

1 STATE OF MISSOURI  
2 PUBLIC SERVICE COMMISSION

3  
4 HEARING  
5 July 12, 2000  
6 Jefferson City, Missouri  
7 Volume 6

8 In the matter of the Joint )  
9 Application of UtiliCorp United,) )  
10 Inc. and St. Joseph Light & ) )  
11 Power Company for Authority to ) Case No. EM-2000-292  
12 Merge St. Joseph Light & Power ) )  
13 Company with and into UtiliCorp ) )  
14 United Inc., and, in connection ) )  
15 therewith, Certain Other ) )  
16 Related Transactions. ) )

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18  
19 BEFORE:

20 MORRIS L. WOODRUFF, Presiding,  
21 REGULATORY LAW JUDGE.  
22 SHEILA LUMPE, Chair,  
23 CONNIE MURRAY,  
24 ROBERT G. SCHEMENAUER,  
25 KELVIN SIMMONS,  
M. DIANNE DRAINER, Vice-Chair  
COMMISSIONERS.

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FOR: Staff of the Missouri Public Service  
Commission.

1 PROCEEDINGS

2 (EXHIBIT NO. 401 WAS MARKED FOR  
3 IDENTIFICATION.)

4 MR. CONRAD: Your Honor, at the close of our  
5 session yesterday, I had indicated on the record that  
6 all of the parties of which I was aware at that time  
7 and still am have --

8 JUDGE WOODRUFF: I was going to say, are  
9 there new parties that I'm not aware of?

10 MR. CONRAD: No.

11 -- had indicated that they had no further  
12 cross-examination for Mr. Brubaker on any of the other  
13 issues that he'd been tagged on. As I had mentioned  
14 earlier, it's -- it's desirable to get him out of here  
15 fairly quickly and get him on his way to another  
16 commitment, and I had asked if your Honor would check  
17 with the Bench and see if they had any questions and  
18 so on.

19 And if we're at that point, then I would --  
20 he would not then be taking the stand unless there  
21 were questions from the Bench, but I do need to offer  
22 his exhibits and get that closed up while he's here.

23 JUDGE WOODRUFF: So you're asking that he be  
24 excused from further participation?

25 MR. CONRAD: From further participation,

1 yes.

2 JUDGE WOODRUFF: Okay. Does any party have  
3 any objection to that?

4 (No response.)

5 JUDGE WOODRUFF: Hearing none, I assume  
6 there are none then.

7 MR. CONRAD: Right. And I would like to, if  
8 it's not inappropriate to do so at this moment, to  
9 move admission of Exhibit 500 and 500-HC.

10 JUDGE WOODRUFF: Okay. 500-NP and 500-HC?

11 MR. CONRAD: Yes.

12 JUDGE WOODRUFF: Okay. 500-NP and 500-HC  
13 have been offered into evidence. Are there any  
14 objections?

15 (No response.)

16 JUDGE WOODRUFF: Hearing none, they will be  
17 received.

18 (EXHIBIT NOS. 500-NP AND 500-HC WERE  
19 RECEIVED INTO EVIDENCE.)

20 MR. CONRAD: Thank you.

21 MR. SWEARENGEN: Your Honor, before we go  
22 further, could I inquire about one further witness  
23 shift?

24 JUDGE WOODRUFF: Go right ahead.

25 MR. SWEARENGEN: UtiliCorp Witness Vicki

1 Heider is scheduled to testify today according to this  
2 schedule. I recognize that we're still only halfway  
3 through the first day's schedule, but --

4 JUDGE WOODRUFF: Yes.

5 MR. SWEARENGEN: -- I would ask that she be  
6 allowed to testify today, if the parties would be  
7 agreeable.

8 I'm not certain whether or not any of the  
9 parties or the Bench, in fact, have questions for her.  
10 Perhaps the lawyers could visit about that amongst  
11 themselves, and let us know at a later date, but we  
12 would like to have her on today if at all possible.

13 JUDGE WOODRUFF: Fine. You can discuss that  
14 with the other parties at the first break.

15 Okay. Any other preliminary matters?

16 MR. DOTTHEIM: Excuse me. The matter of  
17 Vicki Heider --

18 MR. SWEARENGEN: Yes.

19 MR. DOTTHEIM: -- are we going to take that  
20 up later, or is that --

21 JUDGE WOODRUFF: I indicated that the  
22 parties can discuss that at the first break.

23 MR. DOTTHEIM: Because we will have some  
24 questions if we take her this afternoon, but -- excuse  
25 me. I don't want to go into any more on that.

1 MR. SWEARENGEN: Thank you.

2 JUDGE WOODRUFF: Okay. Anything else?

3 (No response.)

4 JUDGE WOODRUFF: Let's proceed with this  
5 witness then.

6 Wait a minute. I need to swear him.

7 (Witness sworn.)

8 ROGER COLTON testified as follows:

9 DIRECT EXAMINATION BY MS. WOODS:

10 Q. Mr. Colton, would you state your name,  
11 please?

12 A. My name is Roger Colton.

13 Q. And pursuant to a stipulation among the  
14 parties, I'm just going to ask you if you have any  
15 corrections or changes that you need to make to the  
16 testimony that you prefiled in this case?

17 A. I have two minor corrections to make in  
18 exhibits. In -- or in schedules.

19 In Schedule RDC-3, the columns -- even  
20 though the table is marked "Distribution of Persons"  
21 the columns are labeled "Number of Households." And  
22 the word "households" should be struck and the word  
23 "persons" inserted in lieu thereof. So both of those  
24 columns should be households -- number of persons and  
25 percent of persons. So strike the word "household"

1 and insert the word "persons" in lieu thereof.

2 And, secondly, on Schedule RDC-7, in the  
3 column "Residential Sales," I see that I have inverted  
4 the numbers for UtiliCorp and St. Joseph Light &  
5 Power. So the 2000 number should be in the UtiliCorp  
6 line, and the 634165 number should be in the  
7 St. Joseph Light & Power line. Those numbers have  
8 simply been flipped. Those are the two corrections.

9 MS. WOODS: Okay. Thank you.

10 At this time the Department would move the  
11 entry of Exhibit 401, and tender Mr. Colton for  
12 cross-examination.

13 JUDGE WOODRUFF: Exhibit 401 has been  
14 offered into evidence. Are there any objections?

15 (No response.)

16 JUDGE WOODRUFF: Hearing none, it will be  
17 received into evidence.

18 (EXHIBIT NO. 401 WAS RECEIVED INTO  
19 EVIDENCE.)

20 JUDGE WOODRUFF: And the witness has been  
21 tendered for cross-examination, so we'll begin with  
22 AgP.

23 MR. CONRAD: And, your Honor, we have no  
24 questions.

25 JUDGE WOODRUFF: Okay. Springfield is not



1 here.

2 Public Counsel?

3 MR. COFFMAN: No questions.

4 JUDGE WOODRUFF: And Staff?

5 MR. DOTTHEIM: No questions.

6 JUDGE WOODRUFF: And Union Electric is not

7 here.

8 UtiliCorp?

9 MR. DUFFY: No questions at this time.

10 JUDGE WOODRUFF: St. Joseph Light & Power?

11 MR. COMLEY: No questions.

12 JUDGE WOODRUFF: All right. Questions from  
13 the Bench. Commissioner Simmons?

14 COMMISSIONER SIMMONS: No questions.

15 JUDGE WOODRUFF: And I have no questions, so  
16 there is no need for recross and there is no need for  
17 redirect, unless you have some.

18 MS. WOODS: Not that I can think of.

19 JUDGE WOODRUFF: Okay. You may step down  
20 then, Mr. Colton.

21 THE WITNESS: Thank you.

22 (Witness excused.)

23 JUDGE WOODRUFF: Thank you.

24 All right. I believe the next witness,  
25 then, would be Mr. Oligschlaeger.

1 All right. Mr. Oligschlaeger, you've  
2 already been sworn, but, of course, you are still  
3 under oath.

4 I don't believe there is any need for direct  
5 at this point, so we'll go ahead and start with  
6 cross-examination on the regulatory plan overall  
7 issue. And starting with Natural Resources?

8 MS. WOODS: I have no questions. Thank you.

9 JUDGE WOODRUFF: AgP?

10 MR. CONRAD: No further questions.

11 JUDGE WOODRUFF: City of Springfield is not  
12 present.

13 Public Counsel?

14 MR. MICHEEL: No.

15 JUDGE WOODRUFF: Union Electric is not  
16 present.

17 UtiliCorp.

18 MR. SWEARENGEN: Thank you, your Honor.

19 MARK L. OLIGSCHLAEGER, being previously sworn,  
20 testified as follows:

21 CROSS-EXAMINATION BY MR. SWEARENGEN:

22 Q. Mr. Oligschlaeger, if Mr. UtiliCorp and  
23 St. Joe had come in with a proposal consistent with  
24 the Western/KCP&L merger stipulation that Mr. Dottheim  
25 talked about yesterday, would the Staff have supported

1 this merger?

2 A. Probably not, because our examination of the  
3 merger costs and the merger savings seemed to indicate  
4 a shortfall in the amount of net merger savings to be  
5 expected from this transaction, and that was not a  
6 finding that we made with the Western/KCP&L  
7 transaction.

8 Q. Okay. With respect to UtiliCorp's  
9 regulatory plan, I am aware of at least one Commission  
10 case which says that with respect to a merger, the  
11 utility only needs to maintain the status quo in terms  
12 of rates and service for the immediate future in order  
13 to meet the not-detrimental-to-the-public test.

14 Are you familiar with any Commission case  
15 that stands for that proposition?

16 A. I can't say that I'm at this time familiar  
17 with the exact wording you quoted.

18 Q. Okay. I think, as I recall in my opening  
19 statement, I mentioned a 1971 Laclede Gas Company  
20 merger proceeding in Case 17-267 where I know that  
21 language appears. Have you ever reviewed that case to  
22 your knowledge?

23 A. No, I have not.

24 Q. Let me ask you this: Would you agree with  
25 me that the -- a definition of immediate future would

1 certainly not extend beyond five years?

2 A. I would probably disagree that it would  
3 extend to five years. I would certainly agree it  
4 should not extend beyond five years.

5 Q. So I would take it from your answer that you  
6 would agree that the status quo in terms of rates for  
7 five years would certainly meet the immediate future  
8 test and probably go beyond the immediate future?

9 A. If "status quo" is defined as rates  
10 remaining stable during that time period, I would  
11 probably disagree that --

12 Q. Well, something less than five years would  
13 suffice as far as you are concerned in terms of  
14 immediate future? I thought that's what I heard you  
15 say. I think you said it wouldn't extend to five  
16 years; is that correct?

17 A. In my own mind -- and, obviously, I don't  
18 know the context in which the Commission made those  
19 statements in the 1971 case --

20 Q. Right.

21 A. -- to me "immediate future" suggests to me a  
22 period of one or two or three years.

23 Q. Okay. That's fine. Thank you.

24 Now, with respect to the proposed regulatory  
25 plan and the post-moratorium rate case or rate cases

1 which would be filed in year five after closing, is it  
2 your testimony that you do not believe that UtiliCorp  
3 can track and prove up merger savings in those  
4 post-moratorium rate cases?

5 A. Given what we believe to be serious problems  
6 conceptually with any effort to tract merger savings,  
7 we would be very skeptical that such an effort would  
8 be successful now or in the future five years from  
9 now.

10 Q. And that would be with respect to this  
11 proposed merger or perhaps any proposed merger in  
12 which the parties would seek to track savings; is that  
13 true?

14 A. That's a general statement that goes beyond  
15 this merger.

16 Q. All right. But it's a general statement  
17 that you would agree with?

18 A. Yes.

19 Q. Okay. Is it your testimony that it would be  
20 impossible for UtiliCorp to show merger savings in the  
21 post-moratorium rate cases?

22 A. I think our testimony states very difficult  
23 and perhaps or probably impossible, so I'm not going  
24 to say absolutely impossible.

25 Q. Thank you.

1           Is there anyone on the Staff to your  
2 knowledge that think that UtiliCorp can track and  
3 prove up merger savings in the post-moratorium rate  
4 case?

5           A.     Not to my knowledge.

6           Q.     So then if this Commission goes ahead and  
7 approves this merger and approves the proposed  
8 regulatory plan, wouldn't it really be a meaningless  
9 event from the Staff's perspective? Because of your  
10 view, the Company really could not execute the plan in  
11 terms of proving up the merger savings, and, thus,  
12 securing the direct rate treatment of the premium?

13          A.     If I understand your question, if the  
14 Commission approves your plan, then UtiliCorp, I  
15 assume, would come forward with some what it would  
16 believe to be evidence of merger savings in the year  
17 five rate case, and it would be our obligation to  
18 examine that evidence and express an opinion to the  
19 Commission on that.

20          Q.     And while you're not going to say it would  
21 be impossible for UtiliCorp to meet that burden, you  
22 think it's extremely unlikely that they could; is that  
23 not untrue?

24          A.     That is correct.

25          Q.     And so my question is, given that, given

1 your belief that UtiliCorp really won't be able to do  
2 that, almost impossible, what difference does it make  
3 to you whether or not the Commission approves this  
4 merger with that provision in the regulatory plan also  
5 being approved?

