figure of \$1,877 per kilowatt?

8 A. That's correct.

9 Q. And those two different figures are in  
10 Item 4 of your schedule PGJ-1, correct?

11 A. They are.

12 Q. Now, the Department of Energy wind  
13 technologies market report that was issued in August  
14 of 2016 has been admitted into evidence as a  
15 schedule to Mr. Langley's surrebuttal. Are you  
16 familiar with that report?

17 A. I am. I've examined it as part of --  
18 pardon me. I've examined it as part of my work.

19 MR. ZOBRIST: Judge, since that's  
20 already admitted into evidence, I'm just going to  
21 hand out copies of the pages that I'd like to refer  
22 to in my examination of the witness.

23 JUDGE BUSHMANN: Very good.

24 Q. (By Mr. Zobrist) Now, Mr. Justis, with  
25 regard to page 53, and I'm just going to refer to

1 the original page that's part of this excerpt from  
2 Exhibit ML 2 to Mr. Langley's surrebuttal. At the  
3 paragraph that begins below the figure 40, do you  
4 see that where it starts in 2015?

5 A. Yes.

6 Q. And states there in 2015 the capacity  
7 weighted average installed project cost within our  
8 sample stood at roughly \$1,690 per kilowatt down  
9 \$640 per kilowatt or 27 percent from the apparent  
10 peak in average reported cost in 2009 and 2010,  
11 correct?

12 A. It does.

13 Q. And then it goes on to say early  
14 indications from a limited sample of 18 projects  
15 (totaling 3.4 GW) currently under construction and  
16 anticipating completion in 2016 suggests no material  
17 change in capacity weighted average installed costs  
18 in 2016, correct?

19 A. Yes.

20 Q. And do you recall Mr. Langley's  
21 surrebuttal where he referred to a wind farm project  
22 in western Kansas that Infinity is developing with  
23 Westar Energy that's known as the Western Plains  
24 Wind Farm Project?

25 A. I don't believe I -- I may not have

1 heard that testimony, sir.

2 Q. Okay. It was actually in his written  
3 surrebuttal and he quoted a figure of \$1,554 per  
4 kilowatt.

5 A. Okay. If it's in -- if it's written in  
6 his surrebuttal, I'll take that to be correct.

7 Q. Okay. And you -- so, you don't have any  
8 dispute with that?

9 A. I have no dispute over that's what he  
10 stated that number is, no.

11 Q. Well, he did state that number. I guess  
12 what I'm asking is substantively do you have any  
13 basis to dispute the fact that the Western Plains  
14 Wind Farm Project that Infinity is developing is  
15 proceeding at that capital cost level?

16 A. That's -- I would agree with that.

17 Q. Okay. And as I understand it, you did  
18 not obtain any price quotes from wind turbine  
19 vendors for the cost of wind to be installed in  
20 western Kansas?

21 A. I did not.

22 Q. Now, let me ask you about, if you could  
23 turn, please, to page 60 in this excerpt from  
24 schedule ML-2, which is that 2015 wind technologies  
25 market report. This is the section that relates to

1 O&M costs.

2 A. Yes.

3 Q. And for the record, what does O&M stand  
4 for?

5 A. It typically refers to operating and  
6 maintenance costs.

7 Q. Now, you assumed that maintenance costs  
8 for Kansas wind in your work papers had a value of  
9 \$44.92 per kilowatt, correct?

10 A. That sounds right.

11 Q. And if you would look at page 60 of this  
12 excerpt from Exhibit ML-2, Mr. Langley's  
13 surrebuttal, it's about halfway down that first full  
14 paragraph in the left margin it starts specifically,  
15 EDPR. Do you see that, sir?

16 A. Yes, I believe so.

17 Q. What does EDPR stand for?

18 A. I don't know.

19 Q. Does Energy of Portugal, SA sound  
20 correct?

21 A. I just don't know.

22 Q. You don't know what EDP stands for?

23 A. What EDP stands for?

24 Q. Right. Taken off the R, when you hear  
25 industry --

1 A. No.

2 Q. Okay. You don't even know if they're a  
3 wind generating company?

4 A. I don't specifically know what EDPR is.  
5 I mean, they're associated with wind energy  
6 business, yes, but what they specifically are in  
7 terms of an operator or manufacturer or whatever, I  
8 just don't know.

9 Q. Okay. The report here states  
10 specifically EDPR (2016) reported total operating  
11 expenses of \$25.50 per megawatt hour for its U.S.  
12 wind project portfolio in 2015, correct?

13 A. It does.

14 Q. Okay. And the footnote there says,  
15 though, not entirely clear, EDPR's reported  
16 operating expenses may exclude any repair or  
17 replacement costs that have not been capitalized  
18 rather than expensed, correct?

