

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

IN THE MATTER OF AQUILA, INC. D/B/A AQUILA
NETWORKS - L&P AND AQUILA NETWORKS - MPS TO
IMPLEMENT A GENERAL RATE INCREASE IN
ELECTRICITY

Case No. ER-2004-0034

FILED

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ON-THE-RECORD PRESENTATION

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BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS
HEARING
April 5, 2004
Jefferson City, Missouri
Volume 20

In the Matter of Aquila, Inc. d/b/a)Case No.
Aquila Networks - L&P and Aquila)ER-2004-0034
Networks - MPS, to Implement a General)
Rate Increase in Electricity.)

BEFORE:

KENNARD L. JONES,
REGULATORY LAW JUDGE.
STEVE GAW, Chair
CONNIE MURRAY,
ROBERT M. CLAYTON, III
COMMISSIONERS.

REPORTED BY:

TRACY L. THORPE, CSR, CCR
MIDWEST LITIGATION SERVICES

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

2 JUDGE JONES: This is the on-the-record
3 presentation for Case No. ER-2004-0034 in the matter of the
4 request of Aquila, Incorporated doing business as Aquila
5 Networks L&P to implement general rate increase in
6 electricity.

7 Let's see. My name is Kennard Jones. I am
8 the presiding judge over this matter. And although the
9 other two Commissioners may join us, seated to my left is
10 Commissioner Robert Clayton.

11 At this time, I'll take entries of appearance
12 beginning with Aquila.

13 MR. SWEARENGEN: Thank you, Judge. Let the
14 record show the appearance of James C. Swearngen and Janet
15 Wheeler; Brydon, Swearngen and England. Our address is 312
16 East Capitol Avenue, Jefferson City, Missouri appearing on
17 behalf of Aquila, Inc. Thank you.

18 JUDGE JONES: Thank you, Mr. Swearngen.
19 Staff of the Commission.

20 MR. WILLIAMS: Nathan Williams, PO Box 360,
21 Jefferson City, Missouri 65102.

22 JUDGE JONES: And the Office of Public
23 Counsel.

24 MR. COFFMAN: John B. Coffman appearing on
25 behalf of the Office of the Public Counsel, PO Box 2230,

1 Jefferson City, Missouri 65102.

2 JUDGE JONES: Sedalia Industrial Users' Energy
3 Association.

4 MR. CONRAD: I guess I got either the dead one
5 or the --

6 JUDGE JONES: It sounds like it's working.

7 MR. CONRAD: Is it working? Hello? Test.

8 Stuart W. Conrad for Sedalia Industrial Energy
9 Users' Association, law firm of Finnegan, Conrad and
10 Peterson, 3100 Broadway, Kansas City, Missouri.

11 JUDGE JONES: Thank you. And the Department
12 of Natural Resources.

13 MS. WOODS: Shelley Woods, assistant attorney
14 general appearing on behalf of the Missouri Department of
15 Natural Resources, Post Office Box 899, Jefferson City,
16 Missouri 65102.

17 JUDGE JONES: I spoke with Mr. Comley this
18 morning. He represents the City of Kansas City. I was told
19 by him that any questions regarding their portion of the
20 agreement can be addressed by Ms. Woods.

21 Ms. Woods, is that correct?

22 MS. WOODS: Yes, it is, your Honor.

23 JUDGE JONES: Thank you.

24 Are there any other attorneys present that
25 wish to enter an appearance today?

1 Seeing none, are there -- well, first, it was
2 brought to my attention we should probably take up the
3 matter of the remaining exhibits that have not been admitted
4 into the record. At this point, I will admit all the
5 remaining exhibits. Are there any objections to those
6 exhibits or concerns that we need to discuss? Mr. Williams?

7 MR. WILLIAMS: Judge, I think there have been
8 some exhibits that were marked that were never even offered.
9 If you're talking about the testimony and the schedules, I
10 don't have any problem with that, but during
11 cross-examination I recall one exhibit, in particular, that
12 was marked but not offered by the company.

13 JUDGE JONES: The testimony has been offered
14 and it is admitted. Any exhibits that have not been
15 offered, then they aren't admitted. Does anyone see any
16 problem with that here today?

17 All right. Well, with that then, I will see
18 if the remaining two Commissioners wish to join us. We'll
19 go off the record for a moment.

20 (Off the record.)

21 JUDGE JONES: First of all, I'd like to know
22 if there are any parties here who, in particular, want to
23 make an opening statement of some sort?

24 MR. SWEARENGEN: Judge, I think not. Thank
25 you.

1 JUDGE JONES: I don't understand what's so
2 funny, but at this time then we will move on to questions.
3 Chairman Gaw?

4 CHAIR GAW: Since no one wants to support the
5 Stip, Judge, maybe I don't have any questions. No. Let me
6 see. If I could, please, get some -- I want to have a --
7 first of all, an explanation of how this interim energy
8 charge is going to work. And I want to have someone explain
9 that to me better than what I can gather out of the written
10 material. So who is going to do that from Staff?

11 MR. WILLIAMS: I believe that would be James
12 Watkins.

13 JUDGE JONES: Will you please state your name
14 for the record, please.

15 THE WITNESS: James C. Watkins.
16 (Witness sworn.)

17 JUDGE JONES: Thank you. You may be seated,
18 Mr. Watkins.

19 JAMES WATKINS testified as follows:

20 QUESTIONS BY CHAIR GAW:

21 Q. Good morning, Mr. Watkins.

22 A. Good morning.

23 Q. Give me an overview, first of all, of how the
24 energy charge works.

25 A. Basically, there is a portion of the energy

1 costs that are in permanent rates and another portion that
2 are interim rates subject to refund. All of the fixed costs
3 are in the permanent rates. A portion of the variable costs
4 are also in the permanent rates.

5 Q. How were the fixed costs arrived at? Is there
6 a calculation of that? Is that as a result of Staff
7 believing that that is -- that there's certain amount of
8 fixed costs and you calculated it and that's the amount in
9 the Stip or is it something that's compromised that Staff
10 has come up and the parties have come up to an agreement on
11 the value without any basis of calculations?

