

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS  
On-the-Record Presentation

August 30, 2016

Jefferson City, Missouri

Volume 1

In the Matter of The Empire        )  
District Electric Company,        )  
Liberty Utilities (Central) Co.)  
And Liberty Sub Corp.            ) File No.  
Concerning an Agreement and     ) EM-2016-0213  
Plan of Merger and Certain        )  
Related Transactions.            )

MICHAEL BUSHMANN, Presiding,  
Regulatory LAW JUDGE.

DANIEL Y HALL, Chairman  
STEPHEN M. STOLL,  
WILLIAM KENNEY,  
SCOTT T. RUPP,  
MAIDA J. COLEMAN,  
COMMISSIONERS.

REPORTED BY:  
KELLENE K. FEDDERSEN, CSR, RPR, CCR NO. 838  
MIDWEST LITIGATION SERVICES

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

2 (WHEREUPON, the hearing began at  
3 10:03 a.m.)

4 JUDGE BUSHMANN: Good morning. Let's  
5 bring the proceeding to order and go on the record.  
6 Today's August 30th, 2016. The Commission has set  
7 this time for an on-the-record proceeding for in  
8 the matter of the Empire District Electric Company,  
9 Liberty Utilities Company and Liberty Sub Corp.  
10 concerning an agreement and plan of merger and  
11 certain related transactions, File No.  
12 EM-2016-0213.

13 My name is Michael Bushmann. I'm the  
14 Regulatory Law Judge that will be presiding over  
15 this hearing. Let's have counsel make their  
16 entries of appearance. For Empire and Liberty  
17 Utilities.

18 MR. COOPER: Your Honor, Dean Cooper  
19 and Paul Boudreau of the law firm of Brydon,  
20 Swearingen & England, P.C., appearing on behalf of  
21 joint applicants, and the court reporter has the  
22 address.

23 JUDGE BUSHMANN: Thank you.  
24 Commission Staff.

25 MR. JOHNSON: On behalf of the Staff

1 of the Public Service Commission, I'm Mark Johnson.

2 The court reporter has my address. Thank you.

3 JUDGE BUSHMANN: Thank you. Office  
4 of the Public Counsel.

5 MS. MAYFIELD: Cydney Mayfield,  
6 Office of the Public Counsel. The court reporter  
7 has my information.

8 JUDGE BUSHMANN: Missouri Division of  
9 Energy.

10 MR. ANTAL: Good morning. Alex Antal  
11 with the Missouri Division of Energy, and the court  
12 reporter has our address. Thank you.

13 JUDGE BUSHMANN: Renew Missouri.

14 MR. LINHARES: Good morning, Judge.  
15 Andrew Linhares for Renew Missouri. Our address is  
16 1200 Rogers Street, Suite B, Columbia, Missouri  
17 65201.

18 JUDGE BUSHMANN: Midwest Energy  
19 Consumers Group.

20 MR. WOODSMALL: Thank you, your  
21 Honor. David Woodsmall on behalf of Midwest Energy  
22 Consumers Group and Pittsburgh Corning. I'd ask to  
23 be excused. I managed to get myself double booked.  
24 There's a settlement conference in the GMO rate  
25 case going on.

1 I would note that we were not very  
2 active in this case. We don't have a separate  
3 stipulation. We would support the stipulations  
4 filed by Staff and Public Counsel, and unless the  
5 Commission has questions for me, I'd ask to be  
6 excused.

7 JUDGE BUSHMANN: Thank you. You may  
8 be excused.

9 MR. WOODSMALL: Thank you, your  
10 Honor.

11 JUDGE BUSHMANN: The other  
12 intervenors either have asked to be excused or  
13 don't have stipulations here today. So I didn't  
14 expect any others, but if there are any other  
15 counsel for any of the other intervenors that would  
16 like to...

17 MR. ELLINGER: Marc Ellinger of the  
18 law firm Blitz, Bardgett & Deutsch on behalf of  
19 City of Joplin.

20 JUDGE BUSHMANN: Thank you. Any  
21 others?

22 Okay. Well, the agenda for today  
23 would be to first allow attorneys an opportunity to  
24 make an opening statement about the stipulations.  
25 It's up to you if you would like to do that and to

1 what extent you'd like to talk about the  
2 stipulations. Then the Commissioners will have  
3 questions for either attorneys or witnesses, and  
4 then after that, before we adjourn, we can deal  
5 with some of the exhibits and take care of those at  
6 that time. Anybody have any questions?

7 All right. Well, then would the  
8 attorneys for Empire or Liberty like to make any  
9 opening remarks?

10 MR. COOPER: Yes, your Honor. I  
11 represent today, of course, the Empire District  
12 Electric Company, Liberty Utilities Central Co and  
13 Liberty Sub Corp, which we'll generically refer  
14 to -- or collectively refer to as the joint  
15 applicants.

16 In March of this year the joint  
17 applicants filed an application with the Commission  
18 requesting authorization to perform in accordance  
19 with the terms of an agreement and plan of merger.  
20 Pursuant to that agreement and plan of merger, LU  
21 Central and Liberty Sub Corp. will acquire all the  
22 stock of Empire and then merge Empire with Liberty  
23 Sub Corp. with Empire emerging as the surviving  
24 corporation. Following the merger, Empire will be  
25 a wholly-owned subsidiary of LU Central.

1                   Now, LU Central is an indirect  
2 subsidiary of Algonquin Power and Utilities Corp,  
3 which is also the ultimate parent of two entities  
4 the Commission should be familiar with, that is  
5 Liberty Utilities Midstates Natural Gas Corp and  
6 Liberty Utilities Missouri Water, LLC, both of  
7 which have provided regulated utility service in  
8 the state of Missouri subject to the jurisdiction  
9 of this Commission for several years.

10                   Empire's shareholders approved the  
11 agreement and plan of merger with approximately  
12 95.5 percent of the votes cast voting in favor of  
13 the merger.

14                   Now, based on a Missouri Supreme  
15 Court case, the Commission has approved in the past  
16 acquisitions and merger applications where the  
17 proposed transaction is found to be not detrimental  
18 to the public interest. If you've looked at our  
19 testimony, you'll see that the joint applicants  
20 believe very strongly that the proposed transaction  
21 was not detrimental to the public interest.

22                   However, recognizing that others may  
23 have other opinions, the joint applicants have  
24 participated in extensive negotiations with the  
25 many parties to this case, to include the Staff and



1 the Office of the Public Counsel, to address the  
2 concerns that have been raised by those parties.  
3 The results of those negotiations are eight  
4 stipulations that the joint applicants ask this  
5 Commission to approve in conjunction with providing  
6 authorization for the joint applicants to perform  
7 in accordance with the agreement and plan of  
8 merger.

9 And, your Honor, at this time I'd  
10 like to mark a document as an exhibit just for  
11 identification. I believe it would be Exhibit 10.

12 (EMPIRE/LIBERTY EXHIBIT 10 WAS MARKED  
13 FOR IDENTIFICATION BY THE REPORTER.)