19 A. Where does it say that?

20 Q. It's in that footnote below.

21 A. Oh.

22 Q. Footnote 59.

23 A. Yes.

24 Q. And it goes on to state that that cost  
25 of \$25.50 per megawatt hour is more than twice the

1     **\$10 per megawatt hour all-in cost reported for 93**  
2     **projects in the Berkeley lab data assembled since**  
3     **2000; is that correct?**

4             A.     That's correct.

5             Q.     But the figure that you used was  
6     **\$44.92; is that true?**

7             A.     That is true.

8             Q.     Then the next paragraph states this  
9     **disparity in operating costs between the EDPR and**  
10    **the Berkeley lab data sample reflects in part**  
11    **differences in the scope of the expenses reported,**  
12    **correct?**

13            A.     Yes.

14            Q.     Did you make any effort to consult this  
15    **wind technologies market report when you were**  
16    **preparing your analysis in this case?**

17            A.     I reviewed it, but for purposes of data  
18    consistency, which I refer to in schedule PGJ-01, I  
19    felt it was more appropriate to take data from a  
20    consistent source and that source is one that I also  
21    felt was credible, which was the EIA capital cost  
22    report that covers multiple technologies.

23            Q.     Now, let me switch topics on you just a  
24    **little bit. I believe one of the other counsel had**  
25    **asked you about the reduction that you've made of**

1 the production tax credit from 80 percent to  
2 60 percent in schedule 1 to your rebuttal, correct?

3 A. Yes, sir.

4 Q. And are you generally familiar with the  
5 IRS Notice 2016-31 that sets forth the standards by  
6 which continuous efforts are evaluated?

7 A. I know that standard exists. I know it  
8 provides for various exceptions. I haven't studied  
9 it in detail. It's relatively complicated.

10 Q. It's been admitted into evidence here as  
11 Exhibit 132. Am I correct that there are safe  
12 harbor provisions within that IRS notice?

13 A. There are some safe harbor provisions,  
14 yes.

15 Q. And are there a series of so-called  
16 excusable disruptions that could, pardon me, that  
17 could be used to delay any decreases in the  
18 production tax credit?

19 A. Yes.

20 Q. Mr. Healy and I think Ms. Pemberton and  
21 perhaps Mr. Brady asked you a number of questions  
22 about the capacity penalty. So, I'm not going to --  
23 not going to plow through all that ground, but let  
24 me ask you this. I believe that Mr. Brady stated  
25 that, pardon me, not Mr. Brady, but in your



1       **conversations with those counsel that --**

2           A.     Pardon me.

3           **Q.     That the -- I think the difference that**  
4       **they were asking you about, sir, if you could take a**  
5       **look at Exhibit 420. It's the box at the bottom**  
6       **that says items for correction to original Justis**  
7       **corrections to Berry model results.**

8           A.     Yes.

9           **Q.     Okay.**

10          A.     Yes.

11          **Q.     And the column that I'm looking at there**  
12       **is the Kansas wind via GBX. Do you see that, sir?**

13          A.     Yes.

14          **Q.     Okay. So, if you look at that figure**  
15       **that's in gray, that corrected figure of \$94.54.**

16          A.     Uh-huh.

17          **Q.     If we adjusted for the capacity adder**  
18       **that you calculated, I think you said it was around**  
19       **\$32 or something like that, I've just lost the exact**  
20       **figure.**

21          A.     The question was what percentage was the  
22       capacity adder and I self-calculated it was around  
23       30 percent.

24          **Q.     Right, yeah. I think 30, 34 percent,**  
25       **correct?**

1 A. Somewhere in there, yes.

2 Q. So, if we take that figure and we  
3 subtract it, it would make that \$94.54 be  
4 approximately \$62.20, correct?

5 A. Yes.

6 Q. And that would make it cheaper than the  
7 advanced combined cycle and the Missouri wind  
8 opportunities, correct?

9 A. It would, but it would not be on an  
10 apples-to-apples basis.

11 Q. What would the number be for the  
12 advanced combined cycle, if you have that available?

13 A. If what?

14 Q. If we did what you viewed as an  
15 apples-to-apples comparison. In other words, the  
16 figure adjusted from 94.54 to 62.20.

17 A. So, base -- well, I'm not sure, and the  
18 reason I say that is -- well, I'd have to think  
19 about what the implication is of the change I would  
20 need to make to the combined cycle based on what the  
21 question was before on the wind project.

22 Q. Well, that's fine. Your counsel can --

23 A. I want to answer your question.

24 Q. Oh, you think you can do it?

25 A. Well, I want to, but I want to make sure

1 I do it correctly. So, you're saying that if we --  
2 if we -- part of the issue is both, both facilities  
3 have some level of dependable capacity?

4 **Q. Well, my question doesn't ask for an**  
5 **explanation. I simply said if we're going to adjust**  
6 **the 94.54 down to 62.20 and you said that's not an**  
7 **apples-to-apples comparison. My question is: What**  
8 **does the \$74.46 figure turn into --**

9 A. I don't know. I would need to calculate  
10 it.

11 **Q. All right. Thank you.**

12 A. It would go down, yes, but I don't -- I  
13 would have to calculate it.

14 **Q. Let me switch gears. You're familiar**  
15 **with the Kansas tax abatement statute?**

16 A. Loosely. Again, I was not familiar with  
17 it before this case. Some of the research I did I,  
18 of course, tried to look into this issue of property  
19 taxes. If it's what I believe you to be referring  
20 to is that for a number of years taxes are not  
21 charged.

