

1 that was filed on May 2. A second instance is not, because
2 it occurred on May 9 of this year, seven days after the
3 Staff filed its rebuttal case.

4 What I would like to refer the Commissioners
5 to is the UtiliCorp website, which among other things lists
6 presentations that UtiliCorp makes to New York investment
7 analysts. I would like to call the Commission's attention
8 to excerpts from two presentations.

9 JUDGE WOODRUFF: Mr. Dottheim, are you going
10 to offer this as an exhibit?

11 MR. DOTTHEIM: No. I'm not going to offer it
12 as an exhibit. I'm just going to read briefly from it, but
13 I thought it would be helpful to have copies, but I'm not
14 going to offer it as an exhibit.

15 MR. SWEARENGEN: Is this the same one?

16 MR. DOTTHEIM: No. This second document may
17 appear to be the same. It is not. It's got the same cover
18 page because I wanted to indicate where on the UtiliCorp
19 United website this information appeared.

20 And I'd like to first direct the
21 Commissioners -- once you get past the first two pages,
22 which -- the document is accessed under Presentations. It's
23 the third page which is the first page of a year-end review
24 meeting, February 8, 2000. And I'd like to direct the
25 Commissioners to the second page, the last page. And it is

1 Richard Green who is speaking.

2 I'd like to direct the Commissioners to the
3 last paragraph on the last page where it states in part, And
4 our court filings were made in November, so that's all on
5 track. The Commission has generally upheld all of our
6 requests in terms of scheduling even when the Staff opposed
7 it. So we feel like we've built some good relationships
8 there.

9 And if you would look at the preceding
10 paragraph, I think it becomes clear that the Commission that
11 is being referred to is the Missouri Public Service
12 Commission. There's reference to the hearing on St. Joe
13 being scheduled for July 10.

14 The other document is another presentation, if
15 I could direct the Commissioners to the third page. It says
16 questions and answers, New York analyst meeting, May 9,
17 2000, Rick Green, Peter Lowe -- if I'm pronouncing
18 Mr. Lowe's name correctly.

19 And if I could direct the Commissioners to the
20 second page, and I'd like to direct the Commissioners to the
21 first complete paragraph on that page where it indicates
22 Mr. Richard Green is speaking.

23 "Question: How is the approval process going
24 for the St. Joe/Empire deal?

25 "Response: That's moving along. The reason I

1 smile, the Missouri Staff filed last week against the
2 St. Joe transaction. Missouri Staff being the Missouri
3 Staff, we still think the Commission is in favor of it, but
4 we're just going to have to walk our way through the
5 hearings."

6 I bring this to the Commission's attention for
7 no other reason than to make them aware of it. It's on the
8 UtiliCorp website. I'm not sure that the Commissioners were
9 aware of it. And, again, I thought that it's publicly
10 accessible, it's something that should be known. Thank you.

11 JUDGE WOODRUFF: Thank you, Mr. Dottheim.
12 For Public Counsel?

13 MR. COFFMAN: Thank you. May it please the
14 Commission.

15 The application filed in this case is based
16 upon Section 393-190 of Missouri law as the mergers and
17 acquisitions statute. The statute permits the Commission to
18 authorize acquisitions and mergers provided that they are
19 not detrimental to the public.

20 I believe that the parties are in general
21 agreement about this standard. If there is competent and
22 substantial evidence of a detriment to the public, then such
23 authorization should not be granted.

24 Public Counsel will offer the testimony of
25 Mark Burdette to show that the proposed transaction would be

1 detrimental to the public, because if UtiliCorp makes this
2 acquisition, being a more risky company than St. Joe Light &
3 Power, the assets of St. Joe Light & Power would become
4 financially more risky resulting in higher rates for
5 St. Joseph customers in that regard.

6 This financial reality is an established fact
7 that will be proven in the record of this case. On the
8 other hand, the applicants' claims about future synergies
9 and savings at this point are based upon speculation and
10 estimates.

11 Secondly, market power impacts of the proposed
12 merger must be considered. As the testimony of Ryan Kind
13 carefully outlines, the likelihood of electric restructuring
14 is what's driving this merger, the ever more competitive
15 environment, as applicants have stated today.

16 The market power that would be accumulated by
17 UtiliCorp with regard to its generation and transmission
18 assets as a result of the merger is significant, suppressing
19 the potential benefits to consumers of any future retail
20 electric competition.

21 Consumers will also be harmed by the increased
22 retail market power resulting from the sale of energy
23 related and information services after the merger. Unless
24 the recommended conditions of Staff and Public Counsel are
25 adopted to mitigate these harms, the various market power

1 impacts of the proposed merger would be seriously
2 detrimental to the public.

3 Now, those are issues that relate to the
4 underlying merger itself. But as this list of issues and
5 statement of positions illustrates, there are many more
6 issues here. The 80 issues that Mr. Swearengen refers to
7 are not the result of Staff or Public Counsel raising
8 additional matters.

9 This is the result of applicants requesting
10 approval for much more than a simple merger in this case.
11 And they're asking for it in the context of a merger case,
12 not a rate case. They're asking for additional relief,
13 things that go beyond Section 393-190. In Public Counsel's
14 view, way beyond the statutory authority granted to this
15 Commission.

16 The applicants are asking that you make
17 determinations regarding rate-making components in a
18 contested merger case. In this case the applicant asks that
19 you commit now to several rate-making determinations,
20 including among other things, a regulatory plan that would
21 impose a moratorium preventing rates from being set upon the
22 actual cost of service for a period of five years.

23 They are asking for a pre-determination to
24 charge ratepayers five years from now 50 percent of a yet
25 undetermined acquisition adjustment. They are asking for a

1 commitment to use a frozen capital structure in six to ten
2 years from now that will not likely reflect the merged
3 company's capital structure at that time.

4 They are asking for a commitment from the
5 Commission at this time to use an estimate for the
6 allocation of escalated corporate overheads that are not
7 likely to reflect actual costs. They are also asking for a
8 pre-determination about the recovery of purported
9 transaction costs and costs to achieve the merger instead of
10 having those costs reviewed in a general rate proceeding.

11 To the best of Public Counsel's knowledge, the
12 Commission has never, ever engaged in such rate making in a
13 contested merger case. Repeatedly the Commission has
14 deferred those type of decisions to a rate case.

15 As recently as last March in the case
16 involving Missouri American Water Company's acquisition of
17 United Water Missouri here in Jefferson City, Case
18 No. WM-2000-222, the Commission addressed the acquisition
19 adjustment. Quote, The matter of the acquisition adjustment
20 is not properly before the Commission in this case. This is
21 a matter for a rate case. As applicants point out, this is
22 not a rate case.

23 And the applicants in that case, by the way,
24 were represented by the law firm of Brydon, Swearingen.

25 The Commission went on to reserve any

1 decisions for rate-making treatment regarding the proposed
2 transactions until a future rate case.

