

1 QUESTIONS BY COMMISSIONER MURRAY:

2 Q. And where in your testimony do you address
3 that, Mr. McKinney?

4 MR. MICHEEL: I can't find it either,
5 Mr. McKinney, so --

6 THE WITNESS: I think my testimony in
7 addressing it is just parts of OPC's regulatory plan
8 that they put in in regards to the market power study
9 and different aspects of it like that. The Company
10 has its own regulatory plan coming forward. If
11 anybody had any questions on why the Company might
12 oppose what OPC had, I would be the witness that could
13 address that under -- any questions that anybody did
14 have.

15 The testimony that we did file stated our
16 regulatory plan. It didn't state why we did not
17 believe market power studies were necessary, which I
18 believe were part of the plan, overall plan, that was
19 in there. It wasn't specifically part of
20 Mr. Trippensee's plan which addressed a one-year rate
21 case and rate design study.

22 BY COMMISSIONER MURRAY:

23 Q. Okay. And what is the Company's position on
24 a one-year rate case and rate design study?

25 A. The only position the Company would have, we

1 didn't believe that a rate case that quick would be
2 necessary. It would violate the moratorium that we
3 required. It would flow through the synergies
4 immediately. It would not allow the Company to retain
5 the synergies.

6 Also, in the OPC's plan they required or
7 asked for rate design recommendations to be done. We
8 believe to do a thorough and complete job on rate
9 design, of course, we would have to do class cost of
10 service studies. Those studies would take time to be
11 done.

12 And in our last rate case, the parties made
13 motions to this Commission that rate design should not
14 be changed until such time as cost of service studies
15 should be made, and there is not enough time between
16 now and a year from now to do those respective studies
17 and file a case.

18 Q. I heard Chair Lumpe earlier mention three
19 years for a rate case. What would be your position in
20 terms of a three-year moratorium?

21 A. A three-year moratorium would start flowing
22 through the synergies much sooner and would not allow
23 us to retain enough of the synergies to make the
24 transaction economical in our viewpoint.

25 Q. So Company's position is that only a

1 five-year moratorium would be adequate.

2 A. With the other components of the regulatory
3 plan that we've put together. If we change to a
4 three-year, we would have to remodify the whole plan
5 to change aspects so the same economics resulted in
6 the end.

7 In my interview with the Staff we discussed
8 this also. Is there other plans that could be
9 optional? Well, yes, but a lot of different things
10 would have to change so the same economics ended in
11 the result.

12 Q. Do you have specifics about some of the
13 other things that would change?

14 A. A greater percent of the synergies would
15 have to be retained in the post-moratorium rate case.
16 The 1.6 guaranteed minimum might have to change.
17 Instead of the five-year period out there, that might
18 have to be extended.

19 Q. How about an incentive regulatory plan such
20 as Commissioner Schemenauer was discussing with one of
21 the witnesses earlier? I've forgotten which one.

22 A. I think it was Mr. Oligschlaeger.

23 Q. Okay. What is your opinion about a -- an
24 incentive type of regulatory plan attached to this
25 merger?

1 A. We discussed that with the Staff in one of
2 our -- I think there was three or four meetings before
3 we filed as a possibility. The Staff indicated, and
4 it's my recollection -- and Staff can feel free to
5 correct me if I'm wrong -- that the Staff is not
6 comfortable with those type of plans any more and
7 would oppose them. They've had a number of problems
8 with some that are in place today.

9 They indicated in our last case -- we
10 brought forward an incentive regulatory plan in our
11 last rate case in 1997, and it was very similar to the
12 one that was in the merger, and it was vigorously
13 opposed and was denied by the Commission.

14 We felt it was cleaner to bring the issue --
15 instead of trying to put premium behind an earning
16 sharing grid or something like that, be straight up,
17 bring premium to the Commission and address the issue
18 straight up instead of trying to do it some other way.

19 We talked to the Staff about an earning
20 sharing -- I mean, excuse me, a synergy sharing
21 mechanism. We've talked to them about the mechanism
22 we did file. We felt this was the best one.

23 And it's -- I know it's complicated, but I
24 don't believe it's as complicated as some people are.
25 I feel maybe that's my responsibility. I haven't

1 explained it thoroughly enough. But the regulatory
2 plan has seven steps to it, and if they look at
3 individually each one of those seven steps, it's not
4 that complex.

5 But the sharing grids, the ROE sharing
6 mechanisms, we did discuss those with the Staff, and
7 it was indicated that the Staff was definitely not in
8 favor of us bringing one of those forward in this
9 case.

10 Q. Okay. So you're telling us, I assume, that
11 there was no plan that anyone proposed that everyone
12 thought was a good plan?

13 A. The only one that was offered to us was the
14 settlement in the Western/KCP&L merger.

15 Q. And that was offered by whom?

16 A. The Staff indicated that they might be able
17 to accept that as a settlement in the case if we could
18 agree to that. And as I testified earlier, I believe
19 yesterday, that was not acceptable to the Company.

20 Q. Did Staff indicate that they would not
21 consider the merger a detriment to the public interest
22 if those conditions were imposed?

23 A. They did not make that statement, no, not to
24 me.

25 Q. But if they had indicated that they were

1 willing to -- did they indicate they would be willing
2 to recommend the merger?

3 A. No. They said that that would be the
4 settlement that they would bring forward for -- to
5 consider if we would be willing to sign onto that type
6 of settlement.

7 Q. In other words, they would sign a
8 stipulation and agreement?

9 A. They didn't say they would sign a
10 stipulation and agreement. They did not go that far.

11 Q. All right.

12 A. And I would not represent that they did.

13 Q. All right. One other question, and this may
14 be covered later when you come back on the stand, but
15 the -- you did mention the OPC's plan has the market
16 power study recommendation in it.

17 A. That's correct.

18 Q. And it's my understanding that there is a
19 study on file with the FERC?

20 A. Yes. The FERC filing requirements, they
21 require you to make a wholesale market power study.
22 It's called an Appendix A filing. It's a very complex
23 filing. Copies of it have been served on the Staff
24 here who have intervened in that case.

25 I am definitely not an expert in Appendix A

1 studies, but the study at FERC has been filed. It has
2 been reviewed by Staff at the FERC and here.

3 Mr. Proctor makes comments about it, I
4 believe, in his testimony in this case.

5 The issue of retail market power studies was
6 brought forward in this docket, I believe, early on
7 during the procedural schedule aspect, and the
8 Commission did rule on that issue at that time.

9 Q. And has the Office of Public Counsel
10 reviewed the Appendix A filing before the FERC to your
11 knowledge?

12 A. I know Mr. Proctor has of the Staff.

13 Q. And you don't know if Office of Public
14 Counsel has?

15 A. I don't know if OPC has.

16 COMMISSIONER MURRAY: Thank you.

17 JUDGE WOODRUFF: Commissioner Schemenauer?

18 COMMISSIONER SCHEMENAUER: Thank you, your
19 Honor.

20 QUESTIONS BY COMMISSIONER SCHEMENAUER:

21 Q. Good morning.

22 A. Good morning.

23 Q. I just have one question.

24 When you were discussing the regulatory plan
25 with the Staff, on all of the testimony taken

1 together -- and this is overall. It's not just the
2 OPC's part of it, but one of the most disagreeable
3 portions of the regulatory plan was the insertion of
4 an intangible blue sky asset into the rate base that
5 would allow the Company to earn a return on -- a
6 return of the acquisition premium being the
7 intangible.

8 Was there anything else besides that that
9 was a major blockade? I mean, if you could remove
10 that, would the other parties express any willingness
11 to look further at the plan?

12 A. Different parties did -- excuse me.
13 Different parties did make indications that if the
14 Company was not requesting a premium, a settlement
15 might be easier to obtain.

16 COMMISSIONER SCHEMENAUER: Okay. That's all
17 I have. Thank you.

18 JUDGE WOODRUFF: I have no questions, so
19 we'll go to recross based on questions from the Bench.

20 And St. Joseph Light & Power?

21 MR. COMLEY: No questions, Judge.

22 JUDGE WOODRUFF: UE is not here.

23 Natural Resources?

24 MS. WOODS: We have no questions.

25 JUDGE WOODRUFF: AgP?

1 MR. CONRAD: No questions.

2 JUDGE WOODRUFF: Springfield is not here.
3 Public Counsel?

4 MR. MICHEEL: Yes, your Honor.

5 RE-CROSS-EXAMINATION BY MR. MICHEEL:

6 Q. Mr. McKinney, is it correct that Public
7 Counsel's regulatory plan would -- would require or
8 request the Commission order the Company to file a
9 rate case one year after the consummation of the
10 mergers?

11 A. That's my understanding.

12 Q. Okay. With respect to the market power
13 study, isn't it correct that Public Counsel has not
14 required a market power study as part of its
15 regulatory plan set out in Mr. Trippensee's testimony?

16 A. It's not part of Mr. Trippensee's, that's
17 correct. It's just part of your overall
18 recommendation. That's a separate issue we'll talk
19 about another time.

20 Q. Is it correct that the market power study
21 the UCU filed at FERC is a wholesale market power
22 study?

23 A. That's correct.

24 Q. Is it correct that Mr. Kind's recommending
25 that at the outset of retail competition in this state

1 that UCU be required to undertake a retail market
2 power study?

3 A. Yes, Mr. Kind has a specific retail market
4 power study that he wants us to do.

5 Q. And do you understand that there is a
6 difference between wholesale market power and retail
7 market power, Mr. McKinney?

8 A. Yes, I have that understanding.

9 Q. Okay. So the study that you filed at the
10 FERC doesn't cover the retail market power study that
11 Mr. Kind is talking about; isn't that correct?

12 A. That's correct. We're not able to do a
13 retail market power study at this time, as I've
14 testified, as we don't know what the market will look
15 like.

16 Q. And Mr. Kind only recommends that that
17 retail market power study be done if indeed retail
18 competition comes to the state of Missouri; isn't that
19 correct?

20 A. Well, that's correct, and we've agreed to do
21 one at that time. The only difference we had was that
22 we would like to do the one that the Commission would
23 order us to do, not the one that Mr. Kind wants us to
24 do.

25 Q. What if the Commission orders you to do the

1 one Mr. Kind wants you to do? Would your company be
2 willing to do that?

3 A. We will be happy to do that. That's what my
4 testimony so says. We just didn't believe it was
5 appropriate to agree to one today without knowing what
6 the Commission would say.

7 MR. MICHEEL: I'm going to ask that that
8 answer be stricken. It's not response to a question,
9 your Honor.

10 JUDGE WOODRUFF: It was not responsive, so
11 it will be stricken.

12 Anything further?

13 MR. MICHEEL: No, your Honor.

14 JUDGE WOODRUFF: Staff?

15 MR. DOTTHEIM: Yes.

16 RE-CROSS-EXAMINATION BY MR. DOTTHEIM:

17 Q. Now, Mr. McKinney, I'd like to ask you a few
18 questions that relate to Commissioner Murray's
19 questions to you about meeting with the Staff. And
20 you on several occasions alluded to meetings with the
21 Staff.

22 Those meetings that occurred were conceptual
23 discussions, were they not?

24 A. Definitely. They were not prehearing
25 conferences. They were settlement conferences.

1 Q. And at those discussions, UtiliCorp did not
2 provide to the Staff in advance of those meetings
3 anything, any proposal or plans that laid out any
4 detail, did you, did UtiliCorp?

5 A. In one of the meetings we did discuss in
6 somewhat detail a synergy sharing plan. We had a
7 graph and some documents that we laid out in that one
8 that we talked about.

9 Another one we did talk about the earnings
10 sharing grid that we'd offered in our earlier rate
11 case and we talked about the one that Ameren had, so
12 those type of details were discussed.

13 Q. But there was no provision of documentation
14 such as even one would find in the regulatory plan
15 that you filed with the Commission in October of last
16 year?

17 A. No. These were all preliminary meetings
18 before we filed.

19 Q. As a consequence, the Staff could not in
20 advance of those meetings perform any audit of the
21 Company to determine what -- what merger costs and
22 merger savings there might be?

23 A. Oh, no. That would have been impossible,
24 and it would have been inappropriate for them to do
25 anything at that time either.

1 As you said, they were preliminary meetings,
2 conceptual meetings, talking about how we planned to
3 go forward with the case.

4 MR. DOTTHEIM: Thank you, Mr. McKinney.

5 THE WITNESS: Thank you.

6 JUDGE WOODRUFF: Redirect?

7 MR. SWEARENGEN: Just one on redirect.

8 REDIRECT EXAMINATION BY MR. SWEARENGEN:

9 Q. Mr. McKinney, why do you not want to agree
10 to the Public Counsel's market power study today?

11 A. In my testimony we've addressed the issue.
12 We believe that retail market power studies will be
13 needed. We believe this Commission will want to do
14 them, and we believe that all parties should take part
15 in doing those studies.

