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**Missouri Public
Service Commission**

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

March 23, 2010

Jefferson City, Missouri

Volume 31

In the Matter of Union Electric)
Company d/b/a AmerenUE's Tariffs)
To Increase Its Annual Revenues) File No. ER-2010-0036
For Electric Service)

MORRIS L. WOODRUFF, Presiding,
CHIEF REGULATORY LAW JUDGE.

ROBERT M. CLAYTON III, Chairman,
JEFF DAVIS,
TERRY JARRETT,
KEVIN GUNN,
ROBERT S. KENNEY
COMMISSIONERS.

REPORTED BY:
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Ameren Exhibit No. 18
Date 1-11-10 Reporter Jennu
File No. EO-2010-0255

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

2 JUDGE WOODRUFF: Welcome back to the next
3 day of the AmerenUE rate case hearing. I hope everyone
4 enjoyed the late start day, got a little extra sleep
5 perhaps. Wish we could do it this way every day.

6 We'll start today with resuming on the fuel
7 adjustment clause with Ms. Mantle. I understand there's
8 some housekeeping things we want to take care of first.

9 MR. BYRNE: Yes, your Honor. There's been
10 some exhibits over the last week that we've had to get
11 reproduced, in particular the cross-examination exhibits I
12 used for Mr. Lawton and Mr. Gorman, I had to put new
13 titles on those, and I also -- there was also an exhibit
14 that was handwritten that I used for Mr. Lawton, and
15 there's also a handwritten exhibit from Ms. Cannell when
16 she drew the chart. We've had those reproduced on 8 1/2
17 by 11 sheets of paper. So I guess I'd like to -- I think
18 they've already been offered and accepted.

19 JUDGE WOODRUFF: They've already been
20 offered and accepted, so if you want to just give a copy
21 to the court reporter and to the parties.

22 MR. WILLIAMS: Judge, in addition, I have
23 three Data Request responses from AmerenUE that I'd like
24 to mark as exhibits for the record in this case.

25 JUDGE WOODRUFF: You can do that.

1 JUDGE WOODRUFF: Exhibits 235, 236 and 237
2 have been offered. Any objections to their receipt?

3 MR. BYRNE: These are all Data Requests
4 that we provided responses to, right, Mr. Williams?

5 MR. WILLIAMS: Yes.

6 MR. BYRNE: We have no objection.

7 JUDGE WOODRUFF: Hearing no objection, they
8 will be received.

9 (EXHIBIT NOS. 235HC, 236HC AND 237HC WERE
10 RECEIVED INTO EVIDENCE.)

11 JUDGE WOODRUFF: And Mr. Williams, just so
12 I'm clear, I believe these were all relevant to the
13 testimony that was offered late yesterday from various
14 AmerenUE witnesses about their hedge positions; is that
15 the reason for this?

16 MR. WILLIAMS: Yes.

17 JUDGE WOODRUFF: All right. Well, let's go
18 ahead and call our next witness, then, which would be
19 Ms. Mantle.

20 MS. BAKER: Your Honor, may I make an entry
21 of appearance?

22 JUDGE WOODRUFF: Sure.

23 MS. BAKER: Christina Baker for the Office
24 of the Public Counsel.

25 JUDGE WOODRUFF: Thank you.

1 JUDGE WOODRUFF: Please raise your right
2 hand.

3 (Witness sworn.)

4 JUDGE WOODRUFF: Thank you. And
5 Ms. Mantle, I'm sure you've been listening to the hearing,
6 so you know what I'm about to say, but I've been telling
7 all the witnesses to please answer the questions that are
8 asked and not to elaborate unless the attorney asks you to
9 elaborate.

10 You may inquire.

11 MR. WILLIAMS: Thank you, Judge.

12 LENA MANTLE testified as follows:

13 DIRECT EXAMINATION BY MR. WILLIAMS:

14 Q. Would you please state your name.

15 A. My name is Lena Mantle.

16 Q. And by whom are you employed and in what
17 capacity?

18 A. I'm employed by the Missouri Public Service
19 Commission as the Energy Department Manager.

20 Q. Did you prepare portions of the Staff
21 Report Revenue Requirement Cost of Service that's been
22 marked for identification as Exhibit No. 200?

23 A. Yes, I did.

24 Q. And are the portions of that report for
25 which you're responsible identified in your revised

1 affidavit that's also a part of that Exhibit 200?

2 A. Yes.

3 Q. And did you also prepare supplemental
4 direct testimony that's been marked for identification as
5 Exhibit No. 221?

6 A. Yes.

7 Q. And did you also prepare surrebuttal
8 testimony that's been marked for identification as Exhibit
9 No. 222?

10 A. Yes, I did.

11 Q. Do you have any -- would you make any
12 changes to those portions of Exhibit No. 200 that
13 you're -- for which you're responsible or to Exhibits
14 No. 221 or 222 here today?

15 A. No.

16 Q. Are those portions identified as being your
17 responsibility in Exhibit No. 200 and Exhibits 221 and 222
18 your testimony here today?

19 A. Yes, they are.

20 MR. WILLIAMS: I offer those portions of
21 Exhibit 200 identified in the revised affidavit of Lena M.
22 Mantle and Exhibit 221 and Exhibit 222.

23 JUDGE WOODRUFF: All right. Portions of
24 200 as well as 221 and 222 have been offered. Any
25 objections to their receipt?

1 MR. BYRNE: No, your Honor.

2 JUDGE WOODRUFF: Hearing no objections,
3 they will be received.

4 (PORTIONS OF EXHIBIT NO. 200 AND EXHIBIT
5 NOS. 221 AND 222 WERE RECEIVED INTO EVIDENCE.)