3 There are a couple of fundamental legal
4 principles at odds with adopting the regulatory plan of the
5 applicants. Number one, the responsibility to set just and
6 reasonable rates includes the legal requirement to consider
7 all relevant factors. This legal precedent has been well
8 established in our appellate courts and Public Counsel
9 believes that the courts would accordingly prevent the
10 imposition of the regulatory plan.

11 Secondly, no Commission can bind itself or
12 future Commissions regarding any one of those relevant
13 factors as to a future rate case or a future rate complaint.
14 This legal precedent is also well established. The
15 applicants request this type of binding commitment in this
16 proceeding while acknowledging that that legal precedent
17 exists.

18 The Rolla case that was mentioned, I think
19 should be pointed out, was a certificate case, not a merger
20 case and was governed by a different statute. And, of
21 course, that case was not appealed.

22 Also, the Commission has approved a
23 Stipulation and Agreement in the Union Electric/Sipsco
24 merger case which did include rate-making agreements, the
25 experimental alternative regulatory plan Mr. Dottheim

1 mentioned.

2 And even that Stipulation and Agreement has
3 created considerable legal controversy, but that wasn't the
4 determination of a contested rate-making issue. That was a
5 settlement between the parties that did bind the parties.
6 Deciding rate-making issues in a contested merger case, in
7 Public Counsel's view, is beyond the Commission's authority.

8 And in this proceeding UtiliCorp does ask that
9 this Commission bind itself and future Commissions to a
10 10-year regulatory plan that Staff, Public Counsel and
11 Intervenor's oppose.

12 Now, if you disagree with Public Counsel's
13 analysis and believe that you do have the legal authority to
14 consider the proposed regulatory plan, we offer into this
15 case substantial evidence about why the various rate-making
16 components of that regulatory plan are or would be
17 detrimental to the public interest.

18 And I hope that you will give careful
19 consideration to the testimony of Public Counsel Witnesses
20 Ted Robertson, Russell Trippensee, Mark Burdette and Ryan
21 Kind regarding those detriments inherent to the regulatory
22 plan.

23 First of all, acquisition adjustment.
24 Mr. Swearingen is correct the Commission has been open
25 minded about this, but with regard to rate cases. You have

1 given companies the opportunity to present this issue in a
2 rate case.

3 Charging ratepayers for the premium paid for
4 the acquisition of St. Joseph Light & Power is extremely
5 unjust and a detriment if pre-determined in this case.
6 Public Counsel's testimony explains in great depth the many
7 reasons why there are inequities to this proposal.

8 Recovery of an acquisition premium would --
9 together with the likelihood that generation assets would be
10 sold or monetized, would result in a tremendous windfall to
11 the shareholders. If the Commission says anything on this
12 case, it should simply re-affirm its policy of being open
13 minded, but recognizing that this Commission has never
14 allowed the recovery of any positive or negative acquisition
15 premium and rates.

16 The five-year moratorium, no thanks. Freezing
17 rates and preventing the opportunity to have them based upon
18 the actual cost of service, in Public Counsel's view, is a
19 serious detriment denying ratepayers any savings that might
20 occur.

21 The synergies and tracking proposal, well, our
22 testimony will explain in detail why the merger savings
23 tracking system would be a detriment. It would likely
24 overstate alleged merger savings; it would unlikely be able
25 to isolate the savings directly related to the merger from

1 savings that would occur otherwise, and it would exclude
2 synergies related to non-regulated operations. Furthermore,
3 establishing a baseline based upon budgets is also
4 unreasonable and a detriment to the public.

5 The frozen capital structure. Mandating a
6 capital structure that is not linked to the real capital
7 structure of the merged company for years six to ten from
8 now would be a detriment.

9 The transaction and transition charges are
10 directly linked to efforts to increase shareholder value, as
11 we've heard this morning, and thus should remain the
12 responsibility of the shareholders. A commitment to charge
13 these costs to ratepayers would certainly be a detriment.

14 Now, if you disagree with Public Counsel, and
15 you have before, and determine that the proposed merger is
16 not detrimental to the public and are inclined to approve
17 it, we hope that you will consider certain conditions that
18 we are proposing, which we believe would mitigate the
19 detriments that we see developing from such a merger.

20 If you feel that you must approve this
21 proposed merger in conjunction with any regulatory plan,
22 we've offered a plan of our own. To the extent that it is a
23 plan, it simply asks that you state the intention to apply
24 traditional rate of return regulation. It's pretty simple.
25 Just impose the condition that if the merger is to be

1 approved, the merged company must file an electric rate case
2 one year after the closing of the merger and also the final
3 determination of the pending UtiliCorp/Empire District
4 Electric company merger. And this is, of course, set out in
5 the testimony of Mr. Trippensee.

6 The Commission should simply set just and
7 reasonable rates at that time based on actual synergies and
8 savings realized, and you can properly review and consider
9 all relevant factors within a proper test year.

10 Public Counsel testimony also sets out market
11 power conditions that we believe would take care of the
12 various horizontal, vertical and retail market power
13 detriments. These are essentially similar to those market
14 power conditions agreed upon by Western Resources and Kansas
15 City Power & Light Company and that were approved by the
16 Commission in Case No. WR-97-515.

17 We also propose the condition that the merged
18 entity be required to provide access to its books and
19 records and to those of its wholly owned subsidiaries and
20 that the Commission commit to closely scrutinizing the
21 increasingly complex affiliated transactions that would
22 likely result from the proposed merger and that would
23 threaten ratepayers with cross-subsidization.

24 I believe that that essentially covers the
25 case presented by Public Counsel, and I thank you very much.

1 JUDGE WOODRUFF: Thank you, Mr. Coffman.

2 Ag Processing?

3 MR. CONRAD: May it please the Commission and
4 your Honor.

5 One of the joys of being third or fourth in
6 this is you find that some of the things that you wanted to
7 say so profoundly have already been said and perhaps better
8 than you could say them. So I will be able to trim this
9 down a good ways.

10 But let me share with you at least a slight
11 bit of amusement. And perhaps it is amusing only to me
12 because I'm afflicted with something of a wry and perhaps
13 excessively dry sense of humor, but it is intriguing to me
14 to hear Mr. Comley particularly toll the virtues of
15 competition when he is here representing a monopolist.

16 A monopolist that has a defined and
17 statutorily protected service territory. A monopolist that
18 will -- I'm absolutely certain, will be eager to remind you
19 of the Hope and Bluefield cases in which, by their view, you
20 are duty bound to grant them a rate of return that will not
21 only support additional investment, but, in fact, will
22 encourage it and draw it out of the savings accounts and the
23 other stocks that we're all invested in so deeply such as
24 Microsoft, and drive them into the harbors of UtiliCorp or
25 in this case St. Joe Light & Power.

1 A monopolist who has within that defined
2 service territory the ability to exercise the right that is
3 reserved only to the sovereign, which is to condemn private
4 property for public service. All of that in the name of
5 more competition.

6 You heard Mr. Comley say what drives them
7 here, what drove them into the arms of UtiliCorp was they
8 wanted to be a better competitor. Well, at least with
9 respect to my client, they're the only game in town. And
10 they will remain such.