16 The market power study proposed by the Staff
17 at this point in time may or may not emulate or be the
18 one that the Commission wants us to do at that point
19 in time. We feel that we should comply with the
20 Commission's wishes. They are very difficult studies.
21 They are very expensive studies, and once the
22 Commission decides when they should be done, what the
23 market will look like, and the framework of the study
24 like FERC has done for wholesale, the Company will be
25 very happy to comply and file that study.

1 MR. SWEARENGEN: Thank you.

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

4 THE WITNESS: Thank you.

5 JUDGE WOODRUFF: I believe Russell
6 Trippensee is next up again.

7 MR. MICHEEL: Yep.

8 JUDGE WOODRUFF: Welcome back,
9 Mr. Trippensee. You are still under oath.

10 THE WITNESS: Thank you.

11 JUDGE WOODRUFF: Is this the last time he
12 will be on the stand?

13 MR. MICHEEL: In this proceeding, I think,
14 but I see in the future --

15 JUDGE WOODRUFF: I didn't mean to imply
16 anything other.

17 MR. MICHEEL: -- I'm sure he will have
18 plenty of other opportunities.

19 JUDGE WOODRUFF: Okay. My point being you
20 might want to offer his testimony.

21 MR. MICHEEL: Yes.

22 JUDGE WOODRUFF: Okay. Exhibit 203, I
23 believe, for Mr. Trippensee has been offered into
24 evidence. Are there any objections to its receipt?

25 (No response.)

1 JUDGE WOODRUFF: Hearing none, it will be
2 received into evidence.

3 (EXHIBIT NO. 203 WAS RECEIVED INTO
4 EVIDENCE.)

5 MR. MICHEEL: I would tender Mr. Trippensee
6 for cross on this issue, your Honor.

7 JUDGE WOODRUFF: Thank you.

8 Let's begin with cross-examination then with
9 Natural Resources?

10 MS. WOODS: Nothing. Thank you.

11 JUDGE WOODRUFF: AgP?

12 MR. CONRAD: No questions.

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

15 Staff?

16 MR. DOTTHEIM: No questions.

17 JUDGE WOODRUFF: UE is not here.

18 UtiliCorp?

19 MR. SWEARENGEN: No questions. Thanks.

20 JUDGE WOODRUFF: St. Joseph Light & Power?

21 MR. COMLEY: No questions.

22 JUDGE WOODRUFF: Questions from the Bench.
23 Commissioner Murray?

24 COMMISSIONER MURRAY: Thank you.

25 RUSSELL W. TRIPPENSEE, being previously sworn,

1 testified as follows:

2 QUESTIONS BY COMMISSIONER MURRAY:

3 Q. Mr. Trippensee --

4 A. Yes, ma'am.

5 Q. -- I got your name right this time.

6 A. Thank you.

7 Q. Is it Office of Public Counsel's position,
8 in light of what you testified to earlier regarding
9 one item that you considered incurable, that even if
10 the merger were to be structured with the conditions
11 recommended in OPC's regulatory plan that the merger
12 would still be detrimental to the public interest?

13 A. I'm trying to follow your question.

14 Q. Sure. I'm not sure I followed it.

15 A. Are you saying absent the one item we
16 believe is incurable?

17 Q. Yes.

18 A. Absent that item, which is -- is in our
19 belief incurable, I believe our testimony does contain
20 conditions in various -- in my testimony and
21 Mr. Kind's testimony and Mr. Robertson's testimony,
22 that if the Commission approves the merger, these
23 conditions should be implemented to eliminate the
24 detrimental aspects of the merger. But, again, we
25 still have the one problem of the capital costs, which

1 we don't know how to fix.

2 Q. And how big a problem is that in your
3 opinion?

4 A. Quantification of capital cost differentials
5 between ratings is -- it can be done. Quite -- I hate
6 to defer since Mr. Burdette has already left the
7 stand, but he would be someone who would better
8 address the cost differentials between, say, a triple
9 B and a double A, and things like that. But keep in
10 mind that's applied to the entire rate base, which is
11 the largest cost component of the utility, so it can
12 be substantial.

13 JUDGE WOODRUFF: Mr. Burdette will be back
14 on the stand later.

15 THE WITNESS: That's good.

16 BY COMMISSIONER MURRAY:

17 Q. I guess what I'm -- the bottom line I'm
18 trying to get to is that Office of Public Counsel to
19 my understanding does not take the same position that
20 Staff takes that the merger should be rejected
21 regardless of how it's structured. Am I correct in
22 that?

23 A. I think in Staff's case, they've done some
24 very specific analysis of costs and cost to achieve
25 synergies, synergies, and found that we believe the

1 synergies don't totally -- or do not exceed the costs.
2 Our office did not look at that -- those costs in
3 quite that manner, so, no, I don't think we've taken
4 the exact same position.

5 Our problem is still, though, we found one
6 cost, the capital costs, that make this merger
7 uneconomic -- or detrimental, rather, not -- I don't
8 want to say uneconomic, but detrimental to the
9 ratepayers of St. Joe as -- as it's structured. And
10 then other components of the merger application, or
11 the acquisition application are detrimental as
12 structured, and we have addressed those things that we
13 believe can be cured.

14 COMMISSIONER MURRAY: All right. Thank you.

15 JUDGE WOODRUFF: Commissioner Schemenauer?

16 COMMISSIONER SCHEMENAUER: No questions.

17 JUDGE WOODRUFF: Recross. Natural

18 Resources?

19 MS. WOODS: Nothing. Thank you.

20 JUDGE WOODRUFF: AgP?

21 MR. CONRAD: Nothing, your Honor.

22 JUDGE WOODRUFF: Springfield is not here.
23 Staff?

24 MR. DOTTHEIM: No questions.

25 JUDGE WOODRUFF: UE is not here.

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UtiliCorp?

MR. SWEARENGEN: No question.

JUDGE WOODRUFF: St. Joseph?

MR. COMLEY: No questions.

JUDGE WOODRUFF: All right. Any redirect?

MR. MICHEEL: No.

JUDGE WOODRUFF: All right, then.

Mr. Trippensee, you can step down.

(Witness excused.)

JUDGE WOODRUFF: Congratulations! We have now completed the first day of testimony.

MR. MICHEEL: Does that mean the day is over, your Honor?

JUDGE WOODRUFF: No. I'm afraid not. But it is encouraging.

All right. The next issue, then, I believe, is the acquisition adjustment, starting with Mr. McKinney again.

We're going to wear you out coming up and down from the stand, I think.

THE WITNESS: That's all right.

JUDGE WOODRUFF: You are, of course, still under oath.

THE WITNESS: Thank you.

JUDGE WOODRUFF: And are we ready to

1 cross-examine?

2 MR. SWEARENGEN: Yes. Do I get to cross
3 him?

4 JUDGE WOODRUFF: I'm afraid not.

5 MR. SWEARENGEN: He's tendered for
6 cross-examination, your Honor.

7 JUDGE WOODRUFF: Thank you.

8 St. Joseph Light & Power?

9 MR. COMLEY: I have no questions.

10 JUDGE WOODRUFF: UE is not here.

11 Natural Resources?

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

13 JUDGE WOODRUFF: AgP?

14 MR. CONRAD: Nothing further, your Honor.

15 JUDGE WOODRUFF: Springfield is not here.

16 Public Counsel?

17 MR. MICHEEL: Yes, I have some questions.

18 JOHN W. MCKINNEY, being previously sworn, testified as
19 follows:

20 CROSS-EXAMINATION BY MR. MICHEEL:

21 Q. Mr. McKinney, do you have a copy of
22 Surrebuttal Testimony with you?

23 A. Yes, I do.

24 Q. I'm focusing on the last line of Page 11 to
25 the top of Page 12 where you state, and I quote, "We

1 are simply asking that the Commission continue this
2 policy of consideration of an acquisition adjustment
3 and tell us now in the context of this merger case
4 that it will allow the requested ratemaking treatment
5 of the assigned premium in the post-moratorium rate
6 cases provided that UtiliCorp meets certain
7 positions" -- or "conditions," excuse me.

8 Did I read that correctly?

9 A. Yes, you did.

10 Q. Where you say "allow the requested
11 ratemaking treatment" does that mean allow recovery in
12 the post-moratorium rate case or guarantee recovery of
13 the acquisition premium?

14 A. Your first statement I would agree with,
15 allow the Company to place the thirty-five-fortieths
16 as we talked about earlier in my testimony, in rate
17 base and allow the amortization of that into the cost
18 of service.

19 Q. And so as long as UtiliCorp proves up there
20 synergy savings, or alleged synergy savings, the
21 Commission would be required to allow the Company to
22 recover the assigned premium; is that correct?

23 A. What the regulatory plan was last at for the
24 five-year period, starting in year six, that's
25 correct.

1 Q. Assuming you prove up the synergies?

2 A. That's correct. There is no guarantees.

3 Q. Okay. But there is a guarantee if the
4 Company proves the synergy savings; is that correct?

5 A. That's what we're asking for. That's
6 correct.

7 Q. Even if my office comes in in that fifth
8 year moratorium case and says, You shouldn't allow the
9 acquisition adjustment in spite of all of these
10 synergy savings; is that correct?

11 A. That's what we're asking the Commission.
12 The Commission will have to review your request also.
13 This is ours.

14 Q. But you're asking the Commission to make
15 that commitment to you in this proceeding. Correct?

16 A. That is correct.

17 Q. Also at Page 16 of your Surrebuttal
18 Testimony, and I'm focusing, sir, at -- I guess
19 starting there on Line 22. You say, "Before an asset
20 can be moved out of rate base, this Commission will
21 need to provide its approval, and that any asset that
22 has a related premium, that premium should be
23 transferred to the new business unit." Is that
24 correct?

25 A. That's correct.

1 Q. Has the Company at this point in time
2 assigned any of the acquisition premium to, for
3 example, the generation assets?

4 A. The acquisition premium is for an entity in
5 total. The -- in some of the data requests that we've
6 had we've made recommendations on how premiums should
7 be allocated. We have not tried to allocate the
8 premium yet on an asset by asset basis. We haven't
9 tried to put it on the generation assets or trucks or
10 desks or anything like that, but we have proposed a
11 method that that should be accomplished.

12 Q. Has any of the merger premium been assigned
13 to St. Joe's investment in ExOp, the
14 telecommunications provider.

15 A. No. Those are not assets owned by St. Joe
16 Light & Power. St. Joe Light & Power has an equity
17 interest in ExOp is all --

18 Q. What meth--

19 A. -- just like we do. Excuse me.

20 Q. What method has the Company proposed for
21 assigning the premiums to generation or unregulated
22 entities?

23 A. At the present time, as we discussed
24 yesterday, I'm proposing that premiums be allocated to
25 various entities based on their synergy capability of

1 development. If a jurisdictional area or a
2 non-regulated area has the potential in our judgment
3 to develop synergies, then premium should be allocated
4 to that area.

5 We have allocated on the schedules that we
6 have prepared and delivered some of the premium to
7 non-regulated operations because we did see some
8 synergies there. As I'm talking here, if we were to
9 take some assets out, those assets probably have
10 synergy capability. We would then therefore allocate
11 also premium out of the rate base to go right along
12 with those assets.

13 Q. Prior to your statement yesterday about how
14 the Company was going to allocate those synergy
15 premiums or the premium as it relates to the synergies
16 created, did the Company put that in any of their
17 testimony, or --

18 A. It was in data requests. Sorry. Were you
19 through?

20 Q. In any data requests?

21 A. Yes. It was in data requests that we had
22 delivered.

23 Earlier we used a method call or
24 Massachusetts formula, and it had come to pass that
25 that was, in my judgment, invalid. It took

1 considerations. The drivers that go into the
2 Massachusetts formulas I didn't believe were valid
3 drivers for allocating a premium, and so we did make
4 that change.

5 Q. So you're allocating based on future
6 continue synergy possibilities as opposed to future
7 revenue opportunities; is that correct?

8 A. I would have to know what you mean by
9 "revenue opportunities." We could be talking
10 semantics.

11 Q. I.e., for example, sales in the generation
12 market?

13 A. If we're talking incremental increase in
14 margin, then that would be the same thing as
15 synergies. If we're talking about gross revenues that
16 are existing today, then, no, those would not be
17 synergies. It would just be trading one sale for
18 another.

19 Q. Are you aware of any legislation that has
20 been proposed in Missouri to divest this Commission of
21 its jurisdiction over generation assets?

22 A. Yes, I testified on most of that legislation
23 during the legislative session.

24 Q. And, indeed, did UtiliCorp United support
25 what's been known as the UE bill?

1 A. No, we did not.

2 Q. Did you support any portions of the UE bill?

3 A. My testimony was on the three pieces of
4 legislation that was before it. If I could have this
5 liberty to explain that.