6 JUDGE WOODRUFF: For cross-examination, we
7 begin with Public Counsel.

8 MS. BAKER: No cross-examination.

9 JUDGE WOODRUFF: MIEC?

10 MS. VUYLSTEKE: No questions.

11 JUDGE WOODRUFF: Ameren?

12 MR. BYRNE: I have a few.

13 CROSS-EXAMINATION BY MR. BYRNE:

14 Q. Good morning, Ms. Mantle.

15 A. Good morning.

16 Q. Do you have your testimony with you?

17 A. Yes, I do.

18 Q. I'm looking at your supplemental direct
19 testimony on page 6, and it begins at line 8, and the
20 question is, has Staff changed its position since it filed
21 its Staff Report on December 18, 2009? Do you see that
22 question?

23 A. Yes.

24 Q. And in the answer you talk about an
25 agreement among the parties that the non-AmerenUE parties

1 would raise their substantive issues regarding AmerenUE's
2 FAC in their December 18th, 2009 direct case. Do you see
3 that?

4 A. Yes, I do.

5 Q. Can you explain a little bit more about
6 that agreement? Where was it and how did it come to be?

7 A. That was part -- when we were coming up
8 with the procedural schedule and the parties were getting
9 together to come up with the procedural schedule for this
10 case, it's my recollection that the parties wanted quite a
11 bit of time between direct -- well, actually, I think it
12 was three weeks between direct on revenue requirement and
13 the direct on class cost of service and rate design, and
14 the company was concerned about having less time to work
15 on any FAC issues or ECRM issues or different issues. And
16 we agreed then that we would put our positions regarding
17 the FAC in the direct filing, I believe, yeah, on December
18 18th.

19 Q. And that was -- was that agreement filed as
20 part of the procedural schedule?

21 A. I don't remember.

22 Q. Okay. And as I understand it, Staff did
23 live up to that agreement and submitted any changes that
24 it had proposed for the FAC with its December 18th direct
25 testimony; is that correct?

1 A. Yes. Staff suggested some modifications to
2 AmerenUE's current FAC.

3 Q. And that was filed on December 18th, 2009?

4 A. Yes.

5 Q. The agreement, right?

6 A. Yes.

7 Q. On page 5, of your direct testimony on the
8 fuel adjustment clause, line 15, the question is, why did
9 Staff not propose discontinuing AmerenUE's FAC in this
10 case? Do you see that question?

11 A. Yes.

12 Q. And I think the first -- you say there's
13 two reasons, and the first reason is that we were
14 authorized to have an FAC in the last case,
15 Case No. ER-2008-0318; is that correct?

16 A. That's correct.

17 Q. And the circumstances since that case have
18 not changed significantly; is that correct?

19 A. Yes.

20 Q. Okay. And then your second answer is at
21 the top of page 6, your second reason for not proposing a
22 change, and it starts on line 3. Are you there?

23 A. Yes.

24 Q. And it says, second, but not insignificant,
25 since little time had passed after AmerenUE's FAC was

1 implemented, Staff did not have enough data to
2 meaningfully analyze the effectiveness of AmerenUE's FAC
3 in delivering the purported benefits AmerenUE had or
4 AmerenUE asserted an FAC would provide.

5 Do you see that?

6 A. Yes.

7 Q. And I was wondering if you could elaborate
8 on that a little bit. What additional data would you be
9 able to get, how would it help you do that analysis?

10 A. At the time even that we filed I think our
11 direct case, there had only been one change to the fuel
12 adjustment clause for AmerenUE. We would look at the
13 magnitude of the changes, the impacts on customer rates.
14 Would even possibly consider public comments provided.
15 Off the top of my head, that's the main ones that I can
16 think of now.

17 Q. How about information from the prudence
18 review, would that be useful in determining whether the
19 FAC was delivering benefits?

20 A. Right. That's correct. The prudence
21 review is very important, as in also seeing if AmerenUE's
22 practices had changed regarding their purchase and hedging
23 of fuel and sale of off-system sales on the market.

24 Q. And we haven't gotten to that first
25 prudence review; is that correct?

1 A. No. The Staff filed to open it, I think,
2 two weeks ago.

3 Q. And I assume that will take -- how long do
4 you think a prudence review will take to complete?

5 A. We have, I -- we have 180 days.

6 Q. In your surrebuttal testimony on page 16,
7 at line 7, you have just -- you discuss some bilateral
8 contracts AmerenUE had with American Electric Power
9 Company, Wabash Valley Power Cooperative that we entered
10 into in the wake of the loss of the Noranda load. Do you
11 see that discussion?

12 A. Yes.

13 Q. And my understanding is that these two
14 contracts with AEP and Wabash Valley were bilateral
15 long-term partial requirements contracts. Would you agree
16 with that?

17 A. Yes.

18 Q. And AmerenUE entered into these contracts
19 because it lost significant load from Noranda; isn't that
20 correct?

21 A. That's what we were told, yes.

22 Q. Okay. And that was following the January
23 2009 ice storm in southeast Missouri; is that correct?

24 A. Yes.

25 Q. And do you know the magnitude of the load

1 that AmerenUE lost from Noranda as a result of that ice
2 storm?

3 A. I'm assuming that's not highly
4 confidential?

5 Q. No, it's not.

6 A. I believe it's between 470 and 480
7 megawatts.

8 Q. And that's pretty significant, isn't it?

9 A. Yes.

10 Q. And AmerenUE did not lose any of its
11 generating units during that ice storm, did it?

12 A. No, it did not.

13 Q. And my understanding is you proposed in
14 your testimony and there's been subsequent agreement to
15 change the terms of the definition of OSSR in our fuel
16 adjustment clause tariff; is that correct?