11 Ag Processing is an industrial customer
12 located in St. Joseph Light & Power service district. It is
13 possibly the largest -- certainly one of the largest
14 customers that they have and takes from St. Joseph Light &
15 Power both electric and steam service.

16 Let me divert for just a second, because I
17 believe Mr. Swearngen made reference to the burden of
18 proof. The burden of proof, as I understand it going back
19 from law school, can be likened to scales. And we all can
20 conceptualize the picture of the lady of justice holding the
21 scales in one hand and the sword in the other. And we all
22 occasionally remember that she's supposed to be blindfolded.

23 The party who has the burden of proof, which
24 Mr. Swearngen willingly seems to accept, bears the risk
25 that if the scales are equally balanced, they lose. For

1 them to win, the scales must tip.

2 Some handful of you may be familiar with
3 another book that's green in color, I believe it is
4 currently. It goes by the title of MIA, Missouri Approved
5 Instructions, that we use in jury trials where you deal with
6 burdens of proof. And there universally the phrase that you
7 see, If you believe, then you find for plaintiff. You must
8 be convinced. And in that sense, as members of the jury --
9 to follow Mr. Swearengen's argument, you must believe that
10 there is no detriment.

11 We've talked about a merger premium. The
12 evidence is going to show you that there's roughly a
13 \$93 million merger premium that is proposed to be generated
14 from this transaction. The amount of that may vary slightly
15 depending on what the stock prices are at the particular
16 time of closing.

17 The companies would propose to recover this
18 through rates. We oppose that. No part of the merger
19 premium should be recovered from the ratepayers. And if
20 that makes the deal uneconomic, so be it. These costs are
21 not necessary to the provision of public utility service and
22 the Commission should continue its policy of rejecting that
23 approach.

24 We've talked about the regulatory plan. I'm
25 going to telescope that. Five-year rate freeze.

1 Mr. Coffman said, No, thank you. My phrase is bunk. Let's
2 leave the rates in place, folks, for the next five years
3 while the savings roll.

4 Now, if the savings are speculative, then why
5 are we here? If the savings aren't speculative, then they
6 belong to the ratepayers. Why do you all have a staff that
7 sits and looks at what you call surveillance reports? The
8 answer is, you monitor the utilities that you're charged
9 with regulating to see that their earnings do not rise above
10 a level that is just and reasonable. And if those levels
11 rise above -- or if the earnings rise above those levels,
12 you bring them in and have them show cause why their rates
13 should not be reduced. That's exactly what we're talking
14 about here.

15 I think it's important to distinguish between
16 a rate moratorium and what seems to be talked about here.
17 We've had rate moratoriums. Some of you, I believe, were on
18 the Commission -- Commissioner Drainer, I believe you were,
19 when we had the KPL sale to Missouri Gas Energy.

20 And Missouri Gas Energy agreed to a rate
21 moratorium. I stress the word "agreed." They said, If you
22 guys agree to these things, we agree we won't come in and
23 ask for rate relief for three years. It was a contractual
24 commitment supported through a settlement, which this
25 Commission in due course approved.

1 That's not what we have here. We don't have
2 an agreement, at least at this point. And absent that
3 agreement, there bluntly is no legal authority that gives
4 you the key to lock that door to them.

5 They can sit here and say, We won't come in
6 for five years. But I'm going to guarantee you if Sibley
7 blows up like Hawthorn did, they'll be in regardless of what
8 they say. If West Kootenay Power falls off into the ocean,
9 they'll be in. And there's no way that you can enforce
10 that. The Commission tried to do that once and that didn't
11 work. That's the Jackson County case from some years ago.

12 Conversely, there's no way that you can lock
13 that door to the customers or the Public Counsel or perhaps
14 even to your own Staff. There's just no legal authority to
15 do that.

16 Yes, if parties can agree to it and agree to
17 be bound by it and submit that agreement to you and you all
18 find that it's in the public interest to do that, that's
19 permissible. But that's not what we have here.

20 I guess our position is very simple. If the
21 business combination reduces the cost of the operation of
22 the combined entity, then those costs should be passed
23 through as reduced costs to ratepayers on a current basis.
24 That's symmetrical. If, on the other hand, the utility's
25 costs increase, they will most assuredly come in here with a

1 filing and ask that their rates be increased. If their
2 costs go down, the customers should have the benefit of the
3 same symmetry. And, in fact, if you look at the record of
4 St. Joe Light & Power, its costs have been going down.

5 Just as an aside, one of my questions, why the
6 two smallest utilities in the state have the two sets of
7 lowest rates. If there's something evil about being small,
8 I don't think the ratepayers in St. Joe or in Empire
9 District service territory seem to be concerned about it.

10 Customers should have the benefit of the cost
11 reduction. After all, these are public utilities. Yes,
12 they're investor owned. Yes, the stockholders through their
13 board of directors get the right to decide who owns the
14 company.

15 But they also occupy a unique position in our
16 society. And they're only permitted to exist as regulated
17 monopolies so long as regulation serves as a buffer or a
18 substitute for competition. And if you view it from that
19 perspective, reductions in cost from combined operations,
20 your Honors, should be squeezed out by competition.

21 The only exception would be a situation in
22 which the newly combined competitor was able to exercise
23 market power. And that's why you all are here, is to serve
24 as the off set to what we all recognize is a monopoly and
25 would simply become a larger one.

1 In our regulatory model, that role would be
2 performed on a continuing basis by regulation through its
3 role as serving as a substitute for a competitive market,
4 and assuring that reductions in costs are passed through to
5 the customers of the utility.

6 You will see how the proposed regulatory plan
7 will confer a substantial monetary benefit on the
8 shareholders, approximately \$150 million. And I'm going to
9 show you that by the Company's own exhibits. Mr. Swearngen
10 wants to argue about facts. If his own exhibits aren't
11 factual, I'll grant him that point.

12 And for that reason, AGP opposes the proposed
13 regulatory plan and any variations. If the merger is
14 contingent on its approval, then the merger should be
15 rejected.

16 I think we are in agreement with Public
17 Counsel with respect to the legal authority and the limits
18 on the Commission's ability to approve and advance in the
19 context of a merger case/rate case issues. This is not a
20 rate case. There's been no public notice of a rate case.
21 There have been no rates filed. There have been no new
22 tariffs filed. Nor has there been at present a complaint
23 filed. Missouri is a file and suspend jurisdiction.

24 We also are opposing the acquisition
25 adjustment down the road insofar as conditions. And both of

1 these parties -- both Staff and Public Counsel have referred
2 to their conditions. I guess I've used the phrase that you
3 can't condition a pig's ear into a silk purse.

4 We don't believe that the arrangement can be
5 conditioned in such a way as to eliminate the detriments.
6 And we will show you detriment. Depending on how far we get
7 today or tomorrow, we'll show you that. And it will fully
8 support rejection of this merger.

9 The detriment is particularly demonstrable
10 with respect to steam customers of St. Joe and the natural
11 gas customers of St. Joe. And you have conspicuously heard
12 no discussion from either joint applicants' counsel about
13 that group of customers.

