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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Evidentiary Hearing
July 29, 2014
Jefferson City, Missouri
Volume 3

Noranda Aluminum, Inc.,
et al.,

Complainants,

v. File No. EC-2014-0223

Union Electric Company,
d/b/a Ameren Missouri,

Respondent.

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

ROBERT S. KENNEY, Chairman
STEPHEN M. STOLL,
WILLIAM KENNEY,
DANIEL Y. HALL,
SCOTT T. RUPP,
COMMISSIONERS.

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

2 (WHEREUPON, the evidentiary hearing
3 began at 8:30 a.m.)

4 JUDGE WOODRUFF: Welcome back for day
5 two of the hearing in EC-2014-0223. When we left
6 off yesterday evening, Mr. Cassidy was on the stand
7 and we were at the point where the Complainants
8 will be doing their cross, so let's pick up from
9 there.

10 MR. DOWNEY: Thank you, Judge.

11 JOHN P. CASSIDY testified as follows:

12 CROSS-EXAMINATION BY MR. DOWNEY:

13 Q. Good morning, Mr. Cassidy.

14 A. Good morning, Mr. Downey.

15 Q. Mr. Meyer used the September 13
16 surveillance monitoring report for his direct
17 testimony, did he not?

18 A. He did.

19 Q. And that -- and the December 13
20 report had not yet been released as of the date of
21 Mr. Meyer's direct testimony, right?

22 A. I believe that's correct.

23 Q. Okay. Would you agree that the
24 weather data in the September 13 surveillance
25 report tended to show milder than normal weather?

1 A. I didn't look specifically at that.

2 Q. Okay. Is the -- I forget the exhibit
3 number -- I guess 17. Is Exhibit 17 still up
4 there?

5 A. I don't have that.

6 MR. DOWNEY: Judge, may I approach?

7 JUDGE WOODRUFF: You may.

8 BY MR. DOWNEY:

9 Q. I'll represent this is a copy of
10 Exhibit 17. And would you please turn to Tab 6.
11 Let me know when you're there.

12 A. Okay. I'm at Tab 6.

13 Q. I'm trying to find the page. If you
14 turn to page 3-B.

15 A. Okay. I'm there.

16 Q. Okay. Do you see where actual
17 cooling degree days, normal cooling degree days are
18 reported?

19 A. I do.

20 Q. And would you agree that for the
21 12 months ended September 30, 2013, the actual
22 cooling degree days figure is lower than the normal
23 cooling degree days?

24 A. That's what this shows.

25 Q. And would you agree that would tend

1 to show milder than normal weather?

2 A. For the summer, yes.

3 Q. Okay. And then please turn to Tab 7,
4 again to page 3-B.

5 A. I'm there.

6 Q. And would you agree that the actual
7 cooling degree days versus normal shows slightly
8 warmer than normal weather --

9 A. Yes.

10 Q. -- in that report?

11 Are you familiar with a discovery
12 response from Ameren Missouri indicating that there
13 was a mistake on the September report reporting
14 those figures?

15 A. I have not seen that response.

16 Q. Okay. Did you read Mr. Meyer's
17 surrebuttal testimony in this case?

18 A. Yes, I did.

19 Q. And did he report that there was a
20 response by Ameren to a DR that they'd made a
21 mistake on the September report?

22 A. He indicated there was a discrepancy
23 in his surrebuttal testimony.

24 Q. You have no reason to doubt that, do
25 you?

1 A. I don't.

2 Q. Okay. So it's my understanding that
3 Staff ran a weather normalization on the December
4 2013 report; is that right?

5 A. It ran a weather normalization based
6 upon the weather results through calendar year
7 ending December of '13.

8 Q. Okay. Is that the same period as
9 reported on that 12 -- excuse me -- December 31,
10 2013 surveillance report?

11 A. It is.

12 Q. All right. Now, when you weather
13 normalize for hotter -- when you actually had
14 hotter than normal weather, wouldn't that have a
15 tendency to reduce the sales reported?

16 A. Is your questioning saying that if
17 actual weather was hotter in the summertime than
18 normal, that would require a reduction in actual
19 reported revenues?

20 Q. Yes. Thank you.

21 A. Yes, that's -- that would be
22 necessary.

23 Q. And that has the tendency to reduce
24 the reported overearnings in that report?

25 A. It would have --

1 MR. ANTAL: Objection, your Honor.

2 Mr. Cassidy didn't do the weather normalization for
3 Staff. This is outside his area.

4 JUDGE WOODRUFF: If he can answer, he
5 can. Overruled.

6 THE WITNESS: I wouldn't
7 characterize -- first of all, you used the word
8 overearnings. Staff does not agree with that term.
9 But it would require some normalization of the
10 revenues to bring them down to normal levels.

11 BY MR. DOWNEY:

12 Q. Okay. It has the effect of lowering
13 the reported actual return on equity?

14 A. It would have the effect of lowering
15 the company's revenues in the test year to a normal
16 level.

17 Q. Okay. And I think you agreed with me
18 after you rephrased the question that it has -- the
19 normalization has the effect of reducing the
20 reported sales?

21 A. Yes.

22 Q. And if you -- and that would be the
23 native load, sales to the native load?

24 A. Well, and to serve -- and to make, I
25 guess -- yes, that's true.

1 Q. Okay. Native load means Ameren's
2 customers, right?

3 A. Yes.

4 Q. And so wouldn't that also have a
5 tendency to increase off-system sales? When you
6 make an adjustment where you're selling less of the
7 produced power to the native load, don't you
8 necessarily sell more of the power off-system?

9 A. It could pressure -- it could allow
10 Ameren Missouri to make more off-system sales, yes.

11 Q. And do you know if your staff made an
12 adjustment to off-system sales?

13 A. That was one of the relevant factors
14 which we weren't able to take into account in our
15 analysis.

16 Q. So the Staff did not do that?

17 A. No.

18 Q. I want to visit with you a little bit
19 about Ameren Missouri's current rate case.

20 A. Okay.

21 Q. You've heard counsel for Ameren
22 Missouri argue that the financial information in
23 the surveillance reports is not very useful,
24 haven't you?

25 A. Yes.

1 Q. And have you reviewed Ameren
2 Missouri's current rate case filings?

3 A. Yes.

4 Q. And Ameren Missouri proposes a test
5 year ending March 31, 2014, does it not?

6 A. It does.

7 Q. And wouldn't that test year
8 unadjusted financial information be the same
9 financial information that's found in the March
10 2014 surveillance report?

11 A. It would.

12 Q. All right. Now, I want to visit with
13 you a little bit more about the surveillance
14 reports. Are you generally familiar with the
15 testimony that Ameren witness Gary Weiss filed in
16 Ameren Missouri's last three rate cases?

17 A. Generally, yes.

18 Q. And Mr. Weiss frequently cites the
19 actual return on equity figures from the
20 surveillance reports, doesn't he?

21 A. Yes.

22 Q. And he did that on the plant in
23 service accounting issue?

24 A. Yes.

25 Q. Do you recall him citing that on the

1 **property tax issue?**

2 A. I don't recall specifically for
3 property tax.

4 **Q. How about on the income tax refund**
5 **issue?**

6 A. I don't recall that either.

7 MR. DOWNEY: All right. May I
8 approach, your Honor?

9 JUDGE WOODRUFF: You may.

10 BY MR. DOWNEY:

11 **Q. I'm sorry. I don't have extra copies**
12 **of this. I'm handing the witness Mr. Weiss'**
13 **rebuttal testimony in the last rate case, and I'd**
14 **ask you to turn to pages 27 and 28.**

15 A. Okay.

16 **Q. I'll let you read those, and let me**
17 **know when you're done.**

18 A. Okay. I've read through page 28.

19 **Q. Okay. Does Mr. Weiss address what**
20 **I'm going to call the property tax issue?**

21 A. Yes, he does.

22 **Q. Would you please explain to the**
23 **Commission what that issue is, or I guess in this**
24 **case what it was?**

25 A. Well, I think in the last case they

1 had appealed their property tax assessment, and
2 they were seeking some kind of a tracking, I guess,
3 for this or I guess some kind of recovery for this
4 large tax change in their rates.

5 Q. Okay. I'm going to try and refresh
6 your recollection a little on this.

7 A. Okay.

8 Q. Did we have a situation where there
9 was an appeal of property taxes by Ameren Missouri?

10 A. Yes.

11 Q. And then there -- the Commission
12 didn't know how that was going to end up, so the
13 Commission allowed the full amount of property
14 taxes but indicated in its Order, if you get some
15 sort of refund or credit, you're going to have to
16 credit that back to customers. Does that ring a
17 bell?

18 A. Yes.

19 Q. And in the last rate case, was the
20 issue whether we actually amortized that credit to
21 the benefit of customers?

22 A. Yes, that was the issue.

23 Q. Forgive my sloppy use of accounting
24 terms. I probably didn't use the right terms.

25 And so Mr. Weiss was arguing against

1 that?

2 A. Right.

3 Q. And on the second page of what I
4 asked you to read, does he cite the fact that
5 Ameren's actual return on equity was less than
6 authorized as at least part of the basis for
7 denying that benefit to ratepayers?

8 A. He does on page 28, from lines 21
9 through 23.

10 Q. Thank you. And then --

11 MR. DOWNEY: Judge, may I approach
12 again?

13 JUDGE WOODRUFF: You may.

14 BY MR. DOWNEY:

15 Q. Again, I don't have extra copies of
16 this, but this is actually the direct testimony of
17 Mr. Weiss, and I think Mr. Byrne asked the
18 Commission to take official notice of this document
19 anyway. I'm going to ask you to look at pages 37,
20 38 and 39.

21 A. Okay. I've read that.

22 Q. Okay. You recall the discussion
23 yesterday? I believe Mr. Meyer was on the stand
24 and he was being examined by Mr. Byrne, and Mr.
25 Byrne noted that Mr. Weiss had reported the returns

1 on equity. Do you recall that discussion?

2 A. I do recall that.

3 Q. Okay. And so in that testimony that
4 I've just shown you, the direct testimony in the
5 last rate case, does Mr. Weiss cite the historic
6 returns on equity?

7 A. He does.

8 Q. Okay. So is it fair to say that
9 Ameren Missouri cites its actual returns on equity
10 when it sues Ameren Missouri?

11 A. That is something Ameren Missouri has
12 done in the past with which Staff has taken
13 disagreement.

14 MR. DOWNEY: Judge, I'd ask that the
15 Commission take official notice of the Weiss
16 rebuttal testimony in the last rate case.

17 JUDGE WOODRUFF: Any objection to
18 taking notice of the Weiss rebuttal testimony from
19 the ER-2012-0166?

20 MR. LOWERY: No objection.

21 JUDGE WOODRUFF: All right. We will
22 do so. And if you could also find the exhibit
23 number from that case to clarify the record.

24 MR. DOWNEY: No further questions.

25 JUDGE WOODRUFF: All right. We'll

1 come up to questions from the Bench then.

2 Mr. Chairman?

3 QUESTIONS BY CHAIRMAN KENNEY:

4 Q. Good morning, Mr. Cassidy.

5 A. Good morning.

6 Q. I want to just ask you a few
7 questions. I'll start with something you just
8 said. You said in response to a question from
9 Mr. Downey, I think, Staff doesn't agree that
10 Ameren has overearned. Did I hear you correctly?

11 A. Yes.

12 Q. Okay. Because I think what I heard
13 yesterday was that Staff did agree that Ameren had
14 overearned but that it wasn't material and ongoing.

15 A. Well, that was Mr. Thompson's, I
16 think, assertion in his opening statement. Staff
17 believes that at this point no party has made a
18 full assessment of all the relevant factors, so no
19 real determination for purposes of resetting rates
20 has been presented to the Commission.

21 Q. And that's a good segue into my next
22 question. What are the additional relevant factors
23 that Staff would think would be necessary to make a
24 full determination?

25 A. Okay. Well, in this case, no party

1 has performed a fuel modeling in order to determine
2 an appropriate level of fuel expense, purchased
3 power and off-system sales revenues.

4 **Q. Let me stop you there.**

5 A. Okay.

6 **Q. Fuel modeling to determine purchased**
7 **power costs and off-system sales?**

8 A. And fuel expense.

9 **Q. Fuel expense. Doesn't that all flow**
10 **through the FAC, though?**

11 A. It does flow through the FAC, but
12 right now we're looking at just booked earnings,
13 and that needs to be recalculated using a model,
14 and we can't do that without the model. And Ameren
15 is still subject to 5 percent of the change in
16 those costs.

17 **Q. All right. I interrupted you. Go**
18 **ahead.**

19 A. And so as part of this fuel modeling
20 process, the Staff has to go through an examination
21 of all of the coal contracts, the coal
22 transportation contracts. They have to examine
23 market energy prices. They have to determine
24 hourly net system input to put into the fuel model.
25 They have to determine whether or not there's an

1 appropriate -- what the appropriate level of
2 outages for power plants would be to be represented
3 in that model.

4 So there's a whole host of numerous
5 fuel inputs that need to be assessed in performing
6 that determination for new net base fuel cost.

7 And to date, no party has determined
8 what the impact of customer growth that the company
9 has experienced with regard to their revenues.
10 Large customers were not annualized for revenues.

11 In the last case, Staff made
12 adjustments for Lake of the Ozarks shoreline
13 management revenues that needed to be annualized.
14 To date, no party has examined that level of
15 revenues or any other miscellaneous revenues that
16 have been experienced by the company.

17 Noranda and company have performed
18 this analysis, but Staff has not taken -- made a
19 recommendation for rate of return or capital
20 structure. I think that in doing that you have to
21 have some assessment of all the relevant factors in
22 forming that recommendation.

23 No party in this case has completed a
24 depreciation study of the company's existing
25 depreciation rates. That was something that's

1 required in Ameren's rate case filing which has
2 been filed today or has been filed as of now.

3 You need to determine what the
4 appropriate level of the current level of plant in
5 service, reserve and other rate base item are
6 through a common cutoff point, whether it's an
7 update or true-up point.

8 The brevity of this schedule hasn't
9 allowed any kind of updating as is done in the
10 traditional an rate case. The assessment period is
11 kind of the assessment period and whatever it is it
12 is. And fortunately, at least Noranda and Staff
13 have looked at the same time period.

14 And I am aware that the company has
15 installed electrostatic precipitators at Labadie,
16 and I think those may be in service at this time.
17 No assessment of those costs have been taken into
18 account.

19 There's a whole host of other rate
20 base items, such as customer deposits, customer
21 advances, fuel inventories, pensions and OPEB
22 trackers, demand-side management programs,
23 accumulated deferred income taxes, all of those
24 other rate base items need to be evaluated to set
25 an appropriate level for inclusion in rates. That

1 hasn't been performed thus far.

2 Another key other rate base item is
3 cash working capital. No party in this case has
4 made any assessment of cash working capital.
5 There's been no assessment of the Ameren Services
6 Service Company allocations that have occurred
7 during the period that's been examined in this
8 case.

9 Ameren Services allocates a
10 significant level of costs to Ameren Missouri and
11 other affiliates. We haven't made any assessment
12 with regard to whether or not those allocations are
13 appropriate.

14 No party has examined the significant
15 decline in power plant maintenance expense that has
16 occurred. No party has adequately addressed the
17 reduction in distribution and maintenance expense.
18 No assessment of coal refinement projects was
19 determined.

20 No assessment of capacity and
21 bilateral sales and swaps was performed in this
22 case. No determination of the appropriate levels
23 of MISO revenues or expenses was performed.

24 The assessment of payroll taken into
25 account by both Staff and the Complainants has not

1 taken into account any changes in employee levels
2 or whether or not overtime might require some form
3 of normalization.

4 The Staff did not take into account
5 any of the changes in various amortizations that
6 are in place that deal with issues such as
7 severance costs, storm costs, training costs, and
8 there's a whole host of other amortizations that
9 are like that that need to be reassessed.

10 The case does not take into account
11 any changes in pensions or OPEBs costs that -- or
12 whether or not -- what the new resetting of the
13 base would be for those trackers. Other benefits
14 such as medical, dental and vision were not taken
15 into account.

16 There's been no inclusion for a level
17 of rate case expense that the company has incurred
18 in defending itself in this case. No party has
19 made a full assessment of typical disallowances,
20 such as advertising, dues and donations, lobbying,
21 Edison Electric dues.

22 There's been no assessment of any
23 changes in insurance expense. No assessment of
24 changes in rents and leases expense. There's been
25 no look -- no one has looked at changes in property

1 tax expense. Staff and Complainants have not
2 examined net writeoffs in order to determine if
3 they need to be annualized or normalized based on
4 what's occurred during the period ending December
5 of '13.

6 Staff has not examined or reset or
7 determined continued appropriateness of storm
8 trackers, vegetation or infrastructure inspection
9 trackers, the Sioux accounting construction tracker
10 or the SO2 tracker.

11 We have not assessed the
12 appropriateness of the test year accruals for
13 issues involving injuries and damages,
14 environmental costs and legal costs and compared
15 those accruals against actual expenditures. We've
16 not annualized the PSC assessment. We have not
17 annualized corporate franchise taxes.

18 We've not reviewed the company's
19 books to determine whether or not there are Taum
20 Sauk costs associated with the Taum Sauk failure
21 that need to be removed from the cost of service.

22 We've not examined or annualized
23 non-solar-rebate-related renewable energy standard
24 costs and rebased that recovery mechanism. We've
25 not addressed low-income weatherization program

1 costs. We've not addressed keeping current program
2 costs. We've not taken into account any changes in
3 income taxes. We have not addressed any changes in
4 capitalized depreciation or O&M. We've not made
5 any assessment of the appropriateness of any
6 aspects of the current FAC.

7 And no party has seriously looked
8 into whether the company has been imprudent in
9 incurring costs in relation to any of its
10 investments or expense levels.

11 Q. That's a comprehensive list. I
12 appreciate that. So here's the question I think
13 that flows from that list: Is it ever possible to
14 bring and successfully prosecute an overearnings
15 complaint in the absence of examining every single
16 item that you just listed?

17 A. In Staff's estimation, no.

18 Q. So in Staff's estimation, the statute
19 contemplates that that type of comprehensive
20 analysis is -- are all the elements you just listed
21 a portion or a part of, a component of a full-blown
22 comprehensive cost of service study?

23 A. Yes.

24 Q. So I'll just use that as shorthand.
25 So is it -- in Staff's estimation, staff's opinion

1 is that you cannot successfully prosecute an
2 overearnings complaint in the absence of a full
3 comprehensive cost of service study encompassing
4 all the items that you just listed?

5 A. Yes, that's Staff's position.

6 CHAIRMAN KENNEY: Thanks. I don't
7 have any other questions. Thanks for your time.

8 JUDGE WOODRUFF: Commissioner Stoll?

9 COMMISSIONER STOLL: I have no
10 questions at this time. Thank you.

11 JUDGE WOODRUFF: Commissioner Kenney?

12 COMMISSIONER W. KENNEY: Thank you.

13 QUESTIONS BY COMMISSIONER W. KENNEY:

14 Q. Thank you, Mr. Cassidy. The Chairman
15 clarified a whole lot of points with you that I
16 appreciate that were on my mind.

17 Regarding your rebuttal testimony and
18 your chart on page 28 --

19 A. Yes.

20 Q. -- where you come up with the -- I
21 was kind of trying to compare it with the --
22 Mr. Meyer's chart. A lot of similarities. But you
23 came up with a -- a year end would be a 27 million
24 overearnings at 12/31/13, and then you clarified
25 that, that on March 31st you would reduce -- you

1 reduced out those solar rebates, kind of cut it in
2 half. So you could say at that point, would you
3 say there was an overearnings. It may be minimal
4 or it may not be -- some people may think it's not
5 minimal, but there is an overearnings at that
6 point, correct?

7 A. I would hesitate to characterize that
8 as overearnings because of the very limited review
9 that we performed.

10 Q. I know. You clarified that with the
11 Chairman, and I know you pointed it out on page 41,
12 exact words, very limited review. I appreciate
13 that. But now, on the 12 -- on the 3/31, these
14 other numbers could have changed also, correct,
15 in your chart, up or down?

16 A. Well, let's go through the chart.
17 The -- the first number on page 28, the 31 million,
18 that would not change.

19 Q. Okay.

20 A. The elimination of rate refunds would
21 not change.

22 Q. All right.

23 A. Callaway refueling would not change.
24 I guess it's possible that the non-labor production
25 maintenance or distribution expense --

1 Q. But that would be minimal?

2 A. -- could. Yes.

3 Q. If it occurred, it would be minimal,
4 right?

5 A. Perhaps. Long-term incentive
6 compensation disallowance.

7 Q. What is that?

8 A. That is -- that's related to
9 restricted stock and incentive compensation tied to
10 earnings performance that is typically removed from
11 rate cases. And right now I can't recall when the
12 company pays that out. I think it may be in
13 February. So that number would likely change.