12 A. The fixed costs were never an issue.

13 Q. All right.

14 A. Those are recorded in certain accounts and
15 identified as fixed costs.

16 Q. So those things have never been an issue. So
17 what kinds of things do you identify as fixed costs? When
18 you say "fixed costs," what does that mean?

19 A. A large category would be capacity payments
20 associated with purchased power or demand charges where
21 those amounts are fixed and then energy is priced on a
22 megawatt hour basis, depending on how much you buy.

23 The gas transportation costs, the
24 preponderance of those are fixed, they're capacity
25 reservation charges that do not depend on how much gas you

1 buy. Basically any of the costs in those accounts that
2 don't vary with -- with usage of the fuel.

3 Q. So there was never a dispute in this case as
4 to whether or not the fixed costs that were evident in the
5 test year were appropriate or not? Everyone has agreed from
6 the beginning of the case that those numbers were not only
7 just accurate mathematically, but that the costs were
8 prudently incurred?

9 A. Yes, that's the case.

10 Q. Okay. Does that include some sort of an
11 understanding or an agreement by Staff that Aquila's current
12 generation mix is appropriate?

13 A. I'm not sure I understand that question. We
14 do not rely on the booked amounts for the variable portion
15 of fuel costs.

16 Q. I'm just on fixed now.

17 A. On fixed.

18 Q. Just on fixed. If you don't know, you can
19 tell me somebody who might. And if I need to ask the
20 question in a different way, I can try to do that, if you
21 want.

22 A. Why don't you try asking it in a different way
23 first?

24 Q. I'm trying to understand whether Staff is in
25 agreement that from a resources standpoint, Aquila's current

1 generation mix and its use of choice -- its choices in
2 regard to use of generation during the test year were
3 appropriate and prudent.

4 A. I'm probably not the one to ask, but I don't
5 believe that we've made any adjustments.

6 Q. Who is the right person to ask that question?

7 A. I think that would probably be Steve Traxler.

8 Q. Is he here? Okay. I'll go on and then come
9 back to him later.

10 In regard to those costs that are not fixed,
11 the variable costs, tell me what those would include.

12 A. Primarily the cost of each of the fuels plus
13 any variable transportation costs, for example, the cost of
14 bringing coal in by rail.

15 Q. What else? Price of gas would be another one?

16 A. Certain -- yes, the cost of all the fuels
17 delivered to the generating plants, the gas, oil, coal.

18 Q. Okay. Anything else besides transportation
19 costs on coal?

20 A. I don't believe so. There's -- there are some
21 other costs, but I think we considered them to be fixed. In
22 the wintertime the coal's treated so that it doesn't freeze
23 up in the cars. And I believe we looked at that as a fixed
24 amount.

25 Q. Okay. All right. Are the variable costs

1 identified in Appendix A?

2 A. The specific variable costs?

3 Q. Yes. Or maybe you can just tell me where
4 they're identified for purposes of the Stipulation.

5 A. I don't believe that they're specifically
6 identified in great detail in the Stipulation. I believe
7 that that would be another question that Mr. Traxler would
8 be better able to answer.

9 Q. Mr. Traxler's going to appreciate you much
10 after you're finished.

11 A. That's the advantage of being first.

12 Q. Yes, it is. I'm writing myself a note.

13 All right. Did you prepare Appendix A? Who
14 prepared Appendix A?

15 A. For the most part, yes. The parties prepared
16 it.

17 Q. Okay. When you speak of variable costs
18 though, when you were doing your calculation, none of the
19 variable costs are figured into the regular rates in this
20 stip; is that correct?

21 A. No.

22 Q. It's not correct or --

23 A. That's not correct.

24 Q. Okay. What are the variable costs that are in
25 current rates -- in the rates that are proposed in the stip,

1 rather?

2 A. Let me approach that in this way.

3 Q. Okay.

4 A. The preponderance of the variable costs are
5 the costs of the fuel itself. What -- what the -- what the
6 basis for the amounts that are in permanent and interim
7 rates are are the results of fuel run, of generation
8 dispatch simulation model where the two runs are essentially
9 identical except for the price of gas and the associated
10 price of purchased power. The amount that was included in
11 permanent rates was based on a fuel run with a gas price of
12 \$3.50.

13 Q. \$3.50?

14 A. That's correct.

15 Q. Why was that number -- where did that number
16 come from?

17 A. I think it -- I hate to say it was pulled out
18 of the air, but it isn't really tied to anything. It was a
19 number the parties agreed to.

20 Q. So that's your base price on gas?

21 A. Well, that -- that's the -- that's the price
22 of gas that was used in the model run to determine the
23 amount of variable costs that would be included in permanent
24 rates.

25 Q. All right. So \$3.50 is the assumed amount in

1 the base rates?

2 A. That's correct.

3 Q. All right. How much is the assumed -- what
4 did you do with coal?

5 A. The price of -- the price of coal delivered
6 was also not an issue. So it's -- all of the fuels are in
7 there at the -- at the Staff's prices, but there wasn't any
8 disagreement, I don't believe, on any of the prices other
9 than for gas, natural gas.

10 Q. What I'm trying to understand is what part of
11 the variable costs are in base rates and what part of the
12 variable costs are not. So when I ask about coal, I'm
13 trying to understand what part of the coal -- fuel costs
14 coal are included in the base rates.

15 A. Okay. I believe that --

16 Q. What's the assumed amount?

17 A. I believe the appendix indicates the amount of
18 the variable costs that are in permanent and the amount of
19 variable costs that are in interim in the aggregate but not
20 by fuel.

21 Q. Who knows the answer to my question?

22 Mr. Traxler maybe? Maybe so.

23 A. I see him shaking his head.

24 Q. He seems to be. He seems to be.

25 A. He probably does have --

1 Q. All I can say is probably we're going to lock
2 the doors in here in a little bit so no one leaves after
3 you.

4 A. I believe that he has the results of those
5 runs --

6 Q. Okay.

7 A. -- in the aggregate.

8 Q. Okay. I'll ask him that question.

9 All right. So the concept is there's a base
10 amount that's put into rates. That's just built in to the
11 base rates. And then there are variable costs over and
12 above those that were included in the base rates which are
13 in the interim energy charge --

14 A. That's correct.

15 Q. -- correct?

16 Okay. And then there is an assumption as to
17 what that is likely to be over the course of the interim
18 energy charge's existence and that results in a certain
19 amount that the consumers are going to pay in subject to
20 true-up. Am I correct in that or not?