14 Staff and Public Counsel have collectively
15 raised serious, deep and very troubling issues with respect
16 to this merger. Joint applicants, I think you will find at
17 the end, will have failed to rebut the issues and the
18 concerns that have been raised despite having a burden to do
19 so. The scales must tip. And they, in fact, will tip
20 against them. Thank you, your Honor.

21 JUDGE WOODRUFF: Thank you, Mr. Conrad.

22 Department of Natural Resources is not
23 represented today, so I'm assuming they're going to waive
24 their opportunity to present opening statement.

25 MS. NIELD: That will be fine, your Honor.

1 JUDGE WOODRUFF: Then City of Springfield?

2 MR. KEEVIL: Thank you, your Honor.

3 You've heard a lot of opening statements this
4 morning and you've got a week's worth of hearings ahead of
5 you, so I'll try to be as brief as possible.

6 As all of the other parties so far have
7 already made abundantly clear, the applicants are asking you
8 in this proceeding to approve their merger. But in order
9 for you to make that approval, you must find that it is not
10 detrimental to the public interest.

11 However, the applicants have not provided you
12 with sufficient information for you to make that finding. I
13 say this because the applicants have not analyzed the impact
14 of their combined uses of the region's transmission system
15 upon other users of the transmission system of the region
16 such as City Utilities of Springfield.

17 I would also note that Staff apparently agrees
18 at least to some extent with our view on this because Staff
19 Witness Mike Proctor has addressed this in his surrebuttal.

20 The applicants, instead of analyzing the
21 impact of their combined uses upon the region-wide system,
22 have only looked at the cost of the merger to them, not at
23 the detriment to the region or to the public of the merger.
24 Applicants appear to be taking an approve the merger now and
25 figure out how we'll operate later approach rather than

1 coming forth now as they need to in advance of the merger,
2 because this sort of thing obviously will take planning.

3 And, again, applicants have made only vague
4 commitments as to what, if any, transmission upgrades or new
5 construction they would take in the event that these
6 studies, which have not been done properly, are shown to
7 adversely impact the regional system. And, in fact,
8 applicants appear to be backing away from certain previous
9 commitments that they made regarding upgrades, which
10 evidence will prove later on.

11 Now, the applicants' response that you heard
12 Mr. Comley say several hours ago this morning, their
13 response to these transmission issues is simply, that's a
14 FERC matter, that's not a concern of the state. Don't worry
15 about it. Let the feds take care of it.

16 Well, again, I just simply would like to
17 remind you of the standard here is not detrimental to the
18 public interest. And I ask you, if people living in
19 southwest Missouri are not members of Missouri Public, if
20 people living in Kansas City outside the MOPUB territory
21 aren't members of Missouri Public. You see where I'm going
22 with this here obviously.

23 And you can, as the State Commission,
24 certainly reject this proposed merger on the basis that it
25 has not been shown to be not detrimental to the public

1 interest, and, again, applicants have not sufficiently
2 demonstrated that.

3 And if you are inclined to approve the merger,
4 as Staff has said, you should only approve it with
5 conditions and after receiving necessary studies or
6 requiring that necessary studies be done and provided to
7 you.

8 As Mr. Dottheim said on behalf of Staff, this
9 case is related -- though not consolidated with, obviously
10 related to the UtiliCorp/Empire District merger case. And
11 while I realize it has not been consolidated with that case,
12 I would just ask you to be careful in this case because what
13 you do in this case may very well have impacts in that
14 upcoming Empire District case.

15 The issues are certainly related. Some of
16 those issues we will be more specific with in the Empire
17 case. And for that reason I would join with Staff's request
18 or suggestion or whatever technically it was really, that
19 you consider holding off making your decision in this case
20 until after that Empire hearing has been held.

21 Now, as proposed by the applicant, the merger
22 would allow the applicants to gain unduly preferential
23 priority of access to limited transmission facilities and
24 exercise their transmission access anti-competitively. Our
25 evidence will demonstrate that.

1 And in the testimony submitted by our witness,
2 Mr. Russell, you'll see several conditions meant to address
3 these and other ways in which City Utilities of Springfield
4 could be harmed by the merger as it is currently proposed.

5 These issues are scheduled to be heard on
6 Friday, according to the schedule which has been submitted
7 previously. And I hope to see each of you back on Friday
8 when those issues are heard. Thank you very much.

9 JUDGE WOODRUFF: Thank you, Mr. Keevil.

10 AmerenUE?

11 MR. COOK: I have nothing, your Honor. Thank
12 you.

13 JUDGE WOODRUFF: That should conclude the
14 opening statements then. At this time we'll take a break.
15 We'll come back at 10:45.

16 (A RECESS WAS TAKEN.)

17 JUDGE WOODRUFF: We have completed opening
18 statements, so we're ready to begin with the first
19 witnesses. I believe the first issue is the company's
20 overview on policy, which are witnesses from the companies.
21 So, Mr. Swearengen or Mr. Comley, whoever wants to call a
22 witness.

23 MR. SWEARENGEN: It will be Mr. Steinbecker
24 who will be presented by Mr. Comley.

25 (EXHIBIT NO. 1 WAS MARKED FOR IDENTIFICATION.)

1 (Witness sworn.)
2 JUDGE WOODRUFF: You may inquire.
3 MR. COMLEY: Thank you, Judge.
4 TERRY F. STEINBECKER testified as follows:
5 DIRECT EXAMINATION BY MR. COMLEY:
6 Q. Mr. Steinbecker, would you state your full
7 name for the reporter, please.
8 A. Terry F. Steinbecker.
9 Q. And by whom are you employed, sir?
10 A. St. Joseph Light & Power Company.
11 Q. What is your position with St. Joseph Light &
12 Power Company?
13 A. President and CEO.
14 Q. Mr. Steinbecker, did you cause to be filed in
15 this case written testimony which has been pre-marked by the
16 court reporter as Exhibit 3?
17 A. Yes, I did.
18 Q. Do you have any additions or corrections to
19 your testimony today?
20 A. I do not.
21 Q. If I were to ask you the same questions that
22 are contained in Exhibit 3, would your answers be the same?
23 A. They would.
24 MR. COMLEY: Your Honor, given the examination
25 of Mr. Steinbecker, I offer Exhibit 3 into evidence and

1 tender Mr. Steinbecker for cross-examination.

2 JUDGE WOODRUFF: Okay. You referred to this
3 as Steinbecker direct; is that correct?

4 MR. COMLEY: Right.

5 JUDGE WOODRUFF: I've got it marked as
6 Exhibit 1 in mine.

7 MR. COMLEY: I'm sorry. Thank you very much.

8 JUDGE WOODRUFF: So it is Exhibit 1.

9 MR. COMLEY: Thank you for that correction.
10 With respect to Exhibit 1 then, I would offer it into
11 evidence and tender Mr. Steinbecker for cross-examination.

12 JUDGE WOODRUFF: Exhibit 1 has been offered
13 into evidence. Are there any objections?

14 Hearing none, then it will be received into
15 evidence.

16 (EXHIBIT NO. 1 WAS RECEIVED INTO EVIDENCE.)