14 Q. Okay. Could that be significant?

15 A. It could be.

16 Q. All right.

17 A. The labor calculation would change to
18 account for changes in rates. The company grants
19 an increase in pay on April 1st, so one second
20 outside of a cutoff at March 31, that would change
21 our number.

22 Q. But we're talking a minor number? I
23 mean, minor by looking --

24 A. It could be a million or two.

25 Q. Yeah. It could be 25 percent of that

1 **number, but it's a minor number overall?**

2 A. Yes.

3 **Q. Okay.**

4 A. Weather normalization, we would
5 probably stay with where we were at. The 365 days
6 adjustment would be tied with that. Fuel offset,
7 that's also tied together. Those three, lines 9,
8 10 and 11 are all bundled together, if you will.

9 **Q. Okay.**

10 A. And in my rebuttal testimony I did
11 have an adjustment for depreciation expense, but
12 that number had some erroneous information in it,
13 and so in our surrebuttal testimony we removed that
14 adjustment.

15 **Q. Okay.**

16 A. And then the MEEIA costs would not
17 change.

18 **Q. So as of 3/31, that number would be
19 about 13.8 after the solar rebates?**

20 A. At March.

21 **Q. Yeah. That you mention on the next
22 page 29?**

23 A. Right.

24 **Q. Okay.**

25 A. And that number then, what Staff --

1 when Staff calculates that \$13.8 million number,
2 that's like trying to determine whether or not we
3 want to move to Stage 3 where we take into account
4 all these relevant factors that I just listed.

5 Q. Okay. Thank you for that
6 clarification. I appreciate it.

7 COMMISSIONER W. KENNEY: No more
8 questions.

9 JUDGE WOODRUFF: Commissioner Hall?

10 QUESTIONS BY COMMISSIONER HALL:

11 Q. Good morning, Mr. Cassidy.

12 A. Good morning.

13 Q. I want to follow up on some questions
14 presented to you by -- first by the Chairman. I
15 happened to notice that when you were listing all
16 of the other relevant factors in your determination
17 that needed to be taken into account in a
18 comprehensive cost of service analysis, you seemed
19 to be looking down and reading from something.

20 And I'm wondering if -- I mean, I
21 have a copy of the cost of service report that
22 Staff conducted back in the last rate case, and I
23 was trying to keep track from the index what items
24 you were identifying, and it seemed like you were
25 following fairly closing. Is that what you were

1 using or was it a different document?

2 A. That was the source of my list, yes.

3 Q. Okay. And it seemed, I don't know,
4 ballpark, three-fourths of the items on that cost
5 of service report you identified as relevant
6 factors that were not considered in this case thus
7 far?

8 A. I'd say that's a fair representation,
9 yeah.

10 Q. Then I want to follow up on a couple
11 of questions by Commissioner Kenney because I'm a
12 little confused. I look at the -- at the
13 surrebuttal testimony that you presented, and it
14 has a \$39 million figure as the, I'll put
15 overearnings in quotes?

16 A. Yeah.

17 Q. But in your testimony -- I shouldn't
18 say but. In your testimony you say that that would
19 be largely offset by the solar rebates?

20 A. Well, actual -- yes, solar rebates
21 would offset that because there's been an
22 agreement, a stipulation that was reached in, I
23 think it's Case No. ET-2014-0085, where whatever
24 solar rebate spending that Ameren has incurred up
25 to, I think, \$91 million less a 10 percent cost

1 adder should be reflected as an amortization over
2 three years in their next rate proceeding.

3 **Q. So whereas Noranda's expert put solar**
4 **rebates down as \$10 million because that's the**
5 **amount that's been actually spent for --**

6 A. Through December of 2013.

7 **Q. -- your analysis puts it at**
8 **33.7 million; is that correct?**

9 A. I think -- I think they've spent --
10 no. 33.7 million is the -- would be the
11 amortization --

12 **Q. Right.**

13 A. -- if they reach the full
14 101 million. I think to date the company provided
15 a response to a Staff DR, I think on July 21st,
16 that said they've spent through June approximately
17 \$63 million on solar rebates, coupled with the
18 10 percent cost adder. So that would put the
19 number up to around \$69 million.

20 So currently the company's spent 69
21 million, and if you amortize that over three years,
22 that would require an inclusion the next time you
23 reset Ameren's rates of \$23 million on an annual
24 basis for that spending level.

25 **Q. Okay. So I guess my next question**

1 was going to be, why didn't you include the solar
2 rebate analysis in your table on pages 6 and 7?
3 And I think you just answered it. It's because you
4 don't know exactly how much Ameren has spent to
5 date, and if Ameren does spend the full -- the full
6 91 -- I'm sorry -- the full -- the full 100 -- what
7 is, it 91 or 101?

8 A. Well, they can spend up to 91.

9 Q. 91. Okay.

10 A. And then there's a 10 percent at cost
11 adder.

12 Q. So if they spend the full amount,
13 which in all likelihood they will, if they spend
14 the full amount, then the correct figure is 33.7?

15 A. If they spend the full amount, yes.

16 Q. Okay. So if they -- if they spend
17 the full amount and it's 33.7, you subtract that
18 from 39.1 and you're at 1.4?

19 A. I think you're at a number, yeah,
20 really -- let me go back to my surrebuttal here.
21 You mentioned earlier, the reason Staff didn't put
22 it in the table. It's -- the reason I didn't put
23 it in the table is it's really a deferred
24 regulatory asset. So it really doesn't begin
25 becoming an expense until you actually reset the

1 rates and make the inclusion for it.

2 Q. Right. I think my math was atrocious
3 there.

4 A. I think it's more like --

5 Q. 4.4?

6 A. Yeah. Something around 5 or
7 6 million.

8 Q. All right. Okay. Which actually
9 segues well into my next line of questioning about
10 materiality. My understanding is that it's Staff's
11 position to only undertake a full cost of service
12 investigation if there is overearnings that it
13 deems material and ongoing?

14 A. Yes.

15 Q. Why -- and that may or may not be a
16 legal standard. That's probably something we're
17 going to have to work out later. But from Staff's
18 perspective, what is the policy rationale for that
19 materiality requirement?

20 A. Well, undertaking an earnings
21 investigation with a full audit is a significant
22 commitment of manpower and resources. And, in
23 addition, you wouldn't want to take up -- have a,
24 you know, sort of a materiality standard that's
25 lower than that because you may be making a

1 significant commitment of resources that may not
2 get -- result in an audit that determines
3 overearnings.

4 I mean, once you take into account
5 all those relevant factors in this situation, we
6 may actually find that there's underearnings. So,
7 I mean, you have to have some sort of a benchmark
8 from where to jump off from in terms of moving
9 forward with, you know, additional analysis of book
10 earnings.

11 And Mr. Oligschlaeger is the one who
12 addressed that materiality standard in his
13 testimony, and I would probably defer additional
14 questions to him.

15 COMMISSIONER HALL: I have no further
16 questions. Thank you.

17 QUESTIONS BY JUDGE WOODRUFF:

18 **Q. I just have one question. Given**
19 **enough time, could Staff have performed a**
20 **comprehensive cost of service study in this**
21 **complaint case?**

22 A. If given enough time, we could have.

23 **Q. And if the Commission ordered you to**
24 **do so?**

25 A. Yes.

1 Q. And how much time would you need?

2 A. Typically we need between four and
3 five months to complete that kind of an analysis.

4 JUDGE WOODRUFF: Thank you. Recross
5 based on questions from the Bench, beginning with
6 Ameren?

7 MR. LOWERY: Thank you, your Honor.

8 RE-CROSS-EXAMINATION BY MR. LOWERY:

9 Q. Mr. Cassidy, you were asked some
10 questions by the Chairman, and I think one of the
11 questions, this is almost a quote, was is it
12 possible to bring an overearnings complaint without
13 examining all items, and you said -- your answer to
14 the question was no. Do you recall that?

15 A. Yes.

16 Q. Isn't it true that the reason that
17 you believe that is, without a full cost of service
18 study, effectively you're just guessing at what the
19 revenue requirement is and what rates should be for
20 purposes of setting new rates?

21 A. You could characterize it as a guess.
22 It certainly would carry a much lower degree of
23 certainty with regard to its accuracy.

24 Q. And you hit on part of this, I think,
25 but in the list that you went through with the

1 Chairman, one thing I noticed that you didn't
2 actually use this term, and that is you didn't use
3 the term billing units as something you would need
4 to look at, although I think you did say something
5 about customer growth or customer count. Do you
6 recall that?

7 A. Yes.

8 Q. And isn't it true that billing units
9 are an awfully important part of determining what a
10 rate should be because you could have a situation
11 where the revenue requirement had stayed the same,
12 even had gone down, but if the billing units were
13 such that you had declining customer count or you
14 had load contraction because of energy efficiency
15 programs or other things, you could have a
16 situation where the revenue requirement stayed the
17 same, for example, but the rate actually needed to
18 go up, couldn't you?

19 A. That's possible.

20 Q. And if you don't look at billing
21 units, then you don't know what the rates should
22 be. In this case, a rate case in terms of a case
23 where you're actually going to reset rates is not
24 just about the revenue requirement, it's about the
25 billing units as well, is it not?

1 A. That's true.

2 Q. And nobody has looked at the billing
3 units in this case, have they?

4 A. No, no one has.

5 Q. You had a discussion with
6 Commissioner Bill Kenney and also Commissioner Hall
7 about solar rebates and the effect that they would
8 have on the number that you calculated, correct?

9 A. Yes.

10 Q. And you mentioned a data request
11 response, did you not?

12 A. Yes.

13 Q. And I didn't really anticipate you
14 were going to mention it, but -- so I only have
15 three copies.

16 MR. LOWERY: But if I may approach
17 the witness?

18 JUDGE WOODRUFF: You may.

19 MR. LOWERY: I'll give one of these
20 to Noranda's counsel.

21 BY MR. LOWERY:

22 Q. Mr. Cassidy, is that the data request
23 response that you were referring to?

24 A. Yes, it is.

25 Q. And it's the data request response

1 that indicates through June 30th of 2014 the
2 company spent about \$63 million on solar rebates?

3 A. Yes.

4 Q. It also indicates that there's
5 another \$6.7 million of non-solar-res expenditures
6 through that period that have not been accounted
7 for in current rates; is that correct?

8 A. That's correct.

9 Q. Now, let me ask you a couple more
10 questions about solar rebates. You're aware, are
11 you not, that the statute was changed a year or two
12 ago to phase out the solar rebates over a period of
13 time. I think they go away in 2017 or thereabouts;
14 is that right?

15 A. Yes.

16 Q. Are you aware that the statute lowers
17 the amount per watt effective July 1 of this year
18 from \$2 a watt to \$1.50 a watt?

19 A. I wasn't aware of that.

20 Q. I want you to assume that that's the
21 case. If that's the case, would you -- would you
22 expect that people who want to install solar
23 systems and get a rebate would probably do -- take
24 some steps to get those in before July 1, 2014 so
25 they can get that higher rebate?

1 MR. DOWNEY: I'm going to object.

2 Calls for speculation.

3 JUDGE WOODRUFF: Overruled.

4 THE WITNESS: It seems like that
5 would be an incentive.

6 BY MR. LOWERY:

7 Q. Might that explain why that solar
8 rebate number has grown quite a bit already in
9 2014?

10 A. It might.

11 MR. LOWERY: Your Honor, I don't have
12 enough copies, but I would like to mark this.

13 JUDGE WOODRUFF: I believe that has
14 already been marked as Exhibit 14. Is that
15 correct, Staff?

16 MR. ANTAL: That is correct.

17 JUDGE WOODRUFF: It was marked as 14,
18 but Staff did not offer it because of objection to
19 hearsay.

20 MR. LOWERY: Well, I'd like to offer
21 it at this time.

22 MR. DOWNEY: Same objection. It's
23 still hearsay.

24 MR. LOWERY: I think Mr. Cassidy's an
25 expert, and an expert can -- well, let me lay a

1 little bit of foundation.

2 BY MR. LOWERY:

3 Q. Mr. Cassidy, do you have any reason
4 to doubt the veracity or reliability of this data
5 request response?

6 A. I do not.

7 Q. Is a data request response the type
8 of information that you in your capacity as an
9 expert or an auditor for the Commission, is that
10 the type of information that you typically rely
11 upon?

12 A. It's very standard discovery for the
13 Staff.

14 Q. And you would -- and you find the
15 information to be reasonably reliable?

16 A. I do.

17 MR. LOWERY: With that, your Honor, I
18 think given that Mr. Cassidy is an expert under --
19 I can't remember the name of the statute. I think
20 it's statute 490.065 -- I believe this document is
21 admissible as a basis for Mr. Cassidy's opinion.

22 JUDGE WOODRUFF: Response?

23 MR. DOWNEY: There wasn't a
24 foundation before. There is now. So I'll withdraw
25 the objection.

1 JUDGE WOODRUFF: Okay. It will be
2 admitted. 14 is admitted.

3 (EXHIBIT NO. 14 WAS RECEIVED INTO
4 EVIDENCE.)

5 MR. LOWERY: Bear with me just a
6 moment, your Honor.

7 BY MR. LOWERY:

8 Q. Judge Woodruff asked you a question
9 about had you been given enough time, could you
10 have done a comprehensive cost of service study in
11 this case, and you indicated that you could have,
12 correct?

13 A. Yes.

14 Q. And so I guess that leads me to this
15 question: Isn't an issue or problem with this case
16 not that it was brought by a consumer group and
17 that a consumer group purportedly can or cannot
18 prosecute an overearnings case, what they call an
19 overearnings case, but isn't the problem that the
20 Complainants and I'll call them their allies
21 because I think that's a fair characterization of
22 some of the parties in this case, insisted upon a
23 schedule that did not allow consideration of all
24 relevant factors?

25 A. They insisted upon an extremely

1 accelerated schedule, which essentially prevented
2 the ability to take into account all relevant
3 factors.

4 Q. Would you agree that before a utility
5 files a rate case, a utility has a fairly
6 significant amount of work that it must do to get
7 that rate case prepared, to get a cost of service
8 study together, testimony to support it, minimum
9 filing requirements? Would you agree with that?

10 A. I can imagine there's a great deal of
11 preparation in putting a rate case together.

12 Q. Would you agree -- and you've been
13 doing this for 30 years. You've been involved in a
14 lot of audits, a lot of rate increase cases. Would
15 you agree that that takes some time and effort to
16 put that together?

17 A. It does.

18 Q. A matter of months would be probably
19 fair to say?

20 A. That's a fair assessment.

21 Q. And, of course, we all know that
22 while file and suspend -- while the Commission can
23 effectuate rates through the file and suspend
24 method or really without suspending them, by
25 allowing them to go in effect, we all know that the

1 Commission's practice probably for the last 80 or
2 90 years or whatever has always been to suspend the
3 tariffs for the full period that they're allowed to
4 suspend them by law so that we're essentially
5 guaranteed that the rates aren't going to go into
6 effect for about 11 months after they were -- the
7 tariffs were filed; isn't that right?

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

9 Q. At least in the 30 years you've been
10 around?

11 A. Yes.

12 Q. And so what that means is that a
13 utility really has no ability to raise its rates
14 much faster than probably every 15, 16, 18, 13,
15 somewhere in that range, that if the utility really
16 has an inclining cost structure and needs to raise
17 its rates, it's going to take it about that long to
18 get that done; isn't that right?

19 A. Yes, and that seems to be the typical
20 interval that Ameren Missouri has had with its rate
21 case filings.

22 Q. Can you think of any reason why it
23 ought to be different if we're talking about an
24 alleged overearnings situation?

25 A. I can't, and I think to ask for

1 something less than all the relevant factors is
2 asking for a double standard. It would be akin to
3 throwing the baby out with the bath water.

4 MR. LOWERY: Thank you, Mr. Cassidy.
5 I have nothing further, your Honor.

6 JUDGE WOODRUFF: Okay. Public
7 Counsel?

8 RE-CROSS-EXAMINATION BY MS. BAKER:

9 Q. I just have a couple of questions,
10 mainly about the list that you had for the
11 requirements for the cost of service analysis.
12 That is Staff's list of what their cost analysis
13 would be; is that correct?

14 A. Yes.

15 Q. And so if Public Counsel's cost
16 analysis did not necessarily match that, would
17 Staff not support it?

18 A. Well, let me see if I understand your
19 question. Public Counsel's free to take whatever
20 position it wants.

21 Q. That's not quite my question. My
22 question is, if our cost of service audit did not
23 match Staff's process for a cost of service audit,
24 would Staff not support it?

25 A. It would depend.

1 MS. BAKER: No further questions.

2 JUDGE WOODRUFF: Consumers Council.

3 RECROSS-EXAMINATION BY MR. COFFMAN:

4 Q. In response to questions from the
5 Bench, you made several references to all relevant
6 factors. Just to clarify what I think we
7 established yesterday, and that is when you speak
8 about all relevant factors, you're speaking about
9 the Staff's own idea of what relevant factors --
10 all relevant factors should be, correct?

11 A. Yes.

12 Q. You're not referring to any statute
13 or regulation or case law definition of all
14 relevant factors; rather, you're referencing only
15 the Staff's practice and own internal understanding
16 of what Staff thinks all relevant factors means?

17 A. Yes.

18 Q. And we did establish yesterday, did
19 we not, that whereas Staff applies a materiality
20 requirement to whether it takes certain steps as
21 far as going down the road of an overearnings
22 investigation, it doesn't apply that same
23 materiality standard to file and suspend rate
24 increase cases?

25 A. Yes. The process is a little

1 different. With file and suspend, we are
2 statutorily obligated to meet an 11-month review
3 period.

4 **Q. So Staff does have two different**
5 **standards as far as rate increase cases or rate**
6 **decrease cases?**

7 A. There are two different standards,
8 and I guess if parties don't like the complaint
9 case standard, they can propose ways to change
10 that. I haven't heard any new proposals being
11 made.

12 MR. COFFMAN: Thanks. That's all I
13 have.

14 JUDGE WOODRUFF: Retailers?

15 RE-CROSS-EXAMINATION BY MR. SCHWARZ:

16 **Q. Mr. Cassidy, I understand your**
17 **testimony to be that if Staff were filing a**
18 **complaint -- a rate complaint case as a**
19 **complainant, that it would not do so unless it had**
20 **made the analysis, the three-step analysis and**
21 **examined and made the adjustments in the accounts**
22 **that you listed. Is that a fair understanding of**
23 **your testimony?**

24 A. That's fair.

25 **Q. In a -- when a utility files a**

1 **general rate case, is -- what is the Staff's role**
2 **as a party to that rate case?**

3 A. Staff's role is to perform a cost of
4 service calculation and present rate design and
5 perform that role in a neutral, unbiased manner to
6 give the Commission a fair and balanced
7 recommendation with regard to what appropriate
8 rates should be.

9 Q. **It is functioning -- it is performing**
10 **an investigative function as an employee and part**
11 **of the Commission; is that fair?**

12 A. That's fair.

13 Q. **So it is -- it is not a party**
14 **supporting the utility, nor is it opposing or**
15 **taking the position of customer groups or**
16 **individual customers who might oppose? It's a**
17 **neutral party?**

18 A. That's true.

19 Q. **Does it have a burden of proof or a**
20 **burden of persuasion in that case?**

21 A. Well, the Staff has to present its
22 evidence and be persuasive in presenting it, if
23 that's your question.

24 Q. **That's not my question. My question**
25 **is that do you understand --**

1 MR. ANTAL: Objection, your Honor.

2 It calls for a legal conclusion.

3 MR. SCHWARZ: Judge, the witness has
4 participated in regulatory proceedings for 20, 30
5 years, a long time, and certainly should have an
6 understanding of what the Staff's role is in
7 participating.

8 MR. LOWERY: Your Honor, if I may,
9 I'd like to join in that objection. He asked him
10 whether or not the Staff has a burden of
11 persuasion, which is a very technical legal term.
12 It's clearly asking for a legal conclusion.

13 MR. SCHWARZ: Let me withdraw and
14 rephrase if I might.

15 JUDGE WOODRUFF: That would be
16 advisable.

17 BY MR. SCHWARZ:

18 Q. Do you understand that when the
19 utility files for a rate increase, that the utility
20 has the role or the burden to persuade the
21 Commission that it's entitled to an increase?

22 A. They have the burden of proof.

23 Q. And the Staff does not?

24 A. Yes.

25 Q. Do I understand your response to the

1 question from the Chairman that the -- Mr. Meyer's
2 analysis does not contain any rate base elements?