14 MR. COOPER: What has been marked for  
15 identification as Exhibit 10 is a listing of the  
16 stipulations, the eight stipulations that I just  
17 referred to. These are the stipulations that we  
18 would again ask that the Commission approve in  
19 conjunction with approval of the transaction.  
20 There's stipulation with the Staff, Office of the  
21 Public Counsel, an amended stipulation with the  
22 Division of Energy and Renew Missouri, stipulation  
23 as to the EDESR, an amended stipulation as to the  
24 IBEW locals that have intervened stipulation, and  
25 then stipulations with the City of Joplin, EDRA and

1 LiUNA which have been previously approved by the  
2 Commission.

3                   Those stipulations are detailed.  
4 They contain agreed-to conditions and commitments  
5 addressing a variety of subjects, to include  
6 customer protections, employee protections, retiree  
7 protections, community protections, ratemaking and  
8 accounting conditions, financing conditions,  
9 affiliate transaction and cost allocation matters,  
10 depreciation matters, tax matters, corporate  
11 governance and ring fencing, access to records,  
12 charitable contributions and community support,  
13 natural gas procurement practices, contracting  
14 policy, a rate case moratorium and corporate social  
15 responsibility.

16                   Certainly the joint applicants  
17 believe that these conditions provide customer  
18 protections that would mitigate any alleged  
19 detriments and, in actuality, we would argue create  
20 benefits for the public that would not exist in the  
21 absence of the proposed transaction.

22                   Now, with me here today in case you  
23 have questions of other folks are Brad Beecher, who  
24 is the president and chief executive officer of the  
25 Empire District Electric Company; Mr. David

1 Pasieka, who is the president of Liberty Utilities  
2 Canada Corp.; Mr. Peter Eichler, who is the vice  
3 president of strategic planning for Liberty  
4 Utilities Canada Corp.; Mr. Chris Krygier, who is  
5 the director of regulatory and government affairs  
6 for Liberty Utilities; Kelly Walters, who's the  
7 vice president, chief operating electric of Empire;  
8 and then Todd Tartar, who is the manager of  
9 planning for The Empire District Electric Company.

10 As the proceeding moves forward, we'd  
11 certainly be happy to answer any questions you  
12 have. But before we go to that, I would like to  
13 thank the other parties to this case. It's been --  
14 since March there have been many discussions and  
15 many documents that have floated back and forth  
16 amongst the joint applicants and the parties, and I  
17 think that where we ended up here today is with  
18 documents that represent a full spectrum, as I  
19 said, of conditions and commitments that really  
20 provide a comprehensive package for the  
21 Commission's approval.

22 Thank you.

23 JUDGE BUSHMANN: Any comments by  
24 Commission Staff?

25 MR. JOHNSON: Very briefly. Thank

1 you, Judge. May it please the Commission?

2 I would just like to reecho the  
3 standard that is to be considered in this case is  
4 you are to decide whether or not this transaction  
5 would produce a net detriment to the public. Staff  
6 has participated in extensive negotiations with the  
7 company, settlement discussions, and we believe we  
8 have come to a conclusion that alleviates all of  
9 our concerns as delineated in the testimony,  
10 primarily being issues with access to records,  
11 affiliate transaction issues brought as a result of  
12 a change in the structure of the corporate  
13 structure as a whole, potential downgrades in  
14 customer service that could be a result of the  
15 acquisition, potential downgrade in the credit  
16 rating resulting in the effect to the cost of  
17 capital for the companies, and other ratemaking and  
18 accounting issues that could result from the  
19 transaction.

20 In conjunction with the various  
21 agreements that have been met between the various  
22 parties in the case, Staff believes the result is  
23 no detriment to the public.

24 And with me today in case you have  
25 any questions I have Kim Bolin, Shana Griffin,

1 David Sommerer and Brad Fortson. And Derick Miles  
2 and Bob Schallenberg have prior engagements but are  
3 available to the Commission as well.

4 Thank you.

5 JUDGE BUSHMANN: Any comments by  
6 Office of the Public Counsel?

7 MS. MAYFIELD: We don't have any  
8 comments, your Honor, but I would offer to the  
9 Commission that we do have Dr. Geoff Marke here in  
10 case the Commissioners do have any questions.

11 JUDGE BUSHMANN: Thank you. Renew  
12 Missouri, any comments? Renew Missouri and  
13 Division of Energy?

14 MR. LINHARES: No.

15 MR. ANTAL: Division of Energy would  
16 make a short comment. May it please the  
17 Commission? Again, my name is Alex Antal. I'm  
18 here appearing on behalf of the Missouri Division  
19 of Energy.

20 As I outlined in our position -- our  
21 statement of position rather, Division of Energy  
22 believes that the application of the joint  
23 applicants will not be detrimental to the public  
24 interest but, however, that all of the stipulation  
25 and agreements that the joint applicants have

1 voluntarily entered into will further provide  
2 customer value to Empire customers and benefits to  
3 the general public generally.

4           We believe that the stipulations,  
5 which include the stipulation -- the amended  
6 stipulation and agreement that the Division of  
7 Energy has signed with the joint applicants, will  
8 further the public policy goals of the State of  
9 Missouri as evidence in legislation and that it  
10 will provide customer value in increasing customer  
11 offerings, whether it be in the potential for  
12 community solar or for customers to take advantage  
13 of combined heat and power options or various other  
14 energy efficiency offerings from the company.

15           So I won't go into any more detail,  
16 but I think that it benefits the public interest  
17 for this merger to be approved with all of these  
18 stipulation and agreements that the parties have  
19 come to agree to. Thank you.

20           JUDGE BUSHMANN: Comments from city  
21 of Joplin?

22           MR. ELLINGER: No comments, Judge.

23           JUDGE BUSHMANN: I believe that's  
24 everybody. So now time for Commissioner questions.  
25 Mr. Chairman, would you like to start?

1                   CHAIRMAN HALL: Good morning. First  
2 of all, I want to say I appreciate all of the  
3 parties' work in this matter to reach all of the  
4 compromise and stipulations that are before us  
5 today. Having said that, I do have a couple of  
6 questions.

7                   I guess I'll start, and I'm not  
8 sure -- I guess I'll direct this first question  
9 towards Staff. In the Staff's stipulation there is  
10 a great deal of discussion about a potential  
11 corporate credit rating downgrade. So I'll just  
12 start with, what is the concern there?

13                   MR. JOHNSON: Thank you, Chairman. I  
14 think the concern, as I understand it, is that the  
15 restructuring of the company and the change in  
16 financing as far as instead of having a standalone  
17 company financing itself, the new structure will be  
18 an affiliate will be obtaining financing and  
19 assigning debt to the company.

20                   And in -- the fear is that at some  
21 point the credit rating of either the financing  
22 affiliate or even Empire itself could be downgraded  
23 and it could cause an increase to the cost of  
24 capital, which could then --

25                   CHAIRMAN HALL: Why is there a

1 potential for a credit downgrade as a result of the  
2 transaction?

3 MR. JOHNSON: If I may, I actually  
4 may direct that question to Staff member Shana  
5 Griffin.

6 MS. GRIFFIN: We put the conditions  
7 in place --

8 JUDGE BUSHMANN: Excuse me. Before  
9 you do that, could you come forward and be sworn as  
10 a witness.

11 (Witness sworn.)

12 JUDGE BUSHMANN: Please state your  
13 name.

14 MS. GRIFFIN: Shana Griffin,  
15 S-h-a-n-a, G-r-i-f-f-i-n.

16 JUDGE BUSHMANN: And where do you  
17 work?

18 MS. GRIFFIN: Missouri Public Service  
19 Commission.

20 JUDGE BUSHMANN: Thank you. Please  
21 be seated.

22 CHAIRMAN HALL: Let me rephrase my  
23 question. I understand the conditions put in place  
24 to address potential credit downgrade. My question  
25 is, why is there a concern about a credit downgrade



1 in the first place?