21 A. I think basically. I don't -- I don't think
22 that there's a presumption on the part of any of the parties
23 that they know what gas prices are going to do over that
24 period.

25 Q. But there is --

1 A. But there is --

2 Q. -- there's an assumption, an assumed amount to
3 calculate the charge. Correct?

4 A. That's correct.

5 Q. What is that assumed amount and the breakdown
6 for that? Would Mr. Traxler have that information too?

7 A. I believe that's also identified, but I -- he
8 would know. I think it's the 5.64.

9 Q. Okay. But that's not broken down into fuel
10 type, of course. That's not broken down. That number is a
11 cumulative number?

12 A. Yes. There was a run based on gas prices at
13 \$5.64 that gave a total. And the difference between that
14 and the previous run at \$3.50 for gas prices was what's in
15 the interim energy charge.

16 Q. And it's subject to true-up. Correct?

17 A. True-up and refund with interest.

18 Q. Yeah. But it is not subject to something
19 where additional monies might be owed by consumers --

20 A. That's correct.

21 Q. -- if the --

22 A. That's --

23 Q. -- if the assumption is too low?

24 A. No. If the assumption is too low, consumers
25 are not going to pay more.

1 Q. On page 5 of the Appendix A -- do you have
2 that in front of you?

3 A. I believe so, although the version I have
4 doesn't have any page numbers on it.

5 Q. Okay. There's certain sub i categories under
6 paragraph -- looks like paragraph 6, sub B and then there
7 are i, little ii, little iii.

8 A. Uh-huh.

9 Q. This is just for purposes of clarification for
10 me. Under the iii heading, there's a -- where it says A is
11 the trued-up IEC of the residential class and then under --
12 and then it says E is the trued-up IEC of the residential
13 class, is there something different between A and E? I'm
14 just trying to understand why that was done that way or if
15 it's missing something. Do you see where I'm referring to?

16 A. Yes. I'll have to think -- think my way
17 through this formula. I believe that those two things are
18 identical.

19 Q. Okay. So I could have called E A, in other
20 words?

21 A. Yes. I think we may have gotten carried away
22 with our letters.

23 Q. I just wanted to make sure there wasn't
24 something left out of there that would have made them
25 different. That's the reason I'm asking.

1 Okay. Can you tell me just in general what
2 those formulas under those sub i's are designed to produce?
3 I'm just having a little difficulty following the formula
4 from a logic standpoint. If you could give me just a basic
5 understanding of what those formulas are designed to do,
6 that would help.

7 A. The overview of what they're designed to do is
8 to allow us to compare the portion of the variable costs
9 that were paid by each class with the IEC to their share of
10 the actual costs that were incurred so that we could
11 calculate the refund.

12 Q. Have you all used this formula before in other
13 cases, these formulas?

14 A. No. The -- the design of the rate is more
15 complicated in this case than, for example, in the Empire
16 case.

17 Q. That's where I was going, to see what the
18 difference was and how this formula worked in comparison to
19 what was in effect at Empire.

20 A. In Empire the IEC rate was the same cents per
21 kilowatt hour for each class. This varies between the
22 different classes.

23 Q. I see. Why is that? From a policy
24 standpoint, why was that done?

25 A. I -- I can give you two answers. One is it's

1 what everybody agreed to. And I can give you --

2 Q. I understand that.

3 A. -- my -- my view.

4 Q. Give me the other part.

5 A. I can give me my view about why that is.

6 Q. Okay.

7 A. That when -- when you -- when you look at the
8 hourly fuel costs over a whole year and you match those up
9 with hourly class loads, if you calculate the average for
10 each class, those classes that are relatively high energy
11 users that have high load factors, even if they pay the same
12 price in every hour, will end up with a lower average cost
13 than those classes that have less energy usage, lower load
14 factors.

15 And that's because of the proportion of the --
16 proportion of the usage that's on peak relative to the
17 proportion that's off peak. So you'll typically see that
18 the -- the energy charges for the residential, small
19 commercial classes are higher than they are for the large
20 power, large primary classes. And that's because of the
21 percentage of the user that's on peak versus off peak.

22 The rate design that we've implemented for
23 this IEC has that same characteristic, that the average
24 price is lower for the high load factor, high energy
25 consumers than for the other classes.

1 Q. Are the amounts that the different classes are
2 going to be charged reflective of the usage patterns that
3 Staff has observed for Aquila and those residential classes
4 that Aquila serves -- and those classes that Aquila serves,
5 not just residential? Excuse me.

6 A. I -- again, I have to have -- give you two
7 answers.

8 Q. Okay.

9 A. Based on our past experience, those are
10 representative of Aquila. There is a rate design docket
11 where we will calculate those hourly fuel costs and look at
12 the hourly loads for each class and determine precisely what
13 we think those are in order to recommend to you any
14 adjustments in the permanent rates.

15 Q. How does that fit into this case?

16 A. Well, it's a separate case, but it's -- it's
17 next on the list. It's been out there a while. They've
18 been developing -- the company has been developing the
19 research data to estimate the hourly class loads. They've,
20 of course, put together their cost of service as have all
21 the other parties for the purposes of this rate case. We
22 hope we can use all of that for the rate design case.

23 Q. Is that other case referred to in this
24 Stipulation?

25 A. I don't believe it is.

1 Q. And --

2 A. Well, it's referred to in the Stipulation
3 regarding rate design, which is a separate agreement that
4 was earlier.

5 Q. I guess what I'm asking is whether or not this
6 interim energy charge will be calculated at some point based
7 upon those additional findings in the other case that you
8 referred to?

9 A. No, it will not.

10 Q. Okay. So that's something that in the future
11 might have some impact, but it doesn't have any impact on
12 this interim energy charge calculation?