6 We indicated there was portions of all bills
7 that were good --

8 MR. MICHEEL: Your Honor, at this point he
9 has answered my question. And if he wants to do that
10 in redirect, I'm sure Mr. Swearengen is a sharp guy.
11 He'll note that --

12 MR. SWEARENGEN: Thank you.

13 MR. MICHEEL: -- and ask him that question.

14 BY MR. MICHEEL:

15 Q. Were you aware of any portions of the Union
16 Electric bill that your company supported?

17 A. Yes, there were sections.

18 Q. What sections did you support?

19 A. I would have to go back and look at the
20 whole bill and look at them section by section to
21 reflect on that.

22 Q. Is it correct that UtiliCorp supported the
23 section with regard to the transfer of assets?

24 A. To an extent we did. To an extent, we had
25 an objection to that section.

1 MR. MICHEEL: I would like to get an exhibit
2 marked, your Honor.

3 JUDGE WOODRUFF: Okay.

4 MR. MICHEEL: And it, I guess, would be 204.

5 JUDGE WOODRUFF: Yes.

6 MR. COMLEY: Mr. Micheel, do you have an
7 extra copy?

8 MR. MICHEEL: Certainly.

9 JUDGE WOODRUFF: Don't forget about the
10 Bench.

11 MR. MICHEEL: I've got some more. I just
12 need to get into my stash.

13 (EXHIBIT NO. 204 WAS MARKED FOR
14 IDENTIFICATION.)

15 BY MR. MICHEEL:

16 Q. Mr. McKinney, I've handed you what's been
17 marked for purposes of identification, I believe, as
18 Exhibit 204, and it's your Company's response to
19 Public Counsel Data Request -- a position of that
20 response to Data Request 3512; is that correct?

21 A. That's correct.

22 Q. And this contains three pages; is that
23 correct?

24 A. That's correct.

25 Q. Do you know who Gary Clemens is?

1 A. Yes. He's a member of our Regulatory
2 Department.

3 Q. Does he work for you?

4 A. Yes.

5 Q. If you could look on the third page there of
6 the data request --

7 A. Yes.

8 Q. -- talking about transfer of assets, does
9 that indicate that UtiliCorp supports the proposed
10 language regarding transfer of assets?

11 A. Yes, among other things.

12 MR. MICHEEL: I would move the admission of
13 Exhibit 204, your Honor.

14 JUDGE WOODRUFF: Okay. Exhibit 204 has been
15 offered into evidence. Are there any objections?

16 (No response.)

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

19 (EXHIBIT NO. 204 WAS RECEIVED INTO
20 EVIDENCE.)

21 BY MR. MICHEEL:

22 Q. I have another question about that.

23 That seems to indicate there that transfer
24 of assets section that I think we talked about a
25 little bit yesterday, that the PUCHA requirements

1 would still be in effect even if the UE legislation
2 had been passed; is that correct?

3 A. That's correct. I don't believe this -- and
4 as I stated, even with this legislation going through,
5 we would like to see it, I do not believe it would
6 stand up, though, because of the federal requirements
7 would override it.

8 Q. And those are the federal PUCHA
9 requirements; is that correct?

10 A. That's right.

11 Q. Are you aware, Mr. McKinney, whether or not
12 there is a move afoot in Washington to repeal the
13 PUCHA requirements?

14 A. For the last 10 or 15 years that's been
15 going on, yes.

16 Q. Has your company supported the efforts to
17 repeal PUCHA?

18 A. Generally, only in the last few months have
19 we been talking seriously about that. Generally, in
20 the past, we were opposed.

21 We are still not 100 percent declaratory in
22 favor of that. We have had some indications with
23 groups in the past few months that we would like to
24 see PUCHA repealed.

25 MR. MICHEEL: Let me show you an item that I

1 pulled off of the internet that discusses the repeal
2 of PUCHA.

3 And I guess I'll have it marked as -- I'd
4 ask it be marked as Exhibit 205.

5 JUDGE WOODRUFF: Okay.

6 (EXHIBIT NO. 205 WAS MARKED FOR
7 IDENTIFICATION.)

8 JUDGE WOODRUFF: Okay.

9 BY MR. MICHEEL:

10 Q. I'm focusing there on the first page of what
11 I've handed you, and the title is "Utility, Consumer
12 Groups Back House Power Dereg Bill"; is that correct?

13 A. That's correct.

14 Q. And I'd say about in the middle there it
15 says, "Stakeholders include utilities like UtiliCorp
16 United"; is that correct?

17 A. That's correct.

18 Q. And at the bottom of the page, "In addition
19 to opening the grid, the group wants the following
20 measures included in the final restructuring effort,"
21 and the first star point there is "Repeal the Public
22 Utility Holding Company Act"; is that correct?

23 A. That's correct.

24 Q. And your company is supporting that effort;
25 is that correct?

1 A. That's what I had previously testified to,
2 yes.

3 MR. MICHEEL: Move the admission, your
4 Honor, of Exhibit 205.

5 JUDGE WOODRUFF: Exhibit 205 has been
6 offered into evidence. Are there any objections?

7 (No response.)

8 JUDGE WOODRUFF: Hearing none, it will be
9 received.

10 (EXHIBIT NO. 205 WAS RECEIVED INTO
11 EVIDENCE.)

12 MR. MICHEEL: Thank you, Mr. McKinney.

13 THE WITNESS: Thank you.

14 JUDGE WOODRUFF: Staff?

15 MR. DOTTHEIM: Yes, just a few questions.

16 CROSS-EXAMINATION BY MR. DOTTHEIM:

17 Q. Mr. McKinney, to follow up on some questions
18 from the Office of Public Counsel dealing with
19 PUCHA -- and you indicated yesterday and I think today
20 about PUCHA applying if UtiliCorp sought to
21 restructure transfer of assets that are in rate base.

22 Do the PUCHA requirements only apply if
23 UtiliCorp would seek to transfer those assets to an
24 affiliate exempt wholesale generator?

25 A. That's correct.

1 Q. So if UtiliCorp sought to divest itself of
2 generating facilities, for example, to a
3 non-affiliate, then PUCHA would not require that
4 UtiliCorp come before the Missouri Commission?

5 A. No, PUCHA would not. I believe there is
6 state regs and rules that would, but PUCHA would not.

7 Q. Assuming that those state regs and rules
8 were still in effect. Right?

9 A. That's correct.

10 Q. Mr. McKinney, would you agree with me that
11 UtiliCorp believes that there are not enough
12 synergies in the proposed merger transaction to cover
13 100 percent of the acquisition premium?

14 A. Not from the St. Joe Light & Power
15 operations, that's correct.

16 Q. Mr. McKinney, would you agree with me that
17 indirect recovery of a portion of the merger premium
18 is effectuated by UtiliCorp's frozen SJLP capital
19 structure proposal?

20 A. I believe it's been termed indirect in this
21 proceeding, yes.

22 Q. Mr. McKinney, would you agree with me that
23 indirect recovery of a portion of the merger premium
24 is effectuated by UtiliCorp's corporate allegations
25 proposal?

1 A. It has been termed that in this proceeding,
2 yes.

3 MR. DOTTHEIM: Thank you, Mr. McKinney.

4 THE WITNESS: Thank you.

5 JUDGE WOODRUFF: Questions from the Bench.
6 Commissioner Murray?

7 QUESTIONS BY COMMISSIONER MURRAY:

8 Q. Good morning, again.

9 A. Good morning.

10 Q. Let me see if I can restate what I
11 understand your position to be about the acquisition
12 premium. That is that you want this Commission to
13 declare in this proceeding that we will allow you to
14 recover the 50 percent of the unamortized portion of
15 the acquisition premium beginning in year six so long
16 as you prove up the synergies to that degree?

17 A. That's correct. That's correct.

18 Q. And you are not -- you are saying that it
19 would not be acceptable for us to in this proceeding
20 do what we have ordinarily done regarding acquisition
21 premiums and say that we will not at this time say
22 they are not recoverable, nor will we at this time say
23 they are recoverable, but will reserve that for a
24 later rate case?

25 A. Mr. Green, I believe, testified to that the

1 first day, that the Company's request is we would like
2 to have those assurances before it closes the merger
3 instead of waiting that period of time to find out the
4 answer to that question.

5 Q. Whereas OPC's position, as I understand it,
6 in terms of the acquisition adjustment, is that they
7 would like us at this time to declare that the
8 acquisition premium is not recoverable. Is that your
9 understanding?

10 A. I believe that's their position, yes.

11 COMMISSIONER MURRAY: All right. Thank you.

12 THE WITNESS: I may stand corrected on that.
13 They will be happy to do that. I'm sure.

14 JUDGE WOODRUFF: Commissioner Schemenauer?

15 COMMISSIONER SCHEMENAUER: No questions.

16 JUDGE WOODRUFF: Thank you.

17 Then we'll move to recross, starting with
18 St. Joseph Light & Power?

19 MR. COMLEY: No questions.

20 JUDGE WOODRUFF: UE is not here.

21 Natural Resources?

22 MS. WOODS: No questions. Thank you.

23 JUDGE WOODRUFF: AgP?

24 MR. CONRAD: No questions.

25 JUDGE WOODRUFF: City of Springfield is not

1 here.

2 Public Counsel?

3 RE-CROSS-EXAMINATION BY MR. MICHEEL:

4 Q. Commissioner Murray asked you some questions
5 about Public Counsel's position with respect to the
6 recovery of the acquisition premium. Do you recall
7 those?

8 A. Yes.

9 Q. You're not an OPC witness, are you,
10 Mr. McKinney?

11 A. No, I am not.

12 MR. MICHEEL: Okay. That's all.

13 JUDGE WOODRUFF: All right. Staff?

14 MR. DOTTHEIM: No questions.

15 JUDGE WOODRUFF: Redirect?

16 MR. SWEARENGEN: Just a few.

17 REDIRECT EXAMINATION BY MR. SWEARENGEN:

18 Q. Mr. McKinney, you were trying to answer some
19 questions about spinning off generation assets. Do
20 you recall those?

21 A. There has been quite a few; if you could
22 refresh my memory on them.

23 Q. Well, let me ask you this question: The
24 synergies that UtiliCorp has projected for this
25 transaction, will they remain at projected levels if

1 the generation assets were spun out?

2 A. If the generating assets were spun out, the
3 synergies, of course, that go with those assets, you
4 know, are with those assets. The premium therefore
5 would be tied to those assets based on the synergies.
6 We wouldn't leave the premium behind.

7 Q. So under that scenario, the synergies
8 actually would be reduced. The synergies remaining
9 with the rest of the assets would be reduced; is that
10 right?

11 A. That's correct. If we were leaving behind
12 just a simple wires company, the synergy profile would
13 be different.

14 Q. And so if the synergies weren't there with
15 the retail assets, would you anticipate being allowed
16 to recover 50 percent of the premium as set out in the
17 regulatory plan?

18 A. No. That's what we've stated in the
19 testimony, that the premium would go with those
20 assets. We would not make that request, of course.

21 Q. I'm not sure -- I heard you testify a little
22 bit about UtiliCorp's position on legislation which
23 was pending before the most recent session of the
24 Missouri General Assembly, and you were trying to
25 explain UtiliCorp's position on that legislation.

1 Have you done that now? Do you feel as
2 though you've explained that position, or is there
3 anything else you need to say to clarify the Company's
4 position?

5 A. Yes. In my response to OPC I said we agreed
6 in part to that legislation but not in total. Of
7 course we would like to see the flexibility of
8 transferring assets. We had a problem with the
9 resolution, or the proposal that went forward in that
10 the bill let the nuclear assets be transferred out but
11 left the decommissioning costs behind.

12 We didn't feel that was equitable to all of
13 the companies in the state, especially those
14 non-nuclear companies. It put us at a tremendous
15 disadvantage when it came to a competitive position.

16 We felt if you're going to transfer the
17 assets out of rate base, all of the costs relating to
18 assets should go with those assets, so we couldn't
19 100 percent support that area.

20 Q. Is there anything else you need to say with
21 respect to that legislation?

22 A. Not the state legislation. There was other
23 components of the bills that we agreed with. There
24 was components that we disagreed with. There was no
25 single piece of legislation that UtiliCorp could

1 totally support.

2 MR. SWEARENGEN: Thank you.

3 JUDGE WOODRUFF: You may step down.

4 THE WITNESS: Thank you.

5 JUDGE WOODRUFF: Next on the list is Lyle
6 Miller, and he's already testified.

7 Your next witness then?

8 MR. SWEARENGEN: Well, Mr. Kehm is listed
9 for the 11th, but we actually intended to call him on
10 Friday where he is also listed, and that's when he
11 will be available.

12 So my next witness will be Mr. Myers.

13 JUDGE WOODRUFF: All right. Mr. Myers then.

14 (Witness sworn.)

15 JUDGE WOODRUFF: Have a seat, and tell us
16 your name, please.

17 THE WITNESS: Jerry Duane Myers.

18 MR. SWEARENGEN: Mr. Myers has Direct
19 Testimony of his own. I'll give three copies to the
20 reporter. He also has Surrebuttal Testimony. I'll
21 give you three copies.