3 A. I didn't say that.

4 Q. Do I understand your testimony to be
5 that Mr. Meyer did not take into account reserve
6 for depreciation?

7 A. He takes it into account but hasn't
8 adjusted it.

9 Q. Fair enough. Did he exclude
10 consideration of pensions and OPEBs?

11 A. He had that assessment in his direct
12 filed case, but he eliminated that assessment in
13 his surrebuttal.

14 Q. But he -- well, let me -- did his
15 analysis exclude pension and OPEB expense?

16 A. His final analysis excluded changes
17 to that.

18 Q. That's not my question. My question
19 is, did his analysis contain pension and OPEB
20 expense?

21 A. It contains it, but I don't know what
22 meaning it has.

23 Q. That's fine. You've answered it.
24 Did Mr. Meyer's analysis exclude rate case expense
25 from Ameren's cost of service?

1 A. I think so.

2 **Q. Where did he make that adjustment?**

3 A. I think the company has incurred
4 costs to defend itself in this case, and no party
5 has made an inclusion for those costs.

6 **Q. But is there not an ongoing level of**
7 **rate case expense in the company's books and**
8 **records?**

9 A. There is an ongoing level included,
10 embedded in rates that are currently in effect for
11 the last case.

12 **Q. So that there is a rate case expense**
13 **element in Mr. Meyer's analysis?**

14 A. Yes.

15 **Q. Is there any expense or capital**
16 **account in Ameren's records kept pursuant to the**
17 **USOA that Mr. Meyer excluded?**

18 A. Mr. Meyer included all of the test
19 year levels, but what relevance that has for
20 ratemaking --

21 **Q. That's fine. That's fine. In this**
22 **case -- you understand that this is a contested**
23 **case proceeding?**

24 A. Yes.

25 **Q. And the Complainants are the**

1 **Complainants, Noranda and the additional**
2 **Complainants, and the Respondent is Ameren**
3 **Missouri --**

4 A. Yes.

5 Q. -- correct?

6 **Does Staff have a burden of proof in**
7 **this case?**

8 MR. LOWERY: Objection. Calls for a
9 legal conclusion.

10 JUDGE WOODRUFF: Sustained again.

11 BY MR. SCHWARZ:

12 Q. **That's fair. It is what it is. Will**
13 **Ameren need to wait 13 to 18 months to get into --**
14 **to have considered in its revenue requirement plant**
15 **additions that are made between September and**
16 **January of 2014?**

17 A. No, it will not.

18 Q. **Will it need to wait 13 to 18 months**
19 **to have fuel adjustments and payroll adjustments**
20 **that are made January 1st of 2015 in its revenue**
21 **requirement?**

22 A. It will not.

23 MR. SCHWARZ: Thank you.

24 JUDGE WOODRUFF: All right.

25 Complainants?

1 MR. DOWNEY: Yes, your Honor.

2 RECROSS-EXAMINATION BY MR. DOWNEY:

3 Q. Commissioner Kenney and also
4 Mr. Lowery asked you some questions about solar
5 rebates. I want to make sure I understand the
6 accounting.

7 A. Okay.

8 Q. I think you're the perfect witness to
9 explain it to the Commission and to me. So as I
10 understand it, Ameren is spending money on solar
11 rebates, and those expenditures are being deferred.
12 Am I correct on that?

13 A. Yes.

14 Q. And what's deferred mean? Tell the
15 Commission, would you.

16 A. They're being placed into a
17 regulatory account for recovery in a future case.

18 Q. So in accounting terms, would that be
19 the same as not charging that expense to the
20 current period?

21 A. That's correct.

22 Q. Okay. So instead of it being an
23 expense incurred during the period when the
24 expenditure is made, it's put in an account and at
25 some point in the future the dollars in that

1 account will be amortized, right?

2 A. Yes.

3 Q. Okay. And when you amortize that
4 account, what happens is the dollars in that
5 account are shifted from that account to the, maybe
6 the ledger is not the right word, but to be treated
7 as an actual expense at the time of the
8 amortization, right?

9 A. Yes.

10 Q. I'm sorry. This is very imprecise
11 accounting terminology, but the best I could do.

12 A. Generally it's correct.

13 Q. Okay. So the plan here, as I
14 understand it, is at some point, probably in
15 Ameren's current rate case, it's going to ask this
16 Commission to allow it to amortize this account,
17 right?

18 A. Yes.

19 Q. And at the same time that the cost of
20 that amortization will be charged to ratepayers?

21 A. Upon effective date of rates, it will
22 begin to be charged to ratepayers.

23 Q. So it will exactly track -- the
24 amortization of that account will exactly track the
25 charge to ratepayers at that time, right?

1 A. Yes.

2 Q. Okay. So if I understand your
3 testimony, what you're telling the Commission is,
4 don't give ratepayers a rate cut now because Ameren
5 is spending money on solar rebates now, right?

6 A. Yes.

7 Q. That was your testimony in --

8 A. Yes.

9 Q. -- your prefiled testimony, and I
10 think that's what you told Commissioner Kenney.

11 A. That's correct.

12 Q. All right. And yet we know that it's
13 very likely in the next rate case all of these
14 expenses are going to be charged to ratepayers
15 anyway, right?

16 A. As part of this rate case that Ameren
17 has before the Commission, it will be factored in
18 the development of that cost of service
19 calculation, yes.

20 Q. Okay. But I mean, actually,
21 whatever this amount of expenditure is, let's just
22 go ahead and say it will be a million dollars by --
23 \$100 million by the time the Commission decides the
24 rate case.

25 A. Okay. I'm with you.

1 **Q. Ratepayers are going to be charged**
2 **\$100 million, aren't they, in rates?**

3 A. They'll be charged \$33 million
4 annually for that \$100 million.

5 **Q. So we're going to be -- until that**
6 **100 million is fully charged to ratepayers, right?**

7 A. Yes.

8 **Q. Okay. So explain to me why you're**
9 **not double counting this expense, using it to**
10 **defeat a rate cut for ratepayers now and then later**
11 **ratepayers are going to pick up the full tab for it**
12 **anyway.**

13 A. Well, this is a contested rate case.
14 So if we're attempting to determine what needs to
15 be taken into consideration in trying to determine
16 rates in this process, we have to take that --
17 those expenditures into account in our analysis.
18 And I think Mr. Meyer has done so even in his own
19 analysis.

20 **Q. Okay. But, you know, we talked**
21 **earlier about at some point this accounting thing**
22 **happens called an amortization where you start**
23 **drawing down from this deferred account and putting**
24 **it into the expense on a balance sheet, right?**

25 A. Well, expense doesn't go into a

1 balance sheet.

2 Q. I'm sorry. Whatever. The income
3 statement.

4 A. Yes.

5 Q. All right. And that amortization has
6 not started yet, correct?

7 A. It has not started yet.

8 Q. So that full amount of whatever
9 Ameren is spending on solar rebates, that's still
10 in the deferred account?

11 A. It is.

12 Q. And it's likely to stay there until
13 after Ameren's pending rate case is determined,
14 right?

15 A. Or if there was some determination of
16 rates made in this case.

17 Q. Okay. So I guess are you advocating
18 to the Commission that if it denies this request
19 for -- to ratepayers in this case, that Ameren be
20 required immediately to start amortizing that
21 deferral account?

22 A. Staff's position on that is, the next
23 time Ameren's rates are reset, these solar rebate
24 spending -- this deferral for solar rebate spending
25 has to be taken into account in the determination

1 of those rates.

2 Q. Okay. But if you're -- if you're
3 denying the ratepayers a rate cut in this case,
4 aren't we determining Ameren's rates?

5 A. I think you're comparing apples and
6 oranges here.

7 Q. It just seems to me like you're
8 double counting an expense, and it's going to harm
9 the ratepayers twice. Once they're going to be
10 denied a rate cut in this case, and the next time
11 around they're going to be charged this full amount
12 of this expense in the rates.

13 A. It's not. It has to be taken into
14 account into setting -- you know, making a
15 recommendation to the Commission in this case, and
16 once this case is processed, whether it be you
17 reduce rates or you leave rates alone, then, you
18 know, if rates are left alone in this case, then it
19 has to be taken into account in the next rate case,
20 which is the one that Ameren filed on July 3rd.

21 Q. I think in any response to some
22 questions from Mr. Coffman you talked about there
23 being no, quote, materiality standard when Ameren
24 comes in for a rate increase, right?

25 A. I know of no materiality standard for

1 when a company files for a rate increase.

2 Q. So the Staff is going to do its full
3 audit no matter what the size of Ameren's rate
4 increase?

5 A. That's correct.

6 Q. Staff's not going to do a full audit
7 for a rate cut unless there's a materiality
8 standard that's met?

9 A. Generally, yes.

10 Q. All right. And you also talked about
11 what you thought was a double standard in this case
12 versus a rate case. Do you remember that
13 discussion with Mr. Lowery?

14 A. Yes.

15 Q. You said you can't think of any
16 reason why there would be a different standard?

17 A. I don't think different standards
18 should apply in terms of resetting permanent rates.

19 Q. But Ameren Missouri has access to all
20 of the facts and all of the records, correct?

21 A. Yes.

22 Q. And consumers, I think it's been
23 established pretty well, have access to very little
24 information of the utility, correct?

25 MR. LOWERY: Objection. I think it

1 misstates the record and assumes facts not in
2 evidence.

3 JUDGE WOODRUFF: I'll sustain that
4 objection.

5 BY MR. DOWNEY:

6 Q. Okay. Do consumers have as much
7 access to information, Ameren's financial
8 information as Ameren does?

9 A. I really don't know the answer to
10 that question.

11 Q. Seriously?

12 A. Well, I've heard --

13 MR. LOWERY: Objection.
14 Argumentative.

15 JUDGE WOODRUFF: Overruled. You can
16 answer.

17 BY MR. DOWNEY:

18 Q. Go ahead. Explain to the Commission
19 why you don't know the answer to that question.

20 A. I've heard the testimony that the
21 Complainants did not have discovery abilities prior
22 to this complaint becoming an established docket,
23 but I've also heard the company say you didn't ask
24 us any data requests --

25 Q. Okay.

1 A. -- prior to filing.

2 Q. Let's address that issue. Does a
3 customer have a right to submit a data request
4 prior to a case being filed?

5 A. Not that I'm aware of.

6 Q. So really you couldn't submit a data
7 request?

8 A. I think they could. I think that's a
9 matter that, you know, is a legal matter, which
10 perhaps I'm not the best witness for that.

11 Q. Okay. We talked -- you and
12 Mr. Lowery talked a little bit about billing units.

13 A. Yes.

14 Q. And isn't it true that Ameren
15 Missouri is experiencing retail customer growth?

16 A. I believe Ameren has a modest amount
17 of customer growth.

18 Q. And is there any connection between
19 customer growth and billing units?

20 A. There would be.

21 Q. What is that connection?

22 A. You would have to use different
23 billing units to take into account that growth.

24 Q. Okay. Would you expect billing units
25 to increase if there's customer growth?

1 A. Yes.

2 Q. And if billing -- the number of
3 billing units increases and revenue requirement
4 stays the same, do the rates increase or decrease?

5 A. If you have customer growth, that
6 puts downward pressure on rates.

7 Q. In other words, decrease?

8 A. Yes.

9 Q. Thank you. Okay. Let me back up for
10 a second. I think your counsel in opening
11 statement indicated that the accountants at the
12 Staff believed that -- he didn't use these words,
13 but basically it's my way or the highway. You
14 either do a full comprehensive audit like we do or
15 what you've done is inadequate. Do you recall
16 that?

17 A. That was Mr. Thompson's
18 characterization.

19 Q. Okay. And the Chairman asked you
20 some questions, and basically you rattled off a
21 list of things that you do in your full audit that
22 the Complainants in this case have not done, right?

23 A. I provided that list, yes.

24 Q. So if -- but you did it in response
25 to what are the relevant factors question, correct?

1 A. Yes. Those were relevant factors
2 that no party has taken into account in their -- in
3 this case, in their presentations in this case.

4 **Q. So it's your opinion that unless you**
5 **do the full audit that the Staff typically does,**
6 **then you haven't met the relevant factors test?**

7 A. Yes, because those other factors can
8 be material and very significant.

9 **Q. Okay. Mr. Cassidy, would you agree**
10 **with me that the surveillance monitoring reports**
11 **that I believe are part of Exhibit 17 include the**
12 **5 percent that Ameren Missouri has to recognize for**
13 **increased fuel costs?**

14 A. The impact of that is reflected in
15 those reported earnings, yes.

16 **Q. Now, given your comprehensive list of**
17 **things that you think ratepayers have to do to**
18 **sustain a rate reduction case, do you believe**
19 **anyone other than Staff really has the capability**
20 **to perform that type of full audit?**

21 A. Well, I just from my own experience,
22 I know that in ER-2007-0002 that the State of
23 Missouri used Dittmer and Brosch to present a
24 revenue requirement in that case. So I guess it's
25 possible.

1 I know that in a gas case when Staff
2 was burdened by a number of cases back in 2010, the
3 Staff contracted with Dittmer and Brosch to perform
4 a full revenue requirement calculation for Atmos in
5 a case during 2010.

6 Q. Did Dittmer and Brosch address all of
7 these issues that you've identified need to be
8 addressed in an audit, full audit?

9 A. In the 2007 case, I don't think they
10 ran a fuel model, and I think there may have been
11 other factors that they -- their study certainly
12 wasn't as comprehensive as Staff's.

13 Q. You can't cite a situation where
14 anyone other than Staff has done a full audit on
15 their own?

16 A. I think I did with the Atmos case in
17 2010.

18 Q. I'm not that familiar with Atmos, but
19 is the level of review required for the Atmos rate
20 case the same as the level of review for the
21 largest electric utility in the state?

22 A. All of the same factors would need to
23 be taken into account, with the exception of the
24 fact that in gas cases you don't run fuel models.

25 MR. DOWNEY: Thank you.

1 JUDGE WOODRUFF: Redirect?

2 REDIRECT EXAMINATION BY MR. ANTAL:

3 Q. Mr. Cassidy, you've been asked by
4 multiple parties and the Commission about the
5 inclusion of solar rebates in your analysis. Could
6 you please explain why you believe it was important
7 to update the level of solar rebates expenditures
8 that the company has incurred past the
9 December 31st, 2013 date?

10 A. Well, I mean, those costs are known
11 and measurable, and in typical rate proceedings we
12 update costs beyond the test year. And since those
13 costs are known and measurable, it seems reasonable
14 that they should be taken into account in the
15 assessment of Ameren's earnings in this case.

16 Q. Okay. Thank you. You were also
17 asked this morning about Staff's weather
18 normalization study in conjunction with this case.
19 Did you conduct the weather normalization study?

20 A. I did not.

21 Q. But Staff did do a weather -- some
22 weather normalization study in this case?

23 A. Yes.

24 Q. And did Staff produce a witness to
25 discuss that?

1 A. It did.

2 Q. And were you in the room when that
3 witness took the stand?

4 A. Yes.

5 Q. And did any of the Complainants have
6 any questions for him?

7 A. They did not.

8 Q. You've also been asked about some
9 surveillance reports and, I guess, Ameren's
10 historical quarterly earnings based off those
11 surveillance reports.

12 Based off your analysis of those
13 reports, do you have, in your professional and
14 technical opinion, any reasons for why Ameren has
15 had healthy earnings based off those surveillance
16 reports?

17 A. You know, I think some of the
18 factors -- I have assessed those surveillance
19 reports, and I think some of the factors that exist
20 that have driven those earnings involve weather.

21 I think the fact that they -- there
22 was a decision on Ameren Missouri's part to cut
23 power plant maintenance to a level that's roughly
24 \$18 million less than what's included in rates
25 contributes to that.

1 I think the fact that they've got --
2 you know, at December of 2013 they've had a full
3 year of recovery of a rate increase that was
4 granted on January 2nd of '13.

5 I think the MEEIA program, the fact
6 that the first year of that program allowed for a
7 \$25 million boost to earnings, which I think over
8 time will be smoothed out and returned to
9 ratepayers over the life of that program, but in
10 the first year that had a direct impact on its
11 earnings.

12 I think the fact that perhaps it may
13 suggest that company has been afforded plenty of
14 trackers and mechanisms that protect them against
15 changes in costs between rate cases.

16 I looked at the FAC and also looked
17 at the company's fuel costs and purchased power
18 costs during 2013. That represented roughly 48
19 percent of O&M expenses, and the company has been
20 protected for all -- 95 percent of all changes in
21 those costs between rate cases. That's a
22 significant protection to earnings to the company.

23 **Q. Okay. So you agree that the addition**
24 **of trackers and the FAC can create a lot of**
25 **protection?**

1 A. Yes.

2 Q. Which would lead to better returns?

3 A. Yes.

4 Q. You were asked a question by OPC
5 about under what circumstances Staff would accept
6 OPC's cost of service study if it was not identical
7 to Staff's analysis. Would you elaborate on what
8 particular instances Staff would be agreeable to
9 that?

10 A. If Public Counsel put together a full
11 assessment of all relevant factors, Staff would not
12 take exception. It's possible that Public Counsel
13 could take different positions on issues with which
14 Staff would take exception.

15 Q. Okay. You were asked by Mr. Downey
16 about the inclusion of deferred expenses, placed in
17 the regulatory asset not yet amortized. Could you
18 explain why Staff would take those into account in
19 setting current rates?

20 A. Well, there's a Stipulation &
21 Agreement that's been reached in a separate docket
22 which the Commission approved, and so those costs
23 are earmarked for inclusion in rates whenever new
24 rates are to be reestablished for Ameren Missouri,
25 whether it be in this case or a rate increase

1 request case.

2 Q. And my last question. You've
3 discussed with many of the parties and the
4 Commissioners the importance of including all
5 relevant factors in a comprehensive cost of service
6 study. I was wondering if you could please explain
7 the importance of including all of those factors
8 into an audit and, in your professional opinion,
9 what the harm is of not including those, relying on
10 a non-comprehensive cost of service study taking in
11 all relevant factors?

12 A. Certainly. A non-comprehensive study
13 would carry a much lower degree of certainty with
14 regard to the accuracy of our recommendation.
15 That's why taking into account all of the relevant
16 factors is very important. It's critical to this
17 process.

18 Those other relevant factors that I
19 listed that have not been addressed can have a very
20 significant effect on the overall recommendation
21 that would be formed by any party. So those must
22 be taken into account necessarily.

23 MR. ANTAL: Thank you, Mr. Cassidy.
24 No further questions.

25 JUDGE WOODRUFF: Thank you,

1 Mr. Cassidy. You can step down. And we'll take a
2 break before we begin with Mr. Oligschlaeger.
3 Let's come back at 10:05.

4 (A BREAK WAS TAKEN.)

5 JUDGE WOODRUFF: We're back from
6 break. Let's come to order, please. While we were
7 on break, Mr. Oligschlaeger has taken the stand.
8 If you'd please raise your right hand.

9 (Witness sworn.)

10 JUDGE WOODRUFF: Thank you. You may
11 inquire.

12 MARK OLIGSCHLAEGER testified as follows:

13 DIRECT EXAMINATION BY MS. MYERS:

14 **Q. Mr. Oligschlaeger, please state your**
15 **full name for the record.**

16 A. Mark L. Oligschlaeger.

17 **Q. Thank you. And where are you**
18 **employed and in what capacity?**

19 A. I am the manager of the auditing unit
20 for the Missouri Public Service Commission.

21 **Q. Are you the same Mark Oligschlaeger**
22 **who prepared or caused to be prepared the testimony**
23 **that's been marked as Exhibit 11?**

24 A. I am.

25 **Q. Do you have anything you wish to**

1 correct in that testimony?

2 A. I do not.

3 Q. With that in mind, if I asked you the
4 same questions today, would your answers be the
5 same?

6 A. They would.

7 Q. Is the information in that document
8 true and accurate to the best of your knowledge and
9 belief?

10 A. It is.

11 MS. MYERS: Your Honor, Staff offers
12 Exhibit 11, and we tender the witness for cross.

13 JUDGE WOODRUFF: Exhibit 11 has been
14 offered. Any objections to its receipt?

15 (No response.)

16 JUDGE WOODRUFF: Hearing none, it be
17 received.

18 (EXHIBIT NO. 11 WAS RECEIVED INTO
19 EVIDENCE.)

20 JUDGE WOODRUFF: Cross-examination,
21 beginning with Ameren.

22 MR. LOWERY: Thank you, your Honor.

23 CROSS-EXAMINATION BY MR. LOWERY:

24 Q. Good morning, Mr. Oligschlaeger.

25 A. Good morning.

1 Q. At page 12 -- you have your rebuttal
2 testimony with you, I assume; is that correct?

3 A. I do.

4 Q. At page 12 on lines 12 and 14, you
5 are talking about Mr. Gorman, and you indicate that
6 Mr. Gorman does not appear to assert that the
7 factors affecting calculation of an appropriate ROE
8 for Ameren Missouri has materially changed since
9 the time of Case No. ER-2012-0166, do you not?

10 A. I do.

11 Q. And, in fact, would you agree that
12 the fact that Mr. Gorman's return on equity
13 recommendation is actually higher in this case than
14 in that case is supportive of the statement that
15 you made?

