

BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

EVIDENTIARY HEARING

November 12, 2010

Jefferson City, Missouri

Volume 2

In The Matter Of The Application)
Of Cardwell Lumber, Inc. For)
Approval Of A Change Of Electrical)
Suppliers At Its 5927 Highway 50)
West, Jefferson City, Missouri) Case No. EO-2011-0052
Location From Union Electric)
Company To Three Rivers Electric)
Cooperative)

KENNARD L. JONES, presiding
SENIOR REGULATORY LAW JUDGE

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JUDGE JONES: Good morning. This is Case No. EO-2011-0052. My name is Kennard Jones. I'm the judge presiding over this matter. This case involves the application of Cardwell Lumber for approval to change their electric supplier from Union Electric Company to Three Rivers Electric Cooperative.

At this time, let's take entries of appearances, beginning with Cardwell.

MR. JOHNSON: Thank you, Your Honor. It's Craig Johnson, Johnson, Sporleder, LLP, 304 East High, Suite 200, Jefferson City, Missouri 65102, appearing for Cardwell Lumber.

JUDGE JONES: Thank you.

From Ameren Missouri?

MS. TATRO: Wendy Tatro, 1901 Chouteau Avenue, St. Louis, Missouri 63103.

JUDGE JONES: Staff of the Commission?

MR. DEARMONT: Thank you, Judge. Eric Dearmont on behalf of the Staff of the Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65102.

JUDGE JONES: Is there anyone here from Three Rivers?

MR. SPORLEDER: Yes, Judge. Andrew sporleder, Johnson and Sporleder, LLP, 304 East High

Street.

JUDGE JONES: And from the Office of Public Counsel?

MR. MILLS: On behalf of the Office of Public Counsel and the public, my name is Lewis Mills. My address is Post Office Box 2230, Jefferson City, Missouri 65102.

JUDGE JONES: Thank you. You all have provided me with the order of examination and opening statements, so let's go ahead and get started with Cardwell Lumber.

MR. JOHNSON: Thank you, Your Honor. We're here for a change of power suppliers request. I thought what I would do at the outset of this opening statement is sort of remind the Court -- or the Judge of the factors that the case law from prior PSC decisions has indicated are appropriate to be considered.

And as I recall the cases -- and there was two in particular, Bakie and Sinclair -- and I can provide those cites in my post-hearing brief -- what the Commission does here when trying to decide if an application is in the public interest for reason other than a rate differential, is they look at several customer reasons, and they look at several utility reasons, and then they weigh those.

The legitimate reasons that a customer can

obtain a change of supplier for is if: One, their needs are not being adequately met by the current supplier; another legitimate reason is if they have a preference for a different supplier; if they've had power reliability issues, power quality issues, equipment damage, health issues, safety issues, duplication of facilities, the overall burden on the customer of living with its existing supplier, and the possible impacts upon economic development by changing or not changing power suppliers.

From the utility standpoint, some of the factors that it sometimes will rely upon are whether the effect of the loss of a customer will have an impact upon the utility, whether the utility will have stranded investment, whether the customer change could impact an existing territorial agreement or territorial agreement negotiations; the efforts by the supplier to mitigate the customer's problems are a factor. So those are sort of a list of the factors.

And what would I tell the Commission in this case is that from Cardwell Lumber's standpoint, their needs are not being met by Union Electric, and they have a strong preference for being served by a rural electric cooperative. In this situation, that would be Three Rivers Electric.

Cardwell Lumber has two business sites in

northeast Missouri that aren't directly applicable here. One of those is in Novelty, Missouri, supplied by Lewis County Rural Electric; and the other one is in Frankford, supplied by Ralls County Electric Cooperative.

In 2004, they bought a site out in Apache Flats, or St. Martins, that we call the Cardwell tract in this case. And when they bought it, they became Union Electric customers. Union Electric supplied power to that tract of land.

The tract has several different structures on it. The different structures have different -- or have had or will have or currently have different types of equipment in them -- different types of electric equipment.

What all three of these Cardwell sites have in common is that they are what we call a primary metered electrical system, which means that the power is metered when it's still at a high voltage level, before it's stepped down at the distribution transformer to what I might think of as a normal household level, 120 or 240 volts.

And I believe in this situation, the power voltage that comes in from Union Electric to the Cardwell tract in Apache Flats is 12 kVA or 12,000 volts. And I may be wrong. I'm not yet an electrical engineer.

Because this system at Cardwell -- which

they inherited when they bought it from the prior owner of the property -- and when they bought it, I don't believe there was any change in the facilities. I think they just basically transferred the customer status from the prior owner to Cardwell.

But what's different about the tract in question today out in Apache Flats is that Cardwell is responsible for maintaining and operating not just what you would normally see at the 120- and 240-volt level -- that all people who own houses or business establishments that are supplied at a secondary voltage level -- it's their responsibility to do, but in addition, Cardwell is responsible to maintain from the primary meter pole and the -- where the primary fuses are, the high voltage line of 12,000 volts to -- which comes to about ten different power poles on their property, at about fifteen or eighteen different transformers, which step down to the secondary voltages.

That's something that Cardwell was not familiar with. They're not in the electrical business.

And at Frankford and Novelty, those systems were maintained -- the primary part of those systems were maintained by the rural electric cooperatives.

But I think part of the key to understanding this case is looking at the unique nature, or the different

nature of a primary voltage system, and asking people that aren't in the electric business to be responsible to maintain it.

Now, everybody in this case has stipulated that that system out there -- the primary system that belongs to Cardwell on the Cardwell tract -- is in bad shape, it's in need of repair and replacement, it's of poor design.

The evidence -- and I'm not going to get into detail about all the different incidents -- has been that ever since Cardwell took over the site and became Union Electric's customer, they have had difficulties interfacing or obtaining service from Union Electric that didn't have an adverse -- and that lack of services had an adverse impact upon Cardwell's business. When you're in the lumber business, you need electricity. When the power is out, you need it restored.

The service issues have gone so far that Cardwell has decided that if they build any new structures on that tract -- and there's plenty of room to build more -- it's not going to be Union Electric that serves them.

It's also gone so far that if they don't get the power supplier change that they're requesting in this case for all the structures there on the Cardwell tract,

they're going to shut the operation down.

So the evidence in this case is going to show you that Cardwell's needs have not been met by Union Electric; Cardwell prefers a service -- electric cooperative over Union Electric; there are safety issues and liability concerns associated with restoring service after outages; and in Cardwell's mind, Union Electric has demonstrated that it's more concerned with its system than it is with the safety of people who may be doing work on or about the Cardwell tract.

Union Electric has demonstrated to Cardwell that it won't work with them. Cardwell has asked them time and time again to give them help in designing and replacing the system. That never happened, until they had to come to the Commission a second time and ask for a change of power suppliers.

And Cardwell -- or Union Electric's failure to work with Cardwell has caused Cardwell to question whether it can continue to operate and provide jobs in the Jefferson City area.

There's been some boiler outages, damages to motors, and outages. There's been some issues associated with disconnecting or replacing what we call primary fuses, or blown fuses.

And Cardwell will testify that this request

has nothing to do with a rate differential. They're not interested in, and haven't even studied or compared, the price per kilowatt hour that they're getting today from Union Electric to the price per kilowatt hour they will be getting in future if they get Three Rivers out there. It's not -- it's simply not a factor in their business decision.

Thank you.

JUDGE JONES: Let me ask you before you leave, Mr. Johnson. If Cardwell's only reason for wanting of a change of supplier was simply that, we don't like Ameren, period, do you think that would be enough to justify a change of supplier?

MR. JOHNSON: I think that's enough to support a Commission decision that it justifies that change, yes.

JUDGE JONES: Okay. Thank you.

Ameren Missouri?

MS. TATRO: Good morning.

JUDGE JONES: Good morning.

MS. TATRO: Cardwell's been a customer of Ameren Missouri since 2004. There's a long-standing law in this state that says once an electrical corporation commences service -- permanent service to a structure, that it has the right to retain that service, except for one exception, and that is that the Commission can order a

change of suppliers on the basis that it's in the public interest for a reason other than rate differential.

Cardwell themselves says -- mentioned two reasons: One was customer preference, which I think historic Commission decisions say -- the Commission has said that alone is not sufficient basis to order a change of supplier.

And the second is alleged difficulties in working with Ameren Missouri; perhaps damage to some of their facilities. Of course, they've stipulated in this case that oftentimes the damage that had -- the outages that occurred actually occurred because of issues with their own facilities, facilities over which Ameren Missouri has no ownership and no responsibility.

So our witness today, Mr. Hagan, who is the engineer for that division, will testify as to the interaction to the extreme efforts the company has gone in an attempt to work with Cardwell.

But what it's come down to is, Cardwell wants certain facilities removed without charge to them, which the company is not allowed to do by its tariff. So it does come down to an issue of what's the charge that the company would have to pay under Ameren Missouri or under -- excuse me -- Three Rivers.

That, however, doesn't provide a sufficient

basis for the Commission to change suppliers. Ameren Missouri's providing reliable service; it has acted appropriately whenever there's been contact indicating decision -- questions of reliability, and it's acted in a manner that's appropriate.

There is not a public interest reason for this Commission to allow a customer to leave Ameren Missouri, stranding whatever facilities would be stranded, and go to a co-op merely because they prefer co-ops.

We were the server prior to them buying the facilities, and if they didn't know that at that time, it doesn't provide a public interest reason that this Commission can act upon.

JUDGE JONES: Okay. Let me ask you. How might the public interest ever be served?

MS. TATRO: I think there are instances -- I've been involved in cases where we've switched customers. We had a customer that was at the end of a very long -- I don't know if it was a mile or more line. There was no other customers on the line. They were in a heavily wooded area, and reliability was very problematic.

The co-op was much closer, could get people there faster to resolve the situations, and we decided it was in the public interest -- that customer could have more reliability, and all the parties agreed to allow that

switch to occur.

JUDGE JONES: Let me ask you this further, then. Still talking about the public interest, Ameren's -- after determining their rates, that amount is divided amongst the number of customers that they have in that area -- or maybe even over their whole system. I'm not real sure.

MS. TATRO: The entire system.

JUDGE JONES: Okay. The entire system. When Ameren loses that one customer, don't rates go up for everyone else?

MS. TATRO: By whatever amount of the fixed cost was allocated by effect of the rulemaking to that customer, yes. I couldn't tell you what that amount is --

JUDGE JONES: Well --

MS. TATRO: -- but certainly.

JUDGE JONES: -- it goes up --

MS. TATRO: It does.

JUDGE JONES: -- because that one customer is gone. Right?

MS. TATRO: Yes.

JUDGE JONES: Isn't that a detriment to the public interest?

MS. TATRO: I would say that it is.

JUDGE JONES: So when is the public interest

served?

MS. TATRO: Well, I think when other factors override it. I think that's why the general principle is: You don't switch providers unless there is a very good reason to do so.

I think if it's necessary to have good reliability for a customer that they be switched, that would be a consideration that would outweigh that. In that instance, the Commission still has to approve that. So that's, I think, the decision making the Commission goes through.

JUDGE JONES: So reliability issues are when the Commission might approve a change of supplier?

MS. TATRO: I think that's the obvious example, if there's severe reliability issues that the company couldn't address without expending an extraordinary amount of money, I suppose, would probably be --

JUDGE JONES: So you don't think --

MS. TATRO: -- an example.

JUDGE JONES: -- it's a good enough reason for a customer if we just simply -- even though their feelings may be invalid, it appears to them that they just don't like Ameren; there's just bad blood between them?

why can't they -- why would they -- why should they be forced to stay with a provider that they

simply just don't like?

MS. TATRO: I think the Commission has addressed that previously and held multiple times that customer preference is not a reason to switch. I think that would make the -- what we generically call the anti flip-flop law -- it would make it meaningless. That law says once start serving a customer with permanent facilities, they stay our customer.

JUDGE JONES: Well, since you brought up the anti flip-flop law -- I'm flip-flopping, flip-flopping -- I was going to save this for Staff, but since you brought it up, I'll ask you.

There's case law that addresses the anti flip-flop law, and it refers -- when it speaks of rates, it doesn't talk about the cost of equipment; it talks specifically of how much a person -- or a customer, rather, pays for its monthly rate. That's what -- that's how rate is defined when it talks about the flip-flop law.

MS. TATRO: Well, I'll let you discuss Staff's argument with Staff.

JUDGE JONES: Okay.

MS. TATRO: What I would say is, I don't believe there's a reason other than rate differential that's in the public interest, which is what the standard is. Right? The standard is the basis that it's in the

public interest for a reason other than rate differential, which is why I bring up reliability as an example.

JUDGE JONES: Okay. Thank you.

Staff for the Commission?

MR. DEARMONT: Good morning, Judge.

JUDGE JONES: Good morning.

MR. DEARMONT: And may it please the Commission. I'll keep my remarks brief. Staff believes that the applicant's request to change its electric service provider from AmerenUE to Three Rivers should be denied.

It's required by state statute and Commission rules, in order to obtain Commission approval for such a change, an applicant must demonstrate, as we all know, that the request is in the public interest.

Although I plan to speak more about what constitutes the public interest in the arguments scheduled to follow today's evidentiary hearing, the public interest must be based upon factors other than rate differentials, i.e. safety, general economic developments, and severe reliability concerns.

while it's possible, and perhaps even probable, that obtaining service from Three Rivers would be in the best overall economic interest of Cardwell, this single microeconomic consideration does not satisfy the required public interest standard.

Furthermore, the fact that the charges required of Cardwell in order to obtain any changes in service are -- the fact that those are contained in AmerenUE's Commission-approved tariffs amounts to what Staff believes is an argument based upon a rate differential, and which therefore, is to be excluded from any public interest analysis conducted in this case.

JUDGE JONES: Okay. Well, since I had this question for you and it's been passed to you, in statements of position, I see the Staff's position that in Ameren Missouri's tariffs, any estimate rendered pursuant to requests for an enlargement or modification of Ameren Missouri's distribution constitutes a rate, and as such, any difference in like estimates amounts to a rate differential, as used in the Revised Statutes.

I'll pose that question to you: Rate, although Ameren's tariff may or may not define rate as such has been defined as that monthly amount that we pay each month. And I don't -- that doesn't seem to be at issue in this case. So it doesn't seem to be a rate differential. How do you address that?

MR. DEARMONT: Well, I guess I'm personally unfamiliar with that definition.

JUDGE JONES: What definition? The one that's in your statement, or --

MR. DEARMONT: No. No. I'm familiar --

JUDGE JONES: -- what are --

MR. DEARMONT: -- with our position. I think that that's an accurate -- an accurate characterization of our position. I was unable to come across any case law defining rate in that way, or the way, for that matter, that the applicant has defined it today. But --

JUDGE JONES: At 726 Aqua SW 2nd 415, Union Electric vs. Cuivre River Electric Cooperative and Flawless Homes, Inc. And that order says, This section has been termed by -- "this section" meaning 393.106 -- This section has been termed by the parties as the anti flip-flop statute, and has, as its counterpart -- well, 393.106; I suppose the other has to do with rural, which is -- which came out -- which came out in 393.

But essentially, the second sentence is designed to preclude customers from switching back and forth between electrical suppliers on the basis of rates and charges.

MR. DEARMONT: I -- I --

JUDGE JONES: Now --

MR. DEARMONT: -- I agree with that. And I actually did come across that case, and I was going to talk about that later. But I would -- I would point you to the

word "charges" in addition to rates.

I mean, it's Staff's argument that the costs to attain or achieve any enlargement or modification in AmerenUE's distribution system, the cost to attain that is controlled by an estimate, the estimated cost to provide those services, those enlargements, those modifications.

That estimate is contained -- or that procedure -- that protocol is contained in a Commission-approved tariff, and as such, it's a charge.

That's what it would cost Cardwell, or any applicant, to receive the benefit for any modification that is required to be performed of Ameren's system. So in that regard --

JUDGE JONES: You wouldn't think that a charge would be something like late charges, or --

MR. DEARMONT: I certainly would agree that that is a charge, that that's a fee. I mean, I give a much more expansive reading --

JUDGE JONES: I understand.

MR. DEARMONT: -- to the term "rate."

JUDGE JONES: So let's take that reason out of Cardwell Lumber's application. Say, it has nothing to do with cost. And as I posed to Ameren, what if they simply don't like Ameren, for whatever reason?

MR. DEARMONT: Sure. I personally don't

think that's enough.

JUDGE JONES: But it's not related to any rates or charges. And might not it be in the public interest?

MR. DEARMONT: I think that it's a factor that could be considered by the Commission in making a public interest determination. But I certainly don't think that factor in and of itself is determinative. It certainly is relevant.

JUDGE JONES: But the -- so the public interest is served by not forcing a contract between two parties who, one of which, doesn't want to be a party to that contract?

MR. DEARMONT: well, I don't know that it's a contract. I think that the -- Ameren --

JUDGE JONES: A tariff is a contract.

MR. DEARMONT: -- that Ameren's tariffs clearly provide that they could provide service to this customer.

And also the statutory -- the anti flip-flop law, as we referred to it, I think is clear to prevent situations that -- where the customer's preference is one day with Ameren, and then with Three Rivers or a co-op the next day.

I mean, to extend the argument even further,

what, then, stops them from flipping to the co-op and then flopping back to Ameren? I mean --

JUDGE JONES: Well, in that case, that would be a flip and a flop. Here, we're just talking about a flip.

MR. DEARMONT: Right. Noted. Yes. But, I mean, I think that the statutes are written in a way that, generally, is meant to stop flips and flops, I mean, for Cardwell or any consumer, for that matter.

JUDGE JONES: Okay. Thank you.

MR. DEARMONT: Thank you. Would Three Rivers like to make a statement?

MR. SPORLEDER: Yes, Judge. Good morning, Judge.

JUDGE JONES: You may proceed. Good morning.

MR. SPORLEDER: My remarks will be brief on behalf of Three Rivers.

Three Rivers would like to point out that Cardwell in its application applied for a change of supplier from Ameren to Three Rivers in accordance with the provisions of Section 393.106 of the Revised Statutes of Missouri.

Three Rivers believes that this change of supplier application is governed by Missouri's anti flip-

flop statutes. As a Commission-regulated investor-owned utility that they're requesting a change of service from that would be governed according to Section 393.106.

Three Rivers will not served Cardwell's premises without an order from the Commission authorizing this change of suppliers.

And Three Rivers opposes and disagrees with the statement of position and argument of Cardwell that because the Ameren metering device is not adjacent to any Cardwell structure receiving service from Ameren, that the contemplated change of supplier away from Ameren to Three Rivers somehow falls outside the scope of Missouri's anti flip-flop statutes.

Cardwell's position would go against the intent and spirit of Missouri's anti flip-flop statutes, and would undermine the stability provided by the very purpose of the anti flip-flop statute.

Three Rivers believes that Ameren's metering device is located adjacent to the Cardwell structures for purposes of Section 393.106.

Three Rivers, though, has no position, though, regarding the merits of Cardwell Lumber's application for a change of supplier in regards to whether or not the contemplated change of supplier request qualifies for the exception contained in Section 393.106,

which would allow the Commission to grant Cardwell's application and order a change of supplier on the basis that it is in the public interest for a reason other than a rate differential.

JUDGE JONES: Let me see if I understand what you just said. It sounds like you're saying, Ameren has the right to provide service, but with regard to the exception, you take no position?

MR. SPORLEDER: We're taking no position on the exception.

JUDGE JONES: Okay.

MR. SPORLEDER: We just disagree with the statement of position of Cardwell regarding whether or not their metering facility of Ameren is adjacent to the Cardwell structures being served.

JUDGE JONES: How is that even -- I'm not sure how that -- I don't understand how that's relevant, whether it's adjacent to the --

MR. SPORLEDER: We're not saying it's relevant, Your Honor. We just disagree with that statement and position.

JUDGE JONES: Okay. All right. The office of Public Counsel?

MR. MILLS: Judge, by your leave, I'll waive opening statement before hearing the evidence.

JUDGE JONES: Okay. Let's go ahead and move into the first witness. Cardwell.

MR. JOHNSON: Can I fill a couple of cups of water, Your Honor?

JUDGE JONES: Of course you can.

MR. JOHNSON: Thank you.

JUDGE JONES: Does anyone else need to get water or anything while we're doing this? Okay.

well, before you sit down, let's go ahead and swear you in.

(Witness affirmed.)

THE WITNESS: Yes.

JUDGE JONES: Thank you. You may be seated.

MR. JOHNSON: Has the witness been sworn?

JUDGE JONES: Yes, sir.

MR. JOHNSON: Thank you.

JUDGE JONES: You may proceed.

MARK CARDWELL testifies as follows:

DIRECT EXAMINATION BY MR. JOHNSON:

Q. will you state your name, please.

A. Mark Cardwell.

Q. And Mr. Cardwell, where do you live?

A. Edina, Missouri.

Q. And are you employed by Cardwell Lumber?

A. I am.

Q. what's your job with them?

A. Vice president -- generally anything that would fall under the vice president's realm, construction, building.

Q. Are you also an owner of the business?

A. Yes.

Q. Okay.

A. Minority owner.

Q. How long have you been employed by Cardwell Lumber?

A. The last time, continuous employment, since '92 -- December of '92.

Q. Did you serve periods before that?

A. Yes. All the time when growing up. In a family business, you grow up working in the family business.

Q. Can you tell us a little bit about the types of operations that Cardwell performs? what kind of lumber business are you in?

A. We've got two milling operations, one in Novelty and one in Jefferson -- or New London -- Frankford, is our actual location. In both of those milling operations, it's green mills. The millwork that we do is we take rough logs and saw staves and -- for lumber.

Everything pretty much in them operations up

until the last few years has been in green work. We primarily in the stave business, which is in the spirits -- or the staves that we manufacture are used in wine barrel building and whiskey barrel building, and we also do a lot of lumber ties, pallet lumber like for pallets.

Any -- any type of native lumber to Missouri, we would be involved in, pretty much, in green mill operations.

Q. So the total years of experience you would have doing that would be about 25?

A. I would say that would be safe. I'm 45 years old, and never went to college, so I would say that would be safe.

Q. How many employees does Cardwell have?

A. Eighty-three total; down ten or so through these recession times.

Q. Is the nature of the lumber industry such that you have to be fluid or able to change operations given the market conditions?

A. We've had very poor markets over the last few years. Poor, saying almost to the point of no markets in the lumber business.

In our operation, we're very diversified in what we do, so if we have any avenues in our business that's strong and we can focus on those, then what's we've

done over the last few years to try to keep it running strong. But most of the focus has been in the mills at Novelty and New London.

Q. When Cardwell purchased the tract out here in St. Martins, or Apache Flats, what businesses -- what lumber businesses were you in there at St. Martins?

A. When we bought the operation out here, it was currently Capital Hardwoods. And we wanted to expand into the kiln-dried lumber business -- being able to move a product one step further.