22 **Q. Right. For ten taxable years, correct?**

23 A. Okay. So, I just wasn't sure if I was  
24 referring to the same thing that you were.

25 **Q. Right. And the Kansas statutes, and**

1 I'll show it to you and to your counsel here in a  
2 moment, it's Kansas Statutes Annotated Section  
3 79.259 and 66.128, which relate to property which is  
4 exempt from transaction -- taxation including  
5 certain electric transmission lines.

6 JUDGE BUSHMANN: Is this 135?

7 MR. ZOBRIST: 137.

8 A. Thank you.

9 Q. (By Mr. Zobrist) Have you had a chance  
10 to look at Exhibit 137?

11 A. Just sitting here, yes.

12 Q. Is this the tax -- pardon me. The  
13 Kansas tax abatement statute that you referred to in  
14 some of your work papers?

15 A. I believe it is. You know, I can't say  
16 that I've specifically, you know, seen this document  
17 as I looked at the work papers of Mr. Berry and  
18 looked at the, you know, the fact that there was an  
19 assumption of no taxes. I then did some, you know,  
20 some basic research to confirm that I believe that  
21 that is correct, but I don't remember seeing this  
22 specific document.

23 Q. Well, I mean, this is the statute that  
24 we lawyers look at when we see what the tax laws  
25 have to say. My question is: You did do research

1 and confirm that there is a taxes -- that there is a  
2 Kansas tax abatement statute that relates to  
3 electric transmission lines and pertinences?

4 A. Yes, sir.

5 Q. Okay. And let me show you Exhibit 138,  
6 which is one of your work papers which is labeled at  
7 the top GBX Case No. 1 calculated LCOE and there's  
8 some numbers there.

9 MR. ZOBRIST: And Judge, this may be  
10 highly confidential, although I don't think I'm  
11 going to have to go into in camera to make my point.

12 JUDGE BUSHMANN: So, this will be  
13 138-HC?

14 MR. ZOBRIST: Correct.

15 Q. (By Mr. Zobrist) I know the print is  
16 small, Mr. Justis, but does this appear to be a copy  
17 of the work paper that I just described?

18 A. I'm double-checking that, please.

19 Yes.

20 Q. Thank you.

21 MR. ZOBRIST: Judge, it's your  
22 preference. I can either ask the Commission to take  
23 official notice of Kansas Statutes Annotated Section  
24 79-259 and 66-128, or I can also offer Exhibit 137  
25 into evidence.

1 JUDGE BUSHMANN: Let's offer it.

2 (Grain Belt's Exhibit 137 was offered  
3 into the record.)

4 JUDGE BUSHMANN: Anybody object to  
5 Exhibit 137?

6 MR. LINTON: I'm going to object based  
7 upon the fact that Mr. Justis is not a lawyer and he  
8 said he did not know what this was.

9 JUDGE BUSHMANN: That's not what I  
10 heard. I think I heard sufficient foundation. So,  
11 I'll overrule that objection and 137 is received.

12 (Grain Belt's Exhibit 137 was received  
13 into the record.)

14 **Q. (By Mr. Zobrist) Now, Mr. Justis, with**  
15 **regard to Exhibit 138, the spreadsheet that's**  
16 **entitled GBX Case No. 1, that relates to the Grain**  
17 **Belt Express transmission line, correct?**

18 A. Right. So, this was -- this portion of  
19 my analysis was to basically independently calculate  
20 what I believed the rate needed to be for Grain Belt  
21 Express.

22 **Q. And about two-thirds of the way over.**

23 A. In the property taxes column?

24 **Q. Right. That's full of a lot of numbers**  
25 **because you assumed that this property would be**

1 **taxed, correct?**

2 A. This -- yes, yes. I think the -- I  
3 think the application of the formula may not have  
4 been working properly it appears.

5 **Q. And so, you did not abate taxes for ten**  
6 **years as is allowed under Kansas law, correct?**

7 A. According to this, it appears not.

8 **Q. And is it also fair to say that you**  
9 **assessed -- pardon me, that you used in your**  
10 **analysis the property tax rate of the state of**  
11 **Kansas; is that true?**

12 A. That is -- that is true.

13 **Q. So, you did not use a blend of the**  
14 **property tax rates from all of the states through**  
15 **which the Grain Belt Express transmission line will**  
16 **run; is that correct?**

17 A. I did not and that is something, of  
18 course, noted in Mr. Berry's surrebuttal.

19 **Q. And the other states whose property tax**  
20 **rates would need to be brought to bear in the**  
21 **analysis would be a little bit of Indiana, Illinois**  
22 **and Missouri, correct?**

23 A. That's correct.

24 **Q. I think you told Mr. Healy that you did**  
25 **not analyze past or future congestion costs related**

1 to the Crystal Lake wind farm and the PPA that the  
2 City of Columbia has with them?