22 JUDGE WOODRUFF: And what numbers were
23 those?

24 MR. SWEARENGEN: I'll have to check my
25 list.

1 JUDGE WOODRUFF: I've got Myers Direct as
2 18 and Myers Surrebuttal as 19.

3 He was also taking Mr. Streek's.

4 MR. SWEARENGEN: That's right. He is also
5 adopting Mr. Dan J. Streek's Direct Testimony, and
6 I'll give three copies of that to the reporter.

7 Thank you.

8 (EXHIBIT NOS. 6, 18, AND 19 WERE MARKED FOR
9 IDENTIFICATION.)

10 MR. SWEARENGEN: I would offer into evidence
11 Exhibits 6, 18, and 19, and tender Mr. Myers.

12 JUDGE WOODRUFF: Will he be testifying again
13 later?

14 THE WITNESS: Yes.

15 MR. SWEARENGEN: I believe he will, yes.

16 JUDGE WOODRUFF: Okay. Well, Mr. Myers has
17 been tendered for cross-examination, so we will begin
18 with St. Joseph Light & Power?

19 MR. COMLEY: No questions. Thank you.

20 JUDGE WOODRUFF: Union Electric is not
21 here.

22 Natural Resources?

23 MS. WOODS: Nothing. Thank you.

24 JUDGE WOODRUFF: AgP?

25 MR. CONRAD: I just have a clarification.

1 JERRY D. MYERS testified as follows:

2 CROSS-EXAMINATION BY MR. CONRAD:

3 Q. Mr. Myers, your testimony that's marked as
4 six, is the one page that's adopting the several pages
5 of Mr. Streek's testimony. Do I have that correct?

6 A. Yes.

7 MR. CONRAD: That's all I had, your Honor.
8 I just wanted to be sure I had it right.

9 JUDGE WOODRUFF: Okay. City of Springfield
10 is not here.

11 Public Counsel?

12 MR. MICHEEL: Yes.

13 CROSS-EXAMINATION BY MR. MICHEEL:

14 Q. Mr. Myers, do you have a copy of your
15 Surrebuttal Testimony with you?

16 A. That was in regard to tracking of savings.
17 Correct?

18 Q. Yes, sir.

19 A. And this topic is the Acquisition
20 Adjustments, so I did not bring it.

21 Q. Okay.

22 A. That's what I'm leading to.

23 Q. I'll talk to you about that on synergies.

24 A. Okay.

25 JUDGE WOODRUFF: Anything further?

1 MR. MICHEEL: No.

2 JUDGE WOODRUFF: Staff?

3 MR. DOTTHEIM: No questions.

4 JUDGE WOODRUFF: All right. Then we will go
5 to questions from the Bench. Commissioner Simmons?

6 COMMISSIONER SIMMONS: I have no questions,
7 your Honor.

8 JUDGE WOODRUFF: Commissioner Schemenauer,
9 do you have any questions for Mr. Myers?

10 COMMISSIONER SCHEMENAUER: No questions.

11 JUDGE WOODRUFF: I have no questions, so
12 there should be no need for recross.

13 Any redirect?

14 MR. SWEARENGEN: I don't think so.

15 JUDGE WOODRUFF: Okay. Mr. Myers, you may
16 step down.

17 THE WITNESS: Thank you.

18 JUDGE WOODRUFF: And this looks like a good
19 spot to break for lunch. We will be back at 1:00.

20 (A recess was taken.)

21 JUDGE WOODRUFF: There were a couple of
22 matters that were discussed before we came back on the
23 record.

24 MR. SWEARENGEN: Yes, your Honor. At this
25 time I would like to re-offer Exhibit 6, the Direct

1 Testimony of Mr. Streek, on the accounting issue
2 involving purchase versus pooling. That testimony has
3 been adopted by Mr. Myers who had taken the stand
4 before lunch. That issue will not recur, so I would
5 think it would be appropriate at this time if that be
6 received. So I would recover Exhibit 6.

7 JUDGE WOODRUFF: Okay. Exhibit 6 has been
8 offered into evidence. Are there any objections?

9 (No response.)

10 JUDGE WOODRUFF: Hearing none, it will be
11 received into evidence.

12 (EXHIBIT NO. 6 WAS RECEIVED INTO EVIDENCE.)

13 JUDGE WOODRUFF: And I believe there was
14 also some discussion about the order of witnesses to
15 be heard today. It was suggested that Vicki Heider
16 for the Company be allowed to testify this afternoon
17 and also Mr. Jackson for the Department of Natural
18 Resources, and we will go ahead and do that.

19 Let's start with Ms. Heider.

20 MR. SWEARENGEN: Thank you.

21 I'll call Vicki Heider at this time.

22 I don't believe she's been sworn.

23 JUDGE WOODRUFF: I don't believe so.

24 MR. SWEARENGEN: I'll give the reporter
25 three copies of her direct testimony.

1 JUDGE WOODRUFF: Please raise your right
2 hand.

3 (Witness sworn.)

4 (EXHIBIT NO. 11 WAS MARKED FOR
5 IDENTIFICATION BY THE COURT REPORTER.)

6 JUDGE WOODRUFF: You may proceed.

7 MR. SWEARENGEN: Thank you, your Honor.

8 At this time I would offer into evidence
9 Exhibit No. 11, the Direct Testimony of Vicki M.
10 Heider, and this testimony concerns the subject of
11 estimated merger savings.

12 JUDGE WOODRUFF: This is the only time she's
13 going to be testifying.

14 MR. SWEARENGEN: I believe that's correct.

15 JUDGE WOODRUFF: All right. Exhibit 11 has
16 been offered into evidence. Are there any objections?

17 (No response.)

18 JUDGE WOODRUFF: Hearing none, it will be
19 received into evidence.

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

21 JUDGE WOODRUFF: All right. Ms. Heider has
22 been tendered for cross-examination, and so we'll
23 begin with St. Joseph Light & Power.

24 MR. COMLEY: No questions. Thank you.

25 JUDGE WOODRUFF: UE is not present.

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Natural Resources?

MS. WOODS: Nothing. Thank you.

JUDGE WOODRUFF: AgP?

MR. CONRAD: No questions, your Honor.

JUDGE WOODRUFF: City of Springfield is not present.

Office of Public Counsel?

MR. MICHEEL: I have no questions for Ms. Heider today.

JUDGE WOODRUFF: Staff?

MR. JOYCE: Yes, your Honor. Thank you.

JUDGE WOODRUFF: Go ahead.

VICKI M. HEIDER testified as follows:

CROSS-EXAMINATION BY MR. JOYCE:

Q. Ms. Heider, my name is Dan Joyce. I'm one of the counsel for Staff. I just have a few questions for you this afternoon.

You're involved with the transition team process?

A. Yes, sir.

Q. Is that process still continuing?

A. Yes, it is.

Q. What work are the teams doing at this time?

A. At this time they are working cross-functionally on putting together one plan, one

1 integrated plan.

2 Q. What work has still to be done for the team
3 or by the team?

4 A. Well, we need to identify linkages amongst
5 the teams as well as make refinements and look at the
6 final submissions of teams on their plan for
7 implementation.

8 Q. Do you have a timetable for completing that?

9 A. Yes, I do. It's --

10 Q. It's in the schedule?

11 A. Yes, it is. And it was amended. The
12 completion was the end of May to define an integration
13 implementation plan. That was the first pass. And
14 then refinements to that plan are due by August 1.

15 Q. Part of the transition team's scope was
16 to -- was to assist in preparing estimates of merger
17 savings resulting from the UtiliCorp/St. Joe merger,
18 was it not?

19 A. Yes.

20 Q. Is it your understanding that these merger
21 estimates were incorporated into the Schedule VJS-1
22 which is attached to Mr. Siemek's testimony?

23 A. Yes.

24 Q. Have the transition teams done any work to
25 update the merger savings estimates beyond those

1 reflected in Mr. Siemek's schedule?

2 A. As we speak, I believe they are looking into
3 that, yes.

4 Q. So it hasn't been updated at this time?

5 A. I think it's been updated several times, but
6 I don't think the final will be available before
7 September 1.

8 Q. Okay. Is it correct that the steering
9 committee is to review the recommendations of the
10 transition teams?

11 A. Yes.

12 Q. Are they potentially subject to revision
13 because of the steering team's review?

14 A. That is a possibility, yes.

15 Q. But at this time, because they are not
16 complete, the steering team has made no revision; is
17 that correct?

18 A. That's correct.

19 Q. So as you said -- I may have just mentioned
20 this in my earlier question. So the final review will
21 take place, you said, not before September?

22 A. I think the earliest the steering committee
23 could review it would be September.

24 Q. And would you anticipate that the estimated
25 merger savings will change as a result of that review?

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A. I'm not sure.

MR. JOYCE: No more questions, your Honor.

JUDGE WOODRUFF: Okay. Thank you.

We'll go with questions from the bench.

Vice Chair Drainer?

COMMISSIONER DRAINER: I have no questions.

JUDGE WOODRUFF: Commissioner Schemenauer?

COMMISSIONER SCHEMENAUER: Thank you, your Honor.

QUESTIONS BY COMMISSIONER SCHEMENAUER:

Q. On that Schedule VJS-1 --

A. Yes.

Q. -- would you be the one to answer questions on that schedule or would Mr. Siemek?

A. It would be Mr. Siemek.

Q. Siemek?

A. Uh-huh.

Q. Okay. Your transition team, you've identified how many employees would be affected by the merger?

A. Approximately -- are you talking employee impacts as far as reductions?

Q. Yes.

A. Approximately one-third.

Q. One-third --

1 A. A little over 100 employees.

2 Q. They are all based in the St. Joseph area?

3 A. Yes, sir.

4 Q. And those jobs would be combined with
5 positions that are currently at the UtiliCorp
6 headquarters in Kansas City?

7 A. There should be opportunity for a lot of the
8 positions that are being eliminated, for people
9 occupying those positions.

10 Q. Would they be required to located to Kansas
11 City?

12 A. Or commute.

13 Q. Or commute?

14 A. Actually, there are positions in the
15 St. Joseph area that have been created as a result of
16 the merger also.

17 Q. So that the net -- the 100 positions, is
18 that a net number, or is that --

19 A. Yes, it is a net number.

20 Q. That includes the total reductions less the
21 additional jobs created?

22 A. Yes.

23 Q. On the -- you mentioned severance packages.
24 If you lay off people, does that -- does the
25 opportunity for severance packages extend down to the

1 average working person?

2 A. Yes, sir. In fact, there were the
3 severance -- change and control severance packages
4 that were in place for virtually everyone that's
5 employed by St. Joe Light & Power.

6 Q. Is it based on their annual salary?

7 A. It varies depending on what severance
8 package we're talking about. There is a department
9 head severance package as well as a non-union
10 severance package, and then, of course, the bargain
11 unit severance package.

12 Q. Which one is the least generous?

13 A. The bargaining unit, I believe, sir.

14 COMMISSIONER SCHEMENAUER: Thank you.

15 That's all I have.

16 JUDGE WOODRUFF: Commissioner Murray, would
17 you like a few minutes?

18 COMMISSIONER MURRAY: I have no questions.

19 JUDGE WOODRUFF: All right. Thank you.

20 We'll move on to recross, then, based on
21 questions from the Bench.

22 St. Joseph Light & Power?

23 MR. COMLEY: I have no questions.

24 JUDGE WOODRUFF: Union Electric is not here.

25 Natural Resources?

1 MS. WOODS: I have no questions.
2 JUDGE WOODRUFF: AgP?
3 MR. CONRAD: I have nothing further.
4 JUDGE WOODRUFF: City of Springfield is not
5 here.
6 Public Counsel?
7 MR. MICHEEL: No, your Honor.
8 JUDGE WOODRUFF: Staff?
9 MR. JOYCE: No questions.
10 JUDGE WOODRUFF: Any redirect?
11 MR. SWEARENGEN: No. Thank you, your Honor.
12 JUDGE WOODRUFF: Okay. You may step down.
13 (Witness excused.)
14 MR. SWEARENGEN: I would re-offer
15 Exhibit 11.
16 MR. COMLEY: I think he received it.
17 JUDGE WOODRUFF: I believe 11 has already
18 been admitted.
19 MR. SWEARENGEN: Thank you.
20 I'm slowing down.
21 JUDGE WOODRUFF: All right. The next
22 witness then.
23 MS. WOODS: The Department would call Robert
24 Jackson.
25 JUDGE WOODRUFF: All right. Sir, if you

1 would raise your right hand.

2 (Witness sworn.)

3 JUDGE WOODRUFF: You may be seated.

4 You may inquire.

5 MS. WOODS: Thank you, your Honor.

6 I have handed the court reporter three
7 copies, the original and three copies of the
8 exhibit -- premarked Exhibit 402, which is the
9 Rebuttal Testimony of Robert Jackson.