17 A. I would say it's to clarify.

18 Q. Okay. Can you explain what the benefit of
19 making that change to the term OSSR is?

20 A. That long-term bilateral contracts that
21 AmerenUE enters into and should enter into when it has
22 excess capacity and energy, that that revenues would flow
23 through the fuel adjustment clause since the ratepayers
24 are paying for the plants.

25 Q. And if you did not make that change to

1 OSSR, what would happen to those revenues?

2 A. I think that definition that's currently in
3 there in OSSR is up for interpretation.

4 Q. Okay. Ms. Mantle, would it be fair to say
5 that you're not a fuel contracting expert?

6 A. Yes.

7 Q. You've never negotiated a coal contract; is
8 that true?

9 A. That's true.

10 Q. You've never negotiated a coal
11 transportation contract?

12 A. No.

13 Q. Or a gas supply contract?

14 A. No.

15 Q. Or a nuclear fuel contract?

16 A. No.

17 Q. Or any of the hedging contracts that would
18 be associated with any of those sources of fuel supply?

19 A. No, I have not.

20 Q. Have you ever seen any of AmerenUE's fuel
21 contracts or hedging contracts?

22 A. No.

23 Q. Okay. Take a look at your surrebuttal
24 testimony on page 2, beginning at line 21.

25 COMMISSIONER DAVIS: Mr. Byrne, could you

1 repeat that?

2 MR. BYRNE: I'm sorry. Surrebuttal
3 testimony, page 2, line 21.

4 BY MR. BYRNE:

5 Q. And you're talking about the different fuel
6 commodities that AmerenUE buys, and the testimony reads,
7 Staff agrees with these witnesses that the spot market
8 prices of each of these commodities are volatile.
9 However, the amount of fuel purchased by AmerenUE on any
10 of these spot markets as a percentage of its total fuel is
11 very small. Therefore, the volatility of these spot
12 markets does not translate in volatility in fuel cost for
13 AmerenUE. Do you see that?

14 A. Yes.

15 Q. But, Ms. Mantle, isn't it true that when
16 long-term fuel contracts are negotiated, the price that
17 AmerenUE pays is based on the spot market for that
18 commodity at that time?

19 A. I don't know.

20 Q. Were you here when Mr. Neff testified
21 yesterday about that?

22 A. Yes, I was.

23 Q. And didn't Mr. Neff testify that when he
24 enters into long-term coal contracts, the price that he's
25 offered by the suppliers is based on the market price of

1 coal at the time? Were you here for that?

2 A. I was here for that. I can't say for sure
3 exactly what he said.

4 Q. Would you have any reason to disagree with
5 whatever Mr. Neff said yesterday about the price of coal
6 that he has to -- that he has to take when he enters into
7 long-term contracts?

8 A. I have no reason to not believe Mr. Neff.

9 Q. Ms. Mantle, you were critical of the notice
10 provisions that KCPL GMO used in its last rate case which
11 was, as I understand it, their first rate case after their
12 fuel adjustment clause was approved; is that correct?

13 A. That is correct.

14 Q. And specifically, as I understand it, KCPL
15 GMO did not include the increase in its fuel cost in its
16 notice to customers; is that correct?

17 A. That is correct.

18 Q. And I think KCPL GMO's rationale for not
19 doing that was that those costs would have been recovered
20 anyway under the fuel adjustment clause, so there was no
21 reason to provide notice of the increase when the fuel
22 adjustment clause was rebased in the rate case, is that --
23 is that true?

24 A. That's what they told Staff.

25 Q. And Staff was pretty unhappy with that; is

1 that fair to say?

2 A. That puts it mildly, yes.

3 Q. You didn't think that was adequate notice
4 to customers of the rate change they were getting; is that
5 fair to say?

6 A. That's fair.

7 Q. Okay. And -- but -- but then in this case
8 you analogized that to some of the problems you had to a
9 lesser degree with AmerenUE; is that fair to say?

10 A. Yes.

11 Q. I'd like to take a look, if we could, at
12 the filing that KCPL GMO made in that case, and maybe
13 compare it to what AmerenUE did with this case. This is a
14 fairly long document. I don't want to mark it as an
15 exhibit unless we have to, but I can -- maybe I can refer
16 you to pieces of it. But will you agree with me that that
17 is KCPL GMO's minimum filing requirements associated with
18 the case that you were discussing in your testimony?

19 A. I believe it is.

20 Q. Okay. And there's a cover sheet on the
21 front and then the next -- the second page is beginning
22 with the application that they filed; is that correct?

23 A. That is correct.

24 Q. And I've marked, I guess, page 3 of that
25 application. Can you go to where I've marked page 3?

1 A. Yes.

2 Q. And there's paragraph 8, and it says, and I
3 quote, the schedules filed with this application establish
4 a gross revenue deficiency of approximately \$66.0 million
5 and \$17.1 million for MPS and L&P respectively based on
6 normalized operating results for the 12 months ending
7 December 31, 2007, adjusted for known and measurable
8 changes in revenues, operating and maintenance expenses,
9 cost of capital and taxes and other adjustments referred
10 to herein. This represents a rate increase of
11 approximately 14.4 percent for MPS based on test year
12 revenue of approximately \$460 million and a 13.6 percent
13 increase for L&P based on test year revenue of
14 approximately \$125 million.