We bought it as an operating business; never had any layoffs or closures. There was no employees that lost their job or gained jobs per se at the time. We bought it and tried to grow our kiln-dried lumber business.

One of the big advantages to buying the business as a whole was to pick up the markets in the marketplace that they already had in stock at that time; and also the operations with the employees and the workforce that was there letting us just continued build on what was already there.

Q. Okay. Since 2004, when you bought the property, have you changed your operations there?

A. We've definitely changed the operations there. We had -- at 2004, the lumber business was at an all-time high. It seemed like you could do no wrong.

Since that, the housing started slowing. Of course, in the last couple of years, housing hit an all-time low. Most of the products that come out of the operation go into housing, so it's been very detrimental to the business and the business operations out there.

Q. Okay. What new business enterprises or avenues or niches are on the horizon for your operation at St. Martins?

A. We've been working, trying to get -- push into millwork and retail lumber. The retail side of our business, just a few years ago, amounted to less than 1 percent of our total. And we would like to move that up to 8 to 10 percent of our total business.

In millwork, what we will be doing is using dry lumber to make trim, flooring. These are things that we're already doing at Novelty and can do at Novelty. But the problem with our Novelty location, it's in a county of 4,000 people.

Down here in Cole County, where this operation is, the population base around it is probably realistic in a 50-mile radius would be a hundred fold of that or more. So it gives -- it lets us be exposed to a lot more people.

And that -- we feel like that in our -- if we grow this business out here, that's the direction that

it will be going. It will be all into millwork and the green dry. As of now, we're not drying any lumber whatsoever out there.

Now, there's possibilities, if the lumber business changes, that we can bring that back. But there's no need to right now. The market just doesn't support that type of business.

Q. When you began your operations in St. Martins or Apache Flats, what did you have to do with respect to the electric supply?

A. Well, again, we bought it as an operating business. We never really had any down days to change. We just started calling the accounts and told them that we had purchased the business.

And as far as billing accounts, we would call them and change the billing to Novelty, which that's where all the billing through the plant goes through -- the receiving accounts the same -- and told them, you know, that there was new management and a new business and, you know, what the changes had been. And pretty much just business as normal.

Q. So you changed the account from Cardwell -- what was the name of that --

A. Capital Hardwood.

Q. -- Capital Hardwoods to Cardwell Lumber?

A. Cardwell Hardwoods.

Q. Cardwell Hardwoods.

A. which is an operating name just for the Flats out here. The actual parent name, or the corporation name, is still Cardwell Lumber. That's the tax ID number that we operate under.

Q. Did you ever have to turn the electricity off when you took over the operations out there?

A. The only difference in electrical service is we called AmerenUE through the 800 number out of the phone book, told them that we had bought the operation, and they sent us a bill for \$6,250 for a hook-up fee.

Q. But my question was: Were you -- did they ever disconnect the meter that served --

A. They never set foot on our premises.

Q. So basically, the account was transferred from the predecessor's name to your name, and they probably came out and took a bill reading -- or meter reading to get the bill straightened, but the electric was never turned off?

A. Actually, I don't even think they come out to take a bill reading, because the -- until November -- October/November, that was the way it was arranged to do in the purchase contract. The bill would be assumed --

Q. In closing cost adjustments?

A. -- by Capital Hardwoods. And Cardwell Lumber -- Hardwoods would take over beginning November 1.

Q. Did Union Electric have to do anything to its facilities that supplied the Cardwell tract? Was there any construction that they had to do for you to take over?

A. If we wouldn't have called them and told them to change the name, they would have never known there was a difference.

Q. I want to spend a little time showing some diagrams and pictures to the judge so he can get an idea of exactly what we're talking about. And you have a set of these exhibits before you, don't you?

A. I do.

Q. Okay.

MR. JOHNSON: Do you -- would it be easier to number them all at once, Your Honor, rather than having them numbered each time I -- because I arranged -- I didn't presume to give them numbers.

JUDGE JONES: Let's just number them as we go along.

MR. JOHNSON: Okay. And I've given groups of these documents to counsel in the room. And they're in a little clip, and I'll go through them in order, Mr. Cardwell.

BY MR. JOHNSON:

Q. But the first document, which I've called the diagram of building identification, are you familiar with that?

A. I am. I drew it.

Q. And what does that depict?

A. It's just the basic layout of the property and how the property lays, with the perimeter being the property lines and the building layout that's there.

The only thing that I'll note that's there is since this has been done, Building 9 is completely gone, and Building 3 is just about completely gone.

MR. JOHNSON: Can -- may I call this Exhibit 1, Your Honor?

JUDGE JONES: Yes, sir.

(Exhibit No. 1 was marked for identification.)

BY MR. JOHNSON:

Q. Mr. Cardwell, does this Exhibit Number 1 -- does it fairly and accurately depict the layout of the piece of property and the location of different structures on the tract?

A. That is correct. It was drew off an aerial photo, pretty much, just the layout of the way that the --

MR. JOHNSON: I'd offer Exhibit 1, Your Honor.

JUDGE JONES: Is it two pages or one? I have two pages.

MR. JOHNSON: It's just one, Your Honor.

JUDGE JONES: Okay.

MR. JOHNSON: There should be actually three of these.

JUDGE JONES: All right. And what do these -- there are little circles on this exhibit, near the buildings. What are those little circles?

THE WITNESS: Those would be the poles or the --

JUDGE JONES: Okay.

THE WITNESS: -- electrical poles that's on the facility. And if you go to this paper right here (indicating), there's --

JUDGE JONES: Okay.

THE WITNESS: -- a pole count of each pole, and then there's a picture of each pole in the Polaroids.

JUDGE JONES: Is there any objection to this Exhibit Number 1? Seeing none, Exhibit 1 is admitted into the record.

(Exhibit No. 1 was received into evidence.)

BY MR. JOHNSON:

Q. Mr. Cardwell, would you go down the list of the buildings and tell us what type of equipment is in

there that requires electrical power and the type of power that it requires?

A. As of today, the electrical equipment that's in there -- Building 2, there is a planer and a straight line rip saw and some lights; electrical outlets, 110 service.

One of the things that -- about it, our power has been disabled from problems within the system since early in the year, and we're not able to run this equipment at all.

All of the work that we do with the planer or straight line has to be done at Novelty and trucked in. But that is the only building in there that there's any equipment that we intend on running in the short nature.

If you look at Building 3, was what we called the green shed. Whenever -- green chain or green shed. That is -- whenever lumber come into the facility, that's the first building it went through there.

And the reason it's called the green chain or green shed is because the lumber is green at that nature, when it receives there. It has nothing to do with the color. It's still wet, and it hasn't been dried yet.

Building 4 is just for storage. We do have lights and a roll-up door in that building that we could use power in. Five and 6 there was never any service in

whatsoever.

Seven was what we called the small kiln. It's where we actually done some drying in that building. It's masonry [sic] construction, so we can't move it. That kiln is going to stay there. We pulled out some fan motors, some radiators.

The kiln will be -- the doors will come off of it, because we have to move them to Novelty to fix the doors on the Building Number 9, which we've just moved in the last few weeks to Novelty, where it's being erected up there even as we speak.

Building 8 is a -- is a dry storage shed. There's basically nothing in it. It's open on one side, which is the west side. We did do some manufacturing in it when we was running. It's where the dry chain was. It's where we brought the lumber off of sticks. And it was packaged out for shipment. But that's -- all the equipment in that building has been removed. It's just a bare shed at this time.

Building 10 is where our boiler and boiler operation was. That was really the demise of the project. When our boiler went to the bad, we -- the economics just wasn't there to replace it to keep the business in operation.

There's a little bit of material handling

equipment, the old boiler is sitting in there -- which is basically just scrap iron that needs to be wrecked out and thrown away. There is some electrical boxes and stuff in there that has some value, but it will be wrecked out. The building will be hard to use.

And Building 11 was a steamer that we built, and that's where we steamed walnut. And basically, when you steam walnut, you just blow raw steam into it, and it will turn all the walnut -- sap wood as well as the hardwood -- into like a light cocoa color.

Most people that don't know walnut doesn't realize it's steamed, but nearly all walnut that's sold in domestic or foreign is all steamed walnut.

Q. When did you start dismantling some of the equipment that was in those buildings?

A. The boiler went to the bad late last year. We tried to struggle along until December 31st. But we've been wrecking out equipment since the beginning of the year.

Q. And what was the business decision that you made to change? What was that decision?

A. Through the -- through things that had been dealt to us, and mostly being economic times -- which we're not the only business that had issues -- but it just wasn't viable to keep this operation open any longer.

Some of the things that happened through the years, we was in the position where we needed to either start spending a lot of money at this plant to bring the equipment up to standards, or else we was going to have to spend money at Novelty to put in this like equipment up there.

Through the economic conditions, what was faced to the company, and what was the best benefit to the company, and also just being truthful, the electrical service that was provided and how -- that we relate with these people, we made the decision that we would be better off to start building facilities at Novelty instead of remodeling and redoing these facilities here.

But that still didn't -- that was not the demise of the operation, until the boiler went to the bad. And whenever -- the boil -- what happened with the boiler is they typically rot out from the inside out.

And we had yearly boiler inspections through the state, and that's dismantled and you look inside it. But some of the stuff, you just can't see. And when it started leaking, I mean, it's basically scrap iron, is what it is. So we never sought to change it.

Q. If in the next three years the -- it became feasible for you to perform a milling -- a millwork operation at the Apache Flats, would you use any of those

structures, or would you build a new structure for the millwork?

A. If we was -- if we're to expand and be serious into this millwork business, it will take a new facility.

The buildings there -- when you look at, like, Building 2, that we're still using, was built as a sawmill. There's multiple levels in it. The roofs are poor. The building is poor. It's not tight. It's not clean. And it would be -- it's just not the kind of building that you would want to expand your business dependent on a facility like that.

So if we -- if we expand, we're going to build -- it will take new facility to expand. But we also need to be able to use some of the facility that's there for storage, so on and so forth. And some of the equipment in there -- one of the hardest things that we would have to overcome is our dust system.

And our dust system is a baghouse. And if you're ever out past there -- it's actually a little square just to the right-hand side of 2. It's not listed as -- with a number. But that dust system is very expensive. It's hard to move, it's hard to build. And we would need to utilize that dust system, because it's a baghouse and it contains the dust and keeps the air clean.

Q. If you built a new structure or new building for the millwork, would any of these structures that you've removed equipment from in the past year, would you still have any use for any of them, besides the baghouse?

A. Yes. We would use them for dry storage. You know, especially -- Building 4 and 8 are buildings that has a lot of square feet in them. Dry storage, you know, it doesn't have to be heated or cooled. We do need roll-up doors. We need lights.

But as far as -- manufacturing in them would be very slim. Building 2, we would like the possibility to keep some manufacturing in, only as a stepping stone to get where we need, because some of the equipment we need is already in there and it's already set up.

Q. Okay. What's Building Number 1 on Exhibit 1?

A. That's our office and a retail store.

Q. Up in left corner, there are two little circles up there. I'm talking about the left corner as you're -- of the tract that you've drawn on Exhibit 1.

A. Yes.

Q. What do those two circles represent?

A. They would be poles that would be owned by -- the north pole is Ameren's pole; the south pole would be Three Rivers' pole --

Q. And --

A. -- on the same tract.

Q. -- in terms of north, is it correct that the top of this Exhibit 1 is the north?

A. That is correct.

Q. So how long has Three Rivers' pole been there next to Union Electric's pole?

A. I would have no idea.

Q. Has it been there since you've owned the site?

A. Yes.

Q. The next one -- would you pick up the next one, which I will have marked as Exhibit 2.

(Exhibit No. 2 was marked for identification.)

BY MR. JOHNSON:

Q. Is that the one with the little triangles? Does it -- did you prepare this one, as well, Mr. Cardwell?

A. I did.

Q. And can you tell us what you were trying to depict in it?

A. What this is is a layout of the electric lines and the way that they lay across the facility. If you think about the Exhibit 1 where I told you the poles was, you could see that the power lines come from that pole

down to the metering pole, and then it branches and goes two ways.

It goes just a little bit to the right, and branches and goes back to the office; goes a little bit further; branches again, goes a little bit further and branches again.

Q. So would you -- well, does this fairly and accurately depict the layout of these structures as well as the location of these poles?

A. Fairly accurate. The one -- Pole Number 2, right here in the middle of the yard, is a little bit too far south. But yes, it's pretty accurate.

Q. Okay.

MR. JOHNSON: I'd offer Exhibit 2, Your Honor.

JUDGE JONES: Any objections?

Seeing none, Exhibit 2 is admitted into the record.

(Exhibit No. 2 was received into evidence.)

BY MR. JOHNSON:

Q. So if I go to the top, left-hand corner of your tract, again where you have the dotted line, you've got the arrow indicating the electric flow was coming to the south?

A. Yes. Correct.

Q. Can you tell me what the location of this meter pole is -- the primary meter pole?

A. It's approximately 130 feet from the -- from --

Q. Which circle is it?

A. It is Circle Number 1.

Q. Okay. I'm sorry. That's on -- you're looking at the next one, aren't you?

A. Yeah. The next page like this, I assume, would be Exhibit 3, that's where the poles are numbered.

(Exhibit No. 3 was marked for identification.)

BY MR. JOHNSON:

Q. Okay. Let's -- tell us what Exhibit 3 is.

A. Exhibit 3 is the poles that's on the facility, and a number that has a picture that corresponds to the number.

Q. So in Exhibit 2 you're really trying to just indicate the direction of the power supply?

A. That's correct.

Q. And Exhibit 3 is a better document to find out the location of the poles?

A. That is correct.

Q. Okay. Getting back to Exhibit 2, can you -- first of all, this was the way the system was when you

bought the property?

A. That is correct.

Q. So you've got lots of different lines running across the 26-acre tract. Fair to say?

A. Yes.

Q. Or at least the north half of it. You don't have any electric lines on the south half of that tract?

A. Not that I'm aware of. If they are, they're on the other side of the woods, next to the highway. I don't think there's anything down there.

Q. All right. And just to be clear, on the south side of this tract, that's close to the new Highway 50?

A. It joins Highway 50.

Q. Okay.

A. That's the reason it loops the way that it does.

Q. All right. Does Exhibit 3 -- does it fairly and accurately depict the location of those poles?

A. I think so.

MR. JOHNSON: Offer Exhibit 3, Your Honor.

JUDGE JONES: Any objection to Exhibit 3?

Seeing none, Exhibit 3 is admitted into the record.

(Exhibit No. 3 was received into evidence.)

BY MR. JOHNSON:

Q. So tell us on Exhibit Number 3, what is the location of that primary meter pole?

A. Number 1 is the primary meter pole. If you can see it, it's just to the -- it would be to the northwest corner of the old mill building.

Q. Okay. How many poles are on the property?

A. Fifteen.

Q. How many transformers are on those poles?

A. Eighteen.

Q. And you'd indicated earlier that there is a line that's not operational. Which segment of these poles or that power flow is it that's not currently operational?

A. It would be one of the phases, and it is -- the phase is down all through the yard. There's no three-phase on the yard at all. Two phases are live, one of them is dead.

Q. Okay. So if I go back to Exhibit Number 2 and I look at the power flow diagram, can you tell me which stretches of those lines are supplying three-phase power and which stretches are supplying single-phase power?

A. The only three-phase -- the only single-phase power on the whole facility that's singled out as single-phase is from Pole 2 to Pole 15 for the office.

Q. Okay. Everything else is supplied with

three-phase?

A. That is correct.

Q. Can you go to Exhibit 4, which is a picture of Pole 15?

(Exhibit No. 4 was marked for identification.)

BY MR. JOHNSON:

Q. Tell us who took the picture.

A. I took the picture.

Q. And when did you take it?

A. Just during the last week or so.

Q. And all the rest of these pictures that we have in here, were they all taken at the same time?

A. Yes. All on the same day.

Q. All taken by you?

A. Yes.

Q. Do they all fairly and accurately depict the different pole structures, transformers and layout there that's on the Cardwell tract in St. Martins?

A. I tried to get it as much -- I tried to get every pole represented in one way or -- shape or form. And some of them's represented more than once.

Q. Well, you're not a lawyer. When I say "fair and accurate" that's the magic words for lawyers to get these things admitted into evidence.

Do these pictures fairly and accurately depict your facilities out there?

A. Yes.

MR. JOHNSON: Offer -- let's see -- I guess Exhibit 4 would be the picture of Office Pole 14 --

THE WITNESS: That's just looking at the office from the other side, I'm sure.

MR. JOHNSON: Let me get them numbered altogether, and then we'll go through them one at a time.

THE WITNESS: All right.

MR. JOHNSON: So you need to keep them in order up there. But the picture of Poles 1, 8 and 9, I think, would be Exhibit 5.

(Exhibit No. 5 was marked for identification.)

MR. JOHNSON: Are these the correct order in your all's stack?

JUDGE JONES: So far --

MR. DEARMONT: So far.

JUDGE JONES: -- it is in mine.

THE WITNESS: They was, if you didn't mix them up.

MR. JOHNSON: I can't find my 1, 8 and 9, now.

BY MR. JOHNSON:

Q. And Number 2 is Pole Number 2 and the office transformer; is that right?

A. That's correct.

MR. JOHNSON: That will be Exhibit 6.

(Exhibit No. 6 was marked for identification.)

MR. JOHNSON: The one that has Poles 3 and 4 will be 7.

(Exhibit No. 7 was marked for identification.)

MR. JOHNSON: Poles 3 through 6 will be 8.

(Exhibit No. 8 was marked for identification.)

MR. JOHNSON: The one with the picture of 7 and the planer shed will be 9.

(Exhibit No. 9 was marked for identification.)

MR. JOHNSON: All of the pictures of 9 and 10, the mill bank and the entrance support will be 10.

(Exhibit No. 10 was marked for identification.)

MR. JOHNSON: 11 and 12 will be 11.

(Exhibit No. 11 was marked for identification.)

MR. JOHNSON: 13 and 14 will be 12.

(Exhibit No. 12 was marked for identification.)

MR. JOHNSON: This says 13, 14 and --

BY MR. JOHNSON:

Q. Okay. Go to Exhibit 4, which is Number 15, office pole written on it.

MR. JOHNSON: I would offer it into evidence, Your Honor.

JUDGE JONES: You're offering Exhibit --

MR. JOHNSON: 4. Yes, Your Honor.

JUDGE JONES: -- 4? Any objection to Exhibit 4?

Hearing none, Exhibit 4 is admitted into the record.

(Exhibit No. 4 was received into evidence.)

BY MR. JOHNSON:

Q. What were you trying to show when you took this picture, Mr. Cardwell?

A. It clearly shows Ameren's and Three Rivers's pole both on the west side of the property. When you asked about the circles on the -- on the top left-hand, that shows those poles. They're not numbered. They're not -- them poles do not belong to Cardwell, and they're not part of the Cardwell system.

Q. Okay. When you talk about "those two

poles," you're talking about the two poles that are in close proximity to one another in the central part of the picture?

A. That is correct.

Q. There's one pole over there that's kind of tilted a little bit to the left by your office building.

A. And that would be the pole to the office. Another thing that I wanted to show in this picture is how close the Three Rivers line is to our office. I'm going to say that's within ten, twelve feet.

Q. Okay. You can -- can you see the lines, those little straight things, that appear to go from those two poles in the center up towards the top of the photo?

A. I can, yes.

Q. Okay.

A. And I was standing with my back to the -- to the pole -- that goes from looking straight from pole to pole, right down the line, is what --

Q. Three Rivers's pole or Union Electric's pole?

A. Three Rivers's Pole. Union Electric's poles are on the other side of the road.

Q. So if you go on the right side of the road in Exhibit Number 4, those are Union Electric's poles along the north side of the Business Route 50?

A. That is correct.

Q. So when I look again at those two poles in the center of the picture, is the one on the left Three Rivers's line -- pole?

A. That is correct.

Q. What's the pole just to the right of that?

A. That is the Union Electric pole.

Q. And what does that pole do?

A. That's -- it's where the power bridges the road to come to my primary pole. It goes from the -- from across the road, to that pole, down to my Pole Number 1 on Exhibit 3.

Q. So even though Union Electric's line is on the north side of Business 50, they do have a pole on the south side, next to the Three Rivers's pole, that goes on south to serve your facility?

A. That's correct. Yes.

Q. I'm going to follow up on that.

MR. JOHNSON: I want to mark what's been -- I'm going to number 13, the last photo in this group, that has Three Rivers and UE written on it, with little arrows pointing to the poles.

(Exhibit No. 13 was marked for identification.)

BY MR. JOHNSON:

Q. Do you see that one?

A. This is the one -- I'm trying to -- I'm sorry. Do I have the numbers wrong?

JUDGE JONES: Exhibit 13? Is that what you're looking at?

MR. JOHNSON: Is that this one?

JUDGE JONES: I believe so.

MS. TATRO: Can I see which one he has, because now -- that's the one I have. Okay. This one?

MR. MILLS: Yeah. I got a 14.

JUDGE JONES: It sounds like there's some confusion. Do you have an Exhibit 14, Mr. Mills?

MR. MILLS: I thought I did.

THE WITNESS: What was numbered, we went to 12, and then we didn't go past 12. But in my picture layout, I'm just like Mr. Mills -- I never had 13 or 14 numbered. But this one was the one ahead of it.

JUDGE JONES: Okay. Let me go through and -- just so we clear on the rest of these, and we get it straightened out. Exhibit 4 is a picture of Pole 15 that's been admitted. Everyone clear on that?

Exhibit 4 -- I mean, Exhibit 5 is a picture of Poles 1, 8 and 9.

Exhibit 6 is a picture of Pole 2.

Exhibit 7 is a picture of Poles 3 and 4.

Let's see. Exhibit 8 is a picture of Poles 3, 4, 5 and 6.

Exhibit 9 is a picture of Pole 7.

Exhibit 10 is a picture of Poles 9 and 10.

Exhibit 11 is a picture of Poles 11 and 12.

Exhibit 12 is a picture of Poles 13 and 14.

And Exhibit 13 is a picture of the UE and the Three Rivers's lines, which Mr. Johnson -- to which Mr. Johnson is now referring.

MR. JOHNSON: And let's go ahead and, if we can, while we're all together, can we mark the one that shows a shot of the pole that services the office building as Number 14, Your Honor?

JUDGE JONES: I don't think I have that picture. I've run out of pictures. No. I don't -- it's not --

MR. JOHNSON: That last one wasn't it?

JUDGE JONES: It's not on the list, either.

MR. JOHNSON: Okay.

JUDGE JONES: Are you going to need to make copies of that?

MR. JOHNSON: I thought we had copies.

JUDGE JONES: Do you all have this picture?

MR. MILLS: Yes.

MS. TATRO: We do.