13 A. It will not have an impact on the interim
14 energy charge calculation. It could presumably have an
15 effect on the permanent rates. Those cases generally tend
16 to take a long time and the interim energy charge --

17 Q. When you say could have an impact on the
18 permanent rate, but not in this rate case?

19 A. Not in this rate case, no.

20 Q. That's what I'm trying to clarify.

21 A. No. This would be going forward at some point
22 in the fairly distant future.

23 Q. All right. In paragraph 7 of the -- make sure
24 I'm still on my Appendix A. Yeah, the appendix. Paragraph
25 7 of the Appendix A it talks in terms of the interest rate.

1 Did you have anything to do with that interest rate for
2 any --

3 A. Yes.

4 Q. -- amounts that --

5 A. Yes.

6 Q. -- are returned on the IEC?

7 It says that the interest rate will be the
8 same as prime rate of interest; is that correct?

9 A. Uh-huh.

10 Q. Does Aquila have access to interest at prime
11 under its current conditions?

12 A. Now, I don't know the answer to that.

13 Q. Who would know the answer to that one, if you
14 know?

15 A. I don't know.

16 Q. Okay. Someone can answer that for me, I'm
17 sure.

18 Purchased power is not included in the
19 variable costs; is that correct? Not included in the
20 interim energy charge?

21 A. Yes, it is.

22 Q. It is included?

23 A. Yes.

24 Q. How does that work? Take me through that
25 concept.

1 A. It's -- the -- the fuel run basically
2 simulates both generation and purchases to serve native
3 load. So all of the fuel costs and variable purchased power
4 costs are included in the fuel run. The only portion that
5 would not be is purchases for resale off -- on interchange.

6 Q. Was a portion of -- was there an assumption
7 about purchased power values that were built into the base
8 rates as well?

9 A. Yes.

10 Q. Do you know what that assumption was?

11 A. I know that the assumptions differed between
12 the -- what was in the base rates and what was in the rates
13 that included both the base and the interim. The -- because
14 they were adjusted for some relationship to the price of
15 gas. So I know that the purchased power prices were higher
16 in the run that had higher gas costs, but I'm not the person
17 to answer the --

18 Q. Is Mr. Traxler --

19 A. -- details.

20 Q. -- the person? I don't see anybody nodding
21 their head back there this time.

22 A. If it's -- if it's details about the fuel run,
23 I'm sure we'll find somebody for you.

24 Q. Okay. I'll let you all do that. I'll just
25 hold off on --

1 A. Actually, I see Mr. Elliott in the back of the
2 room. He's probably the one that could answer those.

3 CHAIR GAW: All right. I think I'm going to
4 stop right now, Judge, with this witness. Maybe somebody
5 else wants to ask him some questions. I'll go on to
6 somebody else.

7 JUDGE JONES: Commissioner Murray?

8 COMMISSIONER MURRAY: I don't believe I have
9 any questions for this witness. Thank you, Judge.

10 JUDGE JONES: Okay. Commissioner Clayton?

11 Very well. You may step down then,

12 Mr. Watkins.

13 In this case, it would probably be best to go
14 right on to Mr. Traxler, see if he can answer some
15 questions. We will do some -- Mr. Traxler.

16 MR. WILLIAMS: I would also advise the
17 Commission that Mr. Traxler's available on some other
18 issues, tax, pension.

19 MR. CONRAD: Judge, while he's coming to the
20 stand, let me just quickly correct -- I think I had omitted
21 on my entry of appearance Ag Processing and I should have
22 included them. I apologize.

23 JUDGE JONES: Thank you, Mr. Conrad.

24 (Witness sworn.)

25 JUDGE JONES: Will you please state your name

1 for the record?

2 THE WITNESS: My name is Steve M. Traxler.

3 JUDGE JONES: Thank you, sir.

4 Chairman Gaw, you had questions for
5 Mr. Traxler.

6 CHAIR GAW: Thank you.

7 STEVE TRAXLER testified as follows:

8 QUESTIONS BY CHAIR GAW:

9 Q. Mr. Traxler, I don't know if you want to dive
10 into some questions I had earlier or do you want me to go
11 back and kind of filter what I was asking?

12 A. There were quite a few. I'd probably prefer
13 that you restate your questions.

14 Q. Give me some idea about the costs of natural
15 gas that are built into the base rates, first of all.

16 A. Well, the agreement between the parties on the
17 base cost of gas was \$3.50.

18 Q. All right. And that was a figure that I heard
19 earlier. And where did that figure come from? Is there
20 any --

21 A. It's basically an agreement between the
22 parties in terms of what range that was intended by the IEC
23 to protect the company and the customers for the volatility
24 of gas prices. And that range is between 3.50 at the low
25 end and 5.14 at the high end.

1 Q. And so is there a range of volatility. So
2 when you go between 3.50 -- the base rates assume a 3.50
3 value --

4 A. That's correct.

5 Q. -- is that correct?

6 Okay. So then if I jump into my interim
7 energy charge, what happens then with the assumptions about
8 the natural gas costs?

9 A. Well, basically what happens is that the --
10 the amounts subject to refund is a difference between 3.50
11 and 5.14.

12 Q. So the --

13 A. The 3.50, to put that in perspective --

14 Q. Let me interrupt real quick here.

15 A. Okay. Go ahead.

16 Q. So the amount that the interim energy charge
17 is based upon is that difference between the base amount
18 3.50 and a maximum amount of \$5.14?

19 A. That's correct.

20 Q. All right. Okay. Go ahead. I'm sorry.

21 A. To put the 3.50 in perspective, the Staff's
22 filed case assumed an approximate cost of \$4 an MCF. Now,
23 the fact that we're sitting at 3.50 is a benefit on the
24 consumers' side, if you will. The lower the price is on the
25 IEC, the more protection the consumer has with regard to

1 this particular proposal.

2 Q. Okay. I understand. All right. So what will
3 happen on the energy interim energy charge with the
4 assumption is that if gas is over \$5.14, then it's exceeding
5 the maximum that was assumed under the charge; is that
6 correct?