15 Did I read that correctly?

16 A. Yes.

17 Q. And as I understand it, MPS and L&P are
18 their two divisions; is that true?

19 A. They're two terr -- service territories.
20 They're designations of the service territories of which
21 they have different rates.

22 Q. Okay. And is this an example of the
23 problem they had with their whole filing? In other words,
24 the \$66 million and the \$17.1 million are only the
25 non-fuel portions of their proposed increase; isn't that

1 right?

2 A. Yes.

3 Q. And similarly, the 14.4 percent increase
4 for MPS and the 13.6 percent increase for L&P, those are
5 percent increases that only reflect non-fuel costs; is
6 that correct?

7 A. Yes.

8 Q. Okay. And then if you turn to the next
9 thing that I have marked in that document, which is --
10 it's item 1 attached to it, and the title of that item is
11 aggregate annual increase. Do you see that?

12 A. Yes.

13 Q. And again, I'm not going to read the whole
14 thing, but again, doesn't this item reference the
15 \$66 million for -- for MPS and the \$17.1 million for L&P,
16 which again don't reflect fuel costs; is that correct?

17 A. That is correct.

18 Q. So it's another example of what I think the
19 Staff believes is a misleading representation of their
20 rate increase; is that correct?

21 A. That's correct.

22 Q. Okay. Then turn to the next one, if you
23 could, which is item 4 attached to the filing, and the
24 title of that is The Average Annual Change Requested in
25 Dollars and Percentage Changed from Current Rates Based on

1 March 2009 Projected Sales, and I think this applies to
2 the MPS service territory; is that correct?

3 A. Yes.

4 Q. And again, they have the 14.37 percent
5 increase, which as I understand it is only the non-fuel
6 portion; is that correct?

7 A. That's correct.

8 Q. Okay. And again, that's the same problem
9 that you identified, right?

10 A. Yes.

11 Q. And then the last one is item 5, which says
12 the proposed annual aggregate change including dollar
13 amounts and percentage change in revenues from current
14 rates based on March 2009, and this one is for L&P; is
15 that correct?

16 A. Yes.

17 Q. And again, they only have the 13.6 percent
18 increase shown, which is only the non-fuel portion; is
19 that correct?

20 A. That's correct.

21 Q. Okay. Thanks. And then the notice for the
22 case was -- the customer notification was attached to the
23 direct testimony of Tim Rush. So I'm handing you a copy
24 of the direct testimony of Tim Rush, and again, I don't
25 want to make it an exhibit because it's -- I don't want to

1 kill that many trees, but would you agree this is the
2 direct testimony of Tim Rush from that case?

3 A. Yes.

4 Q. And the part -- the attachment that I've
5 marked is the draft notice to customers for that case;
6 would you agree with that?

7 A. Yes.

8 Q. And again, this draft notice references the
9 14.4 percent increase for MPS and the 13.6 percent
10 increase for the L&P service area; is that correct?

11 A. That is correct.

12 Q. And so those percentage increases are only
13 the non-fuel part of that rate increase; is that correct?

14 A. That's correct.

15 Q. And they don't even mention the fuel cost
16 increase in that notice; is that correct?

17 A. No, they did not.

18 Q. Okay. And in contrast, I mean, AmerenUE
19 didn't do exactly that; is that fair to say?

20 A. That's fair to say.

21 Q. And isn't it true that when AmerenUE put
22 together its initial draft of the notice, that it
23 didn't -- that it didn't file but it submitted to Staff,
24 it had broken the rate increase request into two pieces,
25 the fuel piece and the non-fuel piece; is that correct?

1 A. That's correct.

2 Q. And so the notice, even as we had initially
3 drafted it, had both pieces, but they were just separated;
4 is that true?

5 A. Yes.

6 Q. Okay. And then isn't it true that we sent
7 it to the Staff to get their comments on it; is that true?

8 A. Yes.

9 Q. And we scheduled a phone call and had a
10 phone discussion about whether this was the appropriate
11 way to give notice to our customers?

12 A. Yes.

13 Q. And my recollection from that phone call,
14 correct me if I'm wrong, is that Staff wanted us to
15 combine the two numbers together, so that instead of
16 having -- so that the first line of the notice would say
17 we were requesting a \$402 million rate increase which
18 would be comprised of both fuel and non-fuel components.
19 Am I remembering that correctly?

20 A. And I believe we actually provided you some
21 suggested language. We didn't know the amounts at that
22 time, but we did say we wanted the total increase to be
23 the first -- in the first sentence, not split out.

24 Q. And isn't it true that AmerenUE accepted
25 the Staff's suggestion and ended up filing it the way that

1 the Staff wanted us to?

2 A. Yes.

3 Q. So I mean, do you have any objection to the
4 way we handled that?

5 A. No. I think you did a good job. You
6 learned from the lessons of prior utilities.

7 Q. We're always trying to learn. Okay. In
8 your surrebuttal on page 3, line 20, you also talk about
9 something that Empire District Electric Company did in one
10 of their cases, and I guess was this -- was this a rate
11 case after they got their fuel adjustment clause?

12 A. It's the rate case that's currently open
13 now.

14 Q. Okay. And my understanding from your
15 testimony is that Empire did not model a normalized
16 annualized fuel and purchased power expense as part of
17 their rate case; is that what happened?

18 A. That is correct.

19 Q. But -- but AmerenUE hasn't done that, have
20 they?

21 A. They did file with a normalized annualized
22 fuel run.

23 Q. So you don't have the same objection to
24 anything that AmerenUE did that you have for Empire; is
25 that correct?

1 A. That's --

2 Q. Perhaps that was an inartfully worded
3 question. We -- our filing doesn't suffer from the same
4 deficiency as Empire's; is that correct?