6 MR. DOTTHEIM: I object. The question is  
7 argumentative, and -- the question is argumentative.

8 JUDGE WOODRUFF: Overruled.

9 THE WITNESS: As I believe I state in my  
10 testimony, the problem with accepting the plan as such  
11 is that UtiliCorp is requesting this Commission to  
12 make up-front ratemaking decisions regarding the  
13 merger premium and other costs with the customer  
14 protection measure in relation to that, which would be  
15 the savings tracking mechanism, left undefined and in  
16 our view unlikely to be workable or successful.

17 BY MR. SWEARENGEN:

18 Q. Is it not true that under the proposed plan,  
19 if UtiliCorp is not able to convince this Commission  
20 in those post-moratorium rate cases that it has, in  
21 fact, successfully tracked the synergies developed by  
22 the merger that the Commission will not allow the  
23 premium to be recovered?

24 A. As I understand the Company's plan, to the  
25 extent the Commission believes evidence of merger

1 savings is inadequate or insufficient -- well, to be  
2 truthful, I don't know what would happen if -- I see  
3 two possibilities. I mean, I assume there would  
4 probably be disagreements -- potential disagreements,  
5 first of all, in terms of the amount of merger savings  
6 claimed, and the Commission would have to, I guess,  
7 decide among the competing parties' claims.

8 But there would also potentially be a claim  
9 by the Staff or other parties, that we don't know what  
10 the amount of merger savings is. We can't tell. And  
11 I'm not sure what the Commission would do, I mean, in  
12 that situation, whether they would say no amount of  
13 the premium should be recovered because we don't know  
14 what the amount of merger savings is or what. That's  
15 not clear to me.

16 Q. Okay. I guess my question really is,  
17 though, and I recognize that those scenarios could  
18 develop, will you not agree if UtiliCorp cannot  
19 convince the Commission that it has proven up  
20 synergies that it will not recover the premium?

21 A. As I understand your -- the Company's  
22 proposal, if the -- if there is, what is in the  
23 Commission's mind, no evidence of merger savings, then  
24 an adjustment would be made to the Company's cost of  
25 service, and no amount of the premium would be



1 recovered.

2 Q. And that would be a decision for this  
3 Commission to make; isn't that correct?

4 A. Under the plan, yes.

5 Q. In that rate case in year five?

6 A. That's correct.

7 Q. And the rates couldn't change without  
8 Commission approval. I think you would agree with  
9 that, would you not?

10 A. That's certainly the current law and  
11 practice.

12 Q. And, obviously, the premium could not be  
13 included in those rates unless the Commission felt it  
14 ought to be?

15 A. That's correct.

16 Q. And the burden of convincing the Commission  
17 that it ought to be in that post-moratorium rate case  
18 would be on UtiliCorp. Correct?

19 A. That's correct.

20 Q. Let me ask you this question: I recognize  
21 you're not saying that it's impossible for UtiliCorp  
22 to do that in the post-moratorium rate case to prove  
23 up benefits to entitle it to the premium, but you're  
24 thinking that it's almost impossible.

25 And I think you mentioned earlier, and my

1 question is, is the Staff's real concern with the  
2 merger that even absent direct premium recovery, which  
3 you don't think we can get, that in any event the  
4 rates will be higher for St. Joe Light & Power  
5 customers than they would have been otherwise?

6 A. Yes. The evidence that's primarily  
7 presented in Mr. Traxler's testimony, but also  
8 Dr. Proctor's testimony, would suggest even absent the  
9 premium we believe merger costs will exceed reasonable  
10 estimates of mergers savings.

11 Q. And to prove that in the post-moratorium  
12 rate case, would you have to show what the rates would  
13 have been for SJLP absent the merger?

14 A. To make any kind of a hard and fast finding  
15 in terms of actual savings exceeding actual costs, we  
16 would have to, I guess, put forward some evidence of  
17 what the likely stand-alone costs of St. Joe would be.

18 Q. And that would be five years from the  
19 closing of the merger?

20 A. That is correct.

21 Q. Okay. How long have you been employed by  
22 the Commission?

23 A. Since September 1981.

24 Q. And during that time, how many merger  
25 proceedings have you been involved with or are you

1 familiar with?

2 A. I've testified probably on three or four and  
3 have been involved to various degree with others  
4 throughout the years.

5 Q. Are you aware of any cases in which the  
6 Commission denied a merger on the grounds that rates  
7 would be higher for customers than they would have  
8 been otherwise?

9 A. I personally am not aware of that.

10 Q. Are you aware of any proposed merger that  
11 has been disapproved by the Commission for any reason?

12 A. There may be instances. I cannot say I'm  
13 aware of them.

14 Q. Okay. At Page 41 of your testimony on  
15 Line 10, beginning on Line 10, you state,  
16 "Moreover" -- and you're referring to conditions  
17 proposed by the Staff. "Moreover, such conditions may  
18 affect the financial viability of the merger  
19 transaction from UtiliCorp's perspective."

20 What do you mean by that statement?

21 A. What I mean by that is, obviously,  
22 UtiliCorp, I assume, has some expectation of an  
23 ability to retain merger savings and attain other  
24 benefits from this merger, and it is possible that  
25 conditions that may be attached to this merger by the

1 Commission could potentially limit UtiliCorp's ability  
2 to retain those savings or attain other merger  
3 benefits beneath what it -- what the Company believes  
4 is necessary to close the transaction.

5 MR. SWEARENGEN: Thank you.

6 That's all I have. Thank you very much.

7 JUDGE WOODRUFF: Thank you.

8 St. Joseph Light & Power?

9 MR. COMLEY: No questions.

10 JUDGE WOODRUFF: We will go to questions  
11 from the Bench, starting with Chair Lumpe.

12 QUESTIONS BY CHAIR LUMPE:

13 Q. Mr. Oligschlaeger, if -- if we were to  
14 measure in order to somehow try to determine savings  
15 five years out, what would be the items that we should  
16 measure? What conceivably could we measure?

17 A. Okay. Five years out, I'm not sure that you  
18 could really measure accurately any elements of the  
19 Company's cost of service. I assume that any kind of  
20 tracking mechanism would cover such items as employee  
21 reductions, joint dispatch and generation-related  
22 savings, possibly cost of capital. Those are the  
23 major things that come to mind.

24 Q. If the moratorium, say, were three years  
25 instead of five years, would it be any easier to

1 determine those numbers? Aren't you still sort of  
2 guessing at what might have been minus the merger in  
3 relation to the merger?

4 A. You're always guessing, and the farther out  
5 you go, I think the more speculative and the less  
6 foundation or substance you have to make those  
7 judgments. I mean, in the immediate six months  
8 following a merger, you can have a look at reduction  
9 in employees and so on and maybe be able to make some  
10 educated guess as to perhaps an approximate impact,  
11 but as time goes on, you lose that ability.

12 Q. So the difficulty, as I understand it, from  
13 Staff's position is how can you prove what you can't  
14 really track?

15 A. Well, yeah. How can you prove when one  
16 element of the equation is an estimation of what would  
17 have happened to St. Joe if they had remained a stand-  
18 alone company. And inherently --

19 Q. That's a guess?

20 A. -- that's a guess, yes.

21 CHAIR LUMPE: Thank you.

22 JUDGE WOODRUFF: Commissioner Murray?

23 COMMISSIONER MURRAY: Thank you.

24 QUESTIONS BY COMMISSIONER MURRAY:

25 Q. Good morning, Mr. Oligschlaeger.

1 A. Good morning.

2 Q. I'm looking at your summary on Page 56 of  
3 your testimony, and I want to make sure that I  
4 understand Staff's position here.

5 You indicate there that the evidence  
6 presented by Staff is that the expected rate impact of  
7 this merger on SJLP and MPS customers will be  
8 negative. Would that still be true in your opinion if  
9 the acquisition costs were not included in rates?

10 A. If you're referring specifically to the  
11 acquisition premium cost, yes, that is our -- our  
12 position. The reasonable estimates and merger costs  
13 exceed merger savings even without considering the  
14 acquisition adjustment.

15 Q. And I've been puzzling over this. If that  
16 is true, would that not be a merger that would not  
17 make sense for the shareholders either?

18 A. On its face, yes.

19 Q. So why in your opinion would the  
20 shareholders vote for a merger that had that kind of  
21 expectations?

22 A. Obviously, my answer to this has to come  
23 from my own perspective, and, of course, be somewhat  
24 speculative. My belief is that there is from the  
25 Company's perspective an expectation of significant

1 benefits in the future from -- in non-regulated areas  
2 from this merger.

3 Q. And you don't think that any of -- or enough  
4 of those benefits would flow to the regulated areas to  
5 offset the costs of the merger?

6 A. I believe in general the expectation is from  
7 a regulatory perspective that non-regulated operations  
8 should not affect rates charged to customers either  
9 positively or negatively.

10 Q. But I'm talking about the merger savings.  
11 Your -- it's your understanding or your opinion that  
12 the amount of merger savings that would flow through  
13 to the customers of the regulated entities would not  
14 be sufficient to offset any costs flowing through to  
15 the ratepayers. Is that what you're saying?

16 A. Well, what -- what I'm saying is if you look  
17 at the amount of estimated merger savings put forward  
18 by the companies, with some adjustments that we  
19 believe are reasonable, more reasonable than the  
20 assumptions made by the companies, that those savings  
21 do not offset the amount of the merger premium and  
22 other merger costs that the companies are proposing  
23 being charged to customers.

24 Q. But I want to understand what you're saying  
25 here, because I under-- what I understand you to have

1 said earlier is that even if we don't include any  
2 acquisition premium or any of the transaction costs in  
3 flowing those through to ratepayers, you think that  
4 the costs of -- the other merger costs would be  
5 greater than the flow-through of savings to the  
6 ratepayers?

7 A. That is true, and I should add that the  
8 primary reason for that is the increased allocation of  
9 administrative and general costs to St. Joe. Once it  
10 becomes part of the UtiliCorp corporate family and is  
11 part of their overall corporate allocation system,  
12 that will lead to what we believe to be a significant  
13 increase in total A&G costs to St. Joe compared to  
14 their stand alone operations, and that increase is due  
15 to the merger and would not occur without the merger.  
16 And that increase also has -- has the impact of  
17 offsetting a large part of the estimated merger  
18 savings that could potentially flow to customers  
19 otherwise.

20 Q. Okay. And those costs that would be given  
21 to St. Joe, that prevents any delusion of costs for  
22 the MPS customers also, is that correct, as a result  
23 of the merger?

24 A. The -- okay. As I understand the system,  
25 the increased A&G costs that will go to St. Joe to



1 some degree represent a shifting of costs within the  
2 UtiliCorp family. In fact, all of the other  
3 components of the UtiliCorp family, including Missouri  
4 Public Service, would have an expectation of reduced  
5 A&G altercations because of the addition to St. Joe.

6 Q. And you're including MPS in that?

7 A. Yes. That's my understanding.

8 Q. Going on in your summary on Page 56, you  
9 speak about, following Line 13, that if the Commission  
10 would approve the merger, that certain conditions and  
11 recommendations should be agreed to and accepted.

12 And one of those is that a fair share of  
13 merger savings should be assigned to MPS in the future  
14 and available to be flowed through to customers in  
15 rate proceedings. But I thought that there was no  
16 share of merger savings in your opinion that could be  
17 flowed through to the customers that would offset any  
18 costs?

19 A. Well, once again, in total we believe that  
20 the costs will exceed the savings. It's possible that  
21 the Commission would disagree with us and find that  
22 the merger should be approved.

23 In that instance, what I'm saying is that  
24 there should be no artificial assignment of all of the  
25 merger savings to St. Joe because I think fairness in

1 equity would require that some portion of the merger  
2 savings also go to existing UtiliCorp customers in  
3 Missouri.

4 Q. And what -- with your conditions, what  
5 portion of costs are you suggesting should be  
6 allocated to St. Joe and MPS?

7 A. Of costs or savings?

8 Q. Costs.

9 A. The biggest cost is obviously the  
10 acquisition premium. Of course, I'm recommending --  
11 the Staff is recommending that that be charged below  
12 the line.

13 As I understand the Company's position, one  
14 reason they are not proposing to assign merger savings  
15 to MPS is that they -- they have not -- they have  
16 decided not to charge any of the premium costs to MPS  
17 customers.

18 To the extent that this Commission would  
19 find that merger savings should flow to MPS, then I  
20 believe the Company would have the discretion to also  
21 decide to charge some amount of the premium to MPS on  
22 a below-the-line basis as well.

23 Q. I'm talking about what costs would you --  
24 are you suggesting that the MPS and St. Joe customers  
25 share if they are sharing in the savings?

1           A.       And I believe my testimony also states that  
2 to the extent savings flow to the MPS division that a  
3 fair amount of the prudent cost to achieve or  
4 transition costs should also be assigned to MPS.

5           Q.       And how would we determine what is a fair  
6 amount of prudent costs?

7           A.       Well, our recommendation is, in our  
8 testimony, that that is a decision to be left for  
9 future rate proceedings. But in the event the  
10 Commission wants to make that determination now, I  
11 believe Staff Witness Russo's testimony contains some  
12 recommendations as to what portions of costs to  
13 achieve should be considered for recovery.

14          Q.       Okay. And has anyone made any estimates of  
15 the total costs and total savings that shareholders  
16 would receive from this merger?