7 A. That's correct. The company would assume all
8 responsibility for anything above 5.14.

9 Q. If gas drops below \$3.50, then I guess that
10 the consumer doesn't get anything back?

11 A. That's correct. It has to go before -- below
12 3.50 before the company would benefit from a lower gas
13 price.

14 Q. Now, help me out with this concept, because I
15 don't know how this calculation is put together. You've got
16 a whole lot of different fuel elements that have to go in to
17 account for the assumptions that you make in producing
18 these -- producing the interim charge.

19 How do you -- when you're looking at this in
20 retrospect after the -- for purposes of true-up, how do you
21 make those calculations? Are you assuming a certain volume
22 of gas usage in conjunction with coal usage and purchased
23 power?

24 A. Well --

25 Q. How does that work? Just very generally

1 first.

2 A. With regard to the other elements and with
3 regard to the specific --

4 Q. And I'll get to the prices on those in a
5 little bit too, but I'm just wanting to see how that all
6 gets put together.

7 A. With regard to the other elements, with regard
8 to the cost of oil, the cost of coal generation, both sides
9 are running along, you're assuming that the generation is
10 done on a least cost basis. Those costs are in the base
11 rate. They're not subject to refund, they don't have any
12 impact in terms of determining what the overall refund will
13 be based upon.

14 Q. Okay.

15 A. Now, the very specifics of the way this thing
16 is going to be audited for true-up is a question better
17 suited for Mr. Watkins. But basically that's something that
18 the parties agreed to and I wasn't privy to in terms of how
19 they plan to audit, you know, the actual transaction.

20 Q. So I need to talk to Mr. Watkins about that
21 general makeup of --

22 A. More specific in terms of how you determine
23 the amount at the true-up.

24 Q. My questions to you would relate to what that
25 amount is per fuel then would be more appropriate for you?

1 A. Yes. In general, yes.

2 Q. Okay. If you can add something as we're going
3 along here on the fringes of what I ask you, please do it.
4 Okay?

5 A. Sure.

6 Q. What was the assumption for coal?

7 A. The assumption for coal, there's no an
8 disagreement between the Staff and company. The company
9 accepted the Staff's position on that for purposes of
10 running a fuel model.

11 Q. All right. Do you know what that amount was?

12 A. In terms of?

13 Q. The cost amount.

14 A. You'd have to -- we can get that for you.
15 You'd have to go do that on a unit-by-unit basis. Each
16 major generating station has a separate coal contract.

17 Q. Okay. That's fair. What --

18 A. But the amounts are generally based on the
19 actual contract.

20 Q. I guess what I'm looking for is was there --
21 is any part of the fuel cost of coal in the interim energy
22 charge?

23 A. No. The fuel costs for coal are all part of
24 the base cost --

25 Q. All right.

1 A. -- if you will, the base revenue requirements.
2 Those are all in the revenue requirements for the base case.

3 Q. Okay. So there's no coal in the interim
4 energy charge except for transportation?

5 A. Well, the transportation he was referring to
6 was related strictly to gas transportation. So all of the
7 transportation costs for coal normally referred to as
8 freight costs are buried in the base case or in the base
9 case.

10 Q. They are?

11 A. Yes, they are.

12 Q. That's different than what I heard from him
13 awhile ago.

14 A. He was correct. He was talking about
15 transportation costs for gas on the pipeline.

16 Q. He mentioned rail transportation, I thought.

17 A. Those costs are part of the base case fuel
18 cost, as I understand it.

19 Q. Okay. Somebody needs to get that straightened
20 out for me so I know which it is before we get done.

21 A. Sure.

22 Q. Because I'm hearing two different things and
23 maybe it's just me, but I don't know.

24 Okay. So as far as you know, all of coal is
25 in the base rate?

1 A. That's correct.

2 Q. All right. And then what about purchased
3 power? How much of that -- what of that is in base and what
4 of it is in --

5 A. As I understand, there's an impact on the
6 purchased power energy costs related to gas. The gas costs
7 assumption affects the purchased power energy cost. And the
8 Staff, as I understand it -- Mr. Elliott can be more
9 specific, but the Staff's -- the base case assumes the
10 Staff's purchased power energy cost and the ceiling for the
11 IEC assumed the company's assumption for purchased power
12 energy cost.

13 Q. Okay.

14 A. And a big difference between the two was
15 driven by the gas cost assumption.

16 Q. Okay. So do you know what that amount is in
17 the base rate?

18 A. The approximate cost per megawatt hour was
19 about \$31 per megawatt hour in the Staff's case, as I
20 recall.

21 Q. Say that again. How much?

22 A. Thirty-one dollars per megawatt hour, as I
23 recall.

24 Q. Thirty-one dollars?

25 A. Our witness on that was Mr. Bender. The

1 approximate cost for the company was about \$38 a megawatt
2 hour, as I recall.

3 Q. So \$7 is in the interim energy charge?

4 A. I think that's correct. And Mr. Bender or
5 Mr. Elliott, if those numbers are not completely correct --

6 Q. I'll let counsel sort that out with me for the
7 witnesses rather than try to do that myself. He can talk to
8 me and give me a different -- give me different information
9 if it's different than that.

10 A. Sure.

11 Q. Am I leaving out any other fuel source that
12 was used in the calculation other than gas?

13 A. That represents the difference between the IEC
14 and the base --

15 Q. Yes.

16 A. -- that's your question?

17 Q. Yes.

18 A. No.

19 Q. Okay. Does Aquila have any other generation
20 other than gas or coal?

21 A. Yes, they have oil.

22 Q. Oil. And oil was built into it?

23 A. Yes, it was.

24 Q. Was that all -- is that all in base?

25 A. That's in base, like coal.

1 Q. Like coal. Okay. And what about
2 transportation of oil?

3 A. All costs related to coal and oil are included
4 in your base cost.

5 Q. All right. I thought that's what you were
6 saying. I wanted to make sure I was following you.

7 CHAIR GAW: Okay. Let me ask Staff's
8 attorney. It seems like that you're creating some potential
9 for there to be a portion of the interim energy charge to at
10 least potentially create a situation where the company has
11 the ability to choose gas over coal and -- up to \$5.14
12 because they can recover -- it's being recovered.