3 A. That's correct.

4 Q. Now, you said you didn't look at a map.  
5 Do you know where Hancock and Winnebago Counties  
6 are?

7 A. Not by counties. When I looked up where  
8 some of these projects were located, I just looked  
9 them up by their names and didn't necessarily take  
10 note of which counties they were in.

11 Q. Well, the Crystal Lake Wind Farm  
12 contract that Mr. Healy referred to states that the  
13 Crystal Lake Wind Farm is located in Winnebago  
14 County and Hancock County, Iowa, correct?

15 A. Okay. Yes.

16 Q. And Winnebago County is on the  
17 Iowa-Minnesota border. So, it's in far northern  
18 Iowa?

19 A. I mean, that's my assumption it was in  
20 basically northern, northwestern Iowa.

21 Q. Switching to a different subject. In  
22 second data request -- and I wonder if you happen to  
23 have a copy in front of you?

24 A. I should.

25 Q. And I have an extra set if you do not.



1 A. Second set. I have it.

2 Q. Okay. In response to Data Request  
3 No. 20 you agreed that Missouri load-serving  
4 entities face projected shortfalls in meeting  
5 capacity reserves marginal requirements in the next  
6 five years, correct?

7 A. That's correct.

8 MR. ZOBRIST: Okay. I may be done,  
9 Judge. If I can just have a moment.

10 Nothing further.

11 JUDGE BUSHMANN: Did you intend to offer  
12 138-HC?

13 MR. ZOBRIST: Yes, I did. Pardon me,  
14 Judge.

15 (Grain Belt's Exhibit 138-HC was offered  
16 into the record.)

17 JUDGE BUSHMANN: Any objections to the  
18 receipt of that exhibit?

19 Hearing none. 138-HC is received.

20 (Grain Belt's Exhibit 138-HC was  
21 received into the record.)

22 MR. ZOBRIST: Mr. Williams is suggesting  
23 that Exhibit 135 is hanging out there and he's  
24 correct, and I don't need to offer it because I got  
25 an answer from my witness, so...

1 JUDGE BUSHMANN: Okay. Questions by  
2 commissioners?

3 COMMISSIONER RUPP: Yeah. Good  
4 afternoon, sir.

5 THE WITNESS: Good afternoon.

6 COMMISSIONER RUPP: I believe this was  
7 asked by two different witnesses and it was -- and  
8 it's in your testimony, but I just wanted a  
9 clarification. Is it your testimony that in order  
10 to get access to Iowa or Missouri wind that new  
11 transmission lines would need to be constructed?

12 THE WITNESS: No.

13 COMMISSIONER RUPP: Okay. Could you  
14 clarify that.

15 THE WITNESS: The point I was trying to  
16 make is that if you wanted to import -- let's  
17 presume for sake of argument that new lines were  
18 needed. Now, I don't -- I don't believe they are,  
19 but I don't -- I don't know what the, you know,  
20 specific upgrades might be, what the MISO studies  
21 might say with respect to that. So, but let's  
22 assume for example we wanted to import northwest,  
23 you know, Iowa wind into Missouri and that,  
24 therefore, required hypothetically a new line. The  
25 length of that line would be shorter than the

1 typical length, from what I understand, that is  
2 economical to build an HVDC line.

3 COMMISSIONER RUPP: In your graph on I  
4 think it was in your rebuttal on page 14, you had  
5 calculated into those -- into your figures --

6 THE WITNESS: Just a moment.

7 COMMISSIONER RUPP: -- new transmission  
8 or upgrades to transmission. Is that -- that is  
9 figured into your calculations?

10 THE WITNESS: I'm sorry, sir. What  
11 figure?

12 COMMISSIONER RUPP: Oh, it was in your  
13 graph. I got to get to it here. It was in your --  
14 in your rebuttal, page 14.

15 THE WITNESS: Yes, sir.

16 COMMISSIONER RUPP: Is there a graph  
17 there?

18 THE WITNESS: I see it.

19 COMMISSIONER RUPP: And the Illinois --  
20 or the Illinois. The Iowa and Missouri wind, those  
21 figures in those columns, is that -- there is  
22 transmission lines factored into that?

23 THE WITNESS: Yes, yes. For -- as I was  
24 doing my study, I was curious for purposes of  
25 conservative -- for purposes of conservatism, if you

1 hypothesize that brand new lines would have to be  
2 built, what would this rate be.

3 COMMISSIONER RUPP: Okay. Great.

4 THE WITNESS: Yeah. I don't know that  
5 those lines would be needed. My belief is that they  
6 would not be needed.

7 COMMISSIONER RUPP: That's all I had,  
8 Judge.

9 JUDGE BUSHMANN: Any questions?

10 COMMISSIONER COLEMAN: No questions.

11 JUDGE BUSHMANN: Any cross based on  
12 bench questions? Missouri Landowners?

13 MR. AGATHEN: No, Your Honor.

14 JUDGE BUSHMANN: Rockies Express?

15 MS. GIBONEY: No questions, Judge.

16 JUDGE BUSHMANN: Commission staff?

17 MR. WILLIAMS: No.

18 JUDGE BUSHMANN: MIEC?

19 MR. MILLS: No, thank you.

20 JUDGE BUSHMANN: Infinity Wind?

21 MS. PEMBERTON: No.

22 JUDGE BUSHMANN: Wind on the Wires, any  
23 recross?

24 MR. BRADY: No cross or recross.

25 JUDGE BUSHMANN: MJMEUC?

1 MR. HEALY: Just a follow-up on  
2 Commissioner Rupp's question.

3 RE CROSS-EXAMINATION

4 BY MR. HEALY

5 Q. Mr. Justis, if no new lines are built,  
6 though, you would expect there to be definitely an  
7 impact on congestion pricing if it's dumped into the  
8 existing grid; is that correct?

