

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of the Petition of )  
Union Electric Company d/b/a )  
Ameren Missouri for a Financing ) File No. EF-2024-0021  
Order Authorizing the Issue of )  
Securitized Utility Tariff Bonds )  
for Energy Transition Costs )  
Related to Rush Island Energy )  
Center. )  
)

\*\*\*\*\*  
VOLUME 2

VIDEOCONFERENCE EVIDENTIARY HEARING

TAKEN APRIL 12, 2024

\*\*\*\*\*

PRESIDING JUDGE:  
JOHN CLARK

COMMISSIONERS PRESENT:

KAYLA HAHN, Chair  
JASON HOLSMAN, Commissioner  
MAIDA COLEMAN, Commissioner

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## A P P E A R A N C E S

For Ameren Missouri:

Mr. James Lowery  
Mr. Nash Long  
9020 S. Barry Road  
Columbia, Missouri 65203

For the Office of the Public Counsel:

Mr. Nathan Williams  
200 Madison Street, Suite 650  
Jefferson City, Missouri 65102

For Public Service Commission Staff:

Ms. Nicole Mers  
200 Madison Street, Suite 800  
Jefferson City, Missouri 65102

For AARP & Consumer Council of Missouri:

Mr. John Coffman  
871 Tuxedo Boulevard  
St. Louis, Missouri 63119

For Renew Missouri

Mr. Andrew Linhares  
3115 South Grand Boulevard, Suite 600  
St. Louis, Missouri 63118

For Midwest Energy Consumers Group:

Mr. Tim Opitz  
308 E. High Street, Suite B101  
Jefferson City, Missouri 65101

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

Issue 3 - Prudency of retirement - Section A

JEFFREY HOLMSTEAD	PAGE:
Direct Examination by Mr. Long	63
Cross Examination by Mr. Williams	65
Cross Examination by Judge Clark	109
Cross Examination by Ms. Mers	120
Redirect Examination by Mr. Long	124

Court Reporter:  
 Joann Renee Richardson  
 Lexitas Legal Services  
 711 North Eleventh Street  
 St. Louis, MO 63101  
 (314) 644-2191  
 1-800-280-3376

1 JUDGE CLARK: Good morning. Today is  
2 April 12, 2024, and the current time is 9:03 a.m.  
3 This proceeding is being held electronically via  
4 Webex as the Commission is taking one witness out of  
5 order today due to the witness being unavailable  
6 during the rest of the hearing, which is April 15th  
7 through the 19th.

8 Now, the Commission has set aside this time  
9 today of an evidentiary hearing In the Matter of the  
10 Petition of Union Electric Company D/B/A Ameren  
11 Missouri For A Financing Order Authorizing The Issue  
12 Of Securitized Utility Tariff Bonds For Energy  
13 Transition Costs Related To The Rush Island Energy  
14 Center. And that is File No. EF-2024-0021.

15 My name is John Clark. I am the Regulatory  
16 Law Judge overseeing this proceeding today. Chair  
17 Hahn, would you like to make any opening remarks  
18 before I ask for the introduction of the parties?

19 CHAIR HAHN: Good morning. And thank you  
20 all for being here. I really appreciate everyone's  
21 attendance this morning. I know this is going to be a  
22 series of days for us and I look forward to learning  
23 more on the case. Thank you, Judge. Appreciate it.

24 JUDGE CLARK: Thank you, Commissioner Hahn.  
25 At this time I'm going to ask counsel for the parties to

1 enter their appearance for the record, starting with  
2 Union Electric, doing business as Ameren Missouri, whom  
3 I will refer to from this point on as Ameren or Ameren  
4 Missouri.

5 MR. LOWERY: Good morning, Judge. My name  
6 is Jim Lowery. I represent Ameren Missouri along with  
7 cocounsel Nash Long. I'll let him make his own  
8 appearance.

9 MADAM REPORTER: I'm having difficulty  
10 hearing Mr. Lowery. He sounds like he's in a tunnel or  
11 something.

12 JUDGE CLARK: Mr. Lowery, could you enter  
13 your appearance again, one more time.

14 MR. LOWERY: Yes. I'll try to speak a  
15 little more loudly. This is Jim Lowery, 9020 South  
16 Berry Road, Columbia, Missouri 65201, here on behalf of  
17 Ameren Missouri.

18 MR. LONG: Good morning everyone. My name  
19 is Nash Long. I'm also here on behalf of Ameren  
20 Missouri today.

21 JUDGE CLARK: What's your last name again?

22 MR. LONG: Long. L-O-N-G.

23 JUDGE CLARK: Okay. Thank you, Mr. Long.  
24 On behalf of the Staff of the Commission.

25 MS. MERS: On behalf of Staff, Nicole Mers,

1 200 Madison Street, P.O. Box 316, Jefferson City,  
2 Missouri 65102.

3 JUDGE CLARK: Thank you, Ms. Mers. On  
4 behalf of the Office of the Public Counsel.

5 MR. WILLIAMS: Nathan Williams, Chief Deputy  
6 Public Counsel, appearing on behalf of the Office of the  
7 Public Counsel and the public. Our address is P.O. Box  
8 2230, Jefferson City, Missouri 65102.

9 JUDGE CLARK: Mr. Williams, any objections  
10 to me referring to the Office of the Public Counsel as  
11 either Public Counsel or OPC?

12 MR. WILLIAMS: No.

13 JUDGE CLARK: Thank you. On behalf of  
14 Midwest Energy Consumers Group?

15 MR. OPTIZ: Good morning, Your Honor. Tim  
16 Opitz on behalf of Midwest Energy Consumers Group, or  
17 MECG.

18 JUDGE CLARK: Thank you, Mr. Opitz. On  
19 behalf of Missouri Industrial Energy Consumers? Anyone  
20 here from Missouri Industrial Energy Consumers, or MIEC?  
21 Okay. Well, they may show up later. On behalf of Renew  
22 Missouri?

23 MR. LINHARES: Yes. Good morning, Judge.  
24 This is Andrew Linhares entering an appearance for Renew  
25 Missouri. My address is 3115 South Grand Boulevard,

1 Suite 600, St. Louis, Missouri. Sorry?

2 JUDGE CLARK: Go ahead, Mr. Linhares. I was  
3 interrupting you.

4 MR. LINHARES: St. Louis, Missouri 63118.  
5 Thank you.

6 JUDGE CLARK: I apologize for the  
7 interruption. Thank you, Mr. Linhares. The Natural  
8 Resources Defense Council will not be here today. They  
9 filed a motion to be excused from this hearing and that  
10 motion was granted. They indicated that they had  
11 neither witnesses to present nor cross examination that  
12 they wanted to do. On behalf of AARP?

13 MR. COFFMAN: Good morning, Your Honor.  
14 John B. Coffman. I'm appearing today on behalf of AARP  
15 as well as on behalf of the Consumers Council of  
16 Missouri.

17 JUDGE CLARK: Thank you. Thank you,  
18 Mr. Coffman. I will say finally we have the Sierra  
19 Club. And Sierra Club also filed a motion to be  
20 excused, similarly stating that they had neither cross  
21 examination nor witness testimony that they wished to  
22 present. So that request to be excused was granted.  
23 Have I missed any parties? Are there any preliminary  
24 matters that I need to take up at this time.

25 MR. WILLIAMS: This is Nathan Williams for

1 Public Counsel.

2 JUDGE CLARK: Go ahead, Mr. Williams.

3 MR. WILLIAMS: We've got pending a couple of  
4 motions for leave to correct some schedules. I don't  
5 know if you want to take those up now or later.

6 JUDGE CLARK: It is my intention to grant  
7 those motions to correct your schedule. So I don't know  
8 if that's sufficient. I will grant that motion.

9 MR. WILLIAMS: Thank you. There are two,  
10 actually, one for Mr. Riley and then some schedules for  
11 Mr. Murray.

12 JUDGE CLARK: Well, let me ask. Are there  
13 any objections to granting the correction of those  
14 schedules? I hear no objections. Both of those motions  
15 will be granted.

16 MR. WILLIAMS: Thank you.

17 JUDGE CLARK: Are there any other  
18 preliminary matters at this time?

19 COMMISSIONER HOLSMAN: Judge, this is  
20 Commissioner Holsman. I've joined.

21 JUDGE CLARK: Thank you, Commissioner  
22 Holsman.

23 MR. LOWERY: Judge, this is Jim Lowery.  
24 Mr. Long will be delivering a mini opening statement on  
25 this issue this morning. He does have a powerpoint



1 presentation and I was wondering if I could send that to  
2 you and you could provide it to the Commissioners, and  
3 I'll also send it to the parties, if that's okay? I can  
4 do that now by email.

5 JUDGE CLARK: Hold on just a second. We're  
6 going to go off the record for just a second so that I  
7 can speak to Mr. Lamons and see if we need to make any  
8 accommodations for that. I was unaware that we were  
9 going to have any powerpoints this morning.

10 (Off the record.)

11

12 (Back on the record.)

13 JUDGE CLARK: I'm going to go ahead. Chair  
14 Hahn has made some opening remarks, but I'm going to go  
15 ahead and introduce the rest of the Commission now. The  
16 Commission is composed of five commissioners with the  
17 Chair being Chair Kayla Hahn.

18 And the other Commissioners, right now we  
19 have Commissioner Scott Rupp. Commissioner Rupp, are  
20 you on? Did I hear somebody? Commissioner Rupp may be  
21 joining us later. We've also got Commissioner Maida  
22 Coleman. Commissioner Coleman, are you present at this  
23 time?

24 COMMISSIONER COLEMAN: I am. Good morning.

25 JUDGE CLARK: Good morning. Thank you,

1 Commissioner Coleman. Commissioner Jason Holsman has  
2 already indicated he's on. Good morning, Commissioner  
3 Holsman.

4 COMMISSIONER HOLSMAN: Good morning, Judge.

5 JUDGE CLARK: Thank you. Commissioner Glen  
6 Kolkmeier, are you on at this time? And Commissioner  
7 Kolkmeier will most likely join us in a little bit.  
8 With that, I'm going to move on.

9 Confidential information. There's a lot of  
10 confidential information in this case and I am not, off  
11 the top of my head, going to remember what information  
12 is confidential. So I am relying on the parties to let  
13 me know if we need to go in camera. If it occurs to me  
14 that we may need to go in camera, I'll ask questions and  
15 do so.

16 But if you hear something coming up that  
17 sounds like it's going to be confidential, I would  
18 appreciate it if somebody would let me know so that we  
19 don't inadvertently put something out there that is  
20 confidential in nature and not intended for public  
21 consumption.

22 At the same time, there's some numbers in  
23 here that I'm not sure why are confidential, so we may  
24 also have a discussion in regards to that. Now, I  
25 received an email, as I believe you all did, from

1 Mr. Lowery asking if the parties could do a mini opening  
2 statement to set the stage for this issue, since we are  
3 taking an issue and a -- we're taking a witness out of  
4 order. Not an entire issue, but this witness just  
5 pertains to issue three, which is the prudence of the  
6 retirement, and I believe just to Section A of that. Is  
7 that correct, Mr. Lowery?

8 MR. LOWERY: That is correct, Judge. Yes.

9 JUDGE CLARK: Should I direct my questions  
10 on this to Mr. Nash?

11 MR. LOWERY: Mr. Long is actually handling  
12 this issue.

13 JUDGE CLARK: I'm sorry, Mr. Long.

14 MR. LOWERY: Yes. Thank you.

15 JUDGE CLARK: Thank you. And as far as the  
16 order for any opening statements, I'm going to just go  
17 with the order that was put forth for opening statements  
18 by the parties, unless I hear something else, and that  
19 would be Ameren Missouri followed with the Staff of the  
20 Commission, MIEC, who does not have an attorney here,  
21 AARP, MECG, Renew, and Public Counsel. So with that,  
22 are there any -- I know I heard from a few people. Are  
23 there any other preliminary matters I need to take up  
24 beyond what we've covered already?

25 All right, let's proceed with Ameren

1 Missouri. Mr. Long, you can start your mini opening  
2 statement for this issue.

3 OPENING STATEMENT

4 MR. LONG: Thank you, Judge. Let me share  
5 my screen and we will get started. All right. Can the  
6 parties and the Commissioners and the Judge see the  
7 screen just to check?

8 JUDGE CLARK: I cannot yet.

9 MR. WILLIAMS: Nor can I.

10 MR. LONG: Then I will fix that. How about  
11 now?

12 JUDGE CLARK: I can see it now. Thank you  
13 very much.

14 MR. LONG: Thank you. Sorry for that. Good  
15 morning everyone. My name is Nash Long here on behalf  
16 of Ameren Missouri. We'll be presenting a short,  
17 10-minute opening on Issue 3(A), which is the prudence  
18 of the Company's decisions regarding permitting for the  
19 Rush Island Energy Center in the years leading up to  
20 2007 and 2010. I'll be walking through this powerpoint  
21 presenting an overview of the issues and the  
22 introduction of the witnesses.

23 The first issue that we'd like to introduce  
24 is the reasonableness of the Company's permitting  
25 decisions for New Source Review. And that relies upon

1 the following evidence which will be presented at trial.

2 First, the Company, in making these  
3 decisions, relied upon Missouri law and the opinions of  
4 Missouri regulators, that is, the Missouri Department of  
5 Natural Resources. They also relied upon statements  
6 from the EPA program office in charge of New Source  
7 Review regulations. They relied upon the advice of  
8 national New Source Review experts. And they made  
9 decisions that were consistent with the rest of the  
10 utility industry, which did similar work without seeking  
11 permits over the course of decades.

12 And, finally, their decisions at the Company  
13 on not seeking permits were consistent with most court  
14 decisions that were being entered at that time. What is  
15 New Source Review? New Source Review has been part of  
16 the Clear Air Act for nearly 50 years now.

17 Under this program and the Clean Air Act, a  
18 new source of emissions will require a permit before it  
19 can be constructed. It does not apply to existing  
20 sources unless that existing source undergoes a  
21 modification.

22 The Clean Air Act defines modification as a  
23 change that would cause emissions to increase, but the  
24 act did not specify how to measure emissions. Missouri  
25 law, which has been approved by EPA as implementing the

1 Clear Air Act, define modification as an increase in  
2 potential emissions, that is, the maximum amount of  
3 emissions that could be emitted under the design of the  
4 unit.

5 Federal regulations in addition, those found  
6 at 40 Code of Federal Regulation 52.21, required a  
7 significant increase in actual annual emissions for a  
8 major modification. And this is how it works under the  
9 Missouri SIP at the relevant time.

10 A series of questions and answers which tell  
11 one whether permitting is required under the federally  
12 approved State Implementation Plan, S-I-P, or SIP, for  
13 short.

14 First question: Does the project cause any  
15 increase in potential emissions? That is the definition  
16 of modification. If no, then the permitting rule under  
17 the approved SIP is not applicable. A permit is not  
18 required, no permit of any type.

19 On the other hand, if the project would  
20 cause an increase in potential emissions, that is, be a  
21 modification, the next question is, what is the size of  
22 this potential emissions increase. And depending upon  
23 the answer to that question, the size of the increase,  
24 different types of permits might apply.

25 If the potential emissions increase is under

1 40 tons per year, the Missouri SIP, under the  
2 construction permitting rules, specifies what is called  
3 a de minimis permit to be obtained.

4 If, on the other hand, the size of the  
5 potential emissions increase is 40 tons per year or  
6 greater, then the Missouri SIP invokes the federal  
7 Prevention of Significant Deterioration, or New Source  
8 Review rules.

9 And those rules require that a project must  
10 also cause a significant increase in actual emissions.  
11 And that is an element for the definition of major  
12 modification.

13 If the project would not cause actual  
14 emissions to increase significantly, then no PSD, or New  
15 Source Review permit, is required. If, on the other  
16 hand, the project would cause actual emissions to  
17 increase by that significant amount, that is, over 40  
18 tons per year, then the New Source Review permit, the  
19 PSD permit, is required.

20 Many times you will hear throughout the  
21 course of the presentation of evidence on this issue  
22 folks refer to PSD, Prevention of Significant  
23 Deterioration, and New Source Review interchangeably.  
24 They are functionally the equivalent.

25 It depends upon whether the area at issue is

1 in attainment of the standards or ambient air or not.

2 But the fundamental program has been titled and referred  
3 to as New Source Review over the years. And so I and  
4 many witnesses will refer to PSD as part of and included  
5 within New Source Review.

6 But the first question and the fundamental  
7 question under the Missouri SIP, before you get to any  
8 of those questions, is whether the project causes any  
9 increase in potential emissions. And if no, under the  
10 established interpretation and application of the  
11 Missouri law that had been approved by EPA as  
12 implementing the Clean Air Act, no permit is required.

13 You'll hear from Ameren Missouri witnesses  
14 about the process they used at the relevant timeframe,  
15 that is 2005 to 2010, on making the determinations of  
16 whether projects require permits under the Missouri SIP.

17 At the company at the time, the  
18 Environmental Services Department, in particular, it's  
19 air quality group, conducted the pre-project reviews  
20 necessary for compliance for all existing units. They  
21 did so both for Ameren Missouri, the state of Missouri,  
22 as well as the sister utilities located in Illinois.

23 If the Department found that a project would  
24 trigger New Source Review, then the Department would  
25 initiate permitting. One example of that, which you



1 will hear about, is the Duck Creek facility in Illinois  
2 where a project was going to increase the potential  
3 emissions.

4 That project, because it would increase  
5 potentially emissions, underwent the review, the Company  
6 found it require a permit, the Company sought the New  
7 Source Review permit and obtained it.

8 But here, if projects were you found not to  
9 trigger New Source Review, then the Department would  
10 give the "go ahead" and the project would commence.

11 There was no documentation required of those  
12 decisions at the time under the existing rules, nor was  
13 it needed because the rules simply require the Company  
14 to use its basic engineering judgment in making the  
15 determination of whether emissions would increase. No  
16 requirement existed at the time to document it, and as a  
17 matter of basic engineering, there was no calculation  
18 that was required to make this judgment.

19 Specifically with respect to the decisions  
20 at issue, these were the decisions leading up to the  
21 Unit 1 work in 2007 and the Unit 2 work in 2010. New  
22 Source Review is a pre-project permitting program. The  
23 decisions are to be made by the source, the Company,  
24 before one actually begins work.

25 And it was in that timeframe, in the years

1 leading up to 2007 and in the years leading up to 2010,  
2 that the Company actually made the decision these  
3 projects would not trigger the New Source Review  
4 requirements under the SIP. I did so through the  
5 Environmental Services Department, which you will hear  
6 followed its normal process for making those  
7 determinations.

8 That Department also applied the same  
9 criteria that had been applied in Missouri for years.  
10 The Department concluded that for this specific work,  
11 for these these units, no permit was required under the  
12 Missouri State Implementation Plan for the reasons that  
13 we will talk about.

14 First, there was no increase in potential  
15 emissions for any of the work involved, therefore it did  
16 not meet the definition of modification. And under the  
17 established interpretation of the Missouri Construction  
18 Permitting Rule adopted into the State Implementation  
19 Plan and approved by EPA, no permits were required.

20 The second reason that the Environmental  
21 Services Department found New Source Review would not  
22 apply is they did not expect projects to cause annual  
23 emissions to go up, and therefore it would not meet the  
24 definition of a major modification either.

25 The third reason that the Company, through

1 the Environmental Services Department, was because the  
2 work involved was just the routine replacement of parts  
3 and components on existing units, so it did not meet the  
4 requirement or the definition of a change.

5 The Company could have stopped with reason  
6 number one, no potential emissions, therefore not a  
7 modification, relying only on the SIP, that is, the  
8 Missouri State Implementation Plan.

9 However, it also evaluated and considered  
10 the other two reasons and found them to confirm and  
11 strengthen the Company's conclusions that no permit was  
12 required. Is there a question?

13 JUDGE CLARK: I don't believe so. I believe  
14 that was just some background noise. Again, I'm going  
15 to remind you, if you're not currently speaking, please  
16 mute your microphone. If you're attending by phone, if  
17 you can mute your phone, I would appreciate it. If  
18 you'll go ahead, Mr. Long.

19 MR. LONG: Thank you, Judge. You will also  
20 hear from the witnesses how the permitting decisions  
21 were made and what they were based upon. They were  
22 based upon the knowledge and experience of the  
23 professional staff in the Environmental Services  
24 Department, relying upon the text of the Missouri State  
25 Implementation Plan, which I've already outlined and

1 walked through.

2           They relied upon guidance given by the State  
3 through its Department of Natural Resources, and by EPA  
4 through it's program office. They relied upon the  
5 shared knowledge and experience of the utility industry,  
6 not just within Missouri, but nationwide. And they also  
7 relied upon the input of lawyers with recognized  
8 experience in New Source Review.

9           The conclusion from all of the evidence  
10 presented will be that the permitting decisions were  
11 reasonable. The Company held the same positions as  
12 Missouri Department of Natural Resources at the time.  
13 The Company held the same positions as the EPA program  
14 office at the time.

15           The Company made the same decisions as the  
16 rest of the industry on similar projects, all concluding  
17 that they did not require permits at the time. And the  
18 Company made the same decisions as most courts at the  
19 time and even since.

20           All of these facts, which will be presented  
21 through the witnesses by Ameren Missouri, we submit will  
22 support the reasonableness of the decisions the Company  
23 made at the time, in that period, '05 to 2010, that no  
24 permits were required.

25           There's been much talk about the subsequent

1 case decided years later, seven to 10 years later after  
2 these decisions were made, and whether that somehow  
3 makes the reasonable decisions the Company reached in  
4 its compliance process somehow unreasonable. That is  
5 not the case.

6 The Clean Air Act, as you will hear, has a  
7 strict liability standard. It does not turn on  
8 negligence, reasonableness, exercise of due care, or  
9 prudence.

10 In addition, you will hear from the  
11 witnesses pointing out how the district court in its  
12 later decisions relied upon facts, data, and case law  
13 that was developed after the fact; in other words, it  
14 was not conducting a prudence inquiry, could not have  
15 made a prudence inquiry because of the incorporation of  
16 those decisions, facts, case law, et cetera, which came  
17 after the fact.

18 Certainly the District Court disagreed with  
19 Ameren Missouri on the law, but it did not find -- never  
20 found that Ameren Missouri had an unreasonable  
21 understanding of what the law was.

22 And, finally, Ameren Missouri's decisions  
23 were well-supported and reasonable based upon what was  
24 known or available at the time. That will be presented  
25 through the following witnesses.

1 First, Mr. Mark Birk. He was an electrical  
2 engineer by training. He's now the President of Ameren  
3 Missouri. But at the relevant time, '05 to 2010, he was  
4 the Vice President of Power Operations.

5 And he will explain the Company's  
6 operations, it's desire to maintain system reliability,  
7 its obligation to maintain unit availability, the  
8 practices of component replacements designed to do such,  
9 and how that was all constant with routine industry  
10 practice.

11 He'll describe the compliance process that  
12 existed at the time at Ameren Missouri and the role of  
13 the Environmental Services Department, and he'll touch  
14 on the decisions concerning Rush Island that were made  
15 by the Environmental Services Department and supported  
16 by the rest of the Company.

17 The next witness is Mr. Steven Whitworth,  
18 who retired fairly recently. At the relevant time, 2005  
19 to 2010, he was the head of the Air Quality Group and  
20 then became the manager/director of the Environmental  
21 Services Department in which the Air Quality Group sets.

22 He will explain the process that was applied  
23 by the Company in order to ensure compliance, the  
24 criteria that it used in general and with respect to  
25 Rush Island. He'll explain where those criteria came

1 from; in other words, the due diligence performed by the  
2 Company in developing its understanding of the law.

3 He'll describe in detail the decisions the  
4 Department made on Rush Island and why he concluded that  
5 under the established criteria, no permits of any kind,  
6 including New Source Review permits, would have been  
7 required. And he'll also describe how these decisions  
8 were subsequently confirmed by the actions and  
9 statements of the Missouri Department of Natural  
10 Resources.

11 Next is Mr. Holmstead, whom we'll be taking  
12 out of order and you'll hear from today. He is ranked  
13 as one of the country's leading Clean Air Act lawyers.  
14 Significantly, he was the former Assistant Administrator  
15 for EPA for the Air and Radiation Office, which is the  
16 office that had responsibility for the New Source Review  
17 program at EPA.

18 Since he left EPA in 2005, he's been working  
19 on these and other issues as head of an environmental  
20 group at his law firm. He's been working with utilities  
21 on New Source Review throughout this relevant timeframe.

22 And his topics will include explaining how  
23 the Clean Air Act works, with the states in the lead,  
24 subject to EPA oversight. He'll explain the  
25 implementation and application of the law through the

1 State Implementation Plans approved by EPA.

2 He will explain the application by EPA at  
3 the relevant period of time, 2005 to 2010, and how  
4 utilities complied with the law then and now. And based  
5 on this, he will offer the opinion that the Company made  
6 reasonable decisions based upon the known and knowable  
7 facts available at the time.

8 The final witness that you'll hear from,  
9 from the Company on this issue, is Mr. Karl Moor, who is  
10 also an expert in environmental law, recently retired  
11 from EPA, where he too served in the air program office,  
12 the same office as Mr. Holmstead in an earlier  
13 timeframe, that same office that had responsibility for  
14 New Source Review at the EPA level.

15 But at the relevant time, 2005 to 2010, he  
16 worked at Southern Company, a large electric utility,  
17 where he focused on New Source Review and provided  
18 advice and counsel on New Source Review to his client,  
19 Southern Company, throughout this relevant timeframe.

20 He will explain also the application of the  
21 Clean Air Act through the State Implementation Plan, the  
22 role of the State Implementation Plan as a state  
23 regulator, New Source Review, industry knowledge of New  
24 Source Review, and the case law that was developing on  
25 New Source Review at the time. And he concludes, based



1 on all of those facts, that the Company made reasonable  
2 decisions based on what was known and knowable at the  
3 time.

4 Let me also talk about the other witnesses  
5 who touch on these issues. The first, a Staff witness,  
6 Claire Eubanks, who is an environmental engineer. Her  
7 testimony does not contend that the Company was  
8 imprudent. The issue she raises is lack of a  
9 documentation.

10 However, we point out through our witnesses  
11 that the Company followed its standard practice, did not  
12 require documentation of these positions at the time.  
13 It did not require anything more than the simple  
14 engineering judgment that if you're not changing the  
15 design of the facility and its maximum achievable design  
16 rate, you're not going to change potential emissions.

17 You'll hear how nobody disputes that simple  
18 engineering judgment can be reached without doing  
19 documentation or calculations. And nothing more was  
20 required under the law that existed at the time.

21 The other staff witness is an accountant,  
22 Mr. Keith Majors. He does say that the Company was  
23 imprudent, but he rests that opinion solely on three  
24 court opinions, two by the District Court, one by the  
25 Eighth Circuit.

1           The problem, which Mr. Majors acknowledges,  
2           is that these courts were not applying the test for  
3           prudence. The courts looked through the project data  
4           and incorporated analyses that were developed after the  
5           project and relied upon case law that was developed  
6           after the project. None of these opinions can possibly  
7           represent a prudence determination because each  
8           incorporated and relied upon those items which are  
9           hindsight.

10           Now, yes, the District Court did write in  
11           that remedy opinion in 2019 that it had found in the  
12           earlier opinion in 2017 that the decisions made not to  
13           seek permits were not reasonable, but if you actually go  
14           back to the liability decision and read that, which you  
15           should, you'll conclude that that is not what the  
16           liability opinion actually says.

17           What that liability opinion actually says is  
18           that the emissions case presented by Ameren Missouri at  
19           trial did not follow the requirements of the New Source  
20           Review rules as the District Court had laid them out in  
21           2016.

22           The District Court there says that the  
23           emissions analysis that Ameren Missouri provided to the  
24           court did not follow the law, as the District Court  
25           found in its 2016 determination, and therefore were not

1 reasonable emission analyses under the law. That's what  
2 the opinion says.

3           Nowhere does the opinion say that Ameren  
4 Missouri failed to consider permitting requirements.  
5 Nowhere does an opinion say that Ameren Missouri acted  
6 in bad faith or tried to skirt its obligations under the  
7 law.

8           What it actually says is that the Company  
9 acted based upon a misunderstanding of the law, but it  
10 nowhere says, either in the 2017, 2019, or even in the  
11 2021 opinion, that Ameren had some unreasonable  
12 understanding of the law.

13           The final witness you'll hear from is from  
14 the Office of Public Counsel, Mr. Seaver. He has not  
15 testified on prudence before. He does not rely on any  
16 of the District Court opinions, instead he relies on one  
17 case from 1988 regarding WEPCo. I'm using the acronym  
18 WEPCo, or Wisconsin Electric Power Company.

19           That one case relied upon by Mr. Seaver is  
20 an instance where potential emissions were increasing  
21 and therefore permitting was required. The problem that  
22 Mr. Seaver has is that he did not know the particulars  
23 of that 1988 determination and, at his deposition, was  
24 forced to admit that it was reasonably distinguishable  
25 from Rush Island.

1           The other problem Mr. Seaver has is that the  
2 WEPCo case actually supported Ameren Missouri's  
3 permitting decisions because of what EPA said about it  
4 in the years between 1988 and the Rush Island projects.

5           In courts across the country, including this  
6 Alabama Power court in 2008, have rejected Mr. Seaver's  
7 attempt to use this one isolated WEPCo decision as  
8 somehow meaning all projects required permitting. In  
9 fact, that court in 2008 said the same approach that  
10 Mr. Seaver's was using in his testimony here was simply  
11 superficial and sufficient.

12           In summary, the Company made reasonable  
13 permitting decisions. This is illustrated by the fact  
14 that the state, through the Department of Natural  
15 Resources, held the same position. EPA's program office  
16 held the same position. The rest of industry made the  
17 same decisions on very similar projects. Most courts  
18 across the country were making the same decisions as the  
19 Company made here.

20           None of these facts are disputed or will be  
21 disputed and hindsight and second guessing cannot  
22 overcome this evidence. Therefore, the conclusion at  
23 the end of the day will be, we submit, that the Company  
24 made reasonable permitting decisions. Thank you.

25           JUDGE CLARK: Thank you, Mr. Long. Are

1 there any Commission questions for Ameren's attorney? I  
2 hear none at this time. Mr. Long, Mr. Lowery, I have a  
3 few questions for you that I'd like to go over.

4 You had indicated, Mr. Long, that you lumped  
5 the New Source Review and the PSD permitting together.  
6 Would you explain to me -- because I didn't really  
7 understand that, can you explain to me while you're  
8 lumping those two together?

9 MR. WILLIAMS: Judge, excuse me. Could he  
10 unshare his screen? Could he stop sharing his screen  
11 and we could see you guys on camera?

12 JUDGE CLARK: Thank you, Mr. Williams.

13 MR. LONG: Let me attempt to do that. One  
14 second. I'm not very technical.

15 MR. WILLIAMS: It should just say "stop  
16 sharing."

17 (Off the record discussion.)

18 JUDGE CLARK: Back to my question. Why are  
19 you lumping the New Source Review and the PSD permitting  
20 together?

21 MR. LONG: Judge, it is a common verbal  
22 shorthand. There are technically two types of New  
23 Source Review that would apply depending upon whether  
24 the area, the geographic area, is in compliance with the  
25 National Ambient Air Quality Standards.

1           One of those types of New Source Review is  
2 the nonattainment New Source Review, sometimes referred  
3 to by the acronym NSR. What that means is New Source  
4 Review for the nonattainment areas, that is, where the  
5 air is dirtier than that which would be allowed by the  
6 National Ambient Air Quality Standards set by EPA.  
7 There are a set of New Source Review regulations that  
8 apply to those areas, the nonattainment New Source  
9 Review Regulations.

10           Now, on the other hand, what about areas  
11 that are in attainment of the Ambient Air Quality  
12 Standards. Those attainment areas, the New Source  
13 Review Program, is called Prevention of Significant  
14 Deterioration.

15           And as the acronym or the title implies, you  
16 don't want the overall quality of the air, the ambient  
17 standards to degrade into nonattainment. And so that  
18 type of New Source Review applies to the area where the  
19 -- the geographic area where the ambient standards are  
20 being met.

21           The applicability, whether something is a  
22 project that requires permitting under either of those  
23 two programs, it's the same. And so it's generally  
24 referred together under the heading of New Source  
25 Review. And this is explained in direct testimony of

1 Mr. Holmstead that he has prefiled in this case.

2 It's generally how practitioners in the area  
3 refer to the program, the New Source Review Program, as  
4 a whole, rather than speaking individually about  
5 attainment areas or nonattainment areas. I hope that  
6 helps.

7 JUDGE CLARK: It does. Thank you for  
8 clarifying that for me. One of your early slides said  
9 that this was a common practice across the utility  
10 industry and indicated that other utilities did similar  
11 work without seeking permits. Is Mr. Holmstead going to  
12 be able to elaborate on what utilities with  
13 particularity?