MR. JOHNSON: Maybe I shuffled them around incorrectly. Maybe they're in -- my apologies.

JUDGE JONES: No. It's okay. Yeah, it's not in any of these sets.

MR. JOHNSON: Okay. Just forget it.

JUDGE JONES: Do you want it to be included in the record or not?

MR. JOHNSON: No. That's fine, Your Honor.

JUDGE JONES: Okay.

MS. TATRO: So we're not asking for 14 to be admitted?

MR. JOHNSON: No.

MS. TATRO: Thank you.

BY MR. JOHNSON:

Q. would you turn, Mr. Cardwell, to Exhibit Number 5, that has the photographs of Poles 1, 8 and 9.

Can you hold on for me so I can make sure we're on the same picture. Thank you.

would you tell Judge Jones what these different structures are that you've numbered 1, 8 and 9?

A. well, Number 1 is the primary meter pole. And I'm still somewhat unclear whether that poles belongs to me or belongs to Ameren, but I think that's Ameren's pole.

Pole Number 9 would have been the

transformer bank for the mill, when the mill was running. It would also have been a transformer bank that serves the planer and the straight line. And I'm sure that if we had the damage that's in the system right now would be on Pole 9. It's also very hard to get to. The -- most of the contractors I've talked to cannot get to that pole.

Q. Because of the equipment -- size of the equipment?

A. That's right. That ditch is typically always wet, and that -- it stands in there, so it's -- and it lays, you know, several feet past the end of the mill. It doesn't -- these pictures don't show how far back that it sets, but that's a good long ways down there. And that ditch runs through there -- the foliage.

And, of course, it's -- you have to come across the property line to reach across the trees coming from the other way, and our mill blocks it from the left-hand side, so it's very hard to get to.

MR. JOHNSON: I'd offer Exhibit Number 5, Your Honor.

JUDGE JONES: Any objection? Exhibit 5 is admitted into the record.

(Exhibit No. 5 was received into evidence.)

BY MR. JOHNSON:

Q. I want to ask you some questions about the

primary meter pole and the facilities on the top of it. I see the lines coming -- running away from that pole two different directions, one back to the east and one on to the south.

Are both those sets of lines from that pole to the south and to -- from that pole to the east your lines?

A. That is correct.

Q. That's where your primary voltage responsibility begins?

A. I know that the lines belong to me.

Q. Okay. What are those structures -- not the top of the crossover, but down sort of around the bottom of where the structures are. They look like --

A. They have --

Q. -- things hanging out there with wires running to and from them. What are those?

A. They have something to do with the primary metering system. We have them at all of our primary meter locations. And that's about as much as I know about them. I'm not an electrical engineer. I'm not sure what purpose they serve.

Q. Where -- are the primary fuses located on this structure?

A. That is correct. Whenever you energize or

de-energize the system from everything on the lines going downstreams towards Pole 9 or to the left, which would go towards Pole 2 -- when you pull them fuses, it de-energizes the system there.

Q. Okay. And can you describe in words specifically where those fuses are located? Or can you see them in this picture?

A. It's hard to see in the picture, but they're -- actually right in the top crossbar of that pole, is where they're at and -- is the high voltage fuses. When you're in the sawmill business, you have a lot of heavy loads, and it's not uncommon for them fuses to blow.

Q. Okay. Do you know how tall that pole is?

A. I do not. I assume 30 foot.

MR. JOHNSON: Offer Exhibit 6, Your Honor. But I don't want to spend any time talking about it right now.

JUDGE JONES: Any objection to Exhibit 6? Exhibit 6 is admitted into the record.

(Exhibit No. 6 was received into evidence.)

JUDGE JONES: Oh, I wanted to ask you real quickly. This -- the building that's in Exhibit 5, that's the old mill. Right?

THE WITNESS: That is correct.

JUDGE JONES: Okay.

BY MR. JOHNSON:

Q. while we're on Exhibit 5, what's the distance from -- now, this -- this primary meter pole, is that where the meter is actually located that measures your usage?

A. That is right.

Q. Where is that meter? Can you see it?

A. It's on the bottom of the pole and to the left-hand side of --

Q. And I --

A. -- the actual meter base.

Q. Is it the box sticking out there?

A. Uh-huh.

Q. How far is the distance from that -- the base of that pole to the nearest corner of that old mill building?

A. It's over 50 feet from the building. But again, if you look at Pole Number 9, that's where the service comes into the building and it's considerable further than 50 feet.

Q. Okay. So the meter that AmerenUE has on your property, the primary meter, is not located on a structure that's owned by Cardwell?

A. I -- you know, there's been -- there's so much gray area in this system, I couldn't tell you whether

that pole is ours or theirs. The only thing that --

Q. What makes you think --

A. I --

Q. -- it's theirs?

A. Well, it's their fuses, and they're responsible for replacing those fuses. We're not allowed to touch those. And the pole -- the meter is theirs, I assume, as well. Again, I think that's their pole.

Q. How far is it from Pole Number 1 to Pole Number 9, where that transformer bank is on the mill?

A. It's going to be in that 100-foot range, give or take a few.

Q. And from that transformer bank that's listed on Pole -- that -- on Pole Number 9, does that then run power over to Pole Number 8?

A. That is correct. It would drop the voltage on the -- on the lines would drop. Eight is to support the secondary lines coming into the mill.

Q. Okay.

A. There's also a pole just past that that supports the secondary lines going into the other end of the mill.

Q. How far is it from the base of Pole Number 9 to the electrical entrance point for the power supply facilities?

A. Twenty, 25 feet, something like that.

Q. So from -- would it be fair to say that it takes about 125 feet to get the power from the metering location to that mill building?

A. I would -- yes.

MR. JOHNSON: Did we offer Exhibit 7, Your Honor.

JUDGE JONES: I don't believe so.

BY MR. JOHNSON:

Q. would you tell us quickly, Mr. Cardwell, what Exhibit 7 shows.

A. That's just a pole in the center of the yard. It -- again, the power splits there and goes two different ways.

Q. what two different locations does the power go to from Pole 3?

A. what you're looking at there is -- Pole Number 4 is the transformer bank that serves the small kiln. It's a 220 transformer bank, or 240 transformer bank, three-phase. The transformer on Number 3, I assume, was there from prior buildings. I don't know what it's for. It's not used.

MR. JOHNSON: Okay. Offer Exhibit 7.

JUDGE JONES: Any objection?

Hearing none, Exhibit 7 is admitted into the

record.

(Exhibit No. 7 was received into evidence.)

BY MR. JOHNSON:

Q. Exhibit 8, would you tell us -- is Pole 3 and 4 again, and 5?

A. In Exhibit 8, you can see a lot better the small kiln up there. It's right below the -- Pole Number 4. The -- one door is open, one door is closed. Pole Number 5 is just another support pole in the center of the yard.

Pole Number 6 was the 440 transformer bank that run the big kiln. It used to be immediately to the right. It's been removed just in the last few weeks. And it also served -- that transformer bank also served the boiler, and it's off further to the right.

MR. JOHNSON: I'd offer Exhibit 8, Your Honor.

JUDGE JONES: Any objection?

Hearing none, Exhibit 8 is admitted into the record.

(Exhibit No. 8 was received into evidence.)

BY MR. JOHNSON:

Q. Mr. Cardwell, Exhibit 9, Pole 7 and the planer shed?

A. Again, that was for a building that was

there when we bought the property. We've tore it down. It was very disarray [sic]. That's a 220 transformer bank. It's been unused for years -- three or four years.

Q. How far is that pole from the primary meter pole?

A. I'm going to say 500 feet.

Q. Okay.

A. And again, I can just take a guess at that. But it's a sizeable distance.

Q. Is that the pole that's the farthest away from the meter pole of all the poles on your property?

A. I think that Pole 6 would be the furthest pole.

Q. How far would it be? An additional 100 feet?

A. I'm going to -- yes. I'm going to say it's about 600 feet from the meter pole.

MR. JOHNSON: Offer Exhibit 9.

JUDGE JONES: Any objection?

Seeing none, Exhibit 9 is admitted into the record.

(Exhibit No. 9 was received into evidence.)

BY MR. JOHNSON:

Q. Exhibit 10, Mr. Cardwell, does this show the backside of the mill building?

A. It does show the backside of the mill building.

Q. So by "backside" that would be to the west?

A. And you're looking -- if you look through all the foliage there, past the transformer pole, to the right, that is the metering pole. It's hard to see through there, but -- but that's the metering pole. And that's the bank behind the mill.

Q. And so Pole Number 10 supports the entrance conduit for the power to the mill?

A. That is correct.

Q. And it takes -- it gets supplied from the transformer bank on Pole Number 9?

A. That is correct.

Q. Now, look at -- and Pole Number 9 is your pole?

A. Yes.

Q. Now, look at the top of Pole Number 9. There's some wires going on back to the south. Where do those go?

A. They go back to the green shed, green chain.

MR. JOHNSON: Offer Exhibit 10, Your Honor.

JUDGE JONES: Any objection?

Hearing none, Exhibit 10 is admitted into the record.

(Exhibit No. 10 was received into evidence.)

BY MR. JOHNSON:

Q. Exhibit 11, then, does that show the poles and facilities on down to the south of the mill?

A. That is correct. Pole 11 would be a single-phase transformer. That's where the power would come into one of the storage sheds.

Pole Number 12 is a three-phase bank, and it's what run the material handling equipment in the green building, in the green chain building.

MR. JOHNSON: Offer 11.

JUDGE JONES: Any objection?

Seeing none, Exhibit 11 is admitted into the record.

(Exhibit No. 11 was received into evidence.)

BY MR. JOHNSON:

Q. Exhibit 12, Mr. Cardwell. What are those two poles?

A. If you look, Pole Number 14 just holds the low voltage lines going over to what was the green chain. It's been pretty much torn down. That is all that's left of the building. Thirteen would be -- just held the -- that weatherhead and the entrance going into the building.

And if you look off to the right, that's one of our storage sheds, and that's where the low voltage line

hangs across there and goes from the door and the lights in the building.

MR. JOHNSON: Offer Exhibit 12, Your Honor.

JUDGE JONES: Any objection?

Seeing none, Exhibit 12 is admitted into the record.

(Exhibit No. 12 was received into evidence.)

BY MR. JOHNSON:

Q. Exhibit 13, Mr. Cardwell.

A. That just shows --

Q. Let's make sure -- for Mr. Mills's benefit, this is the one with Three Rivers and Union Electric written on it, with little arrows to the poles? Is that what you have on yours, Mr. Cardwell?

A. Yes.

Q. Okay. I think we're square there. And you're intending to just show which pole was Three Rivers' line pole in a line that -- their line that goes on the south side of Business 50?

A. That's right.

Q. Okay. And the Union Electric pole, is that the one that is on your property, but it's part of the take-off from their line on the north side of 50 to supply your property?

A. And it also goes west there, too. It

doesn't go east.

Q. Okay.

A. The Union line comes across the road, goes south to my property, to my service, and then goes west on up the hill.

Q. Is there some sort of guy or brace on that pole coming back to the east?

A. There is one to the east, none to the south.

Q. Okay.

MR. JOHNSON: Offer Exhibit 13, Your Honor.

JUDGE JONES: Any objection?

Hearing none, Exhibit 13 is admitted into the record.

(Exhibit No. 13 was received into evidence.)

BY MR. JOHNSON:

Q. How did you find out it was your responsibility to maintain the primary lines on the Cardwell tract in St. Martins?

A. When we bought the property, Don Purdue, which was the managing director out there, told us that all the equipment down there belonged to us. I did not understand what that curtailed [sic].

But one of the first things that happened was, you know, I -- I called them and told them to switch the building, and we went through that. We immediately

started to do some renovation down there to the property.

And one of the first things that we did is we poured concrete floor into the storage building. It would be Building Number 4. We closed it in, and we put a roll-up door in, so we needed electrical service served down there.

When we put in the breaker box and the weatherhead and brought the wires from the top, I called the Ameren office and asked them to come out and hook us up. And of course, this would have been in 2004 or 5, so I don't remember all of the scenario.

But I do remember in that conversation with them -- whether they come to the yard or not, I don't remember -- but they said that that was our responsibility, and we would have to hire a Meyer to hook it up.

And I asked him a question -- you know, at Novelty or New London every time we have to have service brought in, we'd get it that far.

I asked him what kind of service wire that we need to go to the pole, and they just -- call them and they come out and hook it up. They turn the power off, hook it in, and turn us back on. It's -- that's the scenario of it.

Whenever that happened, that was the first indication that we was dealing with something completely

different than what we had at Novelty.

When Meyer come out, that would be Pole Number -- go back through my notes -- that would be Pole Number 11 with a small voltage transformer. And it is not primary fuse, like what it is at the beginning coming into the property.

And I don't know what the connection is called, but they have a -- like a wire that they take from the transformer up to the high voltage line, and it screws on there, and they do that out of a basket or from the ground.

And whenever they come out to hook us up, he never had the equipment it took to disconnect that power. We asked him about a pole to the primary fuses, just to kill the power down there, and he said, well, they can't do that; that's Union's responsibility to do that.

And he had the equipment to do it; it's just that it wasn't within his realm to do. That's Union's responsibility. Them fuses belong to them, and nobody pulls them.

So what they did is they just wired it in hot. They did not disconnect it, because he didn't have the equipment. And it's low voltage over there, and this is, I guess, something linemen do all the time, anyway. Nevertheless, it made me very nervous to think of them

wiring that in hot.

Q. First of all, who is Meyer? I'm not sure Judge Jones has heard Meyer's name yet.

JUDGE JONES: I have. Meyer Electric, or -- assuming it's an electric company dealing with electricity.

THE WITNESS: well, Meyers is the company every time that we have issues out there, that's who Union Electric cocktails [sic] -- contacts. They're close to us in proximity, and they also do wiring of high voltage lines.

BY MR. JOHNSON:

Q. In-house, in terms of -- Cardwell doesn't have any of its own employees that are qualified to do work on high voltage lines?

A. We do not have anybody in-house, and we'll not allow our employees to deal with high voltage lines.

Q. In Novelty and Frankford, with Lewis County Rural Electric and Ralls County Rural Electric, who does the maintenance work on the high voltage lines up there?

A. We don't deal with the high voltage in any way, shape or form; no fuses or transformers, poles or anything. Both Lewis County and Ralls County maintain all the lines and transformers within our system.

Q. Do you have to hire contractors up there to get that work done?

A. No. We do not. We do all of the low voltage in-house.

Q. Okay. Well, do you have to have people like Meyer Electric contracted to do high voltage work for you because that's your responsibility in Novelty or Frankford?

A. No. The power company does all of the high voltage stuff.

Q. How frequently have you -- what are the types of things that will happen to your saw -- your lumber operation in St. Martins that will necessitate you having to have Meyer come out?

A. Well, if we have issues like we have on the pole now, that would have been something in our responsibility -- in our responsibility, or we'd have to hire outside work.

In the ice storm, we had lines got together and come down, and we had to have Meyer out to replace those. If we needed a pole replaced, it would be something that we'd have to contract out. Any kind of maintenance to the high-voltage system whatsoever, we would have to get a -- get somebody trained out to work on the system.

Q. If there's ever a system outage on Union Electric's side of that primary meter, do you have to have Meyer come out so that service can be reconnected?

A. Say again.

Q. If the power is down because of some problem on Union Electric's side of the primary meter, do you have to have Meyer come out to restore service?

A. No. I wouldn't think so.

Q. I'm asking if this has ever happened. Have you ever had a situation where you had to have Meyer come out to restore service because of a problem on your side of the meter?

A. Yes. We have.

Q. Okay. Which arrangement does Cardwell prefer? Do you prefer to maintain your own primary system, or do you prefer the power supplier to do it?

A. We have -- at Novelty and New London, we're not in the power distribution business. It seems like we are down here, and we are going to get out of the power distribution business one way or another. We are not going to have the responsibility or the liability of maintaining those lines, poles, transformers, et cetera.

Q. So what would you have to do in order to accomplish that?

A. We're going to have to go from a primary metering system with AmerenUE to a secondary metering system and/or build new facilities and ask Three Rivers to serve. The system that's out there has to come down. Both AmerenUE and Three Rivers have made it very clear that they

want no part of that system whatsoever.

Q. So they're not willing to just take it over on their own?

A. Neither company.

Q. Okay. Let's go back and maybe -- let's work forward from the time you became a customer of Union Electric. At some point -- what was the first time that you had a fuse blown out there?

A. I don't remember the date, but I remember the conversation and how it went down.

Q. Well, first of all, what fuse are we talking about? The primary fuses?

A. Well, in the mill business, you have fuses blow in your plant all the time. And we check those and replace them ourselves.

But if a primary fuse goes down, typically what happens when a primary fuse goes down, it's -- it's up on a pole, and you can see it. It's, in most cases, designed to drop out. And you can physically see it from several feet away, that you have a fuse problem.

And one of the first problems with fuses that blew out there, we had a fuse blew and called, and Jerry was the maintenance man at that time. He called me. He said they had a primary fuse down. I told him to call Ameren and get them out there and have them replace it.

He did. Just a little bit, he called back. The Ameren guy was there, and he replaced -- refused to replace the fuse, because he couldn't get his truck up close to the pole. He said he was going to have to get a load of rock in there before he could get his truck up there.

Now, I don't know how old this system is, but I know that there had been fuses replaced on that many times before that. But our plant's down; we can't get service.

We've got a fuse blew; Ameren's responsibility to replace it, and we can't get them to replace it because the lineman can't get his truck up to the pole. We called, ordered a load of rock. Called Ameren back. They come in, went up and replaced the fuse.

Q. Is that the -- do you have to have a bucket truck to replace a fuse -- a blown fuse?

A. At Novelty, the lineman that's been up there for years -- name's Kim Smith -- I've seen him replace several fuses with -- they call it a hot stick, but it just reaches up the pole, that extends out, and it will go up 30 or 40 feet. And they can hook them fuses out from the ground. There's fuses in places that they can't get trucks, I know.

And this is something that Kim -- he was old

school. And up there they never used -- didn't have bucket trucks. All they had was pole climbers. But they did it up there for years.

This system, I assume, would have had to have had the same thing before we bought it and had to have rock brought to the pole so they could get their truck up there.

Q. Did you have your man on-site ask the Union Electric lineman to do it with a hot stick or an extendo stick?

A. I was talking to my man, and I asked him if -- I told him the way that we replace them at Novelty. And he said that he -- he said that whoever was driving the truck at that time refused to do it.

Q. For all you know, it could have been something they were prohibited from doing?

A. I don't know who made the call. I don't know if it's the lineman's call. I don't know if it come from the office. I don't know if it's company policy. I don't know.

I just know that we had a facility down without power. We had a fuse that had to be replaced which belonged to them, and they refused to do it until we got a load of rock up close to the pole.

Q. Did they tell your man that he needed the

load of rock before they drove the truck out, or did they wait until they were already there to tell him?

A. They waited until they was there and they seen the condition around the pole.

Q. At some point in time, did you ask for a meeting with the Union Electric representatives to walk the property and have some discussions about --

A. I did. And again, I can't remember the time frame, because time gets away and I've got a lot of other things that I do besides work with these deals. But it was sometime in 2007. It was not long before the ice storm.

I asked to have a meeting with Ameren to talk about what it would take for them to take over the system and maintain the system out there at the plant, so we would get rid of the liability.

I was concerned with the system, the way it was deteriorating, and I wanted loose from the liability and the maintenance that was involved in the system.

Q. This was before the ice storm?

A. Before the ice storm.

Q. Do you know who they sent?

A. Chris Brennen [sic] was one of them, I know for sure, because Chris gave me a card, and that's a name that I remember. And --

Q. What was his position with Union Electric,

if you recall?

A. I don't know his position, but I think it was head lineman or something to do with line. They sent another guy, and his name was Don something, and I don't remember what his last name was. But he was there, as well.

Q. Did they tell you -- did they make any observations about the condition of your network down there?

A. They did look at the system. They said it was very deteriorated, it needed a lot of work. And they was not interested in taking the system; and if they did, it would be very expensive.

Q. Very expensive for what?

A. For them to take over the system, to go back to a secondary metering base over a primary metering base.

Q. When they said "very expensive" what was your response?

A. My response was, I expected that, but give me some kind of numbers. I need something to work with. Tell me what it's going to cost.

Q. Did they ever do that?

A. They never did. And, in fact, I did a follow-up, and I went by the office at -- on Industrial Drive; went in and asked for Don. And I -- and this was

within a few days after this.

And I asked Don if he'd ever done anything on a quote. And he said no, he really never had. But he said if we done anything, it would be very expensive. I said, How expensive? He said, Well, if we do it, it will cost you an arm and a leg -- exact words.

Q. Did you press him to give you an estimate?

A. That was my second time. I don't know how much pressing and how much rights I have. You know, to me, I asked for it the first time. I shouldn't have to come back a second. I've already been there a second. I think if he was going to do anything, it would have been done.

Q. So what year was the ice storm? Was that December of 2007, or was it 2008?

A. December 2007.

Q. Okay. I think we all remember. Can you generally that once the ice had stopped, what was the condition of the power supply there in St. Martins?

A. Well, we was fortunate enough at home, we never had the ice that they had down here. But I think they [sic] was lines down all over the county. And I know the Ameren guys was very busy. But whenever Tony got into that plant that morning, he told me that we had lines down on the yard.

Q. Which line was that, Mr. Cardwell?

A. That was the line that goes between Poles 9 and Pole 11. And we had lines down on the yard. I told Tony, keep everybody back away from them, and I would call Chris Brennen [sic].

I had Chris Brennen [sic] -- and that's the reason I remember his name, because he had give me a card when we had talked to him just before that. This had been days to weeks before this incident.

Q. You say you had his card. Did you have his cell phone number?

A. I had his cell phone number. When I called Chris --

Q. Well, let me -- when the lines were down there on your property, were you concerned that they might be energized?

A. One of the things that I asked the guys, if the fuses had dropped. Because if the fuses have dropped, that means that they've shorted out, and the lines would be unenergized. But still, you don't touch high voltage lines. Even the neutral can be powered at any time if there's anything running, so you stay away from the lines.

Q. So did you call Chris Brennen [sic]?

A. I called Chris Brennen [sic]. And the issue that we had was the lines was down behind the mill. Our boiler feeds from the other side of the property from lines

that goes the other direction.

Soon after the ice storm, we had very cold conditions. With a boiler, if you don't have power, you can't burn. If you can't burn, then you're subject to freezing. Typically, boiler rooms are not insulated, because it's more important for them to dissipate the heat than to worry over freezing.

I told him that we had lines down, and I told him we may be the problem. I knew that they had power outages. I told him we had lines down behind the mill. And he said, well, you're not the problem. It's -- he told me where the -- some location where they was at, and they was working on it.