5 A. The filing doesn't, that's correct.

6 Q. On page 5 of your surrebuttal testimony,
7 towards the top, I believe you take issue with AmerenUE
8 witness Lynn Barnes' testimony that without an FAC there
9 would be substantial losses. Do you see that?

10 A. Yes.

11 Q. And I think in particular you're taking
12 issue with the fact that she's characterized the losses as
13 substantial; is that fair to say?

14 A. She characterized my testimony as saying
15 there would be substantial losses.

16 Q. Were you here yesterday when Ms. Barnes
17 testified that the fuel cost increases for the first six
18 months of 2010 would be 70 to \$75 million?

19 A. Yes.

20 Q. Do you consider 70 to \$75 million to be a
21 substantial amount?

22 A. Yes.

23 Q. And were you here when Ms. Barnes testified
24 that the net fuel cost increase between last rate case and
25 this rate case was approximately \$200 million?

1 A. I was here for her testimony.

2 Q. Would you consider \$200 million to be a
3 substantial amount?

4 A. Yes.

5 Q. On page 5 of your surrebuttal, on line 18,
6 there's a sentence that says -- and I think you're talking
7 about if a utility doesn't have a fuel adjustment clause,
8 and the sentence says, if the utility chooses to request a
9 rate increase to recover costs, there is 100 percent
10 recovery of the cost -- I'm sorry, of the increase in
11 costs between the time the costs are incurred and the
12 effective date of the rates authorized by the Commission.
13 Do you see that?

14 A. I see that sentence.

15 Q. That struck me as maybe not correct, or am
16 I reading it wrong?

17 A. I'm not for sure what I meant by that
18 sentence, but yes, I can see how it can be read -- I can't
19 figure out what I meant by that.

20 Q. Okay. If you don't have a fuel adjustment
21 clause, don't you -- don't you -- you don't recover the
22 cost of the fuel cost increases that occur prior to the
23 effective date of new rates; is that true?

24 A. That's correct. That's correct.

25 Q. On page 6 of your surrebuttal testimony,

1 line 15, you are also -- you're talking about -- in the
2 middle of the page, you're talking about Ms. Barnes said
3 the lag between when fuel costs increase and when they can
4 be reflected in rates would be many months. Do you see
5 that?

6 A. Again, that's a characterization of my
7 testimony. That's not her testimony. I mean, that's her
8 testimony as to what I said.

9 Q. Okay. And you're -- you're particularly
10 taking issue with her use of the term many months; is that
11 fair to say?

12 A. That's fair to say.

13 Q. And you say on line 19 and 20, you say, if
14 there were coal cost increases that went into effect on
15 January 1, 2011, the lag could be -- or recovery could
16 begin as soon as six months from that; is that correct?

17 A. Yes.

18 Q. And I think that would be if AmerenUE
19 filed a rate case immediately after this one; is that
20 true?

21 A. Yes.

22 Q. But in your example, AmerenUE would not
23 recover the coal costs in that six-month lag; is that
24 correct?

25 A. That's correct.

1 Q. And then the same thing would happen the
2 next year if we filed the rate case immediately after that
3 one, wouldn't it? There would be a six-month lag to
4 recovering the coal cost increases that went into effect
5 January 2012?

6 A. I think if you filed one immediately after
7 that, you probably wouldn't get the next coal contract in
8 because the true-up period would have -- you couldn't file
9 one immediately afterwards and get the next January
10 because you're moving 11 months up each time. So you're
11 moving a month up, so you would probably not catch that
12 January, but you could time it again to where you could
13 get that January 1st increase.

14 Q. And you could -- even if you perfectly
15 timed it, you've still got a lag of about six months?

16 A. Yes.

17 Q. And you never get to recover the six months
18 of cost increases that you've missed during that lag; is
19 that correct?

20 A. Correct.

21 Q. On page 6, line 21 of your surrebuttal,
22 you've got a sentence that says, Ms. Barnes fails to point
23 out that without an FAC AmerenUE would get to retain
24 100 percent of the decreases in fuel costs up until new
25 rates go into effect. Do you see that?

1 A. Yes.

2 Q. And -- but you don't have any evidence, do
3 you, that AmerenUE's net fuel costs are decreasing?

4 A. No, but there is evidence that natural gas
5 prices are going down.

6 Q. Okay. Okay. On page 7 of your
7 surrebuttal, line 6, you say, again, Staff would agree
8 that AmerenUE does not control the markets, but by the
9 sheer volume of coal that it purchases, AmerenUE should be
10 able to influence the price and terms for its coal. Do
11 you see that?

12 A. Yes.

13 Q. And -- but Ms. Mantle, you don't have any
14 specific evidence that AmerenUE is able to control the
15 price and terms of its coal, do you?

16 A. No.

17 Q. And were you here yesterday when Mr. Neff
18 testified that AmerenUE only buys 8 percent of the coal in
19 the Powder River Basin?

20 A. I believe he also testified --

21 Q. Just that, please.

22 A. Yes.

23 Q. And were you here when he said that
24 AmerenUE is a price taker and the price AmerenUE pays for
25 coal is based on the market?

1 A. I can't remember those specific words, but
2 I was here for it and it is possible that was said.

3 Q. Okay. At the bottom of page 8 of your
4 surrebuttal testimony, you say that Staff has always
5 respected the fuel modeling work of AmerenUE and has never
6 known it not to take care in modeling the fuel and
7 purchased power expense. Do you see that?