13 I guess what I'm looking for is help me to
14 understand the dynamics of the incentives that exist when
15 the gas is the only fuel that's really put into the interim
16 energy charge, if any.

17 With all of the coal -- with coal and oil all
18 being placed into the base rates and none of it into the
19 interim energy charge, does that create any incentives to
20 use one fuel over another even though the other fuel may be
21 actually cheaper at the time?

22 MR. WILLIAMS: Well, from what I understand,
23 there are different fuels used for different types of load
24 demands. You're going to have base load, which is going to
25 be coal primarily, which is a cheaper fuel source.

1 CHAIR GAW: I understand that. What I'm
2 looking for is whether or not this mechanism creates any
3 incentive to utilize a fuel that is not the least cost at
4 the time that it was utilized. And what I'm really after
5 is, is this Stipulation -- does this Stipulation create any
6 agreements in regard to prudence review as to fuel choice or
7 what is all prudence review continued in the case just as it
8 always would be?

9 MR. WILLIAMS: I'm going to need to confer on
10 that because I was not the attorney that was involved in the
11 negotiations in the --

12 MR. SWEARENGEN: Could I speak to that?

13 CHAIR GAW: Yeah. I'm not trying to cut you
14 all off. I was going to get around to you.

15 MR. SWEARENGEN: I think that's addressed in
16 paragraph 4 of Appendix A.

17 CHAIR GAW: There we go.

18 MR. SWEARENGEN: Particularly the last
19 sentence where it speaks in terms of the -- in the context
20 of the IEC audit, a determination is made concerning
21 Aquila's actual and prudently incurred variable costs for
22 fuel and purchased power.

23 CHAIR GAW: Okay. So Aquila is agreeing that
24 prudence review would be done of all of these -- of these
25 generation burns --

1 MR. SWEARENGEN: Yes.

2 CHAIR GAW: -- after the fact?

3 MR. SWEARENGEN: Consistent with that
4 document.

5 CHAIR GAW: Public Counsel?

6 MR. COFFMAN: Yes. I would agree with that.
7 I think any concern about proper fuel mix would be part of a
8 potential prudence review at the end of the two-year
9 true-up.

10 I think that it's also relevant to look at the
11 paragraph just preceding paragraph 5 there, which discussed
12 what will be -- what the variable fuel and purchased power
13 costs are based on. I mean, there is an assumption about
14 what the natural gas price is in the base charge, but that
15 doesn't mean that all fuel costs would not be audited and
16 reviewed.

17 CHAIR GAW: Okay. It is important to me to
18 understand that that prudence review would continue.

19 MR. COFFMAN: And despite statements made
20 earlier, just so you understand my understanding of this
21 settlement and Stipulation, there is no agreement as to, you
22 know, prudence or reasonableness necessarily underlying this
23 settlement. The settlement is an overall reasonable
24 settlement. No one is acquiescing as to any particular
25 issue relating to what the generation mix is or what a

1 particular price is.

2 If you recall, there were recommendations on
3 natural gas price that were at various levels. We were
4 recommending a \$4 gas price and so there -- it's not my
5 understanding that there is any agreement that what is in
6 the base rate is a prudent price, per se, but just that
7 overall, this interim energy charge approach is a fair
8 settlement overall.

9 CHAIR GAW: And really what I'm asking about
10 in regard to prudence is this selection of -- at the time
11 that the company is making a selection of whether or not to
12 utilize its generation, its coal generation unit to buy
13 power on the market or to use gas turbine, all of those
14 things would be reviewed after the fact just like they would
15 be normally. There's nothing that this agreement changes in
16 regard to that prudence review. That's what I'm asking
17 about.

18 MR. COFFMAN: Yes. I think that is correct.
19 And I think that any perverse incentive that you might be
20 familiar with with regard to, say, a fuel adjustment clause
21 that is used in some states is not going to be present with
22 an interim energy charge, or at least it's not going to be
23 near as great, in my opinion.

24 MR. CONRAD: Commissioner, again, I'm not -- I
25 guess this is on.

1 CHAIR GAW: Go ahead, Mr. Conrad.

2 MR. CONRAD: I would concur respectively with
3 Mr. Coffman's comment. And add to that that as I'm
4 understanding the sense of your question and, thus, your
5 concern, what you might characterize as a perverse incentive
6 to substitute one fuel for another, it is, in effect, I
7 think addressed by focusing rather than -- although you're
8 inquiring, and properly so, as to the set of assumptions
9 that underlie this, the IEC is its -- is not explicit in
10 those set of assumptions. It is instead based on a cents
11 per megawatt hour.

12 And that being the target, at least in our
13 view, that tends to neutralize the perverse incentive that
14 you're sensing or that you're expressing concern about.
15 Because it focuses attention on what the lowest -- what I
16 would call bus bar cost is and focuses on that as a result
17 rather than the specific inputs, if you understand my -- the
18 distinction I'm trying to make.

19 CHAIR GAW: I understand what you're saying.
20 And it goes back to my question about how the calculation
21 will be done on the true-up. And when I get that answered,
22 it will help me to understand how this mechanism works and
23 what incentives it creates or doesn't create.

24 MR. CONRAD: And, Commissioner, I would
25 certainly confess to you that I'm trying to think of the

1 name of the program both company and Staff use to do what
2 Mr. Watkins was characterizing as a fuel run.

3 CHAIR GAW: Yes, sir.

4 MR. CONRAD: But it's -- I haven't looked
5 under the hood of that and don't -- and, frankly, don't want
6 to, but you can -- you can sense from I think this
7 discussion that it's an iterative type process because it's
8 kind of a simultaneous equation.

9 CHAIR GAW: My main goal here is to make sure
10 that everyone understands what that system will be so when
11 we're back to that portion of it, that we won't be having as
12 many disagreements about how to calculate it. So that's
13 part of the reason I'm taking so much time on this. Thank
14 you, Mr. Conrad.

15 BY CHAIR GAW:

16 Q. Mr. Traxler, I can't remember when I asked
17 earlier about the interest rates, whether or not you had any
18 information on that or not.

19 A. If I understood your question, I believe that
20 the answer to the question was the fact that the rate
21 assumption is the rate to be used for refunding to customers
22 and doesn't equate to what Aquila's current borrowing rate
23 is.