And I said, well, whenever they come on -- when the power is on -- before they turn the power on, can we get them to disconnect the lines that go behind the mill, so the lines that goes to the boilers, when the power comes back on, we will be hot and we can run our boiler to keep our kiln from freezing? And he said, No, you'll have to call Meyer.

I said, I don't -- all I'm asking you to do is just cut them and lay them back; disable them so that when the power comes on, we won't freeze up. He said, No, you got to call Meyer.

And I -- at that time, I asked him -- or I

told him that the lines -- I wasn't sure whether the lines -- the fuse was blowed [sic] in the lines. And if they come on, that them lines that was down may be energized.

Q. Was that a safety concern to you?

A. Absolutely a safety concern. He never asked me if they laid across a vehicle. He never asked me if they laid across the building. He never asked me anything. He just said, You have to call Meyer to get them taken care of.

Q. Did you have a conversation with him wherein you asked if you were still being protected by that primary fuse?

A. I told him that if the lines was energized and they was down on our yard, that that fuse may not be blown. And he said that they would be protected by the primary fuse.

Q. What did he mean by "they"?

A. AmerenUE's system would be protected by the primary fuse, because if the power comes on, the line is going to short out, so that will blow the fuse and their lines would be protected.

Q. Well, did he express any concern about any potential dangers to humans on your property if that happened?

A. He never expressed any concern about our system whatsoever.

Q. How many times have you had to have Meyer come out to do maintenance or repair work on your primary system?

A. They repaired them lines -- that was once. That help us hook in when we redone our boiler, they helped us there. They helped us when we hooked in our dry storage shed. A few times, for sure. I don't remember how many times.

Q. Do you know how much you've spent with Meyer Electric doing work on your primary system since 2004?

A. Somewheres in the tune of \$13,000.

Q. In the boiler, you indicated earlier that the boiler issue started after the ice storm?

A. That's correct. We was having -- with our boiler system, it's PLC-controlled.

Q. Does that stand for programmable logical controls?

A. Yeah. It's a basic -- basically, it's computer controlled, and it monitors the electric flow coming into it. So if you have voltage spikes or drops, what happens -- being as it's a boiler, it's got a lot of safety features built into it, so it will start its shutdown procedure under power outages.

Because if a -- if a boiler dry fires -- which on a power outage is very typically, because the fire box can be completely full of fuel, and the only way a boiler can keep cool is by pumping water back into it.

So if you have a power outage, your fuel that it takes to burn the boiler may already be in the fire box. So it's -- if they have drops in power, they may start a shutdown procedure immediately to -- so it will start a cool-down.

Q. I want to -- I'll have marked as Exhibit --

MR. JOHNSON: I believe the number is 14, Your Honor, the next one?

JUDGE JONES: Yes, sir.

MR. JOHNSON: That would be the boiler power outage report.

(Exhibit No. 14 was marked for identification.)

BY MR. JOHNSON:

Q. Do you have that piece of paper in front of you, Mr. Cardwell?

A. I do.

Q. Is that a document that your company prepared?

A. Yeah. I would say.

Q. And it just shows a list of outage times

between July and December of 2008?

A. That is correct.

Q. When you first started having these problems, did you contact Union Electric for their assistance?

A. We did, and they said they would come out and put a meter on it and monitor the outages.

Q. And after they did that, did the person that did the testing, did they tell you what their findings were?

A. Yes. They did. They said that the spikes was all within the realm of the guidelines of how they're governed, and there was nothing they could do about it.

Q. Did you continue to experience the outages after the test was done?

A. We did. But it didn't seem like it was extreme. Whenever you look at these outages, what we suspected was that being as they're all about the same time in the morning, that there was something coming online -- a heavy start someplace on the line -- that was probably causing the low voltage. But that was our analysis of it, not anything that they did.

Q. Would that have been any of your equipment coming online?

A. We don't have heavy equipment out there

that's going to -- that's -- be issues. Most everything we have out there is -- it's small material handling equipment.

MR. JOHNSON: I'll offer Exhibit 14, Your Honor.

JUDGE JONES: Any objection to Exhibit 14? Seeing none, Exhibit 14 is admitted into the record.

(Exhibit No. 14 was received into evidence.)

JUDGE JONES: I do want to ask a question about this exhibit, since we're here. These -- for instance, July 10th, 2008, shows a boiler power outage at 6:30 a.m. Does that mean it went out at 6:30 a.m. and came back on at 6:30 a.m.?

THE WITNESS: We will only -- our equipment only records the out time. It doesn't record the on time. And the reason it records the out time, so we can go back in and you will know when the boiler went out.

JUDGE JONES: Oh, so it just went out at 6:30?

THE WITNESS: That's right.

JUDGE JONES: Okay. You don't know when it came back on or --

THE WITNESS: No.

JUDGE JONES: -- anything? Okay.

THE WITNESS: And it will only show in our -- it's a touchscreen control, but it will only show on there power failure.

JUDGE JONES: Okay. That's good.

THE WITNESS: It don't show voltage drop or anything like it. It just shows power failure. So in essence, the power may not have been clear off; it could have been that just the voltage was low enough that our machine kicked off automatically.

JUDGE JONES: Okay. Thank you.

BY MR. JOHNSON:

Q. So when a boiler goes out, what do you have to do to -- and the little things says power outage, or whatever it says, what do you have to do to get it restarted?

A. The big problem with boiler outages -- and this is an unmanned system, so your system -- you quit making heat, and that's how we dry our lumber, so our production is slowed.

Typically, if you look at them 6:30 drops, where most of them is at, we're in the plant by seven o'clock, anyway. And it generally takes as long as a couple hours for the fire to completely diminish in the boiler where you have to relight.

So most of them, it's just come in and hit

reset, and it just takes right back off and runs again. So it's not that big an issue.

It's just the fact that we had so many there together that every morning we'd come in -- if you look at the -- we just started logging them in as power outages whenever they come in. That's -- before they'd restart, we'd ask them to write down the outage and what time it occurred.

Q. What did you do during the ice storm? Power was out several days, wasn't it?

A. It was on -- the power was out several days to the green chain and the old mill building.

But the boiler itself, we -- Meyer had been out and cut the lines -- what I'd asked Ameren to do. They cut the lines. And by the time the power come back on, the boiler was ready to go.

It took several days before the -- Meyer got a chance to get back and fix the lines behind the mill to get the mill back and running.

Q. But there was never was a danger of the boiler freezing?

A. There was initially, yes. And it was a concern because we -- both from safety of the lines being down, and we assumed that we had a fuse blew, but we didn't know.

when Ameren -- they come out to replace the fuse -- when we're talking about cutting the lines, all they have to do is physically cut them and lay them back. It's not like it's something that takes a lot of time. But it's not anything that I cared about being charged for.

We just wanted to be sure whenever they had their service on, that our system could come on so our boiler would be back operatable so we would -- wouldn't have to worry about it freezing.

Now, a boiler like that is insulated, and it will contain the heat; it will have fire in it for hours, but hours is what we're talking about.

On real cold times, you know, zero or below, you're probably talking, you know, four or five hours. If it's 30 degrees, you may be talking 24 hours.

If it's ten degrees, you may be talking 15 hours. But it's -- your time frame starts from the time the power goes off if you're below freezing.

Q. Mr. Cardwell, in this case, the parties have stipulated that there were several outages. They're in the stipulation, and you've seen that. Right?

A. Yes. I have.

Q. Did you ever ask Union Electric to provide you with records of power outages?

A. I did.

Q. why did you ask for that?

A. I wanted to compare it back to Three Rivers, to see how much relevance there was in the power outages between AmerenUE and Three Rivers Electric, and also where we're at at Novelty.

Q. Does Three Rivers supply some of your neighbors there at St. Martins?

A. They do. They, typically -- and I don't understand -- again, we're talking stuff that was done years and years ago.

For the most part, on -- coming through St. Martins, what's on the south side of the road is Three Rivers; what's on the north side of the road is Ameren, with the exception of when it gets to our plant, and then it's the opposite.

We're on the south, and -- if you look in some of the pictures, all of the rural houses on the north side of the road is supplied by Three Rivers, and there at the Flats, where we're at, we're both supplied by Union.

Q. During the ice storm outage, did you notice any difference in which utility's customers had power and which didn't?

A. The Three Rivers -- I don't know if they lost power out there or not. They was on whenever we got there -- the Three Rivers customers.

Q. Did Ameren ever send you a record of the power outages?

A. Not that I can remember.

Q. And I think it's clear from these stipulations that some of the outages involved failed or blown fuses, and you've talked a little bit about how a blown fuse kind of lays down different ways and can be replaced.

Did you ever ask Union Electric if they would allow you or your contractor to work -- replace their fuses -- the blown fuses?

A. I never asked Ameren, because it's their responsibility when they're -- they replace them. But I've asked the contractors when they was out there working if they could pull them fuses so they could work on the live -- the lines without them being hot. And they said them fuses belong to Ameren, and they are not allowed to pull them.

Q. Have you had situations where you did need the -- to be de-energized from Union Electric's power supply in order to work on your property?

A. Both when we hooked up the shed was -- the dry shed. I've already explained that. The same thing when we was hooking up the boiler. I don't -- whether it's a contractor working for me or one of my employees, I don't

like them to work with them lines when they're hot.

We can shut down the five minutes, or ten minutes, or fifteen minutes, whatever it takes -- a hour -- to do what service. We'll get everything ready, and it's not that big a deal for us to shut down in rule of safety.

Q. But at St. Martins, you have to hire Meyers to cut the lines?

A. Meyers does the work there.

Q. And Lewis County and Ralls County, how does that get accomplished?

A. Well, they own the whole facility, so when they come in, they make the call whether they work on them hot or dead. Again, any time that they're working on high voltage lines, even on our plant at Novelty, if we've got to shut the plan down, we shut it down so they can work on the lines.

Q. Do they make you hire a contractor to disconnect the lines?

A. They handle all of the high voltage stuff, and even the hook-ups. And it seems like we're always building stuff, and we do several hook-ups; you know, it's just part of it.

Q. In December of 2008, which would have been about a year after the ice storm; is that right? Does that sound right?

A. Yeah, I would say.

Q. Did you ask -- did you make an application with the Public Service Commission to change --

A. We did.

Q. -- your supplier?

A. We did.

Q. What eventually happened with that case?

A. The case was dropped because it come before Public Service Commission. As a corporation, you have to have counsel, and we never had counsel. We also asked for a meeting.

Q. A meeting with whom?

A. With Ameren. And we -- after the case was dropped or seeing that it wasn't going no place, we talked to Representative Deitman [sic] and asked him if he could help us any. And he said that Ameren owed him some favors, and they'd suggest a meeting at his office.

Q. So you had another opportunity to discuss your network or your system out there with Union Electric?

A. We talked to them --

Q. Is that right?

A. We talked to them -- to Union -- or Ameren at Representative Deitman's [sic] office and told them some of what had went on. And they seemed somewhat surprised that --

Q. who was there from Ameren?

A. Dave Hagan was there. Larry Merry was there. And there was one other; I don't remember who that was.

Q. Did you again ask them to -- for your options in terms of having your system redone?

A. That is right. I did ask for them. And Dave said he would come out and talk to us.

Q. Dave Hagan?

A. Dave Hagan.

Q. All right. Did he ever do that?

A. Yes. He was out promptly, not long after that.

Q. And where did that meeting take place?

A. It took place at the plant.

Q. By "plant" you mean your plant?

A. Yeah. Out there at St. Martins or Apache Flats. We walked. We looked at that lines. Dave also brought bills. He explained to us the savings that we was receiving by being on a primary metering system.

I told him the maintenance that he said a system like we have should stand a long time; there shouldn't be that much maintenance cost on it.

He said the maintenance would be less; it would be cheaper to maintain it than what it would be to

pay the difference in power that it would cost if we went to a secondary metering system.

Q. So in other words, he was recommending that you keep your current system?

A. He was recommending that we keep the current system.

Q. Did you want to do that?

A. I really didn't.

Q. Did you ask him for a quote to have your system redone?

A. I don't remember that I did ask him for a quote. I remember talking about it. I don't remember asking him for a quote.

Q. Were there any conversations about staying at his level for your conversations with Union Electric?

A. What he told me was -- he said if we have any more problems, talk to him. He was as high as we could go in his office. If they was issues, deal strictly and straight with him; he would take care of it.

We talked about a pole that needed to be replaced to bring service in, and he said he would help us with that.

He also made it very clear to us in that meeting that Ameren was not interested in that system, to take it over in any way, shape or form; if they come in

there, that they would want a complete new system.

Q. But this was about the same time that your operation was being stepped down. Is that fair to say?

A. Not at that time. We hadn't begin [sic] stepping down yet, but there was several things that transpired right after that that -- that made the decisions to where we are now happen.

The main thing that happened is the economy. And that's not Dave's fault. That's not my fault. But the fact of it is, is we need to downscale our operation, and we started doing that.

We quit buying lumber, so we didn't need to run a lot of equipment the way that we had been. There was several things that changed immediately following that conversation with Dave.

(Exhibit No. 15 was marked for identification.)

BY MR. JOHNSON:

Q. I had marked as Exhibit 15 this filed application in the name of Cardwell Hardwoods. Do you have that?

A. I do.

Q. Can you describe the relationship between Cardwell Lumber, Inc. and Cardwell Hardwoods?

A. Again, Cardwell Lumber, Incorporated is --

it's the parent company or the -- in all practical purposes, it's a holding company. It's what our tax ID number is. And that's what we operate under.

Cardwell Hardwoods is only an operating name for this facility. We -- it's -- we have different locations, and for some of the books and different things, we just -- we used the name Cardwell Hardwoods down here.

Q. But this --

JUDGE JONES: When you refer to the file, you mean the application that began this case, not in the packet that you gave us?

MR. JOHNSON: Well, this is a prior application from two years ago.

JUDGE JONES: Oh. Oh, I see. I have it.

MR. JOHNSON: I'd offer Exhibit 15, Your Honor.

JUDGE JONES: Any objection?

Seeing none, Exhibit 15 is admitted into the record.

(Exhibit No. 15 was received into evidence.)

BY MR. JOHNSON:

Q. When your business opportunities at Apache Flats did start dwindling, did you have any other -- did you have another occasion to contact Mr. Hagan about your power supply?

A. That was just this June, and we -- when we talked again about bringing in secondary service -- where our three-phase, we're not using it. It's -- through the tariffs that's involved, it's expensive to maintain or expensive for us to keep, and we need to get to a primary -- to a secondary metering system for our office. And all I talked to him about is power for our office.

Q. Did you ask him -- did you guys discuss different routes that might be taken to get from his facility to that office?

A. We did. When Dave come out, he was very cordial. We talked about the system and what we wanted to do. I told him that we needed service to our office. We'd like to have service to the old mill building, for lights.

He suggested coming across the line and using some of the existing lines that's there. I asked him to bring the power from across the road.

The reason that I wanted to bring the power from across the road, again, not coming from the poles that's on my side, is because it would free up my yard. I don't know what the future brings for Cardwell out there. I don't want to have poles or lines that may be in the way of what we're doing that would just have to be moved again in the short term.

Dave said that he didn't think that they

wanted to come from across the road -- bring power across the road. So the next thing I asked him to do was parallel -- if he could come down on my side of the road, to keep the poles out of the yard. And --

Q. Close to the highway, you mean?

A. Close to the highway, or just down on either side of the line, to keep it completely on the north side of the line. He said, well, he didn't think they wanted to do that, either.

And what Dave suggested to me was to get a private contractor, have them build into the system that we've already got. We need to move some poles, set some poles, sag lines each way, and that would be his scenario, the best case that we could come out dealing with AmerenUE.

That's not really what I wanted to do, but I listened to him and started getting quotes. He also -- we asked him to furnish a quote, what it would cost for Ameren to do that, and he gave me a verbal quote within a few days, of \$8,600.

Q. Did you get that quote before or after you filed this proceeding? That was a verbal quote?

A. The verbal quote come from before, but again, it was to bring the power through the existing system and turn back --

Q. Okay.

A. -- and go into the office from the south.

Q. which was not your --

A. That's not really --

Q. -- desire?

A. -- what I wanted to do. But again, with the past record, I've not had very good luck of ever having Ameren do what I asked them to do. They generally tell me what they will do, or what they want to do, and that's about as far as the conversation goes.

Q. After you filed this case, did you ask for another one?

A. After we filed the case and -- Allen Bax from the Commission said that he felt like that the -- we was filing for rate differentials, was the reason that he would deny -- give us an unfavorable ruling.

I called back and I told Dave that I needed a quote of what it would cost to bring power from across the road. He was again very quiet. I didn't know whether I'd get it or not. But all he said was, Okay. And within a few days -- actually, the day that we met in your office, it hit my desk.

Q. The pre-hearing conference, you mean?

A. On the pre-hearing conference. That's what I got. And that was the first written quote I ever got from Ameren on anything.

Q. So based on your experience with Ameren, what are the problems that you foresee if you continue to operate your business out there in the future?

A. The problems is just what I said. It seems like when we ask Ameren for something, that they try to direct us in a way that's the best for their business, not the best for our business.

And I don't know why it's so hard to get quotes from them. I don't know why it's so hard for them to do what we ask them to do.

Truthfully, I think I can honestly say, for what the quote was to bring the power from across the road, what I asked him to do, if I would have received that before that we started the path that we're on now, that that's what we would have done.

It would have been expensive, yes. But that's easy to overcome. This hearing is very expensive. It would have been a fixed cost. And by doing that, it would have let us go ahead and start thinking about how we would expand our business.

Because it's always been within our rights, if we build a new building, to ask whoever serviced it that we wish. Only on the existing buildings is it -- are we married to AmerenUE.

But beings that we didn't get power from

across the road, he didn't give us the quote that we need, where we going to go in the future?

Now, then, if I build a building, here's -- here's the issue that faces Cardwell Lumber: This is not about rates.

If I build a building, and I need to use one of the existing buildings there -- if I build a building, I've got the right to bring Three Rivers in. We asked them; they said they would come.

But then I can't even have lights in my building without building another line in from Ameren's? I can't run my garage door up and down with electric service without having another line built in for Ameren? And I am still at their mercy.

Q. You're assuming that you'd take out the system that's there today?

A. The system that's there has got to go. I don't think there's -- there's no uncertain terms about that. Everything that's on the plant has got to go. We have had quotes to have it rigged out.

It would already be done if we could get through this hearing. Both Ameren and Three Rivers have made it very clear, in no uncertain terms, that they want nothing to do with the system that is there.

Q. Do you want to have two different power

suppliers on the same site?

A. I don't -- no, I don't want to have two different power suppliers. And I don't want to have the -- I don't want to be held where we can't make decisions that's the best for our business.

If we build a new facility, we know who we'll ask to serve it. But I can't hook on to my office if I build the new building, put power into there, because of the way that the laws is written through the Public Service Commission.

That building, the way that I understand it, belongs to Ameren as long as it's there. As long as there's a structure there, the service to that, if we try to put power in there, I assume they could file through the Public Service Commission if we put power into the building.

I don't know -- what the proceedings is. I'm -- that's not my line of it. I just know that we can't legally put power into them buildings.

Q. Do you find it ironic that even though you own the facilities that touch your building, that they're still married to Ameren?

A. Exactly. And the fact of the matter is, I don't understand -- whenever I read the statute, it said retail customers. Does retail customers mean high voltage

or low voltage?

There's nothing in that fuse that's -- breaks the powers on Ameren coming in than what it is on all their lines running out.

The lines that come in and serve my buildings belong to us, and that's where I see that if I can't get this ruling today, and Ameren starts hooking on to my buildings, then I never have a chance of getting them out. And that's what's brought the precedence to have the hearing now.

This is not the best for our business right now. We don't need this fight. And the power is really not even the issue out there right now. But it may be very much an issue in the future. And we need to have the right to go in the direction that's going to be the best for our business.

Q. Have you had some conversations with Three Rivers about what kind of facilities they would install if they were permitted to because of an order out of this case?

A. The only conversation that I've had with Three Rivers was a very short meeting where they walked in the facility and come to the facility. I met them down there, and I asked them what it would take to serve the office, if I wanted to bring power to the office.

Now, you have to remember that their lines are ten feet away. They're right above the office. They put in an in-line pole and they'd bring service to the office. It's that simple.

We -- I also asked them about three-phase -- if we brought three-phase in to the building what it would cost down there. And the reason I asked them that is because my lawyer, my counsel, advised me to, to get some kind of something to know where I was going.

But we had no intention of bringing three-phase into there right now. But he said get some idea of what we're talking in price.

And I don't remember what the lineman's name was, but he said, If it was me, what I would suggest doing is come underground; put a padmount transformer right out in here, and you'd have at least service in that far, and you could build off of it from there.

What would the cost be? He said, well, probably four to five thousand dollars. No kind of written bid, because it has no relevance right now if we cannot get this ruling in our favor. Some kind of written bid to be in stone is not -- it doesn't have any relevance.

Q. But Three Rivers did make it clear that they couldn't serve your office without an order from the Commission?

A. They made it very clear that they do not serve us without a ruling from the PSC.

Q. So --

JUDGE JONES: Do you have very much more, Mr. Johnson? We've been going for two years -- two years -- it feels that way -- two hours straight. I'm sure the court reporter needs a break. What are --

MR. JOHNSON: Oh, I have about another 15 minutes, maybe.

JUDGE JONES: Okay. Let me ask her. Are you okay to go for 15 more minutes?

THE COURT REPORTER: Yes, sir. I'm fine.

JUDGE JONES: Okay. We'll go for 15 more minutes.

BY MR. JOHNSON:

Q. Have you ever compared Three Rivers's rates to what you're getting from Union Electric -- to the rates you're getting from Union Electric today?

A. I never asked them what their rates even was. I know that they have some kind of rate that's set by the board and the Commission, and they're fair. They can't charge me more than what they charge anybody else.

Q. So you haven't engaged in any kind of analysis of how much money the business would save if it switched to a cheaper rate?

A. No.

Q. Do you --

A. And -- and --

Q. -- do you know if Three Rivers's rate is cheaper?

A. No. In fact, I assume that it's -- I assume that it would be higher.

Q. Why do you assume that?

A. Because going from a primary rate system with Ameren, they have -- the power rate that we're paying is not high compared to what we pay anyplace else. And in fact, it's cheaper.

Q. When you're talking about rate, you're talking about the rate per kilowatt hour --

A. Rate per kilowatt hour. And it would also be higher if they build a new system, as well. And again, I've not even went as far as to ask them what their rates would be.

Q. When you were talking about -- wait. No. You already mentioned that. Sorry.

Did you ever ask Union Electric to switch from the primary rate to a general customer rate?

A. When we talked about if they take over the system, and it will have to go from a primary rate to a general service rate.

Q. Okay. Did they indicate whether the general service rate was higher or lower than the primary system?

A. It is higher.

Q. Okay.

A. Yeah.

Q. Did they tell you whether or not they would have to increase the size of their facilities in order to serve you pursuant to that general customer rate?