17 JUDGE WOODRUFF: And the first party listed
18 for cross-examination then is UtiliCorp. Do you wish to
19 cross-examine?

20 MR. SWEARENGEN: I have no questions for
21 Mr. Steinbecker.

22 JUDGE WOODRUFF: Thank you. Next is Union
23 Electric?

24 MR. COOK: Nothing, your Honor.

25 JUDGE WOODRUFF: And Department of Natural

1 Resources is not here.

2 APG?

3 MR. CONRAD: Just a few things, your Honor.

4 CROSS-EXAMINATION BY MR. CONRAD:

5 Q. Good morning, Mr. Steinbecker.

6 A. Good morning, Mr. Conrad.

7 Q. Does your company provide steam service in
8 St. Joe?

9 A. Yes, it does.

10 Q. Is the largest customer for that service Ag
11 Processing?

12 A. Yes, it is.

13 Q. What is your plan for the continuation of that
14 steam service, Mr. Steinbecker?

15 A. Our plan at this point is to certainly
16 continue the steam service until this merger is approved.
17 At that time, of course, it will be up to UtiliCorp to
18 decide the future of the steam business in St. Joseph,
19 Missouri.

20 Q. Your company had no plan to discontinue that
21 steam service?

22 A. We had not finalized our decision on that.

23 Q. What is it that you would be finalizing?

24 A. Well, a decision such as that a number of --
25 number one, would be subject to board approval. A plan to

1 discontinue the steam business was never presented to our
2 board of directors. And certainly, importantly, it would
3 also be subject to the approval of the Missouri Commission.
4 And obviously nothing has been presented for consideration
5 by the Missouri Commission.

6 Q. So you, at least at this point, would agree
7 with me that the steam service that you provide is a
8 certificated service. Correct?

9 A. That is my understanding, yes.

10 Q. And recognizing that you're not an attorney,
11 at least to the extent that you're familiar with the
12 discontinuation of a certificated service would require the
13 approval of this Commission. Would you agree?

14 A. Again, that's my understanding, yes, sir.

15 MR. CONRAD: Your Honor, I've got a document
16 here which we have obtained under a confidentiality. It's
17 my intention to indicate to counsel what this is by copy.
18 And it is my intention, however, to ask the witness probably
19 one question. Depending on the response of the witness,
20 possibly another one or two about the content of the
21 document. I'm uncertain whether you wish to -- or how you
22 want to deal with confidentiality material. I'll leave it
23 to you and take instruction however you choose.

24 JUDGE WOODRUFF: Well, since he's asking about
25 what might be confidential issues, if you need to disclose

1 any confidences, state so before you do so and we may need
2 to go into closed session. I'll let you finesse it through
3 your questions and answers. If you can avoid disclosing
4 confidential information, please do so.

5 MR. CONRAD: Very well. Your Honor, I will
6 show the witness what we have pre-marked as Exhibit 501.
7 And I will provide that to the Bench. And I would observe,
8 your Honor, that that needs to be marked as -- it is our
9 understanding subject to confirmation from counsel --
10 Mr. Comley, you might indicate that that is or is not
11 perceived to be confidential.

12 MR. COMLEY: From what I gather, Mr. Conrad,
13 this response is highly confidential.

14 MR. CONRAD: Okay. It would need to be so
15 marked, your Honor.

16 JUDGE WOODRUFF: I'll mark it as 501-HC.

17 MR. CONRAD: Now, is it your preference that I
18 hand them to the court reporter as they are?

19 JUDGE WOODRUFF: Yes. This is Data Request
20 SJLP No. 2. Is that how you wish to see it defined?

21 MR. CONRAD: Pardon me?

22 JUDGE WOODRUFF: This is Data Request SJLP 2?

23 MR. CONRAD: Yes.

24 JUDGE WOODRUFF: That's how I'll define it.

25 MR. CONRAD: It's a portion of it, sir.

1 (EXHIBIT NO. 501-HC WAS MARKED FOR
2 IDENTIFICATION.)

3 BY MR. CONRAD:

4 Q. Mr. Steinbecker, let me direct your attention
5 to what's been marked as Exhibit 501-HC. Do you have that
6 before you, sir?

7 A. Yes, I do.

8 Q. Do you recognize any portion of that document,
9 sir?

10 A. I see it's been answered by Vern Siemek, at
11 least part of it has. I certainly would not be
12 responsible -- or I mean, familiar with what's -- what I'm
13 seeing entitled Project North Home. That was a UtiliCorp
14 document.

15 Now, let me look here on material and
16 documentation used by SJLP to analyze the merger.

17 Q. I don't want to mislead you, sir, but it's our
18 understanding that the sheet that's identified as Appendix A
19 that's printed in landscape form, which is the last page of
20 the three-page packet that I've handed you --

21 A. Yes.

22 Q. -- is a St. Joe Light & Power document.

23 A. I'm not absolutely sure. It does look
24 familiar with projections we would have prepared in
25 conjunction with the process to look for an acquiring

1 company.

2 Q. And recalling here that we're in open session,
3 sir, and attempting to work our way through that, let me
4 attract your attention -- in the upper section of Appendix A
5 do you see a line there that says, Industrial steam retail
6 sales and other?

7 A. Yes, I do.

8 Q. Extending on throughout the columns that are
9 labeled as Projected, do you see what you might characterize
10 as a significant change occurring about midway through that
11 column?

12 A. Yes, I do.

13 Q. I won't ask you about the nature of the change
14 because of the public session here, but I'd ask you to
15 confirm that that does appear on the exhibit?

16 A. Yes, it does.

17 Q. Were you able to, after looking at, satisfy
18 yourself that that is an SJLP document?

19 A. I'm satisfied that it's consistent with
20 projections that we did internally, yes.

21 MR. CONRAD: Very well. Your Honor, I'd move
22 admission of Exhibit 501-HC at this time.

23 JUDGE WOODRUFF: All right. Exhibit 501-HC
24 has been offered into evidence. Are there any objections?

25 Hearing none, it will be received.

1 (EXHIBIT NO. 501-HC WAS RECEIVED INTO
2 EVIDENCE.)

3 MR. CONRAD: And, your Honor, I think that's
4 all we have for this witness. Thank you.

5 JUDGE WOODRUFF: Thank you.
6 Springfield?

7 MR. KEEVIL: No questions, Judge.

8 JUDGE WOODRUFF: Public Counsel?

9 MR. MICHEEL: Thank you, your Honor.

10 CROSS-EXAMINATION BY MR. MICHEEL:

11 Q. Mr. Steinbecker, is it correct that the
12 St. Joe Light & Power board of directors studied various
13 strategies for maximizing shareholder value prior to 1995?

14 A. Yes, we did.

15 Q. And is it correct in late 1995, early 1996
16 St. Joe Light & Power Company engaged a consultant to
17 develop a strategic plan?

18 A. Would you please report -- repeat the dates
19 for me, please?

20 Q. Sure. In late '95, early 1996 St. Joe Power &
21 Light -- Light & Power engaged a consultant to develop a
22 strategic plan; is that correct?