10 (EXHIBIT NO. 402 WAS MARKED FOR
11 IDENTIFICATION.)

12 ROBERT T. JACKSON testified as follows:

13 DIRECT EXAMINATION BY MS. WOODS:

14 Q. And if you would please state your name for
15 the record.

16 A. My name is Robert T. Jackson.

17 MS. WOODS: And pursuant to the stipulation
18 of the parties, I would now move the entry of
19 Mr. Jackson's Rebuttal Testimony, and tender him for
20 cross-examination.

21 JUDGE WOODRUFF: Okay. Exhibit 402 has been
22 offered into evidence. Is there any objection?

23 (No response.)

24 JUDGE WOODRUFF: No objection is heard, so
25 it will be received into evidence.

1 (EXHIBIT NO. 402 WAS RECEIVED INTO
2 EVIDENCE.)

3 JUDGE WOODRUFF: Okay. For
4 cross-examination, then, we will start with AgP.

5 MR. CONRAD: Good afternoon, Mr. Jackson.
6 I'm sorry to say I have no questions.

7 THE WITNESS: Goods afternoon, and thank
8 you.

9 JUDGE WOODRUFF: City of Springfield is not
10 present.

11 Public Counsel?

12 CROSS-EXAMINATION BY MR. MICHEEL:

13 Q. What's the "T" stand for?

14 A. You'll have to subpoena me in another state.

15 MR. MICHEEL: I have no other questions.

16 JUDGE WOODRUFF: Staff?

17 MR. DOTTHEIM: No questions.

18 JUDGE WOODRUFF: All right. Union Electric
19 is not present.

20 UtiliCorp?

21 MR. DUFFY: No questions at this time.

22 JUDGE WOODRUFF: All right. You have the
23 tough ones.

24 MR. DUFFY: Yes, so far.

25 JUDGE WOODRUFF: St. Joseph Light & Power?

1 MR. COMLEY: I have no questions for
2 Mr. Jackson.

3 JUDGE WOODRUFF: All right. Questions from
4 the Bench. We'll start with Commissioner Drainer.

5 COMMISSIONER DRAINER: Good afternoon,
6 Mr. Jackson.

7 THE WITNESS: Good afternoon.

8 COMMISSIONER DRAINER: I have no questions.
9 It's good to see you.

10 THE WITNESS: Likewise.

11 JUDGE WOODRUFF: Commissioner Murray?

12 COMMISSIONER MURRAY: I have no questions
13 either. Thank you.

14 JUDGE WOODRUFF: And Commissioner
15 Schemenauer?

16 COMMISSIONER SCHEMENAUER: No questions,
17 your Honor.

18 JUDGE WOODRUFF: Okay. No questions from
19 the Bench, so there is no recross. I assume no
20 redirect.

21 And you may step down, Mr. Jackson.

22 THE WITNESS: Thank you.

23 (Witness excused.)

24 JUDGE WOODRUFF: All right. I believe we're
25 back on schedule.

1 We're under acquisition adjustment with
2 Mr. Oligschlaeger coming back to the stand.

3 You are, of course, still under oath.

4 THE WITNESS: Okay.

5 JUDGE WOODRUFF: And I assume he is tendered
6 for cross-examination?

7 MR. DOTTHEIM: Yes. Mr. Oligschlaeger is
8 tendered for cross-examination at this time on
9 acquisition adjustment.

10 JUDGE WOODRUFF: Thank you.

11 Natural Resources?

12 MS. WOODS: Nothing, your Honor.

13 JUDGE WOODRUFF: AgP?

14 MR. CONRAD: Nothing, your Honor.

15 JUDGE WOODRUFF: City of Springfield is not
16 present.

17 Public Counsel?

18 MR. MICHEEL: No.

19 JUDGE WOODRUFF: UE is not present.

20 UtiliCorp?

21 MR. SWEARENGEN: No questions.

22 JUDGE WOODRUFF: St. Joseph Light & Power?

23 MR. COMLEY: No questions.

24 JUDGE WOODRUFF: All right. We'll move over
25 to questions from the Bench. Vice Chair Drainer?

1 COMMISSIONER DRAINER: I have no questions
2 at this time. Thanks.

3 JUDGE WOODRUFF: Commissioner Murray?

4 COMMISSIONER MURRAY: I don't believe I do,
5 but just a moment, please.

6 JUDGE WOODRUFF: Okay.

7 COMMISSIONER MURRAY: No questions. Thank
8 you.

9 JUDGE WOODRUFF: All right. Commissioner
10 Schemenauer?

11 COMMISSIONER SCHEMENAUER: This is under the
12 acquisition adjustment?

13 JUDGE WOODRUFF: Yes.

14 COMMISSIONER SCHEMENAUER: I don't have any
15 questions.

16 JUDGE WOODRUFF: Okay.

17 COMMISSIONER DRAINER: I do have a question.

18 JUDGE WOODRUFF: Commissioner Drainer?

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

21 QUESTIONS BY COMMISSIONER DRAINER:

22 Q. Good afternoon, Mr. Oligschlaeger.

23 A. Good afternoon.

24 Q. As Commissioners have to come and go from
25 the hearing room we have to catch you when we can, but

1 I don't know that it's necessarily referring to the
2 acquisition adjustment, but I do want to ask with
3 respect to the adjustment on the -- well, with respect
4 to the premium, the 50 percent premium issue, in the
5 regulatory plan, so I'm going to back up a little bit.

6 With respect to the regulatory plan and the
7 premium adjustment, and also with respect to having
8 heard that there would be a \$1.6 million adjustment to
9 St. Joseph in five years when they did an overearnings
10 investigation, I want to ask you, with your years of
11 experience here at the PSC for you basically to give
12 me your opinion on if there would be a reduction or
13 whether the St. Joseph ratepayers would end up with a
14 rate increase?

15 A. As a result of the regulatory plan --

16 Q. Uh-huh.

17 A. -- proposal?

18 Q. Uh-huh.

19 A. Our overall findings, we believe that
20 reasonable estimates of merger savings and costs at
21 this time would show that there is an excess of costs
22 over savings, and if that holds to be true, then that
23 would flow into future rate procedures, assuming that
24 the detrimental impact of any shortfall could not be
25 detected and corrected in a rate proceeding, and the

1 problem there being there is no sure-fire way of
2 knowing exactly what the financial and physical impact
3 of this merger will be on St. Joseph in the future
4 five years from now.

5 So our best call at this time is, there
6 appears there may be a shortfall and that there is no
7 reliable means to correct that shortfall, and we
8 believe that the Company's proposed minimum benefit
9 guarantee, the \$1.6 million which is intended to make
10 everything all right, will not operate as intended
11 because it's premised upon a belief to accurately
12 identify and track merger savings.

13 We are very skeptical that that can be done,
14 and, in any case, we think that because of the sheer
15 speculativeness of the subject matter, that you're
16 likely to be faced with a wide divergence of opinions
17 of terms of merger savings and the ability to track in
18 any future proceedings.

19 Q. But they guarantee at least a 1.6 reduction
20 from any revenue requirement in an earnings
21 investigation?

22 A. Yes, but that -- that doesn't work unless
23 you can accurately identify and track merger savings
24 to ensure that they exceed the benefits, and we don't
25 believe that it's at all likely that that can be done.

1 Q. And that belief is based upon --

2 A. Primarily based upon the nature of merger
3 savings themselves. I mean, it's the difference
4 between the actual earnings results of the combined
5 companies allocated to St. Joe and what St. Joe would
6 have likely experienced on a stand-alone basis five
7 years out in the future. And you're entering the
8 realm of speculation and trying to guess what would
9 have happened to St. Joe if, in fact, a merger had not
10 taken place.

11 COMMISSIONER DRAINER: Okay. Thank you very
12 much for your answers. I appreciate it.

13 JUDGE WOODRUFF: Commissioner Murray or
14 Commissioner Schemenauer, anything else?

15 COMMISSIONER MURRAY: No. Thank you.

16 JUDGE WOODRUFF: Then recross based on
17 questions from the Bench, starting with St. Joseph
18 Light & Power.

19 MR. COMLEY: No questions.

20 JUDGE WOODRUFF: UE is not present.

21 DNR?

22 MS. WOODS: No questions.

23 JUDGE WOODRUFF: AgP?

24 MR. CONRAD: No questions.

25 JUDGE WOODRUFF: Springfield is not

1 present.

2 Public Counsel?

3 MR. MICHEEL: No. Thank you, your Honor.

4 JUDGE WOODRUFF: Staff?

5 MR. DOTTHEIM: Yes.

6 REDIRECT EXAMINATION BY MR. DOTTHEIM:

7 Q. Mr. Oligschlaeger, Commissioner Drainer
8 asked you some questions regarding what might likely
9 be expected at the end of the first five years of the
10 regulatory plan if the Commission were to accept it.

11 Have you had an opportunity to review the
12 Surrebuttal Testimony that's been filed respecting the
13 forecast of St. Joseph Light & Power for 2000 to 2004?

14 A. Yes, I have.

15 Q. Has St. Joseph Light & Power forecasted rate
16 increases in 2002 and 2004?

17 A. That's what they state, yes.

18 Q. Has the Staff's evaluation changed any after
19 review of the Surrebuttal testimony of Ms. Pullen
20 respecting the forecast for 2000 to 2004?

21 A. No, it has not. First of all, because
22 the -- having had some time to look at some of the
23 assumptions that have gone into it, we don't believe
24 that necessarily all of the assumptions in the area of
25 pensions and possibly in the fuel and purchase power

1 areas as well are necessarily reasonable.

2 More fundamentally than that, St. Joseph
3 Light & Power, I think, looking at what they
4 forecasted in the past in terms of rate relief and so
5 on has not proved necessarily to be very accurate in
6 its forecast of when it would need rate relief in the
7 future. And I don't mean that necessarily as a
8 specific criticism of St. Joe. I believe any company
9 asked to forecast the need for rate relief two to four
10 years in the future, it's just necessarily a very
11 speculative exercise, and I don't think it has much
12 value.

13 MR. DOTTHEIM: Thank you.

14 JUDGE WOODRUFF: I apologize to counsel for
15 UtiliCorp. I passed him by on this his opportunity to
16 cross-examine based on questions from the Bench.

17 MR. SWEARENGEN: And I did have a couple of
18 questions based on questions from Commissioner
19 Drainer.

20 JUDGE WOODRUFF: Staff, I'll give you a
21 chance to do redirect again if there is that need.

22 MR. DOTTHEIM: Thank you.

23 RECROSS-EXAMINATION BY MR. SWEARENGEN:

24 Q. Mr. Oligschlaeger, in response to a question
25 from Vice Chair Drainer, you said with respect to the

1 rates that the St. Joe Light & Power -- or the former
2 St. Joe Light & Power customers might experience in
3 the future in that fifth year rate case, you said -- I
4 think your words were the best -- the Staff's best
5 call at this time is that there would be a shortfall.

6 By that did you mean that there would be a
7 rate increase necessary for those customers?

8 A. No. My reference there was that our best
9 forecast is that merger costs will exceed merger
10 savings. Obviously, you would need to know -- make
11 forecasts about their non-merger costs and revenues
12 and all of that to know whether that would require a
13 rate increase or rate decrease at that time.

14 Q. Now, I think your testimony earlier was
15 today that with respect to any part of that rate case,
16 that post-moratorium rate case that might involve a
17 request for premium recovery, if the Company couldn't
18 prove up the synergies, it wouldn't get that premium
19 recovery; is that correct?

20 A. I believe that's what your proposal would
21 call for.

22 Q. And you would agree with that?

23 A. Would I agree -- if you can't prove it up,
24 you shouldn't get it? Yes, I certainly agree with
25 that.

1 Q. And we wouldn't get it, that the Commission
2 would not give it to us?

3 A. That's -- part of your proposal would be
4 that they would not give it to you, yes.

5 Q. Right. Now -- but you say the premium
6 requests notwithstanding, you still think that the
7 rates would increase for the St. Joe customers as a
8 result of the merger?

9 A. Once again, our best forecast is that your
10 revenue requirement would increase as a result of the
11 merger due to the relative level of merger costs and
12 merger savings. What impact that has on rates is
13 dependent upon other factors.

14 Q. And what the Commission would ultimately do;
15 is that correct?

16 A. Yes.

17 Q. And then to kind of close the loop on this,
18 in order at that point in time to say that the rates
19 for the St. Joe customers were higher than they would
20 have been had St. Joe remained a stand-alone company,
21 you would have to present some evidence, somebody
22 would, as to what the rates would have been if St. Joe
23 had remained a stand-alone company; isn't that true?

24 A. That is true. The Staff would not have --
25 or any other party would not have a definitive ability

1 to assure the Commission one way or the other in terms
2 of whether merger costs exceed merger savings, or vice
3 versa. I mean, that's obviously tied up to our
4 portion in tracking.

5 Q. Or that the rates for the St. Joe customers
6 would have been higher or lower if St. Joe had been
7 allowed to remain as a stand-alone company?