A. I don't think that we ever got that far along. I don't know that they ever done anything with it.

Q. Since your usage was declining, you weren't asking them to increase the size of their system for your needs?

A. No. It would be downsizing for us.

Q. For Union Electric, to your knowledge, would it require them to make any change to their facilities?

A. Not except just to bring the power from across the road, if that's what I asked them to do.

Q. But that's never been done?

A. No. That's not.

Q. You're still being billed on the primary rate today?

A. That's right.

MR. JOHNSON: That's all the questions I have, Your Honor.

JUDGE JONES: Okay. With that, we will take a lunch break. I'll see you all back here about twenty after 1:00. Is that good?

All right. With that, we'll go off the record.

(Off the record.)

JUDGE JONES: Okay. Let's go back on the record. We're back on the record with Case No. -- let me get this started here -- with Case No. EO-2011-0052. We had completed the direct testimony of Mark Cardwell, and now we'll move to cross-examination, beginning with Three Rivers.

MR. SPORLEDER: Judge, we have no questions for this witness.

JUDGE JONES: Office of Public Counsel.

MR. MILLS: I do have a few questions, Your Honor.

CROSS-EXAMINATION BY MR. MILLS:

Q. Mr. Cardwell, I was trying to just get a sense from Exhibit 1, for example, of the scale. And you and I had a little conversation about this on the break. Is there anything on this diagram that you can point to that you can estimate the size of with some accuracy?

A. One piece I know for sure.

Q. Okay.

A. If you look at 15, the part that we built on there new is 60-by-80.

Q. If we look at what? I'm sorry.

A. Actually, Building 1.

Q. Building 1. Okay.

A. Right here (indicating) is what you had. The back part of that is 60-by-80.

Q. Okay.

A. Building 8 is approximately 60-by-140, in that range. Building 4 is 60-by-120.

Q. Okay. Okay. And that's helpful. Thank you. Now, with respect to sort of the -- chronologically, the most recent part of your discussions with UE, it's my understanding what you were asking them to do most recently was to bring service in from across Highway 50, at the top of the diagram on Exhibit 1, straight into Building 1; is that correct?

A. Right.

Q. Okay. And what they offered to do, instead, was to bring service into Pole Number 1 or Pole Number 2, and then back up to the building?

A. They won't use Pole Number 2.

Q. Okay.

A. It has to be replaced, regardless.

Q. Okay.

A. That's part of our system, and --

Q. Okay.

A. -- it's deteriorated too far to use.

Q. Okay.

A. Pole Number 1, I assume, is their pole.

Q. Okay.

A. I don't know that there's any real clear cut to whether that's right or not.

Q. Okay.

A. But what Dave said that we would have to do is we would have to -- if they done it, they would set two new poles. They would hook the low voltage lines that is already on Pole Number 2 -- if you pull up your Pole Number 2 picture --

Q. Uh-huh.

A. -- onto that pole. And that would be the metering pole, because the meter would belong to us. And then the lines would go both ways, both to the mill building and to the office building.

Q. Okay.

A. What I wanted and what I asked for is -- originally is to bring the power from across the road. Therefore, we may or may not leave Pole Number 2 on the yard, but it will be low voltage, and it will be within our system.

If we decide to move it, all we got to do is take it down and move it. It's -- that's not an issue, because the lines that will be on it will be low voltage.

Q. And on Exhibit 3 -- well, actually, on any one. Exhibit 1, for example, the -- there are two in the upper left-hand corner of the -- of the diagram. The southernmost of those little circles is the -- is the co-op's pole. Right? And the northernmost is the UE pole?

A. That is correct. And, also, there's a picture of those when you're looking past the office where you can see them.

Q. Right.

A. But it's -- this is the most southern pole, the UE pole -- or the Three Rivers. Correct.

Q. Right. And when you talked to them relatively recently about redoing your configuration, were they planning to use that pole, at all?

A. UE?

Q. Yes.

A. Yes. It would -- the line would go still to Pole Number 1. They would put in two new poles to replace Pole Number 2. Then the rest of the system could be completely wrecked out. They was also going to reuse the power lines that was already in place. They would have to be moved from our pole to their pole.

Two Pole is one of the most deteriorated poles out there. It has to come down. The problem with doing that, for us, now then, they would have primary line in as far as Pole 2.

A. Uh-huh.

Q. If we decide to do anything out there in construction, not only will they have primary lines going across the yard, but they'll also have poles placed in the middle of the yard, and that's probably the area that we will need to build on.

So that's why that it needs to be nothing more than secondary lines -- low voltage lines that come across there. And whenever I asked Dave to do that, and asked him to come across the road is -- he said that they didn't want to do that.

Q. And when you say "come across the road," that's -- you're talking about --

A. Across --

Q. -- coming in with their first pole up by Building 1?

A. Exactly. The whole -- they would have to -- they would have to put up -- a pole up there someplace on our yard --

Q. Uh-huh.

A. -- anchor it on our side, so they can span

across --

Q. Right.

A. -- to come straight into that building. I also asked him if they could parallel the lines and use the pole that's already existing there in the corner -- and just parallel and come down thataway. That would save them from having to cross the road. And he said, no, he didn't want to do that, either.

Q. And when you say "parallel the lines," you mean go along the --

A. Parallel the --

Q. -- border?

A. -- the lines of Three Rivers.

Q. Okay. So --

A. Just --

Q. -- so you'd have the UE line running east and west across the northern border of this property?

A. But again, the lines would be off the yard --

Q. Right.

A. -- for future expansion. What we may need to do -- they would not be in our way in any way that we couldn't handle.

Q. And have you had conversations with Three Rivers that get into that kind of detail, where you -- if

you got service from them, where you would want the lines to go and poles and things like that?

A. Just very brief on the three-phase, and they suggested the padmount and going underground --

Q. Okay.

A. -- which frees up the sky. And on the office, it's -- remember, their lines is -- would be --

Q. would run overhead.

A. -- feet.

Q. where are they talking about putting the padmounted transformer?

A. It would be down on the inside of the old mill building.

Q. Okay.

A. One of the things that --

Q. That's Building Number 2. Correct?

A. Building Number 2.

Q. Okay.

A. That is correct. And we would get all of the electrical facility from behind the building.

Thataway, it would be easily accessible from inside. But again, at this time, we're not asking Three Rivers to bring the power in. We're just asking what their suggestion --

Q. Right.

A. -- would be.

MR. MILLS: Okay. That's all I had. Thank you.

JUDGE JONES: Any cross from Staff for the Commission?

CROSS-EXAMINATION BY MR. DEARMONT:

Q. I just have a few questions for you, Mr. Cardwell. Okay. We established this morning that you're currently responsible for the maintenance of the facilities on your property. Correct?

A. Yes. I --

Q. Currently?

A. Yes.

Q. And you were aware of that responsibility when you purchased the lumber business?

A. Yes. Somewhat aware for what -- I didn't know the magnitude that it would curtail [sic], but Don definitely made the statement before we purchased it that we -- that we owned all of the electrical facility.

Q. Okay. And would you agree that you receive a lower monthly bill because you own those facilities?

A. Dave explained to us what the savings was at one time. Yes.

Q. Okay. Do you have any idea why that bill might be lower? I mean, is it safe to assume that it might be lower because the company realizes that you may have

some upkeep and maintenance expense?

A. That is correct. Yeah.

Q. Talking today, do you have any present plans to develop the rest of the Cardwell tract in the future?

A. Today's hearing depends 100 percent on what we do out there. If we don't get a favorable ruling, where we can go on and develop our buildings, our property, in the way that we need to, we will close the operation down, and it -- it will not -- we will lock the door. We will rig out the electric. It will be unserved. And we will close the facility. And so there is no future plans, if we get an unfavorable ruling from the PSC past today.

If we get a favorable ruling, then we would like to go into millwork. We will keep the store open. We will keep the guys that we have out there working, going, for the next few months. And we would like to expand our millwork operations. Now, that depends on the economy.

But we have equipment already bought that's sitting in Novelty that we can move to this operation, and we can start growing our business, and would already have been growing our business if we could get over these hurdles.

Q. Understood. Just to be clear, what do you mean by "favorable ruling"?

A. We need a ruling where we can serve our

business through Three Rivers. Our relations with Ameren are strained. They've been strained for quite some time. I don't ask Dave for very much.

When we do ask Ameren for things, they try to direct us in the direction that they want us to go, instead of listening to what we want to say -- what we have to say and why we're doing what we're doing.

This is different -- very different -- than what it is from the other two locations we have, where our electric company works very close with us in what we need to do.

Q. As of today, would you say that that's the only favorable outcome?

A. I -- that's the only favorable outcome that I can see, yes.

Q. Okay. Now, I understand that it's your goal, at least today or in the foreseeable future, to receive a change of electrical supplier from AmerenUE to Three Rivers.

But putting that aside, if I'm just talking about electrical service, I have a hard time understanding exactly what you want. In a perfect-case scenario, do you want single-phase? Do you want three-phase? Or am I just completely misclassifying any of that?

A. Where this started, and what I asked for --

and this is -- was, again, very clear to me what I wanted and what I explained to -- and what we explained to Ameren that we wanted: I would like for Three Rivers to serve our office. The power is right there. Okay.

Past that, what I asked for, and what I was also told that we cannot get, is a neutral position on the rest of the buildings.

Now, I've told everyone here the condition of the facility and where we're headed. There's a good chance that we may sell off part of our business. And if we start selling off, the east half of the business is what we will probably sell off first.

(Telephone interruption.)

THE WITNESS: Very sorry about that. I turned it on for lunch and forgot to turn it off.

BY MR. DEARMONT:

Q. I guess where you lost -- I'm sorry to interrupt. Go ahead and finish your --

A. I would like to clearly tell you my position and --

Q. Sure.

A. -- what we asked for.

Q. Sure.

A. If we sell that off, Three Rivers doesn't have any power lines close to the east half of the

building. Our best possible person to buy that facility on that side is the -- Rocan, the company that joins us. They're already served by Union Electric.

I don't know what kind of relationship they have. It may be an excellent relationship. They also have lines that's already into their facility, and it would be easy to branch and come down.

Now, both companies has told us that they don't want anything to do with the power that's out there, so that part's got to come down.

And what we asked for from Union Electric, let Three Rivers serve our office, and give us just a neutral position on the rest of the property, so however it may develop, then whoever buys it can at least seek power in them buildings to the best fit for their business.

Q. Okay. Where you lost me is "neutral position." That's what I'm having a hard time understanding. I understand the frustration between service providers and potential service providers.

But I'm just trying to get an understanding of the actual service that you want. So maybe I'm just misunderstanding the term "neutral." I mean, what do you mean by that?

A. If I built a new building and I wanted it served by power, what would my choices be? I could ask for

either AmerenUE, or I could ask for Three Rivers. Right? That's a neutral. I have that decision.

And what I asked UE to do was just release the buildings to -- so whatever happened to them buildings, that if somebody bought the property and wanted to develop for whatever the reason was, that they would have the right to serve that building with whatever power company that they may want to put in there. And it may be UE; it may be Three Rivers. But let that person or that entity decide.

Cardwells is very clear what we want. We want Three Rivers. And if we build new facility, we will have Three Rivers serve it.

But here's where we have the problem: we can have Three Rivers serve our new facility, but we cannot have power in our old facility without Ameren serving it.

The lines that's connected to it are our lines, and they have to come out. Both companies have made it very clear, and we also realize that, that them lines have got to come out, so they will be unserved.

Q. I understand the setup. Maybe we're not seeing each eye-to-eye here. I'm talking existing structures, structures that are currently built on the property, what kind of juice do you need to have to turn the lights on, turn the boiler on, turn the fan on, turn the doors up to make those things work? I don't want to

know about the relationships of the parties.

A. Are you wanting to know the voltage, what --

Q. Single-phase, three-phase. What do you need to --

A. Well, typically --

Q. -- make your --

A. -- for a light --

Q. -- facility work?

A. -- a light or doors is single-phase service.

Q. Okay.

A. If you start into any kind of heavy equipment -- and generally about five horsepower -- again, I'm not an electrical engineer, but from my understanding of it, is about the maximum that you can go and use a phase converter and convert.

Now, if you can get into 440 service and you can go single-phase, then you could even go higher horsepowers than that. But again, there's -- that's kind of -- it's a question that's very hard to answer with not knowing what's going into the buildings.

Now, again the property is property that's very easily developed. And I don't know what they will bring. I know what our aspect of it is, and what we may do.

And right now -- and this is what I told

Ameren what we would do: We want power to our office, and if we have to have three-phase, we'll put in a generator. It's easy for us to control.

The fuel costs of a generator and the initial cost of a generator is something that we can easily overcome and do. If we need three-phase, we run it; if we don't, we shut it off. It's that simple. But that's for our aspect.

I don't know what the property is going to bring. I just know that there's buildings, there's land, and there's chance for development.

Q. So today, currently, you need single-phase to the office; is that correct?

A. That's right.

Q. Do you need three-phase, today, to any other buildings?

A. Do not need it.

Q. Okay. And it's safe to say that AmerenUE can provide you single-phase service to your office building?

A. That is safe to say. And I want to also make it very clear that they offered to do that, but not in a direction that I wanted to come --

Q. I -- I --

A. -- straight across the road.

Q. -- I understand.

A. -- road.

Q. So -- I was going to be reasonable. I was going to go there next. It's safe to say that they can provide you with that service, but not in the manner that you would like to provide it?

A. That is correct.

Q. Okay. Is it -- and I believe you had this discussion recently with Mr. Mills. But you would like them to bring their service directly across the road and into the building?

A. That is correct.

Q. Okay. Now, is it possible that there are other factors that may prevent Ameren from doing that?

A. I would say yes, but I would also say that they give me a bid to do that, and that bid is exactly what I asked them to do when we first started talking. Now, this bid never came until the day that we meet on a preliminary hearing down here.

Q. The first bid that you got, that was \$8,600?

A. Correct.

Q. Okay. And what did that bid cover?

A. Bringing the electric through some of the existing poles, through some of the existing system, back across the yard, and back to the office.

Q. Okay. And the -- the bid that you received recently, around the time of the pre-hearing, that was higher than that initial bid?

A. It was higher.

Q. Okay. And that was to bring single-phase service from the north end of the property down to the first -- one of the first poles, and then up to the office?

A. (Witness shook head.)

Q. No?

A. No. It was to bring straight across the road, from the line across the road, set one new pole in the yard, and come from there.

Q. From Ameren?

A. From Ameren.

Q. Just so I'm clear, the bid that you received at or around the time of the pre-hearing conference covered the request that you made for them to bring service directly across the road, install a pole, and provide single-phase service to the office building?

A. That is exactly right.

Q. Okay. It was higher than the \$8,600 originally requested --

A. Yes.

Q. -- quoted? Excuse me.

A. It was.

Q. Okay. I know you can't speak for Ameren, but is it safe to say that if you were willing to pay that higher amount that, based upon that quote, Ameren would be willing to provide you with that service?

A. I think it's safe to say if that's what they would have done whenever we first talked and give me that bid, we would never have been here.

Q. Okay. I just want to ask you a few questions about some of your other businesses. You stated that one is located in Novinger.

A. Novelty.

Q. Excuse me. Novelty?

A. Yes.

Q. And Novinger, or was I just --

A. I don't know where you came up with Novinger.

Q. Me neither. Okay. So we're --

A. N-o-v-e-l-t-y, Novelty.

Q. -- we're in Novelty. And anyplace else?

A. The actual mailing address is Frankford, Missouri. We always call it New London, because that's the closest town to it. But it doesn't have a mailing address there, either, so --

Q. And the business in Novelty is currently served by a co-op?

A. It is.

Q. And does that business receive single-phase or three-phase service?

A. Both.

Q. Is that company -- or are you responsible for the maintenance of any of those facilities?

A. None; not the lines, the transformers, any of it.

Q. How long have you owned those businesses?

A. The original business started in Novelty, and it started in 1965, the same year I was born.

Q. Okay. Are the services that are provided -- strike that.

Those structures that exist at Novelty, when you received electrical service, were those structures already built, or did you construct them and then -- was it new service?

A. It was new service, and it's changed many times through the years.

Q. Okay.

A. The original system has been wrecked out, changed, moved several times.

Q. Now, it's my understanding that you claim that you've had some reliability issues with the business in Apache Flats?

A. We had in the past, but it's -- to me, it's really of no issue right now.

Q. Okay. In the past -- or when you did have those issues, do you think that they were worse, better, or about the same that you've had in Novelty?

A. Definitely worse. We're running like equipment at Novelty right now, and we don't have those issues.

Q. Does the power sometimes go out in Novelty?

A. Once in a while, yes. But we've --

Q. Okay.

A. -- got excellent service. One thing, we're really close to the substation. But we get excellent service.

Q. When the power does go out in Novelty, and the power did go out here in Apache Flats, can you tell us -- can you compare the time that it takes the co-op to fix it versus the time that it takes UE to fix it?

A. No. I wouldn't -- I couldn't talk on that with knowledge. No.

Q. Do you think that the fact that you own -- or that you are responsible for the maintenance of your current system, do you think that that could add to the delay in restoring power?

A. No, because I don't -- if it's in my own

system, I don't count that as downtime for Ameren. If it's in our system, then it's our fault, the way that I see it. So I wouldn't play that into that at all.

MR. DEARMONT: I don't think I have any other questions. Thank you very much. Appreciate it.

JUDGE JONES: Cross-examination from Ameren?

MS. TATRO: Thank you.

CROSS-EXAMINATION BY MS. TATRO:

Q. Good afternoon, Mr. Cardwell.

A. Hello.

Q. Way back when we started this hearing, you testified that there was 83 employees total by Cardwell; is that correct?

A. Last week's payroll.

Q. All right. And how many of those work in the Jefferson City office?

A. Three.

Q. How many worked there before the economic downturn?

A. As many as 15.

Q. Now, is your facility there on the Cardwell tract -- am I correct that it's fenced so that the general public can't just walk in and around the facility?

A. That is correct. It's got a gate fence.

Q. Okay. As you went through your testimony,

you talked about your boiler that went bad last year --

A. Yes.

Q. -- late last year?

And you said that because of the economic conditions, you made the decision that it wasn't viable to keep that part of the business open. Correct?

A. That is correct.

Q. So it had nothing to do with any of the quality of service that Ameren Missouri was providing?

A. No. That is -- that is -- that is correct, as well.

Q. And it didn't have anything to do with how positive your interactions were with anyone at Ameren Missouri?

A. As far as the boiler concerns?

Q. We're talking about the boiler.

A. That is correct.

Q. Okay. Now, on Exhibit 1 -- Cardwell Exhibit 1, the two little dots up at top left-hand corner represent Ameren Missouri and Cardwell -- or not Cardwell -- Three Rivers' poles. Correct?

A. Yes.

Q. But Three Rivers' poles is in any way -- their system is not in any way connected at this point in time to your system?

A. That is correct.

Q. And let's go through the pictures. I think it starts on Exhibit 4. Setting aside on Exhibit 5 the pole that's labeled Pole Number 1 -- that's the pole that has the meter on it. Correct?

A. That is correct.

Q. Okay. Setting that pole aside at this point in time, every other pole pictured is owned by Cardwell. Right?

A. With the exception of these poles right here (indicating) --

Q. Okay. And that's -- that's --

A. -- in Exhibit 13.

Q. Sorry. Go ahead.

A. In Exhibit 13.

Q. All right. So ignoring Exhibit 13, then. And then ignoring wherever Pole 1 may show up. I have it on Number 5, but it might show up on a couple others. Every other pole is owned by Cardwell?

A. That is correct.

Q. And any fuses on those poles would be owned by Cardwell?

A. That is correct.

Q. And you don't own Pole 1, or you're not sure?

A. I'm not sure, but I don't think we do.

Q. Okay. But Pole 1 is where Ameren Missouri's meter and line connects with your apparatus, your lines. Right?

A. Yeah. Our primary service lines.

Q. Okay. Mr. Cardwell, you discussed that fuses blow from time to time, and it's not uncommon in a mill business for fuses to blow. I presume that's just because of the pull on the load?

A. I don't know.

Q. Okay.

A. You know, again, I -- I can't speak for all of this. There's fuses on the rest of the lines -- on some of the rest of the poles. But the fuses on this pole is the ones that always blow.

Q. Okay. Which pole are you talking about?

A. Pole Number 1.

Q. On Pole Number 1. Who owns those fuses?

A. Ameren.

Q. Okay. Later on, you testified about -- that originally you didn't understand what it meant that the electrical facilities were Cardwell's when you first took over that property, when you first bought that property.

A. That's right.

Q. Do you remember that testimony?

A. Yeah.

Q. And you talked about a fuse blew, and you had the manager of the facility contact Ameren Missouri. Do you remember that?

A. Yes.

Q. And what did he tell you or your manager?

A. When Ameren showed up out there, the fuses was blowed [sic] on Pole 1, here. And he said that whenever -- whoever come out to replace the fuses wouldn't replace the fuses without us getting a load of rock around the bottom of the pole so he could get his truck up there.

Q. Was there discussion of ownership of that fuse?

A. No. No. Not with me.

Q. Okay. I'd like to talk about Exhibit 14. Do you have that in front of you?

A. I do.

Q. It's the boiler power outages that were reported.

A. My Exhibit 14 is a picture of the office.

Q. Okay. That's not the one I want. I thought that one didn't get admitted. I want the one that's the boiler outages.

A. I've got it.

MS. TATRO: Is that not 14, Your Honor?

JUDGE JONES: 14 is the boiler outage report.

MS. TATRO: Okay.

THE WITNESS: All right. Got it.

BY MS. TATRO:

Q. Now, that just shows when you had boiler outages. Correct? It doesn't indicate what caused the fluctuation in voltage, does it?

A. The system will read power failure.

Q. Uh-huh.

A. But after that, no, we don't know what the cause is.

Q. Does your system know if the failure is on your electrical apparatus or if it's on Ameren Missouri's primary system?

A. No. It wouldn't know.

Q. Later on, you testified that some of your neighbors -- neighbors meaning next to the Cardwell facility -- are served by Three Rivers, and that their restoration after the December ice storm was faster than when you were restored. Do you remember that?

A. Yeah. Whenever Tony come to work, I wasn't down --

Q. But you remember that part of the testimony?

A. Yeah. He said --

Q. I haven't asked you --

A. -- the lights --

Q. -- a question yet.

Now, are those neighbors taking primary service, like you are? Or are they residential neighbors? what kind of facilities are they?

A. They would be houses and -- and the businesses down in the bottom, in the flats. You know --

Q. Do you know if they take primary service, similar to you?

A. No. I wouldn't know whether they take primary or secondary, or what they'd have. But I can look and see when the lights is on and -- even when you drive by, you can see whether the lights are burning or not.