23 A. Yes, we did.

24 Q. And what was the name of that consultant?

25 A. The name of the consultant was Plan Metrix.

1 Q. And would you agree with me that as a result
2 of that consultant's report, that the company embarked on a
3 diversification program?

4 A. Yes.

5 Q. And is it correct that at bottom of that
6 diversification program, its efforts have not worked out as
7 well as the company had hoped?

8 A. That's correct.

9 Q. And the primary reason for that not working
10 out is because it's difficult to manage investments when
11 you -- "you" being St. Joe Light & Power, get into an
12 industry that's totally foreign from your company's core
13 competencies, i.e., a regulated utility; is that correct?

14 A. Well, that is certainly a factor. More
15 prominent in two of the investments as opposed to our
16 investment we made in Exop of Missouri.

17 Q. And your management team's core competencies
18 are running a regulated utility, not a big company or
19 something of that nature; is that correct?

20 A. Our core competencies are definitely related
21 to running a regulated utility.

22 Q. How about gas and steam? Do you have core
23 competency in running those?

24 A. Sure. We've run electric, gas and steam.

25 Q. Is it correct that in early 1998 your company

1 engaged another consulting firm to advise you with respect
2 to strategic planning?

3 A. Yes. That's correct.

4 Q. And what was the name of that firm?

5 A. Scott Madden.

6 Q. Okay. And then this consulting firm, Scott
7 Madden, in early 1998 essentially recommended that St. Joe
8 Light & Power sell the company; isn't that correct?

9 A. Well, as I state in my testimony, recommended
10 that St. Joseph Light & Power company begin exploring
11 various strategic alternatives, including a potential merger
12 or strategic alliance.

13 Q. What other strategic alternatives did the
14 Scott Madden and Associates report recommend?

15 A. It -- a merger or strategic alliance was their
16 number one recommendation. Recommendation number two, of
17 course, involved if the board of directors chose not to seek
18 a merger at this time, there was some suggestions included
19 in that report that they thought could help us improve our
20 earning situation as a stand-alone company.

21 Q. And what were those suggestions? Is that
22 highly confidential, those suggestions?

23 A. Is it?

24 MR. COMLEY: We did put under highly
25 confidential seal the recommendations of the Scott Madden

1 report. If you're interested in pursuing that in-camera,
2 then we'll go ahead and do it that way.

3 MR. MICHEEL: That's all right.

4 BY MR. MICHEEL:

5 Q. Is it correct that the company engaged Morgan
6 Stanley to review the company's options?

7 A. Yes, it did.

8 Q. Is it correct that the St. Joe Light & Power
9 board of directors made the decision in the summer of 1998
10 in the May/July time frame to sell the company?

11 A. Well, my testimony shows that at its
12 July 15th, 1998 meeting, authorized -- the board of
13 directors of St. Joseph Light & Power Company authorized
14 management to negotiate the engagement of an investment
15 banking firm to serve as St. Joseph Light & Power Company's
16 financial advisor.

17 Q. And what were they to advise St. Joseph Light
18 & Power with regard to?

19 A. The investment banking firm was instructed to
20 commence a review of St. Joseph Light & Power Company in its
21 competitive position in the utility industry and to begin
22 developing potential strategic alternatives for maximizing
23 shareholder value, including a potential merger or strategic
24 alliance.

25 Q. And what was the result of Morgan Stanley's

1 review? Was it the result of their recommendation to sell
2 the company?

3 A. Yes, it was.

4 Q. Is it also correct in -- and when did Morgan
5 Stanley reach that conclusion?

6 A. Again, as illustrated in my direct testimony,
7 on October 14 of 1998 the investment banking firm outlined
8 the strategic challenges facing St. Joseph Light & Power
9 Company and recommended that St. Joseph Light & Power
10 Company explore a potential business combination with a
11 larger utility company.

12 Q. And when did the St. Joe Light & Power board
13 make that decision, to accept the Morgan Stanley
14 recommendation?

15 A. It was at that meeting that the board did
16 instruct management to begin a process with Morgan Stanley
17 of soliciting expressions of interest.

18 Q. And that's the July meeting, sir?

19 A. No. That's the October 14, 1998 meeting.

20 Q. Okay. Is it correct in early December of 1998
21 your company engaged some other consultants to review
22 employment contracts for all the officers in the company?

23 A. I'm not certain of that date, but we did
24 employ a consultant to look at our employment contracts.

25 Q. Let me ask you this. Is that December '98

1 date in the ballpark?

2 A. Well, it was certainly the latter part of
3 1998, I'm sure of that.

4 Q. And why were those -- who were those
5 consultants and why were they engaged?

6 A. Consultants were Arthur Anderson. We engaged
7 a group out of their Chicago office whose expertise is
8 employment contracts. And they were employed by the
9 compensation committee of our board of directors to review
10 the officers' employment agreements to make sure of their
11 competitiveness, if you will, in the marketplace and to make
12 sure they remained appropriate given the fact the
13 opportunity for a merger was something that the board was
14 considering at this point.

15 These contracts were entered into in 1986 and
16 the board's compensation committee thought it only
17 appropriate that they be reviewed at this time given the
18 passage of time and again the possibility of a merger in the
19 near future.

20 Q. Were there any corrections or changes made in
21 what I'll call euphemistically the change in control package
22 of the officers' employment contracts?

23 A. There were some changes made.

24 Q. And what were those changes?

25 A. The primary change the compensation committee

1 decided to make, again, in conjunction with the advice from
2 Arthur Anderson, was to include a retention bonus for the
3 officers if they remained with the company six months after
4 consummation of the -- of a merger. Thinking again that it
5 was important for the ongoing transition that the officers
6 remain in service for at least a six-month period.

7 The other change that was made that was
8 significant is the original contracts in 1986 were
9 triggered, if you will, by a shareholder vote, meaning that
10 a benefit opportunity was available to the officers at the
11 time a shareholder vote by Light & Power shareholders
12 approved a merger.

13 Again, in conjunction with Arthur Anderson,
14 four of the five contracts as agreed to by the respective
15 officers, the trigger point, if you will, was changed to
16 date of consummation. Again, the concern of the board was
17 that the officers certainly stay in service at the company
18 not only until a shareholder vote is approved, but obviously
19 until the merger is consummated successfully.

20 Q. And what do those contracts provide?

21 A. Generally they provide for a three times base
22 salary if the officer is -- no longer remains in service
23 with the surviving corporation. And also, as I mentioned,
24 an additional year's salary if the officer remains in
25 service six months beyond date of consummation.

1 Q. Do you have any expectation, assuming that
2 this merger is approved by the Commission and it closes,
3 that you'll remain employed by UtiliCorp United Inc.?