8 A. You can't make that definitive case at -- in
9 year five because you don't know what the stand-alone
10 costs would have been. We kind of have to make that
11 call now.

12 Q. And that's the Staff's position?

13 A. Yes.

14 MR. SWEARENGEN: Thank you.

15 That's all I have. Thanks.

16 JUDGE WOODRUFF: Thank you.

17 Staff, would you like to redirect?

18 MR. DOTTHEIM: Yes. One moment, please.

19 FURTHER REDIRECT EXAMINATION BY MR. DOTTHEIM:

20 Q. Mr. Oligschlaeger, I think just in response
21 to questions from Mr. Swearngen you identified again
22 the Staff's position as far as the difficulty tracking
23 merger savings and merger costs.

24 Does the Staff's position take that into
25 consideration in its recommendation to the Commission?

1 A. Well, I believe, yes, in the sense that
2 because we believe now that the estimate of merger
3 savings will be less than a reasonable estimate of
4 merger costs, that that is reason for the Commission
5 to -- to deny the merger request.

6 MR. DOTTHEIM: Thank you.

7 JUDGE WOODRUFF: Okay. You may step down,
8 Mr. Oligschlaeger.

9 And I believe the next name on the list is
10 Featherstone.

11 Welcome back, Mr. Featherstone. You are
12 still under oath.

13 MR. DOTTHEIM: The Staff tenders
14 Mr. Featherstone on the issue of acquisition
15 adjustment.

16 JUDGE WOODRUFF: Okay. So for
17 cross-examination we'll start with the Department of
18 Natural Resources.

19 MS. WOODS: Nothing. Thank you.

20 JUDGE WOODRUFF: AgP?

21 MR. CONRAD: Nothing, your Honor.

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

24 Public Counsel?

25 MR. MICHEEL: No, your Honor.

1 JUDGE WOODRUFF: Union Electric is not here.
2 UtiliCorp?

3 MR. SWEARENGEN: I kind of like the way you
4 did it last time.

5 JUDGE WOODRUFF: I was reading off of the
6 chart for your cross-examination, is what happened.

7 MR. SWEARENGEN: No questions.

8 JUDGE WOODRUFF: Okay. And St. Joseph?

9 MR. COMLEY: No questions.

10 JUDGE WOODRUFF: Questions from the Bench.
11 Vice Chair Drainer?

12 CARY G. FEATHERSTONE, being previously sworn,
13 testified as follows:

14 QUESTIONS BY COMMISSIONER DRAINER:

15 Q. Good afternoon, Mr. Featherstone.

16 A. Good afternoon.

17 Q. I just have a couple of questions.

18 In reviewing your testimony I would like to
19 know, does the Staff ever believe that it is
20 appropriate for the Commission to allow some recovery
21 of premium in a merger above the line?

22 A. A direct recovery of the acquisition
23 adjustment?

24 Q. Yes.

25 A. It has generally been our position that --

1 in the past that we have opposed that, and the reason
2 being is there are many factors that go into what
3 causes utilities to want to merge, one of which is
4 strategic moves. There is value today in the
5 restructuring of the industry to look at your
6 neighbors and see what they are doing when you have a
7 lot of consolidations that's going on, and you don't
8 want to be hemmed in. You don't want to be boxed in.
9 So there is -- there is value for utilities to merge
10 with other companies that are unrelated to the
11 synergies, unrelated to cost savings benefits.

12 There is also other opportunities when you
13 get into, like, non-regulated services. And when you
14 get into all of these different kinds of issues, it's
15 our view that since customers don't acquire any real
16 ownership, any assets, that the acquisition
17 adjustment -- it's just much cleaner to avoid the
18 whole allocation, identifying what goes with what
19 piece, how much of the acquisition adjustment has to
20 be allocated to non-regulated operations, how much has
21 to be allocated to the company just wanting to be a
22 larger company, how much has to be allocated to the
23 regulated side. It's just much cleaner and simpler.

24 I guess that's kind of the beauty of what
25 Staff has done in the past, is just allow some type of

1 an indirect recovery. But the direct recovery has
2 been very, very difficult for us to, shall we say,
3 come on board with.

4 Q. So then it would be Staff's position to just
5 say no to allowing any recovery of a premium, even in
6 a rate case?

7 A. Well, certainly, the question goes to what
8 will happen in the future, three, five years from now.
9 And that's difficult to say what the Staff's position
10 would be in a rate case, but we have yet to see one
11 that we would say should be given direct recovery.

12 I think what's unique about this -- this
13 merger application, and all other ones that I'm
14 familiar with, and there's been several that's been
15 filed before this Commission in the last -- last
16 decade, this company has been steadfast in its view
17 that they have to have the customers pay for the
18 premium.

19 The premiums were as important to the other
20 companies, to Union Electric, to Kansas City Power &
21 Light, and Western Resources as -- as -- as premiums
22 are to UtiliCorp, but, yet, they found a way to get
23 around the direct recovery and lived with the indirect
24 method.

25 If -- if UtiliCorp assesses that it just

1 can't live without direct recovery and the Commission
2 sees fit not to -- to approve that part of the plan,
3 and they can't live with that, then, I guess, yes,
4 just say no and don't do the merger.

5 Q. But that would be -- but your position would
6 be to say no to allowing above-the-line recovery of
7 the premium even in a rate case today, based on what
8 you know today? That would be Staff's position?

9 A. Yes, I think so.

10 Q. Well, then, let me ask you about economies
11 of scale through mergers. Do you believe that
12 companies -- let me back up.

13 I heard you say benefit from mergers. But
14 one of the benefits that we hear about a lot of times
15 are economies of scale. Do you believe that companies
16 do achieve economies of scale when there is a merger?

17 A. I've read articles that would indicate that
18 they are grossly overstated and they are not -- are
19 not actually achievable, and I've read articles that
20 there are economies of scale.

21 Staff's position in this case -- I'm not the
22 witness that's testifying, but Staff's position in
23 this case is that the costs exceed the merger
24 benefits.

25 I think we've seen mergers where there were

1 economies of scale. The difference -- the difference
2 in the other mergers than this one is that the -- the
3 economies of scale or the cost synergies were so much
4 larger in relationship to that merger costs that --
5 that we -- that the merger synergies really didn't
6 become an issue.

7 You could see that there were going to be
8 some economies and that the dollar amounts were so
9 large that we didn't have to really do a lot of
10 in-depth analysis of cost. That's a little different
11 here.

12 Q. Well, then, let me ask, is part of that
13 difference because in your testimony you discuss
14 UtiliCorp's approach to have a divisional stand-alone
15 capital structure?

16 A. Yes.

17 Q. By developing a divisional stand-alone
18 capital structure, does that make it difficult to
19 measure this particular -- this particular company's
20 Missouri statewide economies of scale that it would
21 have with mergers?

22 A. That's a little bit different issue. The
23 divisional capital structure has been before the
24 Commission. You've heard that, I think, three
25 separate times now. But that -- that's -- that issue

1 really goes to kind of over and above the synergies to
2 allow the company to retain even -- even more money --

3 Q. Uh-huh.

4 A. -- to pay for the premium. And while I
5 wouldn't identify that as, like, a merger synergy or
6 economy of scale the way they have structured in their
7 regulatory plan, it certainly is a savings to St. Joe
8 division. If you didn't have the frozen capital
9 structure issue, that would be really a ratemaking
10 principle that they're asking you to approve up front.
11 It's clearly what they want of the merger.

12 If the merger is approved and they close the
13 deal their capitalization, or their capital structure,
14 is going to change to the parent, which would be
15 UtiliCorp, and that is going to be a much lower cost
16 to -- to the consumers if -- if that is allowed to
17 flow through.

18 Of course, under their regulatory plan,
19 that's the whole purpose of the frozen capital
20 structure, is to keep that at the pre-merger St. Joe
21 capital structure rate.

22 Q. All right. But just because they have a
23 divisional stand-alone approach where they set up each
24 of their divisions separately, that if the Commission
25 were to determine that there could be parameters or

1 variables put in place to measure the savings, that
2 divisional stand-alone approach in no way would hamper
3 that type of measurement?

4 A. As it just relates to the capital structure,
5 I don't think so.

6 Q. Do you see it in any way causing other
7 problems? The difficulties of measuring savings and
8 then looking at the premium and whether they should
9 receive any of that just because they have a
10 divisional approach doesn't -- that's not what makes
11 it difficult?

12 A. No. No, that's not. That's not the problem
13 with measuring savings.

14 Q. Finally, when Mr. McKinney was on the stand,
15 I believe you were in the room when I asked him
16 questions with respect to could they measure the
17 economies of scale, could they measure the savings to
18 then justify some of the premium recovery, and he said
19 he thought they could capture most of it.

20 A. Yes. Yes, I was here.

21 Q. What is your position, or how would you
22 respond to his answer?

23 A. I obviously disagree. I think when we're
24 here this week having dispute of whether or not you
25 can measure the savings five years, ten years down the

1 road, those disputes will intensify. They will be
2 magnified, and they will multiply many times over then
3 what you're seeing this week.

4 We have disputes, obviously, with rate
5 cases, and you hear those all of the time, and you're
6 asked to sort through and make decisions with all
7 kinds of different adjustments and proposals by
8 different parties.

9 And the confusion in measuring synergies --
10 and we'll get to talk about that later in the week,
11 but the confusion of measuring synergies and the
12 reason why you end up with so many different disputes
13 is one of the principal areas that you get into is
14 segregating non-merger savings from merger-related
15 savings. And, obviously, when you're talking about
16 two people, it's very easy to have a dispute. When
17 you multiply that by many parties and many
18 individuals, you're having even more disputes.

19 How do you measure something, that something
20 which doesn't exist? And absent a merger, how would
21 you measure what a savings would have been or what it
22 would look like for St. Joe Light & Power that no
23 longer exists and may not even exist today because
24 many of the employees have already started thinking
25 about doing other things.

1 Q. But you're basically telling me, though
2 Mr. McKinney said there are some very clear major
3 issues that could be measured which would capture the
4 majority, you disagree with that?

5 A. I think that we would find ourselves,
6 regardless of whether they are major, trying to
7 capture -- I think he called them the big ticket
8 items, not the paperclips and not pens and paper. But
9 even the big ticket items we would get into a dispute
10 as to could you have done this absent the merger and
11 how, more importantly.

12 And I've heard it said you can measure head
13 counts fairly easily, but you get into a unit price or
14 you get into the pricing of the accounts and valuing
15 all of the -- the individuals as they flow through the
16 organization, is it a merger-related synergy or not a
17 merger-related synergy, and I think that's really the
18 issue.

19 JUDGE WOODRUFF: Thank you.

20 I have no other questions. I appreciate
21 your answers.

22 JUDGE WOODRUFF: Commissioner Murray?

23 COMMISSIONER MURRAY: Thank you.

24 QUESTIONS BY COMMISSIONER MURRAY:

25 Q. Good afternoon, Mr. Featherstone.

1 A. Good afternoon.

2 Q. Is it Staff's position in general regarding
3 mergers that mergers -- that recovery of the
4 acquisition premium is all right so long as it is only
5 done indirectly?

6 A. Yes. I think the Company has made some
7 testimony that seems to imply or infer that Staff has
8 taken positions in the past that we're only interested
9 in taking the savings and not paying for any costs.
10 And that has never been Staff's position. I can't
11 think of a time that that's occurred.

12 Q. And if the recovery is indirectly, is that
13 primarily through regulatory lag?

14 A. It has been primarily in the past through a
15 moratorium. With Union Electric and the CIPSCO
16 merger, they already had an incentive plan in place,
17 and so what Staff did was extend -- the other parties
18 agreed. It was a negotiation between Office of the
19 Public Counsel and Union Electric and the Staff, and
20 there may have been some other parties involved, but
21 they negotiated an extension of that plan. And that
22 was one means that was another means besides just
23 regulatory lag or moratorium.

24 Q. Now, is it Staff's position that in some
25 instances it would be appropriate to pass through the

1 cost to ratepayers for the total acquisition premium
2 if you do it indirectly?

3 A. I'm not sure how you do that other than
4 through regulatory lag and moratorium.

5 Q. Would it be Staff's position that that would
6 be appropriate in some instances?

7 A. I would think -- now, we're not just opposed
8 to the acquisition adjustment in every instance. I
9 suppose there could be a case where you had a troubled
10 utility. I don't think that's the case with this one,
11 it being a single A-rated company, but a troubled
12 utility where the Commission would want to provide
13 some type of incentive or to provide some type of
14 means to have someone come in and solve the troubled
15 utility's problems.

16 I suppose in that type of a scenario, that
17 particular case, you could come up with some novel and
18 unique way of -- of addressing the acquisition premium
19 if there were one.

20 Q. And then help me, if you will, to understand
21 how the synergies would be dealt with in terms of
22 measurements once you got past the moratorium.