Q. I understand that, but that's not the question I asked you.

A. What --

Q. The houses probably don't take primary. Right?

A. Is that what you want me to say, then?

Q. I'm trying to figure out what kind of facilities are beside yours. If they're houses, we can probably assume they don't take primary service. Would you agree?

A. Their line runs all the way through the

flats out there, both Three Rivers's and UE's. And I wouldn't have any idea the type of service that the other houses, businesses might have.

Q. Okay. Fair enough. You're familiar with the Stipulation of Facts that was filed in this case?

A. Yes.

Q. Okay. Do you have a copy with you?

A. Don't know if I do or not.

MS. TATRO: Judge, I don't know that I have an extra one to give you.

THE WITNESS: Yes. I do have.

MS. TATRO: Thank you.

BY MS. TATRO:

Q. And on Page 3 of that agreement, the paragraph labeled Paragraph 14, which is the outage history for service to Cardwell Lumber, do you see that?

A. I do.

Q. And is that storm listed -- that outage listed there?

A. Yes. You're talking the ice storm? There was also an electrical storm.

Q. Yeah. I'm talking about the ice storm.

A. Okay.

Q. Where your company was without power for 45 hours and 22 minutes.

A. Yes.

Q. Can you read the next sentence, please.

A. This outage was caused by a tree limb on the primary line which serves Cardwell Lumber, during a major ice storm. Cardwell Lumber's outage was no longer due to damage to their system.

Q. I think maybe you added an extra word. Redo that last sentence.

A. Cardwell Lumber's outage was longer due to the damage to their system.

we talked about that earlier, in that the lines that went down behind the mill was not replaced for several days. But the boiler lines was ready to come on whenever the power come on.

Q. I understand that.

A. Okay.

Q. But -- so there were multiple causes for the interruption of service to your facilities. Correct?

A. I know the one that we had. How many past that, I wouldn't know.

Q. You know there was an ice storm that day?

A. That's right.

Q. You know it was pretty severe?

A. Yes.

Q. So it doesn't surprise you that it took down

some of Ameren Missouri's primary service lines?

A. It does not.

Q. Okay. But that was compounded by problems on your electrical apparatus. Correct?

A. It was never an issue as far as getting power back to the boiler, because the power was restored -- or the lines was disconnected by the time the Ameren lines come on.

So yes, part of the facility was out for an extended period, but that wasn't the part of the facility that needed the timely repair and needed the lines repaired quicker.

Q. Well, that repair that you're talking about was to your electrical apparatus. Right?

A. That is correct.

Q. Okay. Now, towards the end of your testimony, you talked about you want to be able to make decisions for your business that would be best for your business, whether that's expansion or selling it off, or whatever that might be. Do you remember that part of your testimony?

A. Yes.

Q. If the Commission grants your request and allows you to switch to Cardwell -- you are Cardwell, sorry -- Three Rivers, do you have definitive plans to sell

any portion of this property?

A. Not at this time.

Q. Do you have definitive plans to rebuild any of the buildings?

A. Not at this time.

Q. Do you have definitive plans to expand your business?

A. At this time, yes.

Q. Okay. So if the Commission grants this request, you will expand your business, no qualifiers?

A. That would be correct.

Q. It doesn't depend on the economic conditions?

A. That would also be correct.

Q. Okay. What expansion do you have definitive plans for?

A. We intend to get in a sander. We intend to put it into the old mill building. We don't know yet whether we will serve that power to that building with a three-phase generator or we'll ask Three Rivers to bring lines in.

We're a little reluctant to bring lines in to that in three-phase because we don't know how long that we'll be involved in that building and what the future may bring. But we need -- we've got employees out there that

could be doing more every day if we had the power to serve them to work with.

Q. And technically, if Ameren Missouri was providing single-line service -- single-phase service across the road, or however that was happening, you could do the same thing; you could use a generator to power that facility in the building. Correct?

A. That is, technically speaking, correct.

Q. I understand it's not what you're asking for, but it's technically possible?

A. It is.

Q. Okay. At one point in time you were asked if you got a bid from Three Rivers to give you single-phase service. Do you remember that part of your testimony?

A. I do.

Q. And you said you didn't get a written bid, but that it was likely four to five thousand dollars?

A. Not for the single, no.

Q. Okay. What was --

A. That was for the three-phase.

Q. That was for three-phase. Did that include them wrecking out the old facilities -- the primary facilities of yours?

A. It did not. They had made it very clear that they want nothing to do with the old facility, and

would not wreck it out at any cost.

Q. I have no further questions. Thank you.

JUDGE JONES: Okay. Redirect from Cardwell?

MR. JOHNSON: No, Your Honor.

JUDGE JONES: You may step down,
Mr. Cardwell.

(Witness excused.)

JUDGE JONES: While you all get situated,
I'm going to go to the bathroom. If anybody else has to
go, you're welcome.

(Off the record.)

JUDGE JONES: Okay. Ameren, are you ready
to call your witness?

MS. TATRO: Yes. Call Dave Hagan to the
stand.

JUDGE JONES: Mr. Hagan, will you raise your
right hand.

(Witness affirmed.)

JUDGE JONES: Thank you, sir. You may be
seated.

DAVID HAGAN testifies as follows:

DIRECT EXAMINATION BY MS. TATRO:

Q. Good afternoon. Could you state your name
and business address for the Commission.

A. David Hagan, Ameren Missouri, 1310

Industrial Drive, Jefferson City, Missouri 65102.

Q. Mr. Hagan, how long have you worked for Ameren Missouri?

A. It will be 33 years at the end of this year.

Q. And what's your current position?

A. Supervising engineer for the Capital District.

Q. And how long have you held that position?

A. Twenty-two years.

Q. And prior to that, did you also work in this portion of Ameren Missouri's system?

A. No. I worked in St. Louis, in a staff position there.

Q. Okay. Are you familiar with Ameren Missouri's customer Cardwell Hardwood or Lumber?

A. Yes. I am.

Q. Okay. And you're familiar with the interaction that's occurred over the years between the two companies?

A. I believe so.

Q. Okay. How long has Cardwell been a customer of Ameren Missouri?

A. Since November 4th, 2004.

Q. And what type of rate do they receive service under?

A. They receive service under our small primary service rate.

Q. And just to make sure that we're clear, can you explain what it means to take service under the small primary rate?

A. Small primary service rate, the customer is responsible for all facilities beyond the primary meter. It saves some of the investment from Ameren for that type of installation. In exchange, they receive a lower kilowatt hour rate, and thereby saving money.

Q. And at the time that Cardwell initially became a customer of Ameren Missouri, was the small primary service rate the appropriate rate for them to be on?

A. Yes. It was. The previous customer, Capital Hardwoods, was on that rate. That rate had been established by previous owners on that property.

Cardwell Hardwoods' operation was very similar to Capital Hardwoods', looking at their load data; how many kilowatt hours they use, they were also very similar, all of which they used in the neighborhood from 33 to 54,000 kilowatt hours per month. And at that level of usage, that rate is beneficial.

Q. And you discussed -- when you were explaining the small primary service rate, you talked about when -- the customer's responsibility. Can you tell me,

what's the exact delineation between where Ameren Missouri is responsible and where the customer taking SPS is responsible?

A. It's very similar, actually, to our small general service rate, or any of our other rates, in that the customer must provide the attachment point for our lines to come to. If you talk about a residence, and the meter is on the house, typically it's at the house.

In this case, being primary metered and the lines out there, they provide that pole and our means to attach to it. We place our meter and equipment on the pole there. And then all apparatus -- all other apparatus on that pole, and beyond that point, is theirs.

Q. And you saw Exhibit 5. Do you have a copy of that up there?

A. I don't, but I'm familiar with it.

Q. All right. And it has a pole labeled Pole 1?

A. Yes.

Q. Whose pole is that?

A. That would be Cardwell's.

Q. And the meter box at the base?

A. The meter box at the base would be ours, as well as those funny-looking things sticking out on the pole are our current transformer and potential transformers for

measuring the usage.

Q. So those are related to the meter?

A. Yes. They are.

Q. What about the fuses that might be on that pole?

A. Those would be Cardwell Hardwoods'. Again, it would be just like a -- any other type of service where the customer must have a over-current and disconnect means.

Q. So Ameren's meter and the meter and equipment that's up there at the top -- it kind of looks like earmuffs or something -- they're attached directly to Cardwell's structure there, the pole?

A. Yes.

Q. Now, Mr. Cardwell has explained that he didn't really fully understand what maintaining those facilities meant when he first -- when they first purchased the property. Do you remember that testimony?

A. Yes. I do.

Q. Do you think that confusion plays any role as to the incidents and the events that he recited earlier today?

A. I believe so. I thought we had explained that well to him. He asked shortly after he took service in 2004, in the same month, November, we tried to explain it to him then. And then, after that, we've had some

meetings on that.

Obviously, by some of his comments today, it does not appear that he does understand that, since he did not realize those fuses are his. But I think that came from misinformation from one of his contractors.

Q. Now, did there come a time when Cardwell's operations changed?

A. Yes. Earlier this year, spring of this year, Mr. Cardwell called me, asked how he might save money on his electric bill. I reviewed their usage, noted that in February of this year, their usage dropped dramatically.

whereas they had been using, in January and before that, again, depending on the month of the year, between 33,000 and 54,000 kilowatt hours per month, they had dropped to a level of two to three thousand kilowatt hours per month.

Q. So a customer with that lower amount of usage, is the small primary service rate the cheapest rate for them to be on?

A. No. It is not. They would benefit by being on our small general service rate. After I reviewed that data, I did go out and meet with Mark and his father to discuss how we could go about putting them on that rate.

Q. So leaving aside the conversion that would have to happen with the primary system and Ameren

Missouri's system, just looking at the rate itself, their bill would be cheaper if they switched?

A. Yes.

Q. What would be the more appropriate rate for them to switch to?

A. Our small general service rate would be the appropriate rate given their present operation.

Q. And did it -- at any point, did you do a comparison of what their bill would be like if they switched to the small general service rate?

A. Yes. We did.

MS. TATRO: May I approach?

JUDGE JONES: Yes, you may.

MS. TATRO: I don't know how you want to mark this, Ameren 1 or if you just want to go to the next number.

JUDGE JONES: It will be Exhibit 16.

MS. TATRO: Sixteen? Okay.

(Exhibit No. 16 was marked for identification.)

BY MS. TATRO:

Q. Can you identify that, please?

A. That is a copy of the rate comparison that we did for Cardwell Hardwoods' account.

Q. And can you explain that document, please?

A. Yes. If you look at the larger block of numbers that have -- like, the first line, 40, 50, 48, the numbers in the white blocks there for those five lines are all their actual usage through this summer, from when their load dropped beginning in March through October of this year.

The numbers in yellow, at the beginning and end of the year, we took that actual data from this year and normalized it for if they had actually had that usage at the beginning of the year, and what we would expect it to be for the last two months of this year. So with that input, that would be their usage.

If you drop down a few lines to where it says, SPS, that stands for small primary service rate. It shows that at this level of usage, they could expect to have an annual bill of \$10,668.

If you drop down a couple more lines, where it says SGS, that would be our small general service rate. It shows that they could expect to have an annual bill of \$5,709.

You will note that three-phase is pencilled behind that number. That is because this program and this rate comparison must look at the same type of service. Primary rate is a three-phase service, so therefore we had to calculate the small general service initially as if it

were three-phase.

The number -- handwritten number on down below, you see a 1 with the symbol -- a zero with a slash through it, standing for the phase, and the number 5,598. If they were actually just on single-phase service, their annual bill could be expected to be just under \$5,600.

Q. And you prepared this exhibit for this hearing?

A. Yes.

Q. And it was prepared by you or someone at your direction?

A. It was prepared by another person in our office at my direction.

Q. Okay.

MS. TATRO: I would move to put Exhibit 16 into the record.

JUDGE JONES: Any objection?

MR. JOHNSON: I'm not sure I understand the relevance. I'll not object.

JUDGE JONES: Well, since you brought that up, the statute is clear that it can't be for a rate differential. Right? This is about rates. So how is it relevant?

MS. TATRO: Well, Your Honor, I think it -- I can establish the relevance as we go forward. But I

believe that the relevance is that -- to show that the conversion to an S -- a small general service, which they have to do and which they're contemplating under both, has a -- is not a major investment in that there's a payback just from the bill savings within a couple years.

JUDGE JONES: Yeah. But this document describes rates for a different class of customer. Correct?

MS. TATRO: No. The SPS is the rate they're currently on.

JUDGE JONES: Right.

MS. TATRO: The SGS would be the service they would be on if AmerenUE -- Ameren Missouri -- sorry -- did -- if they took the \$8,600 or the \$10,000 estimate that we have given to them.

The 5,700 is if that were three-phase, we can -- they convert -- he converted that to a single-phase, because it would be a single-phase installation.

JUDGE JONES: Okay. Again, these are rates that are on this paper. Right?

MS. TATRO: Yes.

JUDGE JONES: And --

MS. TATRO: It -- but it's not being offered to show that it's a cheaper rate. It's offered to show what the savings would be.

And he's talking about the economic conditions and the difficulty of keeping the facility running, and whether or not they can expand it.

We're trying to show that if there were some action that were taken, it could relieve portions of that. That's the purpose, not to show -- it doesn't have a rate comparison to Three Rivers at all.

JUDGE JONES: Okay. All right. I guess I'll admit Exhibit 16 into the record.

(Exhibit No. 16 was received into evidence.)

BY MS. TATRO:

Q. All right. Mr. Cardwell testified about several different interactions that have occurred between his company and Ameren Missouri. And you were involved in the majority of those interactions?

A. Personally or my department was involved with those -- most of those interactions.

Q. And Mr. Cardwell complained specifically about something that occurred after the 2000 -- December 2007 ice storm. Do you remember that?

A. Yes.

Q. And let me get to that part of his testimony. Excuse me. And he indicated that he contacted a Chris -- is it Brennen?

A. It's actually Bruemmer.

Q. Bruemmer. Okay. And another individual,
Don --

A. Don Cobb.

Q. Don Cobb. And do both of those individuals
report to you?

A. Yes. They do.

Q. Okay. To talk about having the fuse pulled,
so that he would be able to operate his boiler. Do you
remember that part of his testimony?

A. I remember that he contacted Chris Bruemmer
to ask about repairs to the line at that time. I don't
recall him testifying that Don Cobb was involved at that
time.

Q. Okay. Fair enough. And he indicated that
Ameren Missouri wouldn't come out and do that request. Can
you explain why that would be?

A. As has been stated, that was a very major
ice storm. All utilities experienced quite a bit of damage
and outages. We were certainly up to our eyeballs in
trying to restore our customers.

we had brought in close to 1,000 personnel
to assist in those efforts. And our efforts were directed
at restoring service to our customers as quickly and safely
as possible.

Q. Do you have an estimate of how many

customers were -- Ameren Missouri's customers who were out of power?

A. For all of Ameren Missouri, I do not know. I don't even recall Capital District's number, but I believe it was in excess of 20,000.

Q. So it was a large number of customers?

A. Yes. It was, over quite a wide area.

Q. Okay. Now, Cardwell is one of your customers. Right?

A. Yes. They are.

Q. So why did you not deal with the downed line that was behind their facility?

A. Those facilities are owned by Cardwell. We were concentrating on our efforts to restore our own facilities, and did not have the manpower or time to assist customers with their facilities.

Q. So did Ameren Missouri have lines down in other areas?

A. Yes. We did.

Q. And did you have lines down in areas where the general public could come into contact with them?

A. Yes. We did.

Q. And there were safety issues involved?

A. Yes. There was.

Q. Mr. Cardwell also testified about, early

on -- I think it was the fall after he purchased the business, and there was a fuse that was blown, that they wanted replaced. Do you remember that testimony?

A. Yes.

Q. And he testified it was Ameren Missouri's responsibility to replace. Do you agree with that statement?

A. No. As we talked just a little bit ago, that fuse was on the metered pole. That pole and those fuses are owned by and the responsibility of Cardwell.

Q. Yet at that point in time, the company did send a lineman out to look at the fuse. Correct?

A. Yes. Whenever we get a call of an outage, we're going to respond. While we're there, if we can assist the customer, we will.

A fuse -- a fuse link, such as used in this installation, is very cheap. You're talking about a dollar. We're already there. If we can safely and conveniently assist them in restoring service, we will.

Q. And if the lineman said he couldn't restore it, what would be the reason why, generally? You probably don't know on this exact one. But generally, why would it not happen?

A. I'm not sure what these specific situation was. But from the sounds of it, he did not feel he could

get his truck in there to where he could easily access and change the fuse, most likely without getting stuck.

If he got stuck, that would have delayed him from doing other company work, as well as requiring a tow truck to get him out.

Q. So after this complaint -- after this change of supplier request was filed, did you review the reliability of service that had been provided to Cardwell over the years?

A. Yes. I did.

Q. Do you have an opinion about whether or not Ameren Missouri's providing reliable service to Cardwell?

A. I believe we're providing very reliable service, as evidenced by the fact that Ameren Missouri has had no outages affecting Cardwell for nearly the past three years.

Q. And is Ameren Missouri able to meet Cardwell's electric needs?

A. Yes.

Q. And can Ameren Missouri provide Cardwell single-phase service if it told you it wanted to do so?

A. Yes. We can provide service under any of our tariffs. There could be some work associated that they may be responsible for having to pay for. Again, that would be a part of our tariff, which is filed with and

approved by the Public Service Commission.

Q. Are there safety concerns with the current -- on Ameren Missouri's system related to the current method that it provides service to Cardwell?

A. No. I think we have a very sound, robust system.

Q. And at one point Mr. Cardwell testified about calling Ameren Missouri out because he wanted to add electricity, I think it was for a door, to a building. Do you remember that part of his testimony?

A. Yes. I do.

Q. And he was told that it was his responsibility and he was not used to that. Do you remember that?

A. I remember that.

Q. Why is it his responsibility?

A. Again, where they were talking about was past the primary meter. Those facilities are owned by Cardwell. He has acknowledged that. And any work done on those facilities would be his responsibility.

Q. And Mr. Cardwell talked about calling in a contractor. I think most of the time he referred to them as Meyer. Do you remember that part of the testimony?

A. Yes. I do.

Q. And he said the contractor wired it in hot

and didn't pull the fuse. Is a contractor able to pull that fuse? Well, first of all, what fuse do you think he was talking about?

A. From his description, it sounded like the fuses right at the primary metering point.

Q. That's Pole 1?

A. Excuse me. Yes. It is.

Q. And those fuses are owned by who?

A. Those fuses are owned by Cardwell, so they certainly would have the right to pull those fuses. We work with customers, and if they ask us to do it, during normal business hours, we will assist them in that. If they want to pull it themselves, we will allow it.

We do request that they call our dispatch office so that we are aware of what's going on. If they don't, that meter radios in its status at all times, and it would report an outage, and we'd be responding.

Q. If that fuse were owned by Ameren Missouri, could a contractor -- is a contractor allowed to pull the fuse?

A. If it was owned by Ameren Missouri, no.

Q. But Ameren Missouri would come --

A. Unless that contractor was working for us.

Q. Okay. Now, in this instance, where the contractor, as Mr. Cardwell described it, wired it in hot,

is that necessarily an unsafe practice?

A. No. Certainly, linemen are trained and qualified to deal with high voltage, energized facilities. It happens all the time. And contractors have as equally trained and qualified linemen as we do.

Q. So the contractor could have done that work, and there would not have been a safety concern?

A. I'd have to look at the specific details of the job. But in general, that is correct.

Q. Okay. Now, on Exhibit 14, which is the boiler outage report --

A. Yes.

Q. -- that shows how many times their boilers were out, did you take steps to attempt to address this issue?

A. When we found out about it. We were not aware of any reported problems until we met with -- after the December ice storm, at which time they said our quality issues were causing problems for their boiler.

Upon learning that, we requested permission to install a power quality recorder, which we did, just ahead their boiler, so well downstream on their system, and recorded data for eight days -- the length of the memory in that recorder.

When we removed it, we analyzed the data.

And while they had boiler trips during that time, the data reported no power quality issues at all from Ameren's system.

MS. TATRO: If I may approach.

JUDGE JONES: Yes.

MS. TATRO: I believe this will be 17.

JUDGE JONES: Yes, ma'am.

(Exhibit No. 17 was marked for identification.)

BY MS. TATRO:

Q. Can you identify this document, please?

JUDGE JONES: Before you all get started with this, I see the words "highly confidential" on here. Should be in camera to discuss it?

MS. TATRO: I think the questions I'm going to ask will not -- I will not discuss any of the information that's confidential.

JUDGE JONES: Okay.

THE WITNESS: What you've handed me is a report that we produced from this power quality monitoring in which we shared all the data with Cardwell. We provided graphs showing the voltage and current during these eight days, with blow-ups of -- showing detail on a smaller time frame.

Again, we saw nothing that you would not

expect to see. It's very -- it reflects very good service. And we suggested that they may want to check their boiler control settings, because we were not seeing a problem from the electrical side. And we offered to work with them, or whomever they had set their boiler control settings.

BY MS. TATRO:

Q. Does the voltage on an electrical system fluctuate as normal course of business?

A. Constantly. It's the law of physics. As load goes up-current, you're going to have resulting decrease or fluctuation in the voltage, to some degree.

Q. And I think you answered earlier that the fluctuation was in some normal range. What do you mean by that?

A. Certainly, standards established by the Public Service Commission say that voltage must be within plus or minus 10 percent of a nominal voltage. These graphs will reflect that we were well within that tolerance range.

Q. Would the amount of fluctuation that is shown on these graphs typically cause damage to something like a boiler?

A. It has been my experience, no.

MS. TATRO: Have I offered this into evidence? If not, I'd like to move 17 into the record.

JUDGE JONES: Any objection to Exhibit 17?
Hearing none, Exhibit 17 is admitted into
the record.

(Exhibit No. 17 was received into evidence.)

MR. JOHNSON: Is that going to be designated
17-HC or just 17?

MS. TATRO: Did I have the wrong number?

JUDGE JONES: No. You have the wrong --

MS. TATRO: Oh.

JUDGE JONES: -- you have the correct
number.

MS. TATRO: Well, I have it labeled HC
because it's specific to the customer. That's the reason I
marked it HC, so --

JUDGE JONES: What on this document is
highly confidential? The address for the customer, or
what?

MS. TATRO: If Mr. Cardwell has no objection
to making it public, I don't either. As a typical rule, if
it's specific to a customer, we mark it highly confidential
in an abundance of caution. And that's all we did in this
case.

JUDGE JONES: Okay. He's indicated to me
that he has no problem with leaving it as such, so --

MS. TATRO: Mr. Johnson --

JUDGE JONES: -- so it will just be Exhibit 17.

MR. JOHNSON: Thank you, Your Honor. And what I'll probably do is redact the words "highly confidential."

THE WITNESS: May I?

MS. TATRO: Yes.