9 A. If -- well, it depends on the specific  
10 scenario you're referring to. So, if you take the  
11 grid as is today and you inject additional energy,  
12 yes; but if you assume that the lines that are under  
13 development, for example the Mark Twain line and  
14 other lines that are in part intended to accommodate  
15 wind energy are constructed, I don't think that that  
16 would necessarily be the case.

17 MR. HEALY: No further questions.

18 JUDGE BUSHMANN: Any cross by Grain  
19 Belt?

20 MR. ZOBRIST: Just briefly.

21 RE CROSS-EXAMINATION

22 BY MR. ZOBRIST

23 Q. Mr. Justis, going back to Exhibit 136,  
24 those first set of data requests that we sent you.  
25 I want to confirm. I mean, your position is that

1 transmission upgrades -- you're not saying no  
2 transmission upgrades would be required with regard  
3 to the transmission service that's proposed in this  
4 case -- pardon me.

5 A. Oh, I think I understand what you're  
6 say.

7 Q. I mean, you told us here that it was not  
8 your position that the adequacy of transmission  
9 service through the existing RTO structure could  
10 occur without any transmission upgrades, correct?

11 A. Yes, but we're talking about two  
12 different things. May I explain?

13 Q. Well, we asked you a statement that  
14 said, with regard to your testimony, which said  
15 there is adequate transmission service through the  
16 existing RTO structure and we said is it your  
17 position that transmission service referenced in  
18 this statement is available today without any  
19 transmission upgrades and you said no, correct?

20 A. Right. I distinguish upgrades from a  
21 brand new line.

22 Q. Well, brand new line can mean an upgrade  
23 in a -- in part of the system, correct?

24 A. It could. What I -- I mean, not a long,  
25 like a 300-mile line. What I'm referring to and

1 what I interpreted your question in the data request  
2 to be is if let's say MISO, you know, a transmission  
3 service request went into MISO, am I assuming that  
4 no upgrades to accommodate that would be necessary  
5 and I was not assuming that, and those are generally  
6 the small, the smaller type of upgrades that come  
7 with an integration study.

8 Q. Well, I mean, you're familiar with the  
9 MTEP, the MISO transmission expansion plan that's  
10 done on an annual basis, correct?

11 A. Uh-huh.

12 Q. And that typically has a couple of  
13 billion dollars of upgrades every year, right?

14 A. Oh, it does.

15 Q. And some of them are relatively minor  
16 and some of them are fairly major, correct?

17 A. Absolutely.

18 MR. ZOBRIST: Thank you.

19 JUDGE BUSHMANN: Redirect?

20 MR. LINTON: Yes, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. LINTON

23 Q. You received, Mr. Justis, you received  
24 several questions on your levelized cost of energy  
25 analysis.

1           A.    Yes, I did.

2           **Q.    Can we take a step back and what is the**  
3 **purpose of an LCOE?**

4           A.    The -- an LCOE is really meant to be  
5 first and foremost a preliminary screening tool to  
6 compare potential resources for inclusion in a more  
7 detailed integrated resource plan, and the form of  
8 the calculation is so that you can compare  
9 different, different forms of generation with  
10 different operating characteristics, with different  
11 sizes and basically boil all those costs down to a  
12 comparable cost.

13           **Q.    So, that occurs -- that occurs at a very**  
14 **preliminary stage of an analysis?**

15           A.    Typically, I mean, in the -- yes, yes.  
16 Typically it's preliminary.

17           **Q.    And you received a question about an RFP**  
18 **being issued without the need for capacity?**

19           A.    An RFP, yes.

20           **Q.    For wind being issued without the need**  
21 **for capacity?**

22           A.    Yes.  Someone could certainly do that.

23           **Q.    Would it have been -- would an LCOE have**  
24 **been done prior to that to determine the relative**  
25 **advantages of what you issue the RFP for?**



1           A.     It may or may not have been. I can  
2     imagine both scenarios. Certainly someone might  
3     want to issue an RFP, right, just to see what the  
4     market has so they can incorporate that in their  
5     screening collection as part of their LCOE analysis.  
6     So, they may be comparing, for example, the received  
7     price from that -- from that RFP response against  
8     what they calculated to be the LCOEs of other, for  
9     example, construction options.

10           **Q.     But if you're comparing the relative**  
11     **value of a combustion turbine versus wind**  
12     **generation, you would do the LCOE?**

13           A.     Absolutely, and include all relevant  
14     costs. That's the whole purpose of an LCOE, to  
15     compare things on an equal footing.