16 A. I believe his recommendation in this
17 case is at the high end of his range he sponsored
18 in the 2012 rate case. So I'm not a rate of return
19 expert, so I'm not going to -- I don't know whether
20 that's a material difference or not.

21 Q. Well, let me put it this way: Do you
22 recall that Mr. Gorman's recommendation in that
23 case was 9.3 and in this case it's 9.4?

24 A. That's correct.

25 Q. And his range in that case was 9.2 to

1 9.4; do you remember that?

2 A. Yes.

3 Q. And his range in this case goes up to
4 9.85; do you recall that?

5 A. I didn't recall the specific range.
6 I know his point recommendation is 9.4.

7 Q. I guess my point is, it's not like
8 Mr. Gorman has come in and said four things have
9 drastically changed in the cost of equity for
10 electric utilities, for Ameren Missouri in
11 particular, and suddenly I said 9.3 in the last
12 case, but I think it ought to be 9 or 8.9 or it
13 ought to go up to 9.8 or 9.9. He's in sort of the
14 same ballpark as he was last time, isn't he?

15 A. He is ten basis points difference.
16 To me, that is not a strikingly different
17 recommendation.

18 Q. And that tends to support your
19 conclusion that he doesn't appear to assert that
20 something drastically has changed; isn't that fair?

21 A. Or if something's drastically
22 changed, it hasn't led to a major change in his
23 recommendation.

24 Q. Right. And I think your point is
25 that the Commission made a decision not that long

1 ago when all relevant factors were considered in a
2 cost of service study that 9.8 was the right
3 amount, and if things haven't really materially
4 changed, you're not seeing a basis or justification
5 for really making a change in this case; isn't that
6 fair?

7 A. I would say in the context of what I
8 would call a rough approximation of a utility's
9 revenue requirement done to test their current
10 earnings or whether their rates are still
11 appropriate, absent a major change in
12 circumstances, I would advocate and Staff would
13 advocate you use the same rate of return as last
14 authorized by the Commission.

15 Q. Let me ask you if you agree with a
16 couple of statements that I'll represent to you
17 were made by the Commission in its last rate order
18 involving Ameren Missouri. Furthermore, utility
19 ratemaking is forward-looking, concerned with
20 current and anticipated financial conditions. Do
21 you agree with that statement?

22 A. I do.

23 Q. The Commission went on to say, What
24 the company has earned in the past does not
25 necessarily tell us what it will be able to earn

1 in -- says this future. I believe that's a typo --
2 but in the future. Do you agree with that
3 statement?

4 A. I do.

5 MR. LOWERY: Your Honor, I'd ask the
6 Commission to take administrative notice of those
7 two statements appearing in paragraph 14 on page 35
8 of the Report and Order in the last rate case.

9 JUDGE WOODRUFF: Any objection?

10 (No response.)

11 JUDGE WOODRUFF: We'll take
12 administrative notice.

13 MR. LOWERY: Thank you,
14 Mr. Oligschlaeger. I have no further questions.

15 JUDGE WOODRUFF: Public Counsel?

16 MS. BAKER: No questions. Thank you.

17 JUDGE WOODRUFF: Consumers Council is
18 not in the room. The Retailers?

19 MR. SCHWARZ: Can I have just a
20 moment?

21 JUDGE WOODRUFF: Sure.

22 MR. SCHWARZ: I don't think I have
23 any questions.

24 JUDGE WOODRUFF: Then for
25 Complainants.

1 MR. DOWNEY: Thank you, Judge.

2 CROSS-EXAMINATION BY MR. DOWNEY:

3 Q. Good morning.

4 A. Good morning.

5 Q. You heard Mr. Byrne's cross of
6 Mr. Meyer yesterday, did you not?

7 A. The vast majority of it, yes.

8 Q. And Mr. Byrne referenced Mr. Weiss'
9 testimony in the last rate case and where Mr. Weiss
10 listed periods of underearning, I think he called
11 it underearning for Ameren Missouri. Do you recall
12 that discussion?

13 A. I generally recall that, yes.

14 Q. Okay. We can call it underearnings
15 when the actual ROE is below the authorized ROE,
16 but apparently we can't call it overearnings when
17 it's above the authorized ROE?

18 MR. LOWERY: Objection.

19 Argumentative.

20 JUDGE WOODRUFF: Overruled.

21 THE WITNESS: My perspective on that,
22 there are various ways to define under- and
23 overearnings. One way that is commonly used is
24 simply to refer to any difference between an actual
25 earned return for a company and its authorized

1 return and to call that under- or overearnings. I
2 would probably more accurately say that's book
3 under- or overearnings.

4 Rate under- or overearnings is
5 only -- should only be calculated by doing a full
6 cost of service analysis, and if your bottom line,
7 for example, shows that rates should be reduced to
8 match the company's actual cost of service at that
9 point in time, that would indicate overearnings
10 that should be remedied through a rate deduction.

11 Of course, it works the same way if
12 the company revenue requirement analysis indicates
13 it should receive a rate increase.

14 **Q. All right. And back to the exchange**
15 **between Mr. Meyer and Mr. Byrne yesterday. Are you**
16 **familiar with the term the great recession?**

17 A. Generally, yes.

18 **Q. And that is from the period 2007**
19 **through 2009; would you agree?**

20 A. I think economists would define the
21 period perhaps differently based on the economist,
22 but in general terms, I think the peak of that
23 recession was 2008-2009.

24 **Q. And many businesses failed during**
25 **that period, did they not?**

1 A. Yes.

2 Q. And lots of businesses, including
3 utilities, struggled during that period, did they
4 not?

5 A. My general understanding is a lot of
6 utilities suffered reductions in load growth during
7 that period of time because of economic conditions.

8 Q. Okay. Mr. Lowery just referred you
9 to the Commission decision in the last rate case.
10 Didn't the Commission recognize this recessionary
11 period in its rejection of plant in service
12 accounting?

13 A. I recall language to that effect.

14 Q. All right. I want to switch gears
15 here and focus a little bit on the return on equity
16 issue. I think you -- it's pretty clear Staff did
17 not perform its own return on equity analysis?

18 A. For purposes of this case, that is
19 correct.

20 Q. And I think one of the things you
21 said in your testimony, and you'll correct me I'm
22 sure if I'm wrong, was that you thought it was too
23 soon after Ameren Missouri's last rate case?

24 A. Yes, that there's no real reason to
25 use a different number, you know, within a year's

1 time after the Commission found a specific return
2 on equity to be reasonable.

3 Q. All right. And you've been involved,
4 I think, in Ameren Missouri's last three rate
5 cases, right?

6 A. Involved in the sense of oversight
7 over the auditors involved. If you define that as
8 involvement, yes.

9 Q. I would count that.

10 A. Okay. Yes.

11 Q. But in the last three Ameren Missouri
12 rate cases, the Staff did present a return on
13 equity analysis, right?

14 A. Yes.

15 Q. And that's through the testimony of
16 Mr. Murray?

17 A. I don't recall whether it was
18 Mr. Murray in all circumstances. I have no reason
19 to doubt you.

20 Q. All right. And I think we've already
21 established this, but I don't want to beat a dead
22 horse. Mr. Murray generally recommends an ROE
23 lower than Mr. Gorman, does he not?

24 A. That is my general recollection.

25 Q. I'd like to focus on the last three

1 rate cases. Do you have page 10 of your rebuttal
2 testimony handy?

3 A. I do.

4 Q. Ameren's 2010 rate case, that was
5 filed on July 24 of 2009, was it not?

6 A. Yes.

7 Q. And then the next case, the 2011 case
8 was filed on September 3rd, 2010, correct?

9 A. Yes.

10 Q. That's less than 14 months after
11 filing the 2010 case; would you agree?

12 A. I would agree.

13 Q. The 2012 case was filed on
14 February 3, 2012, correct?

15 A. Yes.

16 Q. And is that exactly 17 months after
17 the 2011 case?

18 A. I believe your math is correct.

19 Q. And Staff performed ROE analysis in
20 each of those cases, right?

21 A. We did.

22 Q. Okay. Now, this case was filed on
23 February 12 of 2014, correct?

24 A. That sounds right.

25 Q. All right. Now, that's over two

1 years after Ameren filed the last rate case, right?

2 A. That's correct.

3 Q. Now, I want to look at that issue a
4 little differently. The 2010 rate case decision
5 became effective on June 21 of 2010, right?

6 A. Correct.

7 Q. And then the 2011 rate case was filed
8 on September 3 of 2010, right?

9 A. Yes.

10 Q. And that is less than three months
11 after the 2010 decision was effective, right?

12 A. Approximately two and a half months.

13 Q. All right. And then the 2011 case
14 decision was effective on July 31 of -- let's see.
15 I'm calling it the 2011 rate case because that's
16 the number, but its decision was effective July 31,
17 2011, correct?

18 A. Correct.

19 Q. And then the 2012 case was filed on
20 February 3 of 2012, right?

21 A. Yes.

22 Q. And that's slightly more than six
23 months after the 2011 case decision was effective?

24 A. Yes.

25 Q. And the 2012 case decision was

1 effective on January 2 of 2013?

2 A. Correct.

3 Q. All right. Now, this case, today's
4 case was filed on February 12 of 2014. That's over
5 13 months after the 2012 decision, right?

6 A. Yes.

7 Q. So just to recap, the Complainants
8 waited longer since Ameren's rate case than Ameren
9 did for filing its last two rate cases compared to
10 the filing of the previous case? Horrible
11 question. Ignore it, please, and I'll start over.
12 I'm not even sure what I asked you.

13 I guess what I'm trying to establish
14 is, the time differential between when the last
15 case was filed and when the next case was filed was
16 shorter on Ameren's rate cases than that time
17 differential between Ameren's last rate case and
18 this case?

19 A. I think I understand, and I would
20 agree.

21 Q. Sorry for the horrible question
22 there.

23 I want to switch gears again and talk
24 about material overearnings. Now, as I understand
25 your rebuttal testimony, page 4, one of the reasons

1 that you do not recommend a rate reduction here is
2 you don't think -- whether we're calling it book
3 overearnings or something else, you don't think
4 there's material enough to justify a rate
5 reduction?

6 A. Well, it's not based upon the book
7 overearnings per se. I mean, we did some analysis
8 of that number to try to fit it into more of a
9 ratemaking kind of format, as Mr. Meyer did as well
10 for Noranda. And based on that analysis, we don't
11 believe it meets the materiality level that we
12 would be comfortable recommending that the
13 Commission order us to go forth and do a full
14 earnings analysis.

15 Q. And I think you said what was
16 material was 1 percent of Ameren Missouri's, and
17 I'm going to quote, annual revenue level. You said
18 that on page 4.

19 A. Yes.

20 Q. All right. Is annual revenue level
21 the same as annual retail revenue level?

22 A. I would intend -- or my intent was to
23 indicate the full level of revenues that would show
24 up in Staff's income statement as annualized
25 revenues for the utility.

1 Q. I probably should have just short
2 circuited the question here. What's the dollar
3 amount of that annual revenue level?

4 A. My knowledge of this is based on
5 discussions with Mr. Cassidy. I believe 1 percent
6 of that number would be in the ballpark of 27 to
7 28 million. You would factor that up. That's
8 your --

9 Q. That's what I was going to ask you to
10 do. I think he said 2.8 billion. 1 percent of
11 that is 28 million --

12 A. Yes.

13 Q. -- would you agree?

14 A. Uh-huh.

15 Q. And if Mr. Murray had performed an
16 ROE study and if he had recommended less than
17 Mr. Gorman, and if this Commission agreed to reduce
18 the authorized ROE to 9.4 percent, would that
19 increase this differential then between earned ROE
20 and authorized ROE?

21 I'm guessing that's also a bad
22 question by the look on your face. Let me
23 rephrase.

24 Would the level of what we're calling
25 overearnings increase if the -- what should be the

1 **authorized ROE decreased?**

2 A. If we had performed a return on --
3 rate of return analysis for purposes of our
4 earnings analysis of Ameren Missouri in this case,
5 and if we had determined for that purpose an ROE
6 lower than the current authorized level of
7 9.8 percent, then our calculated level of potential
8 overearnings would have increased.

9 Q. **And could that then -- would that**
10 **have caused the level of overearnings to reach that**
11 **1 percent threshold, in your opinion?**

12 A. It is possible it would. I would
13 only add that we did not believe it was part of --
14 proper part of our analysis to perform a full rate
15 of return analysis.

16 Q. **I understand. And your -- I think**
17 **you know that one of my clients in this case is**
18 **Noranda Aluminum Company, right?**

19 A. Correct.

20 Q. **And are you familiar with Case**
21 **No. EC-2014-0224?**

22 A. I'm familiar with it and have some
23 knowledge of the proceedings.

24 Q. **All right. And in that case Noranda**
25 **asserts a serious liquidity issue, does it not?**

1 A. That's my understanding.

2 Q. Okay. And Noranda buys about
3 10 percent of Ameren Missouri's power?

4 MR. LOWERY: Objection. Assumes
5 facts not in evidence.

6 MR. DOWNEY: I think he -- he'll know
7 the answer.

8 JUDGE WOODRUFF: He can answer if he
9 can. Overruled.

10 THE WITNESS: I have seen that
11 percentage referenced, I believe, in testimony in
12 that case.

13 BY MR. DOWNEY:

14 Q. And you have no reason to doubt that
15 figure, right?

16 A. I do not.

17 Q. And you as an expert rely on that
18 type of information, do you not?

19 A. Rely on information you see in
20 testimony? With the caveat that, of course, we
21 often follow up and ask questions about it, yes.

22 Q. All right. And for Noranda Aluminum,
23 1 percent means millions of dollars a year; would
24 you agree?

25 A. 1 percent of what?

1 Q. Well, your 1 percent threshold. So
2 we're talking about 1 percent of annual revenue
3 level, and I think you said that's \$20 million,
4 \$28 million; do you recall?

5 A. Yes.

6 Q. And so Ameren -- Noranda's share of
7 that is millions of dollars; would you agree?

8 A. I don't know exactly what their share
9 would be. It may be material to Noranda.

10 Q. Okay. And another client of mine is
11 the Missouri Industrial Energy Consumers. Did you
12 know that?

13 A. Yes, I did.

14 Q. And those are industrials companies
15 that collectively consume a lot of power as well,
16 do they not?

17 A. That's my understanding.

18 Q. And this 1 percent threshold for them
19 also would be millions of dollars or at least over
20 a million dollars, would you agree, per year?

21 A. Again, I don't know how much would be
22 allocated to those customers. It's possible that
23 it could be material in their perspective.

24 Q. I'm used to a lot smaller numbers, so
25 to me \$28 million is an awful lot of money. Do you

1 think that for consumers collectively \$28 million
2 would be a lot of money that they might want to
3 have their rates reduced by?

4 A. Certainly they may believe that's
5 material. Of course, Ameren is much bigger than
6 the other utilities in the state, and comparable
7 numbers for other utilities would be much smaller.

8 MR. DOWNEY: Thank you. Nothing
9 further.

10 JUDGE WOODRUFF: Come up for
11 questions from the Bench. Mr. Chairman?

12 QUESTIONS BY CHAIRMAN KENNEY:

13 Q. Mr. Oligschlaeger, good morning.

14 A. Good morning.

15 Q. Thank you for being here. You only
16 filed rebuttal testimony, right?

17 A. That's correct.

18 Q. Okay. And you talk about -- in the
19 discussion of material overearnings and the ongoing
20 nature of those overearnings, you point to certain
21 external factors that would tend to indicate there
22 are ongoing overearnings. You talk about strong
23 customer growth, declining rate base and lower
24 costs of capital.

25 A. Right.

1 **Q. Those -- and then you say et cetera.**
2 **What are some of the additional external factors**
3 **that would tend to indicate ongoing overearnings?**
4 **It's on page 4 of your testimony.**

5 A. Sure. I think those are the major
6 ones. I think perhaps another example might be
7 utilities that were undergoing an effort to reduce
8 their employee base to enhance their efficiency and
9 productivity.

10 We saw some of that with the major
11 utilities particularly in the 1980s where there
12 were -- and perhaps the 1990s as well, where over
13 time you saw significant reductions in the
14 companies' total employee levels, which also might
15 lead one to conclude that the new level of cost of
16 service reflecting those reductions are more or
17 less permanent in nature and should be reflected in
18 ongoing rates.

19 **Q. So you're looking at items that -- in**
20 **making a determination about whether the**
21 **overearnings situation is ongoing, you're looking**
22 **at items that are likely to be permanent in nature?**

23 A. Well, how I would put it, I think
24 you're looking for evidence that the -- if there's
25 a calculated level of book overearnings, is it

1 likely to continue in the future? Is it more
2 likely to be a momentary blip, so to speak?

3 **Q. So in the things that you listed in**
4 **your testimony of things that you just listed just**
5 **now, none of those are present here?**

6 A. I don't believe so. I think other
7 witnesses have referenced, over the last several
8 years Ameren's rate base has been steady to a
9 slight decline. However, given its plans to make
10 certain large additions later this year, we expect
11 there will be a significant increase in rate base
12 before the end of this year.

13 **Q. What about the item of the lower cost**
14 **of capital? I know we didn't undertake -- I know**
15 **the Staff didn't undertake a cost of capital**
16 **analysis, but is lower cost of capital something**
17 **that we've seen declining over the last several**
18 **years, and is that likely to continue to decline,**
19 **if you know?**

20 A. The first part of your question is
21 yes. Over time I think the Commission's authorized
22 returns on equity have declined for most or perhaps
23 all major utilities. I don't have knowledge of
24 whether that trend is continuing or is the same or
25 has reversed since the time of the 2012 rate

1 decision.

2 **Q. And why did Staff decline to**
3 **undertake a cost of capital analysis?**

4 A. We viewed, given the time frame in
5 this case, that our charge was to look at, first of
6 all, Noranda's evidence of an overearning situation
7 and do a rough calculation of our own of whether we
8 thought that was in the ballpark and whether we
9 thought further action should be taken.

10 For that purpose, if you're testing
11 the reasonableness of a utility's current rates,
12 our typical approach would be look at the last
13 authorized ROE and use that as a benchmark for that
14 analysis absent evidence of a significant somehow
15 change in circumstances since that time the ROE was
16 set, and we did not see that here.

17 **Q. And then in your testimony, as a part**
18 **of the three-step analysis to determine whether a**
19 **full-blown comprehensive cost of study is**
20 **warranted, you make reference to actual earnings**
21 **versus translating that into a ratemaking format.**

22 A. Sure.

23 **Q. What does -- what does that mean?**

24 A. Well, what that means is there are
25 many things that would affect a company's actual

1 earnings that wouldn't necessarily be taken into
2 account for ratemaking purposes and vice-versa,
3 there are many things that may be happening -- or
4 there's some things that may not affect their
5 earnings at all that you might take into account in
6 a ratemaking forum.

7 I'll just give quick examples of
8 both. For the things that happen that affect their
9 earnings that we don't take into account in
10 ratemaking first and foremost is all weather
11 impacts. At least we try to eliminate those from
12 the calculation, and those can have a very material
13 impact on a company's earnings at any point in
14 time.

15 On the other side, any time the
16 Commission authorizes use of trackers or deferrals
17 through Accounting Authority Orders or rate riders
18 such as the FAC, there can be major changes in
19 costs incurred by the utility that aren't reflected
20 on their financials because they're being deferred,
21 tucked away on their balance sheet for later
22 disposition in a rate proceeding.

23 So to really know what's likely to
24 happen in a rate case or what may happen in a rate
25 case you have to take into account those kinds of

1 factors that aren't showing up in their booked
2 earnings at any point in time.

3 **Q. So would it be fair to say, then,**
4 **that the earnings level reported by a publicly**
5 **traded company like Ameren for purposes of making**
6 **filings with the Security and Exchange Commission**
7 **would be different than it would appear for the**
8 **purposes of ratemaking?**

9 A. Yes, I think that's fair. Again, I
10 think I cited in my testimony there was some --
11 Ameren was experiencing high earnings during part
12 of the pendency of the 2012 rate case, which
13 nonetheless the Commission ultimately ordered, and
14 Staff recommended and I think all the parties were
15 recommending rate increases as part of that
16 proceeding.

17 **Q. And that would account for the**
18 **Commission granting a rate increase despite the**
19 **fact that there was surveillance report that showed**
20 **overearning for some period of time?**

21 A. Yes. There were other things going
22 on that were relevant for ratemaking purposes that
23 were not showing up in recorded earnings.

24 CHAIRMAN KENNEY: All right. That's
25 very helpful. Thanks for your time. I don't have

1 any additional questions.

2 JUDGE WOODRUFF: Commissioner Stoll?

3 COMMISSIONER STOLL: I have no

4 questions. Thank you for your testimony.

5 JUDGE WOODRUFF: Commissioner Kenney?

6 COMMISSIONER W. KENNEY: I have no

7 questions.