2 MS. GRIFFIN: Okay. So right now,  
3 before the merger will take place, Empire is a  
4 standalone entity and issues its own debt. After  
5 the transaction takes place, Algonquin is the  
6 ultimate parent and plans on issuing debt for  
7 Empire and putting it to Empire level. So there's  
8 a difference in the corporate structure. Empire  
9 alone is a 100 percent regulated utility, whereas  
10 Algonquin has other dealings. It's not just a 100  
11 percent regulated utility.

12 CHAIRMAN HALL: Okay.

13 MS. GRIFFIN: There's different  
14 risks.

15 CHAIRMAN HALL: What are the  
16 different risks?

17 MS. GRIFFIN: So as a 100 percent  
18 regulated utility as it stands, Empire gets its own  
19 credit rating from S&P. Whereas, under the merger,  
20 Empire's rating at S&P will be based off of  
21 Algonquin. So the credit rating could change.

22 CHAIRMAN HALL: So I guess there's  
23 nothing inherent in the transaction and there's  
24 nothing inherent in the new corporate structure  
25 that could lead to a credit downgrade; it's simply

1 Staff's concern that, as a result of the  
2 transaction, as a result of a new corporate  
3 structure, there's some question as to what could  
4 happen to the downgrade to that -- that could cause  
5 a potential downgrade?

6 MS. GRIFFIN: Correct.

7 CHAIRMAN HALL: So there are  
8 conditions in place to prevent that?

9 MS. GRIFFIN: Yes.

10 CHAIRMAN HALL: Now, I understand on  
11 page 4 of the Staff stipulation -- and I don't know  
12 if you're the person to ask here. I'll let your  
13 counsel determine if you are or if it's someone  
14 else. But on page 4, paragraph 4 says Empire shall  
15 not seek an increase in the cost of capital as a  
16 result of this transaction. Is that in perpetuity?

17 JUDGE BUSHMANN: Could you also speak  
18 loud when you answer so that others can hear?  
19 They're having some trouble.

20 MS. GRIFFIN: Okay.

21 CHAIRMAN HALL: I don't know if  
22 that's a legal question or --

23 MS. GRIFFIN: I think that's more of  
24 a legal question.

25 MR. JOHNSON: Well, I -- I would

1 think -- I mean, yes and no, in terms of at some  
2 point I think there is no longer going to be an  
3 ability of this transaction to cause an increase in  
4 the cost of capital as we get further away. I  
5 mean, I believe as time goes on there would no  
6 longer be the need for this condition.

7 MR. COOPER: Chairman, I would add  
8 that back on page 2 at the beginning of this  
9 financing condition section, it is contemplated  
10 that it's possible that those -- that requirement  
11 will go away at some point in the future. It says,  
12 remain in effect until such time as the Commission  
13 may order otherwise in a general rate case or other  
14 proceeding brought for that purpose.

15 CHAIRMAN HALL: So who would have --  
16 under this stipulation, who would have the burden  
17 to show that a cost of capital increase was a  
18 result of the transaction?

19 MR. JOHNSON: I believe the company  
20 would have the burden to show that.

21 CHAIRMAN HALL: Does the company  
22 agree with that?

23 MR. COOPER: The company certainly  
24 believes that it would have the burden of proof.  
25 If we step off into burdens of coming forward with

1 evidence, there may be a point when others have the  
2 burden of coming forward with evidence. But  
3 certainly in the end it's the company's burden of  
4 proof.

5 CHAIRMAN HALL: Okay. So this  
6 provision speaks about a potential increase in the  
7 cost of capital. Does the Staff stipulation speak  
8 to the potential for an increase in the amount of  
9 debt attributable or allocated to Empire as a  
10 result of the transaction? I think the OPC  
11 stipulation might, but I want to first see if the  
12 Staff stipulation speaks to that.

13 MR. JOHNSON: No, Mr. Chairman.

14 CHAIRMAN HALL: Staff's position is  
15 that it does not. Does the company share that  
16 interpretation?

17 MR. COOPER: At this moment, I don't  
18 have anything that I can point you to, Chairman, in  
19 the Staff's stip. Now, certainly Empire will  
20 continue to be an operating company in the state of  
21 Missouri, a public utility in the state of  
22 Missouri, and any attempt in the future to utilize  
23 its franchise works or system, its assets as  
24 security for any debt, that would have to come back  
25 to this Commission for approval. So it couldn't

1 just happen as a -- as a matter of course without a  
2 proceeding before this Commission.

3 CHAIRMAN HALL: I guess the debt I'm  
4 talking about is debt related to the acquisition.

5 MR. COOPER: It won't incur any debt  
6 related to the acquisition.

7 CHAIRMAN HALL: And is that set  
8 forth? Where is that set forth?

9 MR. COOPER: Well, it's not a part of  
10 the agreement or plan of merger in terms of the  
11 obligations and where the funds come from. I think  
12 you had referenced earlier, Chairman, that in the  
13 OPC stip there's a provision that also prevents  
14 Empire from assuming liability for any debts issued  
15 by Algonquin, Liberty Utilities or any of the subs  
16 or affiliates. So I think through that combination  
17 it's not a possibility.

18 CHAIRMAN HALL: Okay. Moving on to  
19 page 9 of the Staff stipulation, there's a  
20 provision that says that the amount of the  
21 acquisition premium paid for Empire shall not be  
22 recovered in retail rates. I was wondering if  
23 someone could flesh that out for me, provide a  
24 little more explanation of that provision.

25 MR. JOHNSON: Well, Mr. Chairman, my

1 understanding is Empire in acquir -- excuse me --  
2 the joint applicants in acquiring Empire paid over  
3 book value essentially, and this provision, in  
4 addition to statements by the joint applicants, is  
5 just here to ensure that in the future any amount  
6 of that over book value was not then recovered from  
7 the ratepayers. In other words, the shareholders  
8 will be responsible for any amount they paid over  
9 value.

10 CHAIRMAN HALL: Does the company  
11 agree with that interpretation?

12 MR. COOPER: They do, Chairman. And  
13 I think in that same paragraph there's a  
14 reference -- this kind of goes back to the fact  
15 that Empire survives as the corporate entity that  
16 it is today and its books and records remain  
17 separate. To the extent that acquisition premium  
18 is recorded, it's recorded on the books of a  
19 parent, not on the books of the operating company.

20 CHAIRMAN HALL: Then on to page 11 of  
21 the stipulation, there's a provision concerning any  
22 material operational changes concerning customer  
23 contact centers. Currently how does Empire handle  
24 customer complaints? Is that location in Joplin?

25 MR. COOPER: Yes.

1                   CHAIRMAN HALL:  And what is the plan,  
2  if there is one, going forward for where customer  
3  complaints will be processed?  Will that continue  
4  to be in Joplin?  Is that the plan going forward?

5                   MR. COOPER:  Certainly most  
6  immediately it will be.  Our testimony explains  
7  that, you know, the day after transaction it will  
8  be the same people in the same location providing  
9  that support.  There's also, you may have noticed,  
10 in the stipulation with the City of Joplin some  
11 commitments around Joplin employees that could have  
12 some implications for that as well.

13                  CHAIRMAN HALL:  So there is --  
14 there's no plan as of now to consolidate nationally  
15 all customer contact centers?