24 Q. It doesn't seem to, but I guess what I'm
25 trying to see is whether or not this money is available at a

1 rate that they -- under the interim energy charge that they
2 could acquire if they had to go -- if they were going to go
3 borrow it.

4 A. It's -- in answer to your question, the
5 company, because of its financial condition, at this point
6 cannot borrow at the prime rate.

7 Q. That's what I understood.

8 A. It was an assumption that was assumed to be
9 fair to the ratepayer with regard to a refunding provision.

10 Q. Does it create an incentive -- I guess it
11 doesn't. The interim energy charge is fixed, isn't it?
12 Fixed subject to refund?

13 A. Yes, it is. I don't think there's any
14 incentive that arises because of the assumption for the --
15 you know, for the interest rate. We just have to make sure
16 that that's a fair rate to be provided for the refund --
17 money to the ratepayer, if that's the case.

18 Q. The protections that you built in -- that the
19 parties have built in to ensure that the company will be in
20 a position to refund the money include certain -- there's
21 certain things that I think I read in here. They have to
22 post a bond or something or what I did read in --
23 Mr. Coffman?

24 MR. COFFMAN: Pages 8 and 9.

25 CHAIR GAW: Of the Stip?

1 MR. COFFMAN: The last paragraph on Appendix A
2 on page 9 there is some guarantee or assurance.

3 CHAIR GAW: How is that going to work?

4 MR. COFFMAN: I'm not sure if the company has
5 specified exactly what approach they're going to use, but
6 there's a condition that --

7 CHAIR GAW: Can Aquila maybe shed some light
8 on that part?

9 MR. SWEARENGEN: Yes, Judge, I'll try to. The
10 way I understood what we've agreed to is that in the event a
11 situation arises where there's some question as to the
12 ability of the company to make these refunds in the event
13 Aquila either becomes insolvent or reorganizes in some
14 fashion, we would do something in the nature of either
15 posting a bond or entering into an escrow agreement or what
16 have you that would be agreeable with the parties to the
17 proceeding to ensure that we could do that.

18 CHAIR GAW: I'm not sure I'm tracking with
19 you, but I think it's me, not you. Is Aquila going to get a
20 bond to guarantee the amounts -- the amounts that they
21 collect under the interim energy charge?

22 MR. SWEARENGEN: We will either do that or
23 enter into an escrow arrangement or if there's some other
24 possibility that we haven't thought of that would be
25 agreeable to the parties.

1 CHAIR GAW: And that's going to be signed off
2 on later by the parties?

3 MR. SWEARENGEN: That would be -- that's true.

4 CHAIR GAW: Okay. Okay. I'm not sure how you
5 would do that with an escrow, but -- you're going to
6 actually incur the costs as you're going along. I don't
7 know -- maybe somebody has an idea how that would okay on
8 escrow. I understand on a bond how it would work. It's the
9 escrow part I'm not sure about.

10 MR. WILLIAMS: Chair, we were wanting to have
11 an assurance that the funds would be available immediately
12 in the event the company were to do something like be put
13 into a bankruptcy so that they wouldn't be tied up by the
14 bankruptcy trustee.

15 CHAIR GAW: I understand why you're trying to
16 do it. That part I understand. It's trying to track how
17 these other mechanisms would actually provide protection
18 that I'm not sure I'm following. I understand the bond.

19 MR. WILLIAMS: The thought was a third party
20 escrow where the money would be put with an independent
21 third party so that it was no longer under Aquila's control.

22 CHAIR GAW: I understand. But won't the money
23 already be spent? I mean, they're collecting this money to
24 used for energy purchases and fuel. Won't the money be
25 gone? That's what I'm trying to understand. I guess if you

1 put it -- unless somebody is just tracking it on a daily
2 basis to ensure -- I don't know.

3 MR. SWEARENGEN: It is tracked monthly, Judge.
4 My understanding is it's tracked monthly. Mr. Watkins can
5 probably speak to this.

6 MR. WILLIAMS: And I would --

7 CHAIR GAW: I just encourage you all to make
8 sure you do whatever you need to to put adequate protections
9 in to ensure that if there is any over-collection later on,
10 that the money will be there. I know you'll do that, but
11 just --

12 MR. COFFMAN: It was our understanding that
13 this agreement does require some assurance to be made that
14 the monies will remain unencumbered now, not that that
15 assurance would be provided in the event they become
16 insolvent, but that it --

17 CHAIR GAW: And I'm not --

18 MR. COFFMAN: -- happens now in case --

19 CHAIR GAW: I think that's very important.
20 I'm going one step farther in dealing with money that's
21 actually spent but that is later determined to not -- to
22 have been spent either in violation of the agreement or
23 something that would require money to be refunded back that
24 has -- was no longer there. So whatever needs to be done
25 with that, I'm sure you all -- if you all have to sign off

1 on it, I'll leave it to you to look through the details.

2 BY CHAIR GAW:

3 Q. Mr. Traxler, who did you say would have
4 information about the assumptions that were made with these
5 fuel mixes and calculating the total amount of the mix; in
6 other words, how much was coal, how much was oil and gas?
7 Who has that?

8 A. That would be Mr. Elliott.

9 Q. And is he here? Oh, yeah. He's hiding behind
10 the pole.

11 CHAIR GAW: I think I'm done asking
12 Mr. Traxler questions for the moment. Maybe someone else --

13 JUDGE JONES: Commissioner Murray, do you have
14 questions of Mr. Traxler?

15 COMMISSIONER MURRAY: What were all of your
16 issues?

17 CHAIR GAW: Oh, that's right. Thank you.

18 COMMISSIONER MURRAY: What were all of the
19 issues that you covered?

20 THE WITNESS: Oh, the issues that I'm
21 responsible for?

22 COMMISSIONER MURRAY: Yes.

23 THE WITNESS: With regard to the Stipulation
24 and Agreement, I would be answering questions with regard to
25 the discussion of the income tax area and pensions and any

1 general revenue requirement reconciliation questions, if you
2 will.