8 JUDGE WOODRUFF: Commissioner Hall?

9 COMMISSIONER HALL: Yes, I have a

10 few.

11 QUESTIONS BY COMMISSIONER HALL:

12 Q. Good morning.

13 A. Good morning.

14 Q. I want to go back to page 4 of your
15 rebuttal testimony where you discuss the importance
16 of materiality, and I'm wondering if you believe
17 that there is a policy basis for the Commission to
18 adopt some kind of materiality requirement in -- in
19 overearnings complaint litigation or if that's just
20 merely something for the Staff to take into account
21 when determining whether or not it should conduct a
22 full cost of service investigation.

23 A. Okay. Well, the purpose of my
24 testimony was to describe the criteria the Staff
25 would use to say -- or to try to determine whether

1 it would be worthwhile to undertake a full earnings
2 investigation of a utility. Now, as part of that
3 analysis, in the past we've always involved -- the
4 Commission was always aware of our plans to do an
5 earnings analysis. So they would have a say up
6 front of whether they thought that was a good use
7 of our time or not.

8 Okay. This situation is obviously no
9 different. If you were to ask us to do a full
10 earnings analysis, we will do it regardless of
11 materiality or the other factors we have cited.

12 But we're in the place of -- we're in
13 the position making a recommendation to you, and
14 we're saying this is how we would look at it, okay,
15 in terms of do we think it's worthwhile to do an
16 earnings investigation in this particular
17 circumstance. And as described in our testimony,
18 we don't believe it is.

19 **Q. So you would conduct the**
20 **investigation if we asked you to. What I'm asking**
21 **you is, when we make -- if and when we make that**
22 **type of determination, should we take materiality**
23 **into account when we're asking you to do an**
24 **investigation?**

25 A. I believe so, and I think Mr. Cassidy

1 alluded to this. To do a full earnings analysis of
2 Ameren Missouri is not a minor undertaking in terms
3 of Staff resources, personnel and so on, and an
4 obvious thing is the time we spend on that project
5 means there's less time we can spend on other
6 things of various importance and priority to the
7 Commission and to the public and so on.

8 So I would say before ordering us to
9 do something, you would need to be comfortable that
10 there's a reasonable likelihood that a real problem
11 exists, a real level of overearnings exists at the
12 current time and is likely to persist into the
13 future.

14 **Q. On page 7 of your testimony, you**
15 **assert that it's appropriate to wait for -- I'm at**
16 **lines 1, 2 and 3 -- appropriate for -- to wait for**
17 **new rates to be in effect for at least one year**
18 **prior to consideration of performing an earnings**
19 **investigation of that utility. Why do you make**
20 **that statement?**

21 A. The primary reason for that is any
22 time the Commission orders a rate change, that rate
23 change is designed to bring the company up to an
24 appropriate level of earnings. But the way it
25 works in reality, they cannot collect that new

1 level of revenues in full until a full 12 months
2 has passed. It's only when that full 12 months has
3 passed that the actual earnings will give the full
4 impact of that recent rate change, and you can now
5 see where the company is at in an earnings
6 situation based upon the last rate change from the
7 Commission.

8 **Q. Now, you qualify that statement on**
9 **line 1 with barring highly unusual circumstances.**
10 **Such as what?**

11 A. Well, if the company was -- you know,
12 nine months after the rate order was in effect was
13 earning 300 basis points above its authorized
14 return on equity, you might want to look at that
15 further.

16 **Q. On page 8 you have a brief discussion**
17 **about earnings sharing plans.**

18 A. Yes.

19 **Q. And I guess my question for you is,**
20 **if -- if the Commission were to determine here that**
21 **there -- that there is excessive overearnings and**
22 **would -- is there a reason why an earnings sharing**
23 **plan would be a more efficient or a more**
24 **appropriate remedy than a permanent reduction in**
25 **rates?**

1 A. Well, there's a lot of theoretical
2 discussion and dispute on that very point. I would
3 say that at the time these sharing plans went into
4 effect in the late '80s and early '90s, companies
5 typically were earning well. They were not coming
6 in for rate increases for extended periods of time.

7 And we had more of the problem of how
8 do we arrange for over time rates to be reset
9 periodically at a level that was still fair to
10 customers and to the utility. And these earnings
11 sharing plans were one way of handling that
12 problem. You could avoid these long litigious rate
13 proceedings and have up-front agreement of how
14 excess earnings, if they occurred, should be split
15 between companies and the customers, with the
16 customers getting their share I believe through
17 customer credits.

18 So it was a way of handling that kind
19 of situation where companies tended more to
20 overearn than underearn. I don't believe we are in
21 that position now. I think utilities such as
22 Ameren have been filing regularly for the last five
23 to ten years. Perhaps that will change in the
24 future.

25 My suspicion is they would not be

1 interested in a mechanism of sharing underearnings.
2 They would always want to be in a position to come
3 in and restore their earnings to what would be a
4 reasonable level in full as opposed to an
5 alternative way of calculating that.

6 **Q. And then turning to page 10 where you**
7 **discuss the three-phase -- three-phase process.**
8 **Has Staff essentially undertaken one and two of**
9 **that three-phase process?**

10 A. I think for the most part. There are
11 probably a couple of other normalization and
12 annualization-type analyses that we would have
13 liked to have done and a couple of other areas of
14 cost of service we would have liked to look at.
15 Those would include customer growth review, perhaps
16 looking at things like property taxes, if there was
17 any way to look at fuel and purchased power,
18 expense trends more closely than what we have now
19 in this time frame. Those all perhaps would be
20 part of an ideal Phase 2 analysis.

21 **Q. How long would it have taken to do**
22 **that?**

23 A. Particularly the fuel and purchased
24 power part is the difficult one because, you know,
25 pretty much we use a model for that, and I think it

1 would have taken a while to get everything up to
2 speed. I would say another month, two months at a
3 minimum.

4 **Q. And Step 3 or Phase 3 is the detailed**
5 **review, an audit, and you would only do that if**
6 **warranted by Phase 1 and 2. I assume in this case**
7 **you determined or Staff determined that it was not**
8 **warranted?**

9 A. We would recommend that the
10 Commission not order such because we don't believe
11 that conditions are there that that would be
12 necessarily good use of our time.

13 COMMISSIONER HALL: I have no further
14 questions. Thank you.

15 JUDGE WOODRUFF: Commissioner Rupp?

16 COMMISSIONER RUPP: No.

17 JUDGE WOODRUFF: All right. We'll
18 come back for recross based on questions from the
19 Bench. Ameren?

20 MR. LOWERY: Yes, your Honor. Thank
21 you.

22 RECROSS-EXAMINATION BY MR. LOWERY:

23 **Q. Commissioner Hall was asking you**
24 **about the earnings sharing plan that used to be in**
25 **effect. You recall those questions, correct?**

1 A. Yes.

2 Q. And you -- and part of the
3 discussion, I think, or part of the explanation you
4 gave for why those plans were in effect is that
5 utilities were not coming for regular rate increase
6 cases, right, at that time, during that period of
7 time?

8 A. Yes.

9 Q. And, of course, an alternative to
10 that to get a regular review of what the utility's
11 rates ought to be would have been to initiate -- if
12 you believed there were sufficient ongoing
13 sustainable earnings above what you thought the
14 cost of capital was, to initiate earnings
15 complaints, right?

16 A. That is correct.

17 Q. But an alternative to that, because
18 you didn't have the utilities coming in for review,
19 was to put in a sharings plan which was essentially
20 a formulaic way to review those rates and, in
21 effect, reset them by either giving sharing credits
22 back or going the other way, correct?

23 A. I don't know that it went the other
24 way per se, but yes, I would agree with your
25 general statement.

1 Q. I guess what I'm trying to get at --
2 the question probably wasn't that good of a
3 question.

4 What I'm trying to get at is, when
5 you have rate -- when you have utilities coming in
6 sequentially on a regular basis, and for Ameren
7 Missouri that has been probably around every
8 18 months or so for the last several years, you've
9 got a readymade opportunity to continually review
10 the reasonableness of the rates, do you not?

11 A. For most -- certainly for the
12 electric utilities, rates have been regularly
13 rebased every two years, if not at a quicker
14 interval than that, for Ameren and other utilities.

15 Q. So aside from the fact of whether
16 parties -- a utility would be motivated to have an
17 earnings sharing plan or not, one of the -- one of
18 the reason those plans had utility back at that
19 time or useful back at that time doesn't exist or
20 it certainly doesn't exist to the same degree that
21 it -- now as it did then because of this regular
22 review that you're undertaking anyway when
23 utilities continually come in for rate increases?

24 A. I'd agree. The macro environment is
25 very different now than it was 10, 20 years ago.

1 Q. Commissioner Hall was also asking you
2 about -- a lot of questions about the materiality
3 policy or practice that Staff follows. You recall
4 that, I'm sure?

5 A. Yes.

6 Q. If you did a full comprehensive cost
7 of service analysis, you would also do a class cost
8 of service study, would you not?

9 A. I believe it is our policy to do one
10 in every general rate proceeding.

11 Q. And if you did one, that could result
12 in an allocation of the revenue requirement
13 differently than the allocation had been in the
14 past? For example, a class that was getting less
15 cost might actually get more even if the revenue
16 requirement were to change, right?

17 A. That is a possibility.

18 Q. The Chairman was asking you questions
19 about sort of the -- he asked you -- you'd
20 indicated there were sort of three indicators that
21 you might look at that might suggest there was
22 going to be a continuous and sustainable, I'll put
23 overearnings in quotes, earnings in excess of the
24 last authorized ROE. Do you remember those
25 questions?

1 A. Yes.

2 Q. And one of the items was, you know, a
3 declining rate base, for example, and I guess we
4 could go the other way, an increase in rate base
5 could indicate a continuous and sustainable problem
6 on the other side, right?

7 A. Yes.

8 Q. And you indicated that there had been
9 a slight decline and there had been discussion in
10 this case about a slight decline in rate base since
11 the third quarter of 2012 when the true-up from the
12 last case took place and the first quarter of this
13 year. Do you recall that?

14 A. Yes.

15 Q. But when you look at a little bit
16 broader picture, if you look at the last several
17 years, it's very clear to you that Ameren
18 Missouri's rate base has been inclining up to a
19 fairly significant degree over that period of time,
20 correct?

21 A. Are you saying if you go beyond the
22 last two years, has there been a general trend
23 upward?

24 Q. Yes, I am.

25 A. I believe what information I looked

1 at, which did predate the midpoint of 2012, there
2 had been at least some increase in rate base up to
3 that point in general.

4 Q. So if we were to draw a line, it
5 would look probably -- it might actually have some
6 waves in it, but if we were to draw a trend line
7 from back four, five, six years ago to now, we
8 would see an inclining rate base, would we not?

9 A. Over time, yes. You're right. There
10 are peaks and valleys within that for a typical
11 utility.

12 Q. And one of the reasons there could be
13 peaks and valleys even though the trend continues
14 to be up is you could have a number of large
15 investments that have long lead times that are not
16 showing up in plant in service and are not showing
17 up in rate base, but they're going to show up and
18 that trend's going to incline; isn't that fair to
19 say?

20 A. Once they show up in rate base, yes.

21 Q. And that's sort of what we have
22 perhaps right now is we've got -- as you're aware,
23 we have a number of pretty large investments, you
24 know, investments that are totaling hundreds of
25 millions of dollars, not just a \$30 million here or

1 **\$20 million there, and it takes quite a while to**
2 **get -- to build those and get those in service. So**
3 **we could have one of those dips in that trend line**
4 **take place, but it doesn't mean the trend is not**
5 **continuing to be up, does it?**

6 MR. DOWNEY: Judge, I'm going to
7 object. I didn't realize we were going to have 15
8 minutes of cross that goes beyond the questions of
9 the Commission. I think this is beyond the scope
10 of recross.

11 MR. LOWERY: I think when the
12 Chairman asked about rate base and whether that's
13 one of the continuing factors, I think that's
14 central to why Mr. Oligschlaeger testified that he
15 wasn't observing a sustainable change in rate base
16 that would suggest that the, quote, overearnings
17 are going to continue.

18 JUDGE WOODRUFF: I'll overrule the
19 objection. You can answer the question.

20 THE WITNESS: Can you repeat the
21 question?

22 BY MR. LOWERY:

23 **Q. I'll try. I think the question was,**
24 **when you have, which is the situation Ameren**
25 **Missouri has been in sort of since the last rate**

1 case up to now, you have a number of large capital
2 projects, not just a \$20 million project here or
3 5 million here, but 150 or 170 million for
4 ESPs, 150 for reactor head and things like that
5 that take a long time between when you start
6 spending money on them and when they get into rate
7 base, you can have a situation where you have other
8 retirements and so on going on that might, if you
9 look at your net rate base at a particular time,
10 might show a dip.

11 But if you do a trend line that
12 trends over time, that trend line is still going to
13 be up, which is essentially, I think, what you
14 expect to happen; isn't that true?

15 A. Well, based on Ameren's projections
16 that that's what they expect to happen. The causes
17 of the decline in rate base could be plant
18 retirements. It could be simply that the increases
19 in your depreciation reserve, your depreciation
20 accruals are greater than your plant additions over
21 time, as well as accruals of accumulated deferred
22 income taxes, which due to some temporary
23 provisions in the code I think has given all
24 utilities kind of a rate base boost recent years,
25 but --

1 **Q. I'm sorry. Go ahead.**

2 A. When you have very large, discrete
3 additions to rate base, as Ameren is projecting you
4 will during the course of 2014, that can outweigh
5 all of the normal growth in the deferred tax
6 reserve, depreciation reserve, and lead to an
7 overall increasing level.

8 **Q. And it's Staff's expectation that --**
9 **that Ameren Missouri is going to have -- continue**
10 **to have that overall increasing level. That's**
11 **basically the information you've seen, that that's**
12 **Staff's expectation, is it not?**

13 A. Well, Ameren's rate case as I
14 understand it is premised at least in part on an
15 expectation that their rate base will be increasing
16 to a significant degree, and this rate case is
17 intended to capture the financial impact of that.

18 **Q. You also talked about another factor**
19 **that you had indicated might or might not indicate**
20 **sort of an ongoing sustainable material change in**
21 **the revenue requirement is if there was a, I'll add**
22 **the word, material lowering of the cost of capital**
23 **from what you had seen before. Do you remember**
24 **that?**

25 A. Correct.

1 Q. And the Chairman asked you some
2 questions about what the trend had been, and I
3 think you said over the last several years the
4 trend across the country, maybe in Missouri as
5 well, had been for some lowering in the allowed
6 ROE, right?

7 A. I meant primarily Missouri. That's
8 where my knowledge base is.

9 Q. Would you agree for -- well, let me
10 ask you this: You were rebutting the testimonies
11 of Mr. Meyer and Mr. Gorman when you filed your
12 testimony and made these points, correct?

13 A. Correct.

14 Q. And isn't it fair to say that nothing
15 that you saw in Mr. Gorman's testimony, who was
16 their cost of capital witness, nothing suggested a
17 material lowering of the cost of capital from what
18 it had been in the last rate case when you looked
19 at Mr. Gorman's testimony; isn't that fair?

20 A. Based upon my review of Mr. Gorman's
21 testimony, I didn't see any direct references to a
22 belief or to evidence that would show that there
23 had been a substantial reduction in return on
24 equity, and that would be the reason to impute a
25 lower number into the earnings analysis.

1 Q. And, in fact, his point
2 recommendation actually went up by 10 basis points
3 from the last case; is that right?

4 A. Yes.

5 Q. And isn't that one of the reasons
6 that Staff didn't feel it appropriate or necessary
7 to undertake a full cost of capital analysis,
8 because the Complainants themselves were not really
9 indicating that things had changed in a way that
10 you would expect to lead to a different result than
11 the Commission had decided?

12 A. Well, I'd say it was more that simply
13 for the more limited scope of looking at Ameren's
14 current earnings as -- or rates as set in the last
15 case, are they adequate or not, the most reasonable
16 way to do that is to look at this 9.8 percent
17 authorized ROE as your benchmark because it was
18 ordered or went into -- rates went effect less than
19 a year before.

20 And we were not aware of anything
21 that would suggest a substantial or change in
22 circumstances since the time the Commission ordered
23 that particular level. That wasn't one we
24 recommended, but nonetheless we thought it was
25 appropriate in this circumstance.

1 **Q. You're sort of moving the goalpost if**
2 **you do it some other way, aren't you?**

3 A. Well, it's kind of -- the real
4 problem I see is it's kind of laying on top of what
5 I would call a broad earnings review to get kind of
6 a ballpark idea of where the company's earnings is
7 and putting on top of that a specific different ROE
8 recommendation, and we think that's kind of an
9 apples and oranges comparison.

10 **Q. You're mixing it up, you're sort of**
11 **picking and choosing certain things?**

12 A. Yes.

13 MR. LOWERY: Thank you,
14 Mr. Oligschlaeger. No further questions, your
15 Honor.

16 JUDGE WOODRUFF: Public Counsel?

17 RECROSS-EXAMINATION BY MS. BAKER:

18 **Q. You would agree that Staff is a**
19 **neutral party in rate cases with the intent of**
20 **balancing the interests of both the company and the**
21 **customer?**

22 A. Yes.

23 **Q. And in this particular case, you**
24 **would agree that Staff's materiality threshold is**
25 **tailored to materiality of the company's annual**

1 revenues?

2 A. Yes.

3 Q. Does Staff have a threshold that's
4 tailored to the materiality of the effect on
5 customers?

6 A. Not specifically, no.

7 MS. BAKER: No further questions.

8 JUDGE WOODRUFF: Consumers Council?

9 MR. COFFMAN: No questions.

10 JUDGE WOODRUFF: Retailers.

11 RECROSS-EXAMINATION BY MR. SCHWARZ:

12 Q. Do you recall participating in the
13 past in a complaint -- rate complaint case that was
14 brought by customers?

15 A. I do not recall that.

16 Q. But many general rate cases filed by
17 utilities?

18 A. And some complaint cases initiated by
19 Staff.

20 Q. Staff. You went through the
21 materiality standards with Commissioner Hall, and I
22 want to focus on the third phase, if I might.

23 A. Sure.

24 Q. You were here when Mr. Cassidy
25 testified?

1 A. I was.

2 Q. And he went through a list of
3 adjustments that Staff had proposed in
4 ER-2012-0166. Do you remember that?

5 A. Yes.

6 Q. Does the same materiality standard
7 apply to those adjustments as, say, in Phase 1 or
8 Phase 2? Let me rephrase. Let me rephrase.

9 Would Staff make an adjustment that
10 was less than, say, \$4 million?

11 A. Yes, and I can certainly explain that
12 difference as we see it, and that difference is --

13 Q. I haven't decided if I want to ask
14 that question yet.

15 A. Okay.

16 Q. But I think I will. Go ahead.

17 A. What we're trying -- I mean, the
18 nature of our analysis here was, as I think I said
19 before, kind of a broad-brush look at a company's
20 earnings. Are they -- do we believe they're
21 materially overearning or underearning or just
22 right? Okay. And for that purpose, and within the
23 time constraints, you don't typically need to drill
24 down and do dues and donations adjustments and some
25 of the other more minor areas of a rate audit that

1 we typically do to get the right number. Okay.
2 Exactitude, in other words, isn't crucial. You
3 want to get the ballpark idea of order of
4 magnitude, and that's what we did.

5 And as part of that, you know, to
6 save time analysis, we thought a \$4 million
7 materiality standard was appropriate. In the
8 context of a general rate audit, either one
9 initiated by the utility or one that we would do as
10 part of an earnings investigation, we would have a
11 much lower materiality analysis to encompass all
12 the necessary adjustments we typically make to
13 advertising, dues and donations and a myriad of
14 other items.

15 **Q. And those first two phases are**
16 **basically preliminary with a view toward Staff**
17 **having the burden of proof as a complainant in a**
18 **rate complaint case; is that correct?**

19 A. I'm not sure what degree we have the
20 burden of proof when. That's always been confusing
21 to me. So I probably would have to say I don't
22 know.

23 **Q. Okay. And I want to talk about time**
24 **materiality a bit, if I might. You've been --**
25 **you're aware that sometimes general rate cases**

1 **settle?**

2 A. Certainly.

3 **Q. And if, as a result of settlement,**
4 **rates -- new rates, increased rates go into effect**
5 **early, does the Staff expect some adjustment**
6 **because of the fact of early rate implementation?**

7 A. Are you asking whether the number we
8 would agree to is effected by the early
9 implementation and it might be a lower number than
10 it otherwise would be?

11 **Q. Yes.**

12 A. Okay. That's one factor to look at.
13 I don't think we have a policy in terms of always
14 requiring some reduction to an otherwise reasonable
15 revenue requirement on account of early
16 implementation of rates.