16                  MR. COOPER:  No.

17                  CHAIRMAN HALL:  And if that were to  
18 change, this provision would require Empire and  
19 Liberty to notify Staff, to notify Staff of that  
20 plan.  There's no time frame that they have to do  
21 it, though, is there?

22                  MR. COOPER:  Well, there is a 30-day  
23 fuse, I think.

24                  MR. JOHNSON:  There's no -- in this  
25 provision specifically, there's no time frame as to

1    how soon after the fact they have to report.  
2    However, the reporting -- the requirement for  
3    reporting would only be in effect for the 24 months  
4    after the closing of the transaction.

5                   CHAIRMAN HALL:  Does Algonquin have  
6    any national customer contact centers?

7                   MR. COOPER:  I don't know the answer  
8    to that.  No.

9                   CHAIRMAN HALL:  So Algonquin has  
10   local customer contact centers and the plan is to  
11   continue that?

12                   MR. COOPER:  Yes.

13                   JUDGE BUSHMANN:  Any further  
14   questions for Ms. Griffin?

15                   CHAIRMAN HALL:  I'm sorry.  I don't  
16   think so.

17                   JUDGE BUSHMANN:  You may be excused.

18                   MS. GRIFFIN:  Thank you.

19                   CHAIRMAN HALL:  Okay.  Well, turning  
20   to the OPC stip, provision 4 on page 3, which we've  
21   discussed a little bit already, the prohibition on  
22   Empire assuming liability for the debts issued by  
23   Algonquin, Liberty Utilities or any of their  
24   subsidiaries or affiliates, could OPC explain to  
25   me, either counsel or Dr. Marke, what that



1 provision means and why it was sought?

2 MS. MAYFIELD: It was sought because,  
3 as you pointed out, there was not debt coverage in  
4 the Staff stipulation. So we sought this to ensure  
5 no debts associated with this transaction cost  
6 would be incurred and no debts of Algonquin,  
7 Liberty Utilities or any subsidiary affiliate  
8 moving forward.

9 CHAIRMAN HALL: On page 5, the rate  
10 case moratorium, so under this provision Empire  
11 will not file a rate case for at least one year  
12 after the close of the transaction; is that  
13 correct?

14 MR. COOPER: That's correct.

15 MS. MAYFIELD: That's correct.

16 CHAIRMAN HALL: When is the close of  
17 the transaction?

18 MR. COOPER: Well, that's going to  
19 depend upon orders. We have four state approvals  
20 that are necessary on the state regulatory side.  
21 You may have seen in some of our testimony there's  
22 approval already from Oklahoma. There's a  
23 stipulation that's on file in Arkansas. There's a  
24 proceeding underway in Kansas. And then, of  
25 course, there's this proceeding in Missouri. And

1 ultimately closing will key off of when approvals  
2 have been obtained.

3 CHAIRMAN HALL: Is there a ballpark  
4 estimate?

5 MR. COOPER: Well, no. The Kansas  
6 proceeding has a procedural schedule. I understand  
7 that that procedural schedule calls for an order in  
8 January. However, having said that, it's a  
9 proceeding much like this proceeding in Missouri  
10 where other events could shorten that process.

11 CHAIRMAN HALL: Why did OPC seek this  
12 provision?

13 MS. MAYFIELD: The rate case  
14 moratorium?

15 CHAIRMAN HALL: Correct.

16 MS. MAYFIELD: To give an opportunity  
17 to see the complete functionality of the merged  
18 entities so that when we proceeded forward to a  
19 rate case we would be able to have a full picture  
20 of how the corporation was operating and complete  
21 set of books and records to show the merged entity,  
22 would be the best explanation that I could provide.

23 CHAIRMAN HALL: We've had other  
24 merger cases before us where parties asserted that  
25 there would be synergies flowing from the merger,

1 synergies that would reduce operating costs and  
2 that reduction in operating costs would ultimately  
3 benefit ratepayers. Is there -- is there similar  
4 hope in this case? I guess I'll direct that  
5 question to the company.

6 MR. COOPER: There is -- there is  
7 some of that. Our testimony, I think our direct  
8 testimony speaks in terms of some, some synergies  
9 that may result from the transaction.

10 But, you know, a lot of times those  
11 synergies come at a cost as well, and I think this  
12 -- it's also been pointed out in the joint  
13 applicants' direct testimony that a big advantage  
14 in this particular transaction is that it  
15 doesn't -- it doesn't gut Joplin and the southwest  
16 part of the state, that it contemplates a continued  
17 presence in that part of the state and continued  
18 employment of employees.

19 And personally, I think that's where  
20 the advantage of this transaction lies, but there  
21 is -- in terms of synergy, there are some synergies  
22 that have been identified in testimony by the joint  
23 applicants.

24 CHAIRMAN HALL: In some of those  
25 prior cases there was an OPC and I believe Staff

1 interest in requiring that there be a rate case  
2 filed within a certain number of years so as to  
3 capture those synergies. There is no requirement  
4 here. And I assume that the difference is that  
5 this is in the electric industry and there is an  
6 inherent need for electric utilities to file rate  
7 cases on a fairly regular basis, so there was just  
8 not perceived to be a need to require a rate case  
9 within a certain number of years. Is that -- is my  
10 understanding accurate or not?

11 MS. MAYFIELD: I mean, I believe that  
12 OPC agrees with that. I mean, you see electric  
13 rate -- electric utilities coming in quite  
14 frequently. So yes, we agree there seems to be a  
15 need for it and hence we will not require a rate  
16 case in a certain time period after the  
17 transaction.

18 CHAIRMAN HALL: Could either the  
19 company or OPC explain on page 6 the bill payment  
20 extension provision?

21 MS. MAYFIELD: I'm sorry. Could you  
22 repeat that again?

23 CHAIRMAN HALL: On page 6, paragraph  
24 20, there is a provision concerning a bill payment  
25 extension for residential, small commercial

1 accounts. I'm just wondering if someone could  
2 explain that provision to me.

3 (Witness sworn.)

4 JUDGE BUSHMANN: Please state your  
5 name.

6 MR. MARKE: Geoff Marke.

7 JUDGE BUSHMANN: Who are you employed  
8 by?

9 MR. MARKE: The Office of the Public  
10 Counsel.

11 JUDGE BUSHMANN: Thank you. You may  
12 be seated.

13 MR. MARKE: So the question is to  
14 explain the bill extension?

15 CHAIRMAN HALL: The bill payment  
16 extension provision.

17 MR. MARKE: To piggyback off the last  
18 question in terms of rate cases, we have a couple  
19 provisions within your stipulation that asked for  
20 the applicants to come in at the next rate case to  
21 examine and to show some potential, I don't know if  
22 synergies is necessarily the right word, but some  
23 benefits that could be incorporated as far as the  
24 public's best interests.

25 We looked at the bill extension, the

1 current platform under the Empire program. I'm not  
2 a hundred percent sure on this, but my  
3 understanding is that it had the shortest window of  
4 the electric utilities in the state. So we had --  
5 through settlement discussion it seemed  
6 appropriate, and the company agreed that they would  
7 continue the extension of that for ten additional  
8 days.