14 MR. LONG: Yes, he can talk about utilities  
15 that he has experience with that did similar work. He  
16 can talk about the utilities that he's aware of, without  
17 necessarily working directly with them, that did similar  
18 work. And you can also ask that question, too, of  
19 Mr. Moor. And you can also feel free to ask that  
20 question of Mr. Birk and Mr. Whitworth at the  
21 appropriate time. I think all the witnesses could  
22 provide you information on that. And Mr. Holmstead  
23 would be prepared to start that process today.

24 JUDGE CLARK: Thank you very much. Now,  
25 this issue, just to recap the issue real quick, is it

1 reasonable and prudent for Ameren Missouri to retire or  
2 abandon Rush Island September 1st through October 15th  
3 of 2024, and then Sub A of that, which we're addressing  
4 today, at least in regard to Mr. Holmstead is, did  
5 Ameren Missouri make reasonable and prudent decisions  
6 respecting whether to obtain New Source Review, NSR  
7 permits, prior to either or both of the 2007 and 2010  
8 Rush Island planned outage projects and afterwards  
9 including its conduct of NSR litigation. If any of its  
10 decisions in this regard were unreasonable and  
11 imprudent, did such imprudent decisions harm customers  
12 and, if so, what amount.

13           That's interesting to me because I'm kind of  
14 wondering why exactly we're talking about the New Source  
15 Review. So what I want to ask you is, what decisions do  
16 you believe that the Commission needs to make in this  
17 case regarding reasonableness and prudence?

18           MR. LONG: The first decision is whether the  
19 retirement decision is reasonable and prudent, but  
20 questions have also been raised about the factual  
21 predicate, the underpinning of those -- that retirement  
22 decision, which does get back to the permitting  
23 decisions made many, many years ago.

24           I believe at least one party has raised the  
25 issue of whether those decisions were prudent. So we



1 are here to present the evidence that we think would  
2 show that the Company made reasonable and prudent  
3 decisions at the time.

4 And there would also be a witness -- not  
5 Mr. Holmstead -- but later to present the issue of how  
6 even if there was -- even if the Company had obtained  
7 permits at the time and applied scrubbers, that would  
8 have put the customers, the consumers, in a worse  
9 position.

10 So we're prepared to address all of these  
11 issues and answer all of those questions from the  
12 Commission and yourself and from any party in the case  
13 should they desire.

14 JUDGE CLARK: Okay. And I appreciate that  
15 answer and I appreciate that you're here to answer all  
16 those questions. What I'm asking is, what reasonable  
17 and prudence decision does Ameren believe the Commission  
18 needs to make in this case? Not what are the issues  
19 that the parties have put forth, what decisions  
20 concerning reasonableness and prudence does Ameren  
21 believe the Commission needs to make in this case?

22 MR. LOWERY: Judge, Jim Lowery.

23 JUDGE CLARK: Hold on a second. Mr. Lowery,  
24 did you want to field that?

25 MR. LOWERY: Maybe I can help answer that

1 question. So as Mr. Long addressed, at least one party  
2 in the case -- and the party I think he's referring to  
3 is OPC -- has specifically indicated that the Company,  
4 based on the WEPCo decision that Mr. Long referred to,  
5 which was a pre-NSR permitting, you know, decision that  
6 the Company was aware of, and I'm sure OPC will say the  
7 Company should have been aware of if it wasn't, but by  
8 failing -- what OPC's contention is, is that the Company  
9 knew about the WEPCo decision.

10 The Company knew WEPCo didn't get permits,  
11 but should have, and they contend that the Rush Island  
12 projects were similar, the circumstances were similar,  
13 and that therefore told the Company it should have got  
14 NSR permits. In other words, the Company was  
15 unreasonable for not getting NSR permits because of the  
16 WEPCo decision.

17 And then based on that, OPC proposes a \$34  
18 million disallowance in this case. Well, I think to  
19 rule on OPC's contention that we were unreasonable for  
20 not getting the permits because of WEPCo and that \$34  
21 million should be disallowed, you've got to make the  
22 decision about whether we were reasonable in our  
23 permitting decisions made in 2007 and 2010.

24 The other thing you obviously have to do, I  
25 think, as well is, you have to find that the retirement

1 decision that was made in December of 2021 was  
2 reasonable, that it was reasonable for us not to scrub  
3 the plant and to retire it instead when faced with the  
4 court's decision that had been upheld by the Court of  
5 Appeals that we had to install scrubbers, and our  
6 conclusion it was not in the best interest of our  
7 customers to spend hundreds of millions of dollars on  
8 scrubbers and it was better for customers to retire it  
9 instead. So I think those are the two prudence-related  
10 decisions that the Commission needs to make in this  
11 case.

12 JUDGE CLARK: Okay. Mr. Lowery, I'm going  
13 to expound on that for just a second. In regard to the  
14 NSR decision, or the decision to not seek New Source  
15 Review, is that a decision in regard to whether to  
16 securitize or is that a decision in regard to whether  
17 there should be a disallowance?

18 MR. LOWERY: OPC is asking that you deny  
19 securitization of \$34 million based upon alleged  
20 unreasonableness or imprudence around this NSR permit  
21 decision. So OPC is making it an issue around the  
22 securitization. They are saying do not securitize that  
23 \$34 million because the Company acted unreasonably and  
24 imprudently 12, 15 years ago. So that disallowance  
25 proposal and the basis of it has made that an issue in

1 the securitization case. I don't really see any way  
2 around that.

3 JUDGE CLARK: Are those the only two points  
4 at which you believe the Commission needs to make a  
5 reasonable and prudence decision?

6 MR. LOWERY: Those are the only two that  
7 come to mind, yes, Your Honor.

8 JUDGE CLARK: Thank you. I see these words  
9 lumped together both in testimony and in the statute.  
10 It says -- let me just read directly from the statute.  
11 Where such early retirement or abandonment -- and this  
12 is in regards to energy transition costs, which is 1 sub  
13 (7) under 393.1700 RSMo.

14 And it says in regard to energy transition  
15 costs that you can apply for pretax cost for abandoned  
16 or retired facilities where such early retirement or  
17 abandonment is deemed reasonable and prudent. Is there  
18 a difference between reasonableness and prudent? Why  
19 are both of those together?

20 MR. LOWERY: That's a very good question. I  
21 don't think there is a difference. If you look at the  
22 Commission's jurisprudence on prudence and you look at  
23 the Court of Appeals -- I don't think the Supreme Court  
24 has addressed it, but the Court of Appeals has addressed  
25 the standard many times -- the terms that they are using

1 are interchangeably.

2 The definition -- and I think if you look at  
3 your Liberty order where you most recently sort of laid  
4 out the prudence standard, I think the sum and substance  
5 of it is that you act prudently if you acted reasonably  
6 under the circumstances, given what you knew or should  
7 have known, or conversely you act imprudently if you act  
8 unreasonably under the circumstances.

9 So I think they are really, you know, two  
10 sides of the same coin and I think the language in the  
11 statute just reflects that that's how the prudent  
12 standard has been applied for, I think, many decades.

13 JUDGE CLARK: Bear with me just one moment.  
14 What would you say is the biggest difference between  
15 Ameren's position and, say, Staff's or Public Counsel?

16 MR. LOWERY: On these prudence questions,  
17 Judge?

18 JUDGE CLARK: Yes, on this issue.

19 MR. LOWERY: I think with respect to Staff,  
20 as Mr. Long indicated, Mr. Majors does actually indicate  
21 that he believes that the Company acted imprudently back  
22 in 2007 and 2010, but his sole basis for that is simply  
23 an opinion that if you're found to have violated the  
24 law, that's sort of per se imprudence. Of course we  
25 disagree with that. I don't think that fits the

1 prudence standard at all. He even calls it on the basis  
2 of what we knew or should have known as imprudent.

3 Staff witness Eubanks doesn't reach the  
4 decision or opinion that the Company acted imprudently  
5 back then, but the reason I believe that she doesn't is  
6 that she doesn't believe that any harm has been shown at  
7 this point. She collapses the prudence inquiry -- the  
8 prudence question into both the question of the  
9 reasonableness of the action and whether there was harm.

10 And if you don't have both, I believe, based  
11 on the questions I asked her in deposition, I believe  
12 what she would say is, if you don't have both, you  
13 really don't have imprudence at all. You haven't gotten  
14 there yet.

15 Our view of prudence, and I think if you  
16 look at the law surrounding it is, there are two  
17 inquiries. You can have acted imprudently, but not hurt  
18 anybody. You can imprudently run a red light, but not  
19 actually hit any car and hurt anybody, so there's no  
20 damages. That doesn't mean you were reasonable when you  
21 ran the red light. So I think they're two different  
22 questions.

23 In terms of the question of the retirement  
24 versus retrofit, I don't think that Staff is of the  
25 opinion or has not expressed the opinion or I don't

1 believe they are prepared to express the opinion that  
2 the Company's decision was imprudent.

3 I think staff has raised questions about the  
4 completeness of the analysis that the Company did around  
5 that retirement versus retrofit decision, but I don't  
6 believe Staff is contending that the Company's decision  
7 was incorrect or retirement should not have happened.

8 OPC's position on that I think is less clear  
9 to me. But, you know, as our evidence indicates, both  
10 analysis done at the time and analysis done since then  
11 in response to claims that I think have been made, at  
12 least implied in this case, that the Company perhaps  
13 didn't make the right decision.

14 The evidence is undisputed, I think, that  
15 customers are far better off not investing hundreds of  
16 millions of dollars or a billion dollars, or whatever it  
17 would be, in scrubbers and retiring the plant than they  
18 would have been to invest that money and keep the plant  
19 open.

20 So I think there is -- certainly I think  
21 there's a difference of opinion about it or at least a  
22 lack of surety about it, but I think it's not entirely  
23 clear exactly where the other parties are on that at  
24 times.

25 JUDGE CLARK: Thank you, Mr. Lowery. The

1 last thing I have at this point in time is not a  
2 question, but Mr. Long had indicated in regards to the  
3 2017, 2019, and 2021 District Court decisions, that the  
4 Commission ought to take a look at those. I believe  
5 somewhere in testimony I saw the '21 decision. I'm not  
6 100 percent sure.

7 What I want to know at this time is, are  
8 there any party objections to the Commission taking the  
9 2017, 2019 and 2021 District Court decisions as  
10 Commission exhibits in this case and admitting those on  
11 to the record for the Commission's consideration? Are  
12 there any objections from any of the parties?

13 MR. LOWERY: I believe that at least two of  
14 them are included in pre-filed testimony. Mr. Long  
15 probably knows that for sure. Maybe one of them is not,  
16 Mr. Long?

17 MR. LONG: I believe they are all part of  
18 the record already.

19 JUDGE CLARK: Okay. I know I remember  
20 seeing the '21 decision, I thought. I'm not sure on the  
21 2017. I will hold on that for now. I'll take a look at  
22 the record and see if those are in there and watch to  
23 see if those are admitted and I may come back to this  
24 question on a future witness. I have no further  
25 questions.



1 Based upon my questions, are there any  
2 questions the Commission would like to ask at this time?  
3 I hear none. The next mini opening that I have is from  
4 the Staff of the Commission. Ms. Mers, are you ready?

5 OPENING STATEMENT

6 MS. MERS: Good morning, my name is Nicole  
7 Mers and I represent the Staff of the Missouri Public  
8 Service Commission. The parties believed it would be  
9 helpful to give a brief primer of this issue before  
10 taking Ameren Missouri's witness Holmstead today.

11 My understanding is that Mr. Holmstead is  
12 solely testifying on prudence issues, which are stated  
13 as follows: Is it reasonable and prudent for Ameren  
14 Missouri to abandon or retire Rush Island during  
15 September 1st through October 15th of 2024, and did  
16 Ameren Missouri make reasonable and prudent decisions  
17 respecting whether to obtain New Source Review, also  
18 known as NSR, permits prior to either or both of the  
19 2007 and 2010 Rush Island planned outage projects.

20 And afterwards, including its conduct of the  
21 NSR litigation, if any of its decisions in this regard  
22 were unreasonable and imprudent, did any such imprudent  
23 decisions harm customers and, if so, in what amount.  
24 That being so, I will primarily address this issue and I  
25 reserve addressing the other subpart on the allocated

1 day for it.

2 So Staff does believe that Ameren Missouri's  
3 decision to comply with the District Court's modified  
4 remedy order to retire Rush Island's plant no later than  
5 October 15th in 2024 is reasonable and prudent, however,  
6 Staff does not believe it was prudent or reasonable to  
7 make decisions that led to the violations of federal  
8 law.

9 Throughout the District Court opinion, as  
10 upheld on appeal, the District Court found Ameren  
11 Missouri knew or should have known the improvements at  
12 Rush Island would trigger NSR. This conclusion is not  
13 based on a hindsight analysis.

14 Furthermore, as evidenced in the transcript  
15 filed by Ameren Missouri on April 8th, 2024, beginning  
16 on Page 25, Line 17, through Page 26, Line 6, Mr. Quinn,  
17 on behalf of the United States stated: I think it's  
18 evident from the filings that Ameren has struggled to  
19 accurately -- is there a question? -- struggled to  
20 accurately convey these proceedings to the MPSC and has  
21 now also struggled to fully wrestle with that failure  
22 before this Court.

23 I believe the examples I just provided to  
24 the court speak for themselves, but I think -- suffice  
25 it to say, contradictions abound between what's been

1 said to the MPSC and what this Court has said. As  
2 you'll see, Ameren has sort of painted itself into a  
3 corner to the MPSC.

4 The Company is committed to maintaining its  
5 position that it's never done anything wrong. But in  
6 these proceedings, of course, we know that this Court  
7 and the Eight Circuit has said Ameren did make a big  
8 mistake, and one that cost people their lives.

9 The Court then responded on Page 31, Line  
10 22, through Page 33, Line 8 of that same transcript: I  
11 mean, it is what I said in my opinion; that a decision  
12 was not reasonable. And that's not mentioned anywhere  
13 to the PSC. In fact, Ameren continues to take the  
14 position that despite this Court's findings and its  
15 findings be affirmed in all respects by the U.S. Court  
16 of Appeals, the decision was not reasonable. You went  
17 to the PSC and you told them that it was. That's fine.

18 What I'm going to ask you to do is to order  
19 a copy of today's transcript and send that to the PSC  
20 for them to evaluate it, however they see fit, based on  
21 their standards, and they'll make their own decision on  
22 this basis.

23 So the Court is adamant that Ameren Missouri  
24 made mistakes and took unreasonable actions. As  
25 outlined in the rebuttal and surrebuttal testimonies of

1 Staff witnesses Keith Majors and Claire Eubanks, the  
2 Court findings were thorough and well-supported in  
3 coming to this decision.

4 However, the harm is not fully known to  
5 customers and that's not known for us to provide to the  
6 Commission because the Court is considering additional  
7 remedies, which was also discussed in the transcript  
8 from the status hearing that was conducted a few weeks  
9 ago on March 28, 2024.

10 It is Staff's position that any additional  
11 remedies related to Ameren Missouri's litigation on Rush  
12 Island be borne by Ameren Missouri and not its  
13 customers. The proper place for those prudence  
14 adjustments would be in subsequent rate cases where  
15 Ameren Missouri proposes to collect costs related to  
16 those additional remedies.

17 Staff raises the issue now to preserve it  
18 for those future hearings. This issue was heightened by  
19 a statement in the transcript Ameren Missouri filed in  
20 this case on April 8, 2024. The United States posits a  
21 potential \$275 million in remedies for the damage done  
22 by Ameren Missouri. This amount is highly concerning to  
23 Staff.

24 On top of transmission upgrades, which are  
25 discussed by Staff witnesses Shawn Lange and Claire

1 Eubanks, this also does not include the potential  
2 short-term capacity shortfall that may occur before  
3 replacement of Rush Island's capacity.

4 Staff witness Claire Eubanks can explain in  
5 more detail how these recent facts further support our  
6 recommendation to hold Ameren Missouri's customers  
7 harmless for those additional remedies due to the Court  
8 determined unreasonable action in regards to the  
9 permitting process.

10 Thank you. I'm happy to answer any  
11 questions you have. Otherwise, I urge you to ask Claire  
12 Eubanks, Shawn Lange, Brad Fortson and Keith Majors  
13 questions when it is their turn on the stand.

14 JUDGE CLARK: Thank you, Ms. Mers. Are  
15 there any Commission questions for this attorney? I've  
16 got a few. I'm going to start with the thing that kind  
17 of stuck out to me immediately, Ms. Mers. And you  
18 indicated that Staff is bringing up this issue. You  
19 said that any harm would be addressed in a future rate  
20 case; is that correct?

21 MS. MERS: Yes.

22 JUDGE CLARK: And that Staff is bringing  
23 this issue up at this time to preserve it. What do you  
24 mean by that?

25 MS. MERS: Well, I think we even heard it in

1 the opening this morning, that often we're accused of  
2 using hindsight if we would wait to that rate case to  
3 explain our issues with the decisionmaking process. So  
4 we wanted to document thoroughly why we believe that  
5 those remedies should not be borne by the customers and  
6 put Ameren on notice that that was a position that we  
7 were going to take.

8 JUDGE CLARK: Isn't that always the case,  
9 though? When you're looking at prudence evaluations,  
10 aren't you always -- you're looking at the decision at  
11 the time and what was known, but from the perspective of  
12 the Commission, nobody is asking the Commission to issue  
13 an advisory opinion, which the Commission could not do,  
14 but nobody is asking this decision we're about to make,  
15 is it prudent. We're always looking back on these  
16 decisions. We're always dissecting them in the past and  
17 asking ourselves what was known at the time. So why  
18 does it make a difference whether it's here or in a rate  
19 case?

20 MS. MERS: Well, when we know the final harm  
21 figure, that's the only time that we can actually make  
22 that disallowance then, without -- from a factual  
23 number. We can't do it until those subsequent rate  
24 cases. And we often get hearings derailed by  
25 accusations of using hindsight or Monday morning

1     quarterbacking from the utilities.  So, again, it's just  
2     a way to address that potential.

3             JUDGE CLARK:  I can certainly see from  
4     Staff's point of view wanting to get that out there.  So  
5     thank you for explaining that to me.  Now, Staff, based  
6     upon the NSR permitting, is asking for a disallowance;  
7     is that correct?

8             MS. MERS:  We are not --

9             JUDGE CLARK:  Is that only OPC?

10            MS. MERS:  That's only OPC.  There's an --  
11     potentially an in camera disallowance that I think we're  
12     making, but it's not related to the securitization  
13     amount.

14            JUDGE CLARK:  Are we kind of muddying up  
15     this issue here?  Because the way I read the statute,  
16     we're looking -- we're looking -- the statute only  
17     mentions prudence in regards to energy transition costs  
18     as to the decision to retire the plant.  You've  
19     indicated that the District Court has made no  
20     determination on harm or damage at this time and my  
21     understanding is that Ameren was recently ordered to --  
22     I believe on March 14 -- provide their potential  
23     remedies.

24            So if we make a decision in regard to an NSR  
25     thing, whether it be a disallowance or otherwise, are we

1 stepping on the District Court's feet, especially if  
2 you're going to be evaluating this in a future rate case  
3 when, if there's harm, that harm might be more known?

4 MS. MERS: I don't believe we'll be stepping  
5 on the District Court's jurisdiction or their decisions  
6 on what remedies to order. It's clear through those  
7 three cases that the Court was very unhappy with how  
8 Ameren approached the permitting process and the  
9 decisions that they made and that they believed it to be  
10 very unreasonable and that, frankly, they need to take  
11 responsibility for those actions. So holding customers  
12 harmless is a way to do so and still effectuate the  
13 District Court's orders.

14 JUDGE CLARK: I believe we'll get into the  
15 hold harmless proposal with Ms. Eubanks, correct?

16 MS. MERS: Correct.

17 JUDGE CLARK: Bear with me for just a  
18 moment. I guess I'm trying -- I'm going to ask you the  
19 same question that I asked Ameren's attorney. I think  
20 what I set up so far is an appropriate lead-in for that  
21 question. And that is, what reasonable and prudence  
22 decision does the Staff of the Commission believe the  
23 Commission needs to make in this case?

24 MS. MERS: If the Commission were to find  
25 that the decisionmaking process of Ameren Missouri was



1 not reasonable or prudent, then they could approve or  
2 suggest the hold harmless be implemented in the future.  
3 And that Ameren is on notice that whatever cost those  
4 are, when those are known, just won't be borne by  
5 customers.

6 JUDGE CLARK: Is this a fair assessment of  
7 Staff's position? I heard you say that Staff is of the  
8 opinion that at the time -- and I assume it's 2021 --  
9 when Ameren made the decision to seek leave of -- or  
10 seek a modification of the District Court order to  
11 retire the plant as opposed to putting on what I'm going  
12 to call the pollution scrubbers, I heard Staff say that  
13 they were of the opinion that that was a reasonable and  
14 prudent decision to retire that plant, correct?

15 MS. MERS: Correct. Staff believes that  
16 Ameren is kind of in a mess of its own making, but now  
17 that we're in the situation that we're in, what is best  
18 for customers is retirement and securitization of the  
19 plant.

20 JUDGE CLARK: Those are all the questions  
21 that I have. Based upon questions that I've asked, are  
22 there any additional Commission questions?

23 CHAIR HAHN: Yes, Judge, I have one.

24 JUDGE CLARK: Thank you, Chair Hahan. And  
25 I'll just say, any time Commissioners have a question,

1 please feel free to interrupt me.

2 CHAIR HAHN: Thank you. Good morning.

3 MS. MERS: Good morning.

4 CHAIR HAHN: Thank you for being here today.

5 I do have a question based upon Judge Clark's questions.  
6 Just to clarify with regard to issue 3(A), does Staff  
7 believe under the statute that the Commission has to  
8 determine the reasonableness and prudence of obtaining  
9 the NSR permits in this case, or is that only in this  
10 record because you're trying to preserve it for a future  
11 case?

12 MS. MERS: Trying to preserve it for a  
13 future case. We -- because the remedies would not be  
14 securitized cost, that -- you know, a hold harmless  
15 provision on that wouldn't impact Staff's recommendation  
16 on the total amount to be securitized in this case.

17 CHAIR HAHN: Thank you. I appreciate that  
18 clarification.

19 MS. MERS: No problem.

20 JUDGE CLARK: Thank you, Chair Hahn. Are  
21 there any other Commission questions at this time?  
22 Hearing none, thank you Ms. Mers. Thank you for your  
23 mini opening.

24 MS. MERS: Judge Clark, it strikes me that  
25 the filing that Ameren Missouri made on April 8th, the

1 transcript that I referenced, is in EFIS, but not in the  
2 record. Could I request that that have official notice  
3 be taken of those transcripts that Ameren submitted?

4 JUDGE CLARK: You said official notice of  
5 another Court's transcript, correct?

6 MS. MERS: Correct.

7 JUDGE CLARK: I'm a little puzzled because  
8 I'm not sure whether we can do that or if it's  
9 appropriate in regard to another Court.

10 MR. LOWERY: Judge, this is Jim Lowery. I  
11 mean, I don't know what out position might be on that.  
12 I share your question about whether an official notice  
13 is appropriate. If the Commission wants to entertain  
14 that motion, I would, I guess, ask for us to have the  
15 opportunity to perhaps take the issue up Monday, but us  
16 have the opportunity to at least consider whether or not  
17 we think that's appropriate or not.

18 JUDGE CLARK: I'm going to agree with you,  
19 Mr. Lowery. I'm not opposed to Staff's request. I  
20 honestly just don't know the answer to the question off  
21 the top of my head. So I would like an opportunity to  
22 look at it too. So why don't -- I will make a note to  
23 take this up Monday as a preliminary matter.

24 MR. LOWERY: Thank you, Judge. I don't know  
25 that the Company is opposed either, it's just not

1 something we contemplated.

2 JUDGE CLARK: Yeah. And I'm debating in my  
3 head whether this is something that would be more  
4 appropriate to take notice of or to have as an exhibit  
5 or whether it even matters. Like I said, I made a note  
6 and we will discuss it as a preliminary matter on  
7 Monday. Thank you, Ms. Mers.

8 MS. MERS: Thank you.

9 JUDGE CLARK: Next up for a mini opening, I  
10 believe I had MIEC, Missouri Industrial Energy Consumers  
11 Group. Let me see that that's right. At the time there  
12 was no attorney here. At the time there was no attorney  
13 here from MIEC. Is there an attorney from Missouri  
14 Industrial Energy Consumers Group now? I hear none.  
15 Next mini opening is from AARP.

16 MR. COFFMAN: Thank you, Your Honor. We'll  
17 reserve the bulk of our comments for Monday with the  
18 general opening, but I did want to make one comment in  
19 response to what I heard from Ameren counsel, Jim  
20 Lowery, on the standard, the prudent and reasonable  
21 standard.

22 I have a slightly different legal take on  
23 the standard. I believe that the Courts have treated  
24 each of those as somewhat separate in cases in certain  
25 situations, noted that an action could be prudent and

1 yet deemed unreasonable in a particular case under the  
2 facts of those cases.

3 So I think that there's a reason that just  
4 -- or rather just and reasonable are also separate, but  
5 also prudent and reasonable are sometimes separate  
6 substandards that are reviewed by the Commission. We  
7 can brief that. I just wanted to state that for the  
8 record and we'll defer any other comment until the case  
9 begins on Monday. Thanks.

10 JUDGE CLARK: Thank you, Mr. Coffman. Are  
11 there any questions for Mr. Coffman? For AARP? I have  
12 one. Listening to what you said, we heard previously  
13 somebody said that they're the same or similar or  
14 related. And what you're saying is, giving a literal  
15 reading of the statute, it's both, reasonable and  
16 prudent, and it must be -- both of those as individual  
17 standards; is that correct?

18 MR. COFFMAN: Sometimes they're mentioned  
19 together and sometimes they're not, but I don't think  
20 that they're collapsable. I think they can mean  
21 different things in certain situations.

22 JUDGE CLARK: Okay. Thank you AARP. Any  
23 mini opening from Midwest Energy Consumers Group, or  
24 MECG?

25 MR. OPITZ: No mini opening for this issue,

1 Your Honor.

2 JUDGE CLARK: Thank you MECG. Any mini  
3 opening from Renew Missouri?

4 MR. LINHARES: Thank you, Judge. I will  
5 reserve our opening and reflect our positions in this  
6 case for Monday. Thank you.

7 JUDGE CLARK: Thank you Renew Missouri. Any  
8 mini opening from the Office of the Public Counsel?

9 OPENING STATEMENT

10 MR. WILLIAMS: Originally, I did not plan to  
11 give a mini opening at this point, but after listening  
12 to Ameren Missouri, I think it's appropriate to do so.  
13 The first thing I want to point out is that the EPA has  
14 started enforcement initiative with things like the  
15 Prevention of Significant Deterioration in air quality  
16 back in 1999, which you may note is towards the end of  
17 the Clinton presidency. And then G.W. Bush became  
18 President in 2001 and I'm expecting the record will  
19 reflect that the enforcement activity slacked off a bit.

20 And in 2005, the EPA actually set out a  
21 proposed rule, my understanding, that would conform to  
22 what the Missouri Department of Natural Resources' State  
23 Implementation Plan has in terms of measuring emissions,  
24 actual emissions for an hour, and then using --  
25 historical and then using that as the standard by which

1 you would measure what would happen afterwards.

2 Much of what Mr. Nash related about the  
3 Missouri State Implementation Plan was, as you said,  
4 MDR's interpretation and certainly Ameren Missouri's  
5 interpretation, but it was not the law, as Judge Sippel  
6 found it was not.

7 It is a plain reading of that regulation in  
8 a certain fashion that I think, given in light of the  
9 enforcement activities of the EPA, it was in the history  
10 of the industry, the utility industry trying to minimize  
11 the impacts of EPA actions and effects of their  
12 regulations and the Clean Air Act. And that goes back  
13 to when the Clean Air Act was first put into law back in  
14 the late '70s.

15 And the federal interpretations are done  
16 with effect -- to the intent of the effect, not just the  
17 literal language of the law or the regulation. I think  
18 it's kind of a forced reading, so to speak, but it's not  
19 untenable, wholly untenable.

20 Our position is that basically Ameren  
21 Missouri should have gone to the EPA enforcement  
22 division and asked for an applicability determination,  
23 which would be legally binding on the EPA afterward is  
24 my understanding.

25 So that if the EPA says, no, the Missouri

1 SIP doesn't get you out by the way you're reading it,  
2 the utility would have known that. It still would have  
3 had a choice about whether it wanted to comply with the  
4 EPA's determination or if it would have decided to go  
5 forward basically in the 2005 timeframe.

6 Well, by the time we got to 2005, Ameren  
7 Missouri knew that Rush Island was having a lot of  
8 pluggage issues and was requiring a lot of outages in  
9 order to clear those and that's when it made the  
10 decision to replace a number of components to address  
11 those pluggage issues.

12 Given that knowledge and the -- I don't  
13 think it's pure coincidence that the EPA enforcement  
14 action against Ameren Missouri at Rush Island did not  
15 start until the Obama Administration, after 2009.

16 But given the history, it's our position  
17 that Ameren Missouri was not prudent in its actions  
18 about its decisions going forward.

19 And it really had two or three options at  
20 the time. It could have shut down Rush Island. It  
21 could have kept operating it with what the EPA would  
22 accept as routine maintenance and repair. Or it could  
23 have gone ahead and made the upgrades it did, plus added  
24 the emissions requirements that it did not do, that  
25 Judge Sippel ended up deciding it was required to seek



1 permits for.

2 As to the prudency issues, the statute gives  
3 an alternative to traditional ratemaking approaches for  
4 potential cost recovery of Ameren Missouri's investment  
5 in Rush Island and its cost associated with retiring and  
6 shutting down the plant.

7 Prudence is a gateway to getting  
8 securitization. When prudence has been evaluated in the  
9 context of a rate case, the reason for requiring harm is  
10 because it was a meaningless determination otherwise.  
11 In other words, if the Commission found it was  
12 imprudency, but no harm, there was no relief, so there's  
13 no point in determining prudency to begin with.

14 So we believe it's a gateway. Harm is not  
15 necessarily a component of it. However, it's our  
16 position that Ameren Missouri shouldn't be recovering  
17 through securitization -- if it's given any more than it  
18 would have in a rate case, it should not be more costly  
19 to customers. So the traditional prudency analysis does  
20 apply for purposes of what amounts of energy transition  
21 costs should be securitized.

22 I'm working off the fly here, but I think  
23 that covers the points I wanted to get across in  
24 response to what I heard in the other openings and I  
25 reserve the opportunity to expand more when this issue

1 is taken up again Monday, or whenever it is. And I'm  
2 happy to try to answer any questions.

3 JUDGE CLARK: Are there any Commission  
4 questions for this attorney at this time?

5 CHAIR HAHN: Yes. Thank you, Judge. Good  
6 morning, Mr. Williams.

7 MR. WILLIAMS: Good morning, Chair Hahn.

8 CHAIR HAHN: I'm going to also ask you the  
9 same question that I asked Staff Counsel Mers. Staff  
10 Counsel Mers mentioned that she did not believe we  
11 had -- the Commission had to make a determination on  
12 issue 3(A), on prudency determinations on whether to  
13 obtain the permits. I think I heard you say you think  
14 that the Commission does have to make that determination  
15 because it goes to the amount that could be securitized.  
16 Is that your position, or is it something else?

17 MR. WILLIAMS: That, in fact, is my  
18 position. The Commission I think could consider it in  
19 the context of even potentially whether it is  
20 appropriate for Ameren Missouri to be shutting down Rush  
21 Island in the future.

22 And the rationale behind that is if Ameren  
23 Missouri was imprudent in the past and should have put  
24 on scrubbers then, then we view that it is unlikely that  
25 it would be appropriate for it to be shutting the plant

1 with scrubbers down now. But I'm not sure -- we're not  
2 sure there's going to be enough evidence in the record  
3 to make that prudency determination.

4 CHAIR HAHN: That is helpful. Thank you so  
5 much.

6 MR. WILLIAMS: You're welcome.

7 JUDGE CLARK: Are there any other Commission  
8 questions for this attorney? I hear none. Can you  
9 clarify that for me, when you say you're not sure  
10 there's enough evidence in the record? I'm not  
11 following you. Does this get back to the harm  
12 determination or is this something else?

13 MR. WILLIAMS: What I was getting at is  
14 determining what avenue would have been prudent for the  
15 utility to have taken back in the 2007 -- well,  
16 actually, it's the 2000's timeframe.

17 I mean, the original go-ahead, I think, was  
18 2005, but they had known they were having pluggage  
19 issues at Rush Island long before then. It goes back to  
20 the '90s, whenever they switched from high sulfur coal  
21 to the low sulfur, dirtier, Powder River Basin coal.

22 But the issue is, you have to determine the  
23 prudency of which route to go and, let's say, make a  
24 determination -- I don't know that you can decide which  
25 one was the appropriate route in terms of shutting down

1 Rush Island then, running it for a bit longer until it  
2 became so uneconomic that you just shut down the plant,  
3 or if you would make the upgrades they did make, plus  
4 add scrubbers, or go the route that Ameren Missouri  
5 chose to go.