THE WITNESS: Might we just remove the first page of this?

MS. TATRO: Well, I think it's just as easy for him to redact "highly confidential."

BY MS. TATRO:

Q. All right. Now, I want to talk about interactions between yourself and Cardwell that happened this year. And you were personally involved in those interactions. Correct?

A. Yes. I was.

Q. Okay. Can you tell me how that interaction began?

A. Yes. As I had stated earlier, Mark Cardwell called me this spring to ask how they might save energy on their -- or save money on their electric bill. I reviewed their usage, saw that it had dropped substantially.

I then arranged to meet with Mark. I went out to their location, met with Mark and his father. I

told them at that time that at that level of usage, to truly save money, we really needed to work with them to convert them from the small primary rate to the small general service rate.

During the course of that conversation, we talked about what their plans were. They told me that they had ceased all milling operations, did not anticipate bringing it back to that location, and were, at that time, interested in maintaining single-phase service to the office and to the milling building -- Building Number 2, I think, on their exhibit -- as well as possibly maintaining three-phase service for their planer that they had in that building.

We talked about various ways of serving it. They did ask about coming across the highway. I told them that could be done; the cheapest way would be to reuse as much of their system as possible. It would take some rebuilding of it, but it would also get the load closer to that mill building. They agreed.

We walked around, talked about the various options in principle; talked to them, what needed to be done. At that time, Mark and his father both told me that there was no problems with any pole in the vicinity of that Pole Number 2 on their site; it did not interfere with anything that they were doing or planned to do.

That's why we said that it would be a central point where it could provide service to both the mill building and the office -- single-phase, because that was where an existing transformer was.

I came back to the office, directed the preparation of two estimates, one for single-phase service, which has been talked about, the \$8,600 cost; also, prepared an estimate for approximately \$10,800 for three-phase service, to maintain three-phase service into the mill building.

Went back out, shared those estimates with Mark and his father. At that time, they decided that they did not need to maintain three-phase service into the mill building, to save money. And if they had a small load, they might look at an inverter in there.

We talked about it. I gave them, again, those costs. I then actually invited them to talk to other contractors, since at this point in time, that was their system.

The issue is, as Mark talked about, over the years, that system has been allowed to deteriorate. It was not in a condition that we were willing to accept ownership and be faced with having to immediately invest money in it -- basically have our other ratepayers subsidize their operation.

So we talked about that, since it was their system, if it could be brought up to our standards, doing what I just provided them an estimate for \$8,600, they were welcome to pursue that if it would save them some money.

A few days later, they invited me back to talk to Meyer Electric and explain the work that I was talking about needing to be done. I came back and did that. Then a few weeks later, I got a call from Iowa Linebuilders requesting that I explain what needed to be done to them.

And then on -- at the end of July, July 30th, I had a call from Van Lou Electric, requesting the same thing again. Again, I went out there and met with Van Lou, explained to him what needed to be done. We did it on-site so that we could actually point and look at the facilities. And that was the last I heard until filing of this application.

Q. Mr. Cardwell testified that you refused to give him an estimate to cross the road, if you remember that portion of the testimony. Do you think that's a fair characterization of the conversation?

A. I do not. As I explained, they did ask about it. I explained to them how it would be cheaper, since we could reuse some of their own -- their facilities, extending from the other direction -- primarily the

transformer. They told me the poles in that area were no problem. And they agreed not to pursue that option at that time.

Then in October of this year, Mark called me back, requested that service -- wanted a quotation to come across the highway, and asked for me to send it to him in writing. On October 15th, probably about -- within a week of when he called me, I had that estimate prepared and sent him that price quotation, a drawing and a letter explaining.

Q. Prior to asking for -- prior to the October request for an estimate, were any of the requests -- did he ask you to provide him any of the estimates in writing?

A. No. He never did.

Q. Is it unusual for Ameren Missouri to provide estimates verbally versus in writing?

A. No. We will do what the customer wants.

Q. Did the estimate that Ameren Missouri provided -- and I'm talking about the one that would have reused portions of their system, so the \$8,600 estimate -- did that include demolition and removal of the primary system?

A. It did not include any demolition or removal of the system. However, I did offer to do that for them, if they would allow us to do it over a longer period of

time.

My thought was that we had apprentices. Apprentices are not qualified to do all work. They cannot handle the high voltage energized lines. They do need training and experience.

Depending on our work on any given day or week, we may not have the appropriate work for them to actually use. In that case, we could send them out here. It would be good, valuable climbing experience for them to climb the poles and start wrecking it out.

Removing and wrecking out these facilities is just the opposite of building them, so again, it would be valuable experience towards that line.

The other thing that I anticipated doing was if we had crews finished their scheduled work for a day early, and there was not enough time to maybe start them or send them to another job, or they did not have the material with them, we could send them out to the Cardwell site to finish out the day removing those facilities.

The third way that we could have handled it was if we had like an extended wet, rainy period of time, where our scheduled work was all off-road, and we were not able to access it, this would be a site that we could send some of our crews, and they could work on that rock base out there to remove some of those facilities.

Q. So that cost wasn't included in the 8,600 estimate, and you were willing -- the company was willing to do that without charging Cardwell?

A. Yes.

Q. Let's talk a little bit about Three Rivers. I mean, you're familiar that they're a co-op in the area?

A. Yes. I am.

Q. All right. Are you aware of their practice of where they place meters for new, let's say, residential homes that aren't in a subdivision?

A. For homes outside of a subdivision, Three Rivers, like a number of the cooperatives today, are starting to place the meter base on their own pole, requiring the customer to extend their -- if it's underground service, to extend service from the house out to Three Rivers' pole.

Q. How is that different than Ameren Missouri's practice?

A. Today -- well, one, we always require the customer to give us an attachment point for our service, and for a residence, that is almost always on the side of the home itself.

Q. Okay. Mr. Cardwell testified about restoration times, specifically about the ice storm in December of 2007, and how Ameren Missouri's time compared

with Three Rivers'. Do you remember that portion of his testimony?

A. Yes. I do.

Q. How did the restoration of the two utilities compare?

A. In -- there was widespread outages for both companies. That was well covered in the press. We called in a large number of outside contractors and personnel from other districts to assist us.

When we finished, the press was still reporting that Three Rivers had customers out. And we called Three Rivers and offered them some of our resources so that they could get their customers restored.

Q. Mr. Hagan, can you explain to the judge and to the Commission, why does Ameren Missouri just not simply consent to Mr. Cardwell's business transferring service to Three Rivers?

A. Ameren Missouri believes that freely allowing customers to switch providers would undermine the stability of the state's -- Missouri's anti flip-flop laws, which are there to protect both utilities and cooperatives, and to protect the ratepayers of those companies from dealing with any stranded cost issues.

One of the other things it also does is it reduces the amount of duplicate -- or duplication of

facilities that may otherwise be made.

Q. Has Ameren Missouri ever consented to a customer switching away from it and towards another utility?

A. Yes. We have. There was a case a few years ago that you mentioned, I think, in your opening statements. In southeast Missouri, where there was a residential customer who did not have a good outage history, they had a number of outages, we were serving them through over a mile-long line.

They were the only customer on that line. And it was determined the co-op was very close-by. It was determined that it was in the better interest of the customer, Ameren Missouri and Ameren Missouri's ratepayers to allow that customer to switch, rather than incur the expense of rebuilding or maintaining that line for one customer.

Q. And have you ever had customers of a co-op come -- approach you or someone that works for you to indicate that they want to switch to Ameren Missouri?

A. Yes. We have.

Q. And what answer does Ameren Missouri give those customers?

A. We have told them that unless the other provider is willing to let them go, and unless they have

had some very real reliability problems, that it's not likely that it can be done.

Q. And do you believe that Cardwell's had real reliability problems?

A. No. I think just the opposite. They've had very good reliability from us.

Q. Let's talk about the facilities serving Cardwell. I think Exhibit 5. Again, that's the one that shows Pole Number 1 and a couple of the other poles. Do you consider those permanent facilities?

A. Yes. Certainly, those poles and all the apparatus on them have been permanently installed. I think that's also illustrated by the fact that those facilities have provided service for we know in excess of 26 years.

Q. What's the difference between a temporary and a permanent facility?

A. Permanent facilities are just that: They're there to provide permanent service to a permanent structure. Temporary facilities are typically less than a year in service, and -- or typically just for the construction period until permanent facilities or structures can be built.

Q. And where does Ameren Missouri's system tie into Cardwell's electrical apparatus?

A. Our lines and metering point are on part of

their apparatus, that metering Pole Number 1 in that exhibit.

Q. which earlier you said was the delineation between responsibility for the two portions of the facilities. Right?

A. Yes.

Q. Okay. There's been some testimony about the condition of Cardwell's facilities. Do you remember that testimony?

A. Yes.

Q. How would you describe its condition? well, first of all, let me ask you this: Have you toured the facilities? Are you familiar with the condition of the facilities?

A. I believe I'm pretty familiar with them.

Q. All right. Could you describe the condition, please?

A. These facilities -- and as Mark mentioned -- some of the buildings were not in very good shape, either. The facilities have not been properly maintained for a long number of years. With that, they do need some significant work, at least to bring them up to our standards for what we would be willing to maintain or operate them at.

Q. So if Ameren Missouri took over those facilities as they are, would you have the liability

concerns, or what would be the concern?

A. Yes. I'd have liability concerns. We would -- under our guidelines, we would invest in new plant or facilities to replace some of those, which has been demonstrated, it's not cheap.

Q. Do you believe those facilities are -- have deteriorated to the point that they pose an immediate danger of collapsing?

A. No. In that December ice storm, certainly, they did have some wires come down. But while it's been talked about that way, since they took ownership in 2004, we've had some very severe storms, certainly some very strong winds, and I'm not aware of any other facilities actually failing.

Q. Do you consider them an immediate danger to Cardwell's employees?

A. I don't believe so.

Q. To the general public?

A. Certainly not the general public in that this is a business site; it is fenced, and the general public does not generally have access throughout the site.

Q. Mr. Cardwell also testified that whenever he asks Ameren Missouri for something, they only want to do it in a way that's best for their business and not for his business. Would you characterize your conversations in

that manner?

A. No. I'm sorry that that has been his impression. Our intent has always been to work with any of our customers to establish the best means for them. It isn't about us. Everything we've tried to do has been to provide reliable service at the least cost possible for them.

Q. And when you didn't provide Mr. Cardwell with the quote for crossing the line -- crossing the street -- excuse me -- in the summer, was that because that somehow benefitted AmerenUE -- Ameren Missouri?

A. No. My understanding of that, at that time, it would not provide the service that we were talking about. At that time, they also wanted to maintain service to the mill building. At that point in time, again, they had even talked about maintaining three-phase service there.

As we talked about it on-site, I told them at that time that it would be more expensive, because it required more of our facilities, primarily a transformer, whereas we could reuse their existing transformer if we came the other way. They seemed to agree with that, and did not want to pursue it at that time.

Q. Mr. Cardwell indicated that if they had single-phase service from Three Rivers, and if they

expanded their operations, they might use a generator to get to three-phase. Is that an option that would be available to them if they had single-phase service through Ameren Missouri?

A. Yes. It would.

Q. Mr. Cardwell indicated that one of the problems he had with the estimate that you gave him was the location of the poles. Do you remember that?

A. Yes. I do.

Q. In case they wanted to do future expansion.

A. Yes. I do.

Q. Is that a concern that was raised with you in your discussions?

A. No, because as we talked -- early this summer, as we talked about that, I actually talked about to actually equalize the tension on either side of the pole with the two services, it might be best if we moved it several feet; walked to the area where I was contemplating that might be the best point.

They told me that would be no problem at all; it would not interfere with anything that they were doing at that site.

Q. Mr. Cardwell testified that he had asked Ameren Missouri to release a building. Did you have conversations where he asked you to allow Three Rivers to

serve just one of the buildings?

A. No. I do not really that at all, until this application was filed.

Q. Mr. Cardwell testified about the bid to cross the street and how it came in right around the time of the preliminary hearing. Was that purposeful?

A. No. It was not. I didn't know anything about a preliminary hearing. He contacted me in October. I told him I would do that. We promptly did that. And I was able to get the estimate done, the letter written, mailed to him, all of which he received within probably a week's time.

Q. Exhibit 16, which we talked about earlier, which was the comparison of Ameren Missouri's rates between small primary and small general service, can you explain why there's -- why is there a difference in rates there?

A. While the small primary service rate has a lower cents-per-kilowatt-hour actual usage rate, it has a much higher service availability charge or meter charge, depending on what company is called. Also, primary service rate has a demand charge that small general service does not.

Those two components, if coupled with a very high usage, become sort of insignificant and the savings -- the cents-per-kilowatt-hour overrides it and there's

savings. If that usage level is quite low, those two components make the bill higher than it would be under a different rate, such as the small general service.

Q. And are you familiar with the tariff itself which governs small primary service service?

A. Yes.

Q. Service service. Does that service clearly indicate who's responsible for the facilities beyond the meter point?

A. I believe it does.

Q. Thank you.

MS. TATRO: I have no further questions.

JUDGE JONES: Okay. We'll have cross-examination from the Staff.

CROSS-EXAMINATION BY MR. DEARMONT:

Q. Good afternoon, Mr. Hagan. I have just a few questions for you. Is it safe to say that over the course of your discussions and negotiations with Mr. Cardwell that you've discussed a number of possible electrical facility set-ups?

A. Yes.

Q. Would you agree that all of those discussions involved UE performing a modification to its distribution system?

A. Yes. Any change to the rates would have

required an expansion or a modification to the distribution system in order to change that rate.

Q. And what do you mean by modification or expansion? Can you put that into terms of installation of something, or --

A. Well, in this particular case, as it's been talked about, our facilities end on their structure, the primary metering pole. In order to take small general service, we would need to extend those facilities, install a transformer, and the service wires to their meters, which would then need to be placed on the building or buildings. All of that requires the addition of facilities that we do not presently have.

Q. So given Cardwell's current load characteristics, the only way for them to save money from Ameren Missouri would be to move from a SPS to an SGS rate; is that accurate?

A. I believe so.

Q. And any movement from SPS to SGS, be it at taking single-phase or three-phase service, would require a modification of Ameren Missouri's distribution system?

A. Yes. It would.

Q. And I believe you indicated previously that you are familiar with UE's -- Ameren Missouri's tariffs. Correct?

A. Yes.

Q. Are you familiar with the portion of those tariffs that govern modifications of distribution systems?

A. Yes. I am.

Q. Do you -- can you tell us specifically what that portion is, or where that could be found?

A. I think the portion specifically that applies to this situation states that where modification or expansion of our facilities is required to meet the customer's needs, and there is no additional revenue -- in this particular case, there would be a decrease in revenue for us -- that customer must pay for those modifications.

Q. I want to discuss outages with you for just a second. Cardwell Lumber has had a number of outages in the past few years. Right?

A. No. For practically the past three year -- well, for the past three years, they've had -- there's been no outages on Ameren Missouri's system affecting Cardwell Lumber. I believe it was last year were two outages affecting Cardwell Lumber, but it was due to problems on their system and their fuses that blew.

Q. Okay. Speaking just of the Ameren portion of the distribution system, has that portion of the distribution system had more problems on it than other portions of your distribution system, if you could say?

A. I do not believe so.

Q. When outages have occurred that have affected Cardwell, if you know, have those outages been longer, shorter or about the same as outages suffered by other customers?

A. Certainly, looking at the two outages that occurred last year on their system, they called us to report an outage. As is our practice, we dispatched someone to respond to see what the problem was. We arrived, found that it was a fuse affecting their system that was blown; did not see a permanent problem to it.

And at their request, we re-fused, and service was reinstated at that time. I would say that was as quick as we would provide service to any of our regular paying customers.

Q. But in the context of those outages that occurred, I guess, following the 2007 ice storm, did it take longer for service to be restored to Cardwell than it would have for other customers?

A. You're referring to the ice storm?

Q. Yes.

A. No. The problem that we had on our system affecting that circuit, which supplies Cardwell, affected a number of customers. When we repaired that problem, it did take us -- due to the extent of problems we were finding

and getting people to different locations, it did take us about 45 hours to repair. But when we repaired that problem, it made service available to all the customers on that circuit, including Cardwell.

MR. DEARMONT: I have no further questions. Thanks.

JUDGE JONES: Cross-examination from the office of Public Counsel?

MR. MILLS: Just a few, Your Honor.

CROSS-EXAMINATION BY MR. MILLS:

Q. Mr. Hagan, I'm going to ask you a couple of questions about the fuses, and particularly the fuses that are on top of what's been referred to as Pole Number 1 that Mr. Cardwell apparently thinks are yours and you think are his. You know which fuses I'm talking about now, I guess?

A. Yes. I do.

Q. Okay. Are those on UE's side of the meter or Cardwell's side of the meter?

A. Our lines stop right at that pole. They are on -- they would be on the incoming line portion, before it goes to the meter.

Q. Right. So if the fuses have tripped, the line to the meter is cold; is that correct?

A. Yes.

Q. Okay. And when you were just talking to

Mr. Dearmont about some recent problems on Cardwell's system that had to do with fuses blowing, are those the same fuses you were talking about?

A. Yes. I am.

Q. Okay. Are there any other fuses on the distribution portion of the circuit within Cardwell's property?

A. Most of their transformer banks are all fused.

Q. Okay. Now, with respect to Mr. Cardwell's consideration of sort of a new configuration where UE would bring service directly across Highway 50 to, I guess, the first meter point would be at or nearby the office building. Are you familiar with that configuration?

A. Yes. I am.

Q. And that's the one that you most recently gave Mr. Cardwell an estimate to build that out?

A. Yes.

Q. Okay. From there, how would the rest of the buildings on the Cardwell tract be served? Could -- would UE necessarily be involved in that, or could Cardwell simply build out their own system from the meter point at the office building and just run lines to whatever buildings they need?

A. I do not think they could use that service.

That was a service, 120 volts to 240 volts, just like your residence would have.

Q. Uh-huh.

A. That would not meet motor requirements, other manufacturing operations that he may put in other parts of that facility.

Q. But if all they wanted to do were run overhead doors and lights, could they run on their own distribution system, so to speak, from your meter or facilities at the office building to the other buildings?

A. They could install facilities beyond the meter, at that point to go elsewhere on the property. I don't know that it would be real feasible for the distance that they would be going.

Q. All right. And when you say "feasible," do you mean from a -- from an electrical engineering standpoint or from a cost standpoint?

A. Actually, electrical engineering. There would be a pretty significant voltage drop when you take the lower voltage any significant distance.

Q. Okay. So even if they wanted to run -- well, I guess we looked at some on the maps, and you're talking several hundred feet to even the closest building; is that correct?

A. The mill building would -- is closer than

several hundred feet, I'd characterize. But some of the other buildings certainly would be several hundred feet away.

Q. And you're saying that even for running lights and garage-door type motors, that's a problematic distance?

A. Taking the mill building, it would be possible to run lights. But if they're actually operating motors, if they're up anywhere near three-, five-horsepower motor, I think they would probably have some pretty significant voltage sag.

MR. MILLS: That's all the questions I have. Thank you.

JUDGE JONES: Any questions from Three Rivers?

MR. SPORLEDER: None, Judge.

JUDGE JONES: Cross from Cardwell Lumber?

MR. JOHNSON: Thank you, Your Honor.

CROSS-EXAMINATION BY MR. JOHNSON:

Q. Mr. Hagan, as I understood the sequence of some of the proposals that Mr. Cardwell and his father asked you to provide and that you gave to them, the first proposal you gave them included using a pole and transformer that was currently on the property?

A. It --

Q. That was the cheapest alternative, you felt; is that correct?

A. For the single-phase service?

Q. Yeah.

A. Yes. It included using the transformer.

Mark has been correct in that we would not assume ownership of that pole because of the decay in it.

Q. Then as I understood your questions and responses to some of Ms. Tatro's questions, you seemed -- you indicate that they never -- that they never expressed to you that they didn't want those lines out in the middle of the yard being in the way of future expansion.

A. No. They did not.

Q. But whenever they asked you to come directly across the road, didn't that kind of imply to you that they preferred not to have lines out in their yard just to serve the office building?

A. Again, in the spring -- May, very early June time frame -- when I met with them on-site, talked about, and we actually looked at things, we talked about that.

They asked about it. I told them it would be more expensive. I told them this other way could save money, talked about where to place a pole, and they told me a pole in that location would be no problem.

Q. But then after that, they asked you --

A. In October --

Q. -- to give them a bid to come across the highway; is that right?

A. In October of this year, yes.

Q. Yes. Okay. All right. You said that you're familiar with the Union Electric tariff that under the primary service classification specifies that it's a customer's responsibility to maintain their primary system?

A. To maintain their facilities that --

Q. Yeah, their --

A. -- they own, yes.

Q. -- facilities. Yes.

What tariff sheet is that, if you happen -- do you know?

A. It would be our small primary service rate.

Q. Is that just a general description in the tariff that says, You're responsible to maintain your facilities, and we're responsible to maintain ours?

A. It would be a general statement as -- yes.

Q. Does it say, for example, that the pole upon which you put the primary meter is your pole?

A. In that tariff, no, it does not. But within our service manual it does.

Q. Your service manual?

A. Yes.

Q. Is that service manual something you give to the customer?

A. That service manual is available online on our website, Ameren.com.

Q. Was it available --

A. And we give it to about all electricians and contractors that we work with.

Q. In your tariff, does it specify that the meter on the pole belongs to you -- the primary meter?

A. Yes.

Q. And I'm looking at -- I'm trying to use Pole Number 1 on Exhibit Number 5 as the examples of my questions. We can actually track a real object. Your tariff does say that the meter belongs to you?

A. Yes.

Q. And what did you call those things up towards the top that kind of go out; it looks like it's got an insulator type thing going out horizontally, and then something above that that kind of goes up vertically? It has to do with the metering calibration, I believe.

A. I think Ms. Tatro referred to it as earmuffs.

Q. Okay. Earmuffs. So what are those earmuffs?

A. That is actually the mean -- the metering

equipment. The meter itself cannot handle that higher voltage, so all the load is run through those potential transformers and current transformers to reduce it to a scale that can be handled by the meter physically.

Q. And those facilities, as I understood your testimony, belong to Union Electric?

A. Yes. They are their -- part of the metering equipment.

Q. Does your tariff specify that?

A. I believe it states that the metering equipment is all ours.

Q. And then your testimony was that the fuses that are on this particular installation at the Cardwell property belong to the Cardwells?

A. Yes.

Q. Does your tariff say that, that they're responsible for replacing the fuses?

A. Again, certainly, specifically that would be addressed in our service manual.

Q. Does your tariff say that?

A. I cannot think that it uses those words, no.

Q. As I understood your testimony, if a fuse -- primary voltage fuse is in your system, nobody can touch it but you without your permission; is that fair?