9 CHAIRMAN HALL: And the provision  
10 concerning bad debt, can you explain that provision  
11 to me?

12 MR. MARKE: From page 4?

13 CHAIRMAN HALL: It's on page 7.

14 MR. MARKE: So the bad debt provision  
15 is a similar provision that based, off of our  
16 analysis of utility mergers and acquisitions, this  
17 seemed to be a common theme amongst that process.  
18 Again, through settlement discussion the company  
19 was amenable to the idea of providing a one for one  
20 credit for customers that had bad debt, bad bill  
21 arrearages up to a period.

22 As you can see from our stipulation,  
23 there are several different provisions as it  
24 pertains to customers that are struggling to pay  
25 their bills. So the idea is that that would be

1 tied with the web page, the front page, which  
2 signals -- I think the actual signal is having  
3 trouble paying your bill. They could click on that  
4 link and they would be informed of this process,  
5 the service that would be made available.

6 CHAIRMAN HALL: It concerns those  
7 customers who receive benefits through a low income  
8 program. That's a -- there's a whole variety of  
9 low income programs, or is that specific to the  
10 bill payment extension plan or is there a list of  
11 others?

12 MR. MARKE: You know, Chairman, it  
13 was our intent as far as including the language of  
14 the low income program that it extended to, I  
15 guess, the universe of Empire low income programs,  
16 the Commission's most recent customer charge,  
17 LIHEAP. Essentially anybody that would be eligible  
18 for LIHEAP would be apply to that low income  
19 program or that designation.

20 CHAIRMAN HALL: So I guess I still  
21 don't understand what exactly this provision does  
22 in terms of providing assistance to low income  
23 customers.

24 MR. MARKE: Well, it allows them an  
25 opportunity to get out of bad debt that they

1 otherwise would not have. It's an opportunity also  
2 for -- to encourage customers that if they are  
3 behind in their payments, it's not an  
4 insurmountable number, especially if the company is  
5 willing to go ahead and match it dollar for dollar.  
6 So it makes it -- the idea is that we would be able  
7 to go ahead and gain those customers back.

8 CHAIRMAN HALL: What does the company  
9 think is the universe of programs that are covered  
10 under this provision?

11 MR. COOPER: Well, I can't give you a  
12 specific listing, Chairman, but if they received  
13 benefits through any of the low income programs of  
14 the company, we think that qualifies.

15 CHAIRMAN HALL: So that would be any  
16 of the low income programs and the company would  
17 provide resources essentially 50 percent from  
18 shareholders, 50 percent from other ratepayers?

19 MR. COOPER: That's correct. And one  
20 of the examples we had come up with in thinking  
21 about this was somebody perhaps that's not even on  
22 the system currently needs to pay \$400. Let's say  
23 that's their debt to get back on the system. This  
24 would result in them needing to only pay \$200 to  
25 get on the system.



1 MR. MARKE: Chairman, if I may?  
2 Paragraph 22 references a number of the different  
3 community groups that are available when it speaks  
4 to the web page itself. The last line in that  
5 section actually references back to information  
6 regarding paragraph 21 above.

7 CHAIRMAN HALL: All right. And then  
8 I just have one more -- well, actually one more  
9 question for OPC. My understanding is that one  
10 provision that OPC sought but did not get in the  
11 stipulation concerned a most favored nation  
12 provision. Could you explain that to me?

13 MR. MARKE: The idea behind a most  
14 favored nation provision is that, based off of all  
15 the other outstanding arrangements that need to be  
16 confirmed through Empire, through Arkansas, Kansas  
17 Oklahoma, if Kansas had gotten say a more favorable  
18 outcome than Missouri, the default answer would be  
19 that Missouri would gain that ability as well.

20 CHAIRMAN HALL: A more favorable -- I  
21 don't remember the word you used. A more favorable  
22 result in terms --

23 MR. MARKE: Outcome.

24 CHAIRMAN HALL: Outcome in terms of  
25 what?

1 MR. MARKE: That's a good question.  
2 So if -- I'll go back to the one for one credit.  
3 If, for example, the Kansas Corporation Commission  
4 decided to go ahead and do a two for one credit,  
5 the idea behind the most favored nation was that  
6 that same principle would apply to Missouri. We  
7 ultimately ended up striking that from our  
8 stipulation when it was all said and done.

9 CHAIRMAN HALL: I think I just have  
10 one more question, and this is for, I guess, the  
11 Division of Energy and/or Renew Missouri.

12 JUDGE BUSHMANN: You may be excused,  
13 Mr. Marke.

14 CHAIRMAN HALL: This stipulation  
15 concerns a requirement that Empire develop and  
16 submit a MEEIA plan.

17 MR. ANTAL: Yes.

18 CHAIRMAN HALL: But there's a whole  
19 lot of words before that and after that, and I  
20 can't tell if those words before or after qualify  
21 that requirement such that there is no requirement.  
22 So I was wondering if you could explain to me your  
23 understanding of the commitment contained in this  
24 stipulation concerning the company's requirement to  
25 file a MEEIA plan.

1                   MR. ANTAL: It's the Division of  
2 Energy's understanding that there is still a  
3 requirement to file a MEEIA. However, that is  
4 conditioned upon a few questions precedent, one of  
5 those being the approval of a -- or I should say  
6 Commission-approved statewide TRM. As you may be  
7 aware, the Division of Energy applied for and  
8 received a grant for a statewide TRM. The Division  
9 along with Staff, OPC, all of our electric  
10 utilities and other stakeholders are in a process  
11 to try to get that statewide TRM developed.

12                   And we believe at the Division that  
13 the Commission-approved statewide TRM will not just  
14 help Empire but other utilities in future MEEIA  
15 filings. Empire has filed two MEEIA applications  
16 with the Commission. Those applications have been  
17 voluntarily withdrawn, my understanding based off  
18 of concerns that other stakeholders had that they  
19 weren't up to snuff, to use that figure of speech.

20                   We believe that while there may be  
21 other hurdles that need to be overcome, that a  
22 statewide TRM will provide a clearer path for  
23 Empire to get a Commission-approved MEEIA program.

24                   CHAIRMAN HALL: The way I'm -- the  
25 way I read it, there's first the requirement that

1 you identified that there be a Commission-approved  
2 statewide TRM, and Empire has been a stakeholder in  
3 that process, correct?

4 MR. ANTAL: That's my understanding.

5 CHAIRMAN HALL: But then second, I  
6 can't -- it says that the requirement is  
7 conditioned upon any such portfolio being a part of  
8 Empire's adopted preferred resource plan,  
9 integrated resource plan. That is solely within  
10 the discretion of the company as to whether or not  
11 they include a MEEIA plan as part of its adopted  
12 preferred resource plan; is that not correct?

13 MR. ANTAL: I would say yes, that it  
14 is their discretion to include it in their  
15 preferred plan. However, if you'll note, the  
16 sentence continues, or has been analyzed through  
17 integrated process required by Commission rule.

18 Now, if Empire were to file a future  
19 IRP that did not analyze demand side management  
20 programs, the Division of Energy's position would  
21 be that that is a deficiency in an IRP filing, that  
22 it is incumbent upon Empire to always evaluate  
23 demand side management programs when developing an  
24 IRP.