17 **Q. But it is something that Staff looks**
18 **at?**

19 A. It's something that Staff and I would
20 say other parties can and have looked at, yes.

21 **Q. And typically is -- is that something**
22 **that's of a duration of less than 90 days?**

23 A. 90 days between what?

24 **Q. Between the operation of law date and**
25 **the settlement effective date.**

1 A. Probably 90 to 120 days, something
2 like that.

3 **Q. Okay. Considerably fewer than 12 or**
4 **14 months?**

5 A. Yes.

6 **Q. You heard all of the -- the list that**
7 **Mr. Cassidy gave?**

8 A. Yes.

9 **Q. Do adjustments to those accounts**
10 **increase or decrease revenue requirement?**

11 A. They can go either way.

12 MR. SCHWARZ: Okay. Thank you.

13 JUDGE WOODRUFF: Complainants?

14 MR. DOWNEY: Yes, Judge. Just a few.

15 RE-CROSS-EXAMINATION BY MR. DOWNEY:

16 **Q. You had a discussion, I believe, with**
17 **Mr. Lowery about rate base?**

18 A. Yes.

19 JUDGE WOODRUFF: If you'd get a
20 little bit closer to your microphone.

21 MR. DOWNEY: Sure.

22 BY MR. DOWNEY:

23 **Q. You had some discussion with**
24 **Mr. Lowery regarding rate base?**

25 A. Yes.

1 **Q. And I want to make sure I understand.**
2 **Rate base is determined by taking the original**
3 **plant in service and subtracting amortization or**
4 **depreciation?**

5 A. Rate base is determined -- I'd say
6 the largest components of rate base are typically
7 plant in service, which is offset by depreciation
8 reserve, and is further offset by accumulated
9 deferred income taxes. Those are the major dollar
10 items.

11 There are other items that enter into
12 it, fuel inventories, prepayment, materials and
13 supplies, cash working capital, deferrals related
14 to accounting authority orders or trackers, a
15 number of items. But I've listed the really big
16 typical pieces for the utility.

17 **Q. All right. One of the things you**
18 **didn't just list there was plant retirements.**

19 A. Well, that's part of your overall
20 plant in service balance. I mean, retirements in
21 plant should be taken out of your plant balance and
22 taken out of rate base for an accurate measurement
23 of rate base.

24 **Q. But, I mean, do the accounting rules**
25 **require you to do that?**

1 A. Once a plant is no longer in service,
2 I believe the accounting rules require you to
3 remove it from plant in service.

4 **Q. I want to ask you a little something**
5 **about rate design. If the Commission orders a rate**
6 **cut as a result of this case, couldn't that rate**
7 **cut be evenly applied to all the customer classes?**

8 A. Well, that would be a rate design
9 decision, and yes, that is one possible outcome.

10 **Q. And do you think any customer classes**
11 **would complain if they saw a rate cut?**

12 A. Anything's possible. I'm sure they'd
13 be happy with the rate cut, perhaps not happy with
14 the divvying up of that cut.

15 MR. DOWNEY: No further questions.

16 JUDGE WOODRUFF: Redirect?

17 REDIRECT EXAMINATION BY MS. MYERS:

18 **Q. Thank you, Mr. Oligschlaeger.**

19 A. Oligschlaeger.

20 **Q. Oligschlaeger. Thank you. I just**
21 **had a few questions for you. First, we've talked a**
22 **lot about your materiality standard, and it seems**
23 **that it's almost been called an internal policy.**
24 **And you've been with the Commission for a long**
25 **time; is that correct?**

1 A. Correct.

2 Q. Okay. And have you always used this
3 materiality standard when analyzing these sort of
4 cases?

5 A. In terms of overearning situations,
6 to my knowledge, I mean, obviously over time I
7 wasn't always part of the direct decision-making
8 process, but yeah, we always would look at the
9 magnitude of the overearnings and whether the
10 conditions were that we did expect that to persist
11 into the future.

12 And I would also add that in the
13 past, when we typically pursued an overearnings, it
14 was for amounts much in excess of 1 percent of
15 revenues.

16 Q. And it seems to me you having this
17 material standard is reflection that Staff, your
18 resources are finite, and so you need to
19 prioritize, you need to be efficient. Is that a
20 fair characterization of why you use this
21 materiality standard?

22 A. That is correct, yes.

23 Q. With that in mind, you know,
24 similarly you used this three-phase plan that we've
25 talked about and the last phase of which is a

1 full-on audit, which you did not do here. And
2 again, is that, you know, a reflection of you have
3 finite resources and you need to prioritize and be
4 efficient?

5 A. Well, I mean, for example, if we had
6 to do -- if we had been attempting to do a full
7 cost of service analysis in response to Noranda's
8 filing within these time frames, that would have
9 been very difficult because most of our audit staff
10 and perhaps even other members of other areas of
11 the Commission were tied up in existing rate cases
12 and other projects.

13 I mean, we do what we have to do, but
14 given the priority, we wouldn't have suggested that
15 people should be pulled off other projects for this
16 purpose.

17 Q. Okay. So it's not necessarily that
18 you didn't have the resources; it's just you didn't
19 find this particular case to be worthy of a full-on
20 audit?

21 A. Well, yeah. Primarily we didn't
22 think the level of possible overearnings was
23 material enough to really justify the commitment of
24 time and resources.

25 Q. Thanks. I also had a question about

1 something Commissioner Hall had asked you. You
2 answered a question concerning the fuel model, and
3 so what is the relationship between the fuel model
4 and the FAC?

5 A. Well, you use a fuel model to
6 determine, to aid in determining the overall level
7 of fuel, purchased power expense and off-system
8 sales offsets that should be reflected in rates at
9 any point in time when a company comes in for a
10 general rate proceeding.

11 And the way the fuel adjustment
12 clause works is you take that number, what you find
13 reasonable or ultimately what the Commission finds
14 reasonable, and you put 95 percent of that in a
15 separate charge to collect from customers. So in
16 other words, you need to use the fuel model to
17 determine the amounts that should flow through the
18 fuel adjustment clause. Is that what -- is that
19 your question?

20 Q. I have a follow-up to that. So given
21 this FAC, does Ameren Missouri lose any money if
22 the Commission changes their rates without rebasing
23 the fuel?

24 A. If they change general rates but do
25 not rebase the fuel going through the clause?

1 Well, it depends on, you know, what's happened to
2 the level of fuel and purchased power expense in
3 the interim. I would think if the levels increased
4 but you haven't changed what they're recovering
5 through the clause, then they have a loss. If the
6 situation goes the other way, they would have a
7 gain.

8 MS. MYERS: Okay. Thank you. You
9 know, that's all the questions I have. Thank you.
10 I appreciate your time.

11 JUDGE WOODRUFF: All right.
12 Mr. Oligschlaeger, you can step down.

13 We'll take about a ten-minute break
14 before we start with Mr. Weiss. We'll come back at
15 11:15.

16 (A BREAK WAS TAKEN.)

17 JUDGE WOODRUFF: Let's come to order,
18 please. We're back from break, and while we were
19 on our break another witness magically appeared.
20 Mr. Weiss is on the stand. If he'd please raise
21 his right hand.

22 (Witness sworn.)

23 JUDGE WOODRUFF: Thank you. You may
24 inquire.

25 GARY WEISS testified as follows:

1 DIRECT EXAMINATION BY MR. BYRNE:

2 Q. Good morning, Mr. Weiss.

3 A. Good morning.

4 Q. Can you please state your name and
5 business address for the record?

6 A. My name is Gary S. Weiss, W-e-i-s-s.
7 My business address is One Ameren Plaza,
8 1901 Chouteau Avenue, St. Louis, Missouri 63103.

9 Q. And are you the same Gary Weiss that
10 caused to be filed in this case rebuttal testimony
11 that's been marked as Exhibit No. 5?

12 A. Yes, I am.

13 Q. And is the information contained in
14 that testimony true and complete to the best of
15 your knowledge and belief?

16 A. Yes, it is.

17 Q. And if I were to ask you the
18 questions contained in that prefiled testimony here
19 today when you're under oath, would your answers be
20 the same?

21 A. Yes, they would.

22 MR. BYRNE: Your Honor, I'd offer
23 Exhibit No. 5 and tender Mr. Weiss for
24 cross-examination.

25 JUDGE WOODRUFF: Exhibit 5 has been

1 offered. Any objections to its receipt?

2 (No response.)

3 JUDGE WOODRUFF: Hearing none, it
4 will be received.

5 (EXHIBIT NO. 5 WAS RECEIVED INTO
6 EVIDENCE.)

7 JUDGE WOODRUFF: For
8 cross-examination, we begin with Staff.

9 CROSS-EXAMINATION BY MS. HAMPTON:

10 Q. Good morning, Mr. Weiss.

11 A. Good morning.

12 Q. Have you had a chance to read
13 Ms. Barnes' testimony?

14 A. Yes, I have.

15 Q. And her testimony discusses basically
16 plant in service additions and plant additions that
17 will be made since the last rate case through the
18 end of 2014, correct?

19 A. That is correct.

20 Q. And she stated in her testimony that
21 the dollar amount of those additions is
22 1.7 billion; is that correct?

23 A. 1.7 billion, that is correct.

24 Q. Do you disagree with that number as
25 she stated it?

1 A. No, I do not.

2 Q. Do you have any adjustments to make
3 to that number or have you made any adjustments
4 since her testimony was filed?

5 A. No adjustments have been made to that
6 \$1.7 billion number.

7 Q. Do you have a copy of your deposition
8 by any chance?

9 A. I sure do.

10 Q. Can you go ahead and turn to
11 page 142, please.

12 A. I am there.

13 Q. Okay. I'm going to read this for
14 you. I just want you to tell me if I'm reading
15 this correctly. There's a statement, question,
16 statement by Mr. Mullen. The statement is: I'll
17 represent to you -- excuse me. I'll represent to
18 you this is the rebuttal testimony of Lynn Barnes
19 in the present case. I don't know if you've seen
20 this before or not.

21 Answer: Yes, I am familiar with her
22 testimony.

23 Question: Is there any part of her
24 testimony with which you disagree?

25 Answer: Well, on page 4 you -- now

1 that we have the rate case filed, the 1.7 drops to
2 1.4 billion.

3 Did I read that correctly?

4 A. Yes, you did.

5 Q. Can you explain to me what the
6 difference is between those two numbers?

7 A. Yes. As I explained further on in my
8 deposition, I had kind of got confused there when I
9 was looking at the rate case number, which is --
10 reflects both additions to plant in service less
11 retirements. That's why I have 1.4. And
12 Ms. Barnes is only reflecting the additions to
13 plant in service, which is 1.7.

14 Q. So that 1.4 is just the differences,
15 retirements, correct?

16 A. That's correct.

17 Q. Isn't it true that in order to
18 determine the revenue requirement impact of the
19 1.4 billion, it should further be adjusted for
20 depreciation reserve?

21 A. That is correct.

22 Q. And can you say what that number
23 would be if it were adjusted for the depreciation
24 reserve?

25 A. Well, based on the revenue

1 requirement we filed with the rate case on
2 July 3rd, the gross plant number would be
3 706 million, and so you would apply the return and
4 depreciation to that 706 million and not the
5 1.7 billion.

6 **Q. Okay. Can you tell me what the**
7 **revenue requirement impact would be for the**
8 **706 million?**

9 A. I believe the return plus
10 depreciation is approximately \$97 million.

11 **Q. Do you agree that the level of**
12 **investment should also be adjusted for accumulated**
13 **deferred income tax?**

14 A. Well, the total rate base does get
15 adjusted for accumulated deferred income taxes.

16 **Q. So that your statement is that you --**
17 **would it be -- would the accumulated deferred**
18 **income tax, would it have any effect whatsoever on**
19 **the number that you just gave me, the 97 million?**

20 A. You're asking two different
21 questions. You're asking me the return on the
22 change in gross plant, which is \$97 million. If
23 you want the change in the revenue requirement
24 related to the rate base, then that's a different
25 question and a different number.

1 The -- if I remember correctly, the
2 total rate base in the rate case filing increased
3 \$487 million. So you apply the return to that and
4 that gives you the impact on the revenue
5 requirement for the net change in the rate base.

6 MS. BAKER: Your Honor, at this point
7 I'm going to go ahead and renew my objections that
8 were in the motion in limine for the information in
9 the testimony from the rate case, again, that it's
10 prejudicial to this particular case and that it's
11 not relevant because a lot of this information is
12 just filed. It's not been vetted. As we've noted,
13 the work papers have not even gone out to the
14 parties. So I just want to be on record with that
15 objection.

16 JUDGE WOODRUFF: Mr. Coffman, did you
17 want to be heard as well?

18 MR. COFFMAN: Yes. I just want to go
19 on the record in joining that motion and to point
20 out that the utility had the opportunity to file
21 testimony in this case, testimony that was subject
22 to the normal scrutiny and back and forth, and that
23 we don't think it's fair that they're allowed to
24 bootstrap something that they just filed and has
25 not been subject to scrutiny and audit yet.

1 JUDGE WOODRUFF: What is the
2 relevance of this line of inquiry?

3 MS. HAMPTON: I'm sorry?

4 JUDGE WOODRUFF: How is this
5 relevant, this line of inquiry?

6 MS. HAMPTON: The point is
7 essentially we're saying that the revenue impact
8 will be greater than the earnings in excess of
9 authorized return that Staff and both Noranda have
10 calculated in this case, is the point that I'm
11 getting to in asking these questions.

12 MS. BAKER: And I think that goes
13 directly to what I'm saying is you can't do that in
14 this particular forum. That's not been vetted.

15 MR. BYRNE: Your Honor, I agree that
16 this is completely relevant testimony. The
17 question here is whether our rates are unjust and
18 unreasonable on a going-forward basis. This is
19 relevant testimony. Their objection goes to the
20 weight of the evidence, not its admissibility.

21 JUDGE WOODRUFF: I'm going to
22 overrule the objection. You can go ahead and
23 proceed.

24 BY MS. HAMPTON:

25 Q. I want to jump back to the

1 97 million. That number isn't currently reflected
2 in the company's rates, is it?

3 A. No, it is not.

4 Q. Can you provide a breakdown of that
5 97 million in terms of how much is a return on the
6 net level of investment versus how much is a return
7 of?

8 A. The return component is approximately
9 57 million, and the depreciation is 40 million.

10 Q. Can you tell me what level of return
11 you used to calculate the revenue requirement?

12 A. I can tell you that. The revenue
13 requirement that we filed was based on the return
14 of 10.4 percent. In calculating my adjustments
15 here, I used the 10.4 percent for the return
16 component of the increase in the gross plant.

17 Q. Does the 97 million exceed Staff's
18 estimated calculation of earnings in excess of
19 authorized return in this case?

20 A. Yes, it does.

21 Q. Can you say by how much?

22 A. If I -- I believe Staff's final
23 number was more like \$39 million. Subtract that
24 from my \$97 million and you get \$58 million.

25 Q. Does it also exceed Noranda's

1 **estimated calculation of earnings in excess?**

2 A. Yes, it does.

3 **Q. And by how much?**

4 A. Do you want me to use the 9.8 percent
5 return or the 9.4 percent return?

6 **Q. I believe 9.8.**

7 A. That would be approximately
8 \$33 million.

9 MS. HAMPTON: No further questions.

10 JUDGE WOODRUFF: Okay. Let's move to
11 Public Counsel, then.

12 MS. BAKER: No questions. Thank you.

13 JUDGE WOODRUFF: Yeah, it is Public
14 Counsel. I'm sorry.

15 MS. BAKER: Still, no questions.

16 Thank you.

17 JUDGE WOODRUFF: Consumers Council?

18 MR. COFFMAN: No questions.

19 JUDGE WOODRUFF: Retailers?

20 MR. SCHWARZ: No questions.

21 JUDGE WOODRUFF: MIEC and

22 Complainants?

23 MR. DOWNEY: Give me just a second,

24 Judge.

25 CROSS-EXAMINATION BY MR. DOWNEY:

1 **Q. Okay. Mr. Weiss, I'm going to follow**
2 **up --**

3 JUDGE WOODRUFF: You need to use your
4 microphone.

5 MR. DOWNEY: I keep forgetting.
6 Sorry.

7 JUDGE WOODRUFF: Thank you.

8 BY MR. DOWNEY:

9 **Q. Mr. Weiss, I want to follow up on**
10 **some questions from Staff. When we're talking**
11 **about this investment, we're talking about**
12 **something that is in the process of construction,**
13 **at least in part, right?**

14 A. That is correct.

15 **Q. Okay. So we're talking about planned**
16 **expenditures, not known and measurable costs?**

17 A. I think there's a difference between
18 planned expenditures and what we have here. What
19 we have here is projects that are already in
20 process of being constructed and will be completed
21 by December 31st of 2014. So they're not just in
22 the planning stages. They're in the construction
23 stages.

24 **Q. Okay. But they're not complete, I**
25 **guess was my point, and they won't be complete**

1 until the end of the year?

2 A. The full 1.7 billion will not be
3 complete until year end, but a portion of that I'm
4 sure has been completed.

5 Q. All right. And you -- I got a little
6 confused here on this \$487 million figure you threw
7 out. That's the increase in rate base by the end
8 of the year; is that correct?

9 A. That was the increase in the rate
10 base in our rate increase filing revenue
11 requirement that was made on July 3rd.

12 Q. All right. Now, what's the revenue
13 requirement from \$487 million?

14 A. That's slightly over 50 million.

15 Q. Okay. It's not the 97 million that
16 you were talking about before?

17 A. No. I was very clear that the
18 \$97 million applied to the increase in gross plant
19 of 706 million versus the change in the rate base
20 of 487 million.

21 Q. Okay. What's the -- so the
22 \$487 million rate base increase, does that reflect
23 all of this \$1.7 billion that Ms. Barnes talks
24 about?

25 A. Yes, it does.

1 MR. DOWNEY: Okay. Thank you.

2 JUDGE WOODRUFF: Come up for
3 questions from the Bench then. Mr. Chairman?

4 QUESTIONS BY CHAIRMAN KENNEY:

5 Q. Mr. Weiss, good to see you again.

6 Thanks for being here.

7 A. Same here.

8 Q. I just have a couple of questions.

9 There was discussion yesterday -- were you in the
10 room yesterday? Were you here?

11 A. I was either in the room or listening
12 online. So I heard most of the testimony.

13 Q. So there was discussion of your
14 direct testimony in the ER-2012-0166. Do you
15 recall some of that discussion?

16 A. I sure do.

17 Q. And on pages 38 and 39 there was a
18 54-month examination of Ameren's ROE from June of
19 2007 through November of 2011. I just have a
20 couple of general questions. And the purpose of
21 this testimony, I think a big topic of discussion
22 in the 2012 rate case was Ameren's chronic
23 underearnings, and I think that this chart was
24 supposed to demonstrate that fact, correct?

25 A. That is correct.

1 Q. Okay. So let me just ask a couple of
2 questions, just generally speaking. The return on
3 rate base as it's reflected in this chart is
4 essentially derived by taking the operating income
5 and dividing it by rate base, right?

6 A. Give me one second to turn to that.

7 Q. Sure. Sorry. It's on 38 and 39 of
8 your direct testimony.

9 A. I'm there now.

10 Q. So the return on rate base, just a
11 simple way of calculating that, taking the
12 operating income as the numerator and rate base as
13 the denominator and that gives the return on rate
14 base?

15 A. That is correct.

16 Q. Is there a simple mathematical
17 formula that gets you to the ROE?

18 A. It's probably not simple to you.
19 It's probably simple to me, but it's hard to
20 understand.

21 Q. I'm not insulted. Just give me --
22 just try me.

23 A. Okay. You have to go to the -- which
24 we don't have here. You have to go to the
25 capitalization block, and you see that on the

1 surveillance report on page 2, where it shows the
2 components of the capital structure, long-term
3 debt, short-term debt, preferred stock and common
4 equity.

5 **Q. Okay.**

6 A. It shows the percent of each one of
7 those, it shows the cost of each one of those, and
8 then it comes up with the weighted cost.

9 **Q. That's the weighted average cost of**
10 **capital?**

11 A. Right. And so you have -- and your
12 total return on rate base is equal to that total
13 weighted cost. And so we have the final number.
14 We have the return on rate base. You subtract the
15 weighted cost of the long-term debt, short-term
16 debt and preferred, and that gives you your
17 weighted return on equity. You divide that by the
18 equity ratio, the percent of your capital structure
19 that is furnished by common equity, and that gives
20 you your return or your earned return on common
21 equity.

22 **Q. And that's your actual return on**
23 **common equity?**

24 A. I always would say that's our return
25 on our book earnings, our equity return on our book

1 earnings.