17          A.       Okay. In terms of the total benefits  
18 expected from this merger from the UtiliCorp  
19 perspective, I have not seen any quantification of  
20 that because they have not provided or at least we  
21 have not seen any evidence that they have quantified  
22 the total expected benefits they see from  
23 non-regulated operations.

24          Q.       Have you requested such information?

25          A.       We asked them for a quantification of

1 expected non-regulated synergies, and the reply was  
2 that they had not performed such a study.

3 COMMISSIONER MURRAY: Thank you.

4 JUDGE WOODRUFF: Commissioner Schemenauer?

5 COMMISSIONER SCHEMENAUER: Thank you, your  
6 Honor.

7 QUESTIONS BY COMMISSIONER SCHEMENAUER:

8 Q. Good morning, Mr. Oligschlaeger.

9 A. Good morning.

10 Q. On Pages 16 to 19 of your testimony, you  
11 discuss the difference between a pooling of interest  
12 and a purchase transaction, and you contrast that with  
13 the UtiliCorp/KCP&L merger that was attempted a few  
14 years ago?

15 A. Yes.

16 Q. Could you discuss that a little bit? Why --  
17 why is it beneficial to the Company to do a pooling of  
18 interest -- I mean, a purchase transaction rather than  
19 a pooling of interest?

20 A. Why would it be beneficial from the  
21 Company's perspective to do a purchase rather than a  
22 pooling?

23 Q. Yes.

24 A. As I understand it from discussions with  
25 UtiliCorp personnel, and to some degree with personnel

1 of other utility companies, there is a concern that  
2 having to meet the restrictions necessary to meet  
3 the -- I think there is 12 listed criteria in APP 16  
4 for a pooling accounting, would have the impact of  
5 somewhat limiting these companies' freedom of action  
6 in the next couple of years in terms of meeting  
7 certain possible events.

8 For example, I think there's limitations in  
9 terms of equity, stock issuances and so on. I mean,  
10 their freedom of action is more limited, if I could  
11 summarize, under a pooling scenario than it would be  
12 under a purchase scenario.

13 Q. And under a pooling scenario, they would not  
14 be able to mitigate the dilution of their stock as the  
15 cost of the transaction flowed through their financial  
16 statement; whereas, in a purchase transaction, they  
17 could assign those costs -- some of those costs  
18 recoveries to the ratepayers?

19 A. Well, we have seen proposals by companies  
20 entering into pooling transactions which would have  
21 assigned to customers the responsibility, as it were,  
22 for preventing dilution of their stock under a pooling  
23 scenario, so I think that they -- companies certainly  
24 are free to seek such recovery under either scenario.

25 Q. Under the KCP&L acquisition that UtiliCorp

1 attempted, their regulatory plan was pretty simple.  
2 On Page 17 you outline the 2 percent rate reduction,  
3 establishment of an alternative regulation sharing  
4 plan, an accelerated depreciation. That would have  
5 been pretty simple to track and follow?

6 A. Well, I believe under their proposal there  
7 would have been no need to attempt to estimate future  
8 merger savings and to track them. In fact, their  
9 testimony stated explicitly that that was a benefit of  
10 their proposal, the fact that that type of effort  
11 could be avoided.

12 Q. It would have been a lot simpler from  
13 everybody's standpoint to see what was going on?

14 A. I believe so.

15 Q. Now, after the five-year moratorium, if a  
16 rate case was filed and the establishment of the  
17 savings benefit was in dispute, and the Commission  
18 declined to allow UtiliCorp to put that additional  
19 50 percent amortization of the premium into the rate  
20 base, what would -- what could UtiliCorp -- could they  
21 appeal that decision, or would the regulatory plan  
22 prevent them from appealing it?

23 A. My assumption is -- and, of course, I'm not  
24 an attorney, so it's a layman's perspective, that if  
25 they believe that the Commission somehow acted in

1 disregard of the evidence presented in making that  
2 finding, that they could appeal it.

3 Q. So if we were capricious and all of those  
4 other things we usually are called, they could appeal  
5 it. Right?

6 A. I believe so.

7 COMMISSIONER SCHEMENAUER: Okay. That's all  
8 I have. Thank you.

9 JUDGE WOODRUFF: Commissioner Simmons?

10 COMMISSIONER SIMMONS: Thank you, your  
11 Honor.

12 QUESTIONS BY COMMISSIONER SIMMONS:

13 Q. Good morning, sir.

14 A. Good morning.

15 Q. I'm going to go to your testimony on Page 9,  
16 and I'm going to pick up an issue you talk about in  
17 relation to merger transaction costs.

18 One of the things that I note and I believe  
19 that you're saying is that you think it is, oh, not a  
20 good idea for the ratepayers to pick up a certain  
21 transition cost like executive severance payments and  
22 things of that nature?

23 A. That's correct.

24 Q. Is that out of the ordinary as relates to  
25 certain mergers? You spoke earlier about a number of

1 mergers that you have testified to. Is that something  
2 that is normal within a merger situation for  
3 ratepayers to pick up, those kinds of transition  
4 costs?

5 A. In all of the major mergers that I am  
6 familiar with, there were provisions in it for -- at  
7 least for one of the companies to have the ability to  
8 pay their executives severance packages, and it was  
9 also a normal course for these companies to request  
10 recovery of these costs through transition costs.

11 The Staff and, I believe, OPC has taken a  
12 consistent position in all of these cases that that --  
13 those costs should not be recovered from customers.

14 Q. Is it your opinion that that should be  
15 assigned to the shareholders then?

16 A. Yes.

17 Q. Would that be considered in your opinion a  
18 benefit to the shareholder or not?

19 A. To assign those costs to the shareholder?

20 Q. Yes.

21 A. I believe the purpose of these payments is  
22 intended to be a benefit to the shareholders, and I  
23 believe they are -- at least one of the stated -- or  
24 at least one of the reasons why these packages exist  
25 is to help ensure that a utility's management remain



1 reasonably neutral and unbiased in regard to potential  
2 purchase acquisitions and sale transactions affecting  
3 their company.

4 COMMISSIONER SIMMONS: That's all of the  
5 questions I have. Thank you, sir.

6 JUDGE WOODRUFF: Thank you.

7 Chair Lumpe?

8 FURTHER QUESTIONS BY CHAIR LUMPE:

9 Q. To follow up on a question from Commissioner  
10 Murray about the shareholders voting, did UtiliCorp  
11 shareholders vote on this, to your knowledge?

12 A. That's a good point. They did not. They  
13 were not required to under the terms of the  
14 transaction.

15 CHAIR LUMPE: Thank you.

16 JUDGE WOODRUFF: Let's go to recross based  
17 on questions from the Bench, and we'll begin with  
18 Natural Resources.

19 MS. WOODS: I have nothing. Thank you.

20 JUDGE WOODRUFF: AgP?

21 MR. CONRAD: Yes, sir.

22 RECROSS-EXAMINATION BY MR. CONRAD:

23 Q. Just following up on the follow-up from  
24 Chair Lumpe and Commissioner Murray, you mentioned the  
25 UCU -- the UtiliCorp shareholders didn't have to vote

1 on this. Is that because this is just going to be a  
2 division of the company?

3 A. I believe it had something to do with the  
4 relative size of St. Joe compared to the overall size  
5 of UtiliCorp.

6 Q. Now, the St. Joe shareholders did have to  
7 vote on it?

8 A. Yes, they did.

9 Q. Right. And they obviously voted to approve,  
10 or we wouldn't be here.

11 What do they get out of this deal?

12 A. St. Joseph shareholders?

13 Q. Uh-huh.

14 A. They get a premium above the market value of  
15 the St. Joe stock that at least as of the time of this  
16 transaction, I believe, was 36 percent.

17 Q. Do you know what that -- what that would  
18 translate to into dollars?

19 A. No, I do not. The premium amount?

20 Q. Uh-huh.

21 A. The overall premium is 92 million. Now, a  
22 portion of that amount relates to the market value of  
23 the St. Joe stock compared to the net book value, but  
24 there is also a portion of the increase from the  
25 market value to the purchase price for UtiliCorp, and

1 I think there is a quantification of that in Staff  
2 Witness Proctor's testimony.

3 Q. And at least that portion of -- well, let me  
4 back up.

5 The acquisition premium that we're talking  
6 about here, that we've been bantering about for two  
7 and a half or two and a third days, that you referred  
8 to as the 92 million, plus the cost to achieve, plus  
9 the 7.1 from the AAO thing, not all of that would go  
10 to the St. Joe shareholders, but that would represent  
11 the difference between the book value of the Company  
12 and the \$23 per-share price. Correct?

13 A. Yes, the amount of the acquisition  
14 adjustment is that amount.

15 Q. Yeah. A part of that some \$110 million,  
16 give or take, that would go to the shareholders of  
17 St. Joe would be the difference between what the  
18 share -- what the St. Joseph Light & Power publicly  
19 traded share price was at the time the deal was struck  
20 and the \$23. Correct?

21 A. I guess I don't understand the part of your  
22 question where you assume that is the only portion  
23 that would go to St. Joe. I mean, the St. Joe  
24 shareholders would get the full \$23.

25 Q. Right. Right. Right. But in other words,

1 if you -- if you were to hypothesize,  
2 Mr. Oligschlaeger, that the St. Joe's shareholders on  
3 the day before the deal was struck could have all gone  
4 out and sold their shares -- of course, that would  
5 have been a fun day in the market for St. Joe, but  
6 assuming that you could hypothesize that with the **Wall**  
7 **Street Journal** is what the last bid NAS price was,  
8 they got this thirty-- I think you characterized it as  
9 a 36 percent premium above that market price in the  
10 \$23 price?

11 A. Well, that's correct. St. Joe customers  
12 paid something for their stock, and they will get \$23  
13 as a result of this transaction. It's reasonable to  
14 assume that most St. Joe shareholders paid less than  
15 \$23 for the stock.

16 Q. So their gain on the transaction obviously  
17 would be recognizable and would vary depending on how  
18 long they held it how it would be treated for income  
19 tax purposes, but that would be their gain out of this  
20 deal, just looking at the shareholders by themselves?

21 A. That would be the significant gain. Also,  
22 there -- they potentially could receive an increased  
23 dividend, for example, as a result of now becoming  
24 UtiliCorp shareholders and so on.

25 Q. So that's -- that's why they might be

1 inclined to do this deal?

2 A. I certainly believe that's a major reason,  
3 yes.

4 Q. Do you happen to recall what the percentage  
5 of approval vote was?

6 A. I think it was over 90 percent of those that  
7 voted.

8 Q. Now, Commissioner Schemenauer asked you  
9 about the pooling and the purchase issue. Would you  
10 agree with me that by -- by purchasing shares as this  
11 is -- this is done, it gives the purchasing company  
12 the argument to up-rate the value of the -- of the  
13 purchase and, in fact, is what really creates the  
14 acquisition, not the premium adjustment?

15 A. Yes. There is no acquisition adjustment  
16 under a pooling transaction.

17 MR. CONRAD: Thank you. That's all.

18 JUDGE WOODRUFF: City of Springfield is not  
19 here.

20 Public counsel?

21 RE-CROSS-EXAMINATION BY MR. MICHEEL:

22 Q. Mr. Oligschlaeger, Commissioner Murray asked  
23 you, and I think both Chair Lumpe followed up on it  
24 and Mr. Conrad followed up on it, on reasons for --  
25 why the shareholders of UtiliCorp, if the costs exceed

1 the benefits, would have approved that -- the deal.  
2 Do you recall those questions?

3 A. Yes, I do.

4 Q. And now it's been established that the UCU  
5 shareholders indeed didn't have to vote; is that  
6 correct?

7 A. That is correct.

8 Q. So it was a management decision by the UCU  
9 Board of Directors to enter into this deal; is that  
10 correct?

11 A. That's my understanding.

12 Q. And also in response to Commissioner Murray,  
13 you indicated that unregulated opportunities would  
14 have been a driving force for the merger; is that  
15 correct?

16 A. I think that's a reasonable assumption.

17 Q. Would the sale of assets that are currently  
18 regulated at a significant gain represent a future  
19 benefit to UCU that UCU may be acquiring with this  
20 acquisition?

21 A. That is certainly a possibility, and I think  
22 Mr. Green alluded to that potential in some of the  
23 evidence cited in Mr. Hyneman's and perhaps Mr. Kind's  
24 testimony through your office.

25 Q. So let me follow up on that.

1           Have you seen yourself statements from  
2 UtiliCorp personnel, specifically the Green brothers  
3 who are -- I think one of them is Chairman of the  
4 Board and one of them is president and COO touting the  
5 unregulated benefits that the Company is going to  
6 receive from this merger?

7           A.     Yes, I have. And they were cited in the  
8 evidence -- or the testimonies I just quoted back to  
9 you.

10          Q.     And that could be one of the driving reasons  
11 why even though the regulated costs outweigh the  
12 savings they did the deal; isn't that correct?

13          A.     One again, under these -- with the evidence  
14 I'm aware of, that's a reasonable assumption.

15                 MR. MICHEEL: Thank you, Mr. Oligschlaeger.

16                 JUDGE WOODRUFF: Union Electric is not here,  
17 so we'll go to UtiliCorp.

18                 MR. SWEARENGEN: Thank you.

19                 RE-CROSS-EXAMINATION BY MR. SWEARENGEN:

20          Q.     Mr. Oligschlaeger, will you tell me again  
21 your understanding as to why the UtiliCorp  
22 shareholders did not or were not required to vote on  
23 this transaction?