4 A. My expectation is that I will not remain
5 employed.

6 Q. And so you'll get three times your salary at
7 the time your employment is terminated; is that correct?

8 A. That's correct.

9 Q. And is that commonly known to someone like me
10 as a golden parachute?

11 A. Well, it's been called that, yes. I refer to
12 it as a severance package.

13 Q. Okay. The severance package that you're
14 giving, say, your rank and file linemen, is that three times
15 their salary for three years or --

16 A. No, it's not.

17 Q. -- is it something less than that?

18 A. It's something less than that.

19 Q. I want to talk to you a little bit about the
20 sale process, how we got to where we are today. Is it
21 correct that the goal of your bidding -- well, first of all,
22 did you use what you've termed a limited bidding process for
23 selling your company?

24 A. I've referred to it as a limited auction
25 process.

1 Q. And auction is the same thing as a bid, or
2 would you prefer I use the term auction?
3 A. I'd prefer that since --
4 Q. Okay.
5 A. -- I generally refer to it that way.
6 Q. Is it correct that your company used a limited
7 auction process?
8 A. Yes, it did.
9 Q. Okay. And is it correct that the goal of that
10 auction process was to get the best price you could given
11 the value of your company?
12 A. That's correct. For our shareholders.
13 Q. And you're a member of the board of directors;
14 is that correct?
15 A. Yes, I am.
16 Q. And is it correct that your fiduciary
17 responsibility as a member of the board of directors is to
18 the shareholders?
19 A. Yes. We have a fiduciary responsibility to
20 the owners of our company.
21 Q. And would you agree that maximizing
22 shareholder value was front and center in your mind for the
23 sale of this company?
24 A. We obviously are pursuing sale of the company
25 as a strategy to maximize shareholder value for the

1 shareholders of Light & Power Company. But certainly, as
2 pointed out in the proxy statement, that was given to our
3 shareholders for their consideration of approval. You also
4 consider your other constituencies, customers, employees and
5 communities.

6 Q. Is it correct that UCU's initial bid was lower
7 than the \$23 that was finally agreed upon?

8 A. Yes.

9 Q. And what was that initial bid?

10 A. Their initial bid in December of 1998 was a
11 cash bid of \$22.25.

12 Q. And then is it correct after that initial bid,
13 you asked the three suitors to file what we'll call a
14 binding bid; is that correct?

15 A. A binding final bid, yes.

16 Q. And did indeed UCU -- was UCU one of the final
17 binding bidders?

18 A. Yes, they were.

19 Q. And what bid price was that?

20 A. That price was a fixed price of 22.50, all
21 stock.

22 Q. Is it correct after you received -- "you"
23 being the company, received the final binding bid of 22.50
24 all stock, that the company requested that both suitors who
25 had filed the binding bid, UCU and the unknown suitor,

1 increase their bid; is that correct?

2 A. What I'm doing is reviewing our proxy
3 statement that does set out the events leading up to our
4 final decision. My memory, as I am reading here, we looked
5 at the two competing final bids, if you will, and decided at
6 that point given the higher and fixed nature of the
7 UtiliCorp bid, we instructed our investment banking firm,
8 Morgan Stanley, to go back to UtiliCorp and ask that they
9 raise their price.

10 Q. And indeed UtiliCorp came back and raised the
11 price 50 cents per share; is that correct?

12 A. Yes. They came back with a fixed price of \$23
13 per share.

14 Q. And is it correct that your company currently
15 has outstanding approximately 8.2 million weighted average
16 shares?

17 A. That's correct, yes.

18 Q. So would you agree with me that roughly that
19 50 cent increase resulted in approximately a \$4 million
20 increase in the price of the deal?

21 A. Yes. That's correct.

22 Q. Would you agree with me that the \$4 million
23 increase in the premium is a benefit to your shareholders?

24 A. Yes, it is.

25 Q. Would you agree with me that the \$4 million

1 price in the premium is a benefit to your ratepayers?

2 A. I think it is in the respect that I think this
3 merger benefits our customers, and it took that to make sure
4 the merger occurred.

5 Q. So it took loading \$4 million more of cost on
6 to shareholders?

7 A. The board approved the merger at \$23 per
8 share.

9 Q. Is it correct the board could have approved
10 the merger at \$22.50 a share?

11 A. They did not approve the merger at \$22.50 a
12 share.

13 Q. I understand that. Could they have approved
14 the merger?

15 A. They could have. They did not.

16 Q. All else remaining the same, if you'll assume
17 that the acquisition premium is recovered, will that
18 result -- that 50 cent increase, will that result in higher
19 rates for customers on a going-forward basis?

20 A. Well, it certainly has no impact in this
21 initial five-year period of a rate moratorium.

22 Q. Let's set that aside. I said all else
23 remaining the same. Let's set aside the regulatory plan.
24 All else remaining the same, will that \$4 million increase
25 in the premium result in increased rates or the possibility

1 of increased rates for customers?

2 A. Well, it would result in the possibility, but
3 I can't sit here and decide whether it will or not.

4 Q. Let's assume that the Commission approves
5 complete recovery of the acquisition adjustment. Set aside
6 your regulatory plan. The deal closes and St. Joe Light &
7 Power comes in and asks for recovery of the \$92 million
8 acquisition adjustment in rates. Commission approves that,
9 hypothetically.

10 All else remaining the same, is that
11 \$4 million increase -- is that something that ratepayers are
12 going to have to pay?

13 MR. COMLEY: Let me object to the form of the
14 question. I think you referred to St. Joseph Light & Power
15 as asking for an increase.

16 JUDGE WOODRUFF: Do you want to rephrase your
17 question?

18 MR. MICHEEL: The St. Joseph Light & Power
19 Company division of UtiliCorp United Inc.

20 JUDGE WOODRUFF: Does that satisfy your
21 objection?

22 MR. COMLEY: All right. Do you understand the
23 question?

24 THE WITNESS: Well, generally. I mean, we're
25 sitting here doing hypotheticals and, you know, deciding

1 whether -- what the Commission's going to approve or not.
2 We're not talking about how much synergy is involved. So, I
3 mean, it's hard to sit here and respond to a question like
4 that.

5 BY MR. MICHEEL:

6 Q. Is it correct that St. Joe Light & Power
7 negotiated an advisory board of directors for a period of
8 three years?

9 A. The purchase agreement provides that there
10 will be an advisory board for three years following
11 consummation.

12 Q. And is it correct that nine people will sit on
13 that board, and those nine individuals -- for three years
14 and those nine individuals will be paid \$15,000 per year?

15 A. If they choose to be on the advisory board.

16 Q. Are you going to be on the advisory board?

17 A. I have not made that decision yet.

18 Q. When will those decisions be made?

19 A. Well, our first decision -- I mean, the first
20 step is obviously what we're here to do today and that's to
21 have the merger approved. Once the merger is approved, I'm
22 sure those kind of decisions will be made. Certainly the
23 board is aware of the opportunity to do that. And the fee
24 for those who choose to be on the advisory board, I believe,
25 is \$15,600 per year.

1 Q. Is it correct that the board is just the
2 name -- as the name implies, it is an advisory board and it
3 will be up to UtiliCorp United whether the advice is taken
4 or implemented?

5 A. That's certainly my understanding, yes.

6 Q. So if the advisory board recommends doing X,
7 UtiliCorp United can say, Thanks for the advice, but no; is
8 that correct?