2 **Q. And that's what's reflected on**
3 **Pages 38 and 39 in the column that reads return on**
4 **equity?**

5 A. That is correct.

6 **Q. All right. And does that figure**
7 **differ from what is reflected in surveillance**
8 **reports as the actual return on equity, or will**
9 **that figure differ?**

10 A. It does slightly. There was a -- for
11 these calculations here, we had the Taum Sauk being
12 out of service for a number of years. I think it
13 was out from -- I can't remember when it started,
14 but it was out through April 2010. So in order to
15 reflect a fair earned return, we added back in the
16 impact if Taum Sauk had been in service that full
17 time. So we actually increased our per-book
18 operating income to take into consideration that
19 with Taum Sauk on service we would have had more
20 revenues.

21 **Q. And that gives you the higher --**

22 A. That gives us a higher return on rate
23 base and thus a higher book earned return on
24 equity.

25 **Q. So that was specific to that rate**

1 case where Taum Sauk was out of service, so you
2 made adjustments assuming Taum Sauk had been in
3 service?

4 A. Right, because of the Stipulation &
5 Agreement in a prior rate case, we had agreed to
6 reflect the items in the fuel adjustment clause as
7 if Taum Sauk was still in service.

8 Q. Other than those adjustments that you
9 made in that specific instance, would the return on
10 equity as it's reflected in this chart on pages 38
11 and 39 typically be the same as or different from
12 the return on equity that's reflected in the
13 surveillance reports?

14 A. There was one other slight
15 modification used on preparing this schedule. The
16 surveillance report reflects the actual capital
17 structure at the end of that quarter. Whereas, on
18 this report we use a capital structure that applied
19 during each period from the prior rate case. And
20 there's just a slight variation in the numbers, but
21 it's not very much difference.

22 Q. So as a general rule, the formula
23 that you just described that gets you the ROE
24 that's reflected on these charts, taking out the
25 adjustments for capital structure from the last

1 rate case and taking out the -- excluding those
2 adjustments for Taum Sauk, typically then those ROE
3 numbers that are reflected through that formula
4 that you just described should be the same as
5 what's reflected in the surveillance monitoring
6 reports?

7 A. That's correct.

8 CHAIRMAN KENNEY: All right. I don't
9 have any other questions. Thank you.

10 JUDGE WOODRUFF: Commissioner Stoll?

11 COMMISSIONER STOLL: No questions.

12 JUDGE WOODRUFF: Commissioner Kenney?

13 COMMISSIONER W. KENNEY: I have one.

14 QUESTIONS BY COMMISSIONER W. KENNEY:

15 Q. Thank you, Mr. Weiss. I have a
16 question. You said in your rebuttal testimony that
17 you cannot determine new rates without doing a
18 comprehensive cost of service study of which to
19 develop a rate of return, I mean proper revenue
20 requirement?

21 A. That's correct.

22 Q. How long -- it's a two-part question.
23 How long does it take your company to prepare that
24 for a new rate case, and how many people would it
25 involve?

1 A. I have -- I have a staff of three who
2 assist me in preparing the revenue requirement, and
3 we work a good two months doing that. There are
4 other staff who prepare the rate design that goes
5 with that, and we also get information from other
6 departments. But pulling it altogether takes my
7 staff of three at least two months.

8 **Q. So -- and it takes our Public Service**
9 **Commission about four to five months to do a**
10 **comprehensive study. Is that what you've seen?**

11 A. Yes, at least four months, because
12 they spend a lot of time auditing the background
13 numbers on our books.

14 **Q. That you put together?**

15 A. That we put together, yes.

16 **Q. Make sure that everything's --**

17 A. Make sure we have them all in the
18 right accounts.

19 COMMISSIONER W. KENNEY: All right.

20 Thank you.

21 JUDGE WOODRUFF: Commissioner Hall?

22 COMMISSIONER HALL: Yes, just a few.

23 QUESTIONS BY COMMISSIONER HALL:

24 **Q. Good morning.**

25 A. Good morning.

1 **Q. Is it morning? It is morning still.**
2 **On page 5 of your rebuttal testimony, you indicate**
3 **that it's important to choose a historical test**
4 **year in order to develop a revenue requirement; is**
5 **that correct?**

6 A. Yes. You have to have a test year or
7 a 12-month period to start with.

8 **Q. So would it -- would it -- would it**
9 **have been helpful in this overearnings complaint**
10 **case to have a historical test year in place?**

11 A. To the extent that the Commissioners
12 were going to request the Staff do a full revenue
13 requirement, it would have been very helpful. But
14 for the analysis that the Staff did do, having a
15 test year would not have benefited.

16 **Q. Could you explain that to me?**

17 A. Well, if you're going -- if you're
18 just looking at a high level like Staff did of
19 comparing numbers, book numbers off of the
20 surveillance report and making a few high-level
21 adjustments, you're not really coming up with a
22 complete and fully developed revenue requirement,
23 which a test year is required for that. Doing a
24 high-level analysis does not require a test year.

25 **Q. Okay. That's helpful.**

1 COMMISSIONER HALL: Thank you.

2 JUDGE WOODRUFF: Commissioner Rupp?

3 CHAIRMAN KENNEY: I actually do have
4 one other question. Sorry.

5 FURTHER QUESTIONS BY CHAIRMAN KENNEY:

6 Q. So you were saying that Staff takes
7 four to five months to do its analysis for the
8 purposes of preparing a comprehensive cost of
9 service study. Do you have an opinion -- well,
10 let me back up. For Ameren it takes two to three
11 months with your staff?

12 A. Correct.

13 Q. Do you have an opinion about whether
14 the four to five months that it takes Staff to
15 conduct its analysis is an appropriate amount of
16 time in which to conduct that analysis?

17 A. I personally think the time is a
18 little long, but there again, the Staff spends a
19 lot of time, I think, redoing what we've already
20 provided to them. They go into such great detail
21 reviewing what we've already filed. I think that
22 could be shortened.

23 Q. By just taking at face value what
24 Ameren provides?

25 A. No. I still think they'd have to

1 review the accounts, and there are certain major
2 accounts that they would want to review, and I
3 think that would be appropriate. But I think we do
4 provide a lot of information up front with our
5 filing that could be used and not reinvented.

6 **Q. So to the extent that you are of the**
7 **opinion that they could shorten that four to five**
8 **months, it would be by not verifying or not**
9 **recreating certain information that Ameren**
10 **provides?**

11 A. The information we started with the
12 book numbers are the same whether we pull them out
13 of the books or they pull them out of the books.
14 So if they don't -- they come in and start
15 basically from scratch and pull out the same
16 numbers that we've already pulled out. So I think
17 that's kind of a duplication of effort there.

18 **Q. How much time do you think could be**
19 **eliminated by not doing what you think is a**
20 **duplicative process?**

21 A. Probably at least one month.

22 CHAIRMAN KENNEY: All right. Thank
23 you.

24 JUDGE WOODRUFF: Recross based on
25 questions from the Bench, then, beginning with

1 Staff?

2 MS. HAMPTON: No questions.

3 JUDGE WOODRUFF: Public Counsel?

4 MS. BAKER: No questions. Thank you.

5 JUDGE WOODRUFF: Consumers Council?

6 MR. COFFMAN: No questions.

7 JUDGE WOODRUFF: Retailers?

8 RE-CROSS-EXAMINATION BY MR. SCHWARZ:

9 Q. Good morning, sir.

10 A. Good morning.

11 Q. Were you here for Mr. Cassidy's
12 testimony yesterday?

13 A. Yes, I was.

14 Q. Did you hear that -- maybe it was
15 this morning, but at some stage he read a long
16 litany of possible accounts that could be adjusted.

17 A. Yeah. He had a very nice list.

18 Q. Ameren had the opportunity to address
19 every one of those items in this case, did it not?

20 A. There wasn't a full revenue
21 requirement filed for us to address.

22 Q. That's not my question. My question
23 is, you had the opportunity to address every one of
24 those accounts and the adjustments to them in this
25 case, did you not?

1 A. I believe my rebuttal testimony did
2 address those issues and pointed out why
3 Mr. Meyer's calculations were inappropriate and
4 incomplete.

5 **Q. But Ameren did not take the**
6 **opportunity that it had to address each of those**
7 **accounts and the adjustments that might be**
8 **appropriate to them; is that correct?**

9 A. I did not have the burden of proof in
10 this case. Mr. Meyer had the burden of proof.

11 **Q. I didn't ask you about the burden of**
12 **proof. My question is, you had the opportunity to**
13 **address each of those issues and appropriate**
14 **adjustments to them in this case, did you not?**

15 MR. BYRNE: I'm going to object. The
16 question was asked and answered, and it's not
17 related to any of the questions that were asked
18 from the Bench.

19 JUDGE WOODRUFF: I'm going to
20 overrule the objection.

21 BY MR. SCHWARZ:

22 **Q. That means you can answer.**

23 A. I think we addressed all those issues
24 in the rate case we filed on July 3rd. I think all
25 those issues were appropriately addressed when we

1 filed that rate case.

2 Q. But that's not in this case, is it?

3 In this case you had the opportunity and did not do
4 so, correct?

5 A. In this case we're stating that the
6 Complainants had the burden of proving that we were
7 overearning, as they call it, and they did not
8 prove that. And we just showed that what they had
9 done was inappropriate to be used to reset our
10 rates.

11 Q. My question required a yes or no
12 answer, and I didn't hear either a yes or a no.

13 A. I did not follow a whole list of
14 adjustments in this case.

15 Q. Thank you. And I think that you
16 indicated to Commissioner Kenney that it takes you
17 two months with your staff to put together those
18 adjustments for the rate case filing, for instance,
19 that you made July 3rd; is that correct? Do you
20 remember that question?

21 A. I said two to three months.

22 Q. Two to three months. And this case
23 was filed in mid February, and you didn't -- Ameren
24 didn't file its testimony until early June. That's
25 more than two, three months, is it not?

1 A. I'm sure it is.

2 MR. SCHWARZ: Thank you.

3 JUDGE WOODRUFF: Complainants?

4 MR. DOWNEY: No further questions.

5 JUDGE WOODRUFF: Redirect?

6 REDIRECT EXAMINATION BY MR. BYRNE:

7 Q. Mr. Weiss, Mr. Schwarz just asked you
8 a bunch of questions about having the opportunity
9 to file more than you did in this case. I want to
10 ask you, did you and your staff have the resources
11 and time to do that?

12 A. No. At this time our resources were
13 fully employed preparing the rate increase filing.

14 Q. And in the rate increase filing, did
15 you file a full cost of service study that
16 addressed all issues?

17 A. That is correct.

18 Q. Okay. You were asked some questions,
19 well, by Mr. Schwarz, and I think by some of the
20 Commissioners, about preparing a full cost of
21 service study, and Mr. Schwarz referenced the long
22 list of items Mr. Cassidy gave on the witness stand
23 that are required to do a full cost of service
24 study.

25 Do you agree with Mr. Cassidy's

1 testimony about the necessity of looking at all
2 those factors that he listed?

3 A. Yes, I do. In order to decide
4 whether the company's current rates are just and
5 reasonable or unjust and unreasonable, you have to
6 look at all the costs and revenues and rate base
7 that will be in effect when the rates will be
8 reset. And so in order to do that, you have to do
9 a full, comprehensive, all-inclusive revenue
10 requirement.

11 Q. What's the result if you don't do a
12 full cost and you just shortcut it and look at some
13 things, what's the result of that?

14 A. Then whatever result you're coming up
15 with are a pure guess. You really don't have any
16 idea what the correct revenue requirement is and
17 whether you really are over- or underearning or
18 earning just right.

19 Q. You got some questions, I think, from
20 one of the Commissioners about how many people are
21 employed. I think you said you have a staff of
22 three, and then there's some people do rate design.
23 But you also said you contact other departments for
24 information.

25 How many different people, if you

1 know or if you can estimate, within Ameren do you
2 have to contact to get information that goes into a
3 full cost of service study underlying a rate case?

4 A. Oh, at least a dozen, if not more.

5 Q. And do those people have to do
6 analyses or are they just pulling numbers off of
7 the ledger?

8 A. Most of the time they have to do
9 analyses.

10 Q. What are some examples of some
11 analyses that have to be done?

12 A. Well, the tax department has to do a
13 lot of analysis on the accumulated deferred income
14 taxes. We have to get analysis from the plant
15 accounting department on various items that are
16 included in plant in service and accumulated
17 reserve. Certain items are not reflected in the
18 rate base for regulatory purposes, so we have to
19 get those pulled out.

20 Q. In previous discussion, Mr. Meyer
21 suggested that Ameren Missouri didn't give the
22 Complainants the information they needed to do
23 their own cost of service study. Is that true?

24 MR. SCHWARZ: I'm going to object. I
25 don't know how this relates to any questions from

1 the Bench at all.

2 MR. DOWNEY: I join in the objection.

3 MR. BYRNE: Well, it goes to the
4 discussion of -- Mr. Schwarz asked about the
5 comprehensive cost of service study.

6 MR. SCHWARZ: That doesn't have
7 anything to do with what information is available
8 to other parties.

9 JUDGE WOODRUFF: Overrule the
10 objection. You may answer the question.

11 THE WITNESS: I think there was
12 discussion by Mr. Meyer of one of the data requests
13 that requested a comparison of all the expenses in
14 the current rates versus what our current level of
15 expenses were, and we did not provide anything
16 because we said you have the information.

17 If you look at the revenue
18 requirement run that the Staff prepares after the
19 rate case is over, it reflects all the information
20 from the various stipulations and the Commission's
21 Order, and it reflects all the information, it
22 shows all the expenses by account that are included
23 in our rates that come out of that rate Order.

24 If you want to look at what our
25 current expenses are, you can go to the FERC Form 1

1 each year and you can see in the year what all of
2 our expenses are by FERC account, and you can
3 compare those and see which ones have increased and
4 which ones have decreased.

5 MR. BYRNE: I'd like to mark an
6 exhibit, your Honor.

7 JUDGE WOODRUFF: All right. Up to
8 No. 25.

9 (EXHIBIT NO. 25 WAS MARKED FOR
10 IDENTIFICATION BY THE REPORTER.)

11 BY MR. BYRNE:

12 Q. Mr. Weiss, can you identify the
13 exhibit that I just had marked as Exhibit No. 25?

14 A. Yes. That was a response to Noranda
15 Data Request No. 8.

16 JUDGE WOODRUFF: I believe this is
17 already in the record as Exhibit 16.

18 MR. BYRNE: Oh, I apologize. Okay.
19 I'll refer to it as Exhibit 16. I apologize, your
20 Honor.

21 BY MR. BYRNE:

22 Q. Mr. Weiss, I guess it's already in
23 the record as Exhibit 16, but can you tell me what
24 it is?

25 A. Yes. It was a data request and our

1 response to Noranda's Data Request No. Noranda 8.

2 **Q. And is this -- this is a data request**
3 **to which you were referring in your previous**
4 **answer?**

5 A. Yes, it is.

6 MR. BYRNE: Okay. I'd like to mark
7 another exhibit, if I could, please.

8 JUDGE WOODRUFF: This will be 26
9 then.

10 (EXHIBIT NO. 26 WAS MARKED FOR
11 IDENTIFICATION BY THE REPORTER.)

12 BY MR. BYRNE:

13 **Q. Mr. Weiss, can you identify this**
14 **exhibit as well?**

15 MR. DOWNEY: Judge, can we just hold
16 off until I have a copy of the exhibit? I may have
17 an objection.

18 JUDGE WOODRUFF: Sure.

19 BY MR. BYRNE:

20 **Q. Can you identify this Exhibit 26,**
21 **Mr. Weiss?**

22 A. Yes. It is also a data request from
23 Noranda Aluminum to the company, and it's the
24 seventh set, and it's Item No. 7-1.

25 MR. DOWNEY: Judge, I'm going to

1 object to this line of questioning. It's beyond
2 the scope of questions from the Bench.

3 MR. BYRNE: It's just on the same
4 topic as before about whether --

5 MR. DOWNEY: It's beyond the scope of
6 questions from the Bench.

7 JUDGE WOODRUFF: Don't talk over each
8 over. Let me hear from Ameren now.

9 MR. BYRNE: It's on the same topic
10 that we just discussed. It's about information
11 that Ameren Missouri provided the Complainants on
12 the -- on their cost of service.

13 MR. DOWNEY: Mr. Byrne has not
14 identified any question from the Bench.

15 JUDGE WOODRUFF: How is this related
16 to any question from the Bench?

17 MR. THOMPSON: Judge, this is
18 redirect, is it not?

19 JUDGE WOODRUFF: It is redirect.

20 MR. THOMPSON: So it's not limited to
21 questions from the Bench.

22 JUDGE WOODRUFF: So it's --

23 MR. DOWNEY: I'm sorry. I was a
24 little confused by the procedure.

25 MR. BYRNE: And look, there was quite

1 a bit of discussion about the cost of service and
2 all the elements that go into the cost of service.
3 I think it's -- so I think it's related to those
4 discussions.

5 MR. DOWNEY: I guess the question is,
6 was it -- I don't recall any question from any
7 party on cross or from the Bench on the issue of
8 discovery for this witness.

9 JUDGE WOODRUFF: Can you identify any
10 of the questions?

11 MR. BYRNE: Well, I think the -- I
12 guess the questions to which it relates are the
13 exhaustiveness of the information used to provide a
14 cost of service study and the question -- the
15 questions are, did we give that information to the
16 Complainants.

17 MR. DOWNEY: I don't recall that
18 question.

19 JUDGE WOODRUFF: I don't either. So
20 I'm going to sustain the objection.

21 MR. BYRNE: Thank you. Mr. Weiss, I
22 have nothing else.

23 JUDGE WOODRUFF: Okay. Then you can
24 step down, Mr. Weiss.

25 THE WITNESS: Thank you.

1 JUDGE WOODRUFF: Next witness then
2 would be Ms. Barnes.

3 JUDGE WOODRUFF: Good morning.
4 Please raise your right hand.

5 (Witness sworn.)

6 JUDGE WOODRUFF: Thank you.

7 MR. TOMC: May it please the
8 Commission?

9 LYNN BARNES testified as follows:

10 DIRECT EXAMINATION BY MR. TOMC:

11 Q. Good morning.

12 A. Good morning.

13 Q. Can you please state your name and
14 business address for the record?

15 A. Yes. It's Lynn Barnes, Ameren
16 Corporation, 1901 Chouteau Avenue, St. Louis,
17 Missouri 63103.

18 Q. Thank you. Are you the same
19 Ms. Barnes that caused to be filed rebuttal
20 testimony marked as Exhibit No. 6NP and HC filed in
21 this case?

22 A. Yes.

23 Q. And are the contents of your
24 testimony and accompanying schedules true and
25 correct to the best of your information, knowledge

1 and belief?

2 A. Yes.

3 Q. And if I asked you the same questions
4 today, would your answers remain the same?

5 A. Yes.

6 Q. Do you have any additions or
7 corrections to your testimony at this time?

8 A. I do not.

9 MR. TOMC: Your Honor, at this point
10 I would move to admit the testimony of Ms. Barnes
11 and tender the witness for cross-examination.

12 JUDGE WOODRUFF: Barnes rebuttal,
13 which is 6, has been offered. Any objections to
14 its receipt?

15 (No response.)

16 JUDGE WOODRUFF: Hearing none, it
17 will be received.

18 (EXHIBIT NO. 6NP AND HC WAS RECEIVED
19 INTO EVIDENCE.)

20 JUDGE WOODRUFF: For
21 cross-examination, we begin with Staff.

22 MS. JONES: Staff has no questions,
23 your Honor.

24 JUDGE WOODRUFF: Public Counsel?

25 MS. BAKER: No questions.

1 JUDGE WOODRUFF: Consumers Council?

2 MR. COFFMAN: No questions.

3 JUDGE WOODRUFF: Retailers?

4 MR. SCHWARZ: No questions.

5 JUDGE WOODRUFF: Complainants?

6 MR. DOWNEY: Good morning,

7 Ms. Barnes.

8 THE WITNESS: Good morning.

9 MR. DOWNEY: No questions.

10 JUDGE WOODRUFF: Come up for
11 questions from the Bench. Mr. Chairman?

12 CHAIRMAN KENNEY: Good morning. I
13 have no questions.

14 JUDGE WOODRUFF: Commissioner Stoll?

15 COMMISSIONER STOLL: No.

16 JUDGE WOODRUFF: Commissioner Kenney?

17 COMMISSIONER W. KENNEY: No
18 questions.

19 JUDGE WOODRUFF: Commissioner Hall?

20 COMMISSIONER HALL: No questions.

21 JUDGE WOODRUFF: Commissioner Rupp?

22 COMMISSIONER RUPP: No.

23 JUDGE WOODRUFF: There was no
24 recross, no need for redirect, and you can step
25 down. Mr. Hevert. Good morning. I'll go ahead

1 and swear you in.

2 (Witness sworn.)