23 A. It's generally been the case -- I'll pick on
24 the Kansas City Power & Light and Western Resources
25 stipulation. Everyone agreed that after the

1 moratorium -- I think it was a three- or four-year
2 moratorium; I don't remember exactly the terms of the
3 agreement -- but there would be not any need to track
4 the synergies, an at-that-point-all-bets-are-off kind
5 of a thing.

6 Q. Is that because the savings would then flow
7 through to the ratepayers?

8 A. If there were rate cases. We've had --
9 moratoriums have expired and we didn't do a show cause
10 case immediately, so when you say there is a three- or
11 four-year moratorium, it could -- it could be that it
12 was spelled out specifically that we were precluded
13 from filing for three to four years, but it may have
14 been longer before either the Company filed a rate
15 case or the Staff and Office of Public Counsel went in
16 for an earnings review.

17 Q. Okay. So in this instance the problem of
18 measurement of the synergies is created solely because
19 the acquisition premium is sought to be recovered
20 directly; is that correct?

21 A. I think if you remove the acquisition
22 premium part of the regulatory plan, if you -- if the
23 Company's application did not require the acquisition
24 adjustment, it would simplify matters greatly in this
25 case. Would all of the issues go away? Probably not.

1 But that's -- that's one of the major components of
2 every merger application that has to be addressed.

3 Q. And if there were a period of time that
4 would need to be provided for regulatory lag to allow
5 some indirect recovery, is the Staff opposed to a
6 period of time for regulatory lag in this instance if
7 this regulatory plan is not approved?

8 A. Just narrowly addressing your question, the
9 framework, I think I understand what your question is.
10 It relates to the regulatory lag as it relates to the
11 acquisition adjustment.

12 I think our testimony has been filed in the
13 past. We've stated over and over again -- I think
14 some of my statements even found it's way into the
15 Company's Surrebuttal, so I kind of testify -- I
16 helped them out.

17 That's been our position. It has been our
18 position that the Company should be allowed to recover
19 part of the premium paid indirectly for a period of
20 time. It's not a substantial period of time. It's
21 not a minimum period of time. Three to five years is
22 a long time in this -- in this business, in this
23 industry. To freeze rates for that period of time, we
24 think, allows a company a great incentive, allows them
25 to put the two companies, in this case potentially

1 three companies, together, and gives them a number of
2 years to enjoy the benefits of those merged companies
3 and the savings and benefits that go along with that.

4 Q. Let me just try to put a scenario together.
5 If we rejected the company's plan,
6 regulatory plan --

7 A. Yes, ma'am.

8 Q. -- and we said we would approve the merger
9 with a moratorium on rates for just, say, five
10 years --

11 A. Okay.

12 Q. -- and then at the end of that five years
13 there would be no tracking and there would be no
14 direct recovery of the acquisition premium, would
15 Staff feel that that were still detrimental to the
16 public interest?

17 A. Certainly as it relates to the acquisition
18 adjustment, yes. There's a couple of other problems
19 with the Company's regulatory plan, and I don't know
20 whether you're talking about rejecting it in total or
21 certain pieces of it.

22 When you have the frozen altercations and
23 the frozen capital structure issue, I don't know if
24 you included that as part of the plan that you are
25 going to reject in your question, and there's also

1 some issues that I'm not intimately familiar with that
2 Mr. Traxler can address -- can address, and that
3 relates to some areas -- to the area of pension,
4 pension benefits.

5 Q. Well, let me ask you this: With the present
6 allocation and present capital structure, would that
7 be a killer to Staff's -- would that be critical to
8 Staff's recommendation that we not -- or that we not
9 approve it?

10 A. Obviously, we think that the -- I don't
11 believe that we will -- well, we do not believe that
12 there is any aspect of the Company's regulatory plan
13 that should be approved, and those are -- are
14 significant components. The frozen allocators and the
15 capital structure are very key components to that
16 regulatory plan.

17 Q. And so the rate moratorium and -- it appears
18 to me that you're not opposed to allowing regulatory
19 lag --

20 A. Not at all.

21 Q. -- as it would be present in the rate
22 moratorium?

23 A. That's correct. We've been -- we've been in
24 favor, again, going back to all mergers that I can
25 think of that we've been involved in, of the companies

1 allowing some type of indirect recovery through a
2 moratorium.

3 Q. But that is a part of their regulatory plan
4 also?

5 A. Well, it is a component and it's part of
6 their regulatory plan. I wouldn't say that they
7 invented moratoriums and that they can somehow take
8 credit.

9 Q. But that's one aspect of their regulatory
10 plan that you're not opposed to?

11 A. It's one component of the regulatory plan --
12 if you want to call it one component of their -- if
13 you want to give credit to UtiliCorp, that's one
14 aspect we would agree with.

15 COMMISSIONER MURRAY: Okay. I think that's
16 all I have. Thank you.

17 JUDGE WOODRUFF: Commissioner Schemenauer?

18 COMMISSIONER SCHEMENAUER: Thank you, your
19 Honor.

20 QUESTIONS BY COMMISSIONER SCHEMENAUER:

21 Q. Good afternoon, Mr. Featherstone.

22 A. Good afternoon.

23 Q. You were discussing the difficulty in
24 determining non-merger savings versus merger savings.
25 In this merger, if 100 jobs are eliminated and

1 hypothetically it results in a \$5 million-a-year
2 synergy, how long under this regulatory plan is that
3 going to be used to offset premium adjustment? The
4 first five years? One percent of it, two?

5 A. Well, if we're talking about strictly the
6 UtiliCorp's regulator plan --

7 Q. Yes.

8 A. -- it actually -- certainly, the first five
9 years they will enjoy 100 percent. I think it goes
10 further than that.

11 We've heard testimony this week that there
12 are already 60 employees that have left St. Joe, so
13 you could say that the -- the synergies, the cost
14 benefits, are already flowing to the Company. They
15 started when the first employee decided to leave.

16 Keep in mind, employees are something that
17 we look at in a rate case and they are built in in a
18 certain level. They are collecting in rates today a
19 level for employee head counts, and they've already
20 seen synergies be created, so the savings have really
21 started in year zero.

22 Q. How could you determine whether or not five
23 years from now if the Company was getting by with
24 110 fewer people and they claim that was the synergy
25 of the merger, how would you know that maybe 10 or 20

1 of those people weren't the result of improved
2 efficiencies, improved training, improved processes
3 within the Company that would have occurred without
4 the merger?

5 A. Well, you can't. That's the whole -- you
6 can -- you can generally identify, as I said earlier,
7 a head count. You can look at what the pre-merger was
8 and the post-merger, whatever the period you are
9 trying to measure, but to be able to ascribe that --
10 if you're talking about 100 reductions, that 50 of
11 them related to the merger and 50 related to other
12 technologies and productivity gains, you can't. It's
13 very, very difficult. You get into a lot of disputes.
14 They might say that 90 relates or 100 relates to the
15 merger. Somebody else might say only ten or zero.

16 COMMISSIONER SCHEMENAUER: And that's what
17 we need, is more disputes here.

18 That's all I have. Thank you.

19 JUDGE WOODRUFF: Commissioner Simmons?

20 QUESTIONS BY COMMISSIONER SIMMONS:

21 Q. Good afternoon.

22 A. Good afternoon.

23 Q. I have just one question. I want to go back
24 over the frozen capital structure.

25 In your testimony you say that with the

1 frozen capital structure, plus the higher costs of the
2 post-merger to St. Joe's customers, that UtiliCorp, I
3 guess their customers, would ordinarily receive the
4 benefits from that. Can you explain that to me?

5 A. First of all, that's going to be an issue
6 that's going to be heard separately, but I'll try to.
7 And I'm -- I'm not the principal witness on the issue.
8 Mr. Broadwater is.

9 But as far as in terms of the issue as I
10 understand it, the Company's proposal wants to use the
11 pre-merger St. Joe/Empire capital structure which is
12 53 percent equity, or thereabouts, and their
13 consolidated capital structure is 42, 43 percent, so
14 it's a significant difference. When they will own or
15 take over the operations of St. Joe's Light & Power,
16 they will, in essence, assume -- the St. Joe Light &
17 Power will assume the parents' capital structure.
18 That's how they will finance the company, and one
19 of -- one of the components of their regulatory plan
20 is to freeze that capital structure so that in the
21 post -- I'll call it post-moratorium, year six,
22 whenever they file their first St. Joe Light & Power
23 rate case, this won't -- this won't matter.

24 And this won't be effective if there is not
25 a rate case, but had they filed a rate case, they want

1 to ensure for at least a ten-year period of time that
2 we would use -- we would impute, if you will, the
3 pre-merger St. Joe Light & Power capital structure of
4 53 percent equity, even though at that time we don't
5 know what the consolidated capital structure is --
6 will be for UtiliCorp, but we know that it's something
7 significantly less than 53 percent today.

8 And assuming they continue to hit that
9 target of -- of 4-- 45 percent capital structure, we
10 know there is going to be a difference between the 53
11 and the 45, and that -- or 43, or whatever it turns
12 out to be in year five, and that's going to be more
13 costly to the consumers if you do that.

14 COMMISSIONER SIMMONS: Okay. Thank you.

15 JUDGE WOODRUFF: Commissioner Vice Chair
16 Drainer?

17 COMMISSIONER DRAINER: Yes, I want to follow
18 up with one question with respect to the moratoriums.

19 FURTHER QUESTIONS BY COMMISSIONER DRAINER:

20 Q. You're not here today to say that Staff
21 believes that any merger in general should be done as
22 long as there is a moratorium, are you, that
23 moratoriums are always put out as part of a merger?

24 A. No. I think you have to look at every
25 merger on its merits. There are some mergers that

1 just simply shouldn't happen, and moratorium or not
2 won't fix them.

3 Q. I guess what I'm wondering is, isn't it
4 possible that by having a moratorium in place that
5 there could be a merger with enough savings and
6 revenue increases that it would take away rather
7 than give a reduction to the ratepayers of
8 Missouri?

9 A. If I understand your question, are you
10 saying that there are mergers out there that would
11 have significant savings that you wouldn't need a
12 three-to-five -- three- or four-year period to get
13 your premium back, that it could be in year one or
14 two? And sure.

15 Q. And in this case Staff -- Staff has looked
16 at this case, and a moratorium in and of itself just
17 does not fix it, does it?

18 A. No. There's other witnesses that are
19 testifying that when you start looking at the more
20 realistic assumption that went into the synergy
21 calculations, that the -- they just aren't there; that
22 is, the cost exceeds the savings.

23 COMMISSIONER DRAINER: Thank you.

24 I have no further questions.

25 JUDGE WOODRUFF: Okay. Recross beginning

1 with DNR?

2 MS. WOODS: Nothing. Thank you.

3 JUDGE WOODRUFF: AgP?

4 MR. CONRAD: Hopefully, just three very
5 quick areas, your Honor.

6 RE-CROSS-EXAMINATION BY MR. CONRAD:

7 Q. Mr. Featherstone, Vice Chair Drainer asked
8 you about economies of scale. There are -- setting
9 aside munies and co-ops in this state, there is --
10 correct me -- Kansas City Power & Light, Ameren,
11 UtiliCorp's MoPub Division --

12 A. St. Joe Empire.

13 Q. -- Empire and St. Joe.

14 Just tell me, obviously, the three largest
15 of those is -- are UtiliCorp's Division, Ameren,
16 and --

17 A. Kansas City Power & Light.

18 Q. -- Kansas City Power & Light. And of those
19 three, Ameren is the largest, followed by KCP&L?

20 A. Yes.

21 Q. What would you expect to see with respect to
22 those utilities' rate structures assuming the cost --
23 the rates reflected the cost of operation properly?
24 What would you expect to see if the economies of scale
25 existed in the degree and in the nature that has been

1 argued here?

2 A. Well, there -- you named five uniquely
3 different utilities. The two largest, Kansas City
4 Power & Light and Union Electric, have, for good or
5 bad, a nuclear power plant. That changes its whole
6 operation and cost structure. And so you would expect
7 that their rates would be fairly -- would be higher --
8 I don't know whether it's significant or not, but
9 higher than non-nuclear.

10 The St. Joe Light & Power and Empire have --
11 Empire has a fairly significant growth area, but they
12 operate in a very lean manner. Their administrative,
13 general and overhead costs are much lower, so that
14 means they have lower rates.

15 Missouri Public Service, while they are a
16 little bit bigger than Empire, not by a lot, so if
17 MoPub stand alone, or MPS stand alone, you -- I would
18 expect to see their rates in that same level.

19 We don't. We see their rates more at the
20 KCP&L and Union Electric level. In fact, residential
21 rates are higher. That's one of the concerns and one
22 of the things that bothers us about this merger.

23 Q. So if one were to -- were to accept the
24 proposition of economies of scale which is that larger
25 tends to be cheaper, and you looked without knowing

1 the size of the utilities involved and you just looked
2 at the rate structures, you would think that St. Joe
3 would be the largest utility in the state, and Ameren
4 would be the smallest. Right?