9 A. They will certainly be the decision makers.
10 But the advisory board does provide our board with an
11 opportunity to bring what I would call some continuity to
12 the process, some knowledge of our customers and communities
13 that would not otherwise be there. But, again, as the name
14 connotes, it is an advisory board. UtiliCorp will make
15 the final decisions.

16 Q. And in the merger agreement, St. Joe Light &
17 Power was already able to extract an agreement from UCU that
18 it would continue in its -- in the St. Joe service area, as
19 we think of it now, to keep their charitable contributions
20 at the same level for five years; isn't that correct?

21 A. The purchase agreement does provide for
22 UtiliCorp to continue the community support, charitable and
23 economic development for a period of five years following
24 date of consummation at a level that's comparable, I
25 believe, to the last two years of actual support that

1 St. Joseph Light & Power Company will have done.

2 Q. So whether or not there was an advisory board,
3 UtiliCorp United, via the merger agreement, had already
4 bound itself for a period of five years to make the same
5 essential corporate contributions to both charitable and
6 economic development organizations; isn't that correct?

7 A. Well, they've made a commitment to -- at a
8 certain level. They certainly have not said that we'll give
9 to this organization or that organization. And I think,
10 again, it's important that they do receive some guidance
11 from existing board members as to what charities, what
12 economic development continues to make sense in the
13 communities they will be serving.

14 Q. But at bottom UCU can reject that advice;
15 isn't that correct?

16 A. They can, yes.

17 Q. Okay. Would you agree with me that some
18 St. Joe Light & Power employees will lose their jobs as a
19 result of the merger?

20 A. I can't agree with that. They -- they may
21 not.

22 Q. So it's your testimony here today that
23 UtiliCorp United is going to continue to keep the force
24 level of St. Joe Light & Power the same post-merger?

25 A. No. That is not my testimony. What my

1 testimony is, is that I do know that their plans are to
2 retain about two-thirds of our employees in their current
3 positions. And what I'm uncertain about is there will
4 certainly be opportunities for other employees at other
5 locations and other positions within UtiliCorp. So I am
6 uncertain how that is exactly going to shake out.

7 Also, employees may on their own decide to
8 retire or go on to other careers. In fact, we've already
9 had about 60 of our employees make one of those two
10 decisions, either seek other careers with other companies or
11 to retire. So I can't answer that, how many employees will
12 lose their jobs as a result of this.

13 Q. Is it safe to say that some employees will
14 lose their jobs?

15 A. I can't answer that.

16 Q. Well, let me ask you this. Why is there a
17 severance package in place for employees that lose their
18 jobs as a result of this merger?

19 A. Well, obviously it's there to cover that
20 possibility.

21 Q. Okay. So it's a possibility; is that correct?

22 A. Sure it is.

23 Q. Do you know if employee reductions are part of
24 the synergy savings that joint applicants are offering up
25 for this Commission's consideration?

1 A. Reduced positions serving St. Joseph Light &
2 Power Company directly are a part of those synergies, yes.

3 Q. So that would be job reductions at St. Joe
4 Light & Power; is that correct?

5 A. As I mentioned, my understanding is they will
6 eliminate about one-third of our current positions.

7 Q. So one-third of your current employees will
8 lose their jobs?

9 MR. COMLEY: Objection, it's been asked and
10 answered several times.

11 JUDGE WOODRUFF: Overruled. Go ahead and ask
12 the question. You can answer it, if you can.

13 THE WITNESS: Please restate the question.

14 BY MR. MICHEEL:

15 Q. One-third of St. Joe Light & Power's current
16 employees' job positions will be eliminated as a result of
17 the merger; isn't that correct?

18 A. I believe that's what I said. One-third --
19 about one-third of the current positions will be eliminated.

20 Q. If you do not have a job position, do you have
21 a job?

22 A. What I'm talking about here are two other
23 opportunities that I'm not sure of. And what I'm saying is
24 that there will be positions available in other locations at
25 UtiliCorp United. Some -- not all of those people will have

1 that opportunity. Other individuals will choose to retire.
2 So, again, I'm not going to sit here and make a blanket
3 statement that one-third of our employees are going to lose
4 their jobs as a result of the merger. That is not the case.

5 Q. Are the UtiliCorp United jobs -- are those
6 guaranteed jobs within the UtiliCorp United corporate
7 structure?

8 A. They are not guaranteed.

9 Q. In other words, it's just like me. I could
10 apply for a job today with UtiliCorp United; is that
11 correct?

12 A. Sure you could.

13 Q. And so your employees will be given an
14 opportunity to apply for a job at UtiliCorp United; is that
15 correct?

16 A. Yes, they will.

17 Q. They have no guarantee that they're going to
18 get the job at UtiliCorp United; isn't that correct?

19 A. It's my understanding they have no guarantee,
20 but obviously they bring familiarity and experience that
21 others probably won't have. So I would like to think based
22 upon the results our company has achieved throughout the
23 years, that they will be considered very highly qualified
24 candidates.

25 Q. Would you agree with me that a loss of jobs in

1 your community, in the St. Joe community, is certainly not
2 considered a good impact?

3 A. Well, unrelated to the merger, again, I'm
4 not -- absent the merger, I don't think any community views
5 loss of jobs as something positive. But there can be a
6 short-term impact from loss of jobs that creates a better
7 opportunity down the road.

8 And, frankly, I think that's one thing to keep
9 in mind here. This merger, I believe and the evidence
10 supports, a better situation for the customers in the
11 future, that -- and one of those benefits is stable prices.
12 And so that is an extremely -- an extreme positive for
13 economic development in the future. A stable price, a
14 reliable supply of energy. So long term I think the
15 expectation is good for the communities and also for job
16 growth.

17 Q. Let me ask you this. Have you or anyone on
18 your management team received any indication that the
19 St. Joe Light & Power rank and file employees are not
20 pleased with the sale?

21 A. I would certainly agree there is concern among
22 the employees, sure. Any time you have a change this
23 significant, you will have concern.

24 Q. Is there a concern about their jobs?

25 A. I'm sure employees are concerned about their

1 jobs, yes.

2 Q. Have you seen any newspaper articles or read
3 any newspaper articles indicating concern about jobs?

4 A. I think there was one maybe several months ago
5 in a local newspaper that just indicated -- one of our
6 employees was interviewed and indicated that was one of the
7 concerns they had, which I -- you know, again, I think is
8 obvious.

9 Q. Have you reviewed, for example, any editorial
10 cartoons that might indicate that people are upset with loss
11 of jobs and the sale of the company?

12 A. I think I'm familiar with the one you're
13 probably referring to. Someone showed it to me, and I
14 quickly looked at it and went on about my business.

15 Q. Is it correct that St. Joe Light & Power never
16 consulted customers about their views regarding the sale of
17 the company?

18 A. That's correct.

19 Q. And that's because St. Joe Light & Power's
20 board of directors' duty is to the shareholders; isn't that
21 correct?

22 A. It's to the shareholders, but again, it's in
23 the context of making sure that you take care of your other
24 constituencies also.

25 Q. Did you ask, for example, customers what they