3 JUDGE WOODRUFF: You may inquire when
4 you're ready.

5 ROBERT HEVERT testified as follows:

6 DIRECT EXAMINATION BY MS. TATRO:

7 **Q. Can you please state your name and**
8 **business address for the Commission?**

9 A. My name is Robert Hevert. Last name
10 is spelled H-e-v-e-r-t. I am managing partner of
11 Sussex Economic Advisors, and my business address
12 is 161 Worcester Road in Framingham, Massachusetts.

13 **Q. And are you the same witness that**
14 **caused to be prefiled rebuttal testimony in this**
15 **case?**

16 A. Yes, I am.

17 **Q. And do you have any corrections or**
18 **additions to make to your testimony?**

19 A. Yes, I do.

20 JUDGE WOODRUFF: This will be 27.

21 (EXHIBIT NO. 27 WAS MARKED FOR

22 IDENTIFICATION BY THE REPORTER.)

23 BY MS. TATRO:

24 **Q. Mr. Hevert, is this a summary of all**
25 **of the changes to your testimony?**

1 A. Yes. There's one minor one beyond
2 this, but yes.

3 **Q. And what would that be?**

4 A. The only other minor change that I
5 had would be on page 57, line 19. Toward the
6 right-hand margin, 2015 should be 2018.

7 **Q. And with those corrections and**
8 **additions, is your testimony true and accurate to**
9 **the best of your belief?**

10 A. Yes, it is.

11 **Q. If I were to ask you the questions**
12 **contained in your testimony, would your answers be**
13 **substantially the same?**

14 A. Yes, they would.

15 MS. TATRO: I move those two items --
16 I'm sorry. I don't know what number you gave this
17 one.

18 JUDGE WOODRUFF: The new one is 27.

19 MS. TATRO: So 7 and 27 into the
20 record and tender the witness for
21 cross-examination.

22 JUDGE WOODRUFF: All right. 7 and 27
23 have been offered. Any objections to their
24 receipt?

25 (No response.)

1 JUDGE WOODRUFF: Hearing none, they
2 will be received.

3 (EXHIBIT NOS. 7 AND 27 WERE RECEIVED
4 INTO EVIDENCE.)

5 JUDGE WOODRUFF: Cross-examination,
6 beginning with Staff.

7 MR. THOMPSON: Nice to see you,
8 Mr. Hevert.

9 THE WITNESS: It's always a pleasure,
10 Mr. Thompson.

11 MR. THOMPSON: I look forward to
12 seeing you again in a few months. I have no
13 questions at this time.

14 JUDGE WOODRUFF: Public Counsel?

15 MS. BAKER: No questions. Thank you.

16 JUDGE WOODRUFF: Consumers Council?

17 MR. COFFMAN: No questions.

18 JUDGE WOODRUFF: Retailers?

19 MR. SCHWARZ: No questions.

20 JUDGE WOODRUFF: Complainants?

21 MS. ILES: Just a couple short ones.

22 CROSS-EXAMINATION BY MS. ILES:

23 Q. Mr. Hevert.

24 A. Good morning.

25 Q. Good morning. Now, you testified in

1 **Ameren Missouri's last rate case, correct?**

2 A. Yes, I did.

3 **Q. And would you agree that, since that**
4 **last rate case, authorized returns on equities for**
5 **utility companies have trended downward?**

6 A. Not necessarily, no. I mean, if you
7 were to look at, for example, the second quarter
8 Regulatory Research Associates report and if you
9 were to focus on vertically integrated companies, I
10 think we would see that, in fact, authorized
11 returns for those companies have stabilized, if not
12 actually begun to increase somewhat.

13 **Q. Increase since the last rate case?**
14 **Are they lower than they were at the time of the**
15 **last rate case?**

16 A. Oh, excuse me. I'm sorry. Since the
17 last rate case in 2012?

18 **Q. Yes.**

19 A. Again, if we were to look at that
20 Regulatory Research report, for 2012 for the full
21 year it's reporting 10.17 percent. If we were to
22 look at the second quarter of 2014, again,
23 vertically integrated companies, it would be
24 10.10 percent, so seven basis points difference.
25 That doesn't strike me as material.

1 **Q. All right. Now, your DCF results in**
2 **the current case are actually lower than they were**
3 **in the 2012 case, correct?**

4 A. I don't know that offhand, but that
5 would not surprise me.

6 **Q. And your recommended ROE in this case**
7 **is lower than in the 2012 case?**

8 A. That's true. My recommended ROE is
9 ten basis points lower.

10 MS. ILES: Okay. Thank you. That's
11 all my questions.

12 JUDGE WOODRUFF: Okay. Come up for
13 questions from the Bench, then. Mr. Chairman?

14 QUESTIONS BY CHAIRMAN KENNEY:

15 **Q. Just a really quick question about**
16 **your proxy group. How does it differ from**
17 **Mr. Gorman's proxy group?**

18 A. Well, I think if you were to look at
19 what I have as -- it is Exhibit RBH-2, Exhibit
20 RBH-2, yes, to my testimony where we go down and
21 compare the various companies in the proxy group,
22 and you'll see why I believe companies that are
23 included in Mr. Gorman's ought to be excluded. And
24 in large measure the differences have to do with
25 the percentage of regulated net income derived from

1 electric utility operations.

2 Q. His was 80 and yours was 90, right,
3 or is it vice versa?

4 A. What I -- I exclude companies that
5 have less than 90 percent of regulated operating
6 income derived from electric operations.

7 Q. And his --

8 A. I'm not sure that Mr. Gorman actually
9 had a particular screen for that purpose.

10 Q. Why did you do that? Why do you
11 determine that that's an appropriate exclusion from
12 the proxy group?

13 A. Well, I think there are -- there are
14 two points. One is, first off, the fact that these
15 companies actually report separately the operations
16 from gas and electric -- excuse me, financial
17 results from gas and electric operations suggests
18 that the companies themselves believe the two to
19 have separate characteristics, separate risks and
20 prospects. And they are so much so different that
21 they believe that investors feel the same way and
22 they ought to be reported separately.

23 So on that basis, I think it's
24 important to distinguish between gas and electric
25 utilities. I also think that people generally

1 would agree that gas utilities may have somewhat
2 lower risk than electric utilities.

3 Because of those two reasons, because
4 companies report them separately, therefore believe
5 them to be different and distinct operations, and
6 because investors typically would see gas utilities
7 to have perhaps somewhat less risk than vertically
8 integrated utilities, we want to be sure that the
9 proportion of gas operations do not unduly bias the
10 results downward, or perhaps more appropriately
11 truly reflect the risk of integrated electric
12 utility operations.

13 CHAIRMAN KENNEY: All right.

14 Mr. Hevert, I don't have any other questions.

15 Thank you.

16 THE WITNESS: Thank you.

17 COMMISSIONER STOLL: No questions.

18 JUDGE WOODRUFF: Commissioner Kenney?

19 COMMISSIONER W. KENNEY: No question.

20 JUDGE WOODRUFF: Commissioner Hall?

21 COMMISSIONER HALL: No questions.

22 JUDGE WOODRUFF: Commissioner Rupp?

23 COMMISSIONER RUPP: No questions.

24 QUESTIONS BY JUDGE WOODRUFF:

25 **Q. I do have one question. If you could**

1 **explain the changes that you made in -- you read on**
2 **27.**

3 A. Yes, sir. The changes all derive
4 from what is marked as Corrected Exhibit RBH-12.
5 In the original exhibit I had included a company
6 that really was not part of the proxy group. What
7 this exhibit does is calculate the average beta
8 coefficient. The beta coefficient is a portion of
9 the Capital Asset Pricing Model. Because I
10 inadvertently included the one company, the average
11 beta coefficients were somewhat lower than they
12 should be.

13 As I work that change through the
14 entire model, that's what's reflected in the
15 remaining pages. The net result was to increase
16 the Capital Asset Pricing Model results by five
17 basis points approximately. So it really had no
18 effect on my recommendation, but it did change the
19 numbers, and I apologize for that oversight.

20 JUDGE WOODRUFF: Thank you. Recross
21 based on questions from the Bench, then, beginning
22 with Staff?

23 MR. THOMPSON: No questions. Thank
24 you, Judge.

25 JUDGE WOODRUFF: Public Counsel?

1 MS. BAKER: No questions. Thank you.

2 JUDGE WOODRUFF: Consumers Council?

3 MR. COFFMAN: No questions.

4 JUDGE WOODRUFF: Retailers?

5 MR. SCHWARZ: No questions.

6 JUDGE WOODRUFF: Complainants?

7 MS. ILES: No questions.

8 JUDGE WOODRUFF: Any redirect?

9 MS. TATRO: Yes, your Honor. Thank
10 you.

11 REDIRECT EXAMINATION BY MS. TATRO:

12 Q. Mr. Hevert, in answer to a question
13 from Noranda's attorney, you agreed that ROEs since
14 the last rate case were lower, but you said ROEs as
15 a whole are trending back up, or maybe that's
16 somewhat of a summary of what you said, and you
17 referred to the second quarter RRA data?

18 A. Yes. That's right.

19 Q. Are you familiar with that data?

20 A. I am.

21 MS. TATRO: I'd like to mark an
22 exhibit.

23 JUDGE WOODRUFF: Okay. Up to No. 28.

24 (EXHIBIT NO. 28 WAS MARKED FOR
25 IDENTIFICATION BY THE REPORTER.)

1 BY MS. TATRO:

2 Q. Can you identify this document for
3 me, please?

4 A. This would be the major rate case
5 decisions, January to June 2014, from Regulatory
6 Research Associates.

7 Q. And can you point the Commission to
8 where you were talking about where ROEs are headed
9 in the second quarter of this year?

10 A. Yes. And I think there are probably
11 two points to be made, probably several points to
12 be made. But if you go to page 5 of the document,
13 you'll see at the very top, at the header, electric
14 utility decisions. They break the decisions into
15 the first and second quarter respectively.

16 If you were to look at the second
17 quarter -- well, I'll back up. If you look at the
18 first quarter, you see a total number of an average
19 of 10.23 percent. That, of course, includes three
20 decisions from Virginia which represent returns
21 authorized for in-state generating assets. They're
22 essentially incentive returns for generation, and I
23 do not include those types of returns in my
24 assessment of where the rate of return is heading
25 for vertically integrated companies.

1 Nor do I think we should look at the
2 returns associated with distribution-only companies
3 because, of course, they don't have the operating,
4 some of the financial risk, some of the
5 environmental risk associated with generation.

6 So if we were to focus on vertically
7 integrated companies for the first and second
8 quarter, I think we'd see in the first quarter the
9 average would be about 9.86 percent, which would be
10 really two observations, the Northern States Power
11 Minnesota and Southwest Public Service.

12 As you go into the second quarter,
13 you see Entergy Texas 9.8, Wisconsin Power & Light
14 10.4. The average of those two is 10.10 percent,
15 as I mentioned earlier.

16 So in my view, as you look at this
17 data, one thing it suggests to me is that the
18 returns have begun to stabilize from what had been
19 perhaps a longer term downward trend.

20 The only other thing I'll note is
21 that as you look to the very right-hand column,
22 Regulatory Research Associates has several notes,
23 one of which they will note whether or not a
24 company is distribution. That's designated by the
25 D. So again, Regulatory Research Associates

1 believes that that distinction is important.

2 The other thing I'd note is that
3 there are five cases reported where interim rates
4 were put into effect.

5 Now, if you were to turn to page 6 on
6 the other side -- well, the next page, that is for
7 gas utilities. There we see the average having
8 increased from 9.54 to 9.84 percent over those two
9 quarters.

10 Now, I think there's a couple of
11 things I want to point out about this one. I
12 believe Mr. Gorman suggested yesterday that there
13 were three electric cases in California of
14 10.1 percent and that they were subject to a
15 generic finance proceeding.

16 He may have misspoken if he was
17 referring to the Southwest Gas cases. There were
18 no California cases in second quarter -- excuse
19 me -- no California electric cases in the second
20 quarter of cases in the second quarter of 2014.

21 Those Southwest Gas cases were not
22 subject to the generic finance proceeding. I was
23 the witness in that case. And so the 10.1 was, in
24 fact, for a natural gas decision.

25 Q. Thank you. The Chair asked you a

1 question about proxy groups and the fact that you
2 screened for utilities that had at least, I think
3 you said, 90 percent of net income from regulated
4 utilities. Did you review Mr. Gorman's proxy group
5 to see whether or not he had included companies
6 that would have failed that screening mechanism?

7 A. Yes, and that's what's summarized on
8 Schedule 2. You'll see on Schedule 2 there's a
9 Note 1 which I used to designate for companies that
10 have less than 90 percent of regulated net income
11 from electric utility operations, and there are
12 several.

13 Q. And what's the effect of including
14 those companies in the proxy group?

15 A. Well, again, my -- my view is that
16 because electric and natural gas operations are
17 distinct and because natural gas operations people
18 generally would conclude have somewhat less risk
19 than vertically integrated utilities, I think
20 including companies with the greater proportion of
21 natural gas operations would bias the results.

22 Q. And would that bias be upwards or
23 downwards?

24 A. Generally downwards.

25 MS. TATRO: I don't know if I moved

1 for admission of 28, but I'd like to move for
2 admission.

3 JUDGE WOODRUFF: 28 has been offered.
4 Any objections to its receipt?

5 (No response.)

6 JUDGE WOODRUFF: Hearing none, it
7 will be received.

8 (EXHIBIT NO. 28 WAS RECEIVED INTO
9 EVIDENCE.)

10 MS. TATRO: Thank you. I have no
11 further questions.

12 JUDGE WOODRUFF: Okay. You can step
13 down.

14 THE WITNESS: Thank you.

15 JUDGE WOODRUFF: John Reed. Good
16 afternoon. Please raise your right hand.

17 (Witness sworn.)

18 JUDGE WOODRUFF: Thank you. You may
19 inquire.

20 MR. LOWERY: Thank you.

21 JOHN REED testified as follows:

22 DIRECT EXAMINATION BY MR. LOWERY:

23 Q. Would you please state your name for
24 the record.

25 A. My name is John J. Reed.

1 **Q. Mr. Reed, am I correct that you've**
2 **caused to be prepared for filing in this docket**
3 **rebuttal testimony that's been marked as Exhibit 8?**

4 A. That's correct.

5 **Q. Do you have any corrections to that**
6 **testimony?**

7 A. Yes. I have three brief corrections.
8 The first appears on page 10, and in Footnote 6 I
9 simply want to add a page number, which is page 1.

10 The second correction is on page 16,
11 and this is in Footnote 10. Footnote 10 should be
12 deleted. The source is cited in the document.

13 And the third change is on page 21,
14 in Footnote 17. Footnote 17 should be deleted and
15 simply replaced with the word Ibid. That's all the
16 corrections.

17 **Q. So Footnote 17 remains, but the**
18 **content of Footnote 17 should be deleted and**
19 **replaced with Ibid?**

20 A. Correct.

21 **Q. As corrected, if I were to ask you**
22 **the same questions posed in that testimony, would**
23 **your answers be the same?**

24 A. Yes, they would.

25 **Q. And are those answers -- are those**

1 **answers true and correct to the best of your**
2 **knowledge, information and belief?**

3 A. Yes, they are.

4 MR. LOWERY: With that, your Honor, I
5 would move for admission of Exhibit 8 and tender
6 the witness for cross-examination.

7 JUDGE WOODRUFF: Exhibit 8 has been
8 offered. Any objections to its receipt?

9 (No response.)

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

12 (EXHIBIT NO. 8 WAS RECEIVED INTO
13 EVIDENCE.)

14 JUDGE WOODRUFF: Cross-examination,
15 beginning with Staff?

16 MS. JONES: Staff has no questions.

17 JUDGE WOODRUFF: Public Counsel?

18 MS. BAKER: No questions. Thank you.

19 JUDGE WOODRUFF: Consumers Council?

20 MR. COFFMAN: No questions.

21 JUDGE WOODRUFF: Retailers?

22 MR. SCHWARZ: No questions.

23 JUDGE WOODRUFF: Complainants?

24 MR. DOWNEY: No questions.

25 JUDGE WOODRUFF: All right. Come up

1 for questions from the Bench. Mr. Chairman?

2 CHAIRMAN KENNEY: No questions.

3 JUDGE WOODRUFF: Commissioner Stoll?

4 COMMISSIONER STOLL: No questions.

5 JUDGE WOODRUFF: Commissioner Kenney?

6 COMMISSIONER W. KENNEY: No

7 questions.

8 JUDGE WOODRUFF: Commissioner Hall?

9 COMMISSIONER HALL: No questions.

10 JUDGE WOODRUFF: Commissioner Rupp?

11 COMMISSIONER RUPP: No.

12 JUDGE WOODRUFF: All right. No

13 recross, so no need for -- or no questions from the

14 Bench, so no recross, no redirect. And, Mr. Reed,

15 you can step down.

16 And I believe that concludes the

17 witnesses.

18 MR. BYRNE: Your Honor, there was one

19 thing left over from yesterday. Commissioner Hall

20 asked about -- during my opening statement asked if

21 there was any law or any jurisprudence on the

22 materiality standard, and I thought maybe I could

23 share what I've been able to find so far on that

24 topic, if that's okay.

25 JUDGE WOODRUFF: Go ahead.

1 MR. BYRNE: Well, Commissioner Hall,
2 I did not find any cases in Missouri that
3 specifically used the word materiality, but there
4 is a case -- and we and other parties can address
5 this in our Briefs as well. But there is a case,
6 Straub versus Bowling Green Gas Company, which is
7 -- the cite is 227 SW 2nd 666, and it's a Missouri
8 Supreme Court case that talks about the returns of
9 a utility varying during a period when the rates
10 are the same.

11 And in particular I'll read you a
12 quote out of it. It says, The ultimate return to
13 respondent as a result of the rate so fixed and
14 subsequently charged and collected will necessarily
15 vary from time to time. The law, of course, does
16 not require that the rates at any time yield any
17 particular return. No maximum or minimum return is
18 determined when the rate was established.

19 So it doesn't say the word material,
20 but it does contemplate that while the rate stays
21 the same, the return that a utility earns can go up
22 and down.

23 And you also see the same principle
24 in some of the treatises on public utility
25 ratemaking. Bonbright has one called The

1 Principles of Public Utility Rates. And he talks
2 about rate stability being an important
3 consideration, which would contemplate that they
4 don't change every time the return varies from time
5 to time.

6 So I don't know if that's -- it's not
7 exactly on point, but I thought that at least was
8 as good as I could come up with of authorities that
9 address the issue of materiality.

10 COMMISSIONER HALL: That's helpful.
11 Thank you.

12 MR. DOWNEY: Judge?

13 JUDGE WOODRUFF: Yes, sir.

14 MR. DOWNEY: I asked the Commission
15 to take notice of the Gary Weiss rebuttal
16 testimony, and you asked me to get you the exhibit
17 number.

18 JUDGE WOODRUFF: Yes.

19 MR. DOWNEY: It's Exhibit No. 6.

20 JUDGE WOODRUFF: Okay. Thank you.

21 Mr. Schwarz? Come up to the microphone so we can
22 hear you.

23 MR. SCHWARZ: I would like to know if
24 the Commission plans on adding hard copies of the
25 various things of which it's taken administrative

1 notice to the record. I think that it would be
2 helpful if you did. Should this case go up on
3 appeal, it would be well, I think, to add them as
4 exhibits and formally admit those into the record,
5 and I would ask that you do so.

6 JUDGE WOODRUFF: Any objection to
7 doing that?

8 MR. LOWERY: I have no objection,
9 although I think it's -- they are in the record
10 through official notice.

11 JUDGE WOODRUFF: They are in the
12 record. It certainly does help to make the record
13 cleaner. So I think both Complainants and Ameren
14 did that. I don't know if anybody else did. If
15 you could -- if you could submit those as
16 post-hearing submissions.

17 MR. LOWERY: I'm just going to pull
18 the official exhibit out of the other docket, which
19 is how we referenced them, and resubmit it in this
20 docket. Is that what you'd like for us to do?

21 JUDGE WOODRUFF: That's correct.

22 MR. LOWERY: Thank you.

23 JUDGE WOODRUFF: That also brings up
24 the question of how quickly we want the transcript.
25 I don't have it in front of me. When are the

1 Briefs due?

2 MR. LOWERY: August 15th I believe is
3 when the initial. So we have a little -- if we had
4 the transcripts, I don't know, by Monday, that
5 would give us roughly two weeks of business days to
6 do the Briefs. That probably would work.

7 JUDGE WOODRUFF: We'll go off the
8 record for a moment.

9 (AN OFF-THE-RECORD DISCUSSION WAS
10 HELD.)

11 JUDGE WOODRUFF: We had a discussion
12 while we were off the record with the court
13 reporter. She indicated Monday would be fine for
14 getting the transcripts in.

15 Anything else we need to take up?
16 All right. Then we are adjourned.

17 (WHEREUPON, the evidentiary hearing
18 concluded at 12:18 p.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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