25 CHAIRMAN HALL: So it's your position

1 that the latter part of that sentence makes it  
2 clear that if they -- if the company were to not  
3 include a MEEIA plan in its integrated resource  
4 plan, then any party, including the Division, could  
5 claim that as a deficiency, thereby making it fall  
6 within the second part of the sentence that it will  
7 be analyzed through the integration process --

8 MR. ANTAL: Yeah.

9 CHAIRMAN HALL: -- required by the  
10 rule?

11 MR. ANTAL: That's our understanding.

12 CHAIRMAN HALL: I guess I would query  
13 why we even have that -- those two conditions in  
14 there if -- okay.

15 MR. LINHARES: Mr. Chairman?

16 CHAIRMAN HALL: Yes.

17 MR. LINHARES: I would just add that  
18 I agree with all the positions stated by counsel  
19 for Division of Energy. I would just add that this  
20 stipulation was a product of agreement and  
21 negotiation, and some of these words parties deemed  
22 necessary to not object to this particular  
23 provision. So to the extent that this things seem  
24 like they're superfluous or added without clear  
25 need, these were deemed necessary for certain

1 parties to be able to not object.

2 CHAIRMAN HALL: You look at this  
3 provision on behalf Renew Missouri and are fairly  
4 confident that it will result in Empire submitting  
5 a MEEIA plan in its next integrated resource plan?

6 MR. LINHARES: Yes, Mr. Chairman, I'm  
7 moderately confident. I do think that this is an  
8 affirmative commitment by the company to file a  
9 MEEIA plan in the future. I would also add that,  
10 as counsel for DE was starting to allude to, I  
11 think parties do have a strong argument in the  
12 integrated -- in the Chapter 22 process, the IRP  
13 process, and in the rate case process under normal  
14 prudence arguments that demand side management  
15 portfolios are an essential part of the utility's  
16 service they provide to customers. A lack of these  
17 programs will lead to inferior value for customers.

18 And so there are other reasons why  
19 these portfolios should be required and pursued. I  
20 do believe that this commits the company to incur  
21 the obligation to file a demand side management  
22 portfolio under MEEIA.

23 CHAIRMAN HALL: Does the company have  
24 a comment related to that interpretation?

25 MR. COOPER: Well, I guess only this:

1 As was alluded to previously, I don't think that  
2 the lack of a MEEIA for Empire has been the result  
3 of an unwillingness of the company to make filings.  
4 It was referenced already that there have been two  
5 previous MEEIA filings for Empire, and there are  
6 just -- I think there are a variety of issues in  
7 working through that process in terms of the value  
8 of those programs in Empire's specific territory as  
9 well as many other things I'm sure I'm not aware of  
10 that have resulted in the withdrawal of those.

11 So I don't -- from my perspective, I  
12 don't know that forcing Empire to examine and  
13 perhaps file a MEEIA should have been a big concern  
14 for any of the parties. I think the bigger concern  
15 for the parties was trying to address the items  
16 that have been the hang-ups previously. But I'll  
17 turn it over to maybe Staff.

18 MR. JOHNSON: I think that question  
19 would be better directed to Brad Fortson, Staff  
20 witness.

21 (Witness sworn.)

22 JUDGE BUSHMANN: Please state your  
23 name.

24 MR. FORTSON: Brad Fortson,  
25 F-o-r-t-s-o-n.

1 JUDGE BUSHMANN: And who are you  
2 employed by?

3 MR. FORTSON: Missouri Public Service  
4 Commission.

5 JUDGE BUSHMANN: Thank you.

6 MR. FORTSON: So tell me again what  
7 the question was, please, or are we just addressing  
8 the fact that -- that last section of paragraph 1?

9 CHAIRMAN HALL: I don't know if Staff  
10 counsel wants to ask you questions or --

11 MR. FORTSON: From what I -- I mean,  
12 just to sort of speak to it, that last from so long  
13 as, that last section that we're talking about,  
14 that last sentence or two, that was basically a  
15 requirement by Staff to just sort of strengthen the  
16 language. We are supportive of Empire filing a  
17 MEEIA but only when it's appropriate for Empire to  
18 file a MEEIA.

19 The way it stands now currently in  
20 their most current IRP, the preferred resource plan  
21 was a no-DSM plan. So if three years from now or  
22 less in their next triennial plan, if a no-DSM plan  
23 happens to be their preferred resource plan again,  
24 then it doesn't make sense for them to file a  
25 MEEIA.



1 CHAIRMAN HALL: So essentially the  
2 issue is whether or not efficiency programs paid  
3 for by all ratepayers actually benefit all  
4 ratepayers?

5 MR. FORTSON: Exactly.

6 CHAIRMAN HALL: And is there any  
7 reason to think or to hope that that will change in  
8 the near future?

9 MR. FORTSON: It's hard to say. I  
10 mean, there's -- we can say there's the hope  
11 that -- I mean, as of now Empire just the way it  
12 stands is long on capacity. So it's hard to at  
13 this point justify a MEEIA plan or demand side  
14 management being real beneficial.

15 CHAIRMAN HALL: Beneficial for all  
16 ratepayers?

17 MR. FORTSON: For all ratepayers.  
18 But it's hard to say. Within the next three years,  
19 by the time the next triennial compliance filing  
20 comes around, things may have changed, things may  
21 have completely changed to make them much more  
22 beneficial.

23 CHAIRMAN HALL: All right. I  
24 understand. Thank you. And I have no further  
25 questions.

1 JUDGE BUSHMANN: You may be excused.

2 MR. FORTSON: Thank you.

3 JUDGE BUSHMANN: Commissioner Stoll?

4 COMMISSIONER STOLL: Thank you. I  
5 just have a couple questions. To kind of follow  
6 up, I think following up on questions the Chairman  
7 had about the credit rating, and I guess this is  
8 for the company, what is the current credit rating  
9 for Empire District?

10 MR. COOPER: Triple B flat.

11 COMMISSIONER STOLL: Triple B flat.

12 And then for Algonquin?

13 MR. COOPER: The same.

14 COMMISSIONER STOLL: The same. Okay.  
15 So I guess it would be -- would it be the situation  
16 where once the transaction was completed, that  
17 there would be a reassessment of the credit rating  
18 to take in the new acquisition? How does that  
19 work? Maybe somebody could tell me that, explain  
20 that to me. Anybody?

21 MR. COOPER: Yeah. Commissioner,  
22 Mr. Eichler will address that.

23 (Witness sworn.)

24 JUDGE BUSHMANN: Please state your  
25 name.

1 MR. EICHLER: It's Peter Eichler,  
2 E-i-c-h-l-e-r.

3 JUDGE BUSHMANN: You may be seated.

4 MR. EICHLER: Thank you. So,  
5 Commissioner, in this instance credit rating  
6 agencies would have been apprised of the  
7 transaction beforehand and given us an indication  
8 of whether they intend to maintain the credit  
9 rating of the entities or not.

10 In this instance, Standard & Poor's  
11 has affirmed the same credit rating post  
12 transaction as before. They have noted what they  
13 call a negative outlook, which is typical in these  
14 types of transactions where to the extent that the  
15 financing plan associated with the transaction is  
16 completed, it's anticipated that there would be no  
17 change to the credit rating.

18 COMMISSIONER STOLL: And is that  
19 because that's kind of an analysis that they have  
20 made not necessarily dependant on the triple B flat  
21 rating or that triple B flat rating is part of it  
22 that the two companies have the same?

23 MR. EICHLER: It's an analysis of  
24 what the two companies combined would look like,  
25 and so they have affirmed that there's no rating

1 change expected on account of that.

2 COMMISSIONER STOLL: So if there's no  
3 rating change expected and none actually -- no  
4 changes made, then the cost of capital would not  
5 change for Empire District?