5 A. If -- yes, if you're just accepting that
6 premise. There are a lot of other reasons why that's
7 not the case.

8 Q. Sure.

9 A. A couple of which, you know, briefly I got
10 into. I'm sure that I just touched the surface as to
11 why that's not the case.

12 Q. But, if you will, let me now move you to
13 Commissioner Murray's question about the acquisition
14 premium or moratorium and the series there.

15 Your recollection may be better than mine,
16 but the Western Resources/KCP&L package that you
17 referenced, which involved a moratorium was a
18 unanimous, or at least a not-opposed settlement, was
19 it not?

20 A. It wasn't opposed. I can't remember whether
21 it was unanimous or not.

22 Q. And although the deal cratered for other
23 reasons, it was not a litigated case where the
24 Commission felt that it should impose a moratorium.
25 Right?

1 A. Should obpose?

2 Q. Should impose. Impose.

3 A. As part of that -- as part of that
4 agreement, there was a moratorium period.

5 Q. Yeah. Now, Ameren/CIPS, was that a
6 settlement case also?

7 A. Yes.

8 Q. KPL -- or, excuse me. KPL's sale, if you
9 will, to Missouri Gas Energy, which was put under a GM
10 docket and was to some extent--treated as a merger, was
11 that a settled case too?

12 A. It was GM-94-40, and that was a settled
13 case.

14 Q. And that involved a moratorium of three
15 years, as I recall?

16 A. Yes.

17 Q. Any others that you can think of that lead
18 to mind where it's been a settled case that resulted
19 in a moratorium?

20 A. I believe the -- I'm just going from memory.
21 I know I shouldn't do that, but I believe the '91
22 Union Electric acquisition of the Missouri properties
23 owned by Arkansas Power & Light, but that's a little
24 different. There was an earnings review and a rate
25 design case in conjunction with the rate reduction

1 that was negotiated, and there was a commitment not to
2 seek recovery of the acquisition adjustment. That was
3 all part of -- that was all part of a settlement, and
4 I believe -- that's what I'm vague on, but I believe
5 it was a moratorium. I couldn't tell you what it was,
6 but I believe there was a moratorium in that case.
7 There may be others. I just can't think of them.

8 Q. At least insofar as you're aware sitting
9 here today, those are all done by settlement?

10 A. Yes.

11 Q. Would you agree with me in your experience
12 that perhaps more than occasionally the parties by
13 agreement can achieve more in obligating themselves
14 and each other to do things than the Commission might
15 otherwise legally be able to order?

16 A. There are those times that, you know,
17 settlements among the individual parties can
18 accomplish that end.

19 Q. Now, recalling Commissioner Schemenauer's
20 question about disputes, I want to bring you back just
21 for a second to the Ameren and the CIPS merger. Has
22 that -- the process there which was characterized as
23 somewhat simpler than this one that's proposed, has
24 that been free of dispute?

25 A. The alternative regulatory plan --

1 Q. Yes, sir.

2 A. -- or incentive plan, has it been free of
3 dispute? No.

4 Q. On a scale of one to ten, one being no
5 disputes and ten being this perpetual struggle, how
6 would you characterize it?

7 A. I've only heard about it kind of in -- on
8 the sideline, so I wasn't part of the process.
9 There's probably a lot of other witnesses that could
10 do that better than I can. It sounded like there were
11 a lot of disputes, but there are only in a very
12 tightly compressed four or five areas of the review.
13 And it would not be on a level of a review. It would
14 be on the level of a rate case as an example.
15 Monitoring of the earnings or the incentive plan is
16 not on the level of a rate case, and it was hotly
17 contested.

18 On a scale of one to ten, I would probably
19 give it a good seven, seven and a half.

20 MR. CONRAD: I'll hold up the cards for
21 seven and a half.

22 Okay. Thank you.

23 That's all.

24 JUDGE WOODRUFF: Thank you. City of
25 Springfield is not present.

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Public Counsel?

MR. MICHEEL: Thank you, your Honor.

RE-CROSS-EXAMINATION BY MR. MICHEEL:

Q. Commissioner Drainer asked you some questions about economies of scale. Do you recall those questions?

A. Yes.

Q. Is it correct that Staff is concerned in this proceeding that the A&G costs allocated to St. Joe as a result of this merger will increase above their current level?

A. Absolutely. I think the company concedes that.

Q. And so wouldn't that be an example of what I'll call a diseconomy of scale?

A. Yes.

Q. And I think Mr. Conrad talked to you about this. Is it correct that the two smallest utilities in the state have the lowest rates? So doesn't that indicate to you that economies of scale are not all that they are cracked up to be?

MR. COMLEY: Judge, I'll object to that as beyond the scope of the recross and, further, beyond the examination done by the Bench. If we're going to have recross based on the Bench, it ought to be based

1 on what you did at the Bench and not what Mr. Conrad
2 did, particularly among parties who, by the way, are
3 in virtual agreement on this position?

4 JUDGE WOODRUFF: Yeah. We do tend to get
5 into the area of friendly cross in this kind of
6 situation.

7 MR. MICHEEL: Let me respond to that. I
8 think Commissioner Drainer had a long line of
9 questions to this witness about the economies of scale
10 and the benefits of economies of scale.

11 MR. COMLEY: Well, you mentioned you were
12 talking about Mr. Conrad's question, and that's why I
13 objected.

14 MR. MICHEEL: I said Commissioner Drainer,
15 and following up on the questioning of Mr. Conrad.
16 Perhaps the reporter could read the question back.

17 JUDGE WOODRUFF: I'm going to go ahead and
18 allow the question to be asked and answered. I will
19 caution the parties that this kind of came up at the
20 very beginning of the hearing, the friendly cross, and
21 we're not going to allow friendly cross in this
22 proceeding. I'm not sure that we've gotten into it
23 yet, but I want to make sure that we don't in the
24 future.

25 So you can go ahead and ask the question and

1 he can answer it.

2 MR. CONRAD: I would like to state that I'm
3 innocent.

4 JUDGE WOODRUFF: No one is accusing you.

5 BY MR. MICHEEL:

6 Q. Do you recall my question, Mr. Featherstone?

7 A. Could you repeat it?

8 Q. My question was, is it correct that the
9 smallest utilities in the state have the lowest rates,
10 so that indicates that economies of scale may not be
11 all that they are cracked up to be?

12 A. We have put evidence in the record,
13 primarily Mr. Williams' rebuttal testimony, that
14 identifies what the rates are for the five electric
15 investor-owned utilities, and it indicates that
16 Empower and St. Joe have the lowest rates, residential
17 rates, primarily. But that would indicate that there
18 are some -- not always is it the larger, bigger is
19 better theory in economies of scale.

20 Q. Commissioner Drainer and Commissioner
21 Simmons asked you some questions about the divisional
22 capital structures and about -- Commissioner Simmons
23 about the frozen capital structure. Do you recall
24 those questions?

25 A. Yes.

1 Q. Do the UtiliCorp Divisions have separate
2 stock or debt, Mr. Featherstone?

3 A. I know not separate stock. I think I'm
4 going to have to defer to Mr. Broadwater on the
5 separate debt. I don't believe so, but I'm not sure.

6 In any event, they are not publicly traded.
7 UtiliCorp is the only one.

8 Q. And at the consummation of this merger the
9 entity that we currently know as St. Joseph Light &
10 Power as a corporate body will cease to exist; is that
11 correct?

12 A. Yes.

13 Q. Commissioner Murray asked you some questions
14 about moratoriums. Do you recall those questions?

15 A. Yes.

16 Q. Based on your 20 years of experience here at
17 the Commission, are you aware of any Commission
18 decision within the context of a contested merger
19 proceeding or rate proceeding where the Commission has
20 ordered a moratorium, a rate case moratorium?

21 A. No, none comes to mind.

22 Q. Commissioner Schemenauer asked you about the
23 synergies and the 60 employees who have left St. Joe
24 Light & Power. Do you recall those questions?

25 A. He asked me questions about the positions

1 that were -- that will be eliminated, and I think I
2 brought up the 60 number.

3 Q. Is the Company, despite the fact that it's
4 lost 60 employees since the announcement of the
5 merger, is it still providing the necessary public
6 service to the customers?

7 A. As far as I know, they are.

8 Q. And the merger hasn't been consummated yet;
9 is that correct?

10 A. That's right.

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

12 JUDGE WOODRUFF: Thank you.

13 And then Union Electric is not here.

14 UtiliCorp?

15 MR. SWEARENGEN: Thank you.

16 RECROSS-EXAMINATION BY MR. SWEARENGEN:

17 Q. Mr. Featherstone, we have used the term
18 frozen capital structure and divisional capital
19 structure. Are they synonymous in your mind?

20 A. They have the same principle and the same
21 concept and idea. I think more importantly the effect
22 is more similar to the customers.

23 Q. Because I think I recall in response to one
24 of the questions about the frozen capital structure
25 proposal of UtiliCorp in this case that you said the

1 Commission has heard the divisional capital structure
2 issue on at least three occasions?

3 A. Yes.

4 Q. And am I not correct, those are all cases
5 involving the Missouri Public Service operating
6 division of UtiliCorp?

7 A. Yes, that's right.

8 Q. And just to make this short, the first time
9 it was tried, the Commission ruled that a consolidated
10 or corporate capital structure should be imposed --

11 A. They did.

12 Q. -- and not a divisional capital structure?

13 A. They did.

14 Q. The second time they went the other way and
15 ruled in favor of a divisional capital structure?

16 A. That case was a difficult case. I'm sure
17 you know better than I. I didn't work on the case.

18 Q. Okay.

19 A. But there was a rehearing and there was an
20 order on remand, and so when all was said and done, I
21 think you were right.

22 Q. Thank you.

23 Now, the third time I tried it I lost it,
24 didn't I?

25 A. I was involved in that case.

1 Q. I lost.

2 A. I can speak with certainty. You lost it.

3 Q. Now, isn't it my turn to win it again?

4 A. I hope it doesn't work that way.

5 Q. But the point of my question is, is that in
6 proposing a frozen capital structure or a divisional
7 capital structure, UtiliCorp is not asking for
8 something that this Commission hasn't seen before, and
9 actually approved at least on one occasion; isn't that
10 true?

11 A. That's true with regard to this issue.

12 Q. All right. Now, I don't want to get into
13 the UE/CIPSCO case in great detail, but I heard you
14 say earlier that other companies had come up with
15 other ways to get around the problem of direct
16 recovery through rates of a merger premium, and you
17 talked about Union Electric Company. And I think you
18 were referring to the UE/CIPSCO merger; is that not
19 correct?

20 A. That is correct.

21 Q. And there was an incentive plan put together
22 or continued in connection with that merger that at
23 least in your mind allowed Union Electric Company to
24 recover the premium indirectly. Is that a fair
25 statement?

1 A. The Staff's position was that while there
2 was a premium being paid, there was not an acquisition
3 adjustment, and so we were not looking at it in the
4 same way that we do in this case.

5 But more to your question, there was already
6 an existing incentive plan in place, and during the
7 negotiations, dealing with the Union Electric and
8 CIPSCO merger, we discussed and then ultimately did
9 extend with some modifications, and I don't remember
10 all of the details, but there was, like, at the end of
11 the third year there might be some rebasing through an
12 averaging process and maybe some type of weather
13 adjustment. But you probably know more about the
14 details of it.

15 There was some changes made in relationship
16 to the plan as it related to the Union Electric and
17 CIPSCO merger.

18 Q. Okay. And when did that merger take place,
19 the UE/CIPSCO merger, or when was that plan put
20 into -- continued with those changes you just talked
21 about?

22 A. I know the merger was announced in August of
23 1995, and I believe -- I don't know the effective date
24 of the plan, but some -- the spring and summer of 1995
25 is when the plan was negotiated, the original

1 incentive plan was put in place, and we did the -- we
2 did the merger review during 1996, and I think it was
3 sometime in July, it rings a bell, that we negotiated
4 a stipulation and agreement.

5 Q. Is that plan still in effect?

6 A. Yes.

7 Q. Okay. And without getting into all of the
8 details, can you just tell us what return on equity
9 has been authorized for Union Electric in that case?

10 A. I'm not sure I remember what return was put
11 in. It was -- I know there has been -- I can't tell
12 you the exact return. I know that there has been a
13 lot of discussion at Staff level, but we think that
14 plan represented a very high return compared to what
15 we would do today.

16 Q. Okay. So to make sure I understand, you
17 suggest that Union Electric found a way to get around
18 direct recovery of merger premium, and you suggest
19 that as a possibility that maybe we ought to be
20 considering here, but you don't remember the -- what
21 was in that deal for UE in terms of return on equity?

22 A. No, I don't remember the exact return.

23 Q. Okay. Do you have any idea of what that
24 return might have been compared to the returns that
25 were being authorized by this Commission at the same