A. Yes.

Q. Is there any way that I can tell by looking at this whether that fuse belongs to you or belongs to Cardwell?

A. I would think you would know what facilities you own if it was yours.

Q. Why wouldn't Meyer Electric know that those fuses belonged to Cardwell as opposed to you?

A. I think if you talk to the owners of Meyer Electric, they would know that. It sounds to me like whoever they had on that particular job either didn't know or didn't want to handle it.

Q. Even though their people are equally trained and equally qualified to your linemen, somebody screwed up, perhaps?

A. It's possible. I do not know what they did there.

Q. An experienced lineman is going to know as soon as he sees that pole that that's a primary-metering system, won't he?

A. Yes.

Q. So would he know that fuse belongs to Cardwell if he was familiar with your service manual?

A. Yes. What I don't know on this particular job and day that they had him out there -- Meyer Electric has both electricians and linemen.

Q. Yeah.

A. I don't know --

Q. Yeah.

A. -- who they had out there.

Q. You mentioned the term, that Pole 1 has been out here in excess of 26 years.

A. Service to this property has been there in excess of 26 years. That would lead me to believe that that pole has been there in excess of 26 years.

Q. And all the Union Electric equipment on the pole has been there in excess of 26 years?

A. I believe so.

Q. Has all that equipment of Union Electric that's on the pole been fully depreciated?

A. That, I really can't say. I don't know.

Q. Does any other type of equipment have a depreciation life that exceeds 26 years?

A. Many of our facilities have at least a 30-year. I'm not sure --

Q. A pole does. Right? Would a meter have a 30-year depreciation schedule?

A. I don't know. I'm just the engineer. We'd have to talk to our accountants on that.

Q. Would you agree with me that if Cardwell got permission to change suppliers that Union Electric would

not suffer any significant stranded investment?

A. For this particular location, there would not be a significant stranded investment. I think we're dealing with the greater principle here of, if you do it for this customer, where do you draw the line?

Q. Right. Exhibit Number 16, this was prepared at your direction; is that correct?

A. Yes.

Q. And what is -- it's being offered today, as I understand it, for the purpose of explaining how much Cardwell could save if; one, they stayed with Union Electric; and, two, switched to a -- from a primary service rate to a general service rate?

A. Correct.

Q. And this was not given to Cardwell prior to today. Is that fair to say?

A. It was not. When I met with them in the early spring, as we talked about the options, I had done a very rough calculation based on only the one or two months' data that I was able to see at that time, and I told them it would be in the neighborhood of \$5,000.

Q. So --

A. That was more of a guess --

Q. Uh-huh.

A. -- maybe a lucky guess.

Q. How many customers of Union Electric are on the primary service rate?

A. I don't know. There is a significant number, but I don't know how many exactly.

Q. would you agree that it's the exception and not the norm, even for commercial customers, to be on a primary metered rate rather than a typical or traditional rate?

A. For commercial customers, I think so. For industrial customers, not nearly as much so.

Q. Okay. So it would be fair to say that a primary-metered system is typically used for industrial or heavy-duty applications, where like in this tract, people are going to have several facilities, each with different large-sized electrical equipment in them?

A. It is typically for larger users, such as this operation was prior to this year.

Q. As I understand your Exhibit Number 16, under the primary service rate, right now, Cardwell's paying you about \$975 a month?

A. It appears they're paying from 644 to \$1,233 a month.

Q. would you agree with me that if they get permission to switch power suppliers, that from a revenue standpoint to Union Electric, this is not a significant

amount of revenue?

A. I'm not an attorney, so \$10,000 seems to be maybe a lot more to me than it might to you.

Q. By "you" you mean Cardwell?

A. If you don't presume that \$10,000 is a significant amount of money, you're dealing in a different plane than I am.

Q. Well, you're Union Electric's representative today. I'm not talking about your personal pocketbook. I'm talking about Union Electric's pocketbook. Is \$10,000 a year a lot of money to them?

A. The revenue from one customer within our company is -- would typically not be a lot of customer -- a large sum, or a percentage of our revenue. However, every customer is important to us.

Q. Well, every day customers come and customers go, even without requesting power suppliers changes; isn't that fair to say?

A. Yes. In general, more customers are coming than leaving.

Q. What are Ameren Union -- or Union Electric -- AmerenUE or Ameren Missouri, I guess, is the correct name we're using in this case. What are the total regulated assets in Missouri? How much?

A. I don't know.

Q. You don't know how much their annual Missouri revenues are?

A. No. I don't.

Q. I'm looking at your annual report for 2009. If I told you that the total company Missouri jurisdictional revenues were two billion, six hundred and thirty thousand, and some-odd dollars, would that --

MS. TATRO: I'm going to object. I'm not sure that he has ever seen that document, that he knows what that document that he's referencing is. I don't know that he has any familiarity to it.

MR. JOHNSON: Give me a chance to finish my question.

JUDGE JONES: Yeah. Finish your question first.

BY MR. JOHNSON:

Q. Do you know whether or not that's an accurate number, \$2.6 billion?

A. I do not know.

Q. If I asked you about the number that shows up as the total assets of Union Electric from that annual report, would you know whether or not that number is accurate?

A. Personally, no.

JUDGE JONES: See how it worked out.

MS. TATRO: Thank you.

MR. JOHNSON: I would ask that the Commission take official notice of their 2009 annual report for the purpose of just those two numbers.

JUDGE JONES: Okay. Where is it? Is it somewhere where we have access to it? Is that an exhibit you want to -- you want to submit, or --

MR. JOHNSON: I can do it as an exhibit, or it's --

JUDGE JONES: Do I need to go find it? How are we going to take it -- and why is it even relevant? Is it just relevant to show that this amount isn't significant --

MR. JOHNSON: That's part of the analysis of the factors in a case to say it can be considered, Your Honor.

JUDGE JONES: It's part of the analysis of the cases that are being -- that are being considered in this case, some precedent case, or cases out there that consider the amount of -- percentage of the -- Ameren's annual review is relevant to whether or not a change in supplier should be granted by the Commission?

MR. JOHNSON: The impact upon the power supplier is one of the factors.

JUDGE JONES: Okay. We'll take official

notice of it.

MS. TATRO: I'm sorry. Can I ask a clarification? Are you looking at Form 1 that's given to the Commission? Are you look at the FERC Form 1? I just want to make sure I know what we're taking notice of.

JUDGE JONES: You said annual report.
Right?

MR. JOHNSON: Yes. It's online. You can print it out. The first page that comes up is a cover for FERC financial report, FERC Form Number 1, a verification page, and then there's the electric annual report, supplement pages to the Missouri Public Service Commission.

JUDGE JONES: So these are annual reports that are in our records?

MR. JOHNSON: I took this from EFIS. Yes, Your Honor.

JUDGE JONES: Oh, okay. well, that's fine.

MR. JOHNSON: That's all the questions I have, Your Honor.

JUDGE JONES: Okay. Redirect?

MS. TATRO: I don't believe I have any.
Thank you, Your Honor.

JUDGE JONES: Do we need to take a quick five-minute break here? Let's do that. Let's take a five-minute break.

(Off the record.)

JUDGE JONES: Okay. Let's go back on the record. Staff calls its first witness.

MR. DEARMONT: Staff calls Alan Bax.

JUDGE JONES: Mr. Bax, will you raise your right hand?

(Witness affirmed.)

ALAN BAX testifies as follows:

DIRECT EXAMINATION BY MR. DEARMONT:

Q. Good afternoon, Mr. Bax.

A. Good afternoon.

Q. By whom are you employed and in what capacity?

A. I'm employed by the Missouri Public Service Commission as a utility engineering specialist III.

Q. Can you describe for us your job responsibilities?

A. I work as a -- an engineer in the engineering analysis department.

Q. Do you consider yourself to be an expert in electric utility tariffs?

A. Yes.

Q. Are you familiar with the tariffs of Union Electric Company, dba AmerenUE?

A. Yes.

Q. And just so the record is clear, those are the same tariffs that currently govern the service provided by the entity as -- it's also known as Ameren Missouri?

A. Yes.

Q. Do they have one tariff, or two tariffs?

A. No. They have a series of tariffs.

Q. But the tariffs that govern UE and Missouri are the same tariffs?

A. General rules and regulations.

Q. Are you generally responsible for investigating electric change of supplier requests?

A. I have been, yes.

Q. Did you conduct an investigation in this case?

A. Yes.

Q. In the course of that investigation, did you issue any data requests?

A. Yes. I did.

Q. To which parties?

A. I issued data requests to Ameren Missouri.

Q. And not to Cardwell?

A. And not to Cardwell.

Q. Were those all answered?

A. Those were all answered, yes.

Q. In the course of your investigation, do you

conduct an on-site visit?

A. Yes. I did.

Q. And by "on-site" I mean to the property that is the subject of this change of supplier request, Hardwoods and Lumber?

A. Yes.

Q. Do you understand that? When did you conduct that visit?

A. I believe it was the 10th of September.

Q. Of this year?

A. Yes.

Q. Were any other parties present at that time?

A. Yes. I had met with Mr. Cardwell, and briefly with Mr. Johnson.

Q. When you conducted your on-site visit, do you -- did you observe the electric facilities on the Cardwell property?

A. Yes.

Q. Can you briefly describe -- strike that. You've heard described today a general description of those facilities; is that correct?

A. That's correct.

Q. Geographically, would you agree with the set-up that's been described previously?

A. Yes. I would.

Q. And would you agree that there are a number of poles and quite a few transformers present on the property?

A. Yes.

Q. How does that compare to facilities that exist for other businesses of this size, would you say?

A. I believe it's a rather unique set-up.

Q. And what party is currently responsible for the maintenance of those facilities?

A. On the Cardwell tract --

Q. Yes, sir.

A. -- Mr. Cardwell would be responsible for those facilities -- maintenance of those facilities.

Q. Is that a function of Cardwell's rate classification?

A. That does have -- as a customer on the 4-M small primary service rate.

Q. SPS 4-M?

A. Yes.

Q. If Cardwell were to move from the SPS to the SGS tariff, would that require a modification of UE's distribution system?

A. Yes. It would.

Q. Would the cost to meet these modifications be governed by UE's tariffs?

A. Yes.

Q. Do you know where specifically?

A. It's on Sheet 159.

MR. DEARMONT: May I approach, Judge?

JUDGE JONES: Yes, you may.

BY MR. DEARMONT:

Q. I'm going to hand you a document. Can you identify that for us?

A. Yeah. It's Schedule Number 5, third revision, Sheet Number 159 of Union Electric Company's general rules and regulations.

Q. Now, is that the tariff that you just referred to in reference to modifications or enlargements of UE's distribution system?

A. Yes.

MR. DEARMONT: Judge, if you don't mind, I'd like to have that sheet marked.

JUDGE JONES: It's going to be Exhibit 18.

MR. DEARMONT: Eighteen. Thank you.

(Exhibit No. 18 was marked for identification.)

BY MR. DEARMONT:

Q. Okay. Now, specifically, if Cardwell were to move from the SPS to the SGS rate, would that be governed by Provision M, Provision N, something that's not

on here?

A. Yeah. Provision M.

Q. Okay. Can you generally tell us what that provides?

A. This is providing upon modifications or enlargements of changes made in the company's distribution system, whether it's customer -- by customer request or designated -- or found by the company, if it -- if the change -- the revision that is being asked for, if by company discretion, if there is no advantage to them, then the modifications or enlargements necessary -- the company's costs associated with those changes are borne -- the costs associated would be borne by the customer.

Q. Okay. Given the facts in this case, is it your understanding that UE exercised that discretion in providing Cardwell with an estimate of the costs it would take to modify its distribution system?

A. Yes.

Q. In your opinion, does that comply with this portion of the tariffs?

A. Yes.

Q. Are you familiar with the UE outage history on the Cardwell portion of the system?

A. The outage going back to 2000 -- the last several years, yes -- 2006.

Q. In your opinion, in that span of time, has Cardwell Lumber had more outages than other customers located on that part of the system?

A. It does not appear so, no.

Q. But they have had a few outages?

A. They've had a few outages.

Q. When those outages have occurred, in your opinion, have they lasted any longer than outages incurred by other customers on that part of the system?

A. Not as -- no, not as far as the other customers on that circuit, on that portion of the system.

Q. I want to talk to you about deposits for just a minute. Do you know if UE charged Cardwell Lumber an initial deposit to connect electrical service?

A. Yes. They did.

Q. And are deposits governed by UE's tariffs?

A. Yes.

Q. Have you reviewed the deposit charged to -- by UE to Cardwell Lumber in order to determine if that was charged in accordance with UE's tariffs?

A. Yes. I have.

Q. How many change of supplier -- specifically electric change of supplier cases would you say that you've been responsible for investigating in your time here at the Commission?

A. I don't know of an exact number.

Q. Ballpark for me.

A. A dozen or more.

Q. Okay. Are you familiar with the factors that the Commission has found in those cases to be in the public interest?

A. Yes.

Q. In your opinion, are those factors present in this case?

A. No.

MR. DEARMONT: I have no further questions, and tender the witness for cross.

JUDGE JONES: Cross-examination from Ameren Missouri.

CROSS-EXAMINATION BY MS. TATRO:

Q. I told you I had five questions, but I think I only have three. Mr. Bax, you were present during the entire hearing today?

A. Yes. I was.

Q. And you heard all the testimony that was given today?

A. Yes.

Q. And that testimony did not present any facts that changed your recommendation?

A. No.

MS. TATRO: I have no further questions.

JUDGE JONES: Cross-examination from the office of Public Counsel?

MR. MILLS: I don't have any questions.
Thank you.

JUDGE JONES: Cross-examination from Three Rivers?

MR. SPORLEDER: No questions.

JUDGE JONES: Cross from Cardwell?

MR. JOHNSON: Yes, Your Honor. Thank you.

CROSS-EXAMINATION BY MR. JOHNSON:

Q. Mr. Bax, I'm trying to understand why -- what Exhibit 18 -- what issue that's pertinent to in this case. Exhibit 18 is Tariff Sheet 159. And as I understand your testimony, that applies if Cardwell requests a change from primary to general. Right?

A. They requested a -- with the information that was presented in the case, yes, I do believe it's relevant.

Q. But Cardwell has not been changed, have they?

A. Not to this point, no.

Q. In your mind, is getting an estimate of what it would cost to change the same thing as making a request for the change?

A. well, the request for the change, I believe -- I believe the company has operated within its tariff guidelines.

Q. No, no, no. My question is: Can Cardwell go to Union Electric and say, Hey, how much would it cost me if I decided to switch from the primary rate to the general customer rate? Can they do that?

A. Yes.

Q. That in and of itself does not constitute a request to change, does it? Just getting a bid?

A. well, it was made -- just getting the bid?

Q. Yeah. Just getting the bid is not the same thing as saying, I want to change. A bid is not a deal.

A. No. Getting an estimate, yes. But the estimate was given, and presumably the estimate was given in good faith.

Q. well, I'm not quibbling about the good faith of the estimate. All I'm trying to say is, as I understand your testimony, you're saying that if Cardwell can get a cheaper deal from Three Rivers than it would get under this one, that that amounts to a rate differential. Is that what your testimony is?

A. The -- yes, it is.

Q. Okay. Now, first of all, the amount to build a system or a different system, how is that a rate?

MR. DEARMONT: I'm going to object to that question to the extent it calls for a legal conclusion.

JUDGE JONES: I have to sustain. And the reason I say that is that the reason I brought that up on -- when you all did your openings is because it is a legal question. So I pose it to the attorneys.

MR. JOHNSON: He's already been qualified as the expert that handles all their cases, and he's familiar with all the factors. Who else can I ask the question of?

JUDGE JONES: It sounds like a legal argument.

MR. JOHNSON: Okay. Thank you, Your Honor.
I'll --

BY MR. JOHNSON:

Q. Let me ask it this way, Mr. Bax: Are you an electrical engineer?

A. Yes.

Q. Are you familiar with demand charges and energy charges?

A. Yes.

Q. Is a demand charge a rate?

A. A demand charge is a rate.

Q. Is an energy charge a rate?

A. Yes.

Q. Is a demand charge based on the amount of

kilowatt hour usage in a given period?

A. Kilowatt hour usage, no.

Q. It's the amount of demand for power supply in a given period. Right?

A. Right.

Q. And the energy rate for the kilowatt -- the rate per kilowatt hour of usage, that's also a rate?

A. Yes.

Q. But both of those rates are dependent upon some measurement of electrical usage. Correct?

A. Yes.

Q. And isn't it normal in the electrical industry when we talk about rates, we talk about the price you pay for some amount of usage?

A. It typically is, yes. It doesn't have to be.

Q. So Cardwell Electric [sic], which owns its own primary system, under your theory, if they ask Union Electric and Three Rivers for competing bids, they are, in essence, engaging in a prohibitive rate differential, just because they asked for the bids?

A. Well, presumably, they asked for the bids because they were seeking information that's pertinent to the -- that's pertinent to your question.

Q. What rate is Cardwell on today?

A. Cardwell is on the small primary service 4-M rate.

Q. So this tariff provision has never been triggered, has it? They haven't switched to a general service classification, have they?

A. No. They requested that -- the information has shown that they had requested to switch to a small general -- the small general service rate, which would necessarily fall under this, in my mind, tariff provision.

Q. So you're saying if -- your testimony, then, is, to be accurate: If Cardwell did require the change in service classification, they should pay whatever it costs Union Electric to expand Union Electric's facility?

A. As it pertains to the request that he made.

Q. You issued a -- Staff filed a recommendation in this case, did it not?

A. Yes.

Q. Do you have a copy of that with you?

A. Let me look through here. Yes.

Q. I'm on Page 2, the overview of the request. The second paragraph down, the statement is made that these Cardwell facilities were designed and installed over 30 years ago?

A. I'm sorry. I must have an earlier version of the --

MS. TATRO: I don't see where you are, either, Mr. Johnson.

JUDGE JONES: Are you in the recommendation or the memorandum?

MR. JOHNSON: The recommendation.

JUDGE JONES: What paragraph in the recommendation?

MR. JOHNSON: I'm sorry. It is the memorandum. My apologies.

BY MR. JOHNSON:

Q. It's the memorandum, Page 2 of 8, down towards -- the last paragraph on the page.

MR. JOHNSON: Do I have the same document that you do?

JUDGE JONES: Yes. I see that, now. The last paragraph --

THE WITNESS: Okay.

MR. JOHNSON: It begins with, The electrical facilities.

THE WITNESS: I'll have to --

MR. JOHNSON: Which one do you have?

THE WITNESS: I was going to say, I think I have an earlier version, so I'm not sure I have the right document. Sorry.

JUDGE JONES: Here. It's the last paragraph

on that page.

BY MR. JOHNSON:

Q. It's not a major deal. Mr. Hagan indicated over 26 years, and you mentioned over 30. I just wondered where you got that information about how old this stuff was -- how old the primary -- the Cardwell electrical facilities were. Where did you get that information?

A. That property has been, I believe, well in -- well in advance of 30 years.

Q. So you -- you had indicated earlier in your testimony in response to Mr. Dearmont's questions that you consider this a unique set-up?

A. Yes.

Q. What do you mean by "unique"? What did you -- when you use the word "unique" what does that mean to you? I mean, what's unique about it?

A. The -- well, the amount of poles and transformers there that are on this particular tract.

Q. It was unique in how many there were or how they were laid out?

A. Both.

Q. And you indicate in that same paragraph of the -- Page 2 of the memorandum that Cardwell prefers an arrangement where -- under which utility would own and/or maintain these facilities.

A. Yes.

Q. Do you think that was a legitimate interest of Cardwell to take -- have the utility take over maintenance of the facilities -- primary voltage facilities?

A. I can see where he may prefer that.

Q. That would be a legitimate business decision on his part?

A. It -- sure.

Q. Page 5 of the memorandum, first full paragraph, you talk about the outages as a result of a 12 kv fuse on Cardwell's property?

A. Yes.

Q. Did you know when we were out there on September 10th that that was Mr. Cardwell's fuse -- or Cardwell Lumber's fuse, as opposed to be Union Electric's fuse?

A. Yes.

MR. JOHNSON: Is the Staff going to offer the recommendation as an exhibit in the case?

MR. DEARMONT: No.

MR. JOHNSON: I would like to offer it, then, Your Honor, if I could, so that the record -- that way, we don't have to waste a bunch of his time just having him read stuff that he's already stated in that statement.

JUDGE JONES: Any objection?

Seeing none, Staff's recommendation is admitted as Exhibit 19.

(Exhibit No. 19 was marked and received into evidence.)

MR. JOHNSON: That's all the questions I have, Your Honor.

JUDGE JONES: Any redirect from Staff?

MR. DEARMONT: I don't have any questions, but I do believe that I forgot to formally offer Exhibit 18, so I'd like to do that at this time.

JUDGE JONES: Any objection to Exhibit 18?

Exhibit 18, which is Schedule Number 5 of the Revised Sheet Number 159 of Ameren's tariff is admitted into the record.

(Exhibit No. 18 was received into evidence.)

JUDGE JONES: Let me get that Staff rec from you.

THE WITNESS: Thank you, Judge.

JUDGE JONES: You're welcome.

Okay. I heard earlier someone mentioned making some argument in post-hearing briefs. Is what all you intend to do? Had you all discussed that at all?

MS. TATRO: We had discussed that earlier, and we put it in the --

MR. DEARMONT: Joint recommendation.

MS. TATRO: -- in the joint recommendation.
It didn't appear in the order, and I presumed we would just address it in the post-hearing briefs.

JUDGE JONES: Well, I'm asking -- oh, so you do want to submit post-hearing briefs?

MS. TATRO: Well, that's what I had planned on doing, since that's what came out in the order.

JUDGE JONES: Okay. Well, do you want one round, or do you want to go back and forth?

MR. JOHNSON: We'd agree to one.

JUDGE JONES: Okay. One round it is.

MS. TATRO: I think one is --

JUDGE JONES: How much time do you need?

MS. TATRO: When will we get the transcripts?

MR. JOHNSON: It's in the order.

JUDGE JONES: Can we expedite the transcript?

MS. TATRO: Yeah. I think the order says the 24th.

MR. JOHNSON: It's in the order, Your Honor.

JUDGE JONES: I did that?

MR. JOHNSON: Yes. You did.

MR. DEARMONT: Yeah.

JUDGE JONES: Wow. I'm way ahead of myself.

MS. TATRO: It does say the 24th of
November.

JUDGE JONES: 24th of November? Okay.
Well, just, I guess, do what I said.

Is there anything else?

With that, then, we'll go off the record.
Thank you all.

(The hearing was adjourned.)

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CERTIFICATE OF REPORTER

I, LISA M. BANKS, a Certified Court Reporter, within and for the State of Missouri, do hereby certify that the witness whose testimony appears in the foregoing hearing was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Lisa M.Banks, CCR