24          A.     Okay. As in many instances it's possible  
25 I'm confusing the Empire and St. Joe transactions, but

1 I believe this is true for St. Joe, that to the extent  
2 the additional stock to be issued by UtiliCorp to  
3 complete this transaction represents less than 20  
4 percent of the total stock of UtiliCorp after the  
5 transaction, there is no requirement to receive  
6 shareholder approval.

7 Q. And would you agree with me that under those  
8 circumstances, assuming that to be correct, that it  
9 would be the Board of Directors of UtiliCorp that  
10 would make the decision to enter into the agreement to  
11 acquire St. Joseph Light & Power Company?

12 A. That's my understanding.

13 Q. And would you also agree that the Board of  
14 Directors of the corporation would have a fiduciary  
15 duty to its shareholders to act their best interests  
16 in doing that?

17 A. Yes.

18 Q. Chair Lumpe asked you about the length of  
19 the moratorium and -- which is now proposed to be five  
20 years, and she asked you whether or not a three-year  
21 moratorium might be more acceptable to the Staff. And  
22 I think your response was something to the effect that  
23 even with a three-year moratorium, you would still be  
24 guessing at what might have been. Is that your  
25 testimony?



1           A.       Yes.

2           Q.       And when you say you're guessing at what  
3 might have been, were you referring there to the  
4 merger savings which UtiliCorp might attempt to prove  
5 up at the end of that three-year moratorium?

6           A.       No.   Really, there's two things that go into  
7 the what might have been.

8                    First of all, I mean, for anyone to  
9 speculate what St. Joseph Light & Power on a  
10 stand-alone basis would be doing in the year 2003,  
11 2004 absent this merger is an exercise in speculation.

12                   The other significant uncertainty is two or  
13 three or four years -- or two or three years later,  
14 UtiliCorp itself may be a very different organization  
15 having entered into other business opportunities,  
16 merge and acquisition transactions, all of which would  
17 have an impact certainly on the cost assigned to all  
18 of its divisions, including St. Joe. How you untangle  
19 all of that and say this expense impact is related to  
20 the St. Joe merger, I don't know how you do it.

21           Q.       Would you agree that your concern about  
22 guessing at what might have been, whether it be three  
23 years later or five years later, would be true with  
24 respect to showing whether or not rates under an SJLP  
25 stand-alone company would have been lower if the

1 merger had not occurred?

2 A. Any statements that rates would decrease in  
3 the future for St. Joe or would increase in the future  
4 for St. Joe obviously involve speculation and trying  
5 to foresee what would happen in the future. I mean --

6 Q. So -- go ahead.

7 A. Obviously, you can rely to some degree on  
8 what has happened in the past and make intelligent  
9 guesses about that, but, ultimately, no one knows the  
10 future.

11 Q. So from that what I -- can I take it that  
12 you're saying that even though the Staff right now has  
13 this concern that if the merger goes through and that  
14 therefore rates for St. Joe Light & Power customers  
15 will be higher at some point in the future than they  
16 would otherwise have been, there probably isn't any  
17 way that you or anyone else could prove that?

18 A. I believe what we've stated consistently is  
19 in terms of trying to definitively state what the  
20 impact of a merger on a company is a number of years  
21 into the future, it cannot be done with reasonable  
22 accuracy.

23 Q. In response to a question from Chairman  
24 (sic) Schemenauer, you -- and talking about pooling  
25 versus purchase transactions, you said that you have

1 seen pooling transactions where the companies have  
2 sought premium recovery from ratepayers; is that  
3 correct? Did I understand your testimony correctly?

4 A. We have seen pooling transactions in which  
5 the companies claimed that there was a merger premium  
6 implicit in the transaction and asked for rate  
7 recovery of that premium.

8 Q. Okay. Thank you.

9 Finally, with respect to the proposed  
10 regulatory plan in Case EM-96-248, which was the  
11 UtiliCorp/Kansas City Power & Light proposed merger,  
12 did the Staff support that plan?

13 A. As I recall, due to the course of events  
14 that occurred relating to that merger, we never  
15 proceeded to the point where we filed testimony  
16 concerning that plan.

17 Q. Prior to that, did the Staff have any  
18 position that it had taken with respect to that  
19 plan?

20 A. If they did, I am not aware of it.

21 MR. SWEARENGEN: That's all I have. Thank  
22 you.

23 JUDGE WOODRUFF: St. Joseph Light & Power?

24 MR. COMLEY: No questions. Thank you.

25 JUDGE WOODRUFF: Redirect?

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MR. DOTTHEIM: No redirect.

JUDGE WOODRUFF: You may step down,  
Mr. Oligschlaeger.

The next witness is Mr. Featherstone on the  
list.

Please raise your right hand.

(Witness sworn.)

JUDGE WOODRUFF: Thank you.

You may be seated.

You may inquire.

MR. DOTTHEIM: I have three copies of  
Mr. Featherstone's Rebuttal Testimony that's been  
premarked Exhibit 704, which I would like to provide  
to the court reporter at this time.

JUDGE WOODRUFF: Go right ahead.

(EXHIBIT NO. 704 WAS MARKED FOR  
IDENTIFICATION.)

JUDGE WOODRUFF: Proceed.

Are you going to offer that at this point?  
Will he be coming back?

MR. DOTTHEIM: Judge, is there any necessity  
to do anything other than identify Mr. Featherstone at  
this point?

JUDGE WOODRUFF: No. With the stipulation  
that we agreed to yesterday, that's fine.

1 CARY G. FEATHERSTONE testified as follows:

2 DIRECT EXAMINATION BY MR. DOTTHEIM:

3 Q. Mr. Featherstone, do you have a copy of  
4 what's been premarked as Exhibit 704?

5 A. I do.

6 Q. Okay. And that is your Rebuttal Testimony  
7 in this proceeding?

8 A. It is.

9 Q. Do you have any corrections at this time to  
10 make to your Rebuttal Testimony or schedules?

11 A. I found one at Page 27, Line 18. In the  
12 middle of the sentence where it says "free," it should  
13 be freeze, f-r-e-e-z-e.

14 JUDGE WOODRUFF: What page was that again?

15 THE WITNESS: Page 27, Line 18.

16 BY MR. DOTTHEIM:

17 Q. That's the only correction that you've  
18 identified to your Rebuttal Testimony?

19 A. That's one that I found.

20 MR. DOTTHEIM: Okay. At this time I'd like  
21 to tender Mr. Featherstone for cross-examination, and  
22 offer Exhibit 704.

23 Mr. Featherstone will be testifying on  
24 additional issues, so I won't ask to receive into  
25 evidence Exhibit 704 until he testifies for the last

1 time.

2 JUDGE WOODRUFF: Thank you.

3 All right. He's been tendered for  
4 cross-examination, so let's start with Natural  
5 Resources.

6 MS. WOODS: I have nothing. Thank you.

7 JUDGE WOODRUFF: AgP?

8 MR. CONRAD: We have no questions this  
9 round.

10 JUDGE WOODRUFF: All right. City of  
11 Springfield is not' here.

12 Public Counsel?

13 MR. MICHEEL: No questions at this time on  
14 this issue for Mr. Featherstone.

15 JUDGE WOODRUFF: Union Electric is not here,  
16 so UtiliCorp?

17 MR. SWEARENGEN: We have no questions at  
18 this time on this issue.

19 JUDGE WOODRUFF: All right. St. Joseph  
20 Light & Power?

21 MR. COMLEY: No questions. Thank you.

22 JUDGE WOODRUFF: All right. We'll go over  
23 to questions from the Bench then and start with  
24 Commissioner Murray.

25 COMMISSIONER MURRAY: Thank you.

1 QUESTIONS BY COMMISSIONER MURRAY:

2 Q. I'm not positive that I'm in the correct  
3 portion that we're dealing with right now.

4 In the testimony I'm about to ask you about  
5 is in the section titled, "Historical Perspectives  
6 Relating to Acquisition Adjustments." Is it your  
7 understanding that we will be dealing with that at a  
8 later time?

9 A. I don't know.

10 Q. So I'm not the only one that's confused.

11 Well, let me ask you this. If it's the  
12 wrong time, so be it.

13 On Page 35 of your testimony, you say -- on  
14 Line 9 I'm looking at, "A policy of giving ratemaking  
15 treatment to positive acquisition adjustments would  
16 place Missouri regulated utilities at a competitive  
17 advantage over unregulated entities, since Missouri  
18 jurisdictional utilities would then have in essence a  
19 'blank check' for recovery of their acquisition  
20 expenditures from ratepayers."

21 A. Yes.

22 Q. Do you still agree with that statement?

23 A. Yes.

24 Q. Don't unregulated utilities have ability to  
25 structure their transactions any way that they want?

1           A.       Sure.  Within the bounds of the law, of  
2 course, but sure.

3           Q.       So would you explain to me what you mean by  
4 this would give a "blank check" to regulated  
5 companies?

6           A.       Unregulated companies don't have the ability  
7 to pass costs such as an acquisition adjustment back  
8 to captive customers or --

9           Q.       Let me stop you there.  They do have the  
10 ability to pass it back to customers; is that correct?

11          A.       Unregulated utilities may not.  Unregulated  
12 entities may not.  It just depends on whether or not  
13 they are going to be able to gain sufficient synergies  
14 in their operations when they combine with another  
15 company to be able to justify the premiums, if there  
16 are any, to be paid.

17                   So they may or may not be able to in the  
18 pricing of their products get the acquisition premium  
19 back through the unregulated operations.

20          Q.       Does that depend on how much the costs are  
21 in relation to the savings generated by those costs?

22          A.       Sure.

23          Q.       And tell me again, how does giving  
24 recognition of the acquisition adjustment to a  
25 regulated utility equate to giving that utility a



1 blank check and a competitive advantage over  
2 unregulated utilities?

3 A. I think at this instance the regulatory plan  
4 that's being discussed being proposed by UtiliCorp,  
5 when you look at the way their proposal is structured,  
6 it is to pass the cost of the acquisition premium and  
7 other costs back to the customers and have the  
8 customers, in essence, finance the transaction.

9 If you look at the Company's calculations  
10 and the amount of savings that the customer's going to  
11 receive, I think you're looking in the neighborhood of  
12 about 4 percent. And so you're looking at a plan that  
13 gives the Company a 96 percent savings retention to  
14 pay for the acquisition premium and other costs.

15 Q. Okay. Are you saying, though, that the  
16 ratepayers would experience savings in excess of the  
17 costs that they would incur?

18 A. Well, that's using the Company's numbers.  
19 That 96 percent figure is based upon what the Company  
20 is proposing that the customers -- that the  
21 shareholders retain over a ten-year period.

22 Q. And you don't agree with those numbers; is  
23 that correct?

24 A. Well, the Staff has -- and as you've heard  
25 from Mr. Oligschlaeger this morning -- and he and

1 other witnesses are better to address this. They've  
2 gotten into the costs in more detail than I have. But  
3 the Staff has taken an issue with the Company's  
4 assumptions.

5 Q. Okay. If the Company's assumptions were  
6 correct, let's just use a hypothetical and say that  
7 they are established to be correct, would it still be  
8 your position that this merger would be detrimental to  
9 the ratepayers?

10 A. Using the Company's numbers --

11 Q. Yes.

12 A. -- hypothetically?

13 Yes, I think so.

14 Q. Would you elaborate?

15 A. I think you're looking at the -- I think  
16 when you're comparing this -- this merger to other  
17 mergers that we've examined, there has been a much  
18 greater willingness on the part of the other utilities  
19 to structure their deals, their transactions in a much  
20 more favorable light to consumers.

21 Q. Let me stop you there, if I may.

22 And you're saying because other mergers have  
23 been structured in the way that is more beneficial to  
24 the ratepayers, to those ratepayers, that this  
25 transaction as it's proposed would be detrimental

1 because these ratepayers would receive less of a  
2 benefit than some other ratepayers have received?

3 A. I think from the detrimental standpoint our  
4 view is that there is a very strong likelihood that  
5 rates will go up in the future, when you start adding  
6 in additional costs, perhaps costs associated with  
7 this merger, costs associated with the altercations  
8 issue that we've addressed on numerous occasions in  
9 rate cases before this Commission UtiliCorp rate  
10 cases, and I think that when you look at where the  
11 cost structure is of St. Joseph Light & Power and  
12 compare that to UtiliCorp, there is a likelihood that  
13 there will be an upward pressure in rates, and I think  
14 that's a detriment.

15 We further have said that if there is less  
16 opportunity or likelihood that there will be future  
17 rate reductions like we have seen in the past of  
18 St. Joe Light & Power, there has been several of those  
19 in just the past decade alone, that that also is a  
20 detriment, in other words, the lost opportunity of  
21 further rate reductions.

22 Q. And you're saying that there will be upward  
23 pressure on rates as a direct result of the merger?

24 A. I think so. In fact, one of the things I  
25 think was most troubling about yesterday's testimony

1 of Mr. McKinney was a question from the Bench that  
2 addressed future plans -- or not so much future plans,  
3 but a discussion about -- really, what they were  
4 talking about was rate parity issues. They didn't use  
5 that term, but the differential between the three  
6 divisions, Missouri Public Service, Empower and  
7 St. Joe if both these mergers are approved.