6 MR. EICHLER: That's correct. We're  
7 not expecting the cost of capital to change.

8 COMMISSIONER STOLL: Okay. And so  
9 the ring fencing provisions would just protect in  
10 case there was a change in rating?

11 MR. EICHLER: That's correct.

12 COMMISSIONER STOLL: Okay. Thank you  
13 for that.

14 MR. EICHLER: You're welcome.

15 COMMISSIONER STOLL: No more  
16 questions, Mr. Eichler. Thank you very much.

17 JUDGE BUSHMANN: You may be excused.

18 COMMISSIONER STOLL: For the Office  
19 of the Public Counsel, on page 5, paragraph 19, and  
20 I don't know if that's highly confidential or not,  
21 but I'm going to assume that that amount is on  
22 paragraph -- it's not?

23 MR. COOPER: It's not.

24 COMMISSIONER STOLL: It's not. Okay.  
25 My question would be, how does this amount compare

1 to the current level of charitable support to those  
2 three community action agencies? I guess this  
3 would be for Office of the Public Counsel.

4 MR. MARKE: Okay. Currently each of  
5 the annual weatherization funds are \$250,000 for  
6 Empire, and those three agencies each receive a  
7 portion of that 250,000.

8 COMMISSIONER STOLL: Okay. And so in  
9 this paragraph, in paragraph 19, Empire will fund  
10 an account in the amount of 1,500,000 to be  
11 available to community action agencies. So that's  
12 up from the 250,000, is that what you said?

13 MR. MARKE: Right. Commissioner  
14 Stoll, it's actually something separate from that.  
15 So this 1.5 million is -- it's not funded by  
16 ratepayers. This is funded by shareholders. So  
17 this is an amount, the idea behind it is that the  
18 money would be utilized to create at least three  
19 long-term jobs within these community action  
20 agencies.

21 COMMISSIONER STOLL: In order to  
22 better evaluate the weatherization program and --

23 MR. MARKE: And really just to  
24 implement, just to have personnel to go ahead. I  
25 don't think the money funding hasn't been as large

1 of an issue as getting enough personnel to actually  
2 weatherize the homes.

3 COMMISSIONER STOLL: And is that --  
4 so that amount, and I'd have to go through and read  
5 a little more to refresh my memory, but it's  
6 1.5 million annually over what period of time?

7 MR. MARKE: It is -- it would be  
8 1.5 million following the transaction, and each of  
9 the community action agencies would be awarded  
10 \$500,000.

11 COMMISSIONER STOLL: Okay.

12 MR. MARKE: We set it up essentially  
13 as a directed block grant, I guess for lack of a  
14 better term. We had some suggestions as to how the  
15 money should be spent. We offered up that it  
16 should be \$50,000 per year for a ten-year period,  
17 and that -- the idea is that that would be able to  
18 fund at least one position, and any remaining  
19 balance could be utilized. I believe we gave four  
20 or five different suggestions as to how that  
21 remaining balance could be utilized in a given  
22 year.

23 COMMISSIONER STOLL: Okay. Thank  
24 you. I have no more questions about that.

25 JUDGE BUSHMANN: You may be excused.

1                   COMMISSIONER STOLL: And I think one  
2 of my other questions had to do with paragraph 21,  
3 but that has been answered. And as far as -- one  
4 question I guess remains for Staff, and that would  
5 be, if I can find my page here. Okay. In talking  
6 about the credit rating and to ensure that Empire  
7 District Electric ratepayers aren't negatively  
8 affected by this, there are provisions in the  
9 stipulation to ensure the ratepayers are ring  
10 fenced against the higher capital cost. And you  
11 obviously -- I'll say Staff has changed their  
12 initial opposition to be in favor of it. So you  
13 feel strongly that the ring fencing provision is  
14 adequate in here?

15                   MR. JOHNSON: Yes. Through the  
16 discussions with the company, we feel any concerns  
17 that Staff has had with the potential downgrade in  
18 credit rating are either alleviated or the company  
19 has agreed to conditions to protect ratepayers  
20 against any detrimental cost by such a decreased  
21 rating.

22                   COMMISSIONER STOLL: And I think -- I  
23 think my other questions have been answered, so  
24 thank you. Thank you, Judge.

25                   JUDGE BUSHMANN: Commissioner Kenney.

1                   COMMISSIONER KENNEY: Just very  
2 briefly. First off, I'd like to commend all the  
3 parties for getting together and working out this  
4 case to make our job a lot easier. Thank you.

5                   My first question is, regarding  
6 Empire, does Empire continue to operate as Empire?

7                   MR. COOPER: Yes.

8                   COMMISSIONER KENNEY: How do the  
9 ratepayers get notified that they are now a  
10 subsidiary of Algonquin?

11                  MR. COOPER: I don't know that  
12 there's any formal requirement of that through the  
13 transaction, but I think that the company's public  
14 relations side would move forward with that  
15 notification. Typically bill inserts would be  
16 utilized.

17                  COMMISSIONER KENNEY: So it is  
18 anticipated the customer is going to be known that  
19 Empire was acquired by another company?

20                  MR. COOPER: Yes.

21                  COMMISSIONER KENNEY: Next,  
22 Commissioner Stoll referenced it on that  
23 1.5 million. My question was going to be the  
24 carrying costs would not be, but I was not aware  
25 that the company was making that contribution. So



1 it is a very excellent social networking within  
2 your community, and I just want to applaud the  
3 company for that.

4 No more questions. Thank you.

5 JUDGE BUSHMANN: Commissioner Rupp.

6 COMMISSIONER RUPP: Yes. Thank you.

7 I had a question for I think Staff on your  
8 stipulation. It was section F about the customer  
9 service standards. Just trying to -- the gist of  
10 it was basically want to make sure they have the  
11 same customer service standards post acquisition.  
12 What other benchmarks? Are you looking at Liberty?  
13 Are you looking at existing Empire customers? How  
14 are you benchmarking that standard moving forward?

15 MR. JOHNSON: Debra, would you like  
16 to -- Staff witness Deb Bernsen will be available  
17 to answer that.

18 (Witness sworn.)

19 JUDGE BUSHMANN: Please state your  
20 name and spell your last name.

21 MS. BERNSEN: Debra Bernsen.

22 JUDGE BUSHMANN: And who do you work  
23 for?

24 MS. BERNSEN: Missouri Public Service  
25 Commission.

1 JUDGE BUSHMANN: Thank you.

2 MS. BERNSEN: Could I ask you to  
3 repeat the question again?

4 COMMISSIONER RUPP: Sure. Yeah. I  
5 think it was the letter F on the Staff's  
6 stipulation that talked about maintaining the same  
7 customer service standards moving forward. My  
8 question was, how is that going to be benchmarked?  
9 Are you looking at existing standards at Empire or  
10 are you looking at Liberty or Algonquin? What are  
11 we comparing that to in the future as to see that?

12 MS. BERNSEN: Certainly. The  
13 companies that Liberty presently owns in Missouri  
14 and operates already have some service reporting  
15 with the Staff, and Empire already had service  
16 reporting. So the reporting will continue. We put  
17 conditions in to that effect. We did add a few  
18 items that we felt was important to look at going  
19 forward.