6 I don't know that the record is going to be  
7 sufficient to decide which of those was prudent or  
8 imprudent. And those -- depending on which one was the  
9 -- which avenues were not imprudent would lead to  
10 different circumstances in the present.

11 Because if the appropriate thing to have  
12 done back in the early 2000's was to have added  
13 scrubbers as well as do the upgrades that Ameren  
14 Missouri did put in place, that's a much different plant  
15 in 2024 than the plant we have now because the scrubbers  
16 would already be there, and of course you would have  
17 avoided all the federal litigation as well. But I'm not  
18 sure there's going to be enough evidence in this record  
19 for the Commission to make that determination.

20 JUDGE CLARK: Given that the District Court  
21 is still determining remedies, is it even appropriate  
22 for the Commission to make a disallowance that might be  
23 considered punitive in nature?

24 MR. WILLIAMS: I don't see any issue with  
25 it. The remedies is for failure to -- my understanding

1 of the remedies at the federal court are failure to  
2 comply with the EPA regulations, federal law, EPA  
3 requirement.

4 JUDGE CLARK: Now, I heard it tossed around  
5 before in one of the openings that -- the term \$34  
6 million. Is that the value of this issue to OPC?

7 MR. WILLIAMS: That is a quantification we  
8 put out there through a witness.

9 JUDGE CLARK: And OPC doesn't believe  
10 granting that disallowance would step into the bounds of  
11 the federal court in their remedy determination?

12 MR. WILLIAMS: I believe they're  
13 independent. And let me elaborate a bit. The federal  
14 court's looking at a remedy for the harm that was caused  
15 by the emissions from the plant in the past. What the  
16 Commission is looking at is what is their recovery for  
17 the utility after the plant's no longer being used to  
18 provide service to customers.

19 JUDGE CLARK: Does OPC have an opinion as to  
20 whether it was prudent to retire the plant in 2021 or to  
21 make that decision in 2021?

22 MR. WILLIAMS: Not at this time.

23 JUDGE CLARK: It doesn't have an opinion; is  
24 that correct?

25 MR. WILLIAMS: You saw our position

1 statements. We think we need to look at all the  
2 evidence before we can opine on that.

3 JUDGE CLARK: Okay. Just asking. All  
4 right. Thank you, Mr. Williams.

5 MR. WILLIAMS: Thank you.

6 JUDGE CLARK: That is all I have down for  
7 mini openings for parties that are here. Are there any  
8 parties that I have missed that wanted to make a mini  
9 opening on this issue? I hear none. It is 10:38. It  
10 was my intention to take a break around 10:30 for about  
11 10 minutes to give everybody a chance to use the  
12 bathroom or whatever else during a 10 minute break.

13 Is 10 minutes going to be sufficient for  
14 everybody? I don't hear any objections. It is 10:38.  
15 I'm going to treat that as 10:40. Why don't we come  
16 back at 10:50. We will go off the record now and recess  
17 for roughly 10 or 11 minutes.

18 (Break.)

19 JUDGE CLARK: We are back from a short  
20 recess. At this time, Ameren, if you'd like to go ahead  
21 and call Witness Holmstead.

22 MR. LONG: Thank you, Your Honor. And  
23 Mr. Holmstead is right here in the conference room with  
24 me and we'll just change places and then he can be sworn  
25 in for his testimony.

1 JUDGE CLARK: Mr. Holmstead, good morning.  
2 Would you raise your right hand to be sworn, please? Do  
3 you solemnly swear or affirm that the testimony you are  
4 about to give at this evidentiary hearing is the truth?

5 **THE WITNESS: Yes, I do.**

6 JUDGE CLARK: Thank you, Ameren. Go ahead.

7 JEFFREY HOLMSTEAD,  
8 being first duly sworn, produced and examined,  
9 testified as follows:

10 DIRECT EXAMINATION BY MR. LONG:

11 Q. Can you please state your name for the record?

12 **A. Jeffrey R. Holmstead.**

13 Q. And are you the same Jeffrey R. Holmstead who  
14 prepared for filing in this docket both direct and  
15 surrebuttal testimony --

16 **A. Yes.**

17 Q. -- marked for identification as Exhibits 10 and  
18 11?

19 **A. I didn't, I am.**

20 Q. And do you have any corrections to either Exhibit  
21 10 or 11 in your testimony?

22 **A. No.**

23 Q. And if I posed the same questions to you today,  
24 would your answers be the same as reflected in your  
25 direct and surrebuttal testimony?

1           **A. Yes.**

2           Q. Are those answers true and correct to the best  
3 of your knowledge and belief?

4           **A. Yes.**

5           MR. LONG: Your Honor, at this time, Ameren  
6 Missouri would move Exhibits 10 and 11 into the record.

7           JUDGE CLARK: Are there any objections to  
8 admitting the testimony of Jeffrey Holmstead, Exhibit  
9 10, his direct testimony, and Exhibit 11, his  
10 surrebuttal testimony on to the hearing record? I hear  
11 no objections. Exhibit 10, the direct testimony, and  
12 Exhibit 11, the surrebuttal testimony of Jeffrey  
13 Holmstead will be admitted on to the hearing record.  
14 And you may continue your direct examination, Mr. Long.

15           MR. LONG: Your Honor, at this time, Ameren  
16 Missouri tenders Mr. Holmstead for cross.

17           JUDGE CLARK: Thank you, Mr. Long. Because  
18 this is an Ameren witness and going by the order of  
19 cross examination submitted by the parties, are there  
20 any questions for this witness by Renew Missouri?

21           MR. LINHARES: No questions. Thank you,  
22 Your Honor.

23           JUDGE CLARK: Thank you, Mr. Linhares. Are  
24 there any questions from MECG?

25           MR. OPITZ: No questions, Your Honor.



1 JUDGE CLARK: Thank you. Any questions  
2 from -- not the Sierra Club. They've been excused. Any  
3 questions from MIEC? Do they have an attorney here yet?  
4 Any questions from AARP?

5 MR. COFFMAN: No questions, Your Honor.

6 JUDGE CLARK: Thank you, Mr. Coffman. Any  
7 questions from Consumer Council?

8 MR. COFFMAN: No questions.

9 JUDGE CLARK: Thank you, Mr. Coffman. Any  
10 cross examination from the Commission Staff?

11 MS. MERS: No, thank you.

12 JUDGE CLARK: Any cross examination from the  
13 Office of the Public Counsel.

14 MR. WILLIAMS: Thank you. I do have some  
15 questions.

16 CROSS EXAMINATION BY MR. WILLIAMS:

17 Q. Good morning, Mr. Holmstead. How are you?

18 **A. I'm fine, thanks.**

19 Q. Isn't it true that the EPA's division of  
20 enforcement ramped up enforcement activities against  
21 utility emissions on or about 1999?

22 **A. Yes, that is -- that is correct.**

23 Q. And in your direct testimony you talk about --  
24 in the early part of it, you talk about what the law  
25 is in Missouri under the Missouri Standard

1 Implementation Plan as set out in the DNR  
2 regulations; do you not?

3 **A. Yes. Yes, I do.**

4 Q. And that starts on Page 11?

5 **A. I don't recall, but that sounds about right.**

6 Q. And in your testimony there you stated as if  
7 that is or was the law. Was it, in fact, the law  
8 back in the early 2000s?

9 **A. So as I think you've said in your opening  
10 statement, what I provided there is the plain  
11 reading of the Missouri regulations. And the  
12 reading that I provided, I acknowledged that many  
13 years after the fact, in 2017, the District Court  
14 Judge had a different interpretation.**

15 **But certainly at the time of the projects, the  
16 interpretation that I layout there, as you say the  
17 plain reading of the interpretation, is what MDNR  
18 believed the regulation said, it's what everybody in  
19 the state, all the industry.**

20 **In fact, it's been interesting to me that no  
21 one in this case has provided any evidence that  
22 anyone had a different reading of the regulations  
23 before 2017, or I guess whenever the enforcement  
24 action started. But certainly in the 2005 to  
25 2010 --**

1 MR. WILLIAMS: Judge, I think he's already  
2 answered the question and he's just going on now.

3 **A. No, I'm sorry. I'm finished. I'm just trying**  
4 **to make sure I give you a complete answer.**

5 Q. Thank you. I appreciate that. But you agree  
6 that what Judge Stippel said the law was is what the  
7 law was?

8 **A. Yes.**

9 Q. And aren't judicial interpretations of the law  
10 binding on this Commission.

11 **A. I'm not quite sure what you mean by that. I**  
12 **don't think this Commission has any jurisdiction to**  
13 **declare what the Clean Air Act requires. My**  
14 **understanding the issue before this Commission is**  
15 **whether the decisions that Ameren made were**  
16 **reasonable based on what it knew or could have known**  
17 **at the time. I don't understand why this Commission**  
18 **would make any decisions about what the Clean Air**  
19 **Act requires.**

20 Q. Well, Ameren Missouri is asking this  
21 Commission to, I believe, determine that its  
22 understanding of the Missouri SIP and the Clean Air  
23 Act requirements was reasonable at the time it held  
24 that understanding back in 2005, correct?

25 **A. My understanding is the issue whether Ameren**

1 had a reasonable basis for believing that it did not  
2 need to get MSR permits. So I guess in my view what  
3 the Court said in 2017 couldn't have been known or  
4 knowable. So what Ameren had to do was base its  
5 decisions on what was known at the time. And the  
6 reading that I've given, as you say the plain  
7 reading of the statute, is what they knew or could  
8 have known.

9 Q. Is there anything faulty in Judge Stippel's  
10 analysis of the law.

11 A. No -- the thing that I -- so the answer is no.  
12 He's declared what the law is. The Circuit Court  
13 did overrule a big chunk of the remedy that he had  
14 ordered, but in terms of whether Ameren was required  
15 to get permits, no, what he said in 2017 is the law.

16 Q. And it was 2005, right?

17 A. Nobody knew that in 2005.

18 Q. Well, when he said that Ameren Missouri should  
19 have gotten a permit in 2005, wasn't he declaring  
20 what the law was in 2005?

21 A. Yes, but --

22 MADAM REPORTER: I didn't get your  
23 question, Mr. Williams, because you guys were  
24 talking over each other a bit.

25 MR. WILLIAMS: Sorry about that.

1 Q. What I asked him, wasn't Judge Stippel  
2 declaring the law as it was in 2005 in his opinions  
3 in the Ameren Missouri Clean Air Act litigation  
4 that's dealing with Rush Island?

5 **A. Yes. Yes. That's what he decided in 2017,**  
6 **but that was not knowable by anyone at the time.**

7 Q. And haven't utilities such as Ameren Missouri  
8 consistently brought litigation with regard to  
9 emissions requirements since the Clean Air Act first  
10 became law?

11 **A. You know, there's -- there's been hundreds of**  
12 **EPA regulatory actions and other actions. Certainly**  
13 **some of those have been challenged by the utility**  
14 **industry. Like every other regulated industry, they**  
15 **have a right to challenge if they think EPA is**  
16 **outside of the bounds of the law.**

17 Q. Don't they have decades of history of doing  
18 that? I'll point out the Utility Air Regulatory  
19 Group, for instance.

20 **A. Yes. Certainly.**

21 Q. And the litigation they were bringing was for  
22 more expansive interpretations of the law and  
23 regulations than the EPA, correct?

24 **A. No. I mean, each case is sort of different.**  
25 **In some cases they may have held a more expansive**

1 view and others -- you know, it -- so I think every  
2 case they brought, many of which they prevailed  
3 upon, they challenged EPA -- some action that EPA  
4 has taken as either being unreasonable -- I'm sorry,  
5 either being arbitrary and precious or outside the  
6 bounds of the law.

7 Q. Have you ever represented anyone other than  
8 utilities in the federal government on Clean Air Act  
9 matters?

10 A. Sure. Sure. I've done -- over the course of  
11 my career, I've represented companies and trade  
12 associations and nonprofit groups in a number of  
13 cases.

14 Q. What compensation are you receiving for your  
15 time and work for Ameren Missouri in this case?

16 A. I believe it's in my direct testimony. It's  
17 my standard hourly rate with sort of a discount. So  
18 I don't recall what the number is, but I know that  
19 that's -- I know that that's in my direct testimony.

20 Q. Do you know how much you've billed to this  
21 point?

22 A. I do not.

23 Q. Not even ballpark?

24 A. You know -- so, no, I truly don't. I haven't  
25 paid attention. Again, that's certainly something

1 that's knowable. It's a significant amount, there's  
2 no question about it. I've spent a lot of  
3 time making sure that I -- I do my best to explain  
4 these issues in a way that everyone can understand.  
5 So there's no doubt it's a significant amount.

6 Q. Does the EPA have jurisdiction to enforce  
7 provisions of the Clean Air Act and its regulations  
8 regardless of what position the state may have taken  
9 on compliance with the act or those rules?

10 A. Yes. I will say it's unusual -- I will say  
11 it's very unusual, but occasionally you have a case  
12 like this one where EPA disagrees with the state's  
13 interpretation of the state's own law and the EPA  
14 does have the authority under the Clean Air Act.

15 Q. Didn't that happen in the WEPCo case, WEPCo?

16 A. No. Actually, in that case the state agency  
17 said it didn't know whether NSR applied and asked  
18 EPA to opine on the issue. It was not -- it was not  
19 a case -- in that case the petitioner was the power  
20 company. It was not the state.

21 Q. On Pages 8 to 10 of your direct testimony, you  
22 talk about a potential to potential test.

23 A. Correct.

24 Q. What is the potential to potential test?

25 A. So, you know, it sounds kind of deceptively

1 simple. The question is whether there is a physical  
2 change at a plant that will cause an increase in  
3 emissions, but figuring out exactly what that means.  
4 Does that mean, you know, in the prior day compared  
5 to, you know, the day before, the day after, the  
6 week before, the week after.

7 And the easiest way to do that emissions  
8 increase test is what would be called the potential  
9 to potential test. You basically say if the unit is  
10 running at its maximum capacity, what would the  
11 emissions be -- those are the potential emissions --  
12 and you can compare that before and after a physical  
13 change.

14 And the idea is, if you're not changing the  
15 unit in a way that will increase its capacity to  
16 emit, then it doesn't cause an emissions increase.  
17 That's basically the potential to potential test.

18 Q. Did the EPA ever adopt that potential to  
19 potential test?

20 A. So in a related program -- the Clean Air Act  
21 is very complicated. There's the NSR program.  
22 There's another program called the NSPS program and  
23 it -- it has the same definition of modification.  
24 It says a physical change or change in the method of  
25 operation that results in an emissions increase.



1           So that same -- that exact same language is  
2 used in both the NSR program and the NSPS program.  
3 In the NSPS program, it's a potential to potential  
4 test. And that's the test that under the plain  
5 reading of the Missouri SIP would have been sort of  
6 the initial question to ask.

7           JUDGE CLARK: Mr. Holmstead, I feel like  
8 Mr. Williams asked you a question there and you said  
9 this is where it also is at the EPA, but I don't feel it  
10 answered the question. Would you ask your question  
11 again, Mr. Williams?

12           MR. WILLIAMS: Sure.

13           Q. Did EPA ever adopt the potential to potential  
14 test you just described?

15           A. Well, my answer is, yes, they did in the NSPS  
16 program. But if your question is, did they ever  
17 adopt that in the NSR program, they did not.

18           Q. Well, you've anticipated my next question  
19 given your response to the prior one. Did it ever  
20 consider adopting it for the NSR program?

21           A. Yes, it did. I don't remember the year, but  
22 at one point they did -- they did propose that and  
23 that rule was never -- was never finalized. I will  
24 say that issue has been around for a long time and  
25 there were some courts who held that that was

1   legally required, to use the same -- the same -- the  
2   NSPS program created the NSR program and since they  
3   had used the potential to potential test in the NSPS  
4   program, there was a lot of litigation over whether  
5   EPA could have a different emissions increase test  
6   in the different programs. And ultimately the  
7   Supreme Court decided that they could.

8       Q. Well, is the, I think, proposed rule that you  
9   referenced, might it have been Prevention of New  
10   Source Deterioration, Nonattainment New Source  
11   Review, and New Source Performance Standards:  
12   Emissions test for electric generating units that  
13   was published at 70 Federal Register 61081 on  
14   October 20th of 2005?

15       A. That sounds right, yes.

16       Q. That would have been shortly after you left  
17   the EPA, correct?

18       A. Correct.

19       Q. Did you have any involvement in the  
20   development of that proposed rule?

21       A. I was certainly involved in conversations  
22   about -- about that issue. I was in conversations  
23   about a number of things related to NSR, but I  
24   didn't really have a hand -- so certainly I was  
25   aware of that issue and the interest in proposing

1 that rule, but I was not really involved in the  
2 development of it.

3 Q. Was the electric utility industry interested  
4 in that proposed rule?

5 A. I'm sorry, I didn't catch the question.

6 Q. Was the electric utility industry interested  
7 in that proposed rule?

8 A. Oh, of course they were, yes. Yeah.

9 Q. Were they pushing for it?

10 A. Yes, I'm sure they were. The potential to  
11 potential test is a much more objective test to  
12 apply than what we currently have.

13 Q. Turning to Page 32 to 33 of your direct  
14 testimony, there's a bullet point there that  
15 includes how other utilities were interpreting the  
16 NSR regulations. In fact, Ameren received a  
17 detailed memorandum from UARG showing that other  
18 power companies had collectively made more than 100  
19 component replacements the same as or similar to the  
20 component replacement in the Rush Island projects -  
21 and that no one had sought an NSR permit for any of  
22 these projects. And you said see Schedule SCW-D6.  
23 Do you recall that?

24 A. I don't have that schedule in front of me, but  
25 I certainly recall that -- I certainly recall making

1       **that point in my testimony.**

2           Q.   Can you get that schedule in front of you?

3                   MR. LONG:   Which one?

4                   MR. WILLIAMS:   SCW-D6.   I think it's Steve  
5 Whitworth's direct.

6           **A.   D6?**

7           Q.   Yes.

8           **A.   Okay.   Yes.   Actually, I do have that right  
9 here.**

10          Q.   That is a confidential schedule according to  
11 Ameren Missouri, correct?

12          **A.   Correct.   That's what it's marked.**

13          Q.   We probably need to go in camera for his  
14 response, but not for the question.   Would you  
15 identify the projects on Schedule SCW-D6 that you  
16 say comprised more than 100 component replacements  
17 were the same as or similar to the component  
18 replacements in the Rush Island projects?

19          **A.   So what I will say is this lists 21 companies**

20          **--**

21                   JUDGE CLARK:   Mr. Holmstead?

22                   **THE WITNESS:   Yes.**

23                   JUDGE CLARK:   Are we in any danger here to  
24 going into confidential information?

25                   **THE WITNESS:   I don't think so.   I don't**

1 think so. If it approaches anything like that, I will  
2 certainly -- it'll depend on the question, but if he's  
3 asking just sort of generally about these issues, I  
4 don't think we need to treat it as confidential.

5 Q. (By Mr. Williams) Well, I'm asking for the  
6 specific projects in that schedule that you are  
7 identifying as being similar -- the same as or  
8 similar to the component replacements in the Rush  
9 Island projects. And we're talking about the 2007  
10 and 2010 projects.

11 A. So everyone of these cases, everyone of these  
12 plants involves the replacement of major components.  
13 That's what all of these -- this is what all --  
14 that's what this is designed to do. So I don't --  
15 there's heater replacements. There's economizer  
16 replacements. There's boiler tube replacements.  
17 There's preheater replacements.

18 I don't -- so I don't have listed here  
19 precisely what the components were, but every one of  
20 these involved the replacement of major components.  
21 And there are -- there are 21 companies. I will  
22 note that the federal government's own utility, the  
23 Tennessee Valley Authority, had nine plants where  
24 they had replaced major components without getting a  
25 permit. Altogether there's over 100 on this list.

1 Q. Well, on Page 56 of your direct testimony, you  
2 testified that the District Court did not find that  
3 Ameren Missouri did not have a reasonable basis for  
4 believing that the Rush Island projects were the  
5 type projects routinely done in the industry. Is  
6 that not correct?

7 **A. No, what I said was correct.**

8 Q. Well, have I -- is what I said a correct  
9 statement of what you said?

10 **A. I'm sorry, you'll have to -- you'll have to**  
11 **read it to me again.**

12 Q. Sure. On Page 56 of your direct testimony,  
13 you testified that the District Court did not find  
14 that Ameren Missouri did not have a reasonable basis  
15 for believing that the Rush Island projects were the  
16 type of projects routinely done in the industry.

17 **A. That statement is absolutely correct.**

18 Q. Are you familiar with the courts --

19 JUDGE CLARK: Madam Court Reporter, would  
20 you read the question?

21 MADAM REPORTER: Sure. It says: On Page  
22 56 of your direct testimony, you testified that the  
23 District Court did not find that Ameren Missouri did  
24 not have a reasonable basis for believing that the  
25 Rush Island projects were the type of projects

1 routinely done in the industry.

2 Answer: That statement is absolutely  
3 correct.

4 JUDGE CLARK: Thank you. Go ahead, Mr.  
5 Williams.

6 Q. (By Mr. Williams) Mr. Holmstead, you're  
7 familiar with Judge Sippel's 2017 liability opinion  
8 that is referenced as Ameren 3 in the Eighth Circuit  
9 opinion on appeal?

10 **A. Yes, I'm familiar with those decisions.**

11 Q. Are you familiar with the findings of fact  
12 that appear on -- well, let me get the finding of  
13 fact numbers instead -- findings of fact 174, 175  
14 and 176 in that opinion?

15 **A. Not off the top of my head. I don't know if**  
16 **that's something you could show on the screen, or I**  
17 **could try to find it here.**

18 Q. I'm not sure which will be quicker because  
19 they are rather lengthy if I try to read it. I  
20 don't know about screen sharing.

21 **A. Let me see if I can --**

22 JUDGE CLARK: Mr. Williams, what findings of  
23 fact?

24 MR. WILLIAMS: 174, 175 and 176.

25 **A. Okay. 170 -- okay, I've got it.**

1 Q. Didn't the Court make some specific findings  
2 with regard to the projects and how typical they  
3 were in the -- the Ameren Missouri projects in 2007  
4 and 2010 and how frequent they were in the industry?

5 A. So what he found -- I think -- he actually  
6 makes a finding here at 174 that projects such as  
7 the economizer, reheater, air preheater and lower  
8 slope replacements are not performed frequently  
9 during the life of a particular plant.

10 So it is true that if you look at a particular  
11 unit, that unit doesn't replace them very often. A  
12 particular unit will only replace those, you know,  
13 every 20 years or something like that. Within the  
14 industry there are hundreds of those replacements  
15 that have been done. And that's the point that I'm  
16 making. And, actually, I do remember this finding  
17 of fact number 16 -- I'm sorry, 170 -- I'm sorry,  
18 this is 175.

19 He says the expert was not able to identify  
20 any coal fired unit in the electric utility industry  
21 that has replaced the economizer, the reheater, the  
22 lower slope and the air preheater together.

23 So what he says there is, well, utilities may  
24 have replaced these components many times, but that  
25 particular combination that the -- that the expert,



1 you know, couldn't identify one that replaced those  
2 exact things all together at the same time.

3 But he doesn't -- he doesn't refute the fact  
4 or disagree with the fact that these types of --  
5 these types of projects were done routinely more  
6 than 100 times throughout the industry. And that's  
7 the point that I make in my direct testimony.  
8 There's nothing in this finding of fact that refutes  
9 that.

10 Q. So you're drawing a distinction between, I  
11 guess, the subparts of the projects as opposed to  
12 the entirety of the projects that Ameren did in 2007  
13 and 2010?

14 A. Yes. But certainly other utilities had done  
15 collections of projects at the same time. They may  
16 not have done the exact same combination as what  
17 Ameren did. But it's not just that they replaced  
18 one at a time. Utilities frequently replace more  
19 than one at a time when they're in an outage because  
20 that's an effective way to do it.

21 Q. Well, let me just read finding 175. Even  
22 looking exclusively to how common work is performed  
23 across the utility industry, Mr. Golden was able to  
24 identify few, if any, projects that rival the 2007  
25 and 2010 major boiler outages at other Ameren plants

1 or elsewhere in the utility industry. Mr. Golden  
2 has worked on 14 NSR cases since 2000 on behalf of  
3 electric utilities. Then there's a cite to his  
4 testimony.

5 During that time he has collected a list of  
6 18,300 projects undertaken at coal fired power  
7 plants that he says are both capital projects that  
8 cost more than \$100,000. Again, there's a cite to  
9 his testimony.

10 However, Mr. Golden was not able to identify  
11 any coal fired unit in the electric utility industry  
12 that has replaced the economizer, the reheater, the  
13 lower slopes, and the air preheater together. And  
14 then there's a reference to someone's deposition,  
15 B-A-S-E-L, (Unable to recall any other outage at  
16 Ameren when all components were replaced. Have I  
17 accurately read finding 175?

18 A. Yeah. I think that's what I was just  
19 explaining. So the point is -- and I don't -- in  
20 terms of companies that had done those specific  
21 projects all together, Mr. Golden was not able to  
22 identify those. Again, I don't think anybody  
23 disputes that hundreds of these projects have been  
24 done throughout the industry and no one has ever  
25 sought an NSR permit for them, for these component

1 replacements, even when they're doing several at a  
2 time.

3 Now, I think the point that you're making is,  
4 he did say that he didn't find that many where  
5 during one outage they had replaced -- you know,  
6 they had replaced, you know, an equal number of  
7 components, but there's certainly examples of those.

8 There's a couple even in Missouri where the  
9 state looked at a big project -- and there was one  
10 that Mr. Whitworth mentions in his testimony where  
11 the state specifically found that even though they  
12 were spending \$70 million to replace a bunch of  
13 components in one outage, that they didn't need an  
14 NSR permit.

15 Q. Well, let me read his finding 176. Similarly,  
16 even for the relatively few air preheater  
17 replacements that Mr. Golden did identify (35 out of  
18 approximately 1,200 coal fired generating units  
19 operating in 2007), Mr. Golden was unable to testify  
20 that all were complete replacements or were  
21 comparable to those at Rush Island.

22 Have I read that correctly?

23 **A. Yes. Yes, you have. So there were 35 other**  
24 **units where the preheaters -- the air duct and**  
25 **preheater replacements were done.**

1 MR. WILLIAMS: Judge, I ask --

2 JUDGE CLARK: Yes, Mr. Williams.

3 MR. WILLIAMS: I ask that that part of his  
4 answer be stricken. He answered the question when he  
5 said I read it correctly and he's just repeating what I  
6 said, essentially.

7 JUDGE CLARK: I'll grant that. You can go  
8 ahead and strike the portion.

9 Q. So on Schedule SEW-D6, how many of those  
10 involve air preheater replacements?

11 A. I don't know. I don't know.

12 Q. Did you create Schedule SEW-D6?

13 A. No, I think it was included in Mr. Whitworth's  
14 testimony to demonstrate that they were aware -- so  
15 this was, I think, dated 2007 and I think he was  
16 using it to demonstrate that Ameren was aware that  
17 hundreds of these similar component projects had  
18 been -- had been undertaken without permits. I  
19 didn't create it. It was a document from UARG,  
20 which is what we call the Utility Air Regulatory  
21 Group. So it was a confidential memo from UARG to  
22 the UARG member companies.

23 Q. Go to Page 61 of your direct testimony. There  
24 you state -- and I'm quoting right here -- "I have  
25 had the chance to review numerous documents related

1 to Ameren Missouri's environmental compliance  
2 planning process." Is that correct?

3 **A. That's correct.**

4 Q. What are those numerous documents?

5 **A. I have a binder here that -- I think if you**  
6 **look at the schedules to Mr. Whitworth's direct**  
7 **testimony, there's hundreds of pages of documents**  
8 **that were provided to Ameren that ESD reviewed to**  
9 **understand exactly what was going on with the NSR**  
10 **regulations, what was going on with all these cases.**  
11 **You know, there are scorecards showing, by and**  
12 **large, in the EPA NSR enforcement cases, the Agency**  
13 **was losing more than it was winning. So there's --**  
14 **if you look at those schedules, there's hundreds of**  
15 **pages worth.**

16 Q. So you're referring to the schedules that are  
17 attached to Mr. Whitworth's testimony? Is that what  
18 you're saying?

19 **A. Yes.**

20 Q. Who was the president of that EPA's  
21 enforcement activities?

22 **A. I'm sorry, ask again.**

23 Q. Well, let me limit it in time, because I did  
24 not do that. In the 2000 to 2015 timeframe, does  
25 who's the president affect EPA's enforcement

1 activities? And let me limit it to New Source  
2 Review enforcements.

3 A. Yes. Yeah. I mean, that initiative went on  
4 during all administrations, but there was a time in  
5 2006, maybe, or 2005, shortly after I left, where  
6 EPA announced that it would not bring enforcement  
7 cases unless someone had an emissions increase based  
8 on the potential to potential test that I talked  
9 about. So there was a time -- so the answer is,  
10 yes, it has varied a little bit from administration  
11 to administration.

12 Q. Was that change that you're talking about in  
13 2005 at or about the time that EPA put out its  
14 proposed rule to change to the potential to  
15 potential test for New Source Review?

16 A. Yes. Yes.

17 Q. Did EPA's enforcement activities vary  
18 depending on who was president?

19 A. So I think I've answered that. So at least in  
20 that type period, during the George W. Bush  
21 Administration, they only brought new cases where  
22 there was an increase based on the potential to  
23 potential test. So that was -- that was unique I  
24 think to that administration.

25 Q. When did George W. Bush become president?

1       **A. George W. Bush became president in 2001 and he**  
2       **remained president until President Obama took office**  
3       **in 2009.**

4       Q. Did EPA's enforcement activities for New  
5       Source Review change earlier than the 2005 timeframe  
6       you've indicated?

7       **A. I don't think so. I mean, certainly when I**  
8       **was at EPA, there continued to be NSR enforcement**  
9       **cases.**

10      Q. Were there new ones?

11      **A. I'm sure there were at least a couple of new**  
12      **ones. I only remember one in particular, but I was**  
13      **not really involved in the enforcement activities.**  
14      **I was just generally kind of aware of what was going**  
15      **on.**

16      Q. Are you familiar with applicability  
17      determinations? Well, let's limit it to the EPA.

18      **A. Yes, I am. Applicability determinations,**  
19      **that's quite a mouthful.**

20      Q. Okay. What is the impact of an applicability  
21      determination?

22      **A. It's the formal way by which a company can**  
23      **seek kind of a ruling from the Agency on whether a**  
24      **certain regulation applies to a certain project. So**  
25      **that is something that is occasionally --**

1 occasionally done. Yes, it's an applicability --  
2 it's similar to what the State of Missouri calls no  
3 action -- no permit required letters.

4 Q. Are you familiar with private letter rulings  
5 in the income tax field?

6 A. Only -- well, I'm aware they exist. I'm not  
7 sure I fully understand kind of their legal import,  
8 but I've heard of them before.

9 Q. Okay. What is the effect on the EPA on an  
10 applicability determination? For example, if it  
11 says you don't have to get a New Source Review  
12 permit or apply for one, is that binding on the EPA?

13 A. You know, as a practical matter, it is. I  
14 mean, I don't know legally if EPA later changed its  
15 mind, if they would be prevented from doing that.  
16 But I'm sure that there's never been like an  
17 enforcement action, you know, based on a different  
18 interpretation. So if your point is, is it binding?  
19 As a practical matter, yes, it would be.

20 Q. Well, let's go to the -- I'll pick one -- 2005  
21 Ameren Missouri project at Rush Island Unit 1.  
22 Would it have been prudent for Ameren Missouri to  
23 seek an applicability determination from the EPA for  
24 that project before it began that project?

25 A. No, it would not have been reasonable. And



1 I'm not aware of any utility that has ever sought an  
2 applicability determination where it believed that  
3 its understanding of the law was so clear.

4 The other thing I would say about that is,  
5 because Missouri has an EPA-approved program, it's  
6 actually MDNR that has -- that can do applicability  
7 determinations. So because it's a SIP approved  
8 state, you would not go to EPA, you would go to  
9 MDNR.

10 But again, you know, companies do projects,  
11 even major projects fairly frequently. And what  
12 they do is, they look at their understanding of the  
13 law and the regulations and the conversations  
14 they've had with regulators and with others in the  
15 industry and they make a decision. So it's highly,  
16 highly unusual for someone to actually go to seek an  
17 applicability determination.

18 Q. Well, you answered it wouldn't be reasonable.  
19 I asked whether it would be prudent. I think  
20 there's a difference. Do you?

21 A. I'm -- I'm not sure. So -- I mean, the other  
22 thing I can say is, to get such a determination can  
23 sometimes take a couple of years. I mean, I know  
24 that for a fact. And so, you know, people don't  
25 have time to do those. So, you know, if there are

1 projects that needed doing, seeking an applicability  
2 determination -- and I don't know how long -- I  
3 suspect that MDNR moves more quickly than that, but  
4 EPA sometimes takes -- because sometimes they're  
5 controversial within the Agency.