8 And I think what I heard was that we won't  
9 be able to address that issue at this time which kind  
10 of infers to me that -- that at some point in the  
11 future we'll be looking at adjusting rates to more of  
12 equalization across the UtiliCorp spectrum, and I  
13 don't think that we were talking about MPS rates going  
14 down to St. Joe level or to Empower level.

15 And so I think -- I think overall there is a  
16 very strong likelihood if this merger proceeds without  
17 certain conditions that there will be an upward  
18 pressure on rates.

19 Q. If this merger were approved and the Empower  
20 merger were not, would you still think that were  
21 true -- would be true?

22 A. Yes.

23 COMMISSIONER MURRAY: I believe that's all I  
24 have. Thank you.

25 JUDGE WOODRUFF: Commissioner Schemenauer?

1                   COMMISSIONER SCHEMENAUER: Thank you, your  
2 Honor.

3 QUESTIONS BY COMMISSIONER SCHEMENAUER:

4           Q.     Good morning, Mr. Featherstone.

5           A.     Good morning.

6           Q.     Perhaps we're not really discussing or  
7 deciding whether or not the merger should go through.  
8 It's the regulatory plan that's sticking in  
9 everybody's mind, is it not?

10          A.     In my mind, you could reject in total the  
11 regulatory plan.

12          Q.     And still approve the merger?

13          A.     And still approve the merger, yes.

14          Q.     And the regulatory plan was designed by  
15 UtiliCorp, and it was designed from their perspective  
16 to recover as much of the acquisition premium as  
17 possible. And even if the merger savings did not  
18 occur, it would -- since it would be in the rate base  
19 that second five-year period, they were going to  
20 recover that much in rates anyway; is that correct?

21          A.     Well, their plan was designed to retain as  
22 much of the synergies as possible. I think they have  
23 been very candid --

24          Q.     To offset --

25          A.     -- and forthright with their -- with their

1 proposal of during the five-year rate moratorium, to  
2 the extent that they can demonstrate savings, they  
3 retained those, and that goes to payment of the  
4 premium. In the post-moratorium, years six through  
5 ten of their plan, then they have a direct recovery of  
6 the acquisition premium, half of that, and then also  
7 there will be between rate cases an opportunity to  
8 obtain through regulatory lag synergies. And, of  
9 course, then there is certain ratemaking proposals  
10 that they have, the frozen capital structure and the  
11 frozen allocator issue.

12 Q. Okay. And if you were running the company,  
13 that would be a pretty good plan from the Company's  
14 standpoint?

15 A. I think from the Company's standpoint, this  
16 regulatory plan is one of the most shareholder-  
17 friendly plans that we've ever seen.

18 Q. But that's their job, is to improve  
19 shareholder value?

20 A. Absolutely.

21 Q. Right?

22 A. Absolutely.

23 Q. And your job, of course, is to point out  
24 some of the weaknesses and the -- and the  
25 disincentives to improve efficiencies at the expense

1 of increasing shareholder wealth?

2 A. I see -- I see our role as to evaluate the  
3 application and then to provide -- I'm going to get  
4 some disagreement with the Company, but our role is to  
5 balance all of those interests, to juggle those  
6 interests, and to attempt to find some means to -- not  
7 to be standing in the way of -- of growth in  
8 acquisition strategy, not to stop the merger, but to  
9 find some balance between the shareholder and the  
10 ratepayer/customer interest.

11 Q. And to achieve this middle ground, you  
12 examine the Company's proposals and -- and weigh them  
13 against the value to the ratepayers versus the overall  
14 detriment to the public good, all of those things?

15 A. That's certainly first and foremost in our  
16 minds. We attempt to do that. I don't know that  
17 we're always successful, but we certainly try.

18 Q. A simpler regulatory plan would have  
19 probably been better for everybody, right, I mean, if  
20 you didn't have all of the back doors?

21 A. Obviously, yes. I think that the Staff has  
22 dealt with enough mergers and ultimately the  
23 Commission has approved several of those that had  
24 regulatory plans. I mean, you can call a regulatory  
25 plan whatever you want to call it.

1 Q. Certainly.

2 A. And there are certainly simpler proposals.  
3 I think the -- I don't want to call it a policy, but  
4 the approach of a rate freeze or moratoriums with no  
5 acquisition adjustment recovery, I think, is a very  
6 simple approach. You avoid a lot of things. You  
7 don't have to track costs and savings, and you don't  
8 get into up-front ratemaking principles that you have  
9 to decide here today that won't be applied until six  
10 and ten years from now.

11 Q. When the premium that the Company is willing  
12 to pay for the subject that they're going to acquire  
13 exceeds a certain value, you kind of -- you're at a  
14 precipice where you know the recovery is very  
15 doubtful, and at that point the synergies aren't going  
16 to equal the premium paid for the company, and the  
17 decision is who pays the premium. Are we approaching  
18 that point in this case?

19 A. Well, I think you're already there at this  
20 case. I think the Company has been very clear that  
21 they expect the customers to pay for the premium.

22 I think that you're looking at an industry  
23 that's -- that's consolidating. The premiums are  
24 starting to creep up. This premium is 36 percent. If  
25 you send out an order that will allow the acquisition



1 of premium to be recovered directly through rates, I  
2 think you'll see a ramping up of premiums and more  
3 mergers.

4 COMMISSIONER SCHEMENAUER: Thank you.  
5 That's all I have.

6 JUDGE WOODRUFF: Commissioner Simmons?

7 QUESTIONS BY COMMISSIONER SIMMONS:

8 Q. Good morning, sir.

9 A. Good morning.

10 Q. I have just one question.

11 On Page 30 of your Rebuttal Testimony you  
12 talk about that the Commission does not have direct  
13 testimony and schedules that it should have. What  
14 would you be referring to?

15 A. The information that, I guess, we found that  
16 was most lacking was the specifics concerning the  
17 tracking proposal. Keep in mind, it's not our  
18 proposal. It's not something that we would recommend  
19 doing, but it is an intricate part of the Company's  
20 regulatory plan, and if -- if you were pursuing the  
21 regulatory plan, you would have thought that you would  
22 have put that proposal together in more detail.

23 We have seen one that was developed, in  
24 fact, almost a decade ago in the KPL/KG&E merger case,  
25 and that was in 1991. The Commission ultimately

1 rejected that proposal, and it was with much greater  
2 specificity, much greater detail, much more thought  
3 out.

4 And so what -- this portion of my testimony,  
5 that was specifically the piece that was lacking.

6 Q. Are you saying that a tracking proposal was  
7 requested and it was not provided, or --

8 A. I'm saying the tracking proposal that's part  
9 of their -- of the UtiliCorp regulatory plan is not  
10 developed. It doesn't exist.

11 Q. Is it normal that a tracking proposal would  
12 exist in a merger or regulatory plan of this  
13 magnitude?

14 A. Most companies and people that I've talked  
15 to concede the nearing possibility of tracking  
16 synergies, merger synergies, and that's why you don't  
17 see many proposals that are designed with tracking in  
18 mind.

19 Q. What beneficial information would this  
20 Commission have for seeing a tracking proposal,  
21 especially as it relates to a regulatory setting?

22 A. Keep in mind, it's not Staff's -- it's not  
23 Staff's proposal.

24 I think you probably would have seen a much  
25 more detailed explanation as to how the Company

1 intends to measure the synergies and how they are  
2 going to break out, in particular, non-merger-related  
3 synergies from merger-related synergies. That was a  
4 very important feature and one of the more difficult.  
5 And I think it's ultimately what caused the tracking  
6 proposal in the KPL/KG&E case to be rejected was the  
7 inability to break out merger-related from  
8 non-merger-related.

9           The Commission was very clear that they  
10 thought that non-merger-related synergies, albeit  
11 through a regulatory lag process, those should be  
12 flowed through to ratepayers directly. Without some  
13 type of a -- of a tracking proposal, you're not able  
14 to do that.

15           And so I think that the tracking proposal --  
16 and I can't give you one because I don't think one  
17 exists, but if I were the Company -- and I'm -- I'm  
18 not meaning to testify here for them. They wouldn't  
19 permit me to do that. But I think if I were the  
20 Company, I would have presented that plan.

21           COMMISSIONER SIMMONS: Okay. Thank you,  
22 sir.

23           THE WITNESS: Thank you.

24           JUDGE WOODRUFF: Commissioner Murray?

25           COMMISSIONER MURRAY: I just have one more.

1 FURTHER QUESTION BY COMMISSIONER MURRAY:

2 Q. And this is a question that was raised when  
3 you were answering some questions from Commissioner  
4 Schemenauer.

5 It's my understanding that Staff is  
6 recommending that we not approve this merger even --  
7 with any regulatory plan. Is that what Staff's  
8 position is?

9 A. Yes. And I think Mr. Oligschlaeger  
10 articulated that. It's -- it's for other reasons  
11 besides just the regulatory plan.

12 COMMISSIONER MURRAY: Okay. Thank you.

13 JUDGE WOODRUFF: Let's go to recross based  
14 on questions from the Bench then. We'll start with  
15 Natural Resources.

16 MS. WOODS: I have nothing. Thank you.

17 JUDGE WOODRUFF: AgP?

18 MR. CONRAD: Just a couple of things, your  
19 Honor.

20 RECROSS-EXAMINATION BY MR. CONRAD:

21 Q. Good morning, Mr. Featherstone.

22 A. Good morning.

23 Q. Commissioner Murray asked you about a  
24 comparison between this situation and an unregulated  
25 utility, and then you subsequently responded to that

1 phrase. I'm going to presume perhaps she meant  
2 unregulated entities as a whole, but you did respond  
3 also in the context of the phrase unregulated  
4 utilities.

5           What are you thinking of when you think of  
6 unregulated utilities in this state?

7           A.     I thought I changed my response and said  
8 unregulated entities.

9           Q.     Are there unregulated utilities in this  
10 state?

11          A.     Not that I'm aware.

12          Q.     I would like -- I guess what I had in mind  
13 when that series started was, like, Springfield where  
14 you have a municipal utility that's not regulated by  
15 this Commission --

16          A.     Okay. You're talking about co-ops?

17          Q.     -- but is in effect -- yeah, a co-op.

18          A.     Municipalities.

19          Q.     But is, in effect, either regulated by  
20 its -- its customers in the case of a co-op or by a  
21 elected body in the case of a municipal utility.

22          Would you agree --

23          A.     Yes.

24          Q.     -- with that?

25          Okay. But then you went on and talked about

1 the unregulated entities a little bit.

2 And would you agree with me that an  
3 unregulated entity could acquire essentially any  
4 property that they wanted to if their Board of  
5 Directors would approve them purchasing at any price  
6 that the Board of Directors would approve and pass any  
7 "acquisition premium" that they could do as long as  
8 they felt that their market would support the recovery  
9 of that acquisition premium?

10 A. Sure.

11 Q. Because, by definition, by being unregulated  
12 they wouldn't have anywhere else to recover that  
13 except from a market. Right?

14 A. That's right.

15 Q. So if the price that they want to charge in  
16 a -- in a competitive market wouldn't support recovery  
17 of the so-called acquisition premium, they would just  
18 have to eat it or go see the federal courthouse about  
19 Chapter 11. Right?

20 A. That's right. Their shareholders would have  
21 to absorb those.

22 Q. Now, there might be a slight exception to  
23 that, and that's what I want to talk with you very  
24 briefly about in the same phrase as Commissioner  
25 Murray was talking about.

1           Hypothesize with me for a moment that in  
2 my -- my garage in my spare time I have developed a  
3 personal computer operating system that I'll call  
4 Doors, just for short. And because this operating  
5 system is so good and so -- so easy to use and, of  
6 course, never crashes, that it successfully acquires a  
7 large market share of the personal computer operating  
8 system market. Are you following me so far?

9           A.     I think so.

10          Q.     Now, if I had a dominant position in the  
11 personal computer operating system market for my Doors  
12 operating system, in that situation I might be able to  
13 pass back an acquisition premium from somebody that I  
14 might purchase -- let's say I might want to purchase  
15 out a competitor to my operating system. And in that  
16 situation, because I have market dominant and market  
17 power, I might be able to recover that. Would you  
18 agree?

19          A.     If you had sufficient market share and you  
20 had a product that people wanted.

21          Q.     Now, are you aware of any -- any restraints  
22 that there might be to my exercise of market power  
23 with my operating system Doors?

24          A.     MR. COMLEY: Judge, I'm going to object. I  
25 think this case has already been tried.

1 JUDGE WOODRUFF: Changing names to Windows?

2 BY MR. CONRAD:

3 Q. Well, I'll cut it short.

4 Would you agree with me that the something  
5 called Section I and Section II the Sherman Act and  
6 the Clayton Act might have some application in my  
7 situation.

8 A. I'm not an attorney.

9 Q. I understand. But you've heard of that  
10 situation that I'm referring to obliquely by calling  
11 it Doors instead of Windows, haven't you?

12 A. Yes.

13 Q. Now, understanding that you're not an  
14 attorney, do you agree with me that the -- at least  
15 insofar as you're aware that there is something of a  
16 regulatory shield with respect to the application of  
17 the antitrust laws, both of the federal government and  
18 the state government?

19 A. Yes.

20 Q. And would you agree that you could do things  
21 as a regulated utility that might be unlawful if you  
22 were an unregulated entity?

23 A. Could you repeat the question?

24 Q. Would you agree with me that you might be  
25 able to do things that would be unlawful if you were a



1 public utility, a regulated public utility, as opposed  
2 to being an unregulated entity?