8 A. Yes.

9 Q. Can you expand on that a little bit? What
10 has AmerenUE done that makes you respect their work?

11 A. They have often worked with Staff to
12 estimate fuel costs, not just in rate cases, but in
13 different cases before the Commission where fuel costs
14 were important. We -- the staff of the energy department
15 had a good working relationship with them. They've always
16 been willing to talk with us, explain things to us, listen
17 to us, and always been a relationship where we were able
18 to work together, and we see no evidence that care wasn't
19 taken in running the fuel model. That doesn't mean we
20 agree every time.

21 Q. Sure. I understand. So to give credit
22 where credit is due, are you talking about Tim Finnell
23 primarily?

24 A. Yes.

25 Q. It's not me that's easy to work with?

1 And would it be fair to say Mr. Finnell
2 does high quality work in fuel modeling?

3 A. Yes. He makes mistakes sometimes, just as
4 we all do.

5 Q. Sure. On page 9, line 3 of your
6 surrebuttal testimony you say, while there is no absolute
7 fact that there was a lack of care in this case, the
8 limited discussions among the parties and AmerenUE's draft
9 public hearing notice that placed the amount of the
10 increase -- of increase requested due to increases in fuel
11 in the second paragraph of the notice are indications that
12 fuel and purchased power costs were treated differently in
13 this case.

14 Did I read that correctly or almost
15 correctly?

16 A. Yes.

17 Q. And I think we've already talked about the
18 notice, but I'd like to talk about the limited discussions
19 that you mentioned, and isn't it true -- well, isn't it
20 possible that some amount of the limited discussion is due
21 to the Staff, to the fact that we've had two rate cases in
22 a row and Mr. Finnell and the Staff modelers have worked
23 close together to work out the kinks in the models and try
24 to get on the same page with regard to modeling in a
25 general sense?

1 A. That could be some of the reason for
2 reduced amount of interaction.

3 Q. Okay. And -- and isn't it true also that
4 there really -- and this may not have even been true when
5 you wrote your testimony, but in this case there actually
6 has been, as it turns out, quite a bit of discussion about
7 some fuel issues?

8 A. I would say in the last couple weeks, yes,
9 there has been.

10 Q. And in particular isn't it true -- well,
11 we've always had an issue in this case with regard to the
12 Callaway fuel; isn't that true?

13 A. That's true.

14 Q. And basically the company's position is
15 we've bought and paid for Callaway fuel. It's sitting
16 onsite. It ought to be included in the net base fuel
17 costs. Staff's position is it's beyond the cutoff period.
18 Is that a fair description of the debate we've been
19 having?

20 A. That's my understanding.

21 Q. That's been going on since the beginning of
22 the case; is that fair to say?

23 A. Yes.

24 Q. Okay. But then we've had some more recent
25 discussions about various fuel modeling differences, and

1 in particular Ms. Maloney filed some -- I don't know, some
2 supplemental testimony regarding the price of power that
3 was an input into the fuel model; is that true?

4 A. Her direct supplemental I think it was
5 rebuttal testimony laid out an error that she had found --
6 she had found in her calculations and provided the new
7 Staff positions to the parties in that rebuttal.

8 Q. And hasn't this new Staff position, the
9 correction of that error led to a lot of discussion
10 between AmerenUE and the staff?

11 A. There's been a lot of discussion since
12 then.

13 Q. Yes. That's what I mean. And isn't there
14 also an issue regarding forecasting error with regard to
15 the differences in our fuel models, if you know?

16 A. I believe so.

17 Q. And do you know if that's led to a
18 discussion between the Staff and the company?

19 A. I only really first heard about that
20 yesterday.

21 Q. And as we're sitting here right now, aren't
22 those all still contested issues in this case?

23 A. To the best of my knowledge, yes.

24 MR. BYRNE: Thank you very much,
25 Ms. Mantle. That's all the questions I have.

1 JUDGE WOODRUFF: Come up for questions from
2 the Bench. Commissioner Davis?

3 COMMISSIONER DAVIS: No questions,
4 Ms. Mantle. Thank you.

5 JUDGE WOODRUFF: Commissioner Jarrett?

6 COMMISSIONER JARRETT: I have no questions.
7 Thanks, Ms. Mantle.

8 QUESTIONS BY JUDGE WOODRUFF:

9 Q. Commissioner Gunn had left me a question to
10 ask you, Ms. Mantle. I will ask it here. I believe he's
11 referring to the testimony from the witness, Ameren's
12 witnesses yesterday about the standards that they use in
13 making their decision about the purchasing of fuel. This
14 is his question. Do you agree that Ameren's processes are
15 the gold standard in the industry?

16 A. I don't have enough knowledge to say
17 whether they are or not.

18 Q. And do you believe the company adequately
19 reviews those processes to make sure that they continue at
20 or above the industry standard?

21 A. I don't have information to make that
22 determination either.

23 JUDGE WOODRUFF: Okay. That was my only
24 question. Any recross based on those questions?
25 Redirect? I'm sorry. Recross.

1 MR. BYRNE: I believe I have recross.

2 RECROSS-EXAMINATION BY MR. BYRNE:

3 Q. Ms. Mantle, will the Staff and other
4 parties get a chance to look at those processes in the
5 context of the prudence review for the FAC?

6 A. I believe they will.

7 MR. BYRNE: Thank you.

8 JUDGE WOODRUFF: Redirect?

9 MR. WILLIAMS: Thank you, Judge.

10 REDIRECT EXAMINATION BY MR. WILLIAMS:

11 Q. Ms. Mantle, do you recall when Mr. Byrne
12 took you, I believe it was to page 5 of your supplemental
13 direct testimony and particular to around lines 18 and 19
14 where he -- one of your responses was that circumstances
15 had not changed? Do you recall that?