6 Q. Well, didn't Ameren Missouri know they were  
7 having pluggage issues at Rush Island Unit 1 long  
8 before 2005?

9 A. Based on my recollection of the testimony of  
10 Mr. Whitworth, I think that's correct. I honestly  
11 don't know, but I believe that's correct.

12 Q. Well, you understand that Rush Island was  
13 originally designed in the 1970s to -- let's limit  
14 it to Unit 1 -- to burn high sulfur coal, correct?

15 A. Correct.

16 Q. And then in the 1990s, Ameren Missouri started  
17 burning Powder River Basin coal because it had a  
18 lower sulfur content in order to meet emissions  
19 requirements? Is that not correct?

20 A. Yes. I know many utilities did that. So that  
21 doesn't surprise me that that's why they did it.

22 Q. And didn't they have a lot more pluggage  
23 issues and maybe started having pluggage issues in  
24 the 1990s after it started using Powder River Basin  
25 coal at Unit 1?

1       **A. So I honestly -- I'm not disputing that. I**  
2 **just don't know.**

3       Q. That's fine. I don't want you to say you know  
4 something you don't know. Didn't Ameren Missouri  
5 put itself at risk without knowing for sure -- well,  
6 let's put it this way. Doesn't a prudent utility  
7 want to know what its risks are?

8       **A. Sure. Sure. I'm sure that's the case.**

9       Q. Was not an applicability determination for the  
10 planned outages -- let's limit it to Unit 1 -- for  
11 the planned outage at Unit 1 in 2005, wouldn't it  
12 have reduced Ameren Missouri's uncertainty about its  
13 risk if it had sought an applicability determination  
14 as to that outage and had sought it from the EPA?

15       **A. So as I said before -- and I know I say this**  
16 **in my -- in my surrebuttal -- I don't think Ameren**  
17 **Missouri thought there was a meaningful risk. And**  
18 **I'm happy to tell you more about why that was.**

19               So if your point -- you know, if they thought  
20 the risk was exceedingly low, would it have been  
21 even lower had they gone to MDNR. And as I said  
22 before, they wouldn't go to EPA, they would go to  
23 MDNR. Because MDNR, they have an approved EPA  
24 program, which means that MDNR is the permitting  
25 authority. They're the ones that implement the NSR

1 program.

2 So, yeah, they could have further reduced an  
3 extremely small risk by going to MDNR, but they  
4 already knew what MDNR would say because there's --  
5 you know, as we have in the record, there's a number  
6 of permitting decisions made by MDNR that say if you  
7 undertake a project that doesn't increase potential  
8 emissions, you don't need a permit at all. We know  
9 exactly what MDNR would have said.

10 Q. The question is about EPA --

11 JUDGE CLARK: Mr. Williams, hold on a  
12 second. It gets muddy for the court reporter and it  
13 gets muddy for me when the attorney and witness talk  
14 over each other, so we're going to take a couple  
15 steps back. And, Mr. Holmstead, if you would finish  
16 answering your question and then Mr. Williams you  
17 can go ahead and --

18 THE WITNESS: I think I'm finished. I'm  
19 sorry if I've gone on too long.

20 JUDGE CLARK: Go ahead, Mr. Williams.

21 MR. WILLIAMS: Judge, would you please  
22 direct Mr. Holmstead to answer the question asked, which  
23 was about seeking an EPA applicability determination,  
24 not one from the Missouri Department of Natural  
25 Resources.

1 JUDGE CLARK: Ask the question again.

2 MR. WILLIAMS: Could I have the court  
3 reporter repeat the question?

4 MADAM REPORTER: Was not an applicability  
5 determination for the planned outages -- let's limit it  
6 to Unit 1 -- for the planned outage at Unit 1 in 2005,  
7 wouldn't it have reduced Ameren Missouri's uncertainty  
8 about its risk if it had sought an applicability  
9 determination as to that outage and had sought it from  
10 the EPA?

11 **A. So my answer is, there's no example anywhere**  
12 **of any utility going and seeking an applicability**  
13 **determination for a project like this from EPA when**  
14 **the state permitting authority was the authorized**  
15 **NSR permitting authority.**

16 So you're asking me if it did something that  
17 no other utility has ever done, would that further  
18 reduce their risk? I guess the answer is yes, but  
19 I'm not even sure the EPA would give an  
20 applicability determination. They would say you  
21 need to go talk to your permitting authority.

22 Q. Are you aware in the Ameren pre-liability  
23 opinion there's a reference to -- hold on a  
24 moment -- a memorandum from Don Clay, Acting EPA  
25 Assistant Administrator, dated September 9 of 1988?

1 The reference is to 3-4 and it says DTE  
2 Applicability Determination Detailed Analysis.

3 A. I am familiar with the DTE applicability  
4 determination, yes.

5 Q. There was one done in May of 2000 that was  
6 requested by Detroit Edison Company of EPA; is there  
7 not?

8 A. Yeah, that was not for a component replacement  
9 project. It was nothing like this one. And I  
10 think -- I'm not even sure the state had an approved  
11 program. That involved something called a Dense  
12 Pack that was a more efficient turbine and there was  
13 a question about whether -- they weren't just making  
14 a like-kind replacement.

15 They were not replacing a component with a  
16 functionally equivalent component. They were  
17 replacing a component with a newly designed  
18 component called a Dense Pack that would increase  
19 the efficiency of a plant. And because it was  
20 changing the sort of physical design capacity, that  
21 was a highly unusual situation. Again, I don't know  
22 if they went to EPA because the state didn't have a  
23 delegated program, I'm not sure, but it was highly  
24 unusual.

25 And as you may remember, I think that

1 applicability determination took a couple of years.  
2 And when EPA came back, it still didn't solve the  
3 question. It said, well, this isn't a routine  
4 replacement because you're not -- you know, you're  
5 not replacing something with a functionally  
6 equivalent component. You're replacing it with a  
7 new and improved version that actually changes the  
8 output of the plant.

9 So it was very different from this. And as I  
10 say, it took -- we can look and see, but I think it  
11 was close to a couple of years and they still didn't  
12 -- they still didn't resolve the NSR question. They  
13 only resolved the RM and R&R (phonetic on letters.)  
14 Question.

15 Q. Well, let me read from portions of it and see  
16 if this refreshes your recollection at all.

17 A. Okay. Yes.

18 Q. It's dated May 23rd of 2000. And it says:  
19 I'm responding to your request on behalf of the  
20 Detroit Edison Company for an applicability  
21 determination regarding the proposed replacement and  
22 reconfiguration of the high pressure section of two  
23 steam turbines at the Company's Monroe power plant,  
24 referred to as the Dense Pack Project.

25 Specifically you requested that the United

1 States Environmental Protection Agency, EPA,  
2 determine whether the Dense Pack Project at the  
3 Monroe Power Plant would be considered a major  
4 modification that would subject the project to  
5 pollution control requirements under the Prevention  
6 of Significant Deterioration (PSD) program.

7 We have reviewed your original request, dated  
8 June 8 of 1999 and the supplemental information you  
9 submitted on December 10, 1999 and March 16th of  
10 2000. We provisionally conclude that the Dense Pack  
11 Project would not be a major modification. I'll  
12 skip a line.

13 Although the Dense Pack Project would  
14 constitute a nonroutine physical change to the  
15 facility that might well result in a significant  
16 increase in air pollution, Detroit Edison asserts  
17 that emissions will not, in fact, increase due to  
18 the construction activity and EPA has no information  
19 to dispute that assertion.

20 Does that all sound correct?

21 MR. LONG: I'm going to object to his  
22 question, Judge. I had a hard time following it just  
23 listening and the document hasn't been made available to  
24 Mr. Holmstead. I don't think it's fair to just read a  
25 large portion of the document that he doesn't have and



1 ask him if it's a correct statement.

2 MR. WILLIAMS: I can email the document to  
3 the parties and the Commission if that would help.

4 **A. Can I just ask, who was the letter sent to?**

5 Q. Henry Nickel, Counsel for the Detroit Edison  
6 Company, Hunton & Williams.

7 **A. Okay. I would actually like to read it. I**  
8 **guess my -- my recollection was mostly correct. It**  
9 **involved the Dense Pack and EPA found it was not a**  
10 **routine replacement and EPA said it had no**  
11 **information stating that it would cause an emissions**  
12 **increase and would therefore not be a major**  
13 **modification. So that's my recollection.**

14 JUDGE CLARK: I guess here's my question.  
15 We're getting into this. There's been an objection  
16 that's made and now I've got a witness that appears to  
17 be answering the question. I've got -- the  
18 attorney does not -- who objected does not seem to be  
19 stopping his witness from answering question. So my  
20 question at this point is, Mr. Holmstead, are you  
21 answering Mr. Williams' question? Or what are you doing  
22 here?

23 **THE WITNESS: I guess I'm not answering**  
24 **since there's been an objection.**

25 JUDGE CLARK: Okay. Mr. Long, if you were

1 to receive a copy of that and have a few moments to  
2 peruse it, would that resolve your issues?

3 MR. LONG: Absolutely.

4 JUDGE CLARK: Okay. Why don't we that.

5 MR. WILLIAMS: Do you want me to send a copy  
6 to you as well, Judge?

7 JUDGE CLARK: Yes. And I am bearing in  
8 mind, this is not an exhibit.

9 (Off the record.)

10

11 (Back on the record.)

12 JUDGE CLARK: Mr. Long, you've had an  
13 opportunity to review the document, correct?

14 MR. LONG: I have, yes. It's about a  
15 30-page pdf. I've scanned through it. It appears to be  
16 complete. I have no objection to the questioning on the  
17 document.

18 JUDGE CLARK: Thank you, Mr. Long. Go on  
19 with your question, Mr. Williams.

20 Q. (By Mr. Williams) Mr. Holmstsead, have you had  
21 an opportunity to review, oh, the first six pages of  
22 the document?

23 **A. No, I haven't.**

24 JUDGE CLARK: I kind of rushed this one.  
25 Let's give Mr. Holmstead another couple minutes. I'm

1 sorry, Mr. Long had an opportunity to review it, but  
2 Mr. Holmstead has not.

3 **A. Okay. Having read this type of documents**  
4 **before, I went to the conclusion at the end, and so**  
5 **I certainly understand what EPA's ultimate**  
6 **conclusion was. So I -- if I need to look at other**  
7 **parts -- or if you want me to look at the first six**  
8 **pages, I'm happy to look at that, too.**

9 Q. Please do.

10 **A. All right. I'm sorry, I'm not very good at**  
11 **navigating with this.**

12 JUDGE CLARK: And for my reference,  
13 Mr. Williams, the part you were reading earlier to  
14 question him about, what page was that on?

15 MR. WILLIAMS: I believe it was all on Page  
16 1.

17 **A. All right. I've scanned all that.**

18 Q. Did I accurately quote or --

19 **A. I don't remember exactly what you quoted, but**  
20 **this is basically consistent with, I think, what I**  
21 **had explained.**

22 Q. Well, this is an instance where the utility  
23 sought an EPA determination as to whether or not it  
24 was subject to PSD permit requirements, correct?

25 **A. Correct.**

1 Q. And the EPA said it was not, although it  
2 concluded that the project was not routine, correct?

3 A. So, again, this was not anything like the  
4 component replacements that I was talking about.  
5 You asked me about the 100 or so projects that were  
6 listed on that schedule and those were all projects  
7 where you were replacing a component with a  
8 functionally equivalent component. This was about  
9 something different from that. It fundamentally  
10 changes the design of the facility.

11 So, you know, I still stand by my assertion  
12 that I'm not aware of any utility that has asked for  
13 an applicability determination for replacing a  
14 component with a like-kind component. They didn't  
15 -- they didn't conclude that this was not for a  
16 major NSR, they said that it wasn't nonroutine and  
17 as long as the company took actions to make sure  
18 that its post-change emissions were not any higher  
19 than its applicable baseline, then it could avoid  
20 triggering NSR.

21 But this is not like a -- this is not a  
22 determination that the project doesn't trigger NSR.  
23 It says you can avoid NSR -- even though it's not  
24 routine, you can avoid NSR if you maintain your  
25 emissions below what they called the baseline. So I

1 think I was remembering it pretty well.

2 Q. I agree, especially coming in cold. My point,  
3 though, is that the utility sought EPA determination  
4 before it engaged in the project to find out what  
5 the EPA thought. Do you understand that?

6 A. So, yes. But it's not the same kind of  
7 project. As I said, this is the one example I can  
8 think of where a utility actually sought an  
9 applicability determination. I don't know why they  
10 went to the EPA instead of the state. It could be  
11 that the state doesn't have an approved program. I  
12 don't know that. But this is not a like-kind  
13 replacement.

14 The Dense Pack was an upgrade and I think  
15 that's why they -- that's why they went to the EPA.  
16 But you are correct, here's the one example I know  
17 of where a utility sought an applicability  
18 determination from EPA. And EPA said here is what  
19 you need to do if you want to avoid NSR.

20 MR. WILLIAMS: I'll go ahead and offer the  
21 document as an exhibit in the case.

22 JUDGE CLARK: Do you already have exhibits  
23 numbered, Mr. Williams?

24 MR. WILLIAMS: I do not.

25 JUDGE CLARK: Will this be your Exhibit 1?

1 MR. WILLIAMS: That would be 200, I believe.  
2 You gave out numbers. I think we start with 200. Staff  
3 is 100s. And Company is 1 to 99.

4 JUDGE CLARK: Okay. Are there any  
5 objections to admitting? And what do you want to call  
6 this, Mr. Williams? Exhibit 200, I guess.

7 MR. WILLIAMS: It will be Exhibit 200. It's  
8 a letter -- EPA letter to Detroit Edison.

9 JUDGE CLARK: Any objections to admitting  
10 Public Counsel Exhibit 200, the EPA letter to Detroit  
11 Edison, on to the hearing record?

12 MR. LONG: No objection from Ameren  
13 Missouri.

14 JUDGE CLARK: I hear no further objections.  
15 Exhibit 200 will be admitted on to the hearing record.  
16 Go on, Mr. Williams.

17 MR. WILLIAMS: Thank you.

18 Q. (By Mr. Williams) Mr. Holmstead, do you know  
19 where the Monroe Power Plant that's referenced in  
20 this Exhibit 200 is located?

21 **A. Where the plant is located? I believe it --**  
22 **if it's DTE, it's probably Michigan, but I'm not**  
23 **completely sure of that.**

24 Q. Could it be some other state than Michigan?

25 **A. I don't know where DTE has other plants. So**

1 **the answer is, I don't know.**

2 Q. Okay. I think I'm down to my last question.  
3 On Page 19 of your surrebuttal testimony, you state  
4 with emphasis that Ameren Missouri had no way of  
5 knowing that EPA disagreed with its interpretation.  
6 And when you say interpretation, you're referring to  
7 MDNR's longstanding interpretation of the "Missouri  
8 State Implementation Plan" until EPA initiated the  
9 enforcement action?

10 **A. Correct.**

11 Q. Is that correct?

12 **A. Yes.**

13 Q. Didn't Ameren Missouri have a way of finding  
14 out that EPA disagreed with MDNR's interpretation?

15 **A. So I guess theoretically, but as you yourself**  
16 **said, the plain meaning of the Missouri SIP is**  
17 **exactly what MDNR had been saying for years. And**  
18 **when you are aware of the regulations and how**  
19 **they've been interpreted for many years by the**  
20 **agency in charge of implementing them, the idea that**  
21 **you would then go to EPA and say, well, on the off**  
22 **chance that you read this in a way that nobody else**  
23 **does, can you just assure me that you won't do that,**  
24 **I don't think any reasonable -- I don't think any**  
25 **reasonable person would do that.**

1 Q. Wasn't it EPA that was doing the enforcement  
2 actions?

3 A. Yeah, but that didn't happen -- that didn't  
4 happen until long after the project was taken. The  
5 enforcement action was initiated, like, in 2016 and  
6 the Company had to decide in 2005 to 2010 whether it  
7 needed -- whether it needed permits.

8 Q. Hadn't the EPA taken enforcement actions long  
9 before then?

10 A. Not based on the Missouri SIP, nothing like  
11 this. My point in that sentence is, the regulations  
12 on their face are pretty clear. The MDNR  
13 interpretation of those regulations is longstanding  
14 and the Company was completely reasonable to rely on  
15 that and the idea that they would somehow intuit  
16 almost a decade later EPA's enforcement office would  
17 disagree, nobody -- nobody would go to EPA based on  
18 that kind of -- that kind of likelihood.

19 Anyway, maybe I'm going on too long, but  
20 you're suggesting that they should have done  
21 something that no reasonable company would have done  
22 under the circumstances, given what they knew at the  
23 time.

24 Q. That's your opinion as to whether it would  
25 have been reasonable, correct?



1           **A. That's correct. That is my opinion.**

2           Q. What about, would it have been prudent to go  
3 to the EPA? Because you're talking about the  
4 potential for hundreds of millions of dollars of  
5 emissions control equipment.

6           **A. I'm sorry, wouldn't it have been -- I don't --**  
7 **so I'm not sure I understand the difference between**  
8 **reasonable and prudent.**

9           JUDGE CLARK: Mr. Holmstead, would you wait?  
10 I'm actually going to get that issue.

11           **THE WITNESS: Okay.**

12           JUDGE CLARK: If you're going to ask him  
13 that question, Mr. Williams, how are -- just so that I  
14 know, how are you defining prudent as opposed to  
15 reasonable? If you're making a distinction, I want to  
16 know what that distinction is.

17           MR. WILLIAMS: Reasonably prudent, I would  
18 use a negligence standard. I mean, what would a utility  
19 who's facing --

20           JUDGE CLARK: You're separating the two.  
21 What's the difference between reasonable and prudent?

22           MR. WILLIAMS: I think something -- for  
23 something to be prudent requires more action than  
24 reasonable may require. It's not to say that somebody  
25 would be so cautious in their actions to not do anything

1 that they ought to do, but they should be minimizing  
2 their risk and maximizing their knowledge about the  
3 consequences of their choices.

4 JUDGE CLARK: Would it be fair to say that  
5 for you the difference between reasonable and prudent is  
6 that prudent is more cautious.

7 MR. WILLIAMS: I think that's fair.

8 JUDGE CLARK: Okay. Mr. Holmstead, do you  
9 remember the question, or do you need Mr. Williams to  
10 ask it again?

11 THE WITNESS: No, I think I understand the  
12 question.

13 A. It certainly wouldn't have been reasonable. I  
14 don't even think it would have been prudent. I  
15 mean, you have an outage coming up. You have -- I  
16 mean, I think at the time there was no way to know  
17 that there was any reason whatsoever. I just don't  
18 see -- that goes beyond -- it's kind of like saying,  
19 well, are you prudent if you never drive anywhere in  
20 a car because there's always a risk that you might  
21 get in an accident. I don't -- I don't think that's  
22 what prudent means.

23 Again, I come back to the fact that I have  
24 this list here of 100 projects and they didn't  
25 involve the exact same combination, but none of

1 those companies sought an applicability  
2 determination before they did those. None of those  
3 companies applied for an NSR permit because they  
4 didn't think they needed to.

5 So, no, I'm not saying it would have been  
6 prudent for the Company to do something. It didn't  
7 make any sense. And the stakes were the same for  
8 all those companies, right? I mean, if -- if, in  
9 fact, you triggered NSR and you knew that -- you  
10 know, if you were going to spend \$15 million to  
11 maintain your plant and you might trigger a  
12 requirement to install \$500 million of pollution  
13 controls, I mean, they all made the very same  
14 decision. As I said, none of them seemed to think  
15 it was prudent, certainly not reasonable to seek an  
16 applicability determination.

17 Q. Did any of those companies that are listed in  
18 SEW-D6, were any of them subject to the Missouri  
19 State Implementation Plan?

20 A. No. No. Well, I shouldn't say that. I -- I  
21 think the answer is no. I'd have to go one at a  
22 time and see, but I think the answer is probably no.  
23 I could look at this, but I think -- I think the  
24 answer is probably not.

25 Q. Well, how would we know if Missouri's SIP

1 would have applied from looking at that exhibit?

2 Can you tell the -- really what I'm trying to get at  
3 is, do you need to go through and identify that none  
4 of them are in Missouri, or can somebody look at  
5 that and tell without the need for you to do it?

6 **A. Somebody's who's aware of -- so what I have is**  
7 **a list of companies. I don't know if any of them --**  
8 **so I have a list of companies and then below each**  
9 **company it lists the names of the units. So, you**  
10 **know, Duke Energy has 12 units where it did**  
11 **component replacements. TVA has nine. ADP has 12.**  
12 **These are the names of the unites, but I don't know**  
13 **where the units are located.**

14 JUDGE CLARK: We are going too far afield  
15 into the weeds here. Is the answer, Mr. Holmstead, that  
16 looking at that list, you do not know whether any of  
17 those utilities are in Missouri or not?

18 **THE WITNESS: That's correct.**

19 JUDGE CLARK: Does that answer your  
20 question, Mr. Williams?

21 MR. WILLIAMS: Maybe.

22 Q. Do you know if any of those utilities on that  
23 list are in Missouri?

24 **A. I'm not aware of any of those utilities that**  
25 **are in Missouri, no.**

1 MR. WILLIAMS: I think that's the end of my  
2 questioning at this point in time. Thank you.

3 JUDGE CLARK: Thank you, Mr. Williams. Are  
4 there any questions from the Commission at this time?  
5 Hearing none, I've got a few questions for you and some  
6 of them may dead-end out and that's fine.

7 CROSS EXAMINATION BY JUDGE CLARK:

8 Q. Mr. Holmstead, are you involved at all in  
9 Ameren's litigation before the District Court?

10 A. No, I'm not. No.

11 Q. How familiar are you with Ameren's District  
12 Court litigation?

13 A. I've read -- I've read the opinions and I  
14 don't -- anyway, there's 300 and something pages of  
15 opinions. I can't say I've read everything that was  
16 written, but I'm somewhat -- I guess I'm pretty  
17 familiar with the case, certainly.

18 Q. Okay. And that's kind of what I wanted to  
19 establish first. How long on average -- and I  
20 understand this can be all different lengths of  
21 times -- is seeking an NSR review going to take? I  
22 mean, is that a lengthy process?

23 A. It varies so much. There's no standard  
24 answer. As I said, the one I was familiar with, I  
25 know it took a couple of years. That's the DTE one

1 that we were just discussing. That's the only one I  
2 can think of that involved a utility. It doesn't  
3 happen very often, at least at EPA, that you ask for  
4 an NSR applicability determination. I can't think  
5 of any that have been -- someone has asked for, even  
6 for a nonutility permit, for many years.

7 Q. Now, that SCW-D6 schedule attached to  
8 Whitworth's testimony that you had cited in your  
9 direct testimony, that is -- if I were to ask you --  
10 I had asked the attorney beforehand -- about  
11 actions, about utilities that had made similar plant  
12 alterations without seeking permit approval, is that  
13 the list?

14 A. This is one list. There's another report that  
15 I reference in my direct testimony by someone named  
16 Golden, and he was actually mentioned in the  
17 findings that Mr. Williams had me read. That's a  
18 separate list. There may be some overlap, but I  
19 wouldn't say the list that's in this memo is  
20 comprehensive.

21 Q. Now, you just talked about the pre-findings of  
22 fact, I believe, Mr. Williams went over. In  
23 Mr. Whitworth's direct testimony, he says ESD  
24 emphasized the replacement of economizers,  
25 superheaters, reheaters and waterfalls needed to be

1 reviewed by ESD because we were aware that such  
2 component replacements had been targeted by the EPA  
3 in its ongoing NSR enforcement initiative. How does  
4 that square with how you had portrayed Judge  
5 Sippel's finding of fact earlier, where you said,  
6 well, all these things hadn't been done together?

7 **A. I'm sorry, you'll have to ask the question**  
8 **again.**

9 Q. I'm sorry, it's rather lengthy. But basically  
10 what it says is that Ameren's -- I guess ESD is  
11 their internal review.

12 **A. Right.**

13 Q. Is that they were aware that replacement of  
14 economizers, superheaters, reheaters and waterfalls  
15 needed to be reviewed by them because they were  
16 aware that the EPA was targeting those replacements.  
17 How does that square with your portrayal of Finding  
18 of Fact 74 where you indicated, well, yeah, these  
19 things by themselves are routine, but they never  
20 have been done together like that?

21 **A. So what I -- what I hoped I said was that**  
22 **precise combination had -- at least Ameren weren't**  
23 **able to identify a case where those four or five**  
24 **things had all been done at the same time.**  
25 **Certainly different combinations of those things and**

1 other components had been done at the same time.

2 So -- so that's the distinction -- you know,  
3 the Judge says, well, you can't find another example  
4 where all these exact components were replaced at  
5 the same time in a plant.

6 So it was -- it was certainly known at the  
7 time that EPA had targeted some of these projects in  
8 its NSR enforcement initiative, but, for the most  
9 part, the Courts found that they were routine. So  
10 there were Courts who went the other way, but if you  
11 -- and I know this is in Mr. Moor's testimony -- if  
12 you look at the decisions kind of leading up from,  
13 you know, the beginning of the NSR enforcement  
14 initiative to 2010, you know, more than half of the  
15 Courts who had looked at those types of projects had  
16 said they were routine.

17 Q. I knew you had said earlier that the  
18 Commission doesn't determine violations of the Clean  
19 Air Act. That's absolutely true. We don't do that.  
20 It appears that the District Court has made that  
21 determination. And that's nothing that we're going  
22 to be doing in this case. We're certainly not  
23 relitigating that issue in any way, shape or form.  
24 But that kind of leaves me -- I'm not 100 percent  
25 sure -- and maybe you can explain to me -- why is



1 the Commission looking at this issue?

2 A. So my understanding is that at least OPC and  
3 maybe the Staff believe that because Ameren lost in  
4 the enforcement case, that that makes its decision  
5 not to get NSR permits automatically imprudent and  
6 unreasonable. So I believe -- that's certainly the  
7 opinion of Mr. Majors. He's pretty clear about  
8 that.

9 And so I think that's why -- I think that's  
10 why we're looking at all at this District Court case  
11 that came, you know, many years after the fact. As  
12 I explained in my testimony, the Judge in that case  
13 did not consider -- so under the Clean Air Act, the  
14 strict liability statute, it doesn't mean that you  
15 were negligent even if you were -- you know, the  
16 decision that you made was prudent and reasonable,  
17 if a court found it was wrong, then you're liable.

18 Q. Yeah, it's like speeding. You're either  
19 speeding or you're not speeding, we're not looking  
20 at why?

21 A. Right. And if your speedometer was broken and  
22 you had no way of knowing, that's a good example.  
23 You're speeding and -- you know, even if you had a  
24 reasonable explanation for why you were speeding, it  
25 doesn't matter.

1           You know, I've talked about sort of the three  
2 different reasons why Ameren Missouri concluded that  
3 it didn't need a permit. The Judge went through  
4 those and he ultimately concluded that -- in fact he  
5 says that they were -- the problem is, they started  
6 with the incorrect understanding of the law, and  
7 based on the correct reading of the law, which was  
8 declared by him, they violated the Clean Air Act.  
9 But he never said that their understanding of the  
10 law was unreasonable. He didn't say that for --

11           So the issues before the District Court were  
12 very different from the issues that are now before  
13 this Commission. District Court doesn't even have  
14 jurisdiction to determine whether their decisions  
15 were reasonable. As I say, that's outside of his  
16 lane, outside of his jurisdiction.

17           And so, to my mind, you know, I don't want to  
18 say the District Court decision is irrelevant  
19 because it establishes there was a violation of the  
20 law, but nowhere does the District Court say that on  
21 those specific issues, that Ameren was -- its  
22 understanding of the law was unreasonable.

23           In a couple of places, the Court criticizes  
24 the emission calculations they had done, but he's  
25 criticizing -- and he says those were not

1 reasonable, but they were not reasonable given his  
2 understanding of the law. And Ameren believed, as  
3 most other utilities did, that you didn't need to do  
4 an actual calculation if you determined as a matter  
5 of engineering judgment that you weren't going to  
6 cause an emissions increase.

7 So I don't want to say he never used the word  
8 reasonable, but he didn't use it in the same sense  
9 that I think the Commission, you know, treats that.  
10 So that may be a long explanation, but I think  
11 that's why some people are saying -- pointing to the  
12 District Court's decision. But as I say, that's --  
13 you know, that's hindsight. That came many years  
14 after Ameren made its decisions that it didn't need  
15 to get permits.

16 Q. Would it be a fair statement to say that  
17 Ameren's position is that it was wrong about the  
18 law, as the District Court has informed it, but that  
19 its decisions based upon its faulty interpretation  
20 of the law were reasonable. Is that Ameren's  
21 position?

22 A. So I think that's -- yes, that's Ameren's  
23 position. And that's, I guess, my opinion as well.  
24 But I would take one further step and say their  
25 understanding of the law was -- was entirely

1 reasonable. And so it wasn't just that -- so I  
2 think you would have -- if they had an unreasonable  
3 interpretation of the law, then you could say, you  
4 know, that they should have known differently.

5 But I think their understanding of the law was  
6 reasonable, even though it turned out to be  
7 incorrect. And that's what the -- that's what the  
8 Judge said. He didn't say that their interpretation  
9 was unreasonable, just that they had been wrong as a  
10 matter of law.

11 Q. But the Court in the 2019 decision did  
12 determine -- well, in analyzing their 2017 decision,  
13 as I believe you alluded to at the very beginning,  
14 it did determine that the decision to not seek  
15 permitting was an unreasonable decision?

16 A. I don't think that's a fair reading of the  
17 case. You probably know this in your -- in your  
18 position, but not everything that a Judge says or  
19 writes is legally relevant. And the word that  
20 lawyers use -- there's a Latin word called dicta.

21 And it's a pretty commonly understood term  
22 that even in a written opinion, if the Judge says  
23 something that is not relevant to the underlying  
24 holding, that it -- so he did use the word  
25 reasonable. He never used that -- he never said

1 that -- they were unreasonable when he looked at  
2 their reasons for concluding they didn't need a  
3 permit. If you look at the 2017 liability decision,  
4 he doesn't say that anywhere.

5 In the remedy opinion, where he had already  
6 made that determination, he says, yes, they weren't  
7 -- they weren't reasonable in not getting PSD  
8 permits, but he doesn't explain that.

9 That sentence is entirely dicta because it has  
10 no legal relevance to the holding. There was no way  
11 for -- I don't know that Ameren thought that that --  
12 that that use of that word in one place in that 300  
13 and something pages of opinions would come back to  
14 bite it, but even if it had, it had no way of  
15 challenging that because it wasn't relevant to the  
16 holding.

17 So what you can challenge to an Appeals Court  
18 is not dicta. What you can challenge is the Court's  
19 holding. What the Court's holding was, is that  
20 Ameren violated the law by not getting permits.

21 Q. I remember reading that section of your  
22 testimony and I was kind of taken aback momentarily  
23 in reading that, because I will agree with you as to  
24 the 2017 opinion, there's nothing flagged in there  
25 that says, you know, we find this unreasonable or we

1 find that, the findings language you would normally  
2 see in findings of fact. But I think it's quite  
3 clear in the 2019 decision where it says, having  
4 previously concluded that it was unreasonable of  
5 Ameren -- I mean, when you say concluded, that  
6 doesn't strike me as dicta language.

7 A. But he's characterizing his earlier -- to my  
8 reading of that, it's kind of shorthand for saying I  
9 found that they violated the law. Having concluded  
10 that it was unreasonable for them not to get  
11 permits, then he goes on to the remedy. But as a  
12 lawyer, what I would say is, if you're going to make  
13 that kind of conclusion that has legal meaning, you  
14 need to explain it. And the only place that that  
15 would have been relevant was in the liability  
16 opinion.

17 You know, you look through that 2017 and  
18 there's nowhere where he says that Ameren's -- that  
19 it was unreasonable for Ameren to interpret the  
20 Missouri SIP the same way that MDNR did. I don't  
21 think any Court would ever say that. And he  
22 certainly doesn't.

23 He disagreed with their understanding of the  
24 RM&R (phonetic on letters) exclusion, but he never  
25 says that it's unreasonable. He does -- the one

1 place where he does say that they are unreasonable  
2 in the liability only has to do with these emission  
3 calculations.

4 But Ameren's view was, it didn't need to do  
5 the calculations because it knew as a matter of  
6 engineering judgment that it wouldn't cause an  
7 increase in potential or actual emissions. After  
8 they started the project, they had someone do an  
9 emissions analysis that the Judge found fault with.  
10 He said it was unreasonable. I don't disagree with  
11 that.

12 But that -- but that -- but that wasn't the  
13 basis of Ameren's conclusion that it wouldn't cause  
14 an emissions increase. As I tried to explain in my  
15 testimony, what he was so unhappy with was a  
16 calculation that Ameren had not actually relied upon  
17 in making its decision that no permit was necessary.

18 Q. Thank you. I don't remember in any of your  
19 testimony, I don't remember -- certainly I don't  
20 remember it in your direct testimony -- you don't  
21 address potential harm from Ameren's decisions, do  
22 you?

23 A. That's correct, I don't.

24 JUDGE CLARK: Those are all the questions  
25 I have for you, Mr. Holmstead. Thank you. Is there

1 any recross based upon my questions?

2 MS. MERS: I have just a few, Your Honor.

3 JUDGE CLARK: Go right ahead, Ms. Mers.

4 RECROSS EXAMINATION BY MS. MERS:

5 Q. Do you recall discussing with the Judge how  
6 long the NSR process takes?

7 **A. Yes, I do.**

8 Q. Were you aware that Ameren had delayed both of  
9 its outages?

10 **A. I was not aware of that, no.**

11 Q. Okay. Would it be reasonable to assume that  
12 if Ameren was able to postpone the outages, that the  
13 projects were not critical for functioning?

14 **A. So I -- I don't know enough about the projects  
15 and the timing, but you're saying they could have  
16 delayed them even more because they were not  
17 critical for functioning. I don't know that that's  
18 -- I don't disagree with that, but I just don't  
19 know.**

20 Q. So wouldn't you agree, then, that Ameren could  
21 have waited for the NSR process to complete based on  
22 that information?

23 **A. I assume they could. I mean, I don't know  
24 what the downside with the cost would be. I'm sure  
25 there was a reason they did them when they did. I**



1 don't know. I know I repeat myself, but no  
2 reasonable utility would ever do that when the law  
3 seemed to be so clear.

4 And to me if you're looking at what's  
5 reasonable and what's prudent, unless you say  
6 everybody in the utility industry was unreasonable  
7 and imprudent, I don't know how you can say, well,  
8 everybody should just wait until they get an  
9 applicability determination. You know, that's not  
10 required under the law. That's not required under  
11 MDNR.

12 So the suggestion that somehow that's what  
13 they should have done, when no one else does that,  
14 when their understanding of the law was pretty  
15 clear, I would have actually found that to be quite  
16 unreasonable.

17 Q. Would any harm have resulted to Ameren?

18 A. So, you know, usually my impression is, when  
19 they're doing a big maintenance or repair project,  
20 they're doing it at a certain time for a reason. So  
21 when you say if we put that off for a year, what  
22 harm there would be? I'm assume you would have  
23 plants that are less reliable and maybe less  
24 efficient, but I don't know.

25 Q. But they did postpone and put off the outages?



1 shorten the lunch break period.

2 JUDGE CLARK: Of course, Chair. What would  
3 you like me to shorten it to?

4 CHAIR HAHN: 30 minutes to 45 minutes.

5 JUDGE CLARK: I am fine with that. I  
6 believe everybody can get everything done during that  
7 time. Why don't we take a 30-minute recess and I will  
8 recess until 1:10.

9 (Lunch.)

10 JUDGE CLARK: Let's go back on the record.  
11 I'll take care of a few housekeeping matters. I have  
12 been asking all morning whether Missouri Industrial  
13 Energy Consumers, MIEC's attorney, who I thought was  
14 going to be participating was here.

15 I received an email from MIEC's attorney  
16 indicating that they are out of the country and while  
17 they have tried to attend, have been unable to log in,  
18 and that is maybe a difficulty of the geographic  
19 location that that attorney is at.

20 However, this attorney says that they did  
21 not have any testimony or position on this morning's  
22 issues and would have waved opening statement and cross  
23 had they been here. So, for the record, that is what  
24 happened MIEC's attorney.

25 MECG's attorney has asked to be excused for

1 the remainder of the hearing today and I'm going to  
2 grant that request. So Mr. Opitz, on behalf of MECG,  
3 will not be back today. With that in mind, we left off  
4 and we were just about to begin the redirect from Ameren  
5 Missouri of witness Jeffrey Holmstead, who we are taking  
6 out of order today.

7 So with that in mind, Mr. Long, if you want  
8 to go ahead and redirect, you are welcome to do so.

9 MR. KEEVIL: Judge, this is Jeff Keevil.  
10 Let me ask one question. Since this is the first  
11 witness of hearing, I just wanted to clarify. Redirect  
12 is limited to anything in particular or any questions or  
13 any party's questions?

14 JUDGE CLARK: Cross examination is generally  
15 unlimited. Redirect is usually limited to subjects that  
16 have already been covered.

17 MR. KEEVIL: Thank you.

18 FURTHER REDIRECT EXAMINATION BY MR. LONG:

19 Q. All right. Mr. Holmstead, are you ready?

20 A. Yes, I am.

21 Q. I want to go back to a subject that has been  
22 covered. I think you discussed this subject with  
23 Judge Clark. And he asked you some questions about  
24 the 2017 opinion by the District Court and the  
25 reference in that opinion to the finding that the

1 Judge made. Do you recall that?

2 **A. Yes, I do.**

3 Q. And he was referring back into the -- from the  
4 remedy opinion in 2019, he was referring back to the  
5 2017 opinion, just to orient you?

6 **A. Yes.**

7 Q. Okay. And I think it was in the 2019 remedy  
8 opinion you had this discussion with Judge Clark.  
9 If I said 2017 liability, I apologize. In the 2019  
10 remedy opinion there was a reference to a conclusion  
11 that had been made in the 2017 opinion that a  
12 failure to obtain permits was not reasonable. Do  
13 you recall that discussion with Judge Clark?

14 **A. Yes, I do.**

15 Q. And in the 2017 liability opinion, was there a  
16 conclusion that the Company had an unreasonable  
17 understanding of the law?

18 **A. No. Nowhere.**

19 Q. Was there a conclusion in the 2017 liability  
20 opinion that the emission calculations offered by  
21 the Company at trial were unreasonable under the  
22 law?

23 **A. Yes.**

24 Q. And how do you address the issue -- I think  
25 Mr. -- I think Judge Clark raised this up. How do

1 you reconcile the use of the word concluded in the  
2 2019 remedy opinion with respect to unreasonableness  
3 and your position that that was dicta in the 2019  
4 opinion? How do you reconcile the two?

5 A. So as I tried to explain in my testimony,  
6 there were three reasons why the Company concluded  
7 that it didn't need to obtain an NSR permit. One of  
8 those was, they didn't expect that it would cause --  
9 we're talking about two different emissions increase  
10 tests. One is the potential, no increase in  
11 potential emissions, and that's the standard that  
12 people understood under the Missouri SIP. That was  
13 -- that's not what we're talking about here.

14 Ameren also concluded, being aware of sort of  
15 the next step in the Missouri regulations, that  
16 simply for engineering reasons their understanding  
17 of the plans and the fact that it had significant  
18 unused capacity, they concluded that the projects  
19 would not cause an increase in actual annual  
20 emissions. They made that conclusion without doing  
21 any calculations because that was their  
22 understanding of the Missouri SIP.

23 I was interested to note that under the  
24 Illinois -- remember, ESD covers both Missouri and  
25 Illinois. In Illinois they did do emission

1 calculations because that's what they understood the  
2 SIP to require there, but in Missouri their  
3 understanding was that was not required. So it was  
4 not as though they were against doing emission  
5 calculations, but they concluded that they didn't  
6 need to do those.

7 At the trial, however, after they had received  
8 the NOV from EPA and after they had already started  
9 the 2010 project, there was an employee there who  
10 was tasked with trying to do emissions calculations.  
11 And those calculations were never relied upon by  
12 Ameren. And as I said, they were made after the  
13 fact and they were -- they really were kind of done  
14 for another purpose.

15 But it was those calculations that the Judge  
16 said was unreasonable. So when he was talking  
17 about -- I know this seems very convoluted, but it  
18 was -- that was not the determination on which the  
19 Company had decided that the projects would not  
20 cause an increase in annual emissions.

21 They provided no calculations because that was  
22 their understanding the law. After they started,  
23 they had a fellow -- I don't remember his name --  
24 who tried to do some emissions calculations that the  
25 Judge found to be unreasonable.

1 Q. So all of this was in the context of the  
2 remedy decision referring back to the liability  
3 decision of 2017?

4 A. Yes.

5 Q. What was the issue as you understood it for  
6 the remedy decision to decide?

7 A. I think the remedy decision was only -- at  
8 that point the violations had been established and  
9 the question is, well, what do you need to do to  
10 remedy those violations? And the remedy decision  
11 was all about what steps EPA -- I'm sorry, what  
12 steps Ameren would now need to take to provide a  
13 remedy for its violation of the Clean Air Act.

14 Q. So in deciding that issue for the remedy  
15 decision in 2019, what relevance did it have to  
16 whether or not the permitting decisions were  
17 reasonable?

18 A. At that point it was legally irrelevant. As I  
19 said before, I read that one sentence as being sort  
20 of a shorthand way of saying he found they should  
21 have gotten permits. But the whole question of  
22 reasonableness, it was never an issue in the 2017  
23 liability decision and it really wasn't relevant to  
24 the remedy decision at all. Again, that was only  
25 about what was he going to order them to do. That's



1 when he ordered them to install scrubbers for both  
2 Rush Island and the Labadie plant.

3 Q. And did the Judge make that remedy order  
4 immediately effective against Ameren, Missouri?

5 A. No, actually, he didn't. The Company asked  
6 the Judge to stay that order, arguing that there was  
7 significant legal questions about some of his  
8 decisions and that they would face irreparable harm  
9 if they were forced to go ahead immediately in  
10 making those investments.

11 And the Judge actually granted the stay. He  
12 said he recognized that -- especially the issue  
13 involving the Missouri SIP, was an issue of first  
14 impression, and that there was a chance that he  
15 could be overturned by the Eighth Circuit. So he  
16 certainly -- he certainly didn't think that the  
17 Company's position on -- I think on any of those  
18 questions was unreasonable.

19 Q. So to make sure the timeline is unmistakably  
20 clear to everybody, after he makes a reference in  
21 the 2019 remedy opinion to the permitting decision  
22 as having been an unreasonable one, he then later  
23 stayed the implementation of that remedy decision?

24 A. That's correct, yes.

25 Q. And what does that tell you about whether the

1 Company's permitting decisions were reasonable, the  
2 fact that the Judge, even after having said all of  
3 this, stayed the implementation?

4 A. Had he thought that they were unreasonable, it  
5 wouldn't have met the standard for a stay. There's  
6 a formula that the Courts have to use deciding  
7 whether there's a stay. So if it was unreasonable,  
8 they would have had no likelihood of success on the  
9 merits. I guess the point is, if he really thought  
10 that their decisions were unreasonable as a legal  
11 matter, he couldn't have issued a stay of the  
12 opinion because that would be sort of contrary to  
13 the judicial standards for granting stays.

14 MR. LONG: Thank you. That's all I have.

15 JUDGE CLARK: Thank you, Mr. Long. Thank  
16 you, Mr. Holmstead, for clarifying that for me. We  
17 normally end with redirect. Oftentimes if there's one  
18 or two questions that people are dying to ask, I will  
19 allow those. Since we have this witness for a limited  
20 time, I'm going to do that. Does anybody have one or  
21 two questions they want to ask? If not, I will excuse  
22 this witness.

23 CHAIR HAHN: Judge, I do have a question.

24 JUDGE CLARK: Yes. Go ahead, Chair Hahn.

25 QUESTIONS BY CHAIR HAHN:

1 Q. Hi. Thank you for being here today. I really  
2 appreciate the testimony you've provided. But one  
3 of the things you recently said in your response  
4 drew a question. You said the Courts use a formula,  
5 you know, when determining whether or not to issue a  
6 stay. And I thought the word formula is an  
7 interesting one because it's not something  
8 associated with a court. Usually it's a test. Can  
9 you expand on that and tell me why or what is  
10 involved in that formula or test so that I can  
11 better understand what the requirements are for  
12 meeting that for a stay?

13 A. Yes. Well, thank you for correcting my  
14 nomenclature. It's probably better described as a  
15 test than a formula. So if a court is asked for a  
16 stay, it's very similar to the test for a  
17 preliminary injunction. The person who is seeking  
18 the stay has to show that they are raising a legal  
19 issue that is meritorious, that they have a  
20 likelihood of success on the merits.

21 So they have to show that their appeal is  
22 meritorious. And that's what the courts say, you  
23 have to show you have a reasonable likelihood of  
24 success on the merits. And you have to show that if  
25 you don't get a stay, there will be irreparable

1       harm.

2               And then the courts also consider sort of the  
3       balancing of the harm. Like, what's the harm to the  
4       movement of granting -- if they don't get a stay and  
5       what's the harm to the public interest if the stay  
6       is granted.

7               And using that test, he had to have considered  
8       -- in fact he did say they had raised -- I think he  
9       said serious issues of first impression and that  
10       they would -- that they would be forced to spend a  
11       lot of money before an appeal could be -- could be  
12       completed if he didn't grant the stay. So that's  
13       the test.

14               CHAIR HAHN: Thank you for the  
15       clarification. Much appreciated.

16               JUDGE CLARK: Any recross on the limited  
17       subject of that stay?

18               MR. WILLIAMS: Judge, I don't have any  
19       recross, but I want to thank Mr. Holmstead for his  
20       testimony here today. I appreciate it. And I was  
21       impressed by his memory.

22               **THE WITNESS: Thank you.**

23               JUDGE CLARK: Mr. Holmstead does seem to  
24       have quite a good memory and good grasp of this subject.  
25       All right. I believe, as indicated before at the

1 beginning of this hearing, this is one witness we are  
2 taking out of order. This does not conclude this issue,  
3 which has further witnesses to be questioned. Some of  
4 the parties have indicated they have reserved the right  
5 to offer additional mini opening based upon that.  
6 Mr. Holmstead, again, thank you for your testimony today  
7 and you are excused.

8 THE WITNESS: Thank you for accommodating my  
9 schedule.

10 JUDGE CLARK: Thank you, again. I have  
11 nothing further. I will look this weekend to see if I  
12 can find those District Court opinions that I am  
13 interested in. And I will also do some research in  
14 regard to -- hold on just a moment. I had it written  
15 down somewhere -- in regards to getting the transcript  
16 that the District Court asked be filed with the  
17 Commission and I will deal with that with preliminary  
18 matters on Monday and also field any objections to that  
19 request by Staff. With that in mind, I'm going to  
20 adjourn this proceeding today and I will see you all on  
21 Monday. Have a good weekend. And we are off the  
22 record.

23 [Hearing adjourned.]

24

25

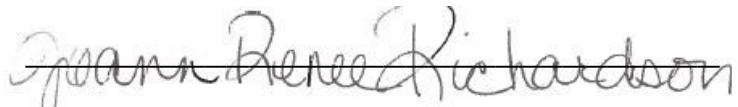
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## C E R T I F I C A T E

I, Joann Renee Richardson, Certified Court Reporter, do hereby certify that pursuant to Notice there came before me on April 12, 2024, Public Service Commission Evidentiary Hearing, via Zoom, and was written in machine shorthand by me and afterwards transcribed and is fully and correctly set forth in the foregoing pages; and this hearing is herewith returned.

I further certify that I am neither attorney or counsel for, nor related to, nor employed by any of the parties to this action in which this conference is taken; and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in this action.

Given at my office in the City of St. James, County of Phelps, State of Missouri, this 22nd day of April, 2024.



Joann Renee Richardson, CCR 583

<hr/> <b>\$</b> <hr/>	<b>10:50</b> 62:16	94:5 95:18 96:10	118:3 125:4,7,9
<b>\$100,000</b> 82:8	<b>11</b> 62:17 63:18,21 64:6,9,12 66:4	<b>2000's</b> 59:16 60:12	126:2,3 128:15 129:21
<b>\$15</b> 107:10	<b>12</b> 4:2 35:24 108:10,11	<b>2000s</b> 66:8	<b>2021</b> 27:11 35:1 40:3,9 49:8 61:20, 21
<b>\$275</b> 44:21	<b>14</b> 47:22 82:2	<b>2001</b> 54:18 87:1	<b>2024</b> 4:2 32:3 41:15 42:5,15 44:9,20 60:15
<b>\$34</b> 34:17,20 35:19,23 61:5	<b>15</b> 35:24	<b>2005</b> 16:15 22:18 23:18 24:3,15 54:20 56:5,6 59:18 66:24 67:24 68:16,17,19,20 69:2 74:14 86:5, 13 87:5 88:20 90:8 91:11 93:6 104:6	<b>20th</b> 74:14
<b>\$500</b> 107:12	<b>15th</b> 4:6 32:2 41:15 42:5	<b>2006</b> 86:5	<b>21</b> 40:5,20 76:19 77:21
<b>\$70</b> 83:12	<b>16</b> 80:17	<b>2007</b> 12:20 17:21 18:1 32:7 34:23 37:22 41:19 59:15 77:9 80:3 81:12, 24 83:19 84:15	<b>22</b> 43:10
<hr/> <b>(</b> <hr/>	<b>16th</b> 96:9	<b>2008</b> 28:6,9	<b>230</b> 6:8
<b>(7)</b> 36:13	<b>17</b> 42:16	<b>2009</b> 56:15 87:3	<b>23rd</b> 95:18
<hr/> <b>0</b> <hr/>	<b>170</b> 79:25 80:17	<b>2010</b> 12:20 16:15 17:21 18:1 20:23 22:3,19 24:3,15 32:7 34:23 37:22 41:19 66:25 77:10 80:4 81:13,25 104:6 112:14 127:9	<b>25</b> 42:16
<b>05</b> 20:23 22:3	<b>174</b> 79:13,24 80:6	<b>2015</b> 85:24	<b>26</b> 42:16
<hr/> <b>1</b> <hr/>	<b>175</b> 79:13,24 80:18 81:21 82:17	<b>2016</b> 26:21,25 104:5	<b>28</b> 44:9
<b>1</b> 17:21 36:12 88:21 90:7,14,25 91:10,11 93:6 99:16 101:25 102:3	<b>176</b> 79:14,24 83:15	<b>2017</b> 26:12 27:10 40:3,9,21 66:13, 23 68:3,15 69:5 79:7 116:12 117:3,24 118:17 124:24 125:5,9, 11,15,19 128:3,22	<b>3</b>
<b>1,200</b> 83:18	<b>18,300</b> 82:6	<b>2019</b> 26:11 27:10 40:3,9 116:11	<b>3</b> 79:8
<b>10</b> 21:1 62:11,12, 13,17 63:17,21 64:6,9,11 71:21 96:9	<b>19</b> 103:3		<b>3(A)</b> 12:17 50:6 58:12
<b>10-minute</b> 12:17	<b>1970s</b> 90:13		<b>3-4</b> 94:1
<b>100</b> 40:6 75:18 76:16 77:25 81:6 100:5 106:24 112:24	<b>1988</b> 27:17,23 28:4 93:25		<b>30</b> 123:4
<b>100s</b> 102:3	<b>1990s</b> 90:16,24		<b>30-minute</b> 123:7
<b>10:30</b> 62:10	<b>1999</b> 54:16 65:21 96:8,9		<b>30-page</b> 98:15
<b>10:38</b> 62:9,14	<b>19th</b> 4:7		<b>300</b> 109:14 117:12
<b>10:40</b> 62:15	<b>1:10</b> 123:8		<b>31</b> 43:9
	<b>1st</b> 32:2 41:15		<b>3115</b> 6:25
	<hr/> <b>2</b> <hr/>		<b>316</b> 6:1
	<b>2</b> 17:21		<b>32</b> 75:13
	<b>20</b> 80:13		<b>33</b> 43:10 75:13
	<b>200</b> 6:1 102:1,2,6, 7,10,15,20		<b>35</b> 83:17,23
	<b>2000</b> 82:2 85:24		<b>393.1700</b> 36:13

<b>4</b>	<b>99</b> 102:3	9 70:8 71:7,9,14	<b>adjustments</b>
<b>40</b> 14:6 15:1,5,17	<b>9:03</b> 4:2	72:20 112:19	44:14
<b>45</b> 123:4	<b>A</b>	113:13 114:8	<b>administration</b>
<b>5</b>		128:13	56:15 86:10,11, 21,24
<b>50</b> 13:16	<b>a.m.</b> 4:2	<b>acted</b> 27:5,9 35:23 37:5,21 38:4,17	<b>administrations</b>
<b>52.21</b> 14:6	<b>AARP</b> 7:12,14	<b>Acting</b> 93:24	86:4
<b>56</b> 78:1,12,22	11:21 52:15	<b>action</b> 38:9 45:8	<b>Administrator</b>
<b>6</b>	53:11,22 65:4	52:25 56:14 66:24	23:14 93:25
<b>6</b> 42:16	<b>aback</b> 117:22	70:3 88:3,17	<b>admit</b> 27:24
<b>600</b> 7:1	<b>abandon</b> 32:2	103:9 104:5	<b>admitted</b> 40:23
<b>61</b> 84:23	41:14	105:23	64:13 102:15
<b>61081</b> 74:13	<b>abandoned</b> 36:15	<b>actions</b> 23:8 43:24	<b>admitting</b> 40:10
<b>63118</b> 7:4	<b>abandonment</b>	48:11 55:11 56:17	64:8 102:5,9
<b>65102</b> 6:2,8	36:11,17	69:12 100:17	<b>adopt</b> 72:18 73:13, 17
<b>65201</b> 5:16	<b>abound</b> 42:25	104:2,8 105:25	<b>adopted</b> 18:18
<b>7</b>	<b>absolutely</b> 78:17	110:11	<b>adopting</b> 73:20
<b>70</b> 74:13	79:2 98:3 112:19	<b>activities</b> 55:9	<b>ADP</b> 108:11
<b>70s</b> 55:14	<b>accept</b> 56:22	65:20 85:21 86:1, 17 87:4,13	<b>advice</b> 13:7 24:18
<b>74</b> 111:18	<b>accident</b> 106:21	<b>activity</b> 54:19	<b>advisory</b> 46:13
<b>8</b>	<b>accommodations</b>	96:18	<b>affect</b> 85:25
<b>8</b> 43:10 44:20	9:8	<b>actual</b> 14:7 15:10, 13,16 54:24 115:4	122:13
<b>8th</b> 42:15 50:25	<b>accountant</b> 25:21	119:7 126:19	<b>affirm</b> 63:3
<b>9</b>	<b>accurately</b> 42:19, 20 82:17 99:18	<b>adamant</b> 43:23	<b>affirmed</b> 43:15
<b>9</b> 93:25	<b>accusations</b> 46:25	<b>add</b> 60:4	<b>afield</b> 108:14
<b>9020</b> 5:15	<b>accused</b> 46:1	<b>added</b> 56:23 60:12	<b>afterward</b> 55:23
<b>90s</b> 59:20	<b>achievable</b> 25:15	<b>addition</b> 14:5	<b>agency</b> 71:16
	<b>acknowledged</b>	21:10	85:12 87:23 90:5
	66:12	<b>additional</b> 44:6, 10,16 45:7 49:22	96:1 103:20
	<b>acknowledges</b>	<b>address</b> 6:7,25	<b>agree</b> 51:18 67:5
	26:1	33:10 41:24 47:2	101:2 117:23
	<b>acronym</b> 27:17	56:10 119:21	120:20
	30:3,15	125:24	<b>ahead</b> 7:2 8:2
	<b>act</b> 13:16,17,22,24	<b>addressed</b> 34:1	9:13,15 17:10
	14:1 16:12 21:6	36:24 45:19	19:18 56:23 62:20
	23:13,23 24:21	<b>addressing</b> 32:3	63:6 79:4 84:8
	37:5,7 55:12,13	41:25	92:17,20 101:20
	67:13,19,23 69:3,		120:3 124:8 129:9



130:24	13 62:20 63:6	122:13	<b>appreciated</b>
<b>air</b> 13:16,17,22	64:5,15,18 67:15,	<b>answers</b> 14:10	132:15
14:1 16:1,12,19	20,25 68:4,14,18	63:24 64:2	<b>approach</b> 28:9
21:6 22:19,21	69:3,7 70:15	<b>anticipated</b> 73:18	<b>approached</b> 48:8
23:13,15,23	75:16 76:11 78:3,	<b>apologize</b> 7:6	<b>approaches</b> 57:3
24:11,21 29:25	14,23 79:8 80:3	125:9	77:1
30:5,6,11,16	81:12,17,25 82:16	<b>appeal</b> 42:10 79:9	<b>approval</b> 110:12
54:15 55:12,13	84:16 85:1,8	131:21 132:11	<b>approve</b> 49:1
67:13,18,22 69:3,	88:21,22 90:6,16	<b>Appeals</b> 35:5	<b>approved</b> 13:25
9,18 70:8 71:7,14	91:4,12,16 93:7,	36:23,24 43:16	14:12,17 16:11
72:20 80:7,22	22 102:12 103:4,	117:17	18:19 24:1 89:7
82:13 83:16,24	13 111:22 113:3	<b>appearance</b> 5:1,8,	91:23 94:10
84:10,20 96:16	114:2,21 115:2,14	13 6:24	101:11
112:19 113:13	117:11,20 118:5,	<b>appearing</b> 6:6	<b>approximately</b>
114:8 128:13	19 119:16 120:8,	7:14	83:18
<b>Alabama</b> 28:6	12,20 121:17	<b>appears</b> 97:16	<b>April</b> 4:2,6 42:15
<b>alleged</b> 35:19	122:9 124:4	98:15 112:20	44:20 50:25
<b>allocated</b> 41:25	126:14 127:12	<b>applicability</b> 30:21	<b>arbitrary</b> 70:5
<b>allowed</b> 30:5	128:12 129:4	55:22 87:16,18,20	<b>area</b> 15:25 29:24
<b>alluded</b> 116:13	<b>Ameren's</b> 29:1	88:1,10,23 89:2,6,	30:18,19 31:2
<b>alterations</b> 110:12	37:15 48:19	17 90:1 91:9,13	<b>areas</b> 30:4,8,10,12
<b>alternative</b> 57:3	109:9,11 111:10	92:23 93:4,8,12,	31:5
<b>Altogether</b> 77:25	115:17,20,22	20 94:2,3 95:1,20	<b>arguing</b> 129:6
<b>ambient</b> 16:1	118:18 119:4,13,	100:13 101:9,17	<b>assertion</b> 96:19
29:25 30:6,11,16,	21	107:1,16 110:4	100:11
19	<b>amount</b> 14:2	121:9 122:3	<b>asserts</b> 96:16
<b>Ameren</b> 4:10 5:2,	15:17 32:12 41:23	<b>applicable</b> 14:17	<b>assessment</b> 49:6
3,6,17,19 11:19,	44:22 47:13 50:16	100:19	<b>Assistant</b> 23:14
25 12:16 16:13,21	58:15 71:1,5	<b>application</b> 16:10	93:25
20:21 21:19,20,22	<b>amounts</b> 57:20	23:25 24:2,20	<b>associations</b>
22:2,12 26:18,23	<b>analyses</b> 26:4	<b>applied</b> 18:8,9	70:12
27:3,5,11 28:2	27:1	22:22 33:7 37:12	<b>assume</b> 49:8
32:1,5 33:17,20	<b>analysis</b> 26:23	71:17 107:3 108:1	120:11,23 121:22
41:10,13,16 42:2,	39:4,10 42:13	<b>applies</b> 30:18	<b>assure</b> 103:23
10,15,18 43:2,7,	57:19 68:10 94:2	87:24	<b>attached</b> 85:17
13,23 44:11,12,	119:9	<b>apply</b> 13:19 14:24	110:7
15,19,22 45:6	<b>analyzing</b> 116:12	18:22 29:23 30:8	<b>attainment</b> 16:1
46:6 47:21 48:8,	<b>Andrew</b> 6:24	36:15 57:20 75:12	30:11,12 31:5
25 49:3,9,16	<b>announced</b> 86:6	88:12	
50:25 51:3 52:19	<b>annual</b> 14:7 18:22	<b>applying</b> 26:2	
54:12 55:4,20	126:19 127:20		
56:6,14,17 57:4,	<b>answering</b> 92:16		
16 58:20,22 60:4,	97:17,19,21,23		

**attempt** 28:7  
29:13

**attend** 123:17

**attendance** 4:21

**attending** 19:16

**attention** 70:25

**attorney** 11:20  
29:1 45:15 48:19  
52:12,13 58:4  
59:8 65:3 92:13  
97:18 110:10  
123:13,15,19,20,  
24,25

**authority** 71:14  
77:23 91:25  
93:14,15,21

**authorized** 93:14

**Authorizing** 4:11

**automatically**  
113:5

**availability** 22:7

**avenue** 59:14

**avenues** 60:9

**average** 109:19

**avoid** 100:19,23,  
24 101:19

**avoided** 60:17

**aware** 31:16 34:6,  
7 74:25 84:14,16  
87:14 88:6 89:1  
93:22 100:12  
103:18 108:6,24  
111:1,13,16  
120:8,10 126:14

---

**B**

---

**B-A-S-E-L** 82:15

**back** 9:12 26:14  
29:18 32:22 37:21

38:5 40:23 46:15  
54:16 55:12,13  
59:11,15,19 60:12  
62:16,19 66:8  
67:24 92:15 95:2  
98:11 106:23  
117:13 122:20,22  
123:10 124:3,21  
125:3,4 128:2

**background** 19:14

**bad** 27:6

**balancing** 132:3

**ballpark** 70:23

**base** 68:4

**based** 19:21,22  
21:23 24:4,6,25  
25:2 27:9 34:4,17  
35:19 38:10 41:1  
42:13 43:20 47:5  
49:21 50:5 67:16  
86:7,22 88:17  
90:9 104:10,17  
114:7 115:19  
120:1,21

**baseline** 100:19,  
25

**basic** 17:14,17

**basically** 55:20  
56:5 72:9,17  
99:20 111:9

**Basin** 59:21 90:17,  
24

**basis** 35:25 37:22  
38:1 43:22 68:1  
78:3,14,24 119:13

**bathroom** 62:12

**Bear** 37:13 48:17

**bearing** 98:7

**began** 88:24

**begin** 57:13 124:4

**beginning** 42:15  
112:13 116:13

**begins** 17:24 53:9

**behalf** 5:16,19,24,  
25 6:4,6,13,16,19,  
21 7:12,14,15  
12:15 42:17 82:2  
95:19 124:2

**belief** 64:3

**believed** 41:8 48:9  
66:18 89:2 115:2

**believes** 37:21  
49:15

**believing** 68:1  
78:4,15,24

**Berry** 5:16

**big** 43:7 68:13  
83:9 121:19

**biggest** 37:14

**billed** 70:20

**billion** 39:16

**binder** 85:5

**binding** 55:23  
67:10 88:12,18

**Birk** 22:1 31:20

**bit** 10:7 54:19 60:1  
61:13 68:24 86:10

**bite** 117:14

**boiler** 77:16 81:25

**Bonds** 4:12

**borne** 44:12 46:5  
49:4

**Boulevard** 6:25

**bounds** 61:10  
69:16 70:6

**Box** 6:1,7

**Brad** 45:12

**break** 62:10,12,18  
122:22 123:1

**briefly** 122:11

**bring** 86:6

**bringing** 45:18,22  
69:21

**broken** 113:21

**brought** 69:8 70:2  
86:21

**bulk** 52:17

**bullet** 75:14

**bunch** 83:12

**burn** 90:14

**burning** 90:17

**Bush** 54:17 86:20,  
25 87:1

**business** 5:2

---

**C**

---

**calculation** 17:17  
115:4 119:16

**calculations** 25:19  
114:24 119:3,5  
125:20 126:21  
127:1,5,10,11,15,  
21,24

**call** 49:12 62:21  
84:20 102:5

**called** 15:2 30:13  
72:8,22 94:11,18  
100:25 116:20

**calls** 38:1 88:2

**camera** 10:13,14  
29:11 47:11 76:13

**capacity** 45:2,3  
72:10,15 94:20  
126:18

**capital** 82:7

<b>car</b> 38:19 106:20	<b>challenging</b> 117:15	130:16	<b>clear</b> 13:16 14:1 39:8,23 48:6 56:9 89:3 104:12 113:7 118:3 121:3,15 129:20
<b>care</b> 21:8 123:11	<b>chance</b> 62:11 84:25 103:22 129:14	<b>Clark</b> 4:1,15,24 5:12,21,23 6:3,9, 13,18 7:2,6,17 8:2,6,12,17,21 9:5,13,25 10:5 11:9,13,15 12:8, 12 19:13 28:25 29:12,18 31:7,24 33:14,23 35:12 36:3,8 37:13,18 39:25 40:19 45:14,22 46:8 47:3,9,14 48:14, 17 49:6,20,24 50:20,24 51:4,7, 18 52:2,9 53:10, 22 54:2,7 58:3 59:7 60:20 61:4,9, 19,23 62:3,6,19 63:1,6 64:7,17,23 65:1,6,9,12 73:7 76:21,23 78:19 79:4,22 84:2,7 92:11,20 93:1 97:14,25 98:4,7, 12,18,24 99:12 101:22,25 102:4, 9,14 105:9,12,20 106:4,8 108:14,19 109:3,7 119:24 120:3 122:8,13, 17,21 123:2,5,10 124:14,23 125:8, 13,25 130:15,24 132:16,23	<b>client</b> 24:18 <b>Clinton</b> 54:17 <b>close</b> 95:11 <b>Club</b> 7:19 65:2 <b>coal</b> 59:20,21 80:20 82:6,11 83:18 90:14,17,25 <b>cocounsel</b> 5:7 <b>Code</b> 14:6 <b>Coffman</b> 7:13,14, 18 52:16 53:10, 11,18 65:5,6,8,9 <b>coin</b> 37:10 <b>coincidence</b> 56:13 <b>cold</b> 101:2 <b>Coleman</b> 9:22,24 10:1 <b>collapsable</b> 53:20 <b>collapses</b> 38:7 <b>collect</b> 44:15 <b>collected</b> 82:5 <b>collections</b> 81:15 <b>collectively</b> 75:18 <b>Columbia</b> 5:16 <b>combination</b> 80:25 81:16 106:25 111:22 <b>combinations</b> 111:25 <b>commence</b> 17:10 <b>comment</b> 52:18 53:8
<b>career</b> 70:11	<b>change</b> 13:23 19:4 25:16 62:24 72:2, 13,24 86:12,14 87:5 96:14		
<b>case</b> 4:23 10:10 21:1,5,12,16 24:24 26:5,18 27:17,19 28:2 31:1 32:17 33:12, 18,21 34:2,18 35:11 36:1 39:12 40:10 44:20 45:20 46:2,8,19 48:2,23 50:9,11,13,16 53:1,8 54:6 57:9, 18 66:21 69:24 70:2,15 71:11,15, 16,19 91:8 101:21 109:17 111:23 112:22 113:4,10, 12 116:17	<b>changed</b> 88:14 <b>changing</b> 25:14 72:14 94:20 <b>characterizing</b> 118:7 <b>charge</b> 13:6 103:20 <b>check</b> 12:7 <b>Chief</b> 6:5 <b>choice</b> 56:3 <b>choices</b> 106:3 <b>chose</b> 60:5 <b>chunk</b> 68:13 <b>Circuit</b> 25:25 43:7 68:12 79:8 129:15 <b>circumstances</b> 34:12 37:6,8 60:10 104:22 <b>cite</b> 82:3,8 <b>cited</b> 110:8 <b>City</b> 6:1,8 <b>claims</b> 39:11 <b>Claire</b> 25:6 44:1, 25 45:4,11 <b>clarification</b> 50:18 132:15 <b>clarify</b> 50:6 59:9 124:11 <b>clarifying</b> 31:8		
<b>cases</b> 44:14 46:24 48:7 52:24 53:2 69:25 70:13 77:11 82:2 85:10,12 86:7,21 87:9			
<b>catch</b> 75:5			
<b>caused</b> 61:14 122:4			
<b>cautious</b> 105:25 106:6			
<b>Center</b> 4:14 12:19			
<b>cetera</b> 21:16			
<b>Chair</b> 4:16,19 9:13,17 49:23,24 50:2,4,17,20 58:5, 7,8 59:4 122:25 123:2,4 130:23, 24,25 132:14			
<b>challenge</b> 69:15 117:17,18			
<b>challenged</b> 69:13 70:3			

<p><b>comments</b> 52:17</p> <p><b>Commission</b> 4:4,8 5:24 9:15,16 11:20 29:1 32:16 33:12,17,21 35:10 36:4 40:4,8,10 41:2,4,8 44:6 45:15 46:12,13 48:22,23,24 49:22 50:7,21 51:13 53:6 57:11 58:3, 11,14,18 59:7 60:19,22 61:16 65:10 67:10,12, 14,17,21 97:3 109:4 112:18 113:1 114:13 115:9</p> <p><b>Commission's</b> 36:22 40:11</p> <p><b>Commissioner</b> 4:24 8:19,20,21 9:19,20,21,22,24 10:1,2,4,5,6</p> <p><b>commissioners</b> 9:2,16,18 12:6 49:25</p> <p><b>committed</b> 43:4</p> <p><b>common</b> 29:21 31:9 81:22</p> <p><b>commonly</b> 116:21</p> <p><b>companies</b> 70:11 75:18 76:19 77:21 82:20 84:22 89:10 107:1,3,8,17 108:7,8</p> <p><b>company</b> 4:10 13:2,12 16:17 17:5,6,13,23 18:2, 25 19:5 20:11,13, 15,18,22 21:3 22:16,23 23:2 24:5,9,16,19 25:1,</p>	<p>7,11,22 27:8,18 28:12,19,23 33:2, 6 34:3,6,7,8,10, 13,14 35:23 37:21 38:4 39:4,12 43:4 51:25 71:20 87:22 94:6 95:20 97:6 100:17 102:3 104:6,14,21 107:6 108:9 125:16,21 126:6 127:19 129:5</p> <p><b>Company's</b> 12:18, 24 19:11 22:5 39:2,6 95:23 129:17 130:1</p> <p><b>comparable</b> 83:21</p> <p><b>compare</b> 72:12</p> <p><b>compared</b> 72:4</p> <p><b>compensation</b> 70:14</p> <p><b>complete</b> 67:4 83:20 98:16 120:21</p> <p><b>completed</b> 132:12</p> <p><b>completely</b> 102:23 104:14</p> <p><b>completeness</b> 39:4</p> <p><b>compliance</b> 16:20 21:4 22:11,23 29:24 71:9 85:1</p> <p><b>complicated</b> 72:21</p> <p><b>complied</b> 24:4</p> <p><b>comply</b> 42:3 56:3 61:2</p> <p><b>component</b> 22:8 57:15 75:19,20 76:16,17 77:8 82:25 84:17 94:8,</p>	<p>15,16,17,18 95:6 100:4,7,8,14 108:11 111:2</p> <p><b>components</b> 19:3 56:10 77:12,19, 20,24 80:24 82:16 83:7,13 112:1,4</p> <p><b>composed</b> 9:16</p> <p><b>comprehensive</b> 110:20</p> <p><b>comprised</b> 76:16</p> <p><b>conclude</b> 26:15 96:10 100:15</p> <p><b>concluded</b> 18:10 23:4 100:2 114:2, 4 118:4,5,9 126:1, 6,14,18 127:5</p> <p><b>concludes</b> 24:25</p> <p><b>concluding</b> 20:16 117:2</p> <p><b>conclusion</b> 20:9 28:22 35:6 42:12 99:4,6 118:13 119:13 125:10,16, 19 126:20</p> <p><b>conclusions</b> 19:11</p> <p><b>conduct</b> 32:9 41:20</p> <p><b>conducted</b> 16:19 44:8</p> <p><b>conducting</b> 21:14</p> <p><b>conference</b> 62:23</p> <p><b>confidential</b> 10:9, 10,12,17,20,23 76:10,24 77:4 84:21</p> <p><b>confirm</b> 19:10</p> <p><b>confirmed</b> 23:8</p>	<p><b>conform</b> 54:21</p> <p><b>consequences</b> 106:3</p> <p><b>consideration</b> 40:11</p> <p><b>considered</b> 19:9 60:23 96:3 132:7</p> <p><b>consistent</b> 13:9, 13 99:20</p> <p><b>consistently</b> 69:8</p> <p><b>constant</b> 22:9</p> <p><b>constitute</b> 96:14</p> <p><b>constructed</b> 13:19</p> <p><b>construction</b> 15:2 18:17 96:18</p> <p><b>Consumer</b> 65:7</p> <p><b>consumers</b> 6:14, 16,19,20 7:15 33:8 52:10,14 53:23 123:13</p> <p><b>consumption</b> 10:21</p> <p><b>contemplated</b> 52:1</p> <p><b>contend</b> 25:7 34:11</p> <p><b>contending</b> 39:6</p> <p><b>content</b> 90:18</p> <p><b>contention</b> 34:8, 19</p> <p><b>context</b> 57:9 58:19 128:1</p> <p><b>continue</b> 64:14</p> <p><b>continued</b> 87:8</p> <p><b>continues</b> 43:13</p> <p><b>contradictions</b> 42:25</p>
---	--	--	--

<b>contrary</b> 130:12	<b>Council</b> 7:8,15 65:7	<b>covers</b> 57:23 126:24	<b>dealing</b> 69:4
<b>control</b> 96:5 105:5	<b>counsel</b> 4:25 6:4, 6,7,10,11 8:1 11:21 24:18 27:14 37:15 52:19 54:8 58:9,10 65:13 97:5 102:10	<b>create</b> 84:12,19	<b>debating</b> 52:2
<b>controls</b> 107:13	<b>country</b> 28:5,18 123:16	<b>created</b> 74:2	<b>decade</b> 104:16
<b>controversial</b> 90:5	<b>country's</b> 23:13	<b>Creek</b> 17:1	<b>decades</b> 13:11 37:12 69:17
<b>conversations</b> 74:21,22 89:13	<b>couple</b> 8:3 83:8 87:11 89:23 92:14 95:1,11 98:25 109:25 114:23	<b>criteria</b> 18:9 22:24,25 23:5	<b>December</b> 35:1 96:9
<b>conversely</b> 37:7	<b>court</b> 13:13 21:11, 18 25:24 26:10, 20,22,24 27:16 28:6,9 35:4 36:23, 24 40:3,9 42:9,10, 22,24 43:1,6,9,15, 23 44:2,6 45:7 47:19 48:7 49:10 51:9 60:20 61:1, 11 66:13 68:3,12 74:7 78:2,13,19, 23 80:1 92:12 93:2 109:9,12 112:20 113:10,17 114:11,13,18,20, 23 115:18 116:11 117:17 118:21 124:24 131:8,15	<b>critical</b> 120:13,17	<b>deceptively</b> 71:25
<b>convey</b> 42:20	<b>court's</b> 35:4 42:3 43:14 48:1,5,13 51:5 61:14 115:12 117:18,19	<b>criticizes</b> 114:23	<b>decide</b> 59:24 60:7 104:6 128:6
<b>convoluted</b> 127:17	<b>courts</b> 20:18 26:2, 3 28:5,17 52:23 73:25 78:18 112:9,10,15 130:6 131:4,22 132:2	<b>criticizing</b> 114:25	<b>decided</b> 21:1 56:4 69:5 74:7 127:19
<b>copy</b> 43:19 98:1,5	<b>covered</b> 11:24 124:16,22	<b>cross</b> 7:11,20 64:16,19 65:10, 12,16 109:7 123:22 124:14	<b>deciding</b> 56:25 128:14 130:6
<b>corner</b> 43:3		<b>current</b> 4:2	<b>decision</b> 18:2 26:14 28:7 32:18, 19,22 33:17 34:4, 5,9,16,22 35:1,4, 14,15,16,21 36:5 38:4 39:2,5,6,13 40:5,20 42:3 43:11,16,21 44:3 46:10,14 47:18,24 48:22 49:9,14 56:10 61:21 89:15 107:14 113:4,16 114:18 115:12 116:11,12,14,15 117:3 118:3 119:17 128:2,3,6, 7,10,15,23,24 129:21,23
<b>correct</b> 8:4,7 11:7, 8 45:20 47:7 48:15,16 49:14,15 51:5,6 53:17 61:24 64:2 65:22 67:24 69:23 71:23 74:17,18 76:11,12 78:6,7,8,17 79:3 85:2,3 90:10,11, 14,15,19 96:20 97:1,8 98:13 99:24,25 100:2 101:16 103:10,11 104:25 105:1 108:18 114:7 119:23 129:24		<b>customers</b> 32:11 33:8 35:7,8 39:15 41:23 44:5,13 45:6 46:5 48:11 49:5,18 57:19 61:18	<b>decisionmaking</b> 46:3 48:25
<b>correcting</b> 131:13		<hr/> <b>D</b> <hr/>	<b>decisions</b> 12:18, 25 13:3,9,12,14 17:12,19,20,23 19:20 20:10,15, 18,22 21:2,3,12, 16,22 22:14 23:3, 7 24:6 25:2 26:12 28:3,13,17,18,24 32:5,10,11,15,23,
<b>correction</b> 8:13		<b>D/b/a</b> 4:10	
<b>corrections</b> 63:20		<b>D6</b> 76:6	
<b>correctly</b> 83:22 84:5		<b>damage</b> 44:21 47:20	
<b>cost</b> 36:15 43:8 49:3 50:14 57:4,5 82:8 120:24		<b>damages</b> 38:20	
<b>costly</b> 57:18		<b>danger</b> 76:23	
<b>costs</b> 4:13 36:12, 15 44:15 47:17 57:21		<b>data</b> 21:12 26:3	
		<b>dated</b> 84:15 93:25 95:18 96:7	
		<b>day</b> 28:23 42:1 72:4,5	
		<b>days</b> 4:22	
		<b>de</b> 15:3	
		<b>dead-end</b> 109:6	

25 33:3,19 34:23 35:10 40:3,9 41:16,21,23 42:7 46:16 48:5,9 56:18 67:15,18 68:5 79:10 92:6 112:12 114:14 115:14,19 119:21 128:16 129:8 130:1,10	28:14 54:22 92:24	<b>determine</b> 50:8 59:22 67:21 96:2 112:18 114:14 116:12,14	119:10 120:18
<b>declare</b> 67:13	<b>depend</b> 77:2	<b>determined</b> 45:8 115:4	<b>disagreed</b> 21:18 103:5,14 118:23
<b>declared</b> 68:12 114:8	<b>depending</b> 14:22 29:23 60:8 86:18	<b>determining</b> 57:13 59:14 60:21 131:5	<b>disagrees</b> 71:12
<b>declaring</b> 68:19 69:2	<b>depends</b> 15:25	<b>Detroit</b> 94:6 95:20 96:16 97:5 102:8, 10	<b>disallowance</b> 34:18 35:17,24 46:22 47:6,11,25 60:22 61:10
<b>deemed</b> 36:17 53:1	<b>deposition</b> 27:23 38:11 82:14	<b>developed</b> 21:13 26:4,5	<b>disallowed</b> 34:21
<b>Defense</b> 7:8	<b>Deputy</b> 6:5	<b>developing</b> 23:2 24:24	<b>discount</b> 70:17
<b>defer</b> 53:8	<b>derailed</b> 46:24	<b>development</b> 74:20 75:2	<b>discuss</b> 52:6
<b>define</b> 14:1	<b>describe</b> 22:11 23:3,7	<b>dicta</b> 116:20 117:9,18 118:6 126:3	<b>discussed</b> 44:7,25 124:22
<b>defines</b> 13:22	<b>design</b> 14:3 25:15 94:20 100:10	<b>difference</b> 36:18, 21 37:14 39:21 46:18 89:20 105:7,21 106:5	<b>discussing</b> 110:1 120:5
<b>defining</b> 105:14	<b>designed</b> 22:8 77:14 90:13 94:17	<b>differently</b> 116:4	<b>discussion</b> 10:24 29:17 125:8,13
<b>definition</b> 14:15 15:11 18:16,24 19:4 37:2 72:23	<b>desire</b> 22:6 33:13	<b>difficulty</b> 5:9 123:18	<b>dispute</b> 96:19
<b>degrade</b> 30:17	<b>detail</b> 23:3 45:5	<b>diligence</b> 23:1	<b>disputed</b> 28:20,21
<b>delayed</b> 120:8,16	<b>detailed</b> 75:17 94:2	<b>direct</b> 11:9 30:25 63:10,14,25 64:9, 11,14 65:23 70:16,19 71:21 75:13 76:5 78:1, 12,22 81:7 84:23 85:6 92:22 110:9, 15,23 119:20	<b>disputes</b> 25:17 82:23
<b>delegated</b> 94:23	<b>Deterioration</b> 15:7,23 30:14 54:15 74:10 96:6	<b>directly</b> 31:17 36:10	<b>disputing</b> 91:1
<b>delivering</b> 8:24	<b>determination</b> 17:15 26:7,25 27:23 47:20 55:22 56:4 57:10 58:11, 14 59:3,12,24 60:19 61:11 87:21 88:10,23 89:2,17, 22 90:2 91:9,13 92:23 93:5,9,13, 20 94:2,4 95:1,21 99:23 100:13,22 101:3,9,18 107:2, 16 110:4 112:21 117:6 121:9 122:3 127:18	<b>dirty</b> 30:5 59:21	<b>dissecting</b> 46:16
<b>demonstrate</b> 84:14,16	<b>determinations</b> 16:15 18:7 58:12 87:17,18 89:7	<b>disagree</b> 37:25 81:4 104:17	<b>distinct</b> 21:11,18 25:24 26:10,20, 22,24 27:16 40:3, 9 42:3,9,10 47:19 48:1,5,13 49:10 60:20 66:13 78:2, 13,23 109:9,11 112:20 113:10 114:11,13,18,20 115:12,18 124:24
<b>Dense</b> 94:11,18 95:24 96:2,10,13 97:9 101:14			<b>division</b> 55:22 65:19
<b>deny</b> 35:18			
<b>Department</b> 13:4 16:18,23,24 17:9 18:5,8,10,21 19:1, 24 20:3,12 22:13, 15,21 23:4,9			

<b>DNR</b> 66:1	80:7,21 82:12	25:16 26:18,23	<b>engineering</b>
<b>docket</b> 63:14	<b>economizers</b>	27:20 54:23,24	17:14,17 25:14,18
<b>document</b> 17:16	110:24 111:14	56:24 61:15 65:21	115:5 119:6
46:4 84:19 96:23,	<b>Edison</b> 94:6 95:20	69:9 72:3,7,11,16,	126:16
25 97:2 98:13,17,	96:16 97:5 102:8,	25 74:5,12 86:7	<b>ensure</b> 22:23
22 101:21	11	90:18 92:8 96:17	<b>enter</b> 5:1,12
<b>documentation</b>	<b>EF-2024-0021</b>	97:11 100:18,25	<b>entered</b> 13:14
17:11 25:9,12,19	4:14	105:5 115:6	<b>entering</b> 6:24
<b>documents</b> 84:25	<b>effect</b> 55:16 88:9	119:7,9,14 126:9,	<b>entertain</b> 51:13
85:4,7 99:3	<b>effective</b> 81:20	11,20 127:10,20,	<b>entire</b> 11:4
<b>dollars</b> 35:7 39:16	129:4	24	<b>entirety</b> 81:12
105:4	<b>effects</b> 55:11	<b>emit</b> 72:16	<b>environmental</b>
<b>Don</b> 93:24	<b>effectuate</b> 48:12	<b>emitted</b> 14:3	16:18 18:5,20
<b>doubt</b> 71:5	<b>efficiency</b> 94:19	<b>emphasis</b> 103:4	19:1,23 22:13,15,
<b>downside</b> 120:24	<b>efficient</b> 94:12	<b>emphasized</b>	20 23:19 24:10
<b>drawing</b> 81:10	121:24	110:24	25:6 85:1 96:1
<b>drew</b> 131:4	<b>EFIS</b> 51:1	<b>employee</b> 127:9	<b>EPA</b> 13:6,25 16:11
<b>drive</b> 106:19	<b>Eighth</b> 25:25 79:8	<b>end</b> 28:23 54:16	18:19 20:3,13
<b>DTE</b> 94:1,3	129:15	99:4 109:1 130:17	23:15,17,18,24
102:22,25 109:25	<b>elaborate</b> 31:12	<b>ended</b> 56:25	24:1,2,11,14 28:3
<b>Duck</b> 17:1	61:13	<b>energy</b> 4:12,13	30:6 54:13,20
<b>duct</b> 83:24	<b>electric</b> 4:10 5:2	6:14,16,19,20	55:9,11,21,23,25
<b>due</b> 4:5 21:8 23:1	24:16 27:18 74:12	12:19 36:12,14	56:13,21 61:2
45:7 96:17	75:3,6 80:20 82:3,	47:17 52:10,14	69:12,15,23 70:3
<b>Duke</b> 108:10	11	53:23 57:20	71:6,12,13,18
<b>duly</b> 63:8	<b>electrical</b> 22:1	108:10 123:13	72:18 73:9,13
<b>dying</b> 130:18	<b>electronically</b> 4:3	<b>enforce</b> 71:6	74:5,17 85:12
	<b>element</b> 15:11	<b>enforcement</b>	86:6,13 87:8,17
<b>E</b>	<b>email</b> 9:4 10:25	54:14,19 55:9,21	88:9,12,14,23
	97:2 123:15	56:13 65:20 66:23	89:8 90:4 91:14,
<b>earlier</b> 24:12 26:12	<b>emission</b> 27:1	85:12,21,25 86:6,	22,23 92:10,23
87:5 99:13 111:5	114:24 119:2	17 87:4,8,13	93:10,13,19,24
112:17 118:7	125:20 126:25	88:17 103:9	94:6,22 95:2 96:1,
<b>early</b> 31:8 36:11,	127:4	104:1,5,8,16	18 97:9,10 99:23
16 60:12 65:24	<b>emissions</b> 13:18,	111:3 112:8,13	100:1 101:3,5,10,
66:8	23,24 14:2,3,7,15,	113:4	15,18 102:8,10
<b>easiest</b> 72:7	20,22,25 15:5,10,	<b>enforcements</b>	103:5,8,14,21
<b>economizer</b> 77:15	14,16 16:9 17:3,5,	86:2	104:1,8,17 105:3
	15 18:15,23 19:6	<b>engaged</b> 101:4	110:3 111:2,16
		<b>engineer</b> 22:2	112:7 127:8
		25:6	128:11
			<b>EPA's</b> 28:15 56:4
			65:19 85:20,25

86:17 87:4 99:5 104:16 <b>EPA-APPROVED</b> 89:5 <b>equal</b> 83:6 <b>equipment</b> 105:5 <b>equivalent</b> 15:24 94:16 95:6 100:8 <b>ESD</b> 85:8 110:23 111:1,10 126:24 <b>essentially</b> 84:6 <b>establish</b> 109:19 <b>established</b> 16:10 18:17 23:5 128:8 <b>establishes</b> 114:19 <b>Eubanks</b> 25:6 38:3 44:1 45:1,4, 12 48:15 <b>evaluate</b> 43:20 <b>evaluated</b> 19:9 57:8 <b>evaluating</b> 48:2 <b>evaluations</b> 46:9 <b>everyone's</b> 4:20 <b>evidence</b> 13:1 15:21 20:9 28:22 33:1 39:9,14 59:2, 10 60:18 62:2 66:21 <b>evidenced</b> 42:14 <b>evident</b> 42:18 <b>evidentiary</b> 4:9 63:4 <b>exact</b> 73:1 81:2,16 106:25 112:4 <b>examination</b> 7:11, 21 63:10 64:14,19 65:10,12,16 109:7	120:4 124:14,18 <b>examined</b> 63:8 <b>examples</b> 42:23 83:7 <b>exceedingly</b> 91:20 <b>exclusion</b> 118:24 <b>exclusively</b> 81:22 <b>excuse</b> 29:9 130:21 <b>excused</b> 7:9,20,22 65:2 123:25 <b>exercise</b> 21:8 <b>exhibit</b> 52:4 63:20 64:8,9,11,12 98:8 101:21,25 102:6, 7,10,15,20 108:1 <b>exhibits</b> 40:10 63:17 64:6 101:22 <b>exist</b> 88:6 <b>existed</b> 17:16 22:12 25:20 <b>existing</b> 13:19,20 16:20 17:12 19:3 <b>expand</b> 57:25 131:9 <b>expansive</b> 69:22, 25 <b>expect</b> 18:22 126:8 <b>expecting</b> 54:18 <b>experience</b> 19:22 20:5,8 31:15 <b>expert</b> 24:10 80:19,25 <b>experts</b> 13:8 <b>explain</b> 22:5,22,25 23:24 24:2,20 29:6,7 45:4 46:3 71:3 112:25 117:8	118:14 119:14 126:5 <b>explained</b> 30:25 99:21 113:12 <b>explaining</b> 23:22 47:5 82:19 <b>explanation</b> 113:24 115:10 <b>expound</b> 35:13 <b>express</b> 39:1 <b>expressed</b> 38:25 <b>extremely</b> 92:3 <hr/> <b>F</b> <hr/> <b>face</b> 104:12 129:8 <b>faced</b> 35:3 <b>facilities</b> 36:16 <b>facility</b> 17:1 25:15 96:15 100:10 <b>facing</b> 105:19 <b>fact</b> 21:13,17 28:9, 13 43:13 58:17 66:7,13,20 75:16 79:11,13,23 80:17 81:3,4,8 89:24 96:17 106:23 107:9 110:22 111:5,18 113:11 114:4 118:2 126:17 127:13 130:2 132:8 <b>facts</b> 20:20 21:12, 16 24:7 25:1 28:20 45:5 53:2 <b>factual</b> 32:20 46:22 <b>failed</b> 27:4 <b>failing</b> 34:8	<b>failure</b> 42:21 60:25 61:1 125:12 <b>fair</b> 49:6 96:24 106:4,7 115:16 116:16 <b>fairly</b> 22:18 89:11 <b>faith</b> 27:6 <b>familiar</b> 78:18 79:7,10,11 87:16 88:4 94:3 109:11, 17,24 <b>fashion</b> 55:8 <b>fault</b> 119:9 <b>faulty</b> 68:9 115:19 <b>federal</b> 14:5,6 15:6 42:7 55:15 60:17 61:1,2,11,13 70:8 74:13 77:22 <b>federally</b> 14:11 <b>feel</b> 31:19 50:1 73:7,9 <b>feet</b> 48:1 <b>fellow</b> 127:23 <b>field</b> 33:24 88:5 <b>figure</b> 46:21 <b>figuring</b> 72:3 <b>File</b> 4:14 <b>filed</b> 7:9,19 42:15 44:19 <b>filing</b> 50:25 63:14 <b>filings</b> 42:18 <b>final</b> 24:8 27:13 46:20 <b>finalized</b> 73:23 <b>finally</b> 7:18 13:12 21:22 <b>Financing</b> 4:11
---	---	--	--



<b>find</b> 21:19 34:25 48:24 78:2,13,23 79:17 83:4 101:4 112:3 117:25 118:1	<b>forward</b> 4:22 56:5, 18	31:2 77:3 87:14 124:14	53:23 69:19 84:21
<b>finding</b> 79:12 80:6,16 81:8,21 82:17 83:15 103:13 111:5,17 124:25	<b>found</b> 14:5 16:23 17:6,8 18:21 19:10 21:20 26:11,25 37:23 42:10 55:6 57:11 80:5 83:11 97:9 112:9 113:17 118:9 119:9 121:15 127:25 128:20	<b>generating</b> 74:12 83:18	<b>groups</b> 70:12
<b>findings</b> 43:14,15 44:2 79:11,13,22 80:1 110:17 118:1,2	<b>frankly</b> 48:10	<b>geographic</b> 29:24 30:19 123:18	<b>guess</b> 48:18 51:14 66:23 68:2 81:11 93:18 97:8,14,23 102:6 103:15 109:16 111:10 115:23 130:9
<b>fine</b> 43:17 65:18 91:3 109:6 123:5	<b>free</b> 31:19 50:1	<b>George</b> 86:20,25 87:1	<b>guessing</b> 28:21
<b>finish</b> 92:15	<b>frequent</b> 80:4	<b>give</b> 17:10 41:9 54:11 62:11 63:4 67:4 93:19 98:25	<b>guidance</b> 20:2
<b>finished</b> 67:3 92:18	<b>frequently</b> 80:8 81:18 89:11	<b>giving</b> 53:14	<b>guys</b> 29:11 68:23
<b>fired</b> 80:20 82:6,11 83:18	<b>front</b> 75:24 76:2	<b>Glen</b> 10:5	<hr/> <b>H</b> <hr/>
<b>firm</b> 23:20	<b>fully</b> 42:21 44:4 88:7	<b>go-ahead</b> 59:17	<b>Hahan</b> 49:24
<b>fit</b> 43:20	<b>functionally</b> 15:24 94:16 95:5 100:8	<b>Golden</b> 81:23 82:1,10,21 83:17, 19 110:16	<b>Hahn</b> 4:17,19,24 9:14,17 49:23 50:2,4,17,20 58:5, 7,8 59:4 122:25 123:4 130:23,24, 25 132:14
<b>fits</b> 37:25	<b>functioning</b> 120:13,17	<b>good</b> 4:1,19 5:5,18 6:15,23 7:13 9:24, 25 10:2,4 12:14 36:20 41:6 50:2,3 58:5,7 63:1 65:17 99:10 113:22 132:24	<b>half</b> 112:14
<b>fix</b> 12:10	<b>fundamental</b> 16:2, 6	<b>government</b> 70:8	<b>hand</b> 14:19 15:4, 16 30:10 63:2 74:24
<b>flagged</b> 117:24	<b>fundamentally</b> 100:9	<b>government's</b> 77:22	<b>handling</b> 11:11
<b>fly</b> 57:22	<b>future</b> 40:24 44:18 45:19 48:2 49:2 50:10,13 58:21	<b>Grand</b> 6:25	<b>happen</b> 55:1 71:15 104:3,4 110:3
<b>focused</b> 24:17	<hr/> <b>G</b> <hr/>	<b>grant</b> 8:6,8 84:7 124:2 132:12	<b>happened</b> 39:7 123:24
<b>folks</b> 15:22	<b>G.W.</b> 54:17	<b>granted</b> 7:10,22 8:15 129:11 132:6	<b>happy</b> 45:10 58:2 91:18 99:8
<b>follow</b> 26:19,24	<b>gateway</b> 57:7,14	<b>granting</b> 8:13 61:10 130:13 132:4	<b>hard</b> 96:22
<b>forced</b> 27:24 55:18 129:9 132:10	<b>gave</b> 102:2	<b>grasp</b> 132:24	<b>harm</b> 32:11 38:6,9 41:23 44:4 45:19 46:20 47:20 48:3 57:9,12,14 59:11 61:14 119:21 121:17,22 129:8 132:1,3,5
<b>form</b> 112:23	<b>general</b> 22:24 52:18	<b>greater</b> 15:6	
<b>formal</b> 87:22	<b>generally</b> 30:23	<b>group</b> 6:14,16 16:19 22:19,21 23:20 52:11,14	
<b>formula</b> 130:6 131:4,6,10,15			
<b>Fortson</b> 45:12			

<b>harmless</b> 45:7 48:12,15 49:2 50:14	<b>highly</b> 44:22 89:15,16 94:21,23	<b>hour</b> 54:24	<b>implementing</b> 13:25 16:12 103:20
<b>he'll</b> 22:11,13,25 23:3,7,24	<b>hindsight</b> 26:9 28:21 42:13 46:2, 25 115:13	<b>hourly</b> 70:17	<b>implied</b> 39:12
<b>head</b> 10:11 22:19 23:19 51:21 52:3 79:15	<b>historical</b> 54:25	<b>housekeeping</b> 123:11	<b>implies</b> 30:15
<b>heading</b> 30:24	<b>history</b> 55:9 56:16 69:17	<b>hundreds</b> 35:7 39:15 69:11 80:14 82:23 84:17 85:7, 14 105:4	<b>import</b> 88:7
<b>hear</b> 8:14 9:20 10:16 11:18 15:20 16:13 17:1 18:5 19:20 21:6,10 23:12 24:8 25:17 27:13 29:2 41:3 52:14 59:8 62:9, 14 64:10 102:14 122:8	<b>hit</b> 38:19	<b>Hunton</b> 97:6	<b>impressed</b> 132:21
<b>heard</b> 11:22 45:25 49:7,12 52:19 53:12 57:24 58:13 61:4 88:8 122:23	<b>hold</b> 9:5 33:23 40:21 45:6 48:15 49:2 50:14 92:11 93:23	<b>hurt</b> 38:17,19	<b>impression</b> 121:18 129:14 132:9
<b>hearing</b> 4:6,9 5:10 7:9 44:8 50:22 63:4 64:10,13 102:11,15 109:5 124:1,11	<b>holding</b> 48:11 116:24 117:10,16, 19	<b>I</b>	<b>improved</b> 95:7
<b>hearings</b> 44:18 46:24	<b>Holmstead</b> 23:11 24:12 31:1,11,22 32:4 33:5 41:10, 11 62:21,23 63:1, 7,12,13 64:8,13, 16 65:17 73:7 76:21 79:6 92:15, 22 96:24 97:20 98:25 99:2 102:18 105:9 106:8 108:15 109:8 119:25 124:5,19 130:16 132:19,23	<b>idea</b> 72:14 103:20 104:15	<b>improvements</b> 42:11
<b>heater</b> 77:15	<b>Holmstsead</b> 98:20	<b>identification</b> 63:17	<b>imprudence</b> 35:20 37:24 38:13
<b>heightened</b> 44:18	<b>Holsman</b> 8:19,20, 22 10:1,3,4	<b>identify</b> 76:15 80:19 81:1,24 82:10,22 83:17 108:3 111:23	<b>imprudency</b> 57:12
<b>held</b> 4:3 20:11,13 28:15,16 67:23 69:25 73:25	<b>honestly</b> 51:20 90:10 91:1	<b>identifying</b> 77:7	<b>imprudent</b> 25:8,23 32:11 38:2 39:2 41:22 58:23 60:8, 9 113:5 121:7
<b>helpful</b> 41:9 59:4	<b>Honor</b> 6:15 7:13 36:7 52:16 54:1 62:22 64:5,15,22, 25 65:5 120:2 122:10	<b>Illinois</b> 16:22 17:1 126:24,25	<b>imprudently</b> 35:24 37:7,21 38:4,17, 18
<b>helps</b> 31:6	<b>hope</b> 31:5	<b>illustrated</b> 28:13	<b>inadvertently</b> 10:19
<b>Henry</b> 97:5	<b>hoped</b> 111:21	<b>immediately</b> 45:17 129:4,9	<b>include</b> 23:22 45:1
<b>high</b> 59:20 90:14 95:22		<b>impact</b> 50:15 87:20	<b>included</b> 16:4 40:14 84:13
<b>higher</b> 100:18		<b>impacts</b> 55:11	<b>includes</b> 75:15
		<b>implement</b> 91:25	<b>including</b> 23:6 28:5 32:9 41:20
		<b>implementation</b> 14:12 18:12,18 19:8,25 23:25 24:1,21,22 54:23 55:3 66:1 103:8 107:19 129:23 130:3	<b>income</b> 88:5
		<b>implemented</b> 49:2	<b>incorporated</b> 26:4,8
			<b>incorporation</b> 21:15
			<b>incorrect</b> 39:7 114:6 116:7

<b>increase</b> 13:23 14:1,7,15,20,22, 23,25 15:5,10,14, 17 16:9 17:2,4,15 18:14 72:2,8,15, 16,25 74:5 86:7, 22 92:7 94:18 96:16,17 97:12 115:6 119:7,14 126:9,10,19 127:20	<b>inquiries</b> 38:17	<b>intuit</b> 104:15	37:18 41:9,24 44:17,18 45:18,23 46:12 47:15 50:6 51:15 53:25 57:25 58:12 59:22 60:24 61:6 62:9 67:14, 25 71:18 73:24 74:22,25 105:10 112:23 113:1 125:24 128:5,14, 22 129:12,13 131:5,19
<b>increasing</b> 27:20	<b>inquiry</b> 21:14,15 38:7	<b>invest</b> 39:18	<b>issued</b> 130:11
<b>independent</b> 61:13	<b>install</b> 35:5 107:12 129:1	<b>investing</b> 39:15	<b>issues</b> 12:21 23:19 25:5 33:11, 18 41:12 46:3 56:8,11 57:2 59:19 71:4 77:3 90:7,23 98:2 114:11,12,21 123:22 132:9
<b>indicating</b> 123:16	<b>instance</b> 27:20 69:19 99:22	<b>investment</b> 57:4	<b>items</b> 26:8
<b>individual</b> 53:16	<b>intended</b> 10:20	<b>investments</b> 129:10	<hr/> <b>J</b> <hr/>
<b>individually</b> 31:4	<b>intent</b> 55:16	<b>invokes</b> 15:6	<b>Jason</b> 10:1
<b>Industrial</b> 6:19,20 52:10,14 123:12	<b>intention</b> 8:6 62:10	<b>involve</b> 84:10 106:25	<b>Jeff</b> 124:9
<b>industry</b> 13:10 20:5,16 22:9 24:23 28:16 31:10 55:10 66:19 69:14 75:3,6 78:5,16 79:1 80:4,14,20 81:6,23 82:1,11, 24 89:15 121:6	<b>interchangeably</b> 15:23 37:1	<b>involved</b> 18:15 19:2 74:21 75:1 77:20 87:13 94:11 97:9 109:8 110:2 131:10	<b>Jefferson</b> 6:1,8
<b>information</b> 10:9, 10,11 31:22 76:24 96:8,18 97:11 120:22	<b>interest</b> 35:6 74:25 132:5	<b>involvement</b> 74:19	<b>Jeffrey</b> 63:7,12,13 64:8,12 124:5
<b>informed</b> 115:18	<b>interested</b> 75:3,6 126:23	<b>involves</b> 77:12	<b>Jim</b> 5:6,15 8:23 33:22 51:10 52:19
<b>initial</b> 73:6	<b>interesting</b> 32:13 66:20 131:7	<b>involving</b> 129:13	<b>John</b> 4:15 7:14
<b>initiate</b> 16:25	<b>internal</b> 111:11	<b>irrelevant</b> 114:18 128:18	<b>join</b> 10:7
<b>initiated</b> 103:8 104:5	<b>interpret</b> 118:19	<b>irreparable</b> 129:8 131:25	<b>joined</b> 8:20
<b>initiative</b> 54:14 86:3 111:3 112:8, 14	<b>interpretation</b> 16:10 18:17 55:4, 5 66:14,16,17 71:13 88:18 103:5,6,7,14 104:13 115:19 116:3,8	<b>Island</b> 4:13 12:19 22:14,25 23:4 27:25 28:4 32:2,8 34:11 41:14,19 42:12 44:12 56:7, 14,20 57:5 58:21 59:19 60:1 69:4 75:20 76:18 77:9 78:4,15,25 83:21 88:21 90:7,12 129:2	<b>joining</b> 9:21
<b>injunction</b> 131:17	<b>interpretations</b> 55:15 67:9 69:22	<b>Island's</b> 42:4 45:3	<b>Judge</b> 4:1,16,23, 24 5:5,12,21,23 6:3,9,13,18,23 7:2,6,17 8:2,6,12, 17,19,21,23 9:5, 13,25 10:4,5 11:8,
<b>input</b> 20:7	<b>interpreted</b> 103:19	<b>isolated</b> 28:7	
	<b>interpreting</b> 75:15	<b>issue</b> 4:11 8:25 11:2,3,4,5,12 12:2,17,23 15:21, 25 17:20 24:9 25:8 31:25 32:25 33:5 35:21,25	
	<b>interrupt</b> 50:1		
	<b>interrupting</b> 7:3		
	<b>interruption</b> 7:7		
	<b>introduce</b> 9:15 12:23		
	<b>introduction</b> 4:18 12:22		

9,13,15 12:4,6,8,  
12 19:13,19 28:25  
29:9,12,18,21  
31:7,24 33:14,22,  
23 35:12 36:3,8  
37:13,17,18 39:25  
40:19 45:14,22  
46:8 47:3,9,14  
48:14,17 49:6,20,  
23,24 50:5,20,24  
51:4,7,10,18,24  
52:2,9 53:10,22  
54:2,4,7 55:5  
56:25 58:3,5 59:7  
60:20 61:4,9,19,  
23 62:3,6,19 63:1,  
6 64:7,17,23 65:1,  
6,9,12 66:14 67:1,  
6 68:9 69:1 73:7  
76:21,23 78:19  
79:4,7,22 84:1,2,7  
92:11,20,21 93:1  
96:22 97:14,25  
98:4,6,7,12,18,24  
99:12 101:22,25  
102:4,9,14 105:9,  
12,20 106:4,8  
108:14,19 109:3,7  
111:4 112:3  
113:12 114:3  
116:8,18,22  
119:9,24 120:3,5  
122:8,13,17,24,25  
123:2,5,10 124:9,  
14,23 125:1,8,13,  
25 127:15,25  
129:3,6,11 130:2,  
15,23,24 132:16,  
18,23

**judgment** 17:14,  
18 25:14,18 115:5  
119:6

**judicial** 67:9  
130:13

**June** 96:8

**jurisdiction** 48:5  
67:12 71:6  
114:14,16

**jurisprudence**  
36:22

---

## K

---

**Karl** 24:9

**Kayla** 9:17

**Keevil** 124:9,17

**Keith** 25:22 44:1  
45:12

**kind** 23:5 32:13  
45:16 47:14 49:16  
55:18 71:25  
87:14,23 88:7  
98:24 101:6  
104:18 106:18  
109:18 112:12,24  
117:22 118:8,13  
127:13

**knew** 34:9,10 37:6  
38:2 42:11 56:7  
67:16 68:7,17  
92:4 104:22 107:9  
112:17 119:5

**knowable** 24:6  
25:2 68:4 69:6  
71:1

**knowing** 91:5  
103:5 113:22

**knowledge** 19:22  
20:5 24:23 56:12  
64:3 106:2

**Kolkmeyer** 10:6,7

---

## L

---

**L-O-N-G** 5:22

**Labadie** 129:2

**lack** 25:8 39:22

**laid** 26:20 37:3

**Lamons** 9:7

**lane** 114:16

**Lange** 44:25 45:12

**language** 37:10  
55:17 73:1 118:1,  
6

**large** 24:16 85:12  
96:25

**late** 55:14

**Latin** 116:20

**law** 4:16 13:3,25  
16:11 21:12,16,  
19,21 23:2,20,25  
24:4,10,24 25:20  
26:5,24 27:1,7,9,  
12 37:24 38:16  
42:8 55:5,13,17  
61:2 65:24 66:7  
67:6,7,9 68:10,12,  
15,20 69:2,10,16,  
22 70:6 71:13  
89:3,13 114:6,7,  
10,20,22 115:2,  
18,20,25 116:3,5,  
10 117:20 118:9  
121:2,10,14  
125:17,22 127:22

**lawyer** 118:12

**lawyers** 20:7  
23:13 116:20

**layout** 66:16

**lead** 23:23 60:9

**lead-in** 48:20

**leading** 12:19  
17:20 18:1 23:13  
112:12

**learning** 4:22

**leave** 8:4 49:9

**leaves** 112:24

**led** 42:7

**left** 23:18 74:16  
86:5 124:3

**legal** 52:22 88:7  
117:10 118:13  
129:7 130:10  
131:18

**legally** 55:23 74:1  
88:14 116:19  
128:18

**lengths** 109:20

**lengthy** 79:19  
109:22 111:9

**letter** 88:4 97:4  
102:8,10

**letters** 88:3 95:13  
118:24

**level** 24:14

**liability** 21:7  
26:14,16,17 79:7  
113:14 117:3  
118:15 119:2  
125:9,15,19  
128:2,23

**liable** 113:17

**Liberty** 37:3

**life** 80:9

**light** 38:18,21 55:8

**like-kind** 94:14  
100:14 101:12

**likelihood** 104:18  
130:8 131:20,23

**limit** 85:23 86:1  
87:17 90:13 91:10  
93:5

**limited** 124:12,15  
130:19 132:16

**Linhares** 6:23,24

7:2,4,7 54:4 64:21,23	<b>longstanding</b> 103:7 104:13	56:9,23 67:15 75:18 92:6 96:23 97:16 107:13 110:11 112:20 113:16 115:14 117:6 125:1,11 126:20 127:12	<b>manager/director</b> 22:20
<b>list</b> 77:25 82:5 106:24 108:7,8, 16,23 110:13,14, 18,19	<b>looked</b> 26:3 83:9 112:15 117:1		<b>March</b> 44:9 47:22 96:9
<b>listed</b> 77:18 100:6 107:17	<b>losing</b> 85:13		<b>Mark</b> 22:1
<b>listening</b> 53:12 54:11 96:23	<b>lost</b> 113:3	<b>Madison</b> 6:1	<b>marked</b> 63:17 76:12
<b>lists</b> 76:19 108:9	<b>lot</b> 10:9 56:7,8 71:2 74:4 90:22 132:11	<b>Maida</b> 9:21	<b>matter</b> 4:9 17:17 51:23 52:6 88:13, 19 113:25 115:4 116:10 119:5 122:11 130:11
<b>literal</b> 53:14 55:17	<b>loudly</b> 5:15	<b>maintain</b> 22:6,7 100:24 107:11	<b>matters</b> 7:24 8:18 11:23 52:5 70:9 123:11
<b>litigation</b> 32:9 41:21 44:11 60:17 69:3,8,21 74:4 109:9,12	<b>Louis</b> 7:1,4	<b>maintaining</b> 43:4	<b>maximizing</b> 106:2
<b>lives</b> 43:8	<b>low</b> 59:21 91:20	<b>maintenance</b> 56:22 121:19	<b>maximum</b> 14:2 25:15 72:10
<b>located</b> 16:22 102:20,21 108:13	<b>lower</b> 80:7,22 82:13 90:18 91:21	<b>major</b> 14:8 15:11 18:24 77:12,20,24 81:25 89:11 96:3, 11 97:12 100:16	<b>MDNR</b> 66:17 89:6, 9 90:3 91:21,23, 24 92:3,4,6,9 103:17 104:12 118:20 121:11
<b>location</b> 123:19	<b>Lowery</b> 5:5,6,10, 12,14,15 8:23 11:1,7,8,11,14 29:2 33:22,23,25 35:12,18 36:6,20 37:16,19 39:25 40:13 51:10,19,24 52:20	<b>Majors</b> 25:22 26:1 37:20 44:1 45:12 113:7	<b>MDNR's</b> 103:7,14
<b>log</b> 123:17	<b>lumped</b> 29:4 36:9	<b>make</b> 4:17 5:7 9:7 17:18 32:5,16 33:18,21 34:21 35:10 36:4 39:13 41:16 42:7 43:7, 21 46:14,18,21 47:24 48:23 51:22 52:18 58:11,14 59:3,23 60:3,19, 22 61:21 62:8 67:4,18 80:1 81:7 89:15 100:17 107:7 118:12 129:3,19	<b>MDR's</b> 55:4
<b>long</b> 5:7,18,19,22, 23 8:24 11:11,13 12:1,4,10,14,15 19:18,19 28:25 29:2,4,13,21 31:14 32:18 34:1, 4 37:20 40:2,14, 16,17 59:19 62:22 63:10 64:5,14,15, 17 73:24 76:3 90:2,7 92:19 96:21 97:25 98:3, 12,14,18 99:1 100:17 102:12 104:4,8,19 109:19 115:10 120:6 122:1,10,15 124:7,18 130:14, 15	<b>lumping</b> 29:8,19	<b>making</b> 13:2 16:15 17:14 18:6 28:18 35:21 47:12 49:16 71:3 75:25 80:16 83:3 94:13 105:15 119:17 129:10	<b>meaning</b> 28:8 103:16 118:13
<b>longer</b> 60:1 61:17	<b>lunch</b> 122:22 123:1,9		<b>meaningful</b> 91:17
	<b>M</b>		<b>meaningless</b> 57:10
	<b>Madam</b> 5:9 68:22 78:19,21 93:4 122:24	<b>makes</b> 21:3 80:6 113:4 129:20	<b>means</b> 30:3 72:3 91:24 106:22
	<b>made</b> 9:14 13:8 17:23 18:2 19:21 20:15,18,23 21:2, 15 22:14 23:4 24:5 25:1 26:12 28:12,16,19,24 32:23 33:2 34:23 35:1,25 39:11 43:24 47:19 48:9 49:9 50:25 52:5		<b>measure</b> 13:24 55:1
			<b>measuring</b> 54:23
			<b>MECG</b> 6:17 11:21 53:24 54:2 64:24 124:2
			<b>MECG's</b> 123:25

<b>meet</b> 18:16,23 19:3 90:18	24	76:11 78:3,14,23 80:3 83:8 88:2,21, 22 89:5 90:6,16 91:4,17 92:24 102:13 103:4,7, 13,16 104:10 107:18 108:4,17, 23,25 114:2 118:20 123:12 124:5 126:12,15, 22,24 127:2 129:4,13	<b>Moor's</b> 112:11
<b>meeting</b> 131:12	<b>million</b> 34:18,21 35:19,23 44:21 61:6 83:12 107:10,12	<b>Missouri's</b> 21:22 28:2 41:10 42:2 44:11 45:6 55:4 57:4 85:1 91:12 93:7 107:25	<b>morning</b> 4:1,19,21 5:5,18 6:15,23 7:13 8:25 9:9,24, 25 10:2,4 12:15 41:6 46:1,25 50:2, 3 58:6,7 63:1 65:17 123:12
<b>member</b> 84:22	<b>millions</b> 35:7 39:16 105:4	<b>mistake</b> 43:8	<b>morning's</b> 123:21
<b>memo</b> 84:21 110:19	<b>mind</b> 36:7 88:15 98:8 114:17 124:3,7	<b>mistakes</b> 43:24	<b>motion</b> 7:9,10,19 8:8 51:14
<b>memorandum</b> 75:17 93:24	<b>mini</b> 8:24 11:1 12:1 41:3 50:23 52:9,15 53:23,25 54:2,8,11 62:7,8	<b>misunderstanding</b> 27:9	<b>motions</b> 8:4,7,14
<b>memory</b> 132:21, 24	<b>minimis</b> 15:3	<b>modification</b> 13:21,22 14:1,8, 16,21 15:12 18:16,24 19:7 49:10 72:23 96:4, 11 97:13	<b>mouthful</b> 87:19
<b>mentioned</b> 43:12 53:18 58:10 110:16	<b>minimize</b> 55:10	<b>modified</b> 42:3	<b>move</b> 10:8 64:6
<b>mentions</b> 47:17 83:10	<b>minimizing</b> 106:1	<b>moment</b> 37:13 48:18 93:24	<b>movement</b> 132:4
<b>meritorious</b> 131:19,22	<b>minute</b> 62:12	<b>momentarily</b> 117:22	<b>moves</b> 90:3
<b>merits</b> 130:9 131:20,24	<b>minutes</b> 62:11,13, 17 98:25 123:4	<b>moments</b> 98:1	<b>MPSC</b> 42:20 43:1, 3
<b>Mers</b> 5:25 6:3 41:4,6,7 45:14,17, 21,25 46:20 47:8, 10 48:4,16,24 49:15 50:3,12,19, 22,24 51:6 52:7,8 58:9,10 65:11 120:2,3,4 122:6	<b>missed</b> 7:23 62:8	<b>Monday</b> 46:25 51:15,23 52:7,17 53:9 54:6 58:1	<b>MSR</b> 68:2
<b>mess</b> 49:16	<b>Missouri</b> 4:11 5:2, 4,6,16,17,20 6:2, 8,19,20,22,25 7:1, 4,16 11:19 12:1, 16 13:3,4,24 14:9 15:1,6 16:7,11,13, 16,21 18:9,12,17 19:8,24 20:6,12, 21 21:19,20 22:3, 12 23:9 26:18,23 27:4,5 32:1,5 41:7,14,16 42:11, 15 43:23 44:12, 15,19,22 48:25 50:25 52:10,13 54:3,7,12,22 55:3, 21,25 56:7,14,17 57:16 58:20,23 60:4,14 64:6,16, 20 65:25 66:11 67:20,22 68:18 69:3,7 70:15 73:5	<b>money</b> 39:18 132:11	<b>muddy</b> 92:12,13
<b>messed</b> 122:2		<b>Monroe</b> 95:23 96:3 102:19	<b>muddying</b> 47:14
<b>met</b> 30:20 130:5		<b>Moor</b> 24:9 31:19	<b>Murray</b> 8:11
<b>method</b> 72:24			<b>mute</b> 19:16,17
<b>Michigan</b> 102:22, 24			
<b>microphone</b> 19:16			
<b>Midwest</b> 6:14,16 53:23			
<b>MIEC</b> 6:20 11:20 52:10,13 65:3			
<b>MIEC's</b> 123:13,15,			
			<b>N</b>
			<b>named</b> 110:15
			<b>names</b> 108:9,12
			<b>Nash</b> 5:7,19 11:10 12:15 55:2
			<b>Nathan</b> 6:5 7:25
			<b>national</b> 13:8 29:25 30:6
			<b>nationwide</b> 20:6
			<b>Natural</b> 7:7 13:5 20:3,12 23:9 28:14 54:22 92:24
			<b>nature</b> 10:20

60:23	75:16,21 82:2,25	<b>occur</b> 45:2	16,17 27:2,3,5,11
<b>navigating</b> 99:11	83:14 85:9,12	<b>occurs</b> 10:13	37:23 38:4,25
<b>necessarily</b> 31:17	87:8 91:25 93:15	<b>October</b> 32:2	39:1,21 42:9
57:15	95:12 100:16,20,	41:15 42:5 74:14	43:11 46:13 49:8,
<b>needed</b> 17:13 90:1	22,23,24 101:19	<b>offer</b> 24:5 101:20	13 61:19,23 79:7,
104:7 107:4	107:3,9 109:21	<b>offered</b> 125:20	9,14 93:23 104:24
110:25 111:15	110:4 111:3	<b>office</b> 6:4,6,10	105:1 113:7
<b>negligence</b> 21:8	112:8,13 113:5	13:6 20:4,14	115:23 116:22
105:18	120:6,21 126:7	23:15,16 24:11,	117:5,24 118:16
<b>negligent</b> 113:15	<b>number</b> 19:6	12,13 27:14 28:15	124:24,25 125:4,
<b>newly</b> 94:17	46:23 56:10	54:8 65:13 87:2	5,8,10,11,15,20
<b>Nickel</b> 97:5	70:12,18 74:23	104:16	126:2,4 129:21
<b>Nicole</b> 5:25 41:6	80:17 83:6 92:5	<b>official</b> 51:2,4,12	130:12
<b>noise</b> 19:14	<b>numbered</b> 101:23	<b> Oftentimes</b> 130:17	<b>opinions</b> 13:3
<b>nomenclature</b>	<b>numbers</b> 10:22	<b>one-hour</b> 122:22	25:24 26:6 27:16
131:14	79:13 102:2	<b>ongoing</b> 111:3	69:2 109:13,15
<b>nonattainment</b>	<b>numerous</b> 84:25	<b>OPC</b> 6:11 34:3,6,	117:13
30:2,4,8,17 31:5	85:4	17 35:18,21 47:9,	<b>Opitz</b> 6:16,18
74:10	<b>O</b>	10 61:6,9,19	53:25 64:25 124:2
<b>nonprofit</b> 70:12	<b>Obama</b> 56:15 87:2	113:2	<b>opportunity</b>
<b>nonroutine</b> 96:14	<b>object</b> 96:21	<b>OPC's</b> 34:8,19	51:15,16,21 57:25
100:16	<b>objected</b> 97:18	39:8	98:13,21 99:1
<b>nonutility</b> 110:6	<b>objection</b> 97:15,	<b>open</b> 39:19	<b>opposed</b> 49:11
<b>normal</b> 18:6	24 98:16 102:12	<b>opening</b> 4:17 8:24	51:19,25 81:11
<b>note</b> 51:22 52:5	<b>objections</b> 6:9	9:14 11:1,16,17	105:14
54:16 77:22	8:13,14 40:8,12	12:1,3,17 41:3,5	<b>options</b> 56:19
126:23	62:14 64:7,11	46:1 50:23 52:9,	<b>OPTIZ</b> 6:15
<b>noted</b> 52:25	102:5,9,14 122:21	15,18 53:23,25	<b>order</b> 4:5,11 11:4,
<b>notice</b> 46:6 49:3	<b>objective</b> 75:11	54:3,5,8,9,11 62:9	16,17 22:23 23:12
51:2,4,12 52:4	<b>obligation</b> 22:7	66:9 123:22	37:3 42:4 43:18
<b>NOV</b> 127:8	<b>obligations</b> 27:6	<b>openings</b> 57:24	48:6 49:10 56:9
<b>NSPS</b> 72:22 73:2,	<b>obtain</b> 32:6 41:17	61:5 62:7	64:18 90:18 124:6
3,15 74:2,3	58:13 125:12	<b>operating</b> 56:21	128:25 129:3,6
<b>NSR</b> 30:3 32:6,9	126:7	83:19	<b>ordered</b> 47:21
34:14,15 35:14,20	<b>obtained</b> 15:3	<b>operation</b> 72:25	68:14 129:1
41:18,21 42:12	17:7 33:6	<b>operations</b> 22:4,6	<b>orders</b> 48:13
47:6,24 50:9	<b>obtaining</b> 50:8	<b>opine</b> 62:2 71:18	<b>orient</b> 125:5
71:17 72:21 73:2,	<b>occasionally</b>	<b>opinion</b> 24:5	<b>original</b> 59:17
17,20 74:2,23	71:11 87:25 88:1	25:23 26:11,12,	96:7
			<b>originally</b> 54:10
			90:13

<b>outage</b> 32:8 41:19 81:19 82:15 83:5, 13 91:11,14 93:6, 9 106:15	33:19 39:23 40:12 41:8 62:7,8 64:19 97:3	117:8,20 118:11 125:12 128:21	93:5,6
<b>outages</b> 56:8 81:25 91:10 93:5 120:9,12 121:25	<b>parts</b> 19:2 99:7	<b>permitting</b> 12:18, 24 14:11,16 15:2 16:25 17:22 18:18 19:20 20:10 27:4, 21 28:3,8,13,24 29:5,19 30:22 32:22 34:5,23 45:9 47:6 48:8 91:24 92:6 93:14, 15,21 116:15 128:16 129:21 130:1	<b>planning</b> 85:2
<b>outlined</b> 19:25 43:25	<b>party</b> 32:24 33:12 34:1,2 40:8	<b>person</b> 103:25 131:17	<b>plans</b> 24:1 126:17
<b>output</b> 95:8	<b>party's</b> 124:13	<b>perspective</b> 46:11	<b>plant</b> 35:3 39:17, 18 42:4 47:18 49:11,14,19 57:6 58:25 60:2,14,15 61:15,20 72:2 80:9 94:19 95:8, 23 96:3 102:19,21 107:11 110:11 112:5 129:2
<b>overcome</b> 28:22	<b>past</b> 46:16 58:23 61:15	<b>pertains</b> 11:5	<b>plant's</b> 61:17
<b>overlap</b> 110:18	<b>pdf</b> 98:15	<b>peruse</b> 98:2	<b>plants</b> 77:12,23 81:25 82:7 102:25 121:23
<b>overrule</b> 68:13	<b>pending</b> 8:3	<b>Petition</b> 4:10	<b>pluggage</b> 56:8,11 59:18 90:7,22,23
<b>overseeing</b> 4:16	<b>people</b> 11:22 43:8 89:24 115:11 126:12 130:18	<b>petitioner</b> 71:19	<b>point</b> 5:3 25:10 38:7 40:1 47:4 54:11,13 57:13 69:18 70:21 73:22 75:14 76:1 80:15 81:7 82:19 83:3 88:18 91:19 97:20 101:2 104:11 109:2 128:8,18 130:9
<b>oversight</b> 23:24	<b>percent</b> 40:6 112:24	<b>phone</b> 19:16,17	<b>pointing</b> 21:11 115:11
<b>overturned</b> 129:15	<b>Performance</b> 74:11	<b>phonetic</b> 95:13 118:24	<b>points</b> 36:3 57:23
<b>overview</b> 12:21	<b>performed</b> 23:1 80:8 81:22	<b>physical</b> 72:1,12, 24 94:20 96:14	<b>pollution</b> 49:12 96:5,16 107:12
<hr/> <b>P</b> <hr/>	<b>period</b> 20:23 24:3 86:20 123:1	<b>pick</b> 88:20	<b>portion</b> 84:8 96:25
<b>P.O.</b> 6:1,7	<b>permit</b> 13:18 14:17,18 15:3,15, 18,19 16:12 17:6, 7 18:11 19:11 35:20 68:19 75:21 77:25 82:25 83:14 88:3,12 92:8 99:24 107:3 110:6,12 114:3 117:3 119:17 126:7	<b>place</b> 44:13 60:14 117:12 118:14 119:1	<b>portions</b> 95:15
<b>Pack</b> 94:12,18 95:24 96:2,10,13 97:9 101:14	<b>permits</b> 13:11,13 14:24 16:16 18:19 20:17,24 23:5,6 26:13 31:11 32:7 33:7 34:10,14,15, 20 41:18 50:9 57:1 58:13 68:2, 15 84:18 104:7 113:5 115:15	<b>places</b> 62:24 114:23	<b>portrayal</b> 111:17
<b>pages</b> 71:21 85:7, 15 98:21 99:8 109:14 117:13		<b>plain</b> 55:7 66:10, 17 68:6 73:4 103:16	<b>portrayed</b> 111:4
<b>paid</b> 70:25		<b>plan</b> 14:12 18:12, 19 19:8,25 24:21, 22 54:10,23 55:3 66:1 103:8 107:19	<b>posed</b> 63:23
<b>painted</b> 43:2		<b>planned</b> 32:8 41:19 91:10,11	<b>position</b> 28:15,16 33:9 37:15 39:8 43:5,14 44:10
<b>part</b> 13:15 16:4 40:17 65:24 84:3 99:13 112:9			
<b>participating</b> 123:14			
<b>particularity</b> 31:13			
<b>particulars</b> 27:22			
<b>parties</b> 4:18,25 7:23 9:3 10:12 11:1,18 12:6			



46:6 49:7 51:11 55:20 56:16 57:16 58:16,18 61:25 71:8 115:17,21,23 116:18 123:21 126:3 129:17	<b>practitioners</b> 31:2	<b>pretax</b> 36:15	101:11
<b>positions</b> 20:11, 13 25:12 54:5	<b>pre-filed</b> 40:14	<b>pretty</b> 101:1 104:12 109:16 113:7 116:21 121:14	<b>programs</b> 30:23 74:6
<b>posits</b> 44:20	<b>pre-findings</b> 110:21	<b>prevailed</b> 70:2	<b>project</b> 14:14,19 15:9,13,16 16:8, 23 17:2,4,10 26:3, 5,6 30:22 83:9 87:24 88:21,24 92:7 93:13 94:9 95:24 96:2,4,11, 13 100:2,22 101:4,7 104:4 119:8 121:19 127:9
<b>possibly</b> 26:6	<b>pre-liability</b> 93:22	<b>prevented</b> 88:15	<b>projects</b> 16:16 17:8 18:3,22 20:16 28:4,8,17 32:8 34:12 41:19 66:15 75:20,22 76:15,18 77:6,9, 10 78:4,5,15,16, 25 80:2,3,6 81:5, 11,12,15,24 82:6, 7,21,23 84:17 89:10,11 90:1 100:5,6 106:24 112:7,15 120:13, 14 126:18 127:19
<b>post-change</b> 100:18	<b>pre-nsr</b> 34:5	<b>Prevention</b> 15:7, 22 30:13 54:15 74:9 96:5	
<b>postpone</b> 120:12 121:25 122:4	<b>pre-project</b> 16:19 17:22	<b>previously</b> 53:12 118:4	
<b>potential</b> 14:2,15, 20,22,25 15:5 16:9 17:2 18:14 19:6 25:16 27:20 44:21 45:1 47:2, 22 57:4 71:22,24 72:8,9,11,17,18, 19 73:3,13 74:3 75:10,11 86:8,14, 15,22,23 92:7 105:4 119:7,21 126:10,11	<b>precious</b> 70:5	<b>primarily</b> 41:24	
<b>potentially</b> 17:5 47:11 58:19	<b>precise</b> 111:22	<b>primer</b> 41:9	
<b>Powder</b> 59:21 90:17,24	<b>precisely</b> 77:19	<b>prior</b> 32:7 41:18 72:4 73:19	
<b>power</b> 22:4 27:18 28:6 71:19 75:18 82:6 95:23 96:3 102:19	<b>predicate</b> 32:21	<b>private</b> 88:4	
<b>powerpoint</b> 8:25 12:20	<b>prefiled</b> 31:1	<b>problem</b> 26:1 27:21 28:1 50:19 114:5	
<b>powerpoints</b> 9:9	<b>preheater</b> 77:17 80:7,22 82:13 83:16,25 84:10	<b>proceed</b> 11:25	
<b>practical</b> 88:13,19	<b>preheaters</b> 83:24	<b>proceeding</b> 4:3,16	
<b>practice</b> 22:10 25:11 31:9	<b>preliminary</b> 7:23 8:18 11:23 51:23 52:6 131:17	<b>proceedings</b> 42:20 43:6	
<b>practices</b> 22:8	<b>prepared</b> 31:23 33:10 39:1 63:14	<b>process</b> 16:14 18:6 21:4 22:11, 22 31:23 45:9 46:3 48:8,25 85:2 109:22 120:6,21	
	<b>present</b> 7:11,22 9:22 33:1,5 60:10	<b>produced</b> 63:8	
	<b>presentation</b> 9:1 15:21	<b>professional</b> 19:23	
	<b>presented</b> 13:1 20:10,20 21:24 26:18	<b>program</b> 13:6,17 16:2 17:22 20:4, 13 23:17 24:11 28:15 30:13 31:3 72:20,21,22 73:2, 3,16,17,20 74:2,4 89:5 91:24 92:1 94:11,23 96:6	
	<b>presenting</b> 12:16, 21		
	<b>preserve</b> 44:17 45:23 50:10,12		
	<b>presidency</b> 54:17		
	<b>president</b> 22:2,4 54:18 85:20,25 86:18,25 87:1,2		
	<b>pressure</b> 95:22		

<b>provided</b> 24:17 26:23 42:23 66:10,12,21 85:8 127:21 131:2	102:10 132:5	108:20 111:7 122:14 124:10 128:9,21 130:23 131:4	<b>ran</b> 38:21
<b>provision</b> 50:15	<b>published</b> 74:13	<b>questioning</b> 98:16 109:2	<b>ranked</b> 23:12
<b>provisionally</b> 96:10	<b>pure</b> 56:13	<b>questions</b> 10:14 11:9 14:10 16:8 29:1,3 32:20 33:11,16 37:16 38:11,22 39:3 40:25 41:1,2 45:11,13,15 49:20,21,22 50:5, 21 53:11 58:2,4 59:8 63:23 64:20, 21,24,25 65:1,3,4, 5,7,8,15 109:4,5 119:24 120:1 122:7 124:12,13, 23 129:7,18 130:18,21,25	<b>rate</b> 25:16 44:14 45:19 46:2,18,23 48:2 57:9,18 70:17
<b>provisions</b> 71:7	<b>purpose</b> 127:14	<b>quick</b> 31:25	<b>ratemaking</b> 57:3
<b>prudence</b> 11:5 12:17 21:9,14,15 26:3,7 27:15 32:17 33:17,20 36:5,22 37:4,16 38:1,7,8,15 41:12 44:13 48:21 57:7, 8	<b>purposes</b> 57:20	<b>quicker</b> 79:18	<b>rationale</b> 58:22
<b>prudence-related</b> 35:9	<b>pushing</b> 75:9	<b>quickly</b> 90:3	<b>reach</b> 38:3
<b>prudency</b> 46:9 47:17 50:8 57:2, 13,19 58:12 59:3, 23	<b>put</b> 10:19 11:17 33:8,19 46:6 55:13 58:23 60:14 61:8 86:13 91:5,6 121:21,25	<b>Quinn</b> 42:16	<b>reached</b> 21:3 25:18
<b>prudent</b> 32:1,5,19, 25 33:2 36:17,18 37:11 41:13,16 42:5,6 46:15 49:1, 14 52:20,25 53:5, 16 56:17 59:14 60:7 61:20 88:22 89:19 91:6 105:2, 8,14,17,21,23 106:5,6,14,19,22 107:6,15 113:16 121:5	<b>putting</b> 49:11	<b>quote</b> 99:18	<b>read</b> 26:14 36:10 47:15 78:11,20 79:19 81:21 82:17 83:15,22 84:5 95:15 96:24 97:7 99:3 103:22 109:13,15 110:17 128:19
<b>prudently</b> 37:5	<b>puzzled</b> 51:7	<b>quoted</b> 99:19	<b>reading</b> 53:15 55:7,18 56:1 66:11,12,17,22 68:6,7 73:5 99:13 114:7 116:16 117:21,23 118:8
<b>PSC</b> 43:13,17,19	<b>Q</b>	<b>quoting</b> 84:24	<b>ready</b> 41:4 124:19
<b>PSD</b> 15:14,19,22 16:4 29:5,19 96:6 99:24 117:7	<b>quality</b> 16:19 22:19,21 29:25 30:6,11,16 54:15	<b>R</b>	<b>real</b> 31:25
<b>public</b> 6:4,6,7,10, 11 8:1 10:20 11:21 27:14 37:15 41:7 54:8 65:13	<b>quantification</b> 61:7	<b>R&amp;r</b> 95:13	<b>reason</b> 18:20,25 19:5 38:5 53:3 57:9 106:17 120:25 121:20
	<b>quarterbacking</b> 47:1	<b>Radiation</b> 23:15	<b>reasonable</b> 20:11 21:3,23 24:6 25:1 26:13 27:1 28:12, 24 32:1,5,19 33:2, 16 34:22 35:2 36:5,17 38:20 41:13,16 42:5,6 43:12,16 48:21 49:1,13 52:20 53:4,5,15 67:16, 23 68:1 78:3,14,
	<b>question</b> 14:14, 21,23 16:6,7 19:12 29:18 31:18,20 34:1 36:20 38:8,23 40:2,24 42:19 48:19,21 49:25 50:5 51:12,20 58:9 67:2 68:23 71:2 72:1 73:6,8, 10,16,18 75:5 76:14 77:2 78:20 84:4 92:10,16,22 93:1,3 94:13 95:3, 12,14 96:22 97:14,17,19,20,21 98:19 99:14 103:2 105:13 106:9,12	<b>raise</b> 63:2	
		<b>raised</b> 32:20,24 39:3 125:25 132:8	
		<b>raises</b> 25:8 44:17	
		<b>raising</b> 131:18	
		<b>ramped</b> 65:20	

24 88:25 89:18 103:24,25 104:14, 21,25 105:8,15, 21,24 106:5,13 107:15 113:16,24 114:15 115:1,8,20 116:1,6,25 117:7 120:11 121:2,5 125:12 128:17 130:1 131:23	<b>reconfiguration</b> 95:22 <b>record</b> 5:1 9:6,10, 12 29:17 40:11, 18,22 50:10 51:2 53:8 54:18 59:2, 10 60:6,18 62:16 63:11 64:6,10,13 92:5 98:9,11 102:11,15 122:12, 17,18,20,23 123:10,23 <b>recovering</b> 57:16 <b>recovery</b> 57:4 61:16 <b>recross</b> 120:1,4 122:8 132:16,19 <b>red</b> 38:18,21 <b>redirect</b> 122:9,11, 15 124:4,8,11,15, 18 130:17 <b>reduce</b> 93:18 <b>reduced</b> 91:12 92:2 93:7 <b>refer</b> 5:3 15:22 16:4 31:3 <b>reference</b> 82:14 93:23 94:1 99:12 110:15 124:25 125:10 129:20 <b>referenced</b> 51:1 74:9 79:8 102:19 <b>referred</b> 16:2 30:2, 24 34:4 95:24 <b>referring</b> 6:10 34:2 85:16 103:6 125:3,4 128:2 <b>reflect</b> 54:5,19 <b>reflected</b> 63:24 <b>reflects</b> 37:11	<b>refreshes</b> 95:16 <b>refute</b> 81:3 <b>refutes</b> 81:8 <b>regard</b> 32:4,10 35:13,15,16 36:14 41:21 47:24 50:6 51:9 69:8 80:2 <b>Register</b> 74:13 <b>regulated</b> 69:14 <b>regulation</b> 14:6 55:7,17 66:18 87:24 <b>regulations</b> 13:7 14:5 30:7,9 55:12 61:2 66:2,11,22 69:23 71:7 75:16 85:10 89:13 103:18 104:11,13 126:15 <b>regulator</b> 24:23 <b>regulators</b> 13:4 89:14 <b>regulatory</b> 4:15 69:12,18 84:20 <b>reheater</b> 80:7,21 82:12 <b>reheaters</b> 110:25 111:14 <b>rejected</b> 28:6 <b>related</b> 4:13 44:11, 15 47:12 53:14 55:2 72:20 74:23 84:25 <b>relevance</b> 117:10 128:15 <b>relevant</b> 14:9 16:14 22:3,18 23:21 24:3,15,19 116:19,23 117:15 118:15 128:23	<b>reliability</b> 22:6 <b>reliable</b> 121:23 <b>relied</b> 13:3,5,7 20:2,4,7 21:12 26:5,8 27:19 119:16 127:11 <b>relief</b> 57:12 <b>relies</b> 12:25 27:16 <b>relitigating</b> 112:23 <b>rely</b> 27:15 104:14 <b>relying</b> 10:12 19:7, 24 <b>remainder</b> 124:1 <b>remained</b> 87:2 <b>remarks</b> 4:17 9:14 <b>remedies</b> 44:7,11, 16,21 45:7 46:5 47:23 48:6 50:13 60:21,25 61:1 <b>remedy</b> 26:11 42:4 61:11,14 68:13 117:5 118:11 125:4,7,10 126:2 128:2,6,7,10,13, 14,24 129:3,21,23 <b>remember</b> 10:11 40:19 73:21 80:16 87:12 94:25 99:19 106:9 117:21 119:18,19,20 126:24 127:23 <b>remembering</b> 101:1 <b>remind</b> 19:15 <b>Renew</b> 6:21,24 11:21 54:3,7 64:20 <b>repair</b> 56:22 121:19
--	--	--	---

<b>repeat</b> 93:3 121:1	18 15:15,19 16:12	<b>result</b> 96:15	<b>River</b> 59:21 90:17, 24
<b>repeating</b> 84:5	17:11,18 18:11,19	<b>resulted</b> 121:17	<b>RM</b> 95:13
<b>replace</b> 56:10	19:12 20:24 23:7	<b>results</b> 72:25	<b>RM&amp;R</b> 118:24
80:11,12 81:18	25:20 27:21 28:8	<b>retire</b> 32:1 35:3,8	<b>Road</b> 5:16
83:12	56:25 68:14 74:1	41:14 42:4 47:18	<b>role</b> 22:12 24:22
<b>replaced</b> 77:24	88:3 121:10 127:3	49:11,14 61:20	<b>room</b> 62:23
80:21,24 81:1,17	<b>requirement</b> 17:16	<b>retired</b> 22:18	<b>roughly</b> 62:17
82:12,16 83:5,6	19:4 61:3 107:12	24:10 36:16	<b>route</b> 59:23,25
112:4	<b>requirements</b> 18:4	<b>retirement</b> 11:6	60:4
<b>replacement</b> 19:2	26:19 27:4 56:24	32:19,21 34:25	<b>routine</b> 19:2 22:9
45:3 75:20 77:12,	67:23 69:9 90:19	36:11,16 38:23	56:22 95:3 97:10
20 94:8,14 95:4,	96:5 99:24 131:11	39:5,7 49:18	100:2,24 111:19
21 97:10 101:13	<b>requires</b> 30:22	<b>retiring</b> 39:17 57:5	112:9,16
110:24 111:13	67:13,19 105:23	<b>retrofit</b> 38:24 39:5	<b>routinely</b> 78:5,16
<b>replacements</b>	<b>requiring</b> 56:8	<b>review</b> 12:25 13:7,	79:1 81:5
22:8 75:19 76:16,	57:9	8,15 15:8,15,18,	<b>RSMO</b> 36:13
18 77:8,15,16,17	<b>reserve</b> 41:25	23 16:3,5,24 17:5,	<b>rule</b> 14:16 18:18
80:8,14 83:1,17,	52:17 54:5 57:25	7,9,22 18:3,21	34:19 54:21 73:23
20,25 84:10 100:4	<b>resolve</b> 95:12 98:2	20:8 23:6,16,21	74:8,20 75:1,4,7
108:11 111:2,16	<b>resolved</b> 95:13	24:14,17,18,23,	86:14
<b>replacing</b> 94:15,	<b>Resources</b> 7:8	24,25 26:20 29:5,	<b>rules</b> 15:2,8,9
17 95:5,6 100:7,	13:5 20:3,12	19,23 30:1,2,4,7,	17:12,13 26:20
13	23:10 28:15 92:25	9,13,18,25 31:3	71:9
<b>report</b> 110:14	<b>Resources'</b> 54:22	32:6,15 35:15	<b>ruling</b> 87:23
<b>reporter</b> 5:9 68:22	<b>respect</b> 17:19	41:17 74:11 84:25	<b>rulings</b> 88:4
78:19,21 92:12	22:24 37:19 126:2	86:2,15 87:5	<b>run</b> 38:18
93:3,4 122:24	<b>respecting</b> 32:6	88:11 98:13,21	<b>running</b> 60:1
<b>represent</b> 5:6 26:7	41:17	99:1 109:21	72:10
41:7	<b>respects</b> 43:15	111:11	<b>Rupp</b> 9:19,20
<b>represented</b> 70:7,	<b>responded</b> 43:9	<b>reviewed</b> 53:6	<b>Rush</b> 4:13 12:19
11	<b>responding</b> 95:19	85:8 96:7 111:1,	22:14,25 23:4
<b>request</b> 7:22 51:2,	<b>response</b> 39:11	15	27:25 28:4 32:2,8
19 95:19 96:7	52:19 57:24 73:19	<b>reviews</b> 16:19	34:11 41:14,19
124:2	76:14 131:3	<b>Richardson</b>	42:4,12 44:11
<b>requested</b> 94:6	<b>responsibility</b>	122:23	45:3 56:7,14,20
95:25	23:16 24:13 48:11	<b>Riley</b> 8:10	57:5 58:20 59:19
<b>require</b> 13:18 15:9	<b>rest</b> 4:6 9:15 13:9	<b>risk</b> 91:5,13,17,20	60:1 69:4 75:20
16:16 17:6,13	20:16 22:16 28:16	92:3 93:8,18	76:18 77:8 78:4,
20:17 25:12,13	<b>rests</b> 25:23	106:2,20	15,25 83:21 88:21
105:24 127:2		<b>risks</b> 91:7	
<b>required</b> 14:6,11,		<b>rival</b> 81:24	

90:7,12 129:2	<b>seek</b> 26:13 35:14 49:9,10 56:25 87:23 88:23 89:16 107:15 116:14	<b>short-term</b> 45:2	18:4 19:7 56:1 67:22 73:5 89:7 103:16 104:10 107:25 118:20 126:12,22 127:2 129:13
<b>rushed</b> 98:24		<b>shorten</b> 123:1,3	
<hr/> <b>S</b> <hr/>		<b>shortfall</b> 45:2	
<b>S-I-P</b> 14:12	<b>seeking</b> 13:10,13 31:11 90:1 92:23 93:12 109:21 110:12 131:17	<b>shorthand</b> 29:22 118:8 128:20	<b>Sippel</b> 55:5 56:25
<b>scanned</b> 98:15 99:17	<b>send</b> 9:1,3 43:19 98:5	<b>shortly</b> 74:16 86:5	<b>Sippel's</b> 79:7 111:5
<b>schedule</b> 8:7 75:22,24 76:2,10, 15 77:6 84:9,12 100:6 110:7 122:12	<b>sense</b> 107:7 115:8	<b>show</b> 6:21 33:2 79:16 131:18,21, 23,24	<b>sister</b> 16:22
<b>schedules</b> 8:4,10, 14 85:6,14,16	<b>sentence</b> 104:11 117:9 128:19	<b>showing</b> 75:17 85:11	<b>situation</b> 49:17 94:21
<b>scorecards</b> 85:11	<b>separate</b> 52:24 53:4,5 110:18	<b>shown</b> 38:6	<b>situations</b> 52:25 53:21
<b>Scott</b> 9:19	<b>separating</b> 105:20	<b>shut</b> 56:20 60:2	<b>size</b> 14:21,23 15:4
<b>screen</b> 12:5,7 29:10 79:16,20	<b>September</b> 32:2 41:15 93:25	<b>shutting</b> 57:6 58:20,25 59:25	<b>skip</b> 96:12
<b>scrub</b> 35:2	<b>series</b> 4:22 14:10	<b>sides</b> 37:10	<b>skirt</b> 27:6
<b>scrubbers</b> 33:7 35:5,8 39:17 49:12 58:24 59:1 60:4,13,15 129:1	<b>served</b> 24:11	<b>Sierra</b> 7:18,19 65:2	<b>slacked</b> 54:19
<b>SCW-D6</b> 75:22 76:4,15 110:7	<b>service</b> 41:8 61:18	<b>significant</b> 14:7 15:7,10,17,22 30:13 54:15 71:1, 5 96:6,15 126:17 129:7	<b>slides</b> 31:8
<b>Seaver</b> 27:14,19, 22 28:1	<b>Services</b> 16:18 18:5,21 19:1,23 22:13,15,21	<b>significantly</b> 15:14 23:14	<b>slightly</b> 52:22
<b>Seaver's</b> 28:6,10	<b>set</b> 4:8 11:2 30:6,7 48:20 54:20 66:1	<b>similar</b> 13:10 20:16 28:17 31:10,15,17 34:12 53:13 75:19 76:17 77:7,8 84:17 88:2 110:11 131:16	<b>slope</b> 80:8,22
<b>section</b> 11:6 95:22 117:21	<b>sets</b> 22:21	<b>similarly</b> 7:20 83:15	<b>slopes</b> 82:13
<b>securitization</b> 35:19,22 36:1 47:12 49:18 57:8, 17	<b>SEW-D6</b> 84:9,12 107:18	<b>simple</b> 25:13,17 72:1	<b>small</b> 92:3
<b>securitize</b> 35:16, 22	<b>shape</b> 112:23	<b>simply</b> 17:13 28:10 37:22 126:16	<b>sole</b> 37:22
<b>securitized</b> 4:12 50:14,16 57:21 58:15	<b>share</b> 12:4 51:12	<b>SIP</b> 14:9,12,17 15:1,6 16:7,16	<b>solely</b> 25:23 41:12
	<b>shared</b> 20:5		<b>solemnly</b> 63:3
	<b>sharing</b> 29:10,16 79:20		<b>solve</b> 95:2
	<b>Shawn</b> 44:25 45:12		<b>Somebody's</b> 108:6
	<b>short</b> 12:16 14:13 62:19		<b>someone's</b> 82:14
			<b>sort</b> 37:3,24 43:2 69:24 70:17 73:5 77:3 94:20 114:1 126:14 128:19 130:12 132:2
			<b>sought</b> 17:6 75:21 82:25 89:1 91:13, 14 93:8,9 99:23

101:3,8,17 107:1	<b>St</b> 7:1,4	11 84:24 88:2	<b>Stippel's</b> 68:9
<b>sound</b> 96:20	<b>staff</b> 5:24,25 11:19	89:8 93:14 94:10,	<b>stop</b> 29:10,15
<b>sounds</b> 5:10 10:17	19:23 25:5,21	22 101:10,11	<b>stopped</b> 19:5
66:5 71:25 74:15	37:19 38:3,24	102:24 103:3,8	<b>stopping</b> 97:19
<b>source</b> 12:25 13:6,	39:3,6 41:4,7	107:19	<b>Street</b> 6:1
8,15,18,20 15:7,	42:2,6 44:1,17,23,	<b>state's</b> 71:12,13	<b>strengthen</b> 19:11
15,18,23 16:3,5,	25 45:4,18,22	<b>stated</b> 41:12 42:17	<b>stricken</b> 84:4
24 17:7,9,22,23	47:5 48:22 49:7,	66:6	<b>strict</b> 21:7 113:14
18:3,21 20:8 23:6,	12,15 50:6 58:9	<b>statement</b> 8:24	<b>strike</b> 84:8 118:6
16,21 24:14,17,	65:10 102:2 113:3	11:2 12:2,3 41:5	<b>strikes</b> 50:24
18,23,24,25 26:19	<b>Staff's</b> 37:15	44:19 54:9 66:10	<b>struggled</b> 42:18,
29:5,19,23 30:1,2,	44:10 47:4 49:7	78:9,17 79:2 97:1	19,21
3,7,8,12,18,24	50:15 51:19	115:16 123:22	<b>stuck</b> 45:17
31:3 32:6,14	<b>stage</b> 11:2	<b>statements</b> 11:16,	<b>subject</b> 23:24 96:4
35:14 41:17	<b>stakes</b> 107:7	17 13:5 23:9 62:1	99:24 107:18
74:10,11 86:1,15	<b>stand</b> 45:13	<b>states</b> 23:23 42:17	124:21,22 132:17,
87:5 88:11	100:11	44:20 96:1	24
<b>sources</b> 13:20	<b>standard</b> 21:7	<b>stating</b> 7:20 97:11	<b>subjects</b> 124:15
<b>South</b> 5:15 6:25	25:11 36:25 37:4,	<b>status</b> 44:8	<b>submit</b> 20:21
<b>Southern</b> 24:16,19	12 38:1 52:20,21,	<b>statute</b> 36:9,10	28:23
<b>speak</b> 5:14 9:7	23 54:25 65:25	37:11 47:15,16	<b>submitted</b> 51:3
42:24 55:18	70:17 105:18	50:7 53:15 57:2	64:19 96:9
<b>speaking</b> 19:15	109:23 126:11	68:7 113:14	<b>subpart</b> 41:25
31:4	130:5	<b>stay</b> 129:6,11	<b>subparts</b> 81:11
<b>specific</b> 18:10	<b>standards</b> 16:1	130:5,7,11 131:6,	<b>subsequent</b> 20:25
77:6 80:1 82:20	29:25 30:6,12,17,	12,16,18,25	44:14 46:23
114:21	19 43:21 53:17	132:4,5,12,17	<b>subsequently</b>
<b>specifically</b> 17:19	74:11 130:13	<b>stayed</b> 129:23	23:8
34:3 83:11 95:25	<b>start</b> 12:1 31:23	130:3	<b>substance</b> 37:4
<b>specifies</b> 15:2	45:16 56:15 102:2	<b>stays</b> 130:13	<b>substandards</b>
<b>speeding</b> 113:18,	<b>started</b> 12:5 54:14	<b>steam</b> 95:23	53:6
19,23,24	66:24 90:16,23,24	<b>step</b> 61:10 115:24	<b>success</b> 130:8
<b>speedometer</b>	114:5 119:8	126:15	131:20,24
113:21	127:8,22	<b>stepping</b> 48:1,4	<b>suffice</b> 42:24
<b>spend</b> 35:7 107:10	<b>starting</b> 5:1	<b>steps</b> 92:15	<b>sufficient</b> 8:8
132:10	<b>starts</b> 66:4	128:11,12	28:11 60:7 62:13
<b>spending</b> 83:12	<b>state</b> 14:12 16:21	<b>Steve</b> 76:4	
<b>spent</b> 71:2	18:12,18 19:8,24	<b>Steven</b> 22:17	
<b>square</b> 111:4,17	20:2 24:1,21,22	<b>Stippel</b> 67:6 69:1	
	28:14 53:7 54:22		
	55:3 63:11 66:19		
	71:8,16,20 83:9,		

<b>suggest</b> 49:2	<b>taking</b> 4:4 11:3 23:11 40:8 41:10 122:22 124:5	<b>testimony</b> 7:21 25:7 28:10 30:25 36:9 40:5,14 62:25 63:3,15,21, 25 64:8,9,10,11, 12 65:23 66:6 70:16,19 71:21 75:14 76:1 78:1, 12,22 81:7 82:4,9 83:10 84:14,23 85:7,17 90:9 103:3 110:8,9,15, 23 112:11 113:12 117:22 119:15,19, 20 123:21 126:5 131:2 132:20	50:21 52:11,12 56:6,20 58:4 61:22 62:20 64:5, 15 66:15 67:17,23 68:5 69:6 70:15 71:3 73:24 81:2, 15,18,19 82:5 83:2 85:23 86:4,9, 13 89:25 96:22 104:23 106:16 107:22 109:2,4 111:24 112:1,5,7 121:20 123:7 130:20
<b>suggesting</b> 104:20	<b>talk</b> 18:13 20:25 25:4 31:14,16 65:23,24 71:22 92:13 93:21 122:12	<b>tests</b> 126:10	<b>timeframe</b> 16:14 17:25 23:21 24:13,19 56:5 59:16 85:24 87:5
<b>suggestion</b> 121:12	<b>talked</b> 86:8 110:21 114:1	<b>text</b> 19:24	<b>timeline</b> 129:19
<b>Suite</b> 7:1	<b>talking</b> 32:14 68:24 77:9 86:12 100:4 105:3 126:9,13 127:16	<b>theoretically</b> 103:15	<b>times</b> 15:20 36:25 39:24 80:24 81:6 109:21
<b>sulfur</b> 59:20,21 90:14,18	<b>targeted</b> 111:2 112:7	<b>thing</b> 34:24 40:1 45:16 47:25 54:13 60:11 68:11 89:4, 22	<b>timing</b> 120:15
<b>sum</b> 37:4	<b>targeting</b> 111:16	<b>things</b> 53:21 54:14 74:23 81:2 111:6, 19,24,25 131:3	<b>title</b> 30:15
<b>summary</b> 28:12	<b>Tariff</b> 4:12	<b>thought</b> 40:20 91:17,19 101:5 117:11 123:13 130:4,9 131:6	<b>titled</b> 16:2
<b>superficial</b> 28:11	<b>tasked</b> 127:10	<b>Tim</b> 6:15	<b>today</b> 4:1,5,9,16 5:20 7:8,14 23:12 31:23 32:4 41:10 50:4 63:23 124:1, 3,6 131:1 132:20
<b>superheaters</b> 110:25 111:14	<b>tax</b> 88:5	<b>time</b> 4:2,8,25 5:13 7:24 8:18 9:23 10:6,22 13:14 14:9 16:17 17:12, 16 20:12,14,17, 19,23 21:24 22:3, 12,18 24:3,7,15, 25 25:3,12,20 29:2 31:21 33:3,7 39:10 40:1,7 41:2 45:23 46:11,17,21 47:20 49:8,25	<b>today's</b> 43:19
<b>supplemental</b> 96:8	<b>technical</b> 29:14		<b>told</b> 34:13 43:17
<b>support</b> 20:22 45:5	<b>technically</b> 29:22		<b>tons</b> 15:1,5,18
<b>supported</b> 22:15 28:2	<b>tenders</b> 64:16		<b>top</b> 10:11 44:24 51:21 79:15
<b>Supreme</b> 36:23 74:7	<b>Tennessee</b> 77:23		<b>topics</b> 23:22
<b>surety</b> 39:22	<b>term</b> 61:5 116:21		<b>tossed</b> 61:4
<b>surprise</b> 90:21	<b>terms</b> 36:25 38:23 54:23 59:25 68:14 82:20		<b>total</b> 50:16
<b>surrebuttal</b> 43:25 63:15,25 64:10,12 91:16 103:3	<b>test</b> 26:2 71:22,24 72:8,9,17,19 73:4, 14 74:3,5,12 75:11 86:8,15,23 131:8,10,15,16 132:7,13		<b>touch</b> 22:13 25:5
<b>surrounding</b> 38:16	<b>testified</b> 27:15 63:9 78:2,13,22		<b>trade</b> 70:11
<b>suspect</b> 90:3	<b>testify</b> 83:19		
<b>swear</b> 63:3	<b>testifying</b> 41:12		
<b>switched</b> 59:20	<b>testimonies</b> 43:25		
<b>sworn</b> 62:24 63:2, 8			
<b>system</b> 22:6			
<hr/> <b>T</b> <hr/>			
<b>takes</b> 90:4 120:6			

<b>traditional</b> 57:3,19	112:15	<b>undertake</b> 92:7	<b>unshare</b> 29:10
<b>training</b> 22:2	<b>typical</b> 80:2	<b>undertaken</b> 82:6 84:18	<b>untenable</b> 55:19
<b>transcript</b> 42:14 43:10,19 44:7,19 51:1,5	<hr/> <b>U</b> <hr/>	<b>underwent</b> 17:5	<b>unused</b> 126:18
<b>transcripts</b> 51:3	<b>U.S.</b> 43:15	<b>undisputed</b> 39:14	<b>unusual</b> 71:10,11 89:16 94:21,24
<b>transition</b> 4:13 36:12,14 47:17 57:20	<b>UARG</b> 75:17 84:19,21,22	<b>uneconomic</b> 60:2	<b>upgrade</b> 101:14
<b>transmission</b> 44:24	<b>ultimate</b> 99:5	<b>unhappy</b> 48:7 119:15	<b>upgrades</b> 44:24 56:23 60:3,13
<b>treat</b> 62:15 77:4	<b>ultimately</b> 74:6 114:4	<b>Union</b> 4:10 5:2	<b>upheld</b> 35:4 42:10
<b>treated</b> 52:23	<b>unable</b> 82:15 83:19 123:17	<b>unique</b> 86:23	<b>urge</b> 45:11
<b>treats</b> 115:9	<b>unavailable</b> 4:5	<b>unit</b> 14:4 17:21 22:7 72:9,15 80:11,12,20 82:11 88:21 90:7,14,25 91:10,11 93:6	<b>utilities</b> 16:22 23:20 24:4 31:10, 12,14,16 47:1 69:7 70:8 75:15 80:23 81:14,18 82:3 90:20 108:17,22,24 110:11 115:3
<b>trial</b> 13:1 26:19 125:21 127:7	<b>unaware</b> 9:8	<b>United</b> 42:17 44:20 95:25	<b>utility</b> 4:12 13:10 20:5 24:16 31:9 55:10 56:2 59:15 61:17 65:21 69:13,18 75:3,6 77:22 80:20 81:23 82:1,11 84:20 89:1 91:6 93:12, 17 99:22 100:12 101:3,8,17 105:18 110:2 121:2,6
<b>trigger</b> 16:24 17:9 18:3 42:12 100:22 107:11	<b>uncertainty</b> 91:12 93:7	<b>unites</b> 108:12	
<b>triggered</b> 107:9	<b>undergoes</b> 13:20	<b>units</b> 16:20 18:11 19:3 74:12 83:18, 24 108:9,10,13	<hr/> <b>V</b> <hr/>
<b>triggering</b> 100:20	<b>underlying</b> 116:23	<b>unlimited</b> 124:15	<b>Valley</b> 77:23
<b>true</b> 64:2 65:19 80:10 112:19	<b>underpinning</b> 32:21	<b>unmistakably</b> 129:19	<b>varied</b> 86:10
<b>truth</b> 63:4	<b>understand</b> 29:7 67:17 71:4 85:9 88:7 90:12 99:5 101:5 105:7 106:11 109:20 131:11	<b>unreasonable</b> 21:4,20 27:11 32:10 34:15,19 41:22 43:24 45:8 48:10 53:1 70:4 113:6 114:10,22 116:2,9,15 117:1, 25 118:4,10,19,25 119:1,10 121:6,16 125:16,21 127:16, 25 129:18,22 130:4,7,10	<b>varies</b> 109:23
<b>tube</b> 77:16	<b>understanding</b> 21:21 23:2 27:12 41:11 47:21 54:21 55:24 60:25 67:14,22,24,25 89:3,12 113:2 114:6,9,22 115:2, 25 116:5 118:23 121:14 125:17 126:16,22 127:3, 22	<b>unreasonableness</b> 35:20 126:2	<b>vary</b> 86:17
<b>tunnel</b> 5:10	<b>understood</b> 116:21 126:12 127:1 128:5	<b>unreasonably</b> 35:23 37:8	<b>verbal</b> 29:21
<b>turbine</b> 94:12			<b>version</b> 95:7
<b>turbines</b> 95:23			<b>versus</b> 38:24 39:5
<b>turn</b> 21:7 45:13			<b>Vice</b> 22:4
<b>turned</b> 116:6			
<b>Turning</b> 75:13			
<b>TVA</b> 108:11			
<b>type</b> 14:18 30:18 78:5,16,25 86:20 99:3			
<b>types</b> 14:24 29:22 30:1 81:4,5			



**view** 38:15 47:4  
58:24 68:2 70:1  
119:4

**violated** 37:23  
114:8 117:20  
118:9

**violation** 114:19  
128:13

**violations** 42:7  
112:18 128:8,10

---

## W

---

**wait** 46:2 105:9  
121:8

**waited** 120:21

**walked** 20:1

**walking** 12:20

**wanted** 7:12 46:4  
53:7 56:3 57:23  
62:8 109:18  
124:11

**wanting** 47:4

**watch** 40:22

**waterfalls** 110:25  
111:14

**waved** 123:22

**Webex** 4:4

**weeds** 108:15

**week** 72:6

**weeks** 44:8

**well-supported**  
21:23 44:2

**WEPCO** 27:17,18  
28:2,7 34:4,9,10,  
16,20 71:15

**whatsoever**  
106:17

**Whitworth** 22:17

31:20 83:10 90:10

**Whitworth's** 76:5  
84:13 85:6,17  
110:8,23

**wholly** 55:19

**Williams** 6:5,9,12  
7:25 8:2,3,9,16  
12:9 29:9,12,15  
54:10 58:6,7,17  
59:6,13 60:24  
61:7,12,22,25  
62:4,5 65:14,16  
67:1 68:23,25

73:8,11,12 76:4  
77:5 79:5,6,22,24  
84:1,2,3 92:11,16,  
20,21 93:2 97:2,6  
98:5,19,20 99:13,  
15 101:20,23,24  
102:1,6,7,16,17,  
18 105:13,17,22  
106:7,9 108:20,21  
109:1,3 110:17,22  
132:18

**Williams'** 97:21

**winning** 85:13

**Wisconsin** 27:18

**wished** 7:21

**witnesses** 7:11  
12:22 16:4,13  
19:20 20:21  
21:11,25 25:4,10  
31:21 44:1,25

**wondering** 9:1  
32:14

**word** 115:7  
116:19,20,24  
117:12 126:1  
131:6

**words** 21:13 23:1  
34:14 36:8 57:11

**work** 13:10 17:21,

24 18:10,15 19:2  
31:11,15,18 70:15  
81:22

**worked** 24:16 82:2

**working** 23:18,20  
31:17 57:22

**works** 14:8 23:23

**worse** 33:8

**worth** 85:15

**wrestle** 42:21

**write** 26:10

**writes** 116:19

**written** 109:16  
116:22

**wrong** 43:5 113:17  
115:17 116:9

---

## Y

---

**year** 15:1,5,18  
73:21 121:21

**years** 12:19 13:16  
16:3 17:25 18:1,9  
21:1 28:4 32:23  
35:24 66:13 80:13  
89:23 95:1,11  
103:17,19 109:25  
110:6 113:11  
115:13