3 MR. SWEARENGEN: Your Honor, I'm going to  
4 object to that. This witness can't possibly answer  
5 this question.

6 MR. CONRAD: If he knows.

7 JUDGE WOODRUFF: Go ahead and answer the  
8 question, if you know.

9 THE WITNESS: I'm not sure I do.

10 BY MR. CONRAD:

11 Q. Okay. Commissioner -- I believe it was  
12 Commissioner Simmons asked you a series of questions  
13 and it just led me to ask -- and I think one of your  
14 responses was that you wouldn't purport to represent  
15 UtiliCorp and their position. Do you recall?

16 A. Yes.

17 Q. So I take it from that that you're not one  
18 of these that has yet tendered an application for  
19 employment to UtiliCorp?

20 A. No.

21 MR. CONRAD: Thank you.

22 That's all.

23 JUDGE WOODRUFF: Thank you.

24 And City of Springfield is not here, so  
25 Public Counsel.

1 RE-CROSS-EXAMINATION BY MR. MICHEEL:

2 Q. Mr. Featherstone, Commissioner Murray asked  
3 you some questions about your statement on Page 35 at  
4 Line 9 of your testimony. Do you recall those  
5 questions?

6 A. Yes.

7 Q. And I guess my question to you is, does  
8 requiring captive ratepayers to pay -- assuming that  
9 the Commission accepts the Company's acquisition  
10 adjustment proposal, to pay an acquisition adjustment  
11 in rates reduce the investment risk of the Company's  
12 stockholders?

13 A. Yes.

14 Q. And why is that?

15 A. I think the -- Mr. Green probably testified  
16 better than I can about this. He talked about  
17 investments and investment communities reacting to  
18 certainty. He used that term several times on Monday.  
19 It would provide a more certain revenue stream,  
20 obviously, if you adopted the regulatory plan as  
21 proposed by UtiliCorp.

22 Q. Is that risk reduction a competitive  
23 advantage for a regulated utility who has captive  
24 customers, vis-a-vis a competitive -- say, a peanut  
25 butter maker where I can buy JIF or I can buy Skippy?

1 A. Yes.

2 Q. Because in the competitive world we can go  
3 elsewhere if we don't like the price; is that correct?

4 A. That's right.

5 Q. And here, the St. Joe customers would be  
6 required to pay the acquisition premium. Correct?

7 A. That's right.

8 Q. Assume for me that the ratepayers are  
9 required to pay the acquisition adjustment. Does that  
10 provide the Company with additional cash along with  
11 the assets, i.e. the generation of assets we've talked  
12 about, with which to enter the competitive  
13 marketplace?

14 A. Sure.

15 Q. Another way of stating it is that UtiliCorp  
16 would have the assets plus the ratepayers would also  
17 have paid for the costs of acquiring those assets  
18 prior to competition; is that correct?

19 A. That's really what the regulatory plan is  
20 about, to get the customers, the captive customers, to  
21 pay for the merger, and depending on what happens with  
22 restructuring and with deregulation, and depending on  
23 what UtiliCorp has to do with the assets, that they  
24 will stand to reap tremendous gains.

25 Q. And that allowing recovery of the

1 acquisition adjustment there would give -- in rates  
2 for the captive customers until competition comes  
3 would give UtiliCorp an advantage once competition  
4 gets here. Right?

5 A. Absolutely.

6 MR. MICHEEL: That's all I have. Thank you.

7 JUDGE WOODRUFF: Okay. Union Electric is  
8 not here, so we'll go to UtiliCorp.

9 MR. SWEARENGEN: I have no questions.

10 JUDGE WOODRUFF: Kansas City Power & Light?

11 MR. COMLEY: No questions.

12 JUDGE WOODRUFF: Redirect?

13 MR. DOTTHEIM: No redirect.

14 JUDGE WOODRUFF: All right. You may step  
15 down, Mr. Featherstone.

16 THE WITNESS: Thank you.

17 JUDGE WOODRUFF: The next witness, I  
18 believe, is Mr. Traxler.

19 Mr. Traxler, you've been previously sworn,  
20 and you're still under oath.

21 Are you tendering him for cross-examination?

22 MR. DOTTHEIM: Yes, I tender Mr. Traxler for  
23 cross-examination on the present issue, regulatory  
24 plan overall.

25 I just might note that his testimony, his

1 Rebuttal Testimony, has been premarked as Exhibit 718  
2 and the replacement page is Exhibit 721.

3 MR. SWEARENGEN: Did you check that chair  
4 out before you sat in it?

5 MR. TRAXLER: I checked it this morning.

6 JUDGE WOODRUFF: Okay. Let's begin with  
7 cross-examination then. And Natural Resources?

8 MS. WOODS: I have nothing. Thank you.

9 JUDGE WOODRUFF: AgP?

10 MR. CONRAD: Nothing on this issue, your  
11 Honor.

12 JUDGE WOODRUFF: Okay. Springfield is not  
13 here.

14 Public Counsel?

15 MR. MICHEEL: Nothing for Mr. Traxler on  
16 this issue at this time.

17 JUDGE WOODRUFF: Union Electric is not here.  
18 UtiliCorp?

19 MR. SWEARENGEN: Nothing at this time.

20 JUDGE WOODRUFF: St. Joseph Light & Power?

21 MR. COMLEY: No questions.

22 JUDGE WOODRUFF: Thank you.

23 Questions from the Bench. Commissioner  
24 Murray?

25 COMMISSIONER MURRAY: This is easy. No

1 questions.

2 JUDGE WOODRUFF: I have no questions.

3 Since there are no questions, there should  
4 be no recross or redirect, so I believe, Mr. Traxler,  
5 you may step down.

6 MR. CONRAD: Careful.

7 MR. TRAXLER: I'm going to be very careful.

8 JUDGE WOODRUFF: Right. Mr. Proctor has  
9 already testified, so it would be Mr. Williams.

10 MR. DOTTHEIM: Yes.

11 MR. SWEARENGEN: We've already indicated we  
12 have no questions for him.

13 JUDGE WOODRUFF: Okay.

14 MR. DOTTHEIM: The Staff would call as its  
15 next witness Mr. Phillip K. Williams.

16 JUDGE WOODRUFF: Please raise your right  
17 hand.

18 (Witness sworn.)

19 JUDGE WOODRUFF: Okay. You may inquire.

20 MR. DOTTHEIM: At this time I'd like to  
21 provide the court reporter three copies of what has  
22 been premarked as Exhibits 719. We've got copies of  
23 Exhibit 719-HC and also 719, non-proprietary.

24 JUDGE WOODRUFF: Okay. Please do so.

25 (EXHIBIT NOS. 719-NP AND 719-HC WERE MARKED

1 FOR IDENTIFICATION.)

2 JUDGE WOODRUFF: Proceed.

3 PHILLIP K. WILLIAMS testified as follows:

4 DIRECT EXAMINATION BY MR. DOTTHEIM:

5 Q. Mr. Williams, do you have a copy of what has  
6 been marked as Exhibit 719-HC for highly confidential,  
7 and 719 non-proprietary?

8 A. I believe the one I have is the HC one. I  
9 went off and left the NP one in Kansas City.

10 Q. At this time, do you have any corrections to  
11 make to your exhibit?

12 A. I found one error on Page 12 in the rate  
13 table on 99-- 1998 bare revenues only. On the first  
14 line, which is Line 6 of that table, under St. Joe  
15 Light & Power, the rate should be 35.85 instead of  
16 33.85.

17 Q. And, again, the page you were on is --

18 A. Is Page 12. And I believe that's in an HC  
19 document. Is it in the NP document? I'm sorry. I've  
20 got the wrong one then.

21 MR. COMLEY: Could you repeat the correction  
22 again?

23 THE WITNESS: The correction is on  
24 residential general use, the 500 kilowatt usage.  
25 St. Joe's number should be 35.85 instead of 33.85.

1 MR. DOTTHEIM: I tender Mr. Williams for  
2 cross-examination, and offer at this -- at this time  
3 the exhibit for -- into evidence.

4 JUDGE WOODRUFF: He will be testifying later  
5 in the proceeding?

6 MR. DOTTHEIM: I don't believe Mr. Williams  
7 will be testifying on any other issue. I think this  
8 is the only issue.

9 JUDGE WOODRUFF: Okay. Then I'll ask if  
10 there are any objections to the receipt 719 and  
11 719-HC?

12 (No response.)

13 JUDGE WOODRUFF: Hearing none, it will be  
14 received into evidence.

15 (EXHIBIT NOS. 719-NP AND 719-HC WERE  
16 RECEIVED INTO EVIDENCE.)

17 JUDGE WOODRUFF: Okay. We will move on to  
18 cross-examination then, and Natural Resources?

19 MS. WOODS: I have nothing. Thank you.

20 JUDGE WOODRUFF: AgP?

21 CROSS-EXAMINATION BY MR. CONRAD:

22 Q. Since Mr. Williams won't be up again, let me  
23 just ask one thing very quickly.

24 Mr. Williams, look at your Schedule 2.

25 A. This is a copy of somebody else's, and it's



1 not on here.

2 MR. SWEARENGEN: I'll hand him --

3 THE WITNESS: Thank you. I'm sorry.

4 MR. CONRAD: That's no problem.

5 THE WITNESS: I thought I had it in my bag,  
6 and it's not there.

7 BY MR. CONRAD:

8 Q. I should note, Mr. Williams, my operating  
9 system will not permit you to put file names in that  
10 are that long.

11 But just looking at the totality of the  
12 exhibit, would you say that the electric utility  
13 business, at least as it's portrayed here, has been  
14 one that's been declining in costs and rates for the  
15 past few years?

16 A. It appears to be, sir.

17 Q. The exception to that is -- appears to be on  
18 your table Empire?

19 A. Yes, sir.

20 Q. Just very quickly, where did Empire's  
21 general rates rank with respect to the others today?

22 A. Empire's rates, I believe, rank the second  
23 lowest in the state of Missouri behind St. Joe's,  
24 considerably below MoPub's, or Missouri Public  
25 Service, a Division of UtiliCorp.

1 MR. CONRAD: Thank you, Mr. Williams.  
2 Thank you, your Honor. That's all I have.

3 JUDGE WOODRUFF: Thank you.

4 And Springfield is not here, so Public  
5 Counsel?

6 MR. MICHEEL: No.

7 JUDGE WOODRUFF: Union Electric is not here,  
8 so UtiliCorp?

9 MR. SWEARENGEN: No. Thank you.

10 JUDGE WOODRUFF: St. Joseph?

11 MR. COMLEY: No questions.

12 JUDGE WOODRUFF: Then we'll move on to  
13 questions from the bench. Commissioner Murray?

14 QUESTIONS BY COMMISSIONER MURRAY:

15 Q. I just have one, and that is, is it your  
16 testimony that if this merger goes through that it  
17 would put upward pressure on rates for the St. Joseph  
18 Light & Power customers?

19 A. I believe so, ma'am, based on testimony by  
20 other Staff witnesses, that they believe corporate  
21 altercations to St. Joe will raise the general  
22 overhead costs. So, yes, I do believe that's true.

23 Q. Okay. And the purpose of your testimony was  
24 to show general movement in rates over the last  
25 several years and a comparison of costs?

1 A. Yes, ma'am.

2 Q. Is that correct?

3 A. That is correct.

4 Q. And you -- your testimony indicates that  
5 St. Joe has very low rates --

6 A. Yes, ma'am.

7 Q. -- by comparison?

8 A. St. Joe's rate is, I believe -- for '99,  
9 St. Joe's rates for residential customers is about  
10 6.74 cents per kilowatt, and MoPub's was about 7.57.  
11 In commercial, St. Joe's was approximately 5.83, and  
12 MoPub's was about 5.99. And for industrial, St. Joe's  
13 was about 4.33, and MoPub's was about 4.37.

14 Q. And are you saying that the merger would  
15 cause the rates of St. Joe to move more towards the  
16 rates of MoPub?

17 A. That's Staff's belief. Yes, ma'am, I  
18 believe so.

19 COMMISSIONER MURRAY: Thank you.

20 JUDGE WOODRUFF: Commissioner Schemenauer?

21 COMMISSIONER SCHEMENAUER: I have no  
22 questions.

23 JUDGE WOODRUFF: All right. And I have no  
24 questions, so we'll go to recross. Natural Resources?

25 MS. WOODS: I have nothing.

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JUDGE WOODRUFF: AgP?

MR. CONRAD: Nothing further.

JUDGE WOODRUFF: Springfield is not here.  
Public Counsel?

MR. MICHEEL: No.

JUDGE WOODRUFF: UE is not here.  
UtiliCorp?

MR. SWEARENGEN: No questions.

JUDGE WOODRUFF: St. Joseph Light & Power?

MR. COMLEY: No questions.

JUDGE WOODRUFF: Thank you.

Mr. Williams, you may step down.

THE WITNESS: Thank you.

(Witness excused.)

JUDGE WOODRUFF: The next witness will be  
Roberta McKiddy.

Please raise your right hand.

(Witness sworn.)

JUDGE WOODRUFF: You may inquire.

MR. DOTTHEIM: At this time I'd like to  
provide to the court reporter what has been premarked  
as Exhibit 711, which is the Rebuttal Testimony of  
Roberta A. McKiddy.