16           **Q.     Now, you received several questions on**  
17     **the 19.5 figure and the 80.5 capacity cost --**

18           A.     Adder.

19           **Q.     -- adder, correct?**

20           A.     Yes, sir.

21           **Q.     First of all, where did you get those**  
22     **numbers?**

23           A.     So, the 19.5 percent credit was from  
24     Mr. Berry's work papers, I went ahead and accepted  
25     that, and the 80.5 is simply the inverse. It's

1 basically 100 percent minus 19.5 percent.

2 Q. The 19.5 percent, would that represent  
3 the relationship between the nameplate rating on the  
4 wind generator and what is attributable as firm for  
5 meeting load and reserve requirements?

6 A. Yes. In this context, yes, it would.

7 Q. So, it would require 80.5 percent of an  
8 adder to get it up to the firm load and reserve  
9 requirement commitment?

10 A. Of that nameplate amount, yes. If you  
11 wanted to compare that in terms of total capacity  
12 benefit, yes.

13 Q. Now, what is the ratio between the  
14 nameplate capacity for wind and the reserve margin  
15 firm load commitment that MISO requires -- or that  
16 MISO specifies?

17 A. I think MISO is roughly 15 percent.

18 Q. 15 percent. So, if you used a  
19 15 percent and a 85 percent cost, capacity cost  
20 adder, your capacity -- what would that do to your  
21 capacity cost adder?

22 A. I'm honestly not following the question.

23 Q. Okay. If you change --

24 A. You mean if the -- you mean if the --  
25 if, if, for example, the capacity credit was 15

1 percent instead of 19.5 percent?

2 Q. Yes.

3 A. That would increase the effective LCOE  
4 calculated for that resource.

5 Q. For which resource?

6 A. For wind -- well, for whatever resource,  
7 add the 15 percent versus the 19.5 percent.

8 Q. And right now we're talking about --

9 A. Wind.

10 Q. -- wind having a 19.5. That would  
11 increase the LCOE for the wind generator?

12 A. It would because you have then, instead  
13 of 80.5 percent, you would have 85 percent  
14 effectively of capacity cost adder in that example.

15 Q. At your surrebuttal testimony, page 11,  
16 figure 1, Mr. Healy had some discussion with you  
17 about the table there.

18 A. I'm having trouble finding it.

19 Q. Okay. I can wait.

20 A. This is on my surrebuttal testimony?

21 Q. Yes. I've been doing that all week.

22 A. I apologize. I thought I was done  
23 referring to that document.

24 Okay. I have it. I'm sorry. What  
25 page?

1 Q. Page 11.

2 A. Yes, sir.

3 Q. Table one.

4 A. Yes.

5 Q. Now, you made, according to -- in  
6 discussion with Mr. Healy, you changed the 19.55  
7 figure to 21.58?

8 A. Based on my new understanding of when  
9 those prices begin, yes.

10 Q. And then Mr. Healy tried to guide -- or  
11 he guided you through some calculation to add some  
12 congestion charges?

13 A. Yes.

14 Q. Would you necessarily agree that the  
15 congestion charges that he outlined were reliable?

16 A. No, I would not.

17 Q. And why is that?

18 A. The issue in my mind is is what time  
19 period you're referring to. So, those congestion  
20 charges and those examples, they may, for example,  
21 be relevant in terms of recent data on the grid, but  
22 there's -- it's very -- it's very difficult to  
23 forecast and in my opinion congestion charges should  
24 not be included when you're thinking past five, ten  
25 years and these, you know, these contract

1 considerations are for 25 years.

2 **Q. And even three years, what is your**  
3 **conclusion regarding the relevance of congestion**  
4 **charges three years out?**

5 A. It's really hard to say. I mean, the  
6 reliability of those -- of those estimates, in my  
7 view, really depends on the specific marketplace  
8 you're trying to analyze. I mean, there are  
9 underlying uncertainties which drive that  
10 reliability of the estimate and different areas have  
11 different levels of uncertainty in the underlying  
12 parameters.

13 **Q. So, if -- as you look at that table one,**  
14 **is the 21.58 competitive with 32.03?**

15 A. Is 21.58 competitive with 32.03? I  
16 would say no.

17 **Q. You had some questions about the price**  
18 **of Crystal Lake three. If the price of Crystal Lake**  
19 **three is higher than the price of the Infinity Grain**  
20 **Belt Express supply to MJMEUC, would it make any**  
21 **economic sense for Columbia to sign the Crystal Lake**  
22 **three contract when they know MJMEUC is negotiating**  
23 **with Grain Belt Express?**

24 MR. HEALY: Objection, Judge. That  
25 calls for speculation what the City of Columbia

1 would or would not know.

2 JUDGE BUSHMANN: Sustained.

3 Q. (By Mr. Linton) You were asked several  
4 questions on what has been marked as Exhibit 135.  
5 This is ML -- Exhibit ML-2 from Mr. Langley's  
6 testimony.