20 The service reporting standards  
21 provide us a good look at call center operations,  
22 which of course is very important for customer  
23 service, and some other factors, too, going  
24 forward. Staff tends -- we found it most useful  
25 over the years to look at a company's own

1 performance against itself over time, and by being  
2 able to see changes there or trends start to  
3 develop, Staff has been able to -- if the company  
4 hasn't contacted us already, we use that  
5 information then to contact them and to determine  
6 what's going on, is there a problem here. That  
7 process has worked really well for us.

8           In terms of the concept of setting a  
9 specific standard that they be held to, we have  
10 some early cases, and that was probably about 15,  
11 20 years ago, where we did impose maybe a standard  
12 on a particular company to maintain a certain  
13 specific level. But actually what we found over  
14 time, too, is that the company's own performance  
15 over time is one of the best ways we can see what's  
16 happening there. So what we'll do is we will --  
17 you know, going forward we will be monitoring their  
18 performance by each company, by the companies that  
19 Liberty owns right now, the water operations, the  
20 gas operations. We've always looked at Empire's  
21 also. So we'll be looking at those individual  
22 pieces going forward and looking for any  
23 significant changes.

24           And if you want to call this -- you  
25 know, it's very difficult to develop a standard and

1 hold everybody to it, but we do consider their past  
2 performance somewhat a benchmark for us to look at  
3 going forward. So we want to make sure performance  
4 at least stays the same, and I think as we say in  
5 the conditions, we'd like for them to maintain or  
6 to actually improve the levels of performance going  
7 forward.

8 COMMISSIONER RUPP: So looking at  
9 past performance, the other organizations that  
10 Liberty operates that reports to you, would you say  
11 that their customer service, their past customer  
12 service performance is at the same level of  
13 Empire's currently, below or above?

14 MS. BERNSEN: It would be hard to  
15 compare one to the other because they're different  
16 companies. They've got different operating  
17 conditions, different customer bases. I'd say as  
18 we've looked at each -- and we did review these in  
19 some detail during the course of this proceeding.  
20 We maintain it all the time anyway, but we went  
21 back and really spent some time with it. And over  
22 time we've seen the performance of those other  
23 companies to be good, to -- you know, Staff looks  
24 at that. We also look at complaints coming in to  
25 the Commission.

1                   We maintain a pretty good open dialog  
2 with these companies to immediately react to  
3 changes. We expect them to do that with us also.

4                   So I'd have to say that the past  
5 performance of the Liberty water companies, the  
6 Liberty gas operations, and then of course Empire's  
7 operations have all been pretty good. We haven't  
8 had serious problems with those, with the  
9 performance.

10                   COMMISSIONER RUPP: Great. Thank  
11 you. That's all of this witness.

12                   JUDGE BUSHMANN: You may be excused.  
13 Thank you.

14                   COMMISSIONER RUPP: And just a  
15 general question, I guess, to the company's counsel  
16 is, without repeating the acquisition criteria on  
17 Algonquin's website, what attracted the company to  
18 Empire and where -- and what value do they see?

19                   MR. COOPER: Just a moment.  
20 Mr. Eichler will return to the stand.

21                   MR. EICHLER: Commissioner, I think  
22 for Algonquin Power and Utilities Corp, I think  
23 this acquisition represents an ability for us to  
24 make further investments in a regulatory  
25 jurisdiction in which we've already established a

1 footprint and have a certain level of comfort.  
2 Certainly the geographic territory and continued  
3 expansion of electric distribution utilities is  
4 something that was really attractive for us, and  
5 we're continually looking to acquire distribution  
6 utilities. Empire certainly fit the bill for that  
7 as well.

8 COMMISSIONER RUPP: Did you seek out  
9 Empire or did Empire seek out you?

10 MR. EICHLER: Empire I believe was  
11 undergoing a strategic evaluation process for their  
12 alternatives for their ownership, and Algonquin  
13 participated in that process.

14 COMMISSIONER RUPP: And the breakdown  
15 between your renewable energy sector investments  
16 and your regulated, what are the -- give me a  
17 ballpark on the size of both of those two markets  
18 you operate in.

19 MR. EICHLER: Sure. Before this  
20 transaction, it's roughly 50/50. After the  
21 transaction, it will be about 70/30 dis-- sorry,  
22 regulated distribution operations.

23 COMMISSIONER RUPP: That's all I  
24 have. Thank you.

25 JUDGE BUSHMANN: Thank you, sir. You

1 may step down. Any further questions?

2 COMMISSIONER RUPP: That's all I  
3 have, Judge.

4 COMMISSIONER COLEMAN: My questions  
5 have all been addressed. Thank you.

6 JUDGE BUSHMANN: Okay. Any follow-up  
7 questions from any other Commissioners?

8 All right. Well, let's talk about  
9 exhibits. Mr. Cooper, you had submitted an exhibit  
10 list with some applicants' exhibits.

11 MR. COOPER: I do. I have provided  
12 you and the parties as well with an exhibit list of  
13 our prefiled testimony. We would -- we would offer  
14 that testimony into evidence contingent upon the  
15 Commission's approval of the stipulations that are  
16 before it.

17 JUDGE BUSHMANN: Any objections to  
18 that offer? Hearing none, Exhibits 1 through 9 are  
19 received into the record contingent upon that  
20 approval.

21 (APPLICANTS' EXHIBITS 1 THROUGH 9  
22 WERE WAS RECEIVED INTO EVIDENCE.)

23 JUDGE BUSHMANN: Any other parties  
24 wish to offer any exhibits at this time of prefiled  
25 testimony in support of any of the stipulations? I

1 don't hear any.

2 I did want to clear up one thing.

3 Mr. Cooper, in the list of stipulations that you  
4 provided, you have the Staff exhibit listed  
5 separately. Am I correct that the Staff exhibit is  
6 also an appendix to the OPC stipulation, so those  
7 two together would constitute the OPC stipulation?  
8 Is that my understanding?

9 MR. COOPER: That's correct. It's an  
10 appendix to the Office of the Public Counsel  
11 stipulation. I listed it separately because after  
12 the filing of that OPC stip, I believe that the  
13 objections, the prior objections to the Staff stip  
14 had gone away.

15 JUDGE BUSHMANN: I think the SERP  
16 retirees withdrew their objection, but technically  
17 I never got one from OPC, but it would still be  
18 included in the OPC agreement.

19 MR. COOPER: You're right. It is  
20 incorporated in the OPC stipulation.

21 JUDGE BUSHMANN: I just want to make  
22 sure I understood that correctly.

23 Any other parties have any other  
24 matters they'd like to bring up at this point?  
25 Hearing none, I think that concludes our hearing.



1 We're adjourned and off the record.

2 (APPLICANTS' EXHIBITS 1 - 9 WERE  
3 MARKED FOR IDENTIFICATION.)

4 (WHEREUPON, the on-the-record  
5 presentation concluded at 11:20 a.m.)

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C E R T I F I C A T E

STATE OF MISSOURI) ) ss.  
COUNTY OF COLE )

I, Kellene K. Feddersen, Certified  
Shorthand Reporter with the firm of Midwest  
Litigation Services, do hereby certify that I was  
personally present at the proceedings had in the  
above-entitled cause at the time and place set  
forth in the caption sheet thereof; that I then and  
there took down in Stenotype the proceedings had;  
and that the foregoing is a full, true and correct  
transcript of such Stenotype notes so made at such  
time and place.

Given at my office in the City of  
Jefferson, County of Cole, State of Missouri.

\_\_\_\_\_  
Kellene K. Feddersen, RPR, CSR, CCR

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