(EXHIBIT NO. 711 WAS MARKED FOR  
IDENTIFICATION.)

1 ROBERTA A. MCKIDDY testified as follows:

2 DIRECT EXAMINATION BY MR. DOTTHEIM:

3 Q. Ms. McKiddy, do you have a copy of what has  
4 been premarked as Exhibit 711, your Rebuttal Testimony  
5 in this proceeding?

6 A. Yes, I do.

7 Q. At this time, do you have any corrections to  
8 make to Exhibit 711?

9 A. Yes, I have some minor corrections.

10 On Page 5, Line 1, the date should be  
11 March 4th, 1999, instead of March 4th, 2000.

12 On Page 17, Line 15, the word "of" should be  
13 stricken and replaced with "a."

14 On Page 19, again on Line 1, the date should  
15 read March 4th, 1999.

16 On Page 22, Line 6, the percentage 24.28  
17 percent should read 24.07.

18 On Page 28, Line 23, the word "information"  
19 after the word "such" should be stricken.

20 And then on Schedule 4, the entry for the  
21 date 2-16-99, in Line 2 there is a reference to a  
22 value of 12.28. It should be 21.28.

23 JUDGE WOODRUFF: Which line was that?

24 THE WITNESS: It's the date 2-16-99 where  
25 it's talking about the stock transaction at a value of

1 \$12.28. That should be \$29.28.

2 And that is all of my corrections.

3 MR. DOTTHEIM: At this time I offer  
4 Ms. McKiddy for cross-examination, tender her for  
5 cross-examinations, and offer Exhibit 711.

6 JUDGE WOODRUFF: And she'll be testifying  
7 again later? I think I saw it on the chart.

8 MR. DOTTHEIM: I'm looking at the schedule,  
9 and I don't believe that Ms. McKiddy -- yes, she will  
10 be -- no. She's otherwise listed for an issue which I  
11 believe has been resolved.

12 JUDGE WOODRUFF: Okay.

13 MR. DOTTHEIM: And I think on most people's  
14 schedules that is indicated by the -- by the issue and  
15 the names of the witnesses being italicized rather  
16 than being in regular type, if anyone has been curious  
17 as to why a different type style was utilized for --  
18 for certain of the issues. We haven't advised the  
19 Commission of that, other than --

20 JUDGE WOODRUFF: Other than you just did.

21 MR. DOTTHEIM: -- that may have been  
22 surmised from the statement of positions of UtiliCorp  
23 and St. Joseph Power & Light regarding those  
24 conditions.

25 JUDGE WOODRUFF: Okay.

1 MR. DOTTHEIM: So --

2 JUDGE WOODRUFF: Well, I'll go ahead and ask  
3 for objections to Exhibit 711 then.

4 (No response.)

5 JUDGE WOODRUFF: Hearing none, it will be  
6 received into evidence.

7 (EXHIBIT NO. 711 WAS RECEIVED INTO  
8 EVIDENCE.)

9 JUDGE WOODRUFF: You may -- she's been  
10 tendered for cross-examination, so we'll start with  
11 Natural Resources.

12 MS. WOODS: I have no questions of this  
13 witness.

14 JUDGE WOODRUFF: AgP?

15 MR. CONRAD: We have no questions for  
16 Ms. McKiddy.

17 JUDGE WOODRUFF: The City of Springfield is  
18 not here.

19 Public Counsel?

20 MR. MICHEEL: No, your Honor.

21 JUDGE WOODRUFF: UE--is not here, so  
22 UtiliCorp?

23 MR. SWEARENGEN: No questions. Thank you.

24 JUDGE WOODRUFF: St. Joseph Light & Power?

25 MR. COMLEY: Neither do I.

1 JUDGE WOODRUFF: Questions from the Bench  
2 then, starting with Commissioner Murray.

3 COMMISSIONER MURRAY: Thank you.

4 QUESTIONS BY COMMISSIONER MURRAY:

5 Q. Good morning, Ms. McKiddy.

6 A. Good morning.

7 Q. In your testimony on Page 4 you speak about  
8 the range of premiums associated with mergers and that  
9 being a low of 9 percent to a high of 38.5 percent  
10 with an average of 25.

11 A. Correct.

12 Q. And the merger premium in this instance,  
13 would you state that again?

14 A. It is 36.3 percent as of March 4th.

15 Q. And that does not -- that would not  
16 necessarily stay the same depending on the final  
17 outcome; is that correct?

18 A. According to the way premium percentages are  
19 calculated, they are always determined as of the date  
20 prior to the announcement of the merger, so in my  
21 opinion that -- that premium is what the premium is,  
22 and I believe the Company has also verified that too  
23 in opening remarks as well as in a news release.

24 Q. And on Page 6 of your testimony you indicate  
25 that by reading published material outside of this



1 proceeding you've determined that claimed synergies in  
2 general are rarely realized?

3 A. That is correct.

4 Q. Would you be, I guess, a little more  
5 specific in that in terms of, are you saying that it  
6 is rare that a merger results in savings that exceed  
7 the costs of the merger?

8 A. From the readings that I have done, there is  
9 a general overall concern that merger savings are  
10 highly overestimated and rarely realized.

11 Q. In other words, the estimates are rarely  
12 realized?

13 A. Correct.

14 Q. But you're not saying that synergies in  
15 general are not realized?

16 A. I have in my research found no evidence of  
17 any merger savings data. I have for about a year now  
18 been looking for merger estimates versus actual  
19 savings realized, and I have found no information.

20 Q. So is it not necessarily that the synergies  
21 are not there, but they are just not easy to quantify?

22 A. I don't believe I can make an opinion on  
23 that. I've not done any detailed analysis of merger  
24 savings. That was done by other Staff witnesses.

25 COMMISSIONER MURRAY: I think that's all.

1 Thank you.

2 JUDGE WOODRUFF: Commissioner Schemenauer?

3 COMMISSIONER SCHEMENAUER: Thank you, your  
4 Honor.

5 QUESTIONS BY COMMISSIONER SCHEMENAUER:

6 Q. Good morning, Ms. McKiddy.

7 A. Good morning.

8 Q. The only other issue you were going to  
9 testify on was the surveillance condition?

10 A. Correct.

11 Q. And your counsel indicated that's been  
12 resolved?

13 A. To my knowledge, it has been.

14 Q. So am I to assume that the information you  
15 requested from UtiliCorp that you talked about on  
16 Page 30, the items that normally are considered rate  
17 case adjustments during the normal course of the rate  
18 case proceedings as part of the surveillance data  
19 reports be included, is that satisfied to your  
20 knowledge?

21 A. I don't know that we have settled the issue  
22 of the rate case adjustments. I know that we have  
23 decided that the way they currently file surveillance  
24 will continue in the future, which is on a monthly  
25 basis.

1 Q. So the type of information that you've asked  
2 for still hasn't been submitted?

3 A. Restate your question.

4 Q. On Page 30 of your Rebuttal Testimony,  
5 Lines 15 through 18.

6 A. Right. The rate case adjustments are not  
7 being submitted at this time.

8 Q. And, to your knowledge, they're not going to  
9 be?

10 A. I don't know. I don't know where that issue  
11 stands.

12 COMMISSIONER SCHEMENAUER: Thank you.  
13 That's all I had.

14 JUDGE WOODRUFF: All right then. Let's move  
15 on to recross based on questions from the Bench.

16 Natural Resources?

17 MS. WOODS: Nothing. Thank you.

18 JUDGE WOODRUFF: AgP?

19 MR. CONRAD: Just a follow-up on  
20 Commissioner Schemenauer's question.

21 RECROSS-EXAMINATION BY MR. CONRAD:

22 Q. If the surveillance issue had been resolved,  
23 how -- how would that resolution be reflected in this  
24 proceeding?

25 A. As far as appearing in a case memorandum or

1 settlement agreement, or what are you talking about?

2 Q. Yes, ma'am. Has there been some compromise,  
3 or did Staff fold or did the Company fold?

4 A. I have no knowledge of that. That was done  
5 by the legal staff of the Commission.

6 Q. So as far as your knowledge is, the issue is  
7 still live. Right?

8 A. No. To my knowledge, the way it appears on  
9 the witness list today, it is resolved. But to the  
10 details of that resolution, I do not have those.

11 Q. Commissioner Murray asked you about the  
12 premium.

13 A. Yes.

14 Q. Since Dr. Proctor apparently -- or somebody  
15 had indicated he might know that, but is it possible  
16 to turn that premium into a dollar figure?

17 A. I believe Mr. Proctor has done that in his  
18 testimony.

19 MR. CONRAD: Okay. I won't ask you that.  
20 Thank you.

21 That's all, your Honor.

22 JUDGE WOODRUFF: Okay. City of Springfield  
23 is not here.

24 Public Counsel?

25 MR. MICHEEL: None, your Honor.

1 JUDGE WOODRUFF: UE is not here.

2 UtiliCorp?

3 MR. SWEARENGEN: No questions.

4 JUDGE WOODRUFF: St. Joseph Light & Power?

5 MR. COMLEY: No questions.

6 JUDGE WOODRUFF: All right. Redirect?

7 MR. DOTTHEIM: No redirect.

8 JUDGE WOODRUFF: All right. Ms. McKiddy,  
9 you may step down.

10 (Witness excused.)

11 JUDGE WOODRUFF: And this looks like a good  
12 time to take a break before we go on to Public Counsel  
13 witnesses. Let's come back at twenty till eleven.

14 (EXHIBIT NO. 203 WAS MARKED FOR  
15 IDENTIFICATION.)

16 JUDGE WOODRUFF: Please raise your right  
17 hand.

18 (Witness sworn.)

19 State your name, please.

20 THE WITNESS: Russell W. Trippensee.

21 JUDGE WOODRUFF: All right. You may  
22 inquire.

23 RUSSELL W. TRIPPENSEE testified as follows:

24 DIRECT EXAMINATION BY MR. MICHEEL:

25 Q. Mr. Trippensee, do you have any corrections

1 you'd like to make to your Rebuttal Testimony that's  
2 been marked for purposes of identification as  
3 Exhibit 203?

4 A. Yes, I do have one change.

5 On Schedule RWT-1, the header shows Case  
6 No. EM-2000-269. It should be 292.

7 Q. And that goes for all pages?

8 A. All three pages of that schedule.

9 MR. MICHEEL: I would tender Witness  
10 Trippensee on this issue for cross, and move the  
11 admission of 204 -- or 203. Excuse me.

12 JUDGE WOODRUFF: Mr. Trippensee will be  
13 testifying also later on?

14 MR. MICHEEL: That's correct, on our  
15 "Regulatory Plan."

16 JUDGE WOODRUFF: I'll wait for objections  
17 until that time.

18 All right. He's been offered for  
19 cross-examination, and we'll start with Natural  
20 Resources.

21 MS. WOODS: I have nothing. Thank you.

22 JUDGE WOODRUFF: AgP.

23 MR. CONRAD: Nothing, your Honor.

24 JUDGE WOODRUFF: City of Springfield is not  
25 here.

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Staff?

MR. DOTTHEIM: No questions.

JUDGE WOODRUFF: Union Electric is not here,  
UtiliCorp?

MR. SWEARENGEN: No questions.

JUDGE WOODRUFF: St. Joseph Light & Power?

MR. COMLEY: No questions.

JUDGE WOODRUFF: Okay. Questions from the  
Bench then. Commissioner Murray.

QUESTIONS BY COMMISSIONER MURRAY:

Q. Good morning, Mr. Burdette (sic).

A. Good morning.

Q. Or Trippensee. I'm sorry. No wonder you  
weren't so friendly.

I just don't -- I hate to let a witness off  
the stand with no questions, so let me take a moment  
here.

Okay. It's my understanding that Office of  
Public Counsel is opposed to the regulatory plan.  
That's correct, is it not?

A. The plan filed by the Company, yes.

Q. The Company, yes. But is it Office of  
Public Counsel's position that the merger itself would  
not be detrimental to the public interest if it were  
structured in a different way?

1           A.       Witness Mark Burdette from our office has  
2 one issue that Public Counsel has -- is not aware of  
3 any way it can be corrected the way the merger is  
4 structured, and that is -- while Mr. Burdette can  
5 elaborate on it, it's basically that you have a more  
6 risky company, a Triple B-rated company acquiring an  
7 A-rated company, and that increases the risk of -- to  
8 the provision of service to St. Joseph customers today  
9 and in financial theory increases the cost of -- of  
10 acquiring capital, both equity and debt, as I  
11 understand.

12           Q.       And that is not the area in which you're  
13 testifying?

14           A.       No. I'm just -- I supervise Mr. Burdette.  
15 I'm aware of his testimony, but the actual specifics  
16 he can deal with. But it's the one issue that we have  
17 found that there is not a fix for that unless somehow  
18 UtiliCorp can get their ratings up and therefor  
19 reducing the risk and the cost.

20                   COMMISSIONER MURRAY: All right. Thank you.

21                   JUDGE WOODRUFF: Commissioner Schemenauer?

22                   COMMISSIONER SCHEMENAUER: No questions,  
23 your Honor.

24                   JUDGE WOODRUFF: Okay. We'll go then to  
25 recross based on questions from the Bench, and



1 starting with Natural Resources?