16 A. I recall that, yes.

17 Q. And what circumstances were you referring
18 to that have not changed?

19 A. AmerenUE's energy requirements of its
20 retail customers are still mostly met by coal and nuclear
21 that comprises -- of the fuel costs, according to Staff's
22 fuel run, just to meet the load, that alone accounts for
23 91 percent of the fuel costs. Very little of its retail
24 load is met with natural gas, just as it was in the past,
25 and -- or spot purchased power prices.

1 And the other thing would be that AmerenUE
2 makes significant sales on the off-system sales market to
3 offset that, just as they -- just as I testified they had
4 done in ER-2008-0318 and ER-2007-0002. Also, that their
5 hedge on their fuel, the amount of fuel that they had
6 hedged had stayed approximately the same. Varies a little
7 bit.

8 Those circumstances around the -- their
9 fuel acquisition and the fuel cost remain -- and
10 volatility or the lack thereof remain the same since they
11 filed their case in 2006.

12 Q. Let me follow up with a couple on that.
13 You said their hedging's remained about the same. Can you
14 elaborate more?

15 A. They have hedged -- with the exhibits that
16 you passed out previously, it has their hedge positions on
17 coal and natural gas and nuclear, and they show that, just
18 as in the last case, most of the -- these Data Requests
19 show that most of the nuclear hedging price and quantity
20 for the spring 2010 refueling is at 100 percent. At fall
21 2011 it runs -- I do want to make a correction to that,
22 then, the enrichment for the spring 2010 at the time as of
23 March 31st --

24 Q. Ms. Mantle before you go on, I know those
25 exhibits were HC --

1 THE WITNESS: I'm sorry.

2 MR. BYRNE: Yeah, we better go into
3 in-camera.

4 JUDGE WOODRUFF: Do we need to go
5 in-camera?

6 MR. WILLIAMS: I think we may be able to
7 handle it.

8 BY MR. WILLIAMS:

9 Q. When you're referring to these hedging
10 amounts, are you referring to what have been marked as
11 Exhibits 235HC, 236HC and 237HC?

12 A. Yes. They're very similar to documents
13 that I saw in the last case regarding their hedging
14 amounts.

15 Q. And is there a need for you in making your
16 answer to do any more than to refer to these exhibits
17 without referencing the specific numbers on them?

18 A. No. Since they have been submitted as
19 exhibits, they can be referred to.

20 Q. I think we've avoided in-camera that way.
21 You also reference volatility as part of your answer.
22 Would you expand on what you mean by that, differences in
23 volatility?

24 A. Typically volatility means changes in price
25 both up and down over a short period of time. I know

1 staff would not disagree with AmerenUE that its coal costs
2 are rising or that its uranium costs are rising, but they
3 do know it is a -- they know it's going to occur. The
4 coal, when the coal increase is going to occur, they have
5 an estimate of how much. It's not going up and down,
6 swinging wildly like the spot market prices are. Even if
7 they set -- each of their coal contracts are set on the
8 spot that day, the prices that they see themselves do not
9 swing wildly across a short amount of time.

10 Q. Is there any relationship between hedging
11 and volatility?

12 A. Hedging is done to mitigate volatility.

13 Q. And how does hedging mitigate volatility?

14 A. It gives the purchaser or the seller some
15 constraints on the amount or the price that they will be
16 purchasing or selling at. Also, a contract for coal --
17 for coal purchase could be considered a hedge because at
18 that point they've hedged the price that they will have to
19 pay for coal. So there are different types of hedges.
20 There's financial but then there's actual also.

21 Q. When you say they've hedged the price
22 they'll pay for coal, does that mean they've locked it in
23 or does it mean something else?

24 A. They've locked it in for a period of time.
25 I do believe all the coal, the contracts have an

1 escalation rate. So I wouldn't disagree that they do
2 change and they may not know what those changes will be,
3 but they will occur on January 1st mostly for the coal
4 every year.

5 Q. Do you recall when Mr. Byrne asked you
6 about some AmerenUE witness testimony yesterday referring
7 to long-term contract prices being based on a current spot
8 market price?

9 A. Yes.

10 Q. Do you know if the long-term contract
11 prices have the same kind of volatility as the spot market
12 price?

13 A. I don't believe that they did.

14 Q. Do you recall when Mr. Byrne asked you
15 about the definition of OSSR in the fuel adjustment clause
16 that AmerenUE has?

17 A. Yes.

18 Q. What is the Staff's current position on the
19 treatment of the AE -- or how the AEP and the Wabash
20 contract should be treated under the current definition of
21 OSSR?

22 A. It's Staff's position that they should be
23 treated the way that all the parties have agreed to treat
24 on an ongoing basis with these new rates. These were
25 contracts, long-term contracts that were entered into by

1 AmerenUE to sell to other electric utilities or
2 cooperative in one case.

3 They're the same as a contract to KCPL or
4 Empire. Staff would expect, just as they have long-term
5 purchased power agreements to purchase the fuel that comes
6 through the fuel adjustment clause, that any long-term
7 sales would likewise flow through the fuel adjustment
8 clause.

9 Q. Whenever Mr. Byrne asked you about the
10 modifi -- the proposed modification to the definition of
11 OSSR, you referred to it as being a clarification. Would
12 you explain why there was a need for that clarification?

13 A. When we drafted the tariff and the parties
14 agreed in the last rate case, it was our understanding
15 that the definition that was in there was a definition for
16 wholesale municipal utilities, the FERC jurisdictional
17 sales that AmerenUE makes to municipalities. And so we
18 clarified that definition with those words, Missouri
19 municipalities.