7 A. Which one is that? What is the  
8 document?

9 Q. Right here.

10 A. I'm sorry. I just don't know these by  
11 reference of the exhibit number.

12 Q. I understand.

13 What is your understanding of the source  
14 of that information?

15 A. My -- well, there are multiple sources,  
16 but as I read this document, the preponderance of  
17 the data that underlies the cost data is from the  
18 American Wind Energy Association, which is a trade  
19 organization.

20 Q. Turning to page 53.

21 A. Yes.

22 Q. Mr. Zobrist referred you to that first  
23 sentence underneath figure 40; is that correct?

24 A. Yes.

25 Q. Would you flip over --

1 A. The page?

2 Q. -- to next page.

3 A. Pardon me. It's...

4 Q. I apologize. It's been a long day.

5 A. I didn't expect my counsel to ask me  
6 that question.

7 I'm sorry. Page 54, I'm here.

8 Q. Yeah. Starting with the sentence  
9 although. Can you read that sentence?

10 A. Although the EIAs, is that --

11 Q. Yes.

12 A. Although the EIAs capacity weighted  
13 average cost for 2013 is higher than that derived  
14 from our sample, which is perhaps skewed to the low  
15 side by one sizable project in a year where little  
16 capacity was built, it is nevertheless in align with  
17 the declining cost trend from 2009 to 2015.

18 Q. What does that parenthetical say about  
19 the data discussed in that sentence?

20 A. It simply says the data is perhaps  
21 skewed.

22 Q. On the low side?

23 A. Yes.

24 Q. You were also referred to a document  
25 that I believe was in Mr. Langley's testimony,

1       **surrebuttal testimony. Do you have that?**

2               A.     The document referred to in  
3     Mr. Langley's surrebuttal testimony?

4               **Q.     Right. I believe the schedule was two.**

5               A.     No. Which document is it?

6               **Q.     If you don't have it, we'll move on.**

7               A.     Okay.

8               **Q.     Now, you were also asked some questions**  
9       **about the relative cost estimate for the Grain Belt**  
10      **Express construction?**

11              A.     Yes.

12              MR. LINTON: I have an exhibit to  
13     distribute and mark.

14              JUDGE BUSHMANN: Is this going to be  
15     422, Mr. Linton?

16              MR. LINTON: I think that's right.

17              **Q.     (By Mr. Linton) Before we go there,**  
18       **though, let me ask one question about the last line**  
19       **of questioning. You had some questions about data**  
20       **taken from the Exhibit 135, which you previously**  
21       **referred to.**

22              A.     Yes.

23              **Q.     In your analysis and the principles of**  
24       **doing an LCOE, what drives you in selecting sources**  
25       **of data?**



1           A.    I would say -- I would say two things.  
2    One is the basic credibility of the underlying  
3    organization that produces that, but equally  
4    important would be consistency.  So, in other words,  
5    I much prefer as a professional to take data from  
6    the same, you know, report or the same source if I'm  
7    comparing resources in the context of something like  
8    an LCOE analysis.  In other words, the whole purpose  
9    of the LCOE analysis is to compare resources, not  
10   necessarily to pinpoint what is the cost of each one  
11   in a specific sense, and the concern I run into as a  
12   professional, and this -- that concern is actually  
13   amplified in the EIA capital cost study that it is  
14   important to have consistent methodologies  
15   underlying the cost of information.  So, in my view,  
16   again, EIA reputable data source and that allowed me  
17   to have consistent data between -- or assume  
18   consistent costing methodologies underlying the  
19   wind, combined cycle and various other resources.

20           **Q.    Take a look at what has been distributed**  
21   **and marked as Exhibit 422.**

22           A.    Is this the AACEI document?

23           **Q.    Yes.  Can you just describe what this**  
24   **document is.**

25           A.    This is the AACEI, which is the American

1 Associate -- American Association of Cost Estimators  
2 International. This is their general classification  
3 system for cost estimates for the building in  
4 general construction industries. They publish these  
5 documents for various types of industries. For  
6 example, there's a similar document for estimating,  
7 you know, IT costs for large computer installation,  
8 that type of thing.

9 **Q. Does this apply to the construction of**  
10 **transmission lines?**

11 A. I believe it applies in a universal  
12 sense to the type -- whatever type of activity that  
13 is relevant, and I can tell you for a fact that we  
14 did apply it at Ameren.

15 **Q. Would you take a look at page 1. Flip**  
16 **over to the next page. And in the introduction**  
17 **beginning with the sentence examples, does that**  
18 **confirm your, your opinion?**

19 A. Yes. In particular because it  
20 references utility infrastructure.

21 **Q. Turning to page 5 of this document, and**  
22 **looking at table one, can you describe what that**  
23 **table represents?**

24 A. Yes. So, this standard or this body, as  
25 I mentioned, produces standards that are, in my

1 view, wildly used in judging the accuracy of cost  
2 estimates. They don't specifically prescribe  
3 exactly how to do a cost estimate. What they do,  
4 though, is promote generally general best practices,  
5 but I think more relevant to this case is they help,  
6 help you understand the various levels of  
7 uncertainty around a cost estimate based on how far  
8 the project is along. And so -- and as the AACEI  
9 has many documents. This particular one is really  
10 focused on the cost estimate classification system,  
11 which is what is reflected in table one.

12 And so, I'm sorry. Do you have other  
13 particular questions or do you want me to continue  
14 my discussion?

15 **Q. As long as you want to discuss, go right**  
16 **ahead.**

17 **A.** Well, I think you're asking me about  
18 what this table is.

19 **MR. ZOBRIST:** Judge, I'm going to  
20 object. That calls for a narrative.

21 **JUDGE BUSHMANN:** Sustained.

22 **Q. (By Mr. Linton) All right. Then moving**  
23 **on down. What are the -- what are the issues that,**  
24 **that are considered in determining what class of**  
25 **estimate a certain project is in?**

1 MR. ZOBRIST: Judge, the only reason I'm  
2 going to object is because this is redirect and I'm  
3 not sure what issues we're really dealing with. I  
4 mean, a number of us asked specific questions about  
5 cost estimates for electric transmission, O&M for an  
6 electric transmission line, and this is kind...

7 JUDGE BUSHMANN: How is this within the  
8 scope, Mr. Linton?

9 MR. LINTON: This is -- this is a  
10 discussion of the variability in the estimates of  
11 electric transmission lines, which has previously  
12 been discussed.

13 JUDGE BUSHMANN: All right. I'll allow  
14 it. If you can direct your questions to that  
15 specifically.

16 **Q. (By Mr. Linton) What, what are the**  
17 **factors that are considered in determining the phase**  
18 **of a cost estimate for a project such as this?**

19 A. Basically, all of the different elements  
20 that relate to how far the project is along. So, is  
21 it just conceptual? Is it actually -- has a, you  
22 know, formal design been done, has formal  
23 engineering been done? In the case, for example, of  
24 a transmission line, is there a final route? Has  
25 geotechnical work been completed, had actual bids

1 been received for the materials and labor and other  
2 contract requirements. And so, as you move down  
3 through the categories, the assumed level of  
4 uncertainty reduces.

5 **Q. At what stage would you say this project**  
6 **is at in a cost estimate -- estimation stage?**

7 A. If I had to -- if I had to pick a single  
8 one, I would say class four. I think there were  
9 some elements of class three completed, but  
10 predominantly it's a class four.

11 **Q. So, the range of low and high estimate**  
12 **expectations would be what?**

13 A. According to a class four, would be  
14 the -- on the low side, minus 10 to minus 20  
15 percent. On the high side, plus 20 to plus  
16 30 percent.

17 MR. LINTON: I move for the admission of  
18 Exhibit 422.

19 (Show Me's Exhibit 422 was offered into  
20 the record.)

21 JUDGE BUSHMANN: Any objections?

22 Hearing none. 422 is received.

23 (Show Me's Exhibit 422 was marked for  
24 identification.)

25 MR. LINTON: No further questions.

1 JUDGE BUSHMANN: Mr. Justis, that  
2 completes your testimony. You are excused.

3 THE WITNESS: Thank you.

4 JUDGE BUSHMANN: Thank you.

5 I believe that completes all the witness  
6 testimony. As far as the transcripts go, we'll try  
7 and get those out as soon as possible. They're  
8 starting to come in now and they will definitely --  
9 all of them should be available no later than March  
10 30th. Initial briefs are due on April 10th, reply  
11 briefs are due on April 24th, findings of fact and  
12 conclusions of law are due on April 25.

13 Are there any other matters that the  
14 parties need to bring up before we adjourn?

15 MR. ZOBRIST: Judge, the only other  
16 matter that I had was with regard to Mr. Haden on  
17 behalf of Missouri Farm Bureau, the notice of  
18 withdrawal of the witness Spencer Parkinson. I  
19 don't believe there was any effort to offer that  
20 summary report. So, I presume that you have taken  
21 no action and that will not be admitted into the  
22 record?

23 JUDGE BUSHMANN: The prefiled testimony  
24 of Mr. Parkinson?

25 MR. ZOBRIST: Well, it was this summary

1 report, which under the Commission's rules is  
2 permitted for direct testimony, but in our view not  
3 for surrebuttal. I was going to object to it, but  
4 it hasn't been offered by Mr. Haden that I recall,  
5 so I presume it's not in the record.

6 JUDGE BUSHMANN: Since he withdrew as a  
7 witness and did not offer it, it is not in the  
8 record of the hearing.

9 MR. ZOBRIST: Thank you, Judge.

10 JUDGE BUSHMANN: Any other matters that  
11 need to be discussed? (No response.)

12 In that case, I'm happy to say that  
13 we're adjourned. Off the record.

14 (The hearing was adjourned at 3:43 p.m.)

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CERTIFICATE OF REPORTER

I, Amanda N. Farrar, a Certified Court Reporter for the State of Missouri, do hereby certify that the witnesses whose testimony appears in the foregoing transcript were duly sworn; the testimony of said witnesses was taken by me to the best of my ability and thereafter reduced to typewriting by me; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Amanda Farrar  
Certified Court Reporter

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