2 MS. WOODS: Nothing. Thank you.

3 JUDGE WOODRUFF: AgP?

4 MR. CONRAD: Nothing, your Honor.

5 JUDGE WOODRUFF: Springfield is not here.

6 Staff?

7 MR. DOTTHEIM: No questions.

8 JUDGE WOODRUFF: Union Electric is not here.

9 UtiliCorp?

10 MR. SWEARENGEN: No questions.

11 JUDGE WOODRUFF: St. Joseph Light & Power?

12 MR. COMLEY: No questions.

13 JUDGE WOODRUFF: And redirect?

14 MR. MICHEEL: Just one.

15 REDIRECT EXAMINATION BY MR. MICHEEL:

16 Q. Mr. Trippensee, if you know, do any other  
17 Public Counsel witnesses recommend conditions should  
18 the Commission determine the merger is not detrimental  
19 to the public interest?

20 A. Yes. I believe there's some conditions  
21 contained in Mr. Kind's testimony, Ryan Kind's,  
22 addressing some market power, and I believe  
23 Mr. Robertson also has some conditions contained in  
24 his testimony. I think the -- my response to  
25 Commissioner Murray was things that could not be

1 fixed.

2 Q. So there are other detriments out there?

3 A. There are detriments as the plan is  
4 structured, but there were conditions put in Public  
5 Counsel's testimony that would address all detriments  
6 with the exception of the financial risk caused by the  
7 ratings of the company.

8 MR. MICHEEL: That's all I have, your Honor.

9 JUDGE WOODRUFF: Thank you.

10 You may step down.

11 I believe Mark Burdette is next.

12 MR. MICHEEL: We would call Mark Burdette.

13 (EXHIBIT NO. 200 WAS MARKED FOR  
14 IDENTIFICATION.)

15 JUDGE WOODRUFF: Please raise your right  
16 hand.

17 (Witness sworn.)

18 JUDGE WOODRUFF: You may inquire.

19 MARK BURDETTE testified as follows:

20 DIRECT EXAMINATION BY MR. MICHEEL:

21 Q. Mr. Burdette, do you have any corrections  
22 you would like to make to your testimony?

23 A. No, none that I'm aware of.

24 Q. And have you caused to be filed your  
25 Rebuttal Testimony, which has been marked for purposes

1 of identification as Exhibit 200?

2 A. Yes.

3 MR. MICHEEL: I'd tendered Mr. Burdette for  
4 cross, and move the admission of Exhibit 200.

5 JUDGE WOODRUFF: Will he be testifying later  
6 also?

7 MR. MICHEEL: Yes, he will.

8 JUDGE WOODRUFF: Okay. All right. He has  
9 been tendered for cross-examination then, and we will  
10 start with Natural Resources?

11 MS. WOODS: No questions. Thank you.

12 JUDGE WOODRUFF: AgP?

13 MR. CONRAD: No questions.

14 JUDGE WOODRUFF: City of Springfield is not  
15 here.

16 Staff?

17 MR. DOTTHEIM: No questions.

18 JUDGE WOODRUFF: Union Electric is not  
19 here.

20 UtiliCorp?

21 MR. SWEARENGEN: No questions.

22 JUDGE WOODRUFF: St. Joseph Light & Power?

23 MR. COMLEY: No questions.

24 JUDGE WOODRUFF: Questions from the Bench.  
25 Commissioner Murray?

1 QUESTIONS BY COMMISSIONER MURRAY:

2 Q. Good morning, Mr. Burdette.

3 A. Good morning.

4 Q. Is this the appropriate time to inquire  
5 about the risk that would be created in Public  
6 Counsel's view?

7 A. I believe so.

8 Q. And I see you address that in your testimony  
9 at -- in your Rebuttal Testimony beginning at Page 10.

10 Explain Public Counsel's position about risk  
11 and about the rating of the Company in relation to  
12 this.

13 A. Public Counsel does not believe that the  
14 Commission should regulate for a specific rating. But  
15 in this case, you have a -- a company, a small  
16 company, St. Joe, that is rated higher than UtiliCorp,  
17 and UtiliCorp is larger.

18 When UtiliCorp takes over St. Joe, the --  
19 the assets of St. Joe are going to -- the risk in the  
20 eyes of the market is going to be re-adjusted to match  
21 the risk of UtiliCorp, and that is a higher risk.

22 Q. And Public Counsel is concerned about risk  
23 and the market's reaction to it?

24 A. Public Counsel is concerned about the cost  
25 of service that is going to result when the cost of

1 debt increases because of the increased risk.

2 Q. Okay. And Public Counsel's position is that  
3 there would be a detriment to St. Joe as a result of  
4 this merger?

5 A. There would be no change in the utility  
6 assets, but the utility assets would become more risky  
7 and would be more expensive.

8 COMMISSIONER MURRAY: Okay. Thank you.

9 I think that's all I have.

10 JUDGE WOODRUFF: Commissioner Schemenauer?

11 COMMISSIONER SCHEMENAUER: No questions,  
12 your Honor.

13 JUDGE WOODRUFF: All right. Let's move on  
14 to recross based on questions from the Bench then.

15 For Natural Resources?

16 MS. WOODS: Nothing. Thank you.

17 JUDGE WOODRUFF: AgP?

18 MR. CONRAD: Nothing, your Honor.

19 JUDGE WOODRUFF: Springfield is not here.

20 Staff?

21 MR. DOTTHEIM: No questions.

22 JUDGE WOODRUFF: UE is not here.

23 UtiliCorp?

24 MR. SWEARENGEN: No questions.

25 JUDGE WOODRUFF: St. Joseph Light & Power?

1 MR. COMLEY: No questions.

2 JUDGE WOODRUFF: Any redirect?

3 MR. MICHEEL: Just one.

4 REDIRECT EXAMINATION BY MR. MICHEEL:

5 Q. Commissioner Murray asked you about that  
6 risk, Mr. Burdette.

7 A. Yes.

8 Q. Upon what do you base your statement that  
9 St. Joe will become more risky?

10 A. Immediately at the announcement of the  
11 merger, Standard and Poor's placed St. Joe Power &  
12 Light on credit watch with negative implications and  
13 has inasmuch said that if the merger is consummated  
14 and goes through, St. Joe's debt, which is currently  
15 rated A minus, will be rerated Triple B.

16 MR. MICHEEL: That's all I have, your Honor.

17 JUDGE WOODRUFF: Thank you.

18 You may step down.

19 MR. MICHEEL: We call Ted Robertson.

20 (Witness sworn.)

21 (EXHIBIT NOS. 202-NP AND 202-HC WERE MARKED  
22 FOR IDENTIFICATION.)

23 TED ROBERTSON testified as follows:

24 DIRECT EXAMINATION BY MR. MICHEEL:

25 Q. Mr. Robertson, do you have any corrections

1 you would like to make to your testimony?

2 A. Yes, I do.

3 On Page 76, on Line 14, I have transposed a  
4 number. The 102 million should be -- should be 120,  
5 so it should actually say \$120,856,000.

6 MR. CONRAD: Forgive me. Where was that  
7 change?

8 THE WITNESS: Page 76, Line 14.

9 On Line 15, the same problem. That 102  
10 million should be \$120,856,000.

11 At the end of the closed paren, I would put  
12 a period, and then delete "over the ten years of the  
13 ARP." also.

14 And then on Line 16, I would delete "as much  
15 as" and insert the word "approximately." And then I  
16 would delete the \$265,854,000, and I would add  
17 \$284,622,000. And that's it.

18 BY MR. MICHEEL:

19 Q. On Line 16 would you also change the 102  
20 million to 120 million?

21 A. I'm sorry. Yes, I would. I overlooked  
22 that.

23 MR. MICHEEL: With those changes, I would  
24 move admission of Exhibit 202-NP and -HC, and tender  
25 Mr. Robertson for cross.

1 JUDGE WOODRUFF: He will also be testifying  
2 again later?

3 MR. MICHEEL: Yes.

4 JUDGE WOODRUFF: Okay. All right.  
5 Mr. Robertson has been tendered for cross. Let's  
6 start with Natural Resources.

7 MS. WOODS: Nothing. Thank you.

8 JUDGE WOODRUFF: AgP?

9 MR. CONRAD: No questions, your Honor.

10 JUDGE WOODRUFF: Springfield is not here.  
11 Staff?

12 MR. DOTTHEIM: No questions.

13 JUDGE WOODRUFF: UE is not here.

14 UtiliCorp?

15 MR. SWEARENGEN: No questions. Thank you.

16 JUDGE WOODRUFF: St. Joseph Light & Power?

17 MR. COMLEY: No questions.

18 JUDGE WOODRUFF: All right. We'll move on  
19 to questions from the Bench. Commissioner Murray?

20 COMMISSIONER MURRAY: No questions either.  
21 Thank you.

22 JUDGE WOODRUFF: Commissioner Schemenauer?

23 COMMISSIONER SCHEMENAUER: No questions.

24 JUDGE WOODRUFF: There is nothing to  
25 recross, and I assume there is no redirect.



1 MR. MICHEEL: Not that I can think of.

2 JUDGE WOODRUFF: Okay. You may step down  
3 then.

4 MR. MICHEEL: Call Mr. Kind.

5 (EXHIBIT NOS. 201-NP AND 201-HC WERE MARKED  
6 FOR IDENTIFICATION.)

7 (Witness sworn.)

8 JUDGE WOODRUFF: You may inquire.

9 RYAN KIND testified as follows:

10 DIRECT EXAMINATION BY MR. MICHEEL:

11 Q. Do you have any corrections you would  
12 like to make to your Rebuttal Testimony, which has  
13 been marked for purposes of identification as  
14 Exhibit 201-HC and 201-NP?

15 A. Yes, I have just a couple of corrections,  
16 one to the testimony itself and another to  
17 Attachment 1 of my testimony.

18 On Page 6 of my testimony at Line 20 there  
19 is a No. 1 in parentheses that should be a No. 2 in  
20 parentheses. That is a list of two points, and I've  
21 got two points designated at No. 1.

22 The other correction is in Attachment 1 and  
23 it's on Page 6 of that attachment, so you find that  
24 right after the last page of my testimony, which is  
25 Page 54, Attachment 1, and the correction that I would

1 make there is under the section at the top of the  
2 page that's entitled, "b. Vertical Market Power,"  
3 Section 2, and then underneath Section 2 I have  
4 subsections that should be Subsection i and ii. The  
5 double-i section is designated with a ii, but the  
6 single-i section, the i is missing. So immediately  
7 before the words "transmission rates," there should be  
8 a single i.

9 MR. MICHEEL: With those corrections, I  
10 would move the admission of Exhibit 201-HC and -NP,  
11 and tender Witness Kind for cross.

12 JUDGE WOODRUFF: I assume Mr. Kind will also  
13 be testifying again later?

14 MR. MICHEEL: Yes.

15 JUDGE WOODRUFF: Okay. All right. Let's go  
16 to cross-examination, then, starting with Natural  
17 Resources.

18 MS. WOODS: Nothing. Thank you.

19 JUDGE WOODRUFF: AgP?

20 MR. CONRAD: No questions.

21 JUDGE WOODRUFF: City of Springfield is not  
22 here.

23 Staff?

24 MR. DOTTHEIM: No questions.

25 JUDGE WOODRUFF: Union Electric is not here.

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UtiliCorp?

MR. SWEARENGEN: No questions.

JUDGE WOODRUFF: St. Joseph Light & Power?

MR. COMLEY: No questions.

JUDGE WOODRUFF: Move to questions from the Bench. Commissioner Murray?

COMMISSIONER MURRAY: No questions.

JUDGE WOODRUFF: Commissioner Schemenauer?

COMMISSIONER SCHEMENAUER: No questions.

JUDGE WOODRUFF: All right. I have no questions, so there is no recross, no redirect.

You may step down.

Next on the list is Mr. Brubaker, and he's already been excused from further cross-examination, so we'll move on from there. And the Regulatory Plan, I believe it would be Mr. McKinney.

You were previously sworn so you're still under oath.

THE WITNESS: Yes, I understand that.

JUDGE WOODRUFF: Okay. Is he ready for cross-examination then?

MR. SWEARENGEN: Oh, he's already ready for cross-examination, your Honor. He is ready.

JUDGE WOODRUFF: Okay. Let's start with St. Joseph Light & Power.

1 MR. COMLEY: Thank you.  
2 We have no questions of Mr. McKinney.  
3 JUDGE WOODRUFF: Thank you.  
4 UE is not here.  
5 Natural Resources?  
6 MS. WOODS: Despite the fact that  
7 Mr. McKinney is always ready, I have nothing for him.  
8 JUDGE WOODRUFF: AgP?  
9 MR. CONRAD: No questions.  
10 JUDGE WOODRUFF: Springfield is not here.  
11 Public Counsel?  
12 MR. MICHEEL: Not on this issue.  
13 JUDGE WOODRUFF: Staff?  
14 MR. DOTTHEIM: No questions.  
15 JUDGE WOODRUFF: Then we'll go over to  
16 questions from the Bench. Commissioner Murray?  
17 COMMISSIONER MURRAY: May I ask a  
18 question -- clarification question from the Bench?  
19 JUDGE WOODRUFF: Sure.  
20 COMMISSIONER MURRAY: Are we on OPC's  
21 regulatory plan condition?  
22 JUDGE WOODRUFF: Yes, we've gone down to  
23 that.  
24 JOHN W. MCKINNEY, being previously sworn, testified as  
25 follows: