

1                   BEFORE THE PUBLIC SERVICE COMMISSION

2                   STATE OF MISSOURI

3                   \_\_\_\_\_  
4                   TRANSCRIPT OF PROCEEDINGS

5                   HEARING

6                   AUGUST 15, 2007

7                   Jefferson City, Missouri

8                   Volume 1

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10                  In the Matter of Filing Requirement) Case No. EX-2007-0214  
11                  Rules for Electric Utilities                 )

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13                  \_\_\_\_\_  
14                  COLLEEN M. DALE, Presiding  
15                  CHIEF REGULATORY LAW JUDGE.

16                  JEFF DAVIS, Chairman,  
17                  STEVE GAW,  
18                  ROBERT M. CLAYTON, III,  
19                  LINWARD "LIN" APPLING,  
20                  COMMISSIONERS.  
21                  \_\_\_\_\_  
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26                  REPORTED BY:  
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1 P R O C E E D I N G S

2 JUDGE DALE: Let's go on the record, and  
3 we'll begin with entries of appearance.

4 MR. WILLIAMS: Nathan Williams, Deputy  
5 General Counsel for the Staff of the Missouri Public  
6 Service Commission, P.O. Box 360, Jefferson City,  
7 Missouri 65102.

8 MR. MILLS: On behalf of the Office of  
9 the Public Counsel and the Public, my name is Lewis  
10 Mills. My address is Post Office Box 2230, Jefferson  
11 City, Missouri 65102. Thank you.

12 MR. LOWERY: Appearing on behalf of  
13 Union Electric Company, dba Ameren UE, I'm James Lowery  
14 with Smith, Lewis, LLP, P.O. Box 918, Columbia,  
15 Missouri 65205.

16 MR. SWEARENGEN: James C. Swearengen  
17 Brydon, Swearengen & England, 312 East Capitol Avenue,  
18 Jefferson City, Missouri, appearing on behalf of the  
19 Empire District Electric Company.

20 MR. BLANC: Curtis Blanc, here on behalf  
21 of Kansas City Power and Light. I've left my contact  
22 information with the court reporter.

23 JUDGE DALE: Thank you.

24 MS. VUYLSTEKE: For the Missouri  
25 Industrial Energy Consumers, Diane Vuylsteke with Bryan

1 Cave, 211 North Broadway, Suite 3600, St. Louis,  
2 Missouri 63102.

3 JUDGE DALE: Thank you. With that,  
4 Mr. Williams, your --

5 MR. WILLIAMS: Do you want us to go to  
6 the podium?

7 JUDGE DALE: Yes, please.

8 MR. WILLIAMS: May it please the  
9 Commission, the Staff has some input with regard to the  
10 vegetation management rule as proposed by the  
11 Commission. Probably the major suggestion the Staff  
12 has is to move the transmission criteria that are  
13 present in the rule out of it, and instead have a  
14 reporting requirement of activities with regard to the  
15 North American Electric Reliability Corporation and  
16 Federal Energy Regulatory Commission in terms of  
17 reliability reporting that's done to those entities.  
18 And in addition, the -- any independent transmission  
19 system organization -- any reports that are filed with  
20 those as well.

21 And if that suggestion is adopted by the  
22 Commission, there are a number of definitions that  
23 would no longer be needed within the rule. Staff has  
24 made a filing in its comments -- or filed comments that  
25 indicate which definitions would not be necessary, and

1 also reiterates what I've just said about taking the  
2 transmission and moving it to just a reporting  
3 requirement as opposed to imposing specific criteria.

4           Also, in the Purpose section of the  
5 rule, the Staff believe the second sentence is  
6 redundant of the first, and just surplus, and could be  
7 deleted without causing any harm to the rule itself.

8           The Staff suggests that the definition  
9 of major event found in 4CSR240-23.030, sub, I believe  
10 it's (i) (j) (1) be revised to incorporate by reference  
11 the IEEE major event date threshold, rather than  
12 relying on an event affecting 10 percent of customers  
13 in a -- in an operating area.

14           If that -- if that proposal is  
15 adopted -- and the Staff also suggests that there is no  
16 need to have vegetation management activities reported  
17 at the operating area level; that providing them at the  
18 circuit level and by municipality is sufficient. If  
19 there's a need to look at them at the operating level,  
20 it can be done by aggregating the circuit information.  
21 And if that is also done, then there would not be a  
22 need to define operating area.

23           As to the maximum height criteria for  
24 trees, the Staff suggests that it be eight feet as  
25 opposed to three.

1                   Then in the vegetation  
2 management-related requirements that are set out in  
3 4CSR240-23.030(2), Staff suggests that it be made clear  
4 that those requirements apply not only to electrical  
5 corporations and their personnel but as well as the  
6 contractors, each one of those.

7                   The Staff opposes that the list of  
8 publications that are incorporated by reference in the  
9 rule be explicitly stated; be incorporated by reference  
10 and that there be a reference made that those are  
11 available at the Data Center of the Commission.

12                  Staff has a concern with  
13 4CSR240-23.030(4)(b), which allows vegetation managers  
14 of electrical corporations to determine some standards  
15 that they're to comply with. The Commission sets out a  
16 listing where standards may be found, and then says if  
17 there's a conflict, a vegetation manager is to  
18 determine which standard it will impose for the  
19 company. Staff has a concern that the Commission may  
20 have difficulty in imposing penalties or taking other  
21 action with regard to utilities for failing to comply  
22 by standards that they set for themselves.

23                  In other words, if the plan sets out a  
24 standard that the company is to comply with, there  
25 may -- they may have complied with some other standard

1     that was present in that list. And if the Commission  
2     is trying to hold them to the plan, Staff sees  
3     difficulty in the Commission being able to do so,  
4     because the company will have selected that standard as  
5     opposed to the Commission having imposed it.

6                     Staff is also unsure of the Commission's  
7     intent with the language in 4CSR240-23.030(9)(b) which  
8     reads: Upon receipt of the written notice of  
9     violation, the electrical corporation shall have five  
10    business days to correct the violations. It's unclear  
11    to the Staff if the -- if the Commission was viewing  
12    that as some kind of mitigating factor which the  
13    Commission might consider in imposing penalties, or  
14    just what the intent of the Commission is with that  
15    language.

16                    Staff doesn't have any other issues with  
17    regard to the vegetation management rule, but Dan Beck  
18    is available for asking technical questions and more  
19    specific questions from the Commission should it desire  
20    to inquire.

21                    JUDGE DALE: Mr. Beck, if you'll please  
22    the stand so that the Commissioners can ask you  
23    questions.

24                    COMMISSIONER CLAYTON: Can I ask a  
25    general question, Judge --

1 JUDGE DALE: Sure.

2 COMMISSIONER CLAYTON: -- of

3 Mr. Williams?

4 Looking at EFIS, I cannot locate the

5 Staff's comments on vegetation management. The only

6 Staff comment related to the infrastructure, I think --

7 MR. WILLIAMS: Well, I left them to be

8 filed before I came down here.

9 COMMISSIONER CLAYTON: Okay.

10 MR. WILLIAMS: I was -- I was --

11 COMMISSIONER CLAYTON: Well, we'll keep

12 looking, but the -- you -- they've been filed?

13 MR. WILLIAMS: Yes. And in addition to

14 a pleading that shows the comments, there is a redline,

15 strikeout version of the proposed rules indicating --

16 COMMISSIONER CLAYTON: I've got the --

17 MR. WILLIAMS: -- language --

18 COMMISSIONER CLAYTON: -- infrastructure

19 rule. It's just the vegetation management I couldn't

20 find. I'll look for it again.

21 MR. WILLIAMS: Well, if it would help, I

22 have a copy right here.

23 COMMISSIONER CLAYTON: Well, it --

24 that's --

25 JUDGE DALE: It's here. It just -- he



1 logged on sooner than yours was filed.

2 MR. WILLIAMS: Okay.

3 JUDGE DALE: Mr. Beck, will you please  
4 raise your right hand?

5 (Witness sworn.)

6 JUDGE DALE: Commissioner Gaw?

7 COMMISSIONER CLAYTON: Well, I was kind  
8 of hoping to print out the comments first. Well, now  
9 they're in. Okay.

10 COMMISSIONER GAW: I'll ask while you're  
11 looking.

12 DAN BECK testified as follows:

13 QUESTIONS BY COMMISSIONER GAW:

14 Q. Mr. Beck, I want to just -- first of  
15 all, the issue that was last raised regarding -- I  
16 think you said (9) (b). And I can't remember which  
17 number it was. I don't have that right with me.

18 A. 030 (9) (b)?

19 Q. Yes. Can you --

20 A. Yes.

21 Q. Can you explain that concern?

22 A. The actual text is: Upon written -- or,  
23 Upon receipt of written notice of violations, the  
24 electrical corporation shall have five business days to  
25 correct the violations.

1 Q. Okay.

2 A. And then it goes on to talk about the  
3 fact that the penalties would start the day that  
4 written notification occurred.

5 Q. Okay. Is this just a concern in regard  
6 to ensuring that the language complies with the  
7 statutory mechanisms for coming in front of the  
8 Commission to ask for a penalty?

9 A. And -- I think that, and that it meets  
10 the intent of what the Commission was attempting to do  
11 there. If that language, for example, was meant that  
12 if you got the work done within five days there was no  
13 penalty, then we were -- it seemed to be implied, but  
14 we weren't sure.

15 Q. Okay. So from the standpoint of the --  
16 of the concerns, then, that would relate to, first of  
17 all, ensuring that there was no question about it  
18 complying with the way the statutory scheme works  
19 today, which is that the Commission can't impose a  
20 penalty itself; it can only seek penalties.

21 A. Yes.

22 Q. But the other piece would be -- is the  
23 intention that this language clear up that under that  
24 statutory scheme, there is a -- in this case, the way  
25 it's currently written, a five-day window or the -- and

1 the -- within that period, if it was cleared up, the  
2 Commission would not seek penalties for a violation.

3 A. That's correct.

4 Q. Okay. So do you -- do you have  
5 suggested language to do that? Or did you attempt  
6 that?

7 A. I think we basically suggested kind of  
8 two alternatives, depending on whether the intent was  
9 to go ahead and make it -- for lack of a better term --  
10 a five-day grace period or not. And so we suggested  
11 language either way.

12 Q. Okay. The -- I want to understand the  
13 Staff's position in regard to the transmission portion.  
14 In most of -- most of the discussion that we've had and  
15 the events leading up to this rule, I think, pertain to  
16 the distribution system itself. But I want to -- I  
17 want to understand whether Staff believes that we are  
18 precluded from doing anything in regard to vegetation  
19 management with the transmission system. Is that -- is  
20 Staff taking a position in regard to that question?

21 A. I don't -- I think there's maybe a  
22 concern that there's some overlap there between, as  
23 mentioned earlier NERC and FERC. And, you know, in  
24 fact, the MISOs (ph) and the SPPs all have kind of a  
25 role in transmission. But I think ultimately, it would

1 be my opinion as a non-lawyer, that, you know, the  
2 PSC -- that's still part of getting power to the  
3 customer.

4 Q. Right.

5 A. So there's some -- we have some  
6 authority there.

7 Q. Well, it's clearly -- the RTOs have no  
8 authority in regard to tree trimming, that's clear.  
9 Right? The question that I -- that I'm posing is --  
10 and I think you've answered it -- is --

11 A. Yeah.

12 Q. -- whether or not we're somewhere  
13 preempted by some sort of FERC directive. Now, do you  
14 know whether or not there are particular provisions  
15 under NERC rules that call for trimming of vegetation  
16 to be in -- at a certain distance or that certain  
17 vegetation is not allowed to grow within the area of an  
18 easement? Is that kind of prescriptive rule in the  
19 NERC -- the NERC rules? Do you know?

20 A. I'm sorry to say that I honestly don't  
21 know how specific and prescriptive the NERC rules are.

22 Q. Okay.

23 A. NERC's role is evolving.

24 Q. Yeah. It's changed in the last -- since  
25 EPACT. Right?

1           A.       That's right.

2           Q.       So -- but at this point, you can't  
3 answer that question --

4           A.       Yeah.

5           Q.       -- without more research?

6           A.       And even to say since EPACT, I think,  
7 you know, there was a period after EPACT was in effect  
8 that there was kind of a decision-making process to  
9 whether NERC -- what NERC's role was. I don't think  
10 they really were moving forward at that point. I think  
11 there was a period there where it was just deciding  
12 what their general role was.

13          Q.       Okay. Well, I'll ask some other utility  
14 witnesses if they have answers --

15          A.       Okay.

16          Q.       -- on that particular area. But Staff  
17 is very -- is Staff mainly concerned that there not be  
18 conflicting statements of requirements with the rules  
19 in regard to vegetation management on transmission as  
20 opposed to what might be provided by some other  
21 authorities?

22          A.       I think that is a concern. I think --  
23 you know, I think we see or feel that there is a need  
24 to have reporting clearly done and received at the  
25 state level.

1 Q. Okay.

2 A. And, you know, that's something we just,  
3 you know, want to get as the basic minimum.

4 Q. Okay. And as I understand it, you don't  
5 think it's necessary to do the reporting at the  
6 operating level, as long as it's done at the circuit  
7 level and system-wide, because you can aggregate those  
8 circuits together if you want to in order to get them  
9 to an operating --

10 A. And we kind of --

11 Q. -- level?

12 A. -- had internal discussions, and I think  
13 what we've -- when we -- if you know a circuit  
14 number --

15 Q. Yes.

16 A. -- and you have enough information, you  
17 could easily aggregate that without any problem to get  
18 to the operating area. Our concern was is that the  
19 operating area didn't necessarily mean anything to the  
20 average consumer.

21 Q. Yeah. And that's a good -- that's a --  
22 that may be a point that we need to register here.  
23 The -- from the standpoint of operating areas, is that  
24 basically a -- an area that's defined by the utility  
25 for their own purposes?

1 A. Yes. And --

2 Q. Okay.

3 A. And, you know, for example -- and I'm  
4 sorry, I don't know the exact number -- but there's  
5 several operating areas in the metro area, and they  
6 have kind of generalized names that may or may not mean  
7 anything to the average consumer.

8 Q. All right. That's all I have right at  
9 the moment. Thank you.

10 QUESTIONS BY COMMISSIONER CLAYTON:

11 Q. Mr. Beck, I'm looking for -- I'm looking  
12 for several things that -- I'm not going to be very  
13 organized here, but I'll do my very best. There's a  
14 provision in the rules that requires the utility to  
15 maintain some sort of specialist or vegetation  
16 management specialist in charge of a tree trimming  
17 program. I believe that section is (2)(d), I believe.  
18 And I'm looking at your section.

19 What is Staff's position on the training  
20 necessary for the vegetation manager for a -- for a  
21 utility?

22 A. If you look in the redline, strikeout,  
23 we didn't make any changes to that, (2)(d). You know,  
24 this is a very important role, especially as we see it  
25 carried out because that vegetation manager typically

1 is dealing with a subcontractor that's doing most of  
2 the work. And so having that expertise at the company  
3 level seems important to us because it -- he could have  
4 a very limited staff that he has directly to rely on.  
5 So that's why we left that standard as it was.

6 Q. Let me ask you: There were comments  
7 that were filed, and I've just printed off your  
8 comments. I think they just came in, so I'm not -- I'm  
9 not able to ask specific questions and get caught up.  
10 But there was a statement made in comments that were  
11 filed that many utilities throughout the US with  
12 successful vegetation management programs utilize a  
13 manager with a business background in the lead role.

14 Do you think the person in charge of  
15 vegetation management ought to be someone with more  
16 knowledge or training, either an arbor,  
17 culture-certified utility specialist or the like?

18 A. I really do. And, you know, there's --  
19 ultimately this is, you know -- if that person would be  
20 a businessperson and have the staffing, I guess, to  
21 rely on, I guess you could make it work. But having  
22 that person with that expertise up-front would seem to  
23 me to be the best way to proceed.

24 Q. Okay. In Section -- well, it's (h) --  
25 and I'm not sure of the number -- there's a reference



1 to dealing with trees that lie outside of a  
2 right-of-way or an easement. But there is a reference  
3 to trees potentially that would be dead, rotten, or  
4 diseased vegetation. Do you recall that provision?

5 A. I do. I haven't located it yet, but I  
6 do recall it.

7 Q. What is the position of Staff with  
8 regard to vegetation that may be dead, diseased, or  
9 rotten that lies outside of a right-of-way or an  
10 easement but could impact electrical lines?

11 A. Yeah. The -- we had -- we have a  
12 suggestion to add one sentence in -- near the end of  
13 that. And basically it was this: That if the  
14 electrical corporation is denied access to property  
15 such that it cannot be removed -- it cannot remove or  
16 remedy the potential safety concern, the electrical  
17 corporation shall notify the landowner denying access  
18 of this concern in writing.

19 And I guess, you know, we recognize the  
20 fact that if it's outside their easement, they may not  
21 have -- the company may not have the right to go ahead  
22 and remove that. But there's also still the public  
23 safety concern that if that -- if that problem is  
24 identified, you'd like to be able to rectify it.

25 And so that's -- we put this extra

1 language in kind of formal -- hoping to maybe more  
2 formalize the fact that that person's decision not to  
3 allow that tree to be cut, you know, is documented.

4 Q. So does Staff believe -- and I don't  
5 think Staff does, because I don't see the language in  
6 this provision -- think that the standard needs to be  
7 changed to address an imminent threat of a tree? Or do  
8 you think just the existence of the fact that it's  
9 dead, rotten, or diseased and may fall -- you -- Staff  
10 is satisfied with the language in that provision?

11 A. Yeah. We didn't make any comments of  
12 that, no.

13 Q. Okay. Mr. Williams made reference to  
14 the publications that are listed in the rule -- and  
15 there are a number of those publications. And as I  
16 recall, he was not suggesting that those publications  
17 be removed from the rule; is that correct?

18 A. That -- he didn't go into a lot of  
19 detail. We did thin out the list slightly -- took out  
20 three or four -- but left in -- I believe it is a total  
21 of six now that would be our proposal. Things like the  
22 ANSI A300, the -- you know, several other documents,  
23 you know, we still see as terribly important, including  
24 the Commission's own reference to the National Electric  
25 Safety Code in 4CSR240-18.

1           Q.       Okay. I believe Empire has filed some  
2 significant language suggestions in Section (5)(d):  
3 Transmission Line Vegetation Management, as an  
4 alternative. Have you had an opportunity to review  
5 that language?

6           A.       I have not.

7           Q.       You have not. So you don't have an  
8 opinion one way or the other on the value of that  
9 language?

10          A.       No. Sorry.

11          Q.       How many years does Staff believe  
12 utilities should have to comply with the new provisions  
13 in the vegetation management rule?

14          A.       In total, 48, and -- but we also have  
15 recommendations on -- 48 months, excuse me. You said  
16 years. I don't want -- I don't want to -- but in  
17 addition, as the rule was originally written, there was  
18 targets -- there were basically one-third, two-third  
19 type of requirements. And we've broken that out a  
20 little bit more -- 15 percent after the first year, 40  
21 percent second, 70 percent third, and 100 percent  
22 fourth year.

23          Q.       So four years?

24          A.       Yes.

25          Q.       Four -- thank you. Four years. Has

1 Staff reviewed any easements or franchise agreements as  
2 they relate to rights-of-way to determine the power  
3 that any particular utility has to trim trees in close  
4 proximity to that space where the line runs?

5 A. Not to my knowledge.

6 Q. Okay. Thank you.

7 JUDGE DALE: I have questions from  
8 Commission Murray.

9 THE WITNESS: Okay.

10 JUDGE DALE: And I'm sorry if they're  
11 repetitious.

12 QUESTIONS BY JUDGE DALE:

13 Q. Is this rule essentially mandating no  
14 contact by vegetation with overhead power lines?

15 A. I think this rule has a provision as  
16 written that there's a six-inch distance. But I think  
17 realistically, contact could still be made during wind  
18 and other forces on the trees to move toward that line.  
19 So I think -- I guess -- I'm sorry my answer is that  
20 it -- in my opinion, I don't think it is a no-contact  
21 rule.

22 Q. Do you agree that there's no way to have  
23 a vegetation management rule that is 100 percent  
24 reliable to prevent all trees touching the lines short  
25 of cutting them all the way down to the ground and --

1           A.       I think that's -- I think that's  
2 correct, that there's always that risk.

3           Q.       Are you aware that Rule 218 of the NESC  
4 rules pertaining to vegetation management limited the  
5 application of the rule to undergrounded -- that is  
6 energized -- conductors?

7           A.       I'm sorry. Could you repeat that  
8 question one more time?

9           Q.       Certainly. Are you aware that Rule 218  
10 of the NESC rules pertaining to vegetation management  
11 limited the application of the rule to underground --  
12 that is energized -- conductors?

13          A.       I'm a little bit confused by the word  
14 "undergrounded." But the fact that limits it to  
15 energized conductors, that -- that's my best  
16 recollection of Rule 218.

17          Q.       Okay. Does the rule before us today  
18 limit the application to underground conductors, or  
19 does it fail to distinguish between energized and  
20 grounded conductors -- ungrounded -- oh, my bad.

21          A.       Okay.

22                   COMMISSIONER CLAYTON: Yeah. That makes  
23 more sense now.

24                   JUDGE DALE: Yeah. It does make more  
25 sense. Sorry.

1 BY JUDGE DALE:

2 Q. So let me repeat that question now --

3 A. Okay.

4 Q. -- reading it properly.

5 Does the rule before us today limit the  
6 application to ungrounded conductors, or does it fail  
7 to distinguish between energized and grounded  
8 conductors?

9 A. I don't think it makes the  
10 distinguish -- distinguishes between ungrounded.

11 Q. Is that an important distinction?

12 A. In day-to-day operations, yes.

13 Q. NESC Rule 218.015 provides: Where the  
14 word "should" is used, it is recognized that in certain  
15 instances additional local conditions not specified  
16 herein may make these provisions impractical. When  
17 this occurs, the difference in conditions shall be  
18 appropriately-recognized and Rule 012 shall be met.

19 The portion of Rule 012 that applies is  
20 Rule 012C as follows: For all particulars not  
21 specified in these rules, construction and maintenance  
22 should be done in accordance with accepted good  
23 practice for the given local conditions known at the  
24 time by those responsible for the construction or  
25 maintenance of the communication or supply lines and

1 equipment.

2 Do you believe that a vegetation  
3 management rule applicable to the State of Missouri  
4 should provide for exceptions based on local  
5 conditions?

6 A. I guess, in my mind, it would since  
7 there's variance provisions in this rule. Maybe  
8 that's -- that was what I was thinking as I read this  
9 rule.

10 JUDGE DALE: Those are all of her  
11 questions for you. Thank you, Mr. Beck.

12 CHAIRMAN DAVIS: No questions for  
13 Mr. Beck at this time.

14 JUDGE DALE: Thank you. Then you may  
15 step down.

16 (Witness excused.)

17 JUDGE DALE: Mr. Mills?

18 MR. MILLS: Good morning. May it please  
19 the Commission, I'll be very brief. In this rule,  
20 customers are giving up two things in response for the  
21 possibility of increase reliability. One is aesthetic,  
22 which is simply the increased number of trees that will  
23 be cut down pursuant to the provisions of this rule;  
24 and the other one is monetary.

25 And I think, you know, some customers

1 will be concerned about one, some will be concerned  
2 about the other; many will be concerned about both.  
3 And I think it's incumbent on the Commission to  
4 evaluate the comments that have been provided in this  
5 rule to ensure that the increased reliability that the  
6 customers are getting in these rules outweighs the  
7 cost, both in terms of aesthetics and in terms of money  
8 that customers are paying.

9                   Because of the way the process is set  
10 up, the parties don't really have a good opportunity to  
11 evaluate other entities' comments. For example,  
12 Staff's comments were filed sometime after I arrived  
13 here this morning. Empire's, I believe, were filed  
14 perhaps yesterday, and I think I was able to read them  
15 last night, but not spend a good deal of time with  
16 them. Certainly no meaningful opportunity to respond  
17 to them.

18                   So it's really up to the Commission  
19 itself to ask questions, to evaluate the comments, and  
20 to ensure that, you know, the numbers that you're  
21 looking at from the utilities are the proper ones.

22                   That's all I have. Thank you.

23                   JUDGE DALE: Are there Commissioner  
24 questions?

25                   COMMISSIONER CLAYTON: Mr. Mills, are



1     you filing written comments?

2                     MR. MILLS:  No.

3                     COMMISSIONER CLAYTON:  No?  So basically  
4     you're just suggesting that we should balance the  
5     comments that everyone else is filing and do the right  
6     thing?

7                     MR. MILLS:  Yeah.

8                     COMMISSIONER CLAYTON:  Well, we'll do  
9     that.

10                    MR. MILLS:  Okay.

11                    COMMISSIONER CLAYTON:  Well, I commit to  
12     that.  I wanted to ask you, in terms of tree trimming,  
13     vegetation management, does Public Counsel believe that  
14     there is a need for a rule addressing tree trimming?

15                    MR. MILLS:  Yes.  I think -- yeah.  The  
16     simple answer is yes.  I mean, I think, you know, we --  
17     you could, in rate cases and in other ways, establish  
18     procedures utility by utility.  But I think by far the  
19     best procedure would be a rule.

20                    COMMISSIONER CLAYTON:  Okay.  Well, let  
21     me ask you this:  In your charge as Public Counsel, do  
22     you have a responsibility in representing the public to  
23     focus simply on the dollar amount that a customer pays?  
24     Or do you believe reliability is an important factor in  
25     your -- in your role?

1                   MR. MILLS: Oh, absolutely reliability  
2 is an important factor.

3                   COMMISSIONER CLAYTON: Okay. And you  
4 think reliability could be improved in the state with  
5 some sort of compilation of rules that have been  
6 suggested in part here today?

7                   MR. MILLS: Absolutely.

8                   COMMISSIONER CLAYTON: Okay.

9                   MR. MILLS: There's no doubt about that.  
10 And I'm not -- I'm not sure that any of the -- that the  
11 comment -- any of the comments that I've seen so far,  
12 which were really Union Electric and Empire that were  
13 filed as of last night, I'm not sure that they disagree  
14 with that proposition. I think they disagree with a  
15 lot of the -- the cost implications. But in terms of  
16 the general notion that vegetation management could be  
17 improved in the state, I don't think there's any real  
18 argument on that.

19                  COMMISSIONER CLAYTON: In testimony  
20 that's been provided through local public hearings, do  
21 you recall whether or not you've heard problems from  
22 the public on tree-trimming issues?

23                  MR. MILLS: Sure. Throughout the storm  
24 hearings and the UE local public hearings in the rate  
25 case, we heard from customers all over Union Electric

1 service territory about problems with vegetation  
2 management.

3 COMMISSIONER CLAYTON: Is that the  
4 only -- that's the only utility service territory where  
5 you heard problems?

6 MR. MILLS: That's the one I remember  
7 most vividly. There may have been some comments in the  
8 most recent Empire rate case, but I don't remember  
9 specifically. Certainly, we had -- we had a lot of  
10 hearings having to do with reliability in Union  
11 Electric's service territory and heard from a lot of  
12 customers about those issues.

13 COMMISSIONER CLAYTON: Okay. Thank you.

14 MR. MILLS: Thank you.

15 COMMISSIONER GAW: None for me.

16 CHAIRMAN DAVIS: Do you have  
17 Commissioner Murray's questions for Mr. Mills?

18 JUDGE DALE: They're the same as they  
19 were for Staff.

20 MR. MILLS: I'm not sure that I  
21 memorized them. I would -- if you like --

22 JUDGE DALE: So --

23 MR. MILLS: -- I would be -- I would be  
24 happy to try to answer them.

25 JUDGE DALE: Well, my question that --

1     then -- my paraphrase of the first question has to do  
2     with the 100 percent no-contact.

3                     MR. MILLS:   And I agree with Mr. Beck.  
4     I don't think this rule would require that, and I  
5     don't -- I don't think it's achievable.

6                     JUDGE DALE:   Getting back to the  
7     ungrounded conductors and energized conductors, do you  
8     have any --

9                     MR. MILLS:   It's my understanding that  
10    this rule does not in most respects distinguish between  
11    energized and non-energized conductors.  As to whether  
12    or not the National Electric Safety Code does, I  
13    think -- I'm vaguely aware that it makes some  
14    differences, but I don't really know the specifics.

15                    JUDGE DALE:   And then, finally, what is  
16    your belief about the rule, the local conditions  
17    exceptions?

18                    MR. MILLS:   Again, I agree with  
19    Mr. Beck.  There are -- there are provisions throughout  
20    the rule that allow a utility to request variances and  
21    that should certainly allow for the Commission to take  
22    into account any local conditions that require  
23    variances from the rule.

24                    JUDGE DALE:   Thank you.

25                    MR. MILLS:   You're welcome.

1 JUDGE DALE: Chairman?

2 CHAIRMAN DAVIS: I think Mr. Mills just  
3 answered my question, so --

4 JUDGE DALE: Thank you. Mr. Lowery?

5 MR. LOWERY: Good morning. May it  
6 please the Commission, I don't really have myself any  
7 prepared remarks to make this morning. As I mentioned  
8 off the record, our vice president of Missouri Energy  
9 Delivery, Ron Zdellar is here. I know the Commission  
10 is very familiar with Mr. Zdellar. He's testified  
11 before on some of these issues.

12 We did file comments, I believe it was  
13 Monday afternoon, on the vegetation management rules.  
14 We -- our comments, I think, were very specific in that  
15 we looked at areas where we had concerns or suggestions  
16 and we made very specific suggestions as to how to  
17 address those.

18 Our goal -- and I think Mr. Mills  
19 addressed this -- I think he characterized that the  
20 comments that had been filed, no one, in concept,  
21 disagreed with the -- with the idea that some  
22 transparent, reasonable, workable vegetation management  
23 rules are a bad idea. I think we would agree with  
24 that.

25 I think what we're trying to do is seek

1 a balance between the reliability benefits that can be  
2 attained or not attained through vegetation management  
3 and the very real aesthetic and financial costs that  
4 are associated with some of the prescriptive standards  
5 that are in the -- in the rules as proposed.

6                   So we are certainly attempting to be as  
7 constructive as we can and try to participate in this  
8 process in a way that would result in a rule that does  
9 enhance reliability but balances those other  
10 considerations that I think are very important to  
11 customers and utilities, as well. And so Mr. Zdellar  
12 is going to talk about our specific comments and can  
13 answer, I think, more specific questions.

14                   And to the extent that I can, I can try  
15 to answer some questions, as well. But he's by far a  
16 better expert on this than I am.

17                   JUDGE DALE: Thank you. Please call  
18 him.

19                   MR. LOWRY: I call Mr. Zdellar.

20                   MR. ZDELLAR: Good morning.

21                   (Witness sworn.)

22                   JUDGE DALE: Please proceed if you have  
23 prepared remarks you wish to make, and then we'll  
24 receive Commission questions.

25 RON ZDELLAR testified as follows:

1                   MR. ZDELLAR: Yes, I do. Just to  
2 follow-up on Jim's comments briefly. I think we have  
3 felt for some time, particularly since the storms of  
4 last year, that having greater transparency through all  
5 parties about what we do in terms of vegetation  
6 management and infrastructure is important. And this  
7 process takes us along that path.

8                   AmerenUE has submitted comments on the  
9 proposal and a draft rewrite of the rule, incorporating  
10 those comments and recommendations. I'll present some  
11 general comments today. They only represent a small  
12 portion of the issues and recommendations addressed in  
13 our submittal.

14                   The goal of the rulemaking should be to  
15 produce a rule that balances the need for safe and  
16 adequate electric service with real financial,  
17 aesthetic and environmental costs associated with  
18 vegetation management strategies. As written, the  
19 proposed rule are likely to impose hundreds of millions  
20 of dollars of costs on ratepayers in Missouri, both  
21 initially and on an ongoing basis, and are likely to  
22 cause a devastating impact on the environment while  
23 degrading the quality of the state's urban forests.

24                   AmerenUE hopes this process will provide  
25 valuable insight to the Commissioners and all





1     that every tree has some form of disease of some sort.  
2     Most of those diseases, as diseases humans get, are not  
3     life-threatening, but yet they have diseases. So the  
4     term "disease" represents something that takes us to  
5     basically every tree that can fall into a zone. And I  
6     have some photographs in terms of what that might  
7     entail.

8                     MR. LOWERY: If I can get this to  
9     operate properly. This is the test.

10                    MR. ZDELLAR: Obviously the paragraph is  
11     not too clear, but I'll try to describe what we're  
12     looking at here. There is a road in Jefferson County,  
13     a segment road, and it bisects Mastodon State Park.  
14     And on the north side of that road, there is a  
15     relatively steep hill. And within the park that --  
16     hiking trails are throughout this park. The trees in  
17     question that are on this -- on this particular  
18     paragraph -- that, again, doesn't show up very clearly  
19     here -- are on the side of the hill go -- in the park  
20     property.

21                    Under this particular rule, there's  
22     probably 75 trees -- mature trees; oak trees, in  
23     general -- that would have to be removed into that  
24     park, which would, in fact, destroy hiking trails,  
25     cause erosion, and quite frankly, not deliver much in

1 terms of reliability.

2 MR. LOWERY: Judge Dale, we can  
3 certainly provide printouts of these photos for the  
4 Commission if they'd like to have those for the record,  
5 because these are -- they didn't show up on here as  
6 well as we had hoped that they would. So if that's  
7 something you would like for us to do, we'd be happy to  
8 do that.

9 JUDGE DALE: Yes, please.

10 MR. ZDELLAR: And we will do that. The  
11 second photograph is a road along a residential street  
12 where -- the picture describes in here -- is adequate  
13 clearance, again, on a distribution system, in our  
14 view, from the power lines from tree damage. But the  
15 trees, in fact, are much taller than the power lines  
16 and, in fact, could fall into those lines. And by  
17 reference, since every tree has some kind of a disease,  
18 would have to be removed.

19 COMMISSIONER CLAYTON: I need to stop  
20 for just a moment, Judge, because I want to understand  
21 if --

22 QUESTIONS BY COMMISSIONER CLAYTON:

23 Q. Mr. Zdellar, if your -- if your problem  
24 has to do with whether -- what constitutes the  
25 definition of disease?

1           A.       Very much so.

2           Q.       Can you -- have you offered a definition  
3 of disease in your comments?

4           A.       There's not a direct definition of  
5 disease, but we've put in our comments, it's by  
6 reference. And I may mention, too, in here, as I go  
7 forward. I've kind of followed that in our  
8 recommendation, if you'd just give me a second with one  
9 more picture --

10          Q.       Okay.

11          A.       Commissioner?

12                 COMMISSIONER GAW: Okay. Because the  
13 way this is going so far, the approach is that we don't  
14 know what disease is; it means every tree; and  
15 therefore, all these trees would have --

16                 MR. ZDELLAR: Right.

17                 COMMISSIONER GAW: -- to be cut. I'm  
18 more interested in hearing from you how to -- how to  
19 alter the definition if you've got a tree that's --  
20 that looks like it's dying and leaves are all falling  
21 off of it, and it's rotting, and you can see the  
22 branches about ready to fall, that's a tree that ought  
23 to be taken care of. And I don't -- I suspect you  
24 would agree with me about that.

25                 MR. ZDELLAR: I do agree.

1                   COMMISSIONER GAW: How do we get to that  
2 point so we're describing that tree? That's --

3                   MR. ZDELLAR: Well, let me get direct to  
4 that, then.

5                   COMMISSIONER GAW: -- that's --

6                   MR. ZDELLAR: I'll skip the last picture  
7 because we can't see them very well, anyway.

8                   COMMISSIONER GAW: Okay.

9                   MR. ZDELLAR: But AmerenUE suggests that  
10 the language be modified so that it limits any  
11 requirement that trees be removed to situations where  
12 there's a more imminent likelihood of vegetation  
13 falling into an energized conductor or guide as  
14 follows, and I quote: Any dead, rotten, or diseased  
15 vegetation which the electrical corporation believe is  
16 likely to affect reliability or safety by falling into  
17 or damaging an energized conductor or a guide.

18                   So it's really a -- as you pointed  
19 out -- an observation that there is in fact a risk  
20 associated with that tree as opposed to a general  
21 statement.

22                   COMMISSIONER GAW: Okay. Is there --  
23 and I don't want to keep interrupting you here. But  
24 can you point to some definition that would be more  
25 objective than your subjective, if we think it looks

1     like it ought to be cut down, we'll cut it down, which  
2     is how I'm interpreting what you're saying.

3                     You may end up with that, but it would  
4     be -- it would be helpful to know whether or not there  
5     are definitions out there that would relate to a dying  
6     tree in some of the -- some of the books and other  
7     things that might be cited in here as proposed or some  
8     other recognized standards that we could refer to so  
9     there would be some level of objectivity.

10                    MR. ZDELLAR: I think as we go forward  
11     beyond today in this -- development of this rule, I  
12     think there's certainly an opportunity to work on a  
13     definition.

14                    COMMISSIONER GAW: Well, I -- the  
15     problem -- the problem partially is in regard to our  
16     comment period being limited. But to the extent that  
17     anyone can do that today, if this is an issue that  
18     everyone has, I'd be interested in hearing that.

19                    MR. ZDELLAR: Okay.

20                    COMMISSIONER GAW: Okay. I'm sorry to  
21     interrupt. Go ahead.

22                    MR. ZDELLAR: Again, this change that we  
23     recommend will reduce the likelihood of the utility  
24     being obligated to spend resources on removal of  
25     vegetation which does not pose a realistic threat to

1 the reliability of the electric system.

2 JUDGE DALE: I'm sorry. Mr. Mills?

3 MR. MILLS: Can we turn off those  
4 lights? Just this first two here?

5 JUDGE DALE: This switch?

6 MR. MILLS: I don't remember which one.

7 MR. LOWERY: I think the biggest problem  
8 is those two lights are just washing the screen out.  
9 That helps. Yeah. That helps.

10 MR. ZDELLAR: That's much better. I  
11 think you can see that right now. But based on the  
12 discussion, that's where we'd have to be. One last  
13 picture on that one.

14 COMMISSIONER CLAYTON: I -- I'm going to  
15 have a question about the -- a few of these  
16 photographs. So if you're moving on, I -- just tell me  
17 when would be an appropriate time to ask.

18 MR. ZDELLAR: Well, probably right now  
19 is a good time.

20 COMMISSIONER CLAYTON: I mean, before  
21 you --

22 MR. ZDELLAR: Do you want to go to the  
23 previous one?

24 COMMISSIONER CLAYTON: Well, let's just  
25 stay on this one. I think this --

1 MR. ZDELLAR: Whoops. Hang on.

2 COMMISSIONER CLAYTON: Now, you're going  
3 to transmission.

4 MR. ZDELLAR: Sorry.

5 COMMISSIONER CLAYTON: I've seen that  
6 picture before.

7 MR. ZDELLAR: All right.

8 QUESTIONS BY COMMISSIONER CLAYTON:

9 Q. On this, the -- this is your example of  
10 what trees would have to be cut that lie outside of  
11 either the right-of-way or the easement in the event it  
12 were diseased; is that correct?

13 A. Right. That's correct.

14 Q. So you've got that large tree right  
15 there. That is outside your easement right there?

16 A. That is correct.

17 Q. Okay. So if that tree was --

18 A. Dead.

19 Q. -- was dead --

20 A. It was dead.

21 Q. -- would you agree that the tree ought  
22 to come down? Or --

23 A. Yes.

24 Q. -- would you suggest that the tree ought  
25 to stand up?

1           A.       The tree ought to come down.  However,  
2   we have no rights to go get that tree.  Our only avenue  
3   is to ask a customer for permission to remove the tree,  
4   which in 99 -- 100 percent of the time is probably  
5   going to be granted.

6                    The issue would come up with our  
7   customers if you were looking at some kind of a tree  
8   that looked fine to them, today, fully leafed out, but  
9   because of this definition about our perception or  
10  whether it's got some sort of incipient disease, what  
11  do you do?

12           Q.       Okay.  Well, let's -- how about if we do  
13  this?  Let's say if we removed just the word "the  
14  diseased condition."  Let's say it's dead or rotten,  
15  and it's leaning in towards the easement.  Would you  
16  agree that that tree would have to be addressed,  
17  have --

18           A.       Yes.

19           Q.       -- to be cut down?

20           A.       Well, it would have to be either cut  
21  down or at least topped to the point where it couldn't  
22  interfere with our power lines.

23           Q.       Okay.  So you agree that the dead or the  
24  rot would be -- at the very least, would be a standard  
25  that is appropriate?



1           A.       More appropriate.

2           Q.       More appropriate?

3           A.       More appropriate?

4           Q.       Okay.  So what would be -- what would be

5   the appropriate manner of cutting down that tree today

6   with no rule in place?

7           A.       Would be pretty much exactly what the

8   rule would imply.  We would go to the customer and

9   say --

10          Q.       Let's say today.  You don't have any

11   rule.  Let's say you have a tree that's leaning in.

12          A.       That's -- that's --

13          Q.       What would you do?

14          A.       That's what we would do.  We'd go to the

15   customer and define the tree, define the problem, and

16   ask for permission to work with the customer to remedy

17   the situation.

18          Q.       Okay.  And under this rule, you are

19   arguing that how that would be -- how would that change

20   under this rule today?

21          A.       Well, it -- the rule itself as it

22   implies that there is some -- I can't remember the

23   exact words in the rule.  I can find them.  It's in our

24   comments.  But there's some wording that we'd have to

25   take certain action.  And that may apply -- imply that

1     that action is beyond talking to the customer.

2                     And if the customer refused, what's the  
3     next step? Do we have an obligation to do something  
4     beyond talking to the customer in regard to property  
5     rights? That's the issue with the rule. Does the rule  
6     mandate that we do something else? Do we condemn the  
7     property? Do we seek eminent domain? Do we have to go  
8     after this tree in some more legalistic way other than  
9     just getting permission from the customer?

10            Q.     So today you wouldn't have any legal  
11     obligation to go cut down that dead or rotten tree,  
12     today, but under the rule you would have some  
13     obligation to move forward with whatever steps need to  
14     be taken to address the -- cutting them down?

15            A.     Well, we're not certain exactly how the  
16     rule -- the way the rule is worded, we're not certain  
17     what our obligation is if the customer denies access.

18            Q.     Well, what do you do without the rule?  
19     What do you do if you think a tree is going to fall  
20     into the line and a customer says, No, don't come in  
21     and cut my tree, what do you do?

22            A.     We don't cut it.

23            Q.     You don't -- you don't go to court? You  
24     don't --

25            A.     No.

1 Q. -- get an order?

2 A. We may go to a local elected official,  
3 others like that, to try to put pressure on a customer;  
4 that often is successful. But it's all cooperation as  
5 opposed to some legalistic avenue.

6 Q. So otherwise that tree just hangs out  
7 there, ready to fall?

8 A. Right.

9 Q. Thank you.

10 MR. LOWERY: Commissioner Clayton, if it  
11 pleases the Commission, and if I can just comment a  
12 moment on that, I think the only opportunity that a  
13 utility might have -- and I'm not even sure that a  
14 circuit judge is going to find condemnation as a matter  
15 of necessity is even -- if that's proper. But I think  
16 the only option a utility might have is to go file a  
17 condemnation action against that landowner. I mean,  
18 there's -- that's private property.

19 And I'm not sure whether the Commission  
20 wants to implement a rule that essentially encourages  
21 utilities to file individual condemnation actions. But  
22 I just don't -- I -- perhaps I'm missing something. I  
23 don't, as a matter of law, see any other option  
24 available to the utility in the situation that you just  
25 posited today.

1                   COMMISSIONER CLAYTON: Has Ameren ever  
2     filed any sort of legal action, either condemnation or  
3     to get a -- get an injunction or some sort of order  
4     from a judge to cut down a tree that would be a hazard  
5     to an electrical system? They've never done that?

6                   MR. ZDELLAR: We've never done that.

7                   COMMISSIONER CLAYTON: Never even tried  
8     it?

9                   MR. LOWERY: I think -- I think these  
10    guys know better than I do, but I'm not aware of that  
11    ever happening. And, of course, you know, that's going  
12    to take -- it's going to take some time to file, but --

13                  COMMISSIONER CLAYTON: You don't think  
14    it would be worthwhile to try to get a court order if  
15    you've got a -- an uncooperative landowner?

16                  MR. ZDELLAR: First off, I think that's  
17    pretty rare. You know, it's a very rare situation,  
18    somebody's got a dead tree that somebody is  
19    volunteering to --

20                  COMMISSIONER CLAYTON: So normally --  
21    normally they comply?

22                  MR. ZDELLAR: Exactly.

23                  COMMISSIONER CLAYTON: Normally they're  
24    agreeable?

25                  MR. ZDELLAR: Yeah. We're talking

1 somewhat in hypotheticals. I think the issue would be  
2 more in something that's a tree of a species or  
3 something that has a certain history of losing branches  
4 or things like that and that might come up. And again,  
5 most of the time, these are -- these are resolved  
6 through conversations, a little bit of arm twisting  
7 perhaps, and talking to elected officials locally.

8 COMMISSIONER CLAYTON: Well, this rule  
9 would just obligate you to get that process moving,  
10 wouldn't it?

11 MR. ZDELLAR: We already do it, and I'm  
12 sure the other utilities are doing the same thing.

13 Just going back to my comments, in  
14 Section (3)(a) of the rule, it requires a visual  
15 inspection at least once every two years of all  
16 energized conductors to determine whether vegetation  
17 management is needed.

18 And I'll quote from the rule. It says:  
19 Where vegetation is close enough to pose a threat to  
20 energized conductors, the electrical corporation shall  
21 perform vegetation management. This language implies  
22 that the vegetation control should be used primarily to  
23 address incidental tree growth. Industry experience is  
24 that incidental tree growth does not generally create a  
25 safety or reliability concern. Instead, we believe

1     that the inspection should note broken branches, dead  
2     trees, and excessive growth.

3                     Session -- Section (4)(a) lists nine  
4     different publications containing standards,  
5     guidelines, and procedures for vegetation management.  
6     And this was addressed earlier. And we believe the  
7     Commission should limit the adoption of outside  
8     standards, guidelines, and procedures to the following  
9     three items, all of which are already followed by all  
10    Missouri industrial and utilities: ANSI A300, which  
11    contains standards for vegetation management; ANSI  
12    Z133-1, which contains guidelines for personnel safety;  
13    and the National Electrical Code Section (4)(a)(9),  
14    which contains standards for public safety.

15                    We believe those three really cover  
16    everything that needs to be covered. And having nine  
17    is, in fact, very confusing. And it was mentioned  
18    earlier about who picks and choose what those are.

19                    Section (4)(g)(2) requires a utility to  
20    come back after the conclusion of a major event and  
21    remove vegetation that was cut or trimmed as part of  
22    the response to the event. This represents a major  
23    departure from utility current practices and would  
24    impose significant additional costs upon the utility  
25    and its customers.

1                   Currently, the removal of trimming after  
2   a major event, such as a major storm, is the  
3   responsibility of the property owner. The owner of the  
4   property, who is also the owner of the tree that  
5   fell -- or from which branches fell onto their power  
6   lines, is responsible for the poles due to an act of  
7   nature.

8                   Additionally, it would be impossible to  
9   distinguish between trimming, done by utilities as part  
10  of its restoration effort and that done by property  
11  owner or even that which was brought down by the storm  
12  itself. In effect, this section of the rule makes the  
13  utility responsible for removing all vegetation on the  
14  ground after a storm regardless on how it got there.

15                  I have some pictures that do depict some  
16  of that, as well. This is the first one, right here.  
17  And you can see this is a heavily damaged tree area  
18  where some of these trees hit the power lines, some  
19  didn't. The utility went in, cleared what they needed  
20  to clear to get their power lines back in the air, and  
21  basically left the trees lay where they would've fallen  
22  had the power line had not be there. We believe that's  
23  a reasonable approach to things.

24                  In terms of just the dramatic nature of  
25  this rule and how it might affect utilities, I have

1 another photograph here that you can there's a tree  
2 that is probably three and a half to four feet in  
3 diameter came down on a power line.

4                   And by this rule, if we did anything  
5 with that tree in terms of work we had to do to put our  
6 power lines back in the air, we would be required to go  
7 back and remove that entire tree. Had it fell the  
8 other direction, it would've been totally the  
9 responsibility of the homeowner. But somehow, because  
10 it touched an electric line, we now assume ownership.  
11 We strongly suggest removing this requirement totally.

12                   Section 5: Transmission Line Vegetation  
13 Management. Had a discussion on this one earlier, as  
14 well. This entire section, we believe, should be  
15 removed from the rule because it's made mandatory --  
16 made unnecessary, I'm sorry, by the potential of  
17 conflict with existing mandated transmission  
18 reliability and maintenance standards enforced by NERC  
19 and it represents additional regulation and ratepayer  
20 costs for which no demonstrable need has been  
21 established.

22                   For example, Section 5(b)(2) does not  
23 allow any vegetation that grows taller than 15 feet to  
24 grow within a transmission right-of-way. While the  
25 simplicity of this requirement is at first blush



1 appealing, there are a number of utility transmission  
2 systems where lines transverse steep valleys with  
3 mature trees that top out many feet below the lines,  
4 and will never pose a reliability concern. And I do  
5 have a couple of pictures on transmission.

6                   And this is an example that I just  
7 stated, that we have transmission towers on two sides  
8 of a deep valley, with vegetation in the valley. And  
9 going in and removing all of those trees as required by  
10 this rule would be extremely expensive, detrimental to  
11 the environment, would affect erosion, and offer no  
12 impact in improved reliability, and impose quite a cost  
13 on ratepayers. That issue is out there.

14                   Just a second example. If any of you  
15 are familiar with St. Louis County, on Interstate 44,  
16 perhaps between Shrewsbury -- the town of Shrewsbury  
17 and Big Bend is about three and a half miles of  
18 transmission line that's on a steel pole -- single  
19 pole, 138 kV line. The trees along that highway  
20 provide noise screening for communities from Webster  
21 Groves right on through the area. There's probably  
22 eight or ten communities that align Interstate 44  
23 within that section.

24                   Those trees are mature. And the tallest  
25 of those trees is currently 40 to 50 below that

1 transmission line. Those trees would never present a  
2 hazard to that transmission line. This rule would  
3 require their removal.

4                   The end result would be, again, spend  
5 utility ratepayer costs, basically, to remove trees  
6 which in some cases have absolutely no positive impact.

7                   Section 10(a) sets forth a time frame  
8 for utilities to obtain full compliance with the rule.  
9 The rules as drafted cannot be implemented within two  
10 years. Neither the State of Missouri nor surrounding  
11 areas have sufficiently-sized vegetation management  
12 workforce to enable Missouri utilities to ramp up the  
13 vegetation management practices to meet the  
14 requirements of the rule within two years.

15                   Section 10(b)(1) and (2) require the  
16 utility to, at all times, maintain certain minimum  
17 clearance for vegetation from conductors. The language  
18 of the proposed rule would require utilities to go  
19 beyond current easement widths and beyond their legal  
20 rights. For example, a requirement to maintain a -- to  
21 maintain a ten-foot clearance results in the utility  
22 trimming the ten feet plus an additional amount  
23 necessary for normal growth during the trim cycle to  
24 make sure it doesn't violate the ten-foot maintained  
25 clearance.

1                   This requirement substantially increases  
2   the amount of clearance required without an associated  
3   benefit. In fact, even in the pictures I showed  
4   earlier, if not for the diseased requirement or other  
5   requirements with those trees, many of those trees  
6   would have to be removed simply because of this having  
7   to maintain a ten-foot clearance.

8                   It doesn't say do a ten-foot clearance  
9   when you trim. It says, maintain a ten-foot clearance.  
10   And some trees can grow three to four, five feet a  
11   year. On a four-year cycle, we'd have to be well off  
12   our easements to prevent trees from growing within that  
13   ten feet.

14                  Section --

15                  COMMISSIONER GAW: Mr. Zdellar, just --

16                  MR. ZDELLAR: Yes, sir.

17                  COMMISSIONER GAW: -- to interrupt a  
18   moment. The issue of trimming beyond your easements  
19   seems to me to be one that -- I understand why you're  
20   raising it, I suppose. But it -- I don't see how  
21   you're going to be able to trim back beyond the  
22   easement.

23                  So that's an -- if that is part of the  
24   issue, the question of the amount of your easement,  
25   that could be -- there could be language inserted if

1     you think that that's problematic in regard to saying  
2     the trimming back is up -- needs to go to that or to  
3     the easement, whichever is the smaller amount of  
4     distance. That language would be fairly easy to be  
5     placed in there.

6                     That would alleviate your concern, at  
7     least in part, would it not, in regard to the question  
8     of whether or not you're trimming beyond your easement?

9                     MR. ZDELLAR: Yes. It would, very much  
10    so. And I think that is actually covered in some  
11    references, if I could continue.

12                    COMMISSIONER GAW: That would be great.  
13    Thanks.

14                    MR. ZDELLAR: And part of that  
15    recommendation is it's recognize in Section 4 (f),  
16    which is really around the requirements for utilities  
17    to do vegetation maintenance. It talks about the  
18    amount of vegetation that should be trimmed depends  
19    entirely upon the easement or right-of-way held by the  
20    utility, the voltage of the line, the tree location,  
21    the tree species, characteristics, and growth rate, the  
22    natural tree structure, and the overall health and  
23    local environment conditions.

24                    This kind of flexibility is very  
25    important to ensure a utility is not forced to trim in

1 areas which will not provide a benefit to the system.  
2 And, in fact, that is already in there, in Section 4;  
3 but then Section 10 comes along and says, Forget  
4 Section 4, remove everything. So there's a conflict,  
5 again, within the proposed rule that if we remove --  
6 take Section 10 out, we're back where you suggested.

7                   Section 10 (b) requires vertical  
8 trimming of distribution feeders and backbone circuits  
9 to remove overhang. And this has been a discussion  
10 we've had in the past here with the Commission.

11                   We believe that the Commission should  
12 simply modify this requirement to allow more  
13 flexibility in the event where this type of trimming  
14 would cause a mature tree to die. There are an awful  
15 lot of very substantial old oak trees in the St. Louis  
16 metropolitan area that are well above our lines, but  
17 have no history of failure or dying.

18                   And on a routine cycle, we can observe  
19 those trees and take care of what we need to take care  
20 of and remove those trees. And again, it would be a  
21 terrible detriment to an awful lot of communities,  
22 particularly within St. Louis County. And I think we'd  
23 have very strong objections to that.

24 QUESTIONS BY COMMISSIONER GAW:

25                   Q.       Now, Mr. Zdellar, you have -- we have

1 currently, in the draft, a provision to allow some  
2 variances. But in addition to that, did you -- did you  
3 put language in your comments to suggest just what you  
4 said, as -- that if a mature tree would die as a result  
5 of the --

6 A. If --

7 Q. -- trimming that --

8 A. Yes, sir. It's both in --

9 Q. -- that that would be an exception.

10 A. -- in our proposed rewrite of the rule.  
11 It's in both places.

12 Q. So that particular language of what you  
13 were just saying is in your comments?

14 A. Yes. It is in --

15 Q. Thank you. Go ahead. I'm sorry.

16 MR. ZDELLAR: I guess turning to my  
17 general comments here, I just -- last but not least, we  
18 do -- we do support a general requirement  
19 responsibility in terms of reporting, the utilities.  
20 And we would say we should codify what Ameren currently  
21 does with the Commission in reporting quarterly on what  
22 we do on vegetation management.

23 It provides Staff a great deal of  
24 information by circuit; and our schedule on what we're  
25 doing, provides Staff the opportunity to audit, to make

1 field visits to make sure that we are complying with  
2 what we've said we're going to do, and we support doing  
3 that sort of thing going forward for the State of  
4 Missouri. We think that adds to that transparency.

5                   Again, we believe development of a  
6 vegetation management rule for utility distribution  
7 systems is very important. And we appreciate the  
8 opportunity to participate in this process. The  
9 development of a reasonable rule which balances all  
10 interests including the desire for uninterrupted  
11 service and the aesthetics and environmental value of  
12 trees versus the higher costs associated with any  
13 increase in vegetation management should be the goal of  
14 these proceedings.

15                   As history demonstrates, the public, and  
16 even the Commissioners, have different expectations  
17 about the -- what level of vegetation management  
18 practices should be undertaken. And those expectations  
19 may vary at different points in time. These  
20 differences lead to confusion among the utility,  
21 Commission staff, the Commission and the public.

22                   To the extent that these rules provide a  
23 workable guideline for electric utilities to follow,  
24 the resulting transparency will benefit everyone.  
25 These comments are intended to achieve a balance

1 between the interests, to substantially reduce  
2 confusion and foster greater understanding of  
3 vegetation management between the utility, Commission  
4 Staff, the Commission and the public; and to provide  
5 the beneficial transparency referred above.

6 The company appreciates the Commission's  
7 consideration of these comments as formulated in a  
8 final rule. And I thank you. Those are my general  
9 comments.

10 JUDGE DALE: Do you have any additional  
11 questions for Mr. Zdellar?

12 CHAIRMAN GAW: Not right now.

13 COMMISSIONER CLAYTON: I do. I just  
14 have a few.

15 QUESTIONS BY COMMISSIONER CLAYTON:

16 Q. Mr. Zdellar, I think we may have talked  
17 about this at a -- at an earlier time, one of our  
18 earlier meetings. But would it be possible with all  
19 this discussion about the utility's legal rights to  
20 trim trees inside and outside of either a right-of-way  
21 or an easement -- would it be possible for Ameren to  
22 supply a sample franchise agreement that sets out  
23 rights and responsibilities associated with a  
24 right-of-way, as well as a sample easement that would  
25 set out rights and responsibilities among the parties,



1 and then just a little overview, whether there's much  
2 deviation among the different agreements that are  
3 possible?

4 A. Yes. We could certainly do that.

5 Q. Earlier today we heard that in Section 4  
6 (a) and Section -- excuse me, 4 (a) (5), publications  
7 associated with vegetation management. We heard from  
8 Staff to -- that they believe that those reference  
9 materials should remain in the rule. Ameren filed  
10 comments suggesting that most, if not all, of those  
11 reference materials on vegetation management should be  
12 removed. I wanted to ask why you believe that is  
13 appropriate.

14 A. They're both a duplicate and sometimes,  
15 as we brought up earlier, subjective in terms of which  
16 ones you would apply. I did hear during the Staff  
17 comments, though, that they in fact did recommend  
18 removal of some number of them; although I have not had  
19 a chance to read Staff comments because they weren't  
20 available. So they -- you know, they did -- they did  
21 suggest striking a number of them.

22 COMMISSIONER CLAYTON: Is that correct?

23 MR. WILLIAMS: Yes.

24 BY COMMISSIONER CLAYTON:

25 Q. Have you read all those books,

1 Mr. Zdellar?

2 A. I have not.

3 Q. How do you know they're duplicative or  
4 in conflict?

5 A. I have very expert people in my  
6 organization that keep me informed as to those matters.

7 Q. And you're saying that they've actually  
8 read all those books?

9 A. Oh, you bet.

10 Q. You're under oath.

11 COMMISSIONER CLAYTON: Did you put him  
12 under oath? Maybe not.

13 BY COMMISSIONER CLAYTON:

14 Q. On debris removal, does Ameren believe  
15 that it has a responsibility to remove debris that is  
16 as a -- that is from vegetation that was within the  
17 right-of-way or the easement --

18 A. Are we talking --

19 Q. -- if there is a storm or not?

20 A. We differentiate between the storm or  
21 not. In normal times, normal conditions, our routine  
22 maintenance program, we remove all vegetation. And we  
23 have notes in our comments regarding the rule. We will  
24 leave vegetation at the request of property owners, or  
25 in some cases, where the terrain or the denseness of

1 the woods and all that does not lend itself to removal.  
2 Natural Forest Service, for instance, wants us to leave  
3 vegetation where it falls during normal trim cycle.

4 Q. My question is focused on vegetation  
5 that you would have a responsibility to normally remove  
6 before a storm. However, you don't get to it, it's in  
7 a cycle, and it's in transition. A storm comes along  
8 and knocks down some of that vegetation. Do you  
9 believe you have an obligation to remove that debris if  
10 you would have had the earlier obligation to trim?

11 A. Well, keep in mind, the obligation to  
12 trim is based on cycles. And one could argue that if  
13 the tree grew -- if the branch grew a foot somehow that  
14 that created a problem, that's not going to happen.  
15 What brings down power lines is branches falling that  
16 we would not normally have trimmed.

17 It's not normally the growth process of  
18 trees that brings down power lines. They don't grow to  
19 be six inches in diameter in a four-year cycle. It's  
20 incidental contact. So, you know, that is sort of moot  
21 point in terms of that vegetation damaging our  
22 facilities during storm situations.

23 Q. What is the voltage of a transmission  
24 line? When you say transmission, is it everything  
25 above a certain voltage?

1           A.       We have -- in our comments, we suggested  
2     the definition break it up at 100 kV. Transmission is  
3     defined as those voltages above 100 kV.

4           Q.       Okay. And what -- the different types  
5     of transmission lines, what -- are there different  
6     names for them, like feeders? Or is that smaller? Is  
7     that considered a transmission line,  
8     subtransmission --

9           A.       Transmission circuits are generally  
10    labeled as transmission circuits. Feeders or  
11    distribution circuits used -- commonly is called  
12    feeders are on a distribution system.

13          Q.       Okay. In Paragraph 27 of your comments,  
14    at least of the draft of the comments that we received  
15    earlier, it says that there have been no -- a lack of  
16    transmission line outages. And I was wondering if --  
17    and actually, it says, By preventable -- or, From  
18    preventable causes.

19                   My question is: Have -- has Ameren had  
20    any transmission line outages in the last three years?

21          A.       Not to my knowledge, due to vegetation.

22          Q.       Okay. Let me ask this: Have you had  
23    any transmission line outages, period?

24          A.       Yes.

25          Q.       Okay. How many would you say you've

1 had?

2 A. That I can't tell you. I am very  
3 familiar with one we had a year ago this past spring,  
4 where a tornado tore down some transmission structures  
5 right outside our power plant.

6 Q. Okay. How many in the last three years  
7 is the question.

8 A. I don't have any idea.

9 Q. You don't know the answer to that. Does  
10 it occur once a year? Twice a year? Do you have any  
11 idea?

12 A. I really can't give you data on that.

13 Q. Okay.

14 A. But again, it would be non-vegetation.

15 Q. Okay. But it's never by a preventable  
16 cause?

17 A. Not to my knowledge.

18 COMMISSIONER CLAYTON: I don't think I  
19 have any other questions. Thank you.

20 COMMISSIONER GAW: I have just a few  
21 follow-up.

22 QUESTIONS BY COMMISSIONER GAW:

23 Q. Mr. Zdellar, in -- and it relates to the  
24 transmission issue. What are the -- what is Ameren's  
25 view in regard to the ability of the Commission to

1     require certain --

2             A.       I don't know that we've researched that  
3     in great detail.

4             Q.       -- on transmission?

5             A.       And I don't know that we've researched  
6     the Commission's legal authority on transmission in  
7     great deal. The only comments that I had pertaining to  
8     it is that some of the rules the Commission proposed  
9     here went beyond what you normally would expect. For  
10    instance, removing trees under transmission lines in  
11    all cases, would be something that would just add an  
12    awful lot of cost, and is not required by FERC or NERC.  
13    And --

14            Q.       Well, what kind of requirement is there  
15    under the NERC rules in regard to removal of trees  
16    growing underneath transmission lines?

17            A.       And again, I have not detailed knowledge  
18    of the FERC rules. But, you know, just in general, the  
19    requirement --

20            Q.       I think KCP&L can answer some of these  
21    questions. They have it in their -- in some of their  
22    comments. So --

23            A.       Okay. If someone has more --

24            Q.       -- I'll --

25            A.       -- specific --

1           Q.       -- ask someone else. But in regard  
2 to -- do you know what -- is there a break-over in  
3 regard to the -- to NERC's standards on what voltage  
4 requires certain amounts of trimming, or is there such  
5 a thing?

6           A.       And I'm not that familiar with that  
7 detail of the rule.

8           Q.       All right. There would be some issues,  
9 I suppose, in regard to transmission lines because they  
10 can sag during heavy loading. Correct?

11          A.       That's correct.

12          Q.       So you don't want them sagging down into  
13 trees that might be growing below them?

14          A.       That's exactly what has caused problems  
15 in the country in years past.

16          Q.       All right. So I'll just ask somebody  
17 else about --

18          A.       Okay.

19          Q.       -- about those. That's all right.

20                   COMMISSIONER GAW: I think that's all I  
21 have right now, Judge. Thanks.

22                   Thank you, Mr. Zdellar.

23                   JUDGE DALE: Mr. Zdellar, I have a few  
24 questions from Commissioner Murray.

25                   QUESTIONS BY JUDGE DALE:

1           Q.       The ones that I have already gone  
2 through, do you consider this to be 100 percent  
3 no-contact rule?

4           A.       No. No. I do not.

5           Q.       Okay. And pertaining to the ungrounded  
6 and energized conductors, does it fail to distinguish  
7 between them, and is that an important distinction?

8           A.       I had not thought about that as a  
9 distinction. I assume this was for energized and  
10 ungrounded conductors. Quite honestly, I don't  
11 understand the question -- the context of the question.

12          Q.       Well, I'm afraid I don't, either. Your  
13 fiscal note makes the assumption that there will be no  
14 claims or litigation resulting from -- there will be no  
15 claims or litigation from causing fatalities or the  
16 need to completely remove trees after pulling overhang.

17          A.       Can you repeat that question?

18          Q.       Your fiscal note makes the assumption  
19 that there will be no claims or litigation from causing  
20 fatalities or the need to completely remove trees after  
21 pulling overhang.

22          A.       Okay.

23          Q.       Is that a realistic assumption?

24          A.       We don't know. We have -- we made a  
25 number of assumptions within the fiscal notes based on



1 a timeline we had to submit it, and part of the legal  
2 claim issues was part of that. Also, in -- I might  
3 just add, in terms of the fiscal note, the area of the  
4 diseased, rotten, and dead area, as well, was an area  
5 we did not address in fiscal notes because we just  
6 couldn't see how to address it.

7 But a definition of disease, as we  
8 looked at it, we -- you're probably looking, in the  
9 State of Missouri, billions of dollars to accomplish  
10 that effort.

11 Q. Will additional trimming requirements  
12 increase danger to utility personnel?

13 A. I'm sorry. Could you repeat that?

14 Q. Will the additional trimming  
15 requirements increase danger to utility personnel?

16 A. Not to the extent that the utility  
17 personnel will be working in the field. And again, I'm  
18 not sure if she's asking about the tree-trimming people  
19 or the people doing line work in this particular case.  
20 But obviously the more work you do in trimming trees,  
21 climbing trees, removing trees, presents some risk in  
22 that work.

23 Q. What is Ameren's historical experience  
24 with fatalities as a result of vegetation management  
25 activities?

1           A.       Not aware of any fatalities associated  
2 with vegetation management.

3           Q.       Okay. Thank you.

4           JUDGE DALE: Any other questions?

5           COMMISSIONER GAW: I don't think so  
6 right now.

7           JUDGE DALE: Then thank you Mr. Zdellar.  
8 You may step down.

9           MR. LOWERY: Judge Dale, if I could  
10 perhaps add something to -- related to Commissioner  
11 Murray's question about claims and those types of  
12 things. One of the things that we haven't mentioned in  
13 our comments but that concerns us, and as Mr. Zdellar  
14 said, we haven't tried to quantify that in the fiscal  
15 notes in terms of the claims because we're just not  
16 really sure where to start.

17           But one of the issues would be if you  
18 have a rule that is very, very prescriptive and is  
19 impractical at times in application, as we are  
20 concerned this one is, and we don't comply with it  
21 because we can't, you still could -- you have a  
22 situation where we're faced with personal injury and  
23 property damage claims for negligence -- based on  
24 negligence per se, because we have a rule in place that  
25 says we're supposed to do A, B, and C.

1                   We're not able to do A, B, and C, but  
2   we've got a situation where we've got a lawful rule in  
3   place, somebody's been injured, and makes that -- tries  
4   to make that causal connection between the failure to  
5   have been in compliance with that rule and their  
6   personal injury or their property damage.

7                   And that's something we're concerned  
8   about, and is another reason that the rule needs to be  
9   practical in application and reasonable in terms of  
10   balancing those interests. And I just thought that  
11   might be relevant to the point that Commissioner Murray  
12   was getting to.

13                  JUDGE DALE: Thank you.

14                  MR. ZDELLAR: Let me rephrase an answer  
15   to a question in terms of fatalities. My first thought  
16   was fatalities to the public regarding vegetation.  
17   There have been fatalities to people who have been  
18   doing the tree-trimming work. We've had --

19                  JUDGE DALE: I think that's what she  
20   meant.

21                  MR. ZDELLAR: Yeah. We've had failures  
22   of bucket trucks. We've had electrical contact that  
23   we're aware of. And these are not our employees, but  
24   employees of our contractors. This is a business that  
25   does have some hazards to it and people have to be very

1 careful. Despite the safety, training, and the  
2 processes and equipment, there have been accidents in  
3 the past that have resulted in fatalities to workers.

4 JUDGE DALE: Thank you. Any other  
5 comments from Ameren?

6 MR. LOWRY: No.

7 JUDGE DALE: Okay. Thank you.

8 COMMISSIONER CLAYTON: Can I ask one  
9 question? I'm sorry.

10 QUESTIONS BY COMMISSIONER CLAYTON:

11 Q. Mr. Zdellar, I wanted to ask, in the  
12 opening remarks of the comments, Ameren makes some  
13 statements regarding hardening the system, have already  
14 made changes, targeting ongoing problematic circuits.  
15 I was wondering if you can tell me what changes Ameren  
16 has made in its tree-trimming practices since 2006.

17 A. We've made significant changes. And, in  
18 fact, it goes back to the year before that. We've gone  
19 to what we call a very prescriptive program where we  
20 look much harder at trimming that we do on our high  
21 voltage circuits, our subtransmission circuits, 34 and  
22 69 kV.

23 And in particular, our distribution  
24 backbone circuits from the substation on out to the  
25 first protective device. We've worked with customers

1 to -- and communities -- an awful lot of work with  
2 community leaders -- mayors and city councils -- to be  
3 able to work hard in terms of --

4 Q. Can you give me a specific example? Do  
5 you -- have you set a standard about distances? Have  
6 you set just internal prescriptive measures for  
7 distances of branches between lines or among lines or  
8 above lines?

9 A. Again, not specific distances. Trees  
10 are like people: They're all different. Some trees  
11 grow faster than others, some present greater hazards  
12 in terms of their sturdiness. So soft wood, hard wood  
13 are a big difference in terms of what you do with  
14 vegetation. The whole program is to be able to get  
15 more clearance on these major circuits, removal of  
16 overhang.

17 We've got on tree removal programs with  
18 a number of communities; tree replacement programs with  
19 some others, and done an awful lot in terms of customer  
20 work with off-right-of-way and off-easement work. So  
21 it's a very prescriptive program that goes after what  
22 we believe to be hazard trees, overhangs, and things  
23 that can present bigger problems to our system. And  
24 these have been very successful programs for us.

25 Q. Well, can -- I mean, with these changes

1 and these successful changes, you -- is it your opinion  
2 that prior to 2006 Ameren's tree-trimming activities  
3 were inadequate?

4 A. I think inadequate is probably not the  
5 right term. Our trimming was --

6 Q. Or -- I mean, what word would you use?

7 A. They were adequate to prevent incidental  
8 contact with trees. They were not storm-proofing  
9 systems. The storms of the last couple of years have  
10 been extraordinary in terms of our history. And the  
11 tree trimming that took place three years before that  
12 was adequate, again, considering the balance between  
13 aesthetics, the environmental impact, and desires of  
14 our customers has clearly changed.

15 Q. How do you measure -- how do you measure  
16 success on these new measures that Ameren has  
17 implemented?

18 A. Well, in the short term, you measure  
19 success in terms of the clearance. In the longer term,  
20 it will -- it will be impacted by the reliability  
21 improvements we see on those circuits during normal  
22 times, and to some extent even during storms -- minor  
23 storms, in particular.

24 Q. So ultimately reliability is how you  
25 measure it in the long term?

1           A.       That's correct.

2           Q.       Okay.  Thank you.

3                   JUDGE DALE:  Chairman, did you have any?

4                   CHAIRMAN DAVIS:  No, Mr. Zdellar, I

5       don't have any questions at this time.  Thank you.

6                   JUDGE DALE:  Thank you, Mr. Zdellar.

7       You may step down.

8                   (Witness excused.)

9                   JUDGE DALE:  Mr. Swearengen?

10                  MR. SWEARENGEN:  Yes, Judge.  Mr. Brad

11       Beecher of the Empire District Electric Company is

12       here, and he would like to make some comments at this

13       time.

14                  JUDGE DALE:  Thank you.

15                  COMMISSIONER GAW:  Judge, may I ask

16       Mr. Zdellar one other quick question?  He can answer it

17       from wherever.

18       QUESTIONS BY COMMISSIONER GAW:

19                  Q.       But Mr. Zdellar, when you were talking  
20       about the particulars of the -- of the trimming back on  
21       different tree types, what I didn't hear you say is  
22       whether or not there were -- there were particular  
23       distances for particular tree types within the Ameren  
24       program currently.

25                  A.       Yeah.  A lot of the trimming is done

1 with what's called the natural pruning technique, which  
2 you go back to a lateral on a tree. You don't trim a  
3 branch mid of the branch, so to speak.

4 Q. Right.

5 A. So you normally get some clearance back  
6 to some lateral limit, on a trunk or on a tree. So  
7 it's not a specific distance requirement; it's more of  
8 a natural pruning technique that fits in with what the  
9 arborists try to accomplish.

10 Q. What book is that that you're using?

11 A. I'm not using a book. No. This is what  
12 I --

13 Q. I'm trying to understand what -

14 A. I know --

15 Q. -- book we should use here?

16 A. We can probably give you that.

17 Q. Okay. Thank you.

18 COMMISSIONER GAW: Thank you, Judge.

19 Sorry.

20 JUDGE DALE: Mr. Swearengen, did you  
21 want to make any general remarks?

22 MR. SWEARENGEN: No, Your Honor. Thank  
23 you.

24 (Witness sworn.)

25 JUDGE DALE: Thank you, Mr. Beecher.



1 Please proceed.

2 BRAD BEECHER testified as follows:

3 MR. BEECHER: Good morning. My name is  
4 Brad Beecher. I'm vice president and chief operating  
5 officer for Empire District Electric. Thank you for  
6 allowing me time to address Empire's concerns with the  
7 proposed vegetation management rulemaking.

8 The Missouri Public Service Commission,  
9 Missouri public utilities, and Missouri citizens all  
10 have a vested interest in the provision of safe,  
11 reliable, and economical power supply. Empire believes  
12 that appropriately-crafted vegetation management rules  
13 could potentially have a very positive influence on the  
14 furthering of the interests for all concerned.

15 Empire filed detailed comments  
16 concerning the proposed rulemakings via EFIS last  
17 Thursday. These comments included a report prepared by  
18 Environmental Consultants, Incorporated. It was our  
19 hope by filing these early that if you had questions we  
20 could address them today. ECI reviewed the proposed  
21 vegetation rulemaking on Empire's behalf. ECI has  
22 completed comprehensive assessments of vegetation  
23 management programs for over 150 electric utilities.

24 The comments from ECI addressed each  
25 section of the proposed rules and, where appropriate,

1 we tried to suggest alternative language. With me  
2 today, I have our director of engineering, Sam  
3 McGarrah, and our manager of vegetation control, Scott  
4 Mackey (ph) who, along with myself, are available to  
5 answer questions concerning our filed comments.

6 We also have a representative from ECI  
7 available to answer questions concerning the report  
8 they prepared on our behalf.

9 After reviewing our comments and the  
10 comments of others, we urge the Commission to withdraw  
11 the proposed rulemakings and address the development of  
12 such rules in a more collaborative fashion. The  
13 Commission has commonly utilized workshops and  
14 technical conferences prior to the publication of rule  
15 proposals as a way to vet proposed rules with relevant  
16 stakeholders, such as Office of Public Counsel,  
17 consumer groups, industry representatives, other  
18 agencies and the Commission's own staff.

19 Empire believes this traditional  
20 approach has merit in this situation. It would provide  
21 a forum for the Commission to receive information from  
22 a variety of perspectives, and to take this information  
23 into account in crafting rules.

24 I will be the first to admit that this  
25 type of process can be time-consuming; however, we

1 believe it necessary in order to balance safety,  
2 reliability, and cost. It is Empire's opinion that the  
3 lack of opportunity for real discussion regarding  
4 issues such as Ameren brought up today and we brought  
5 up in our comments, that without real opportunity for  
6 discussion, that created the great variance in cost  
7 estimates that we all submitted.

8                    Empire also understands that the  
9 Commission is sending reliability rules to the  
10 Secretary of State without a collaborative process. We  
11 are also concerned relative to the costs that those  
12 rulemakings may have.

13                   Each of the three rulemakings --  
14 vegetation management, infrastructure, and  
15 reliability -- all have significant financial impacts  
16 on utilities, and ultimately our customers. We ask the  
17 Commission to consider the aggregate impact of all  
18 three rulemakings when making its final determination.

19                   In summary, Empire has a vested interest  
20 in providing safe, reliable, and economical power to  
21 our customers. And we do believe an  
22 appropriately-crafted vegetation management rule will  
23 have positive impact on Missouri customers.

24                   The workshop process with appropriate  
25 input from all parties will more likely produce the

1 result in the process that we've been through.

2 Empire, therefore, requests that the  
3 Commission not promulgate the proposed rules as  
4 drafted, and instead initiate a process that provides  
5 for appropriately-crafted rules that balance safety,  
6 reliability, and cost.

7 That's all I have, ma'am.

8 JUDGE DALE: Questions?

9 QUESTIONS BY COMMISSIONER CLAYTON:

10 Q. Is it Mr. Beecher?

11 A. Yes, sir.

12 Q. Is that correct? How long have you had  
13 the proposed rules in -- or how long has Empire had the  
14 proposed rules in its possession?

15 A. I don't have that answer off the top of  
16 my head, sir. I apologize.

17 Q. Well, how long have you had --

18 A. We saw drafts of these before they were  
19 filed with the Secretary of State's office. I can't  
20 tell you a time frame exactly, sir.

21 Q. Could you just give me a month or a  
22 season? Could you give me a season?

23 A. It seems like we've been working on them  
24 a long time.

25 Q. Well, it has -- it has been a long time.

1 I think these were drafted originally sometime in the  
2 month of January or February. They were -- they were  
3 passed around sometime around in March. And we're now  
4 in August. So it's been five or six months. And I was  
5 wondering if Empire has taken any steps at reaching out  
6 to either the Staff or any commissioners working on the  
7 provisions of the rule-making -- provisions of these  
8 proposed rules.

9 A. Collaboratively, through MEDA, we have  
10 some -- provided some comments, but none that we have  
11 initiated on our own.

12 Q. Okay. Well, I'm struggling with this  
13 collaborative process. You-all haven't taken any steps  
14 beyond MEDA filing comments, yet now you want us to  
15 start over. And I was just wondering why you didn't  
16 take steps earlier to try to reach out and address some  
17 of your concerns.

18 A. You know, quite -- you know, what we see  
19 is what's going on in agenda session. So it's hard for  
20 us to understand exactly where things are going. It  
21 appeared at one time that we had a different set of  
22 rules that were commonly referred to as Warren Woods'  
23 (ph) rules.

24 Q. Was there a collaborative process for  
25 the drafting of those rules?

1           A.       I don't believe there was.

2           Q.       Okay.

3           A.       But we just did not take that step.

4           Q.       But Empire has seen these rules prior to  
5 their date of publication?

6           A.       We -- yes, sir.

7           Q.       Okay. And I guess I'm -- I was just --  
8 I'm disappointed to hear the statement that you're not  
9 satisfied with the collaborative process moving  
10 forward. The comments that have been provided by ECI  
11 are very organized and appear to be very well thought  
12 out, I think in some instances are very helpful.

13                   And I thought the conclusion of the  
14 comments were that there are some problems, many of  
15 those that we can work through and address some of  
16 these issues. And then your comments come in today are  
17 that no, we should start over and sit down at a  
18 workshop and draft things.

19                   So I guess, can you clarify what  
20 Empire's position is here today?

21           A.       I think we can sit down in a workshop  
22 and try to clarify some of the issues that we've talked  
23 about today. You know, I think there's 90 days between  
24 when -- today and, I think, November 15th, when these  
25 rules have to be either promulgated and/or withdrawn.

1 We could use that 90 days in order to try to sit down  
2 and come up with something that balances the interests  
3 of all parties.

4 Q. Okay. Okay. So we don't necessarily  
5 have to start over; we could take advantage of that?

6 A. No. Definitely do not have to start  
7 over. I think, you know, we tried to address -- and  
8 quite frankly, I was amazed at how many of the same  
9 exact things we addressed as Ameren did throughout  
10 ECI's comments. So I think we've kind of identified a  
11 lot of the big issues. If we can sit down and try to  
12 figure out what balances interests of all parties.

13 Q. Okay. Has -- are you aware, has Empire  
14 ever been advised not to contact either the staff or  
15 any commissioners? Or have you ever been advised not  
16 to contact staff or the commissioners with regard to  
17 these rules?

18 A. Not with regard to these rulemakings.

19 Q. Okay.

20 CHAIRMAN DAVIS: Commissioner Clayton,  
21 can I follow-up on that question, just --

22 QUESTIONS BY CHAIRMAN DAVIS:

23 Q. Mr. Beecher, in your answer there, do  
24 you ever -- you seem to indicate that you have been  
25 advised at times not to discuss matters with the

1 Commission. Would you care to elaborate on that?

2 A. Yeah. Any time we've had a rate case  
3 going on or any kind of case going on, counsel advises  
4 us, Do not talk to commissioners.

5 Q. Okay. All right. I just wanted to  
6 clear that up. Thank you, Mr. Beecher.

7 CHAIRMAN DAVIS: I'm sorry, Commissioner  
8 Clayton.

9 BY COMMISSIONER CLAYTON:

10 Q. For a case? I mean, you're talking  
11 about ex parte communications during a case, is what --

12 A. That would be what I'm referencing, yes.

13 Q. But counsel never told you that in this  
14 instance you -- it wasn't appropriate?

15 A. You know, I don't know that I asked him  
16 for his advice.

17 Q. All right.

18 MR. SWEARENGEN: He's a good witness.

19 COMMISSIONER CLAYTON: Well, there's  
20 always a bill that comes with asking that question, so  
21 I understand. We had a little bit of that ourselves  
22 the other day.

23 I don't think I have -- if ECI is here,  
24 I think it would just be best to wait for them.

25 That -- those are where the --



1 MR. BEECHER: ECI is here.

2 COMMISSIONER CLAYTON: -- technical  
3 questions should go, so I'll just wait. Thank you.

4 JUDGE DALE: Commissioner Gaw?

5 COMMISSIONER GAW: I think I'll wait,  
6 too. Thank you, sir.

7 THE WITNESS: Thank you.

8 JUDGE DALE: I have questions from  
9 Commissioner Murray. Should I ask them of you, or  
10 should I wait?

11 THE WITNESS: To the extent they're the  
12 same questions as before, I can answer.

13 JUDGE DALE: Okay.

14 QUESTIONS BY JUDGE DALE:

15 Q. There are those, and there are some  
16 additional.

17 A. Okay. Go ahead, and I will let you know  
18 if somebody else is appropriate.

19 Q. Okay. The first one has to do with if  
20 it's essentially a no-contact rule. If you believe it  
21 is.

22 A. The way we read it, we believe it is a  
23 no-contact rule. Whether that was the anticipation  
24 when it was drafted, I don't know. But the way we read  
25 it, we believe it's a no-contact rule.

1           Q.       And do you believe that complying with a  
2 no-contact rule is possible?

3           A.       It would be very, very difficult.

4           Q.       Now, pertaining to the question that  
5 I've already confessed I don't really understand,  
6 between ungrounded and energized conductors, is that an  
7 important distinction?

8           A.       We assumed that it was for energized and  
9 ungrounded conductors.

10          Q.       Okay.  Lastly, do you believe that the  
11 vegetation management rule as written provides  
12 sufficient exception for local conditions?

13          A.       There is a provision in the rulemaking  
14 for variances.  Unfortunately, I'm afraid we would have  
15 to hire, you know, people that do nothing but ask for  
16 variances and this Commission would be dealing with a  
17 lot of variances.  So it would be very, very difficult  
18 as it's currently written.

19          Q.       She also has some questions about your  
20 fiscal note assumptions.

21          A.       Depending on the question, those might  
22 be more appropriate for one of the other witnesses.

23          Q.       One has to do with rights-of-way, the  
24 other has to do with cost benefit analysis.

25          A.       Probably Sam McGarrah would be the one

1 right --

2 Q. Okay.

3 A. -- person for that.

4 Q. I'll -- I will wait on those.

5 JUDGE DALE: Are there any other

6 questions for this witness?

7 COMMISSIONER CLAYTON: One question.

8 One question. Maybe I'll --

9 QUESTIONS BY COMMISSIONER CLAYTON:

10 Q. How many states does Empire provide

11 electrical service?

12 A. Four.

13 Q. Four states. Missouri, Kansas,

14 Arkansas --

15 A. And Oklahoma.

16 Q. -- and Oklahoma. And do any of the

17 other three states have vegetation management rules?

18 A. Yes.

19 Q. Which states?

20 A. Oklahoma.

21 Q. And there are none in Kansas and --

22 A. To my knowledge, there is nothing

23 specifically written in Kansas. In Arkansas, we do

24 have a Public Service Commission staffer that comes out

25 and does inspections, but I don't know that that's a

1 written rule. But they do come out on a periodic basis  
2 and ride around with our vegetation management folks.

3 Q. And how do these proposed rules compare  
4 to the rules from Oklahoma?

5 A. The Oklahoma rules are -- and I have not  
6 read them personally. I have been -- they have been  
7 relayed to me that they are much shorter and much more  
8 concise and not so prescriptive.

9 Q. Much more concise and not so  
10 prescriptive?

11 A. Not so prescriptive.

12 Q. Okay. Does Oklahoma -- or let me ask  
13 this question, if you know the answer. Among the four  
14 states, does anyone have a reliability rule?

15 A. Kansas has a reliability reporting rule,  
16 which Empire is exempted from reporting. Oklahoma, we  
17 report reliability statistics.

18 Q. Do they have benchmarks -- reliability  
19 benchmarks with the traditional calculations: SAIDI,  
20 SAIFI?

21 A. Not to my knowledge. They do not.

22 Q. They do not? Okay. Thank you.

23 JUDGE DALE: Is there anything else for  
24 Mr. Beecher?

25 You may step down.

1 (Witness excused.)

2 MR. SWEARENGEN: Mr. Beecher deferred a  
3 question to Mr. McGarrah who is here. Shall I go ahead  
4 and call him at this time?

5 JUDGE DALE: Is he going to be called  
6 later as part of --

7 MR. SWEARENGEN: No.

8 JUDGE DALE: -- someone else's? Well,  
9 then, let's go ahead and bring him up.

10 MR. SWEARENGEN: Okay.

11 JUDGE DALE: Sir, could you state your  
12 name again, please?

13 MR. MCGARRAH: Sam McGarrah.

14 (Witness sworn.)

15 SAM MCGARRAH testified as follows:

16 QUESTIONS BY JUDGE DALE:

17 Q. The questions that Commissioner Murray  
18 had were: You indicated in your fiscal note assumption  
19 that Empire does not have right-of-way on portions of  
20 the transmission system to provide for the minimum  
21 25-foot clearance. What is the minimum clearance that  
22 is designated by federal and regional requirements to  
23 which Empire must comply?

24 A. Currently, our right-of-way that we have  
25 for 69 kV and which you'd request a 25-foot clearance,

1 we have a 15 -- we have a 50-foot right-of-way width,  
2 and that's -- so you'd have 25 foot from center line.  
3 And that's on a 12-foot arm, so you're going to be --  
4 you're going to have a phase within six feet -- or six  
5 foot farther out into that right-of-way, reducing the  
6 overall clearance to where you cannot achieve 25-foot  
7 clearance.

8 Q. Okay. You answered her next question,  
9 which was, is that adequate.

10 In your opinion, is there sufficient  
11 offsetting benefit to be gained by Empire's ratepayers  
12 from the 2.3 million estimated implementation costs and  
13 the ongoing 45.4 million estimated annual cost to  
14 Empire of this rule?

15 A. I believe there's -- there would be  
16 benefits to be gained, but I believe the benefits could  
17 be gained in a much reduced cost than what we've  
18 proposed in the fiscal impact for this rule.

19 Q. In your opinion, are the federal and  
20 regional requirements for vegetation management enough  
21 to ensure the utility program is effective?

22 A. Could you repeat that again?

23 Q. In your opinion, are the federal and  
24 regional requirements for vegetation management enough  
25 to ensure the utility program is effective?

1           A.       I think the only vegetation management  
2     that I'm aware of is for the transmission system that  
3     is federal, and I believe that for transmission those  
4     are adequate.

5                   JUDGE DALE: Thank you. That's all I  
6     have.

7     QUESTIONS BY COMMISSIONER GAW:

8           Q.       Since your -- since you believe they're  
9     adequate, why don't you tell me what they are.

10          A.       We filed that in our ECI report, and I  
11     don't have that here. But it basically would be that  
12     we would file a plan on an annual basis, and we would  
13     be required to maintain clearance of that plan, and  
14     that it's based upon the design characteristics of the  
15     line itself to make sure that clearance is maintained  
16     under conditions that the system was designed for.

17          Q.       So you would -- you would be filing a  
18     plan of how you would manage the vegetation on  
19     particular lines with whom? With NERC?

20          A.       With NERC and SVP.

21          Q.       And SVP. As the reliability  
22     organization?

23          A.       That's correct.

24          Q.       And when you did that, would it be  
25     subject to approval?

1           A.       As long -- the -- there's a compliance  
2     aspect of it. As long as we adhere to the compliance  
3     aspect of it and follow our guidelines that we maintain  
4     clearance.

5           Q.       Well, what I'm asking -- I'm trying to  
6     understand whether or not there is some review of what  
7     your plan is, and whether that can be rejected.

8           A.       Well, those --

9           Q.       Let's say you send something in to them  
10    and said, Our plan is not to do any vegetation  
11    management.

12          A.       I believe that would be rejected.

13          Q.       So there is authority, then, within the  
14    reliability organization to reject a plan?

15          A.       I would believe so.

16          Q.       Okay. So in other words, under that  
17    system, there's a -- there's a plan submitted, and then  
18    someone within the reliability organization is going to  
19    review that plan, see if it's adequate based upon the  
20    characteristics of the line?

21          A.       Correct.

22          Q.       And then if it's reviewed and approved,  
23    then that's the extent of it. So I suppose we could do  
24    the same thing on every distribution line that we had  
25    within the state, but that would take quite some time,



1 wouldn't it?

2 A. Well, we -- in doing the transmission,  
3 we -- the plan is we do vegetation management based --  
4 tell them where we're going to be doing work that year,  
5 what we're looking at.

6 Q. Okay.

7 A. But the goal is, it is a -- to have no  
8 outages from -- depending upon whether the vegetation  
9 was within the right-of-way or outside the  
10 right-of-way.

11 Q. Well, are there specific -- and if you  
12 don't know the answer to this, I'll ask the other  
13 witness. Are there specific requirements or minimum  
14 requirements in regard to trimming or distance from  
15 lines within any NERC standards? Do you know?

16 A. I don't know that off the top of my  
17 head, no.

18 Q. That's all right. That's all I have.  
19 Thank you.

20 A. Okay.

21 QUESTIONS BY COMMISSIONER CLAYTON:

22 Q. I want to be clear. I'm kind of  
23 shuffling paper up here. You're with -- are you with  
24 ECI?

25 A. I'm with Empire District.

1           Q.     You're with Empire District. Okay.

2           A.     That's correct.

3           Q.     I apologize.

4                   COMMISSIONER CLAYTON: We do have an ECI

5   guy coming. Right?

6                   MR. SWEARENGEN: We do.

7                   COMMISSIONER CLAYTON: Yeah. Thank you.

8                   JUDGE DALE: Thank you, Mr. McGarrah.

9   You may step down.

10                  (Witness excused.)

11                  MR. SWEARENGEN: Would you like for me

12   to call the ECI witness at this time?

13                  JUDGE DALE: Yes, please.

14                  MR. SWEARENGEN: Mr. Paul Appelt.

15                  JUDGE DALE: Could you please state your

16   name again?

17                  MR. APPELT: Paul Appelt.

18                  JUDGE DALE: Would you spell your last

19   name?

20                  MR. APPELT: A-P-P-E-L-T.

21                  JUDGE DALE: Thank you.

22                  (Witness sworn.)

23                  JUDGE DALE: Why don't you -- did you

24   have any prepared remarks?

25                  THE WITNESS: I do not.

1 JUDGE DALE: Thank you.

2 PAUL APPELT testified as follows:

3 QUESTIONS BY COMMISSIONER GAW:

4 Q. Just give me some background on the  
5 company you work for, would you?

6 A. Environmental Consults has been in  
7 business for over 30 years, and we have helped  
8 utilities around the country evaluate and develop  
9 improved vegetation management programs during that  
10 entire period.

11 Q. Okay. So you work for utilities?

12 A. We're hired by utilities as consultants  
13 and supplemental staffing providers.

14 Q. Okay. And you are representing Empire  
15 in this proceeding. Are you also representing KCP&L?

16 A. That is correct.

17 Q. Are your comments in -- the same in both  
18 of the filings?

19 A. Substantially, yes.

20 Q. Are there differences?

21 A. Only minor differences relative to  
22 different programs at Empire, but they're small.

23 Q. Okay. Do you agree that vegetation  
24 management can impact reliability of electrical  
25 systems?

1           A.       Absolutely.

2           Q.       Okay. Do you know the -- there have  
3 been some references in regard to NERC standards. Are  
4 you familiar with those? I imagine you are.

5           A.       I am, yes.

6           Q.       Generally, tell me what they entail.  
7 Are they -- are there -- are there clearances that  
8 are -- that are contained in with -- in them? Or is it  
9 done in another way?

10          A.       NERC standards require two different  
11 kinds of clearances. It requires utilities to  
12 establish those themselves. One clearance is clearance  
13 to be maintained at all times between vegetation and  
14 supply conductors.

15          Q.       Okay.

16          A.       And the other is a clearance to be  
17 obtained at the time of maintenance. And --

18          Q.       Okay.

19          A.       -- the clearance to be achieved or  
20 maintained at all times can be no less than the  
21 flashover distance established in an IEEE document.

22          Q.       All right.

23          A.       For example, 345 kV can have no  
24 clearance less than 9.4 feet, as I recall.

25          Q.       What is the flashover distance?

1           A.       That's the point at which -- occurring  
2       with flashover from the conductor to the tree.

3           Q.       Okay.  So -- now, the distance that you  
4       just described, is that for every size of voltage?

5           A.       It varies by voltage.

6           Q.       Okay.  Did you include that in -- within  
7       these comments?

8           A.       I don't believe I included -- or maybe I  
9       included that table in one of these comments.

10          Q.       There is a table in here, but I have --  
11       I apologize.  I haven't had time to go through it.  
12       There's a table, I think, on Page 32.  But I don't know  
13       if that's the one you're referring to.

14          A.       Give me a moment.

15          Q.       That's on Empire's --

16          A.       Yes.  Yes.  That is the table from the  
17       IEEE standard that the NERC standard references.

18          Q.       Okay.  Now, is this the one that relates  
19       to the distance that must be maintained?  Or is this --

20          A.       That's the distance to be maintained at  
21       all times.

22          Q.       Okay.  And then there's -- the other  
23       standard that you mentioned in regard to -- and you're  
24       actually -- excuse me.  Is that in here somewhere?

25          A.       It is not, and --

1 Q. It's probably --

2 A. -- that's --

3 Q. -- more extensive, isn't it?

4 A. It's one that also varies by --

5 Q. Tree type?

6 A. -- conditions and type, and it's set by

7 individual utilities.

8 Q. Okay. Within certain parameters or not?

9 A. They're given the freedom to establish

10 that distance based on their rights and their

11 program --

12 Q. Okay.

13 A. -- with the presumption that you will

14 maintain trees and right-of-way frequently enough that

15 you won't violate the other clearance standard that it

16 is required to be maintained at all times.

17 Q. Which is the one that you've got on

18 Page 32?

19 A. That's correct. And the utility may

20 be -- may establish a clearance to be maintained at all

21 times that is more aggressive than the minimum that's

22 listed in that table.

23 Q. Sure. Do some utilities do that?

24 A. I believe so, but I -- I wouldn't have

25 numbers for you.

1           Q.       That's okay. Now, this distance that is  
2   on Page 32, is that a distance from the line itself in  
3   all directions? Is it -- is it a distance that relates  
4   to some imaginary vertical line and then back? Can you  
5   give me an idea?

6           A.       It's really a distance at all times so  
7   that one has to consider the design of the line at  
8   maximum sag and maximum blowout. And during --

9           Q.       And that's --

10          A.       -- those extreme conditions that's the  
11   clearance that would be maintained.

12          Q.       Okay. So it's not just where the line  
13   is sitting on an -- in an unloaded condition with no  
14   wind?

15          A.       Correct.

16          Q.       So you're looking at a distance from the  
17   maximum condition that you mentioned on a -- on a windy  
18   day with heavy load?

19          A.       Yes.

20          Q.       Now, are there penalties for not  
21   complying with these standards for the transmission  
22   system?

23          A.       As I understand that there are penalties  
24   within the NERC regulations that can be significant.  
25   And because these rules are relatively new --

1 Q. Yes.

2 A. -- audits have begun and now have taken  
3 place throughout the country. And these audits are  
4 done by the RRO.

5 Q. Okay.

6 A. And --

7 Q. The RRO meaning the Regional Reliability  
8 Organization --

9 A. That's correct.

10 Q. -- for the record. Right?

11 A. And -- but I'm not aware that there have  
12 been penalties at this point that have been issued.  
13 But that certainly is within the NERC standard.

14 Q. Okay. Now, these -- this goes down to a  
15 69 kV. That's considered transmission; is that  
16 correct?

17 A. You say "this." Which "this" are you  
18 referring to?

19 Q. I'm looking at that table again on  
20 Page 32.

21 A. Yeah. That table does, but the NERC  
22 reliability standard actually only involves those  
23 voltages that are 200 kV and above.

24 Q. Oh, okay. So what are these others that  
25 are down here underneath -- that are below?



1           A.       Those are the minimum flashovers for  
2 those other voltages from the IEEE table.

3           Q.       Oh, okay. So the IEEE table is used,  
4 but the rules only apply to lines that are considered  
5 transmission, which are those that are 200 kV and  
6 above?

7           A.       Yes. As currently construed.

8           Q.       Okay. When you say currently construed,  
9 is that something that is subject currently to a review  
10 or is it just a statement that -- conditioned on your  
11 previous --

12          A.       Well, it's a conditional statement on my  
13 part. But understand that NERC is free to change rules  
14 from time to time.

15          Q.       But currently it's not -- it's not  
16 imminent?

17          A.       There is a review committee that is  
18 looking at some potential changes, and I don't know the  
19 status of that.

20          Q.       Okay. Do you know of any reason why the  
21 Commission could -- would be preempted from requiring  
22 vegetation management that might be more restrictive  
23 than what this is, if the Commission wanted to do that?

24          A.       I believe that's a legal question that  
25 I'm probably not qualified to address.

1           Q.       That's all right, if you don't know. I  
2 was going to ask you whether or not we could do  
3 something just referencing it, but if you don't know  
4 the first one you probably wouldn't know the second  
5 one.

6                    Let me -- let's see. The reliability  
7 rules, do they -- do they vary by regional reliability  
8 organization? Or are they NERC standards that are  
9 enforced by the RROs?

10           A.       The rule is a NERC standard --

11           Q.       Okay.

12           A.       -- and the RROs audit those standards.  
13 And there are some groups that also have had their own  
14 standards in advance of NERC becoming the ERO under  
15 the -- through FERC under the Energy Act.

16           Q.       Okay. Who would they be, just generally  
17 speaking?

18           A.       Well, western area, Power Authority is  
19 one that has had rules for some time.

20           Q.       Okay. Okay. And they were  
21 grandfathered?

22           A.       Well, they, I believe, continue to  
23 utilize those rules, in addition to the new rules.

24           Q.       Okay. But so in essence, aside from  
25 that exception, the rules are consistent around for

1 NERC within different RRO regions?

2 A. Yes. They're all the same FAC003-1.

3 Q. Okay. Penalties for violation, are  
4 there -- do you know what those range?

5 A. I want to say a million dollars per day,  
6 up to that amount.

7 Q. Okay.

8 A. But that's kind of off the top of my  
9 head.

10 Q. They were worrying about these  
11 possibilities in this case. I think that's all I have  
12 right now. I may think of some others, but thank you  
13 very much. That's been very helpful.

14 A. You're welcome.

15 QUESTIONS BY COMMISSIONER CLAYTON:

16 Q. Is it Mr. Appelt or Dr. Appelt or --

17 A. Mister is fine.

18 Q. Mister is fine. Okay. Titles are  
19 important around here. Make sure we show you the  
20 proper respect.

21 Did you prepare the comments that were  
22 filed in the case?

23 A. Yes.

24 Q. Okay. Very -- they're very impressive  
25 comments. I appreciate the organization and how you've

1 organized much of the material. It's very helpful in  
2 going through that. I just had several questions.

3 First of all, how long have you --  
4 has -- is this your company or you work for the  
5 company? How long has your company been affiliated  
6 with Empire? Have you been doing work for them for  
7 some time?

8 A. I'm the president of ECI. I'm not the  
9 owner. And our company has been doing work for Empire  
10 for, I'd say maybe the last three or four years.

11 Q. Three or four years. And ECI does work  
12 for other utilities in the state, does it not?

13 A. We perform work currently for Kansas  
14 City Power and Light, and we have worked for Ameren.

15 Q. Worked for Ameren. Okay. Have you ever  
16 done any vegetation management work for either KCP&L or  
17 Ameren?

18 A. Apart from the consulting and management  
19 work services we provide?

20 Q. Well, consulting with regard to issues  
21 involving vegetation management at either KCP&L or  
22 Ameren. I'm not sure what type of services that you  
23 provide.

24 A. We provide consulting and management  
25 services. You know, we don't perform tree trimming

1 work.

2 Q. I didn't mean --

3 A. We don't own a chainsaw.

4 Q. -- did you take your chainsaw out and  
5 you put on a hard hat. I didn't mean that.

6 But have you set up systems or set up  
7 company policy relating to vegetation management for  
8 any of the other companies?

9 A. Yeah. We've done that for Kansas City  
10 Power and Light, and we've worked with Empire on  
11 similar issues, and have developed a number of years  
12 ago for Union Electric a comprehensive vegetation  
13 management plan.

14 Q. Okay. Are these comments in any way  
15 inconsistent with plans that you have helped put in  
16 place at KCP&L?

17 A. I hope not.

18 Q. I'm not sure what the next follow-up is  
19 supposed to be. How do you address hope?

20 How about with Ameren; is it your same  
21 answer in working with them?

22 A. I have not recently reviewed the report  
23 that was done for Ameren quite some time ago, and I did  
24 not work on that report, so --

25 Q. Okay. Can -- how long have you been in

1 the business of electrical utility consulting?

2 A. I've been in the consulting business for  
3 about six years.

4 Q. Six years.

5 A. Seven years.

6 Q. And were you in the industry before  
7 that?

8 A. I was, yes.

9 Q. Okay. So how many years of experience  
10 would you have with vegetation management?

11 A. Approximately 30.

12 Q. Thirty years. And you never picked up a  
13 chainsaw once?

14 A. I didn't say that.

15 Q. Okay.

16 COMMISSIONER GAW: You're not going to  
17 ask him what kind he prefers, are you?

18 COMMISSIONER CLAYTON: I want to ask  
19 about a chainsaw, but I'm not going to do that.

20 BY COMMISSIONER CLAYTON:

21 Q. What do you think are the most important  
22 aspects of a vegetation management plan? Is it cycles?  
23 Is it quantity? Is it prescriptive distances? What is  
24 the most important aspect of vegetation management in  
25 your opinion?

1           A.       We believe the most important aspect is:  
2   Does it balance and achieve a reasonable level of  
3   reliability; and does it help reduce reliability risk  
4   at a reasonable cost?

5           Q.       So would it be fair to say that you  
6   measure success of vegetation management by looking at  
7   reliability?

8           A.       We often do that, yes.

9           Q.       But is that the way that you would judge  
10   success, or are there other ways to judge success?

11          A.       There are some other measures. But  
12   reliability is the one that's really key to most  
13   utility companies.

14          Q.       Okay. So to see if a vegetation  
15   management plan or an effort is successful, you want to  
16   see an improvement or achievement of a certain level of  
17   reliability through traditional methods of calculation?

18          A.       It may mean improvement. If a utility  
19   already has very good reliability, it may mean  
20   maintaining that good level of reliability.

21          Q.       Reliability would be measured through  
22   SAIDI, SAIFI, CAIDI, CAIFI, MAIFI?

23          A.       It can be, but there's other measures of  
24   reliability relating to vegetation management; that may  
25   be number of outages or outages per mile, something

1     that relates to the exposure risk at a particular  
2     utility.

3             Q.       So it would depend on the circumstances  
4     and the demographic profile of a utility on how you  
5     judge success?

6             A.       That's correct.  It's -- for example,  
7     it's much easier for a utility in New Mexico to have  
8     very good tribulated SAIFI for instance than a company  
9     in the northeast that has, you know, hundreds of trees  
10    for miles compared to the New Mexico utility that has,  
11    you know, in the dozens.

12            Q.       Okay.  Are there -- among Missouri  
13    utilities in general, are -- can each of them be  
14    measured in the same way?  Are the -- is the topography  
15    similar enough that they can each be measured in the  
16    same way?  Or are they different and required to be  
17    measured in ways that you just mentioned?

18            A.       I think there's some differences, but by  
19    and large they're more similar than they are different.

20            Q.       Yeah.  I don't want to play you off one  
21    against the other.  I don't want to jeopardize a  
22    client.

23            A.       Thank you.

24            Q.       I understand.  So if they're all  
25    reasonably similar, what is the way that you would --



1     that you would measure reliability in terms of success  
2     in vegetation management?

3             A.       We would probably look at outages caused  
4     by trees and distinguishing between those that are, you  
5     know, within the right-of-way and without the --  
6     outside the right-of-way or easement. And bearing in  
7     mind that most outages is -- we have observed are  
8     caused by limbs that break, often from trees that might  
9     appear healthy.

10            The outages that occur as a result of  
11   trees growing into conductors are relatively low in the  
12   overall scheme of things. And it's breakage that  
13   causes most of the outages. And frequently, as I think  
14   someone else mentioned, from outside the right-of-way  
15   or easement.

16            Q.       Okay. So with -- in terms of outages,  
17   do you look at a SAIFI -- or a SAIDI, SAIFI, CAIDI and  
18   CAIFI? Is that how you would judge it?

19            A.       We normally look at outages per 100  
20   miles as a good measure.

21            Q.       Do you use different standards for urban  
22   or rural systems?

23            A.       There may be, yes. Usually density of  
24   trees difference -- is different, so there's different  
25   exposure. And there's different customer accounts.

1           Q.       What does -- what does ECI recommend  
2   when you have a -- when you have a dead or rotten tree  
3   that perhaps is based outside of a right-of-way or  
4   easement but appears to be looming towards the strike  
5   zone or towards electrical lines?

6                    What -- a utility calls you and says,  
7   What do we do about this tree?  What do you tell them?

8           A.       We like to understand what the objective  
9   is first and where it is and what the risk impact is.  
10   And there's -- two issues that we normally look at, is  
11   one is:  What's the potential for failure to occur?  
12   And that sort of gets at your -- one of the questions  
13   about what is a hazard.

14                   But then the other question is:  If  
15   there were a failure of a tree, what would be the  
16   impact?  Would it fall on a transmission structure or  
17   line and impact lots of people?  Or is it -- are we  
18   talking about a tree that might fall on a service at  
19   the end of a town?  So we think that's -- you know, the  
20   overall risk is an important part of the equation.

21           Q.       Well, if -- with -- if it's just going  
22   to go over a distribution line versus a feeder line  
23   that serves more people, are you saying the answer  
24   would be different or that you would answer the  
25   question differently?

1           A.       I believe so, because the impact of an  
2     outage on mainline feeder would impact more people than  
3     on the end of a single-phase tap. So the rationale for  
4     expending funds to remedy a situation would be  
5     different.

6           Q.       Okay. If it was a -- if it was a feeder  
7     line serving a neighborhood or multiple neighborhoods,  
8     something like that, you'd recommend cutting down the  
9     tree, I assume?

10          A.       Perhaps.

11          Q.       If at all possible.

12          A.       But I'd have to see it first.

13          Q.       You'd have to see the tree?

14          A.       Yes. We --

15          Q.       Give me a description of a tree that you  
16     would suggest cutting down.

17          A.       One that is dead and overhanging a  
18     three-phase line.

19          Q.       So when it's -- if it's hanging over the  
20     line or --

21          A.       Yes.

22          Q.       -- directly above it?

23          A.       Yes.

24          Q.       How about is there ever a tree that  
25     maybe is outside, doesn't hang over directly?

1           A.     Oh, that we would recommend removing?  
2   Certainly.  
3           Q.     Yes.  
4           A.     Yes.   Depending again on its condition  
5   and its -- the structural condition of the tree.  
6           Q.     It's creaking --  
7           A.     It would have to be dead.  
8           Q.     It's creaking in the wind.   We had one  
9   of those.  
10          A.     I'm sure you did.  
11          Q.     Yeah.  
12          A.     It -- you know, there is a whole science  
13   behind the appraisal of risk associated with tree  
14   failure.   And --  
15          Q.     Is the science evaluating business  
16   expense?   Or is it -- is it a -- is it a science of  
17   knowing the integrity of a tree?  
18          A.     That science is knowing the integrity of  
19   the tree.  
20          Q.     Okay.   So you need to have somebody who  
21   is knowledgeable on trees, on how to trim trees, and  
22   need an arborist or an arboriculturist or --  
23          A.     And --  
24          Q.     -- something?  
25          A.     -- even when you do that, there is still

1 a certain subjectivity to it, and the tree you predict  
2 is going to fail may not fail within the time frame  
3 you're thinking about.

4 Q. Okay. Now, having said that, someone --  
5 you need an expert who would be an arborist or  
6 something, you-all recommend that we don't need to set  
7 a standard for who the vegetation manager is, that they  
8 don't have to have a specialist degree or something  
9 like that? Do you recall that in your comments?

10 A. I do. And our recommendation is that  
11 you don't necessarily have to have a  
12 technically-trained arborist who is a manager of the  
13 program, but we do recommend that expertise exist  
14 within the program, whether it be within the utility or  
15 within a firm such as ourselves. But that that  
16 expertise be active in the management of the program.

17 COMMISSIONER CLAYTON: Go ahead.

18 QUESTIONS BY COMMISSIONER GAW:

19 Q. Well, I just -- while we're on that line  
20 and Mr. Clayton is looking for something. Did -- in  
21 regard to the books and things that are mentioned in  
22 the -- in the rule draft, what did you-all suggest  
23 there?

24 A. I believe that the -- it suggested that  
25 these books, you know, might be standards and

1 guidelines and procedures where, in fact, some of them  
2 are just tree texts.

3 Q. Okay.

4 A. And our suggestion is that if other  
5 standards were to be referenced that they be  
6 combined -- confined to standards --

7 Q. Okay.

8 A. -- such as the American National  
9 Standards Institute, Z133 or A300; or the NESC.

10 Q. Okay.

11 A. But not the Hortus Third Concise  
12 Dictionary of Plants.

13 Q. Sure. I mean, I understand. We've got  
14 a -- there are a number of things in here. And part of  
15 the reason they're in here is so you-all can tell us,  
16 hopefully, which ones we should eliminate, if not all  
17 of them. But your recommendation is to utilize the  
18 ANSI standards that you've got here?

19 A. Yes.

20 Q. Okay.

21 A. And those are standards that by and  
22 large are already required by utilities in Missouri.

23 Q. Okay. Thank you.

24 QUESTIONS BY COMMISSIONER CLAYTON:

25 Q. How many states have you -- have you

1     done consulting work for electrical utilities?

2             A.     I'd have to count, but --

3             Q.     Just a general --

4             A.     Thirty.

5             Q.     Thirty states.  So --

6             A.     Forty.

7             Q.     -- so 30 out of -- 30 or 40 out of 50

8     states?

9             A.     Yes.

10            Q.     Okay.  Which state has the most

11     stringent tree trimming laws?

12            A.     Depending on how you look at it, it

13     might be at this point in time New Jersey or Oregon or

14     California.

15            Q.     Any of these provisions in here look

16     familiar?

17            A.     Yes, indeed.

18            Q.     Is it your opinion that their tree

19     trimming rules are workable or not workable in general?

20            A.     Taken to the letter of the rule in

21     Oregon and -- as well as in New Jersey, they certainly

22     verge on the side of unworkable.  The standard that

23     hasn't been -- that has been in place for some time has

24     been California, and that has been workable for some

25     time, although it's a very significant difficult

1 standard to achieve. It is not as onerous for  
2 utilities as some of the other ones.

3 Q. As New Jersey or Oregon?

4 A. Correct.

5 Q. Now, have you heard any recent -- any  
6 recent announcements regarding tree trimming in  
7 California out of the Public Service Commission or out  
8 of the legislature about amendments or --

9 A. I have not.

10 Q. You have not. Okay. What do you see as  
11 the most effective manner of addressing potential  
12 conflicts with municipalities or political subdivisions  
13 between -- you know, between the political subdivision  
14 or municipality and the utility's responsibility to cut  
15 down a tree? What's the most effective manner of  
16 addressing that conflict?

17 A. Usually those conflicts are addressed  
18 most effectively when both sides to commit to work  
19 together to solve common issues and address mutual  
20 concerns.

21 Q. But what kind of framework -- what kind  
22 of legal framework do you have to have in place that  
23 allows for equal footing or close to equal footing to  
24 get to that point?

25 A. The legal framework is usually within a



1 franchise agreement. And that's the point at which the  
2 two parties agree on how they're going to get along  
3 with each other in this area.

4 Q. Okay. Are you aware of any franchise  
5 agreement, right-of-way agreement or easement which  
6 provides for authority of a utility to go beyond the  
7 physical boundaries to cut a problem tree -- to cut  
8 down a threat or trim a threat?

9 A. That authority does exist in some  
10 transmission right-of-way, and sometimes it's referred  
11 to as danger tree rights or, you know, rights that are  
12 outside the normal easement of the construction  
13 right-of-way. And there are a number of electric  
14 cooperatives that have service legal agreements with  
15 their members that give them a relatively broad  
16 authority to maintain trees.

17 Q. Okay. I think -- I think I am finished.  
18 Thank you very much for coming today.

19 QUESTIONS BY CHAIRMAN DAVIS:

20 Q. Sir, you said -- and if I misquote you,  
21 please correct me. But you said the rules as they  
22 exist in their current form are borderline unworkable.  
23 Is that -- is that a fair statement?

24 A. I don't know if that's exactly what I  
25 said, but --

1           Q.       Okay. Well, can you put -- I mean, how  
2 do you -- how would you characterize these rules in  
3 your own words again? The current draft.

4           A.       I don't think I said that, but I think I  
5 agree with what you said.

6           Q.       Okay. In your opinion, what makes them  
7 so unworkable right now in their current form?

8           A.       I believe there's a number of issues,  
9 but -- some of which have been addressed by others  
10 and --

11          Q.       Okay.

12          A.       The one that I'll mention is the -- this  
13 question or -- or requirement of the utility maintain  
14 trees outside the right-of-way that may fall. And  
15 there's been some discussion about what's a diseased  
16 tree. And correctly stated, almost all trees could  
17 be -- you'd find a disease on almost every tree. But  
18 beyond that, the opportunity for any tree to fall --  
19 because it may fall -- just about all trees may fall,  
20 just about all of them eventually fall. And -- unless  
21 somebody does something about it. And so that becomes  
22 a significant legal question as was pointed out  
23 earlier.

24          Q.       Are you aware, do we have any Sequoias  
25 or redwoods in Missouri?

1           A.       I don't believe so, except maybe in  
2   arboretums.

3           Q.       Okay. Thank you.

4                   CHAIRMAN DAVIS: No further questions.

5   QUESTIONS BY COMMISSIONER CLAYTON:

6           Q.       Well, can I take from that last  
7   statement about the diseased -- if we -- if we either  
8   defined the diseased portion or removed the diseased  
9   tree, you're comfortable with the dead or rotten  
10   language. Correct?

11          A.       It is better -- there -- there was a  
12   question earlier about --

13          Q.       Well, you say it's better. Are you  
14   comfortable with it or not comfortable with -- with  
15   just saying dead or rotten?

16          A.       No. I'm not.

17          Q.       You're not. Why is that?

18          A.       Dead is -- and maybe even a difficult  
19   thing to discern. If it's half-dead, is it dead? If  
20   it's a quarter-dead, is it dead? If it has one dead  
21   branch, is it dead? At what point does dead mean you  
22   have to do something about it according to the rule?

23                   The approach that -- and rotten is the  
24   same issue as trees that may have one limb that's  
25   rotten, but would you then be required to do something

1 with the entire tree. And the definition that might  
2 work better is one that's already existing within the  
3 ANSI 300 standard which says a hazard tree is a  
4 structurally unsound tree that could strike a target  
5 when it fails, as used in this quasi-target of concerns  
6 is electrical supply lines. So structurally unsound is  
7 usually the --

8 Q. So that language would be -- that  
9 language is what you'd prefer?

10 A. And it -- that language has gone through  
11 the scrutiny of the development committee that  
12 established the ANSI standard.

13 Q. Okay. Have you ever done any consulting  
14 work for Public Service Commissions or any utility  
15 commissions?

16 A. I have not.

17 Q. You have not. Have you ever done any  
18 consulting work for anyone but electrical utilities?

19 A. Yes.

20 Q. Any industrial customer or something  
21 like that.

22 A. Correct. We have, yes.

23 Q. You have? Have you ever done any work  
24 for one of those clients in regard to tree trimming?

25 A. Yes.

1           Q.       And was your advice to them different  
2       than the suggestions you're making here today?

3           A.       Yes.   Because the questions and the  
4       issues were different.

5           Q.       How different?  I mean, is it a  
6       completely different context?  Or is it --

7           A.       We're doing work as we speak for a  
8       railroad on vegetation management.  And, you know, by  
9       and large, their concern about vegetation is not the  
10      same as an electric utility, but some of the --

11          Q.       Unless it's an electric railroad, unless  
12      they're --

13          A.       And this happens to be an electric  
14      railroad.  But they do have other issues.

15          Q.       Okay.  Well, on vegetation management,  
16      do you suggest the same type of clearances or the same  
17      type of standards?

18          A.       No.  Because clearances and standards  
19      aren't necessarily -- I mean, they're inconsequential  
20      to a gas pipeline, for instance, that has vegetation  
21      management needs but it's not a clearance issue.  They  
22      have a different --

23          Q.       Let's get back to the electric railroad.

24          A.       Okay.

25          Q.       How about that?  Can you tell me -- can

1     you tell me what state you're doing that work? And if  
2     it's confidential, I'm not going to press for the  
3     answer. What state? What entity?

4             A.       To tell you the truth, I don't know if  
5     it's confidential, but I don't think it is. We'll say  
6     it's New York.

7             Q.       Yeah. How many states have electric  
8     railroads. I don't think we do, so --

9                     Thank you.

10             JUDGE DALE: Thank you, Mr. Appelt. You  
11     may step down.

12             THE WITNESS: Thank you.

13                     (Witness excused.)

14             JUDGE DALE: We will now take a break  
15     until 1:45. Off the record. Thank you.

16                     (A RECESS WAS TAKEN.)

17             JUDGE DALE: I believe that we are ready  
18     for KCP&L.

19             MR. BLANC: Before our first witness  
20     comes up, we'd just like to note that we filed our  
21     comments this morning on EFIS, and I have hard copies  
22     available here if anyone would like to see them.

23             JUDGE DALE: Excellent. Thank you.

24             MR. MILLS: And is it just --

25             JUDGE DALE: Actually, if you could

1 please bring up three copies for the bench, that would  
2 be great.

3 MR. MILLS: Just as a housekeeping  
4 matter, someone told me over the break that there may  
5 be members of the public who wish to testify today, who  
6 we have not identified out in the audience.

7 JUDGE DALE: Okay. At the end of the  
8 formal proceeding, before we move on to the other rule,  
9 will you remind me of that if I forget to ask if anyone  
10 else --

11 MR. MILLS: I will.

12 JUDGE DALE: -- wishes to comment?

13 MR. MILLS: And on a similar note, it's  
14 my understanding -- and I haven't had a chance to track  
15 this down -- that there are public comments filed in  
16 EFIS --

17 JUDGE DALE: Yes.

18 MR. MILLS: -- in the public comment  
19 section.

20 JUDGE DALE: Yes.

21 MR. MILLS: Will those be made part of  
22 the Commission's record, for lack of a better --

23 JUDGE DALE: Absolutely.

24 MR. MILLS: -- term in this case?

25 JUDGE DALE: Absolutely.

1 MR. MILLS: Okay.

2 JUDGE DALE: Whether they're in under  
3 the regular docket sheet or whether they're in public  
4 comments, those are always included in the record.

5 MR. MILLS: Okay. Thank you.

6 JUDGE DALE: Will you please state your  
7 full name?

8 MR. HERDEGEN: William Herdegen.

9 JUDGE DALE: Does the court reporter  
10 need that spelled?

11 MR. HERDEGEN: H-e-r-d-e-g-e-n.

12 JUDGE DALE: Mr. Herdegen, are you  
13 giving comments or testimony?

14 MR. HERDEGEN: I am providing comments.

15 JUDGE DALE: Okay. Then you needn't be  
16 sworn.

17 MR. HERDEGEN: All right. However you  
18 want me to do it.

19 JUDGE DALE: They all have equal weight.

20 MR. HERDEGEN: Okay. I'll tell the  
21 truth, no matter what.

22 JUDGE DALE: Thank you.

23 MR. HERDEGEN: You know, I believe that  
24 it's prudent to have rules on topics such as vegetation  
25 management and reliability. And my concerns about the



1 specific paragraphs of the rules are not much different  
2 than those expressed earlier.

3                   On behalf of -- Kansas City Power and  
4 Light, ECI, I think, has done a great job of going  
5 paragraph by paragraph through the rules, identifying  
6 some of the wording issues that we might have and  
7 suggesting some alternatives to that wording. And  
8 those are -- those have already been submitted.

9                   My remarks will speak to the intent of  
10 this rule. The focus seems to be on very specific  
11 actions and criteria by which we want to write this  
12 rule. But in -- I guess I would disagree a little bit  
13 with -- I think it was Mr. Appelt -- sorry, Paul. But  
14 we -- while the focus of this rule is reliability,  
15 utilities do have the responsibility to balance  
16 reliability, cost, customer satisfaction and safety.

17                   I know that I get over two dozen calls  
18 or Commission complaints every year regarding tree  
19 trimming. Most of them are about not so much that we  
20 didn't trim the trees, but it's that we trimmed them  
21 too much. So we do have that. There's cost pieces to  
22 that that have to take into account. Reliability was  
23 talked about.

24                   I believe very much in customer centric  
25 reliability reporting. So whether it's the number of

1 tree outages per customer or customer minutes out that  
2 a utility has, really, when you're looking at a  
3 program, whether it's effective enough or not, each  
4 year, it's how do you improve year by year, year over  
5 year, as opposed to a particular snapshot in time.

6                   And given that, then you would have to  
7 ask yourself, for instance, if you can get the same  
8 reliability improvement with \$1 million of spend, why  
9 would you want to spend \$100 million. And that's -- I  
10 think the concerns that a lot of the utilities have  
11 expressed today that, you know, if the costs that -- in  
12 the -- in the responses are correct, just a quick back  
13 of the envelope calculation, the impact on customers'  
14 bills would be about 10 percent.

15                   So, you know, it's -- it really behooves  
16 us to make sure that as we put together a program that  
17 improves reliability for our customers that we do also  
18 balance cost and customer satisfaction in those -- in  
19 those rules, as well.

20                   And so as I look at the rules, I think  
21 they -- you know, as they are very prescriptive, I  
22 think it doesn't -- it doesn't put more of the -- of  
23 the performance on the shoulders of the -- of the  
24 utilities as far as coming up with a detailed game plan  
25 of how we're going to actually provide a solution to

1 improving reliability.

2                   So what I would suggest is that we look  
3 at adding a section perhaps that talks about how  
4 utilities take these -- the types of things that are  
5 very important from these rules and promulgate their  
6 own program that they would have to present to the  
7 Commission, and then report out the improvements and  
8 the status of that plan each year as part of a  
9 reporting requirement.

10                   I think if you do that, then you're  
11 going to be -- you have a much better chance on  
12 focusing on reliability. Because I think there needs  
13 to be a little bit of flexibility in the program -- or  
14 in the rules. For instance, we talked this morning  
15 about, is it important to have a certified arborist on  
16 your staff.

17                   In our program, just for instance, we --  
18 you know, several years ago, we decided we wanted to  
19 move away from trimming trees for the sake of trimming  
20 trees to trimming trees based on, how do we improve  
21 reliability of the circuits.

22                   We did bring in ECI at that time, as  
23 Mr. Appelt mentioned. Not only did they provide  
24 consulting service for us, but then you now provide  
25 that third-party pre-planning management of this -- of

1    this program. And the great thing about them is they  
2    do have certified arborists, they have degreed  
3    foresters that are part of their team. But because of  
4    their size and the company in general, they can draw on  
5    best practices from all over the country and bring  
6    those to bear in improving the operation of our  
7    individual game plan.

8                   One thing that they do for us is that  
9    every tree along the route is identified and marked and  
10   captured in a database. Every tree. And why is that  
11   important? It was mentioned earlier: Each tree,  
12   because of its species, has a different growing growth  
13   rate. It has -- at maturity, it reaches different  
14   heights.

15                   And so that when you're going out and  
16   you're trimming along that route, you may want to get,  
17   you know, ten foot of clearance for one type of tree  
18   and you only need six feet of clearance for another  
19   type of tree, because of the growing patterns.

20                   So those are the types of things that we  
21   hope that there's flexibility in the rules to be able  
22   to make sure that we involve the innovation and best  
23   practices as we find them and not get locked into a  
24   more prescriptive approach. And that's pretty much the  
25   extent of my comments with regard to the overall nature

1 of the rules. And I'd answer any questions that you  
2 might have.

3 JUDGE DALE: Thank you.

4 COMMISSIONER GAW: I appreciate you  
5 coming in today. I want to make sure -- you-all are  
6 endorsing -- first of all, you're endorsing the  
7 comments that were supplied by the consultant group  
8 that's here. Correct?

9 MR. HERDEGEN: We feel if the rules --  
10 in looking at the rules as they're written, if they're  
11 adjusted by the comments that were made, they're much  
12 more palatable. But I would hasten to add that one  
13 of -- that one of the things that we would suggest is  
14 that it leaves the door open for the ability to create  
15 a program that would meet the needs that we're trying  
16 to solve here, which is reliability improvement, as  
17 opposed to trying to come up with something that we're  
18 reporting out. You know, did we perform these  
19 different actions. And you can say you can perform  
20 those actions, but did you really improve the  
21 reliability.

22 COMMISSIONER GAW: Well, part of our --

23 MR. HERDEGEN: And if you did, at what  
24 cost.

25 COMMISSIONER GAW: Part of our problem

1 here -- and -- is, in fact, having some areas where we  
2 have had significant questions and complaints about  
3 reliability.

4 MR. HERDEGEN: Uh-huh.

5 COMMISSIONER GAW: Now, everybody's here  
6 today as utilities go, but we don't have the same  
7 degree of at least reported success in dealing with  
8 reliability if we look at the standard measures that  
9 are out there, at least as those -- at least in regard  
10 to those that I've seen.

11 MR. HERDEGEN: Uh-huh.

12 COMMISSIONER GAW: Okay. KCP&L has had  
13 a fairly significant track record, at least of late, in  
14 regard to its reliability as compared to some of the  
15 standard measures of reliability. Wouldn't you agree  
16 with that? In comparing it to other utilities in the  
17 state.

18 MR. HERDEGEN: Well, I know that four  
19 years ago, when we began -- when we shifted away  
20 from -- the tree trimming program that we had was just  
21 focused on trimming trees on a very definitive cycle to  
22 one that was more reliability-based, based on the  
23 number of trees and the risk patterns and things like  
24 that.

25 COMMISSIONER GAW: Okay.

1                   MR. HERDEGEN: We have been able to see  
2 a 10 percent improvement in overall reliability while  
3 reducing costs by 20 percent. So --

4                   COMMISSIONER GAW: Okay.

5                   MR. HERDEGEN: -- you know, the key is  
6 that we had that balance. And I think that's what  
7 we're hoping to gain.

8                   COMMISSIONER GAW: Well, I understand  
9 your balancing portion --

10                  MR. HERDEGEN: Uh-huh.

11                  COMMISSIONER GAW: What I'm interested  
12 in here in great part is what your results are.

13                  MR. HERDEGEN: Right.

14                  COMMISSIONER GAW: Now, when I see --  
15 when I see innovation and flexibility produce good  
16 results, then that's impressive to me. When I see  
17 results that aren't so good, then I've got to ask a  
18 question about what it's going to take to get those  
19 results to improve if -- and particularly when I see  
20 some other states that have had -- or have found merit  
21 in resorting to some prescriptive instruction in regard  
22 to hopefully creating some better reliability.

23                  MR. HERDEGEN: Uh-huh.

24                  COMMISSIONER GAW: So let me ask you  
25 this question: If you're -- if this Commission were to

1 suggest that if certain reliability standards were met  
2 by a utility, that that utility would not be bound by  
3 some of the prescriptive portions of the tree trimming  
4 rules, would that be attractive to KCP&L?

5 MR. HERDEGEN: I think that -- I'm  
6 thinking about that. It's -- I think there's some  
7 benefit of saying that there's some kind of a baseline  
8 that the Commission would agree over time made sense as  
9 a minimum required level of reliability that customers  
10 ought to be entitled to.

11 COMMISSIONER GAW: Right.

12 MR. HERDEGEN: And as long as each  
13 utility is continuing to come in, explain what they're  
14 doing, how they're making changes, and what the  
15 year-over-year improvements or degradation in  
16 reliability is, then I think you have at least a  
17 starting point from which to talk from.

18 COMMISSIONER GAW: Well, what I'm  
19 suggesting to you may be a little variation on that.

20 MR. HERDEGEN: Uh-huh.

21 COMMISSIONER GAW: And that is, if you  
22 meet a certain -- certain parameters or certain  
23 minimums on reliability measures, that that would  
24 relieve the utility from following some of the more  
25 prescriptive portions of things such as you might find



1 in the vegetation management rule.

2 MR. HERDEGEN: Uh-huh. Yeah. I think  
3 that would make sense, because if what you're saying  
4 is, you know, if we're meeting the goals that we're  
5 trying to do, which is --

6 COMMISSIONER GAW: Right.

7 MR. HERDEGEN: -- improve our  
8 reliability, and then -- then what -- I mean, you know,  
9 results say it all.

10 COMMISSIONER GAW: Well, and that's --  
11 and I think that, for the most part, that is the  
12 ultimate goal, I think, for all of us, is trying to see  
13 how we get those results to meet certain standards and  
14 hopefully improve in those areas where things don't  
15 seem to be meeting those standards. Now, we have some  
16 additional rulemakings that will be -- a rulemaking  
17 that will be going on in regard to setting some of  
18 those standards.

19 And I'm just -- that's why I wanted to  
20 ask you about that general thought process. Because  
21 one of the things that I have heard -- and you may have  
22 stated this; I came in just a little bit after you  
23 started, I think. I understand that KCP&L has an  
24 incentive program for its contractors who do tree  
25 trimming that's based upon results --

1 MR. HERDEGEN: Correct.

2 COMMISSIONER GAW: -- and reliability.  
3 Did you describe that earlier?

4 MR. HERDEGEN: I didn't go into detail  
5 on that.

6 COMMISSIONER GAW: Would you just  
7 generally talk about it? And I don't want to take a  
8 lot of time up with it here, but --

9 MR. HERDEGEN: Right. Four years ago,  
10 when we decided we wanted to -- because our costs were  
11 going up exponentially and our customer minutes out due  
12 to tree outages were still going up. So obviously  
13 spending more money was not having the impact.

14 By partnering with ECI and taking a  
15 different approach, we not only have an independent  
16 third party, ECI, determine what needs to be trimmed  
17 and to how much along every tree along that route; but  
18 then in addition to that, we incent the tree trimming  
19 contractors to -- and they're incented on the  
20 performance improvement of the circuit.

21 So if the circuit performance goes down,  
22 they're going to have a penalty or no bonus. If there  
23 is improvement, then there's incentive. So everybody's  
24 focused on improving the reliability of the circuit,  
25 not just going out and seeing how many twigs they can

1 trim.

2 COMMISSIONER GAW: Right. So when you  
3 do that, I assume that that starts from the premise  
4 that vegetation management is very important to  
5 reliability.

6 MR. HERDEGEN: I would say yes, until we  
7 talk about the next rule. Then we'll say that's just  
8 as important.

9 COMMISSIONER GAW: Oh, okay. Well,  
10 that -- I didn't mean to make it an exclusive thing.

11 MR. HERDEGEN: Right.

12 COMMISSIONER GAW: But --

13 MR. HERDEGEN: It is very important --

14 COMMISSIONER GAW: But is tying it into  
15 incentive --

16 MR. HERDEGEN: -- to the overall  
17 reliability.

18 COMMISSIONER GAW: Yeah. You're tying  
19 it into incentive comp. You must -- it must be a  
20 fairly significant tie-in to KCP&L's viewpoint in  
21 regard to the impact of vegetation management on  
22 reliability.

23 MR. HERDEGEN: Right. And to --

24 COMMISSIONER GAW: Have you -- go ahead.

25 I'm sorry.

1                   MR. HERDEGEN: I was going to say, and  
2 it is usually the largest single line item in a  
3 utility's operation and maintenance budget. So it's  
4 something that is very important that it's managed  
5 well.

6                   COMMISSIONER GAW: Okay. Now, I want to  
7 visit with you a little bit about the prescriptive  
8 portions of the rule in regard to distance. And  
9 without suggesting to you that I would be changing the  
10 possibility that we just discussed about --

11                  MR. HERDEGEN: Uh-huh.

12                  COMMISSIONER GAW: -- creating some  
13 minimum standards. If we're talking about -- if we do  
14 have a prescriptive standard applicable to whomever,  
15 can you help me in regard to what you're currently  
16 utilizing with your program on distances? I know they  
17 vary according to tree type.

18                  MR. HERDEGEN: Right.

19                  COMMISSIONER GAW: But give me some  
20 general idea about how objective that standard is that  
21 you're using. Does it suggest that if it's a certain  
22 tree type, the trimming should be so much, so many  
23 inches? Give me some parameters.

24                  MR. HERDEGEN: I believe -- and offhand,  
25 I don't know the exact number of inches or feet. I

1 would say that Paul Appelt and his team do have a  
2 fairly objective way of determining how much clearance  
3 we're going to try to get on any particular type of  
4 tree. I would add, though, that in some cases, the --  
5 it's not a hard and fast rule, because some of it is a  
6 negotiation with the homeowner --

7 COMMISSIONER GAW: Okay.

8 MR. HERDEGEN: -- to determine how much  
9 they'll let us trim and whether we're going to have to  
10 come back on a two-year cycle and trim it up again  
11 because we just can't get the clearance or, you know,  
12 we just can't get the mutually-agreed amount of  
13 clearance that we would like to get.

14 COMMISSIONER GAW: Yes.

15 MR. HERDEGEN: So there are some of  
16 those types of adjustments, I think, that are made.

17 COMMISSIONER GAW: What is the objective  
18 there when you say, we may not be able to get the  
19 amount of clearance that we would like, so we need to  
20 come back more often? Tell me what the objective is in  
21 regard to ensuring that when -- before you get back,  
22 the growth is not, what? What are we -- what are you  
23 talking about?

24 MR. HERDEGEN: Well, you're trying to  
25 anticipate how fast it's going to grow to be in

1 proximity of the lines where it could cause a problem.

2 COMMISSIONER GAW: Okay.

3 MR. HERDEGEN: And --

4 COMMISSIONER GAW: And when you say,  
5 cause a problem, can you be a little more specific?

6 MR. HERDEGEN: Well, cause a problem so  
7 that if -- you know, if you end up having tree contact,  
8 that it could cause an outage.

9 COMMISSIONER GAW: Okay.

10 MR. HERDEGEN: Right.

11 COMMISSIONER GAW: So in your trimming  
12 that's being done, can you give me an idea about what  
13 kind of clearance -- not necessarily from a distance  
14 standpoint? But let's assume that you're trying to  
15 ensure that before you get back that the limbs or the  
16 vegetation does not get to within so much distance of  
17 the lines. Can you give me a more specific clearance  
18 on that?

19 MR. HERDEGEN: Well, I guess I'd have to  
20 look. In general, you probably don't have a hard and  
21 fast rule, although I know they do like to get -- they  
22 try to get about eight feet clearance on some of the  
23 lateral circuits that --

24 COMMISSIONER GAW: Okay.

25 MR. HERDEGEN: -- we know we're not



1 can break off.

2 COMMISSIONER GAW: Yeah.

3 MR. HERDEGEN: Which we saw in the ice  
4 storms.

5 COMMISSIONER GAW: Yeah. At the present  
6 time, are you-all -- the questions that you have in  
7 regard to the easement line, though, if you assume that  
8 you're -- we're only talking about trimming within the  
9 easement, is that an issue then, when the tree is  
10 clearly within the easement about your -- about how you  
11 would trim it?

12 MR. HERDEGEN: No. I think that, you  
13 know, there's incidental trimming that goes beyond the  
14 easement if the tree is, you know, is there. And in  
15 most cases, if you're following the proper pruning  
16 techniques, you know, the customers, you know, don't  
17 have a big issue with it.

18 COMMISSIONER GAW: Yeah. That would be  
19 something you'd discuss with the owner. Right?

20 MR. HERDEGEN: Right. Right. We always  
21 try to inform the customers in advance that we're going  
22 to be there; if there's a concern that the arborist  
23 will work with each homeowner and will discuss with  
24 them the pruning techniques that we have planned, what  
25 the impact might be, and try to gauge -- you know, try



1 to get their agreement so that they're not really  
2 shocked or surprised later on.

3 COMMISSIONER GAW: Okay. That is a --  
4 that's a part of what you're doing right now, isn't it,  
5 to --

6 MR. HERDEGEN: Correct.

7 COMMISSIONER GAW: -- to make contact  
8 with the owners?

9 MR. HERDEGEN: Yes.

10 COMMISSIONER GAW: And if there's -- is  
11 it a -- are you-all the ones that have a four-inch  
12 requirement? Is that -- on the tree size?

13 MR. HERDEGEN: Oh, for removals? Yeah.  
14 If it's four inches or more in diameter, we would --

15 COMMISSIONER GAW: Yeah.

16 MR. HERDEGEN: -- we would seek their  
17 approval to remove it. If it's less than, we'll just  
18 take it out.

19 COMMISSIONER GAW: Okay. Does that work  
20 fairly well for you?

21 MR. HERDEGEN: For the most part. I  
22 think other programs such as the Replace-a-Tree -- I  
23 think most utilities have that now, where, you know, we  
24 convince a customer, If you let us take out this tree,  
25 we'll give you a replacement or a credit that you can

1 use at one of the nurseries to buy a replacement tree  
2 that might be a better tree as far as growth.

3 COMMISSIONER GAW: Okay. It looks  
4 like -- on your Pages 15 and 16 of your comments, where  
5 you're talking about the summary of cost drivers, it  
6 looks like that the biggest cost that you've got down  
7 there is under tree removal, relative to the other  
8 things that you listed.

9 Can you tell me what you have  
10 categorized under that --

11 MR. HERDEGEN: I would suspect --

12 COMMISSIONER GAW: -- column?

13 MR. HERDEGEN: -- that it's very similar  
14 in nature to the previous folks that were here. It's  
15 determining on what the definition of, you know,  
16 diseased tree or dead tree and just how far -- how far  
17 away off easement that you would have to go to  
18 eliminate any tree that would -- could be a threat.

19 COMMISSIONER GAW: Okay.

20 MR. HERDEGEN: And I think that's why I  
21 had mentioned earlier, you know, that trying to figure  
22 out just how much more are you willing to spend to  
23 eliminate the one chance in whatever -- one chance in a  
24 hundred that that one tree will become a problem.

25 COMMISSIONER GAW: Right.

1                   MR. HERDEGEN:  You're probably better  
2   off looking at a program that improves the reliability  
3   through, you know, some of these other means than  
4   worrying about attacking every tree off the  
5   right-of-way.

6                   COMMISSIONER GAW:  Well, I understand  
7   what you're suggesting.  But I want you to stick with  
8   me for a moment --

9                   MR. HERDEGEN:  Okay.

10                  COMMISSIONER GAW:  -- in case that  
11   doesn't apply overall.  And maybe it will, maybe it  
12   won't.

13                  MR. HERDEGEN:  Sure.

14                  COMMISSIONER GAW:  But in regard to  
15   dealing with this tree removal category, is -- how much  
16   does it help to recraft the definition closer to the  
17   IEEE -- is it the IEEE standard?  I don't remember  
18   where the definition came from now.  It's in the  
19   record.

20                  MR. HERDEGEN:  Well, I think that helps  
21   in determining whether a tree is a threat --

22                  COMMISSIONER GAW:  Okay.

23                  MR. HERDEGEN:  -- more of an imminent  
24   threat versus maybe a threat.

25                  COMMISSIONER GAW:  Yes.

1                   MR. HERDEGEN: I think the bigger issue  
2 is still going to come down to some of the legal  
3 implications of just how much do I want to burn  
4 customer satisfaction by really pushing the issue on  
5 taking some of these trees out of people's backyards.

6                   COMMISSIONER GAW: Are we talking about  
7 in your easement or outside of your easement?

8                   MR. HERDEGEN: Outside of the easement.

9                   COMMISSIONER GAW: If we say we're only  
10 talking about things within the easement -- if that's  
11 cleared up -- how much does that help you on that  
12 issue?

13                  MR. HERDEGEN: I think trees that are in  
14 the easement are, you know, pretty much ones that we're  
15 dealing with for the most part right now.

16                  COMMISSIONER GAW: So that --

17                  MR. HERDEGEN: So it would be a big  
18 improvement.

19                  COMMISSIONER GAW: Okay. That's helpful  
20 for me to hear that. That's what I thought I was  
21 hearing earlier. But that -- so that would have a  
22 significant impact on that number, then?

23                  MR. HERDEGEN: Correct.

24                  COMMISSIONER GAW: Okay. And that's not  
25 a -- that's not too difficult of a fix, I think,

1 language-wise, if we did that. The disposal of  
2 trimmings that you have down there, is that the  
3 question that I heard, I think, Ameren raise earlier,  
4 in regard to whether or not they have to dispose of  
5 things during major storms?

6 MR. HERDEGEN: Right. Yes. You know,  
7 that would be something that we would be concerned  
8 about, as well. You know, when we trim, we take most  
9 of the trimmings and chip them up.

10 COMMISSIONER GAW: Sure.

11 MR. HERDEGEN: During a storm, the --  
12 you have all kinds of debris that's --

13 COMMISSIONER GAW: That's right.

14 MR. HERDEGEN: -- laying out there.  
15 And, you know, cities and municipalities receive  
16 assistance from federal agencies to be able to dispose  
17 of that stuff. I just think it would be an undue  
18 burden on the utilities based on the fact that it's  
19 always been dealt with by the municipalities in the  
20 past.

21 COMMISSIONER GAW: But if you -- but if  
22 we're not talking about a major storm, normally you-all  
23 would dispose of these trimmings?

24 MR. HERDEGEN: Right. Except for, you  
25 know, some customers want us --

1 COMMISSIONER GAW: Well --

2 MR. HERDEGEN: -- to chop up the logs

3 and leave them there. So, sure.

4 COMMISSIONER GAW: If they want that --

5 MR. HERDEGEN: Uh-huh.

6 COMMISSIONER GAW: -- then you would do

7 that now. Right?

8 MR. HERDEGEN: Right. That is correct.

9 COMMISSIONER GAW: Is this -- under

10 Transmission, the tree removal figure, is that the same

11 issue as it is in regard to the general provisions

12 under tree removal, except just limited to transmission

13 on that figure?

14 MR. HERDEGEN: I believe it is, sir.

15 COMMISSIONER GAW: Okay.

16 MR. HERDEGEN: Uh-huh.

17 COMMISSIONER GAW: I think that's all I

18 have right now. Thank you.

19 MR. HERDEGEN: Okay.

20 COMMISSIONER CLAYTON: The plan that

21 KCP&L has in place now to address reliability issues,

22 when did it come about?

23 MR. HERDEGEN: For vegetation

24 management?

25 COMMISSIONER CLAYTON: Well, when was

1 the process started?

2 MR. HERDEGEN: The process was  
3 started -- was actually begun right before the 2002 ice  
4 storm. But the formal plan was put in place right  
5 after that.

6 COMMISSIONER CLAYTON: So are you saying  
7 that the ice storm did not instigate the discussion?

8 MR. HERDEGEN: No. Because, you know,  
9 when I first -- when I first joined Kansas City Power  
10 and Light, there was already concern about the  
11 increasing -- the increased costs year over year of  
12 vegetation management and disconnect between the  
13 performance. So the performance wasn't improving even  
14 though we were spending more and more money. So  
15 that -- that's what precipitated looking at it a  
16 different way.

17 COMMISSIONER CLAYTON: Okay. So KCP&L  
18 saw some problems in reliability prior to the ice  
19 storm?

20 MR. HERDEGEN: They saw a -- that  
21 customer minutes out or how you would want to track  
22 tree-related outages was continuing to increase even  
23 though we were spending more money to do that.

24 COMMISSIONER CLAYTON: So was it a  
25 reliability issue or was it a cost issue?

1                   MR. HERDEGEN: I think it was a little  
2 bit of both, because utilities, we have key metrics  
3 that we look at; customer satisfaction, reliability,  
4 cost. So it all comes into play.

5                   COMMISSIONER CLAYTON: So ECI was  
6 engaged prior to the 2002 ice storm?

7                   MR. HERDEGEN: They had -- we had  
8 engaged them in 1984 the first time we had looked at a  
9 tree-trimming program. And then we reached out to them  
10 to review our program and suggest changes, but I can't  
11 remember exactly what date that was.

12                  COMMISSIONER CLAYTON: Was it before or  
13 after the ice storm?

14                  MR. HERDEGEN: I don't remember, sir.

15                  COMMISSIONER CLAYTON: So you're not  
16 sure if EC -- even though you -- well, you said the  
17 program -- your --

18                  MR. HERDEGEN: Right.

19                  COMMISSIONER CLAYTON: -- plan started  
20 before the ice storm.

21                  MR. HERDEGEN: Well, we --

22                  COMMISSIONER CLAYTON: But was the  
23 decision --

24                  MR. HERDEGEN: -- needed to look at the  
25 plan.



1                   COMMISSIONER CLAYTON: I want to know  
2 when the decision was made to retain outside --

3                   MR. HERDEGEN: ECI?

4                   COMMISSIONER CLAYTON: -- consultation.

5                   MR. HERDEGEN: If I had to -- if I had  
6 to hazard a guess, it would probably be after the ice  
7 storm.

8                   COMMISSIONER CLAYTON: After the ice  
9 storm. Did you -- did you see other problems in  
10 reliability or in vegetation management that came up in  
11 the 2002 ice storm?

12                  MR. HERDEGEN: I'm trying to think back  
13 of some of the -- some of the learnings from the ice  
14 storm. The -- some of them were regarding not so much  
15 reliability, but customer service and how we dealt with  
16 some of the customers, answers and being able to be  
17 available to answer their calls.

18                  But for the most part, we had been on --  
19 we had been on cycle during -- or right before the ice  
20 storm. When we looked at things after, you know, we  
21 saw, well, we were -- we were, for the most part, on  
22 cycle in many of those hardest-hit areas; but again,  
23 that demonstrated the fact that, you know, perhaps we  
24 weren't looking at this correctly.

25                  COMMISSIONER CLAYTON: Did the

1 Commission cause you any grief after that ice storm?

2 MR. HERDEGEN: Not as much as they could  
3 have.

4 COMMISSIONER CLAYTON: But they did  
5 cause you some grief?

6 MR. HERDEGEN: I think -- I think during  
7 any major event there's always an investigation,  
8 there's always learning. We have found that -- from  
9 what I understand -- that in previous major storms that  
10 we've had in '86 and '96 and then 2002, there's always  
11 some things that you learn that you can improve on,  
12 whether it's your storm response plan or whether it's  
13 your ongoing maintenance programs.

14 COMMISSIONER CLAYTON: Can you  
15 quantify -- well, first, let me ask this question: Has  
16 KCP&L experienced increased reliability since 2002?

17 MR. HERDEGEN: Yes.

18 COMMISSIONER CLAYTON: Okay. Can you  
19 quantify that improvement?

20 MR. HERDEGEN: We -- at -- as I said, we  
21 all look at different metrics that are key measures for  
22 us. We do a lot of benchmarking. At the time that we  
23 had started this, our -- we were in the third quartile  
24 of performance in benchmarking other utilities in the  
25 United States. And in the last few years, we've been

1 able to improve that to where we are in the top 25  
2 percentile of performance and reliability in the United  
3 States.

4 COMMISSIONER CLAYTON: And that's at  
5 reduced tree-trimming costs?

6 MR. HERDEGEN: That is correct.

7 COMMISSIONER CLAYTON: Can you -- can  
8 you say if you include all of your efforts of  
9 reliability -- vegetation management or infrastructure,  
10 investment or improvements, inspection, the whole range  
11 of things that you've done -- do you still have a  
12 reduced cost compared to pre-2002 time periods?

13 MR. HERDEGEN: Yes. One of the things  
14 that -- one of the other things we track, as far as one  
15 of those major metrics, is our expenses per customer.  
16 It's a good way to benchmark with other utilities. And  
17 we find that we've continued to improve from fourth  
18 quartile, which is, you know, spending a lot of money  
19 and maybe not getting the type of performance we were,  
20 to now in the last year tier one cost performance.

21 COMMISSIONER CLAYTON: Can you -- is it  
22 possible to identify what that cost per customer is?  
23 If it's not public --

24 MR. HERDEGEN: Well --

25 COMMISSIONER CLAYTON: If it's not

1 public, then I don't --

2 MR. HERDEGEN: It's probably not.

3 COMMISSIONER CLAYTON: If it's

4 confidential, don't answer it. Say it's confidential

5 and I can't answer.

6 MR. HERDEGEN: It's confidential. I --

7 COMMISSIONER CLAYTON: Okay. What

8 percent -- by what percent has that number decreased,

9 do you think? Would you say 20 percent?

10 MR. HERDEGEN: Do a quick calculation.

11 I'd say about 20 -- 20 percent.

12 COMMISSIONER CLAYTON: I don't think I

13 have any other questions. Thank you.

14 CHAIRMAN DAVIS: I'm sorry. I apologize

15 for being late, but I don't have any questions.

16 JUDGE DALE: Chairman?

17 CHAIRMAN DAVIS: No questions.

18 JUDGE DALE: Thank you. You may step

19 down.

20 MR. HERDEGEN: Thank you.

21 JUDGE DALE: Mr. Blanc, do you have

22 another witness?

23 MR. BLANC: Just if the Commissioners

24 have any additional questions for the representative

25 from ECI about his recommendations that are attached to

1 KCP&L's comments.

2 COMMISSIONER CLAYTON: Is the -- I  
3 haven't had a chance to look at the -- is the -- is --  
4 is it the same as with Empire?

5 MR. BLANC: No. I believe he testified  
6 that it's largely the same but there are some minor  
7 differences to reflect differences between KCP&L's  
8 program and Empire's program.

9 COMMISSIONER CLAYTON: Okay. I don't  
10 have -- I don't have any questions.

11 JUDGE DALE: Ms. Vuylsteke?

12 MS. VUYLSTEKE: May it please the  
13 Commission, the Missouri industrial and energy  
14 consumers greatly appreciate what the Commission is  
15 trying to do in this rulemaking. You are trying to  
16 protect your customers, and you're trying to make sure  
17 that we have reliable service. That's absolutely  
18 critical to the businesses in our group, just as it is  
19 to residential customers and everyone else.

20 Of course, we're concerned about the  
21 cost. \$184 million for AmerenUE alone, which is four  
22 times their most recent rate increase. Those are costs  
23 that we're going to bear almost all of the cost of. So  
24 we're very concerned about that. We think that, just  
25 like all the other parties have testified today or

1   commented today, that there may be ways to make the  
2   rule most cost effective for the reliability  
3   achievements.

4                   We'd like to propose additional meetings  
5   or workshops. I think it may be possible to get that  
6   done on the Commission's timeframe. I know you want to  
7   have rules in place by November. And we would  
8   certainly welcome the opportunity to sit down with  
9   everyone here.

10                  I don't think there is a great deal of  
11   difference among the parties and the goals, and I think  
12   the Commission -- we all want to serve the Commission's  
13   goals. So I think that the Commission would be well  
14   served by a series of meetings, maybe on a short  
15   timeframe, where we can try to maybe hammer out some of  
16   the concerns that the parties have.

17                  And we're all pretty much on the same  
18   page, so I think we could maybe develop a consensus  
19   proposal, perhaps, for the Commission. So we would  
20   certainly like to recommend that. And we will be  
21   providing written comments at the end of the day,  
22   making that suggestion, if you think it can be done on  
23   time.

24                  We do agree with many of the comments of  
25   the utilities, and particularly the written comments of

1 Ameren and also of Empire, which we have had the  
2 opportunity to review. There are aspects in particular  
3 that we agree with in their comments, and we will  
4 outline those in our written comments to be filed later  
5 on today.

6 That concludes my comments at this time.

7 JUDGE DALE: Thank you. Ms. Vuylsteke?

8 MS. VUYLSTEKE: Oh, I'm sorry.

9 COMMISSIONER CLAYTON: Are there written  
10 comments filed in EFIS?

11 MS. VUYLSTEKE: No. We have not filed  
12 our comments yet, but we do plan to file them before --

13 COMMISSIONER CLAYTON: Today.

14 MS. VUYLSTEKE: -- the end of the day.

15 And I'm sorry for the inconvenience on that.

16 COMMISSIONER CLAYTON: Okay.

17 JUDGE DALE: Are there other questions  
18 for Ms. Vuylsteke?

19 CHAIRMAN DAVIS: No. Thank you,  
20 Ms. Vuylsteke.

21 MS. VUYLSTEKE: Thank you.

22 JUDGE DALE: Thank you. Ms. Vuylsteke,  
23 were you planning to call Mr. Brubaker? Or is it just  
24 if any Commissioners have questions?

25 MS. VUYLSTEKE: No. We certainly were

1 prepared to have him answer any questions the  
2 Commission has. But he has no prepared testimony or  
3 remarks at this time.

4 COMMISSIONER CLAYTON: Does he have a  
5 position? I mean, is he preparing the remarks that  
6 you're filing for later? Who is preparing the remarks  
7 that are going to be filed later today that we're not  
8 sure what they're going to say?

9 MS. VUYLSTEKE: They -- I prepared them  
10 with Maurice's advice and consent.

11 COMMISSIONER CLAYTON: So who gets the  
12 questions, Maurice or you? Or do we ask you and you'll  
13 get his advice and consent?

14 MS. VUYLSTEKE: You can ask me and then  
15 I will -- if I can't answer them, then I might ask --

16 COMMISSIONER CLAYTON: He's not retained  
17 for testimony here today? Or you-all aren't going to  
18 pay the rate, or what?

19 MS. VUYLSTEKE: He is in the event that  
20 it's necessary. I think that he -- the approach that  
21 we took is we didn't know quite what to expect today.  
22 And so -- and Maurice, you know, he felt that well,  
23 this is not necessarily his usual area of testimony --  
24 talking about tree trimming rules. But we did want to  
25 let the Commission know about our cost -- our concerns



1 about cost and rates.

2 And I don't know that it's necessary for  
3 him to come up and tell you how concerned we are about  
4 the rates. And maybe we wasted Maurice's time by -- I  
5 wasted his time by asking him to be here. But he is  
6 available and is assisting me with our --

7 COMMISSIONER CLAYTON: If the check  
8 clears, you didn't waste his time. But is he here to  
9 talk about money, or is he here to talk about trees?

10 MS. VUYLSTEKE: Money.

11 COMMISSIONER CLAYTON: Okay. I don't  
12 have any questions.

13 COMMISSIONER GAW: Are you sure he  
14 doesn't -- does that mean he doesn't know how to run a  
15 chainsaw? He's hiding back there. He's not even going  
16 to turn around for that.

17 MS. VUYLSTEKE: He's a quick study.

18 COMMISSIONER GAW: Mr. Brubaker?

19 MR. BRUBAKER: Yes, sir.

20 COMMISSIONER GAW: Where are you?

21 MS. VUYLSTEKE: Sorry, Maurice. I  
22 tried.

23 MR. BRUBAKER: I'm always happy to talk  
24 to the Commission.

25 COMMISSIONER GAW: Look, I don't want to

1 leave it on --

2 MR. BRUBAKER: I didn't have anything to  
3 add.

4 COMMISSIONER GAW: -- the record that it  
5 was a waste of time for you to come here.

6 MR. BRUBAKER: No.

7 COMMISSIONER GAW: I'm trying to help  
8 you out.

9 But does he have to be sworn or not?

10 JUDGE DALE: He can just make comments.

11 COMMISSIONER GAW: I just want to know,  
12 is -- if your concern is about the money issue, how  
13 thoroughly have you reviewed these fiscal notes, first  
14 of all? Not as to amount, but as to whether or not  
15 they are credible.

16 MR. BRUBAKER: We have not had -- I have  
17 not had a chance to spend the time to review the fiscal  
18 notes in any detail.

19 COMMISSIONER GAW: Okay. Now --

20 MR. BRUBAKER: We were concerned about  
21 the level of cost, even if they were approaching those  
22 estimates.

23 COMMISSIONER GAW: Sure. Sure.

24 MR. BRUBAKER: And as we read the rules,  
25 and as Ms. Vuylsteke noted, tree trimming is not my

1 area of expertise.

2 COMMISSIONER GAW: Okay. So your --

3 MR. BRUBAKER: We are concerned about  
4 some of the rules because they read vague. And some of  
5 the utility comments about what might be involved in  
6 that, we thought, well, that's -- to us, it doesn't  
7 seem cost effective. So we just wanted to express our  
8 concern about that, that we'd like to have rules --

9 COMMISSIONER GAW: Now, you're going to  
10 have to be more specific.

11 MR. BRUBAKER: Well, a couple things.  
12 One was the transmission issue.

13 COMMISSIONER GAW: Okay.

14 MR. BRUBAKER: I have an understanding  
15 that NERC through the RRO generally takes -- has a set  
16 of rules on that, and the --

17 COMMISSIONER GAW: Okay.

18 MR. BRUBAKER: -- utilities have to file  
19 plans and monitor, and NERC has some enforcement --

20 COMMISSIONER GAW: Okay.

21 MR. BRUBAKER: -- responsibility. So --

22 COMMISSIONER GAW: All right.

23 MR. BRUBAKER: -- I think that's maybe  
24 become a non-issue to --

25 COMMISSIONER GAW: I don't know the

1     answer to that, but --

2                     MR. BRUBAKER:   But anyway, that --

3                     COMMISSIONER GAW:  -- that's --

4                     MR. BRUBAKER:  -- was the concern.

5                     COMMISSIONER GAW:  Okay.

6                     MR. BRUBAKER:  A second concern was the

7     diseased trees.

8                     COMMISSIONER GAW:  Okay.

9                     MR. BRUBAKER:  Thinking that many trees

10    could --

11                    COMMISSIONER GAW:  So that --

12                    MR. BRUBAKER:  -- be in that category.

13    The strike distance issue.

14                    COMMISSIONER GAW:  Well, that's the same

15    thing we've heard about.

16                    MR. BRUBAKER:  -- was of concern.

17                    COMMISSIONER GAW:  What else?

18                    MR. BRUBAKER:  I think the other big

19    thing was cleaning up all the debris after a major

20    event off of private --

21                    COMMISSIONER GAW:  Okay.

22                    MR. BRUBAKER:  -- property.

23                    COMMISSIONER GAW:  Yeah.

24                    MR. BRUBAKER:  And that's what I said;

25    we don't really have anything to add to that.  I think

1     you've --

2                     COMMISSIONER GAW:   Sure.

3                     MR. BRUBAKER:   -- heard all those

4     issues.   And we're --

5                     COMMISSIONER GAW:   Okay.

6                     MR. BRUBAKER:   -- just concerned about

7     having rules that are cost effective.

8                     COMMISSIONER GAW:   Okay.   Well --

9                     MR. BRUBAKER:   That was the --

10                    COMMISSIONER GAW:   -- we all --

11                    MR. BRUBAKER:   -- that was the --

12                    COMMISSIONER GAW:   We all want that.

13                    MR. BRUBAKER:   -- basis for our -- for

14     our concern.

15                    COMMISSIONER GAW:   Okay.   But that's it?

16                    MR. BRUBAKER:   That's it.

17                    COMMISSIONER GAW:   Okay.   And if we --

18     if we can do something that impacts what the suggested

19     fiscal notes are in regard to those issues and

20     brings -- brings those figures down, you're supportive

21     of that?

22                    MR. BRUBAKER:   Absolutely.

23                    COMMISSIONER GAW:   But you also want

24     good reliability?

25                    MR. BRUBAKER:   We do.

1                   COMMISSIONER GAW: How important is it  
2 to have good reliability if you're an industrial  
3 customer?

4                   MR. BRUBAKER: I think it's very  
5 important. We're not saying we -- we're not opposing  
6 the idea of paying for cost-effective actions. We  
7 think it's important.

8                   COMMISSIONER GAW: And some of your --

9                   MR. BRUBAKER: We'd support that.

10                  COMMISSIONER GAW: For some of -- and I  
11 don't know about all of your particular clients,  
12 Ms. Vuylsteke, whether that reliability issue ranges in  
13 importance. But I -- for that particular group of  
14 clients. But if either one of you want to -- want to  
15 tell me how important you view reliability in regard to  
16 their -- the cost of doing business or the cost that  
17 may occur to their profit margins, I'd like to hear  
18 that.

19                  MR. BRUBAKER: Okay. Well, I'll -- I  
20 can't quantify anything. It's obviously very important  
21 to have reliable service. And we're not saying, Don't  
22 spend the money that's necessary. All we're saying is,  
23 spend the money that's necessary wisely --

24                  COMMISSIONER GAW: Okay.

25                  MR. BRUBAKER: -- to achieve a level of

1 reliability that's acceptable.

2 COMMISSIONER GAW: Okay.

3 MR. BRUBAKER: That's all.

4 COMMISSIONER GAW: All right. All  
5 right. Do you have any clients that are particularly  
6 impacted by short-term outages, that have significant  
7 impacts as a result of short-term outages?

8 MR. BRUBAKER: I imagine a lot of them  
9 fall in that category with respect to at least some of  
10 their operations.

11 COMMISSIONER GAW: You said some  
12 operations. They go out -- as soon as the electricity  
13 comes back on, they can just resume operation. But  
14 some have multiple additional time frames that are  
15 impacted after the restoration of service.

16 MR. BRUBAKER: Sure.

17 COMMISSIONER GAW: Okay.

18 MR. BRUBAKER: And many of them have  
19 probably put -- taken steps internal to their  
20 facilities for backup power supplies, UPS's and things  
21 like that, as necessary.

22 COMMISSIONER GAW: Okay.

23 MR. BRUBAKER: But that doesn't mean  
24 that they're not concerned about having reliable  
25 electric delivery.

1 COMMISSIONER GAW: Okay.

2 MR. BRUBAKER: They certainly are.

3 COMMISSIONER GAW: Okay.

4 MR. BRUBAKER: And we support -- we  
5 support the process. Our concern is that we spend the  
6 money wisely and get a good result.

7 COMMISSIONER GAW: I understand.

8 COMMISSIONER CLAYTON: Did you say that  
9 you -- and I apologize. I didn't get every question  
10 between you and Commissioner Gaw. Do your -- do your  
11 clients believe there needs to be improvements for  
12 reliability?

13 MR. BRUBAKER: Yes.

14 COMMISSIONER CLAYTON: Do they believe  
15 there are problems in reliability right now?

16 MR. BRUBAKER: I think the experience  
17 the last year indicates that there are. I've not had  
18 specific interviews or comments from the clients about  
19 things that happened to them or didn't happen to them,  
20 but I know they've generally expressed a concern that  
21 we have reliable service.

22 COMMISSIONER CLAYTON: Are they -- are  
23 they -- are your clients spread out among various  
24 service territories? Or are they exclusively out of  
25 St. Louis?



1                   MR. BRUBAKER: They're predominantly in  
2 St. Louis. Some are in Kansas City service territory.  
3 Some are in -- one, at least, is in the Empire service  
4 territory.

5                   COMMISSIONER CLAYTON: Okay. Have you  
6 ever -- have you ever had any of your clients express  
7 concerns regarding vegetation management? Any specific  
8 issues that have arisen?

9                   MR. BRUBAKER: No.

10                  COMMISSIONER CLAYTON: Okay. Thank you.

11                  JUDGE DALE: Are there any other  
12 questions for Mr. Brubaker?

13                  CHAIRMAN DAVIS: No.

14                  JUDGE DALE: Thank you, Mr. Brubaker.

15                  MR. BRUBAKER: Thank you.

16                  JUDGE DALE: I think this would be a  
17 good time to ask if there are any members of the  
18 general public who would like to comment on the rules.

19                  MR. MILLS: Apparently, I was  
20 misinformed.

21                  JUDGE DALE: All right. Are there any  
22 other comments that need to be made at this time on the  
23 vegetation rules from anyone?

24                  MR. LOWERY: Very quickly, Judge. I  
25 neglected to point out one typographical error that was

1 in Exhibit 1 to the Ameren -- to AmerenUE's comments on  
2 Page 3. And if I could just put that on the record and  
3 have it that way.

4 On Page 3, in Definition M of  
5 Transmission Line, the last line in our comments or in  
6 our marked-up version of the rule reads: Usually has a  
7 rating exceeding 69 kilovolts, and there's actually a  
8 typo there that should've read: Usually has a rating  
9 of 100 kV or greater.

10 JUDGE DALE: Thank you.

11 MR. LOWERY: Thank you.

12 MR. WILLIAMS: As an additional sort of  
13 clean-up matter, the Staff filed comments early this  
14 morning that failed to include as an attachment an IEEE  
15 definition of major event day. That subsequently has  
16 been filed.

17 JUDGE DALE: Thank you.

18 CHAIRMAN DAVIS: And Judge, I hope  
19 everyone knows that they have to file these comments  
20 with the Secretary of State. Right?

21 JUDGE DALE: No. They're filed here.

22 CHAIRMAN DAVIS: They're filed here?

23 JUDGE DALE: Yes.

24 CHAIRMAN DAVIS: Okay.

25 JUDGE DALE: In EFIS.

1                   CHAIRMAN DAVIS: Okay. Okay. So  
2 they're --  
3                   COMMISSIONER GAW: And all of them are.  
4                   JUDGE DALE: Yeah.  
5                   CHAIRMAN DAVIS: Okay. So they're filed  
6 in EFIS, and that gets it -- does that get into the  
7 register, or --  
8                   JUDGE DALE: Well, they're --  
9                   CHAIRMAN DAVIS: I mean, we produced the  
10 document that gets it into the register?  
11                  JUDGE DALE: Right.  
12                  CHAIRMAN DAVIS: Okay. Okay. I just  
13 wanted to make sure that --  
14                  COMMISSIONER GAW: I think there's -- I  
15 think that's a good point. I think they're -- this  
16 morning, they weren't all in one location.  
17                  CHAIRMAN DAVIS: Right.  
18                  COMMISSIONER GAW: I think the  
19 Chairman's point is --  
20                  CHAIRMAN DAVIS: Right. Okay.  
21                  COMMISSIONER GAW: -- well taken.  
22                  JUDGE DALE: Anybody who wishes to file  
23 comments in this needs to file them in EFIS by the end  
24 of today, either in the Public Comments section or in  
25 the docket segment, so --

1                   And then we will prepare the summary of  
2    comments and responses thereto, to which I'm sure the  
3    Staff is looking forward with great delightful  
4    anticipation.

5                   Having nothing more on vegetation, let's  
6    move on to the infrastructure rules, going through them  
7    in the same fashion.

8                   MR. WILLIAMS: May it please the  
9    Commission, similarly to the vegetation management  
10   rule, the Staff has prepared and submitted some  
11   comments with regard to the infrastructure rule. The  
12   Staff's comments are intended to improve the rule and  
13   raise some concern regarding it. Not always setting  
14   out a position, but indicating that there are things  
15   that perhaps the Commission needs to take a look at and  
16   make clear as to what direction it's taking with the  
17   rule.

18                  In particular, there is a statement in  
19   the purpose of the rule that the rule is to apply to  
20   transmission and distribution systems; however, the  
21   language of the rule itself is limited to distribution.  
22   So the Commission needs to clarify whether it intends  
23   the rule to transmission as well.

24                  Similar to the vegetation management  
25   rule, there's language that deals with an electrical

1 corporation having five business days to correct a  
2 violation. There's nothing -- upon receipt of a  
3 written notice of violation. There's nothing that  
4 indicates what occurs in the event an electrical  
5 corporation does not do so.

6 In other words, while that language is  
7 in the rule, it doesn't indicate if there's some relief  
8 that is given the corporation because it makes that  
9 correction within five business days, or if nothing  
10 happens. So not sure what the Commission intended by  
11 that.

12 The Staff also proposes to change the  
13 definition of rural and urban from being based on a  
14 geographic population density to being based on a  
15 voltage level and number of customers per circuit mile,  
16 basically because circuits are looked at as opposed to  
17 geographic areas.

18 The Staff also suggests that the time  
19 for coming into compliance with the rule be extended  
20 because of the timeframe. Basically, I think the Staff  
21 is looking at giving entities six months in order to  
22 come into compliance. So that's the reason for that  
23 suggestion.

24 Also, the Staff is suggesting the  
25 definition of corrective action be modified to allow a

1 temporary corrective action, or even temporary  
2 interruption of service because of some other language  
3 in the rule that indicates that if there's to be risk  
4 of danger to property or a person that's imminent or  
5 high, that there be corrective action taken  
6 immediately.

7                   Also, the Staff has suggested some  
8 changes to the maximum inspection intervals to try to  
9 make them overlap if the suggested 12-year cycle for  
10 wooden pole inspection is followed so that inspections  
11 can be -- some inspections can be done at the same time  
12 on a circuit.

13                   And other suggestions are set forth in  
14 the written comments and I'm not going to address those  
15 here and now.

16                   And if the Commission has any questions,  
17 again, Dan Beck is available to answer more technical  
18 matters.

19                   JUDGE DALE: Thank you, Mr. Williams.

20                   Are there questions for Mr. Beck?

21                   COMMISSIONER GAW: No.

22                   MR. WILLIAMS: Thank you.

23                   JUDGE DALE: Thank you.

24                   MR. MILLS: If I may, I'll just speak  
25 from here because my comments are going to be brief.

1 My concerns on this rule are similar to those on the  
2 vegetation management rule, although, of course, the  
3 cost estimates are much lower in this rule. And  
4 there's not the same sort of aesthetic impact and  
5 customer considerations that tree trimming brings into  
6 play. But other than that, my concerns are the same.  
7 Thank you.

8 JUDGE DALE: Thank you. Are there any  
9 questions?

10 COMMISSIONER GAW: Well, is that all you  
11 have, are concerns?

12 MR. MILLS: No. I have concerns about  
13 the cost benefit. I also --

14 COMMISSIONER GAW: Do you have --

15 MR. MILLS: I'm not --

16 COMMISSIONER GAW: Do you have anything  
17 that you want to say that's favorable to the rule?

18 MR. MILLS: Yes. I think -- I think --

19 COMMISSIONER GAW: Or are you  
20 concerned --

21 MR. MILLS: -- the idea of --

22 COMMISSIONER GAW: -- about reliability?

23 MR. MILLS: I think the idea of  
24 standardized reporting has some merit to it. I think  
25 you need to balance what you're getting for the amount

1 of money you're spending on it. And I don't really  
2 have the resources to do that kind of cost benefit  
3 analysis in this rulemaking. I wish I did. I mean, I  
4 wish I -- I wish I could hire an engineer to go in and  
5 say, Here's what you're going to get for this -- for  
6 this \$10 million, but I don't.

7 COMMISSIONER GAW: Have you done any  
8 analysis of the credibility of the fiscal notes?

9 MR. MILLS: To the extent I can. I  
10 haven't seen any clear, glaring errors in any of --

11 COMMISSIONER GAW: So who did that? Did  
12 you do that yourself?

13 MR. MILLS: I did.

14 COMMISSIONER GAW: Did you do that  
15 yourself?

16 MR. MILLS: Yes.

17 COMMISSIONER GAW: Did you go out and  
18 look at the books and records of the companies --

19 MR. MILLS: No.

20 COMMISSIONER GAW: -- to determine --

21 MR. MILLS: No. I looked at --

22 COMMISSIONER GAW: -- how accurate these  
23 were?

24 MR. MILLS: No. I looked at what they  
25 filed.



1 COMMISSIONER GAW: That's all I have.

2 JUDGE DALE: All right.

3 Thank you, Mr. Mills.

4 Mr. Lowery?

5 MR. LOWERY: My comments will also be  
6 very brief. We filed comments yesterday afternoon, and  
7 we took the same approach with this rule as we did with  
8 the vegetation management rule in that we -- if we had  
9 concerns or improvements -- and I think in just about  
10 every case they're all just improvements that we're  
11 trying to make.

12 We will try to be very specific about  
13 telling the Commission how we would change the rule in  
14 order to make those improvements. I think in terms of  
15 philosophically and what we're all trying to  
16 accomplish, I think that we are very much on the same  
17 page with the rule as it's been proposed. But we  
18 thought we could bring some expertise in bear about --  
19 to bear as to how a utility would actually do these  
20 things. And I think our comments are limited to that  
21 for the most part.

22 Mr. Zdellar, again, is here if the  
23 Commission has questions beyond that in terms of some  
24 of the specifics, and he would be available. And that's  
25 really all I had to say about those today. Thank you.

1 JUDGE DALE: Thank you.

2 Are there any questions for Mr. Zdellar?

3 COMMISSIONER CLAYTON: I have just a few  
4 questions.

5 JUDGE DALE: Okay.

6 COMMISSIONER CLAYTON: Almost, if there  
7 was a seat back there, you could even just stay there.  
8 I don't -- I don't --

9 MR. ZDELLAR: Stay right here?

10 COMMISSIONER CLAYTON: Yeah. We've --

11 MR. ZDELLAR: Okay.

12 RON ZDELLAR testifies as follows:

13 QUESTIONS BY COMMISSIONER CLAYTON:

14 Q. We've kind of been down this road  
15 before, and we've talked a little bit about  
16 infrastructure. I wanted to ask you, with regard to  
17 Ameren's infrastructure inspection, investment,  
18 maintenance plans, have any change -- have any changes  
19 occurred in the last year, the last two years?

20 A. Yes, they have.

21 Q. Could you tell me what changes you've  
22 made?

23 A. It's a number of changes that we've done  
24 with programs addressing reliability in general, and  
25 inspections and maintenance cycles. I think the

1 biggest change we had was in the poles situation. We  
2 in the past had prescriptive pole programs for our  
3 transmission system, our subtransmission system, and  
4 our backbone feeders, but did not have a specific  
5 schedule for single-phrase poles that typically would  
6 be in backyards and places like that.

7 Poles were looked as part of the  
8 tree-trimming cycle and things like that -- visual  
9 observations -- but did not do an aggressive  
10 ground-line inspection of the poles, which we have  
11 begun this year.

12 Q. Okay. Anything beyond that, then?

13 A. Just other sorts of inspections with our  
14 underground equipment of that nature; visual  
15 inspections to look for ground erosion, things like  
16 that sort of thing. We've always had inspections of  
17 capacitors, regulators, things like that on our system,  
18 and they're --

19 Q. Have you changed --

20 A. -- and that's ongoing.

21 Q. Have you made any changes -- have you  
22 made any changes with regard to capacitors or the  
23 protective devices or --

24 A. No.

25 Q. -- anything like that? No changes here.

1 So basically it's poles -- the single-phase poles?

2 A. And -- single-phase poles and routine  
3 line inspections in terms of walking inspections that  
4 are taking place as we speak. And then about two years  
5 ago, we actually began using some of the tree trimming  
6 folks to identify visual observations, like a broken  
7 cross arm or something like that they might find during  
8 their routine tree-trimming activities.

9 Q. How long have you been with Ameren --  
10 the Ameren family of companies?

11 A. Thirty-six years.

12 Q. Thirty-six years. You ought to have a  
13 pin or a watch by now.

14 Can you tell me if there is any  
15 difference today between what Ameren does versus, say,  
16 20 years ago?

17 A. I think the things I mentioned are  
18 probably the things --

19 Q. Just the pole and the -- and the  
20 routine -- the line inspections?

21 A. Right.

22 Q. How about going back 36 years? Is there  
23 any difference between what Ameren does today versus  
24 36?

25 A. When I first started with the company, I

1 was not directly involved in that part of the business.

2 Q. That's -- going back as far as you can  
3 go.

4 A. As far -- as far as I know, that's been  
5 pretty much what the practice has been.

6 Q. Okay. So there hasn't been much change.  
7 On the pole and the line inspections, on these changes  
8 that have come up, did you -- tell me about the  
9 infrastructure failures that you found in recent years  
10 that would suggest a need for additional inspection  
11 program.

12 A. I don't think it was particularly  
13 failures of a nature. I think we recognized that we  
14 have an aging plant. I think that became clear to us  
15 in the storms of the last couple of years. Not that it  
16 was causing great difficulty.

17 In fact, in some of the Commission staff  
18 reports, looking at the storms of previous years, pole  
19 failure rate during the storms was less than what was  
20 expected in comparison to other utilities in major  
21 storms.

22 But we recognize a lot of the areas,  
23 particularly north St. Louis County, we are at that  
24 40-year-life range that we expect we should start  
25 having some problems with poles. And we need to get in

1 and do a different kind of review and inspection  
2 program.

3 Q. What kind of problems were you having  
4 with poles?

5 A. Very seldom, poles would fail in terms  
6 of their strength. But again, it was pretty minimal,  
7 and it was in storm situations. So it's not a -- not a  
8 chronic issue, but it's time to get out and do more  
9 serious inspections and do what we call intrusion, to  
10 get down to the ground line to see if we have rock  
11 problems.

12 Q. So did you find some rock problems in  
13 your recent --

14 A. Well, during any inspection process,  
15 you'll find -- with aged poles, you'll find  
16 deteriorations in the poles. That's what the program  
17 is intended to find. Some of those poles are  
18 reinforceable. There are methods to reinforce poles.  
19 And other times, if their strength is less than  
20 standard, you have to replace them.

21 Q. Okay. Everybody on in St. Louis right  
22 now?

23 A. If you let me turn my Blackberry on, I  
24 can find out.

25 Q. I may ask for you give us a report on

1     that, considering you did have a recent outage. One  
2     city that has had a number of problems over the last  
3     couple of years has been Blackjack, and Blackjack was  
4     out yet again this past Monday; is that correct?

5             A.     I don't know specifically. We did have  
6     outages in that area, so I could assume you're correct.

7             Q.     Is there a particular reason -- is that  
8     just a matter of weather again, in your opinion? Or  
9     are there infrastructure problems in Blackjack?

10            A.     It's predominantly a weather issue. As  
11     I mentioned, I've been with the company 36 years. And,  
12     in fact, riding out here, we were talking about, once  
13     again, the propensity of storms to hit the north  
14     St. Louis County area over the years. And we have not  
15     determined a reason for that -- a rationale reason for  
16     that. Some people suggest it's where the Confluence  
17     and the Missouri River come into the Mississippi may  
18     have some issue with that. The heat sink in the city  
19     may have something to do with that.

20                    But it's clear -- if you look back over  
21     a number of years to the north St. Louis County area  
22     does get hit with more storms -- not necessarily more  
23     intense, but more storms -- than the other parts of the  
24     St. Louis metropolitan area.

25            Q.     Is Blackjack buried? Are their lines

1 buried?

2 A. In new subdivisions they're buried, but  
3 most of Blackjack is an older area, and most of those  
4 lines in subdivisions are overhead.

5 Q. Would you say that they are feeder  
6 outages? Or are they distribution line outages?

7 A. Well, it would depend. I'd have to look  
8 at the -- for instance, the storm --

9 Q. You can't make a generalization --

10 A. -- inf--

11 Q. -- about --

12 A. In terms of number of customers  
13 affected, the feeder outages, obviously affect more  
14 customers because when a feeder is out, you may have a  
15 thousand customers out. If you have a tap, you may be  
16 talking about 20 or 30 or 40 customers.

17 Q. Okay. If we -- do you think with the  
18 changes that Ameren has made on recent -- recent  
19 changes on vegetation management, recent changes on  
20 infrastructure, inspection, and maintenance in recent  
21 years that the reliability in Blackjack and other  
22 communities in St. Louis will improve?

23 A. I do.

24 Q. You do. Okay. Thank you.

25 JUDGE DALE: Are there any other



1 questions for Mr. Zdellar?

2 COMMISSIONER GAW: Go ahead. I'll wait.

3 QUESTIONS BY COMMISSIONER APPLING:

4 Q. How you doing?

5 A. I'm doing fine.

6 Q. Good. Last time you and I talked about  
7 the reliability rule and also the vegetation. I told  
8 you that I was interested in a level playing field, and  
9 that whatever you identify in this rule to give us good  
10 comments on what you could live with and what you  
11 couldn't. Have you -- have the comments that you-all  
12 have filed this morning, do they address those kind of  
13 issues?

14 A. Yes. I think as opposed to the  
15 vegetation management rule where we had a lot of  
16 difficulty with clarity and, quite frankly, some places  
17 we thought money wasn't being well spent, as was  
18 mentioned earlier, I think -- and these issues around  
19 inspections and maintenance, we agree generally with  
20 the principles.

21 The only -- the only comment, I think,  
22 that we made was somewhat similar to what Staff made,  
23 is that -- the inspection cycles. We thought some of  
24 the cycles were too -- were way too often, way too  
25 frequent and didn't return, again, value for the dollar

1 spent.

2 But the program itself, it goes back to  
3 what we talked about: Providing more transparency for  
4 this Commission, for our customers, and other  
5 interested parties, in terms of what the utilities are  
6 doing. And we also support a reporting requirement,  
7 Here's what we're going to do for the year; the end of  
8 the year, Here's what we did. And we should be able to  
9 stand up in front of you and talk to that.

10 Q. Okay. Is there anything else you want  
11 to say since you're on your dime right now?

12 A. Well, again, we do appreciate being  
13 here. And this is a rule that we think is important  
14 for the state of Missouri to go forward, to provide  
15 that sort of transparency.

16 I think one thing that we learned from  
17 the storms of last year -- there were a lot of  
18 accusations made about a lot of different things. And  
19 to have clear expectations in place about what the  
20 utilities are doing and then, you know, if there's a  
21 severe storm -- whether it's an ice storm or  
22 100-mile-hour winds -- and things aren't as good as our  
23 customers would like, at least everyone will know that  
24 we were doing what we said we were going to do before  
25 we got there.

1 Q. Thank you very much, Mr. Zdellar.

2 COMMISSIONER APPLING: And Steve to jump  
3 ahead of you.

4 COMMISSIONER GAW: No, no. That's quite  
5 all right.

6 QUESTIONS BY COMMISSIONER GAW:

7 Q. I just -- I wanted to -- Mr. Zdellar,  
8 there's a -- I know you all love me doing this. On  
9 Page 9 of KCP&L's comments --

10 A. Which I haven't seen.

11 Q. And I'm going to read this to you. It  
12 won't take very long. And it may be that it's  
13 difficult to interpret this because the wording may be  
14 unique to KCP&L. I don't know.

15 It says: In the past 15 years, KCP&L  
16 has broadened its scope of asset management to include  
17 both automation and communication technology. These  
18 provide real-time information to the desktops, and in  
19 some cases allows regulating and switching equipment to  
20 automatically adjust to conditions in the field,  
21 creating more a favorable operating environment in  
22 terms of system voltage, power factor, and circuitry  
23 configuration. In simple terms, KCP&L's automation and  
24 communication provide constant inspections of the  
25 systems they monitor.

1                   Specific automation programs include,  
2   (a), the underground network automation project; (b),  
3   the 50CO -- I'm not sure what that means -- relay  
4   automation project; (c), the 34 kV switching device  
5   automation and fault indication project; (d), the rural  
6   power quality monitor project; (e), the integrated  
7   circuit of the future project; (f), the dynamic voltage  
8   control project; and (g), capacitor automation.

9                   These programs enable automated fault  
10   detection, isolation and reconfiguration of the  
11   distribution network to improve reliability and  
12   minimize outage duration, as well as improving system  
13   efficiencies.

14                  My first question is: Is that -- does  
15   that translate to you into something meaningful? Can  
16   you -- do you know what it's saying there?

17                A.     Yes. I do know what it's saying.

18                Q.     Okay. Well, I'm not meaning that to be  
19   demeaning. I just want to make sure that we can  
20   communicate on the -- on the way it's written.

21                  My next -- my next question, then, is:  
22   How much of that has Ameren done at this point?

23                A.     Well, Kansas City Power and Light, from  
24   their description, is well ahead of us in terms of what  
25   I will call communication and automation that's out on

1 the system itself.

2 Q. Okay.

3 A. Within the substations, we do have  
4 automation around our breakers, and we get real-time  
5 data, and capability to do switching remotely. We have  
6 installed a number of switches on our subtransmission  
7 system, and we can operate those switches remotely.

8 Q. Okay.

9 A. But we are not as far along as Kansas  
10 City Power and Light in taking that automation further  
11 out into the distribution network.

12 Q. What would this do for you if you had  
13 these systems in effect -- in effect, just as -- at a  
14 very high level?

15 A. I guess, just -- and again, this is very  
16 high level. I think in terms of normal day-to-day  
17 operations, it allows for quicker restoration of  
18 customers for what I'll call incidental outages.

19 Q. Right.

20 A. If you would have a car hit a pole or  
21 something like that, you can isolate that area  
22 remotely. Obviously, you don't have to take somebody  
23 out and do switching manually to bring that back in.

24 In major storm situations, it would be  
25 some improvement, but if you have wires down all over

1 the place, there's no --

2 Q. Right.

3 A. -- place to switch to.

4 Q. It's not going to cure all of the

5 problems.

6 A. That's correct.

7 Q. I'm looking --

8 A. I --

9 Q. -- for the incremental improvements --

10 A. Incremental improvement on day-to-day

11 operations, I think, could be significant.

12 Q. Okay. And I think you have said here or

13 you have said in the past that you're working on a

14 program to do some of these things, all of these

15 things?

16 A. Right. We have really just begun a

17 program just really trying to identify for ourselves

18 what the design of our system and how it operates ought

19 to be in the future. And we'll put a roadmap in place

20 to define how we get there.

21 Q. Give me an estimate on time to actually

22 see that fully implemented.

23 A. Fully implemented. That could be easily

24 eight to ten years.

25 Q. Okay. I think -- I think that's all I

1 had, Mr. Zdellar. Thank you. I'm sorry to make you  
2 analyze some other company's --

3 A. That's quite all right.

4 Q. -- but it gives me a perspective.

5 JUDGE DALE: I don't think there are  
6 other questions. Thank you.

7 (Witness excused.)

8 JUDGE DALE: Mr. Swearengen?

9 MR. SWEARENGEN: Mr. Beecher, Empire's  
10 vice president did file written comments, and he is  
11 here this afternoon and will answer any questions that  
12 the Commission might have.

13 Empire also engaged the services of  
14 Osmose Utility Services, Inc. to analyze the proposed  
15 infrastructure rule and prepare written comments. And  
16 those comments have been filed with the Commission.  
17 Mr. Dave LaPlanta from that company is here this  
18 afternoon, and he is prepared to answer any questions  
19 the Commission might have.

20 I can call either or both of those  
21 gentlemen.

22 JUDGE DALE: Are there any questions for  
23 Mr. Beecher?

24 COMMISSIONER CLAYTON: Hang on just a  
25 second.

1 JUDGE DALE: Okay.

2 COMMISSIONER CLAYTON: Yeah. I do have  
3 a question.

4 MR. SWEARENGEN: And who did you want to  
5 ask?

6 COMMISSIONER CLAYTON: I know I'm going  
7 to have at least a few questions for Mr. Beecher.

8 MR. SWEARENGEN: Okay.

9 BRAD BEECHER testifies as follows:

10 QUESTIONS BY COMMISSIONER CLAYTON:

11 Q. Mr. Beecher, I've reviewed the comments  
12 filed by -- I believe ECI filed. No, Osmose filed  
13 these. Correct?

14 A. That's correct.

15 Q. That's correct. I did not notice a  
16 difference until -- from the company's perspective, is  
17 your -- are you upset over the process in this one,  
18 too? Or are you-all cool with this one? Or where do  
19 you stand?

20 A. You know, we think this one can also use  
21 some collaborative work to try to make it a little bit  
22 better. I think our focus here is we think there are a  
23 few things in here that are vague, that we don't quite  
24 understand. And we filed very detailed comments via  
25 Osmose, but I think this is a much easier rulemaking to



1 work through.

2 I will say that, you know, we're all  
3 starting in a different place. While we have some  
4 distribution automation in the Branson area, for  
5 instance, where we've had a lot of traffic issues, we  
6 don't have much distribution automation anyplace else  
7 in our system.

8 And, you know, as it relates to coming  
9 up with costs for this rules (sic), we don't even know  
10 exactly how many distribution poles we have. We don't  
11 know the age of any distribution pole we have. They're  
12 not in a serial-numbered system. And so to that  
13 extent, you know, we're -- we are starting at a little  
14 bit different place than maybe some of the other folks.

15 And so, you know, and so going into a  
16 cost estimate, you estimate how many poles, you  
17 estimate how many poles are going to fail of the ones  
18 you inspect. So, you know, we do the best we can in  
19 putting together those estimates, but that's what they  
20 are: They're estimates.

21 Q. How different is Empire's plan right  
22 now, today, without a rule compared to the provisions  
23 of this rule, aside from some of the vague provisions?

24 A. We do not have a formalized distribution  
25 pole inspection program at this time. And so, our --

1     you know, for the last 97 years, we've been using our  
2     employees to pay attention, to report things to  
3     district supervisors who go out and fix things and we  
4     find them.

5             Q.       How is that working for you?

6             A.       We haven't had many complaints, to my  
7     knowledge, about reliability on our system.

8             Q.       Are you-all satisfied with the  
9     reliability on your system?

10            A.       You know, we try to balance reliability  
11    and cost in every decision that we make.

12            Q.       I understand. Are you satisfied with  
13    the reliability on your system?

14            A.       I personally would always like to see  
15    improvement from where you're at.

16            Q.       That's a good answer. How about from  
17    the position of the company?

18            A.       The company's position, we would always  
19    like to see improvement from where we're at.

20            Q.       Okay.

21            A.       But you got to balance that with the  
22    cost.

23            Q.       There's a provision on Page 4 of the  
24    comments that makes reference to this rulemaking as  
25    basically a "run to failure strategy." And I was

1 wondering how this rulemaking and Empire's current  
2 strategy would be any different in terms of a run to  
3 failure.

4 A. Again, we've used an informal process  
5 where our employees are expected to pay attention to  
6 what's going on. And so, you know, we try to operate  
7 so that we get the maximum useful life out of every  
8 piece of equipment. But, again, Osmose is coming at  
9 this much like we talked about on tree trimming.

10 There are maybe some unique different  
11 ways we can approach this than we have in the past,  
12 where we can get more life out of poles than we do  
13 today. And I think that's the vein of the comment, is  
14 it's a different way of looking at pole inspection and  
15 maintenance and -- like we look at tree trimming  
16 differently today than we did ten, 15 years ago.

17 Q. There's a reference in here in one of  
18 the comments from Osmose that makes a reference to  
19 worse performing -- it says -- let me quote it: Some  
20 utilities have added a quote "worse performing feeder"  
21 close quote, program to their maintenance strategy.

22 Does Empire have a worse performing  
23 feeder program in their maintenance strategy?

24 A. We just installed an outage management  
25 system here in the last couple of years that's allowed

1 us to track performance by circuit in a much more  
2 detailed and accurate fashion.

3 Q. Uh-huh.

4 A. We do pay attention to that. And  
5 particularly on tree trimming, you know, we use that to  
6 help us identify which circuits we should go after.

7 Q. In terms of the chart that was attached  
8 to the rule, does Empire have a position on -- is it  
9 opposed to having a schedule at all for inspection?

10 A. Not opposed to a schedule. We just want  
11 to clarify what is meant by the chart.

12 Q. The definition of detail and  
13 definition --

14 A. Correct.

15 Q. -- of walk-through or whatever?

16 A. And, for instance, we weren't quite sure  
17 what detailed inspection of underground versus a visual  
18 inspection of underground cable meant. I don't know  
19 how you visually inspect an underground cable.

20 Q. Does Empire use ethylene/propylene  
21 rubber for its underground circuits, or --

22 A. My expert back there is --

23 Q. Did I pronounce that right?

24 A. -- shrugging his shoulders.

25 Q. EBR, isn't it? Isn't it called EBR?

1           A.       I would assume so. I don't know.

2           MR. MCGARRAH: EPR.

3           COMMISSIONER CLAYTON: EPR. Excuse me.

4           THE WITNESS: I believe we use EPR.

5   QUESTIONS BY COMMISSIONER CLAYTON:

6           Q.       You didn't think I had that in me, did  
7   you?

8           A.       I didn't. I didn't have it in me.

9           Q.       I don't have any other questions. Thank  
10   you.

11          COMMISSIONER APPLING: You had it right.

12          COMMISSIONER GAW: I do have -- I do  
13   have a question.

14   QUESTIONS BY COMMISSIONER GAW:

15          Q.       How do you all inspect underground?

16          A.       Well, typically, when we start having  
17   outages, we have a thing called a thumper that goes out  
18   and can find the --

19          Q.       Thumper?

20          A.       That's the brand -- don't go there.  
21   That's the brand of the equipment.

22          Q.       Yeah. Do we need a definition of that?

23          A.       It's the brand of the equipment that  
24   helps you find the faults. And then --

25          Q.       What does it do?

1           A.       It looks for places where there's faults  
2   in the --

3           Q.       No.   But how does it do that?

4                   MR. MCGARRAH:   Reflective light.

5                   THE WITNESS:   I can't answer that,  
6   Commissioner Gaw.   I'm sorry.   It's a reflective wave  
7   of some sort.

8   QUESTIONS BY COMMISSIONER GAW:

9           Q.       So there is a mechanism to inspect the  
10   underground cable.   Correct?

11          A.       Yeah.   To find fault -- to help find  
12   faults.   And then there's --

13          Q.       Right.

14          A.       -- methods for -- to recondition  
15   underground cable.

16          Q.       Yes.   I think there's some reference to  
17   that in KCP&L's comments, if I'm not mistaken, on  
18   dealing with a tree and other things -- some of the  
19   insulation.   Maybe.   That's all right.   We'll find out.

20                   If any of your people know, though, if  
21   they want to say.

22                   MR. MCGARRAH:   There's no method that I  
23   know for inspecting underground cable.

24                   MR. BEECHER:   Sam is saying that he  
25   doesn't know of any method for inspecting underground

1 cable.

2 COMMISSIONER GAW: So there isn't such a  
3 thing as a thumper?

4 MR. MCGARRAH: That's for finding fault.

5 MR. BEECHER: The thumper finds faults,  
6 so it finds when there's already problem in the cable,  
7 helps you identify where it is.

8 COMMISSIONER GAW: I gotcha. Okay. All  
9 right.

10 BY COMMISSIONER GAW:

11 Q. The thumper won't help you unless  
12 there's already -- the line is already out. Is that  
13 the deal?

14 MR. MCGARRAH: (Witness nodded.)

15 COMMISSIONER GAW: Nodding yes, I see.

16 MR. BEECHER: That's correct.

17 MR. MCGARRAH: That's correct.

18 COMMISSIONER GAW: Okay. That's all I  
19 have. Thank you. Sorry to give you a difficult time.

20 JUDGE DALE: Thank you, Mr. Beecher.

21 MR. BEECHER: No problem.

22 JUDGE DALE: Are there other questions  
23 for Empire's other witnesses? No?

24 Moving on to KCP&L.

25 MR. BLANC: Mr. Herdegen has some brief

1     comments and is available for questions.

2                     JUDGE DALE:  Thank you.  Mr. Herdegen,  
3     you can either use the podium or the witness stand.

4                     MR. HERDEGEN:  Stand here.  I only have  
5     a few comments that relate to the proposed rules.  I  
6     think as we're starting to talk about reliability  
7     again, just like we were talking about with vegetation  
8     management, that's really the key of what we're trying  
9     to drive here.  So as we look at any type of a program,  
10    we would want to make sure that we're using some  
11    methodology for measuring that performance.

12                    So my first comment would be that we  
13    define a consistent performance criteria, whether it's  
14    a consistent way for calculating SAIDI.  We would  
15    suggest using the IEEE standard, 1366, as a good way of  
16    being able to gauge that.

17                    Again, as I said before, the other thing  
18    that's very important is not just a snapshot in time,  
19    but looking at trends analysis for reliability over  
20    time, to see if in fact you are improving.

21                    The inspection programs that -- as  
22    listed, you know, there's -- if I look at it as a  
23    default or a base case, we may not have as many  
24    problems with it.  But again, we would like to suggest  
25    that if there's a -- once you have consistent



1 performance criteria and you're able to meet some  
2 performance criteria through other means, that there be  
3 some flexibility in the rules.

4                   There's been made reference to -- of our  
5 automation program. And we feel that those go a long  
6 way to avoiding the need for a regular inspection.  
7 That doesn't mean that it's not prudent to visit your  
8 facilities once in a while. And we have embarked on a  
9 total system-wide distribution inventory and  
10 assessment.

11                   One is to look at is whether there's  
12 broken arms out there or things that needed to be  
13 fixed -- regular repair work. The other piece is to  
14 collect data for statistical analysis for asset  
15 management, because we feel that's going to become  
16 important.

17                   There was just a discussion on  
18 underground. While you can inspect a cable, one of the  
19 things that we do know from statistical analysis, that  
20 after the first -- and this is on the old stuff that  
21 was put in mid-'70s, the non-EPR stuff.

22                   But, you know, after the first -- after  
23 the first fault, statistically you'll see the second  
24 fault on that cable within three years; after that, it  
25 drops down to about nine months. So most utilities

1 have a practice that after the second failure, you  
2 change it out because you know it's going to fail again  
3 within a short period of time.

4                   One of the things that the assessment  
5 process or the data collection process will do is allow  
6 us to know where some of this stuff is, so that when we  
7 do have a replacement program or a focused asset  
8 management program, we know where the stuff is and how  
9 to get at it. One of the things that we're hoping to  
10 gain with the -- with this assessment is understanding  
11 where all these brown porcelain cut-outs are that are a  
12 plague on the industry right now.

13                   They've, in some cases, have broken upon  
14 operating and have caused serious injuries or safety  
15 problems. So it would be good to know where those are  
16 so you can go into a program that would replace those  
17 on a regular basis.

18                   From the automation standpoint, we feel  
19 that, you know, whether it's capacitor banks where we  
20 can remote monitor that they're on and we can know  
21 if -- you know, if they're functioning correctly,  
22 there's not a need to run out there manually and  
23 inspect it. We know if it's going bad, we can send  
24 somebody out to that particular spot.

25                   Automation that -- was -- another big

1    thing when I first came to Kansas City Power & Light,  
2    was the underground network system in downtown Kansas  
3    City. Very important customers down there. They  
4    expect high reliability. We would go in and inspect  
5    each manhole once a year, but that doesn't mean that  
6    something that happens the day after you inspect it  
7    could cause a problem.

8                   Case in point, this very week, at the  
9    AT&T building in downtown Kansas City, they have a  
10   sidewalk vault. We have installed some automation,  
11   some monitoring. We can also remote-control the  
12   opening and closing of the network protectors. But we  
13   were getting a high temperature alarm from the  
14   transformers in that vault.

15                   We sent some underground people out  
16   there and found out that earlier in this week some of  
17   the construction folks that were working on the Sprint  
18   Arena had put a bunch of pallets on top of the grates  
19   for the -- for the vault. And because it couldn't be  
20   ventilated, the temperature was rising.

21                   If we hadn't had that remote monitoring,  
22   both transformers probably would've failed, would've  
23   locked out the circuit, and some of our customers in  
24   downtown Kansas City would be very upset with me.

25                   So those are the types of things that

1 we're trying to do as a way to say that you can't  
2 always -- you know, even inspection on a yearly basis  
3 isn't going to catch a problem that happens the day  
4 after you're in that manhole or you walk by that  
5 capacitor bank.

6                   And we want to make sure that we combine  
7 some of the automation that we can do, that would help  
8 us to improve the reliability of the circuit or that  
9 equipment for our customers; and yet, at the same time,  
10 you know, support, then, and use inspection as a  
11 component part of the overall reliability mix, but not  
12 rely on that solely as your -- as your way of improving  
13 reliability.

14                   COMMISSIONER GAW: If I could, Judge.  
15                   There's -- first of all, in regard to  
16 the automation that you have, I want to -- did you give  
17 specifics about how that should interrelate with the  
18 inspections intervals that are listed in the proposed  
19 rule?

20                   MR. HERDEGEN: I don't -- we didn't feel  
21 very strongly about the -- about whether the intervals  
22 were good, bad, or indifferent.

23                   COMMISSIONER GAW: Okay.

24                   MR. HERDEGEN: I mean, if we had our  
25 druthers, if we're using automation on a number of

1     our --

2                     COMMISSIONER GAW:   Right.

3                     MR. HERDEGEN:   -- key pieces of  
4     equipment -- you know, I know that some inspection  
5     programs are ten years in between.

6                     COMMISSIONER GAW:   Okay.

7                     MR. HERDEGEN:   That doesn't mean that  
8     you don't -- you don't visit those things from time to  
9     time.   But I would say that -- you know, if you ask me  
10    my personal opinion, ten years would be fine for me.

11                    COMMISSIONER GAW:   Okay.   What I'm kind  
12    of looking for is, is if I -- if I look down through  
13    this list that we have now -- and Ameren has suggested  
14    some of those intervals ought to be longer in between.  
15    And I'm trying to -- I'm trying to get some other  
16    feedback.

17                    But my first would be, again, in regard  
18    to those numbers, if -- is -- would some of those  
19    numbers from KCP&L's perspective need to have some  
20    caveat saying, if there wasn't some sort of an  
21    automated system to help you monitor something that  
22    might impact how often those -- that particular row  
23    ought to be physically inspected?   Have you -- have you  
24    thought that through, and is there a way that you could  
25    give me any comment on that?

1                   MR. HERDEGEN: I think as you look at --  
2 and maybe the grouping isn't exactly, you know,  
3 correct.

4                   COMMISSIONER GAW: Yeah.

5                   MR. HERDEGEN: Okay. Maybe it is. If  
6 you look at an overhead circuit.

7                   COMMISSIONER GAW: Right.

8                   MR. HERDEGEN: I think some of the  
9 comments before was the term -- and getting a little  
10 better definition around what do we mean by patrol  
11 versus what do we mean by a detailed --

12                  COMMISSIONER GAW: Okay.

13                  MR. HERDEGEN: -- inspection. I believe  
14 that the thing that we're doing right now with our  
15 inventory and assessment project would, for the most  
16 part, be considered a detailed inspection, but I  
17 don't -- I don't know that for a fact.

18                  COMMISSIONER GAW: Okay. Did you-all  
19 suggest any language that would clarify that?

20                  MR. HERDEGEN: I don't think so.

21                  COMMISSIONER GAW: I see counsel shaking  
22 his head no.

23                  MR. HERDEGEN: Yeah. I don't think so.  
24 We'd be more than willing to work on that.

25                  COMMISSIONER GAW: Okay. And are there

1 any of these things -- I'm asking this question, I  
2 think, again. But are there any of these things that  
3 you would say, Well, we don't need to do a patrol this  
4 often, if -- because we have some sort of an automated  
5 system reporting in that we should asterisks or make  
6 some sort of an exception in the event that you have  
7 some sort of an automated reading system?

8 MR. HERDEGEN: I think there's -- you  
9 know, the amount of automation continues to accelerate  
10 in our industry. And while we are very good at  
11 monitoring capacitors or monitoring underground vaults  
12 in network areas, we're now just starting to get into  
13 the smart switches, which will help us to be able to  
14 sectionalize and pick up.

15 So there's a lot of components that are  
16 going to improve the overall reliability of the  
17 circuit.

18 And then the question is: How much more  
19 reliability are you going to get by physically  
20 inspecting it?

21 COMMISSIONER GAW: And I'm sort of  
22 asking that question --

23 MR. HERDEGEN: Yeah.

24 COMMISSIONER GAW: -- of you. If you --

25 MR. HERDEGEN: And that's why --

1                   COMMISSIONER GAW:  -- think you do that  
2   evaluation --

3                   MR. HERDEGEN:  -- I think -- yeah.  And  
4   I think that's why we said after we do our detailed  
5   inspection, that the statistical programs that you  
6   would have in place for addressing problematic  
7   components of the system could be addressed through  
8   those types of asset management programs.  And the need  
9   for a detailed -- a detailed, you know, inspection  
10  could be moved out to perhaps ten years.

11                  COMMISSIONER GAW:  Okay.  If you think  
12  of anything else before you get out of here today,  
13  counsel can supply that.  We're dealing with this issue  
14  about when comments close, and that's what's worrying  
15  me about information that's not in the record, even  
16  though I think we had had discussions -- I think we're  
17  sort of limited within the parameters of what we have  
18  in here.

19                  MR. HERDEGEN:  Okay.

20                  COMMISSIONER GAW:  So to the extent that  
21  that's available, if you think of it or you can provide  
22  it, that's helpful.  The -- so in regard to the time  
23  frames that are listed in here, other than what you've  
24  already mentioned, how frequently -- or how does  
25  KCP&L's current inspection system intervals compare to



2 MR. HERDEGEN: I think, as some of the  
3 folks said, you don't necessarily inspect underground  
4 distribution facilities except to -- on an annual  
5 basis, make sure that, you know, the locks are in  
6 place, especially, you know, near schools that, you  
7 know, there -- people can't get into those. So those  
8 types of inspection programs happen already on an  
9 annual basis.

13 COMMISSIONER GAW: Okay.

24 COMMISSIONER GAW: Okay.

1 of things you do. That's what's happening with  
2 underground cable. So once you've got a program like  
3 that, there's not really much need for further  
4 inspection.

5 COMMISSIONER GAW: Okay. So --

6 MR. HERDEGEN: Because you have a game  
7 plan in place to take care of it.

8 COMMISSIONER GAW: That game plan would  
9 be a game plan that -- if I'm following you -- would  
10 involve more frequent inspection than what's provided  
11 here, or not?

12 MR. HERDEGEN: I'm not sure it's so much  
13 inspection as it is statistical analysis.

14 COMMISSIONER GAW: Okay.

15 MR. HERDEGEN: So for -- like we said  
16 about the cable, we know a particular type of cable and  
17 a certain vintage of cable is going to be -- is --  
18 we're seeing enough examples of it going bad, then you  
19 would probably want to come up with a game plan that  
20 either uses cable injection or cable replacement --

21 COMMISSIONER GAW: Yes.

22 MR. HERDEGEN: -- to go and have a very  
23 specific asset management program for cable. And  
24 that's -- and that's probably one of the things that we  
25 could do as part of our reporting requirement, is to

1 share the asset management program that we have with  
2 the Commission. What are the things that are typically  
3 problematic for the utility, and how are we addressing  
4 those things to prevent further outages --

5 COMMISSIONER GAW: Okay.

6 MR. HERDEGEN: -- to that piece of --  
7 that piece of equipment. Other than that, I would say  
8 that, you know, we have -- we have people that patrol  
9 every day. We have -- we have people that are  
10 responsible for, you know, walking the system as far as  
11 our tree trimming is required. So they pass by every  
12 pole every year.

13 You know, you get some of that data back  
14 immediately every year because of the work that you're  
15 doing, but I don't think that you would need the type  
16 of -- you know, the three and five years, I think,  
17 could be moved out a little more if you had some of  
18 these other things on the program.

19 COMMISSIONER GAW: Some of the other  
20 things meaning?

21 MR. HERDEGEN: The asset management  
22 programs.

23 COMMISSIONER GAW: Thank you.

24 MR. HERDEGEN: Uh-huh.

25 JUDGE DALE: Thank you, Mr. Herdegen.

1 MR. HERDEGEN: Thank you.

2 JUDGE DALE: Are there any other  
3 questions for any of the other KCP&L witnesses?

4 Ms. Vuylsteke?

5 MS. VUYLSTEKE: Judge, we have no  
6 comments on this rule.

7 JUDGE DALE: Okay.

8 MS. VUYLSTEKE: Thank you.

9 JUDGE DALE: Thank you.

10 Is there any other person in the room  
11 who would like to make comments on this rule?

12 Do any of the counsel have any other  
13 thing that I should address before we conclude the  
14 proceeding and go off the record?

15 Seeing nothing, then we are adjourned.

16 (THE HEARING WAS ADJOURNED.)

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## CERTIFICATE OF REPORTER

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Lisa M. Banks, CCR

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