20 Q. Have you just related Staff's understanding
21 or all of the parties' understanding, including
22 AmerenUE's?

23 MR. BYRNE: I'm going to object. It calls
24 for speculation, your Honor.

25 JUDGE WOODRUFF: I'll sustain that

1 objection.

2 BY MR. WILLIAMS:

3 Q. Have you just related Staff's
4 understanding?

5 A. Yes.

6 Q. Has AmerenUE done or said anything that
7 makes you think AmerenUE might have a different
8 understanding?

9 A. Yes. When they did not flow the revenues
10 from those contracts through the fuel adjustment clause,
11 when they -- and in their filed case they classified those
12 two contracts as wholesale customers. So that leads me to
13 believe that they used a different definition than Staff
14 did.

15 Q. And you reference two contracts. Which
16 contracts were you referring to?

17 A. The one with AEP, which is American Energy
18 Power, I believe, and Wabash Cooperative.

19 Q. Do you remember when Mr. Byrne asked you if
20 you'd heard Mr. Neff say that AmerenUE, I believe,
21 purchases or is it -- purchases 8 percent of the coal out
22 of the Powder River Basin?

23 A. Yes.

24 Q. Do you know how that compares to -- or have
25 you heard how that compares to other purchasers in terms

1 of the volume of coal purchased by a single purchaser from
2 the Powder River Basin?

3 A. I believe Mr. Neff said they were the
4 largest purchaser.

5 Q. And does the share of the market that a
6 purchaser has indicate some power to control that market
7 to a degree?

8 A. To a degree.

9 MR. WILLIAMS: No further questions.

10 JUDGE WOODRUFF: All right. Ms. Mantle,
11 you can step down. And we'll call the next witness, which
12 is Mr. Brubaker. Good morning, Mr. Brubaker. Is this the
13 first time you've testified in this case?

14 A. Yes, sir, it is.

15 (Witness sworn.)

16 JUDGE WOODRUFF: You may be seated. You
17 have probably heard my little speech also about only
18 answering the questions that are asked and not
19 elaborating?

20 THE WITNESS: Yes.

21 JUDGE WOODRUFF: Things will go much more
22 smoothly. You may inquire.

23 MAURICE BRUBAKER testified as follows:

24 DIRECT EXAMINATION BY MS. VUYLSTEKE:

25 Q. Good morning, Mr. Brubaker. Could you

1 state your business address for the record?

2 A. Yes. My business address is 16690 Swingley
3 Ridge Road, Chesterfield, Missouri 63017.

4 Q. And by whom are you employed and in what
5 capacity?

6 A. By Brubaker & Associates as a managing
7 principal and president of the firm.

8 Q. Are you the same Mr. Brubaker that filed
9 additional direct testimony on February 22nd, 2010 on fuel
10 adjustment clause issues?

11 A. Yes.

12 Q. And if I were to ask you the questions that
13 are contained today -- if I were to ask the questions
14 today that are contained in your prefiled testimony, would
15 your answers be the same?

16 A. Yes, they would.

17 MS. VUYLSTEKE: At this point I would
18 request to have Mr. Brubaker's testimony admitted into the
19 record, and tender the witness for cross-examination.

20 JUDGE WOODRUFF: Which testimony of his are
21 you offering at this point? He's got several.

22 MS. VUYLSTEKE: I apologize. I'm just
23 offering his fuel adjustment testimony at this time, and I
24 need to let you know the exhibit number.

25 JUDGE WOODRUFF: 413 would be his FAC

1 direct. Is that what we're talking about?

2 MS. VUYLSTEKE: Yes, his FAC direct, and we
3 would propose to offer his rate design testimony when
4 those issues are heard.

5 JUDGE WOODRUFF: 413 has been offered. Any
6 objection to its receipt?

7 (No response.)

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

10 (EXHIBIT NO. 413 WAS MARKED AND RECEIVED
11 INTO EVIDENCE.)

12 JUDGE WOODRUFF: Cross-examination, we
13 begin with Public Counsel.

14 MS. BAKER: No questions, your Honor.

15 JUDGE WOODRUFF: For Staff?

16 MR. WILLIAMS: No questions.

17 JUDGE WOODRUFF: AmerenUE?

18 MR. BYRNE: No questions, your Honor.

19 JUDGE WOODRUFF: Questions from the Bench.
20 Commissioner Davis?

21 COMMISSIONER DAVIS: Good morning,
22 Mr. Brubaker.

23 THE WITNESS: Good morning, Commissioner
24 Davis.

25 COMMISSIONER DAVIS: No questions.

1 JUDGE WOODRUFF: Commissioner Jarrett?

2 COMMISSIONER JARRETT: I can't let you get
3 off that easy, Mr. Brubaker.

4 THE WITNESS: I knew I could count on
5 someone.

6 QUESTIONS BY COMMISSIONER JARRETT:

7 Q. I have a few questions. Are you familiar
8 with how other states handle the fuel adjustment clauses?

9 A. Generally, yes, I am.

10 Q. About how many states have fuel adjustment
11 clauses?

12 A. I don't have an exact count. I would say
13 probably 90 percent of states, well, maybe a little bit
14 more than that, have some form of fuel adjustment clause
15 for most of their electric utilities.

16 Q. And is it your understanding that states
17 either use projected cost or historical cost in figuring
18 those?

19 A. Yes. Those are two basic views of cost
20 inputs for FACs.

21 Q. And Missouri uses historical cost?

22 A. Correct.

23 Q. What is the difference between using
24 historical cost and projected costs?

25 A. It's basically a lag in the collection of