3 COMMISSIONER MURRAY: I have no questions
4 then. Thank you.

5 JUDGE JONES: Commissioner Clayton?

6 COMMISSIONER CLAYTON: Thank you.

7 QUESTIONS BY COMMISSIONER CLAYTON:

8 Q. Mr. Traxler, regarding pensions, can we talk
9 about that just for a second?

10 A. Sure.

11 Q. The last several cases -- rate cases that we
12 have had have involved a dispute on pension expense
13 generally between ERISA minimums and the FAS 87. Is that a
14 fair statement, to the best of your knowledge?

15 A. That is correct.

16 Q. Okay. Would you describe to me exactly what
17 is going on here? It appears that the agreement in rates in
18 the revenue requirement is for the ERISA minimum, but
19 there's also an amortization. So if you would explain to me
20 what the agreement is in paragraph 16, I'd appreciate it.

21 A. Yes, sir. There's actually three things going
22 on with regard to settlement and pensions. One of them is a
23 change from determining pension costs for rate-making
24 purposes as you describe from a FAS B 87 approach to an
25 ERISA minimum approach.

1 Secondly, there is an amortization included
2 for the existing prepaid pension asset which is accrued
3 between the date the company was first -- that FAS B 87 was
4 first adopted for rate-making purposes in the company and
5 the true-up date in this case which is September 30th,
6 1993 -- I mean 2003. And I'll explain why that occurs and
7 why that's necessary.

8 And the last agreement in the Stipulation is
9 an agreement between the parties to track the actual ERISA
10 minimum contributions made by the company from the effective
11 date of rates in this case until their next rate case to
12 ensure that any difference between what we've allowed in
13 rates for this case and what they actually have to -- are
14 required to fund under ERISA regulations is accounted for to
15 the extent -- with regard to that provision, to the extent
16 that they have to contribute more required under law, that
17 amount would be accumulated in a regulatory asset and then
18 amortized in the next rate case over five years.

19 If they contribute less than what's been
20 allowed in this case, that's a regulatory liability which
21 would be flowed back to customers in the next rate case over
22 a five-year period.

23 The reason for this concern, and it's kind of
24 a unique tracking mechanism, is the fact that I'm sure
25 you're aware that the pension funds around the country,

1 including utility pension funds, have been so negatively
2 affected by the reduction in the equity value of the assets
3 of the fund.

4 And there's -- certainly the expert
5 information that I've read is that there could be a very
6 delayed effect in terms of these ERISA contributions could
7 be significant over the next three or four years to make up
8 this difference and we're not seeing this full impact yet.
9 So we want to make sure that the company recovers its
10 required pension funding to adequately fund the
11 plan. That's the reason for the tracking.

12 Now, with regard to your specific question on
13 the asset, what the asset represents, under FAS B 87, under
14 a well-funded plan, you can actually end up with a negative
15 pension cost. And the reason that occurs is -- the three
16 primarily components of pension costs are your accrued
17 benefits in a given year earned by the employees, the
18 interest cost assumption on the liability --

19 Q. Can I stop you right there? Would those be
20 considered a liability, the first thing you just said there,
21 the earned benefits --

22 A. Sure.

23 Q. -- of the employees?

24 A. That's all part of the accrued liability, yes.

25 Q. Okay.

1 A. The interest cost assumption, which is time
2 value of money assumption within the calculation. And then
3 the one that can drive pension costs negative is the fact
4 that the assumption is that there is no pension cost for
5 those two items I just mentioned if the fund -- the earnings
6 on the fund -- funded assets is significant -- is adequate
7 enough to cover those costs.

8 In a well-funded plan, it's possible for the
9 earnings -- annual earnings on the fund to exceed your
10 interest costs and service costs resulting in a negative
11 number.

12 Now, under FAS B 87 we have flowed back to
13 customers these negative costs. Even though the company
14 cannot get this excess funding out of the plan by law, but
15 this negative cost has been flowed back to rates, that's
16 what this prepaid pension asset represents.

17 And when you switch -- the general assumption
18 is -- from a rate-making perspective when we went into
19 this -- when we first adopted FAS B 87, this should be a
20 temporary time difference. It represents the difference
21 between funding the plan and the accrued cost under GAAP
22 accounting. Those two over time should equalize because
23 we're talking about the same pension liability.

24 But when you've got a well -- as a practical
25 matter, when you've got a very well-funded plan, if that

1 doesn't change, you're going to continually end up with a
2 negative pension cost, which is an unreasonable assumption
3 for any cost to be negative over a -- over a permanent time
4 frame, if you will.

5 So the -- when you switch from FAS B 87 to
6 ERISA, requires that the company be compensated for these
7 negative costs that have been flowed back in rates in prior
8 years. In effect, what it does is during those years when
9 the company had a negative cost, was flowed back to the
10 rates, this amortization really put them at zero cost. It
11 restates pension costs to zero basically for those years is
12 what we're doing.

13 Q. There is a point in the future when costs --
14 or the required contributions into the pension plans is
15 expected to go up significantly, isn't there?

16 A. Well, there's certainly a --

17 Q. Under assumptions right now it's at some point
18 in the future, isn't it?

19 A. Well, the company certainly had to make
20 significant pension contributions. Within our current test
21 year, it had to be considered for purposes of setting rates
22 in this case. And the -- it's likely, based on what
23 we've -- what I've read that those pension contributions
24 could even be higher from a time frame between now when the
25 rates are set and their next rate case. And that's what

1 we're trying to protect.

2 Q. Going backwards in the last rate case, what
3 method was used?

4 A. Up until the last case, FAS B 87 was used for
5 this company -- up until this case. Since -- let's see.
6 I'm trying to remember the actual dates. I think FAS B 87
7 was adopted in 1997 for this company for the MPS division.

8 Q. Under FAS B 87, there is no -- for lack of a
9 better term, there's no true-up or there's no amortization
10 of a difference like there would be in this agreement.

11 Correct?

12 A. There's an amortization within FAS B 87 that's
13 a component of FAS B 87 for the difference between estimated
14 results and actual results. When you determine FAS B 87,
15 you use an expected rate of return, if will you, on the
16 funded assets.

17 Any difference between that expected rate of
18 return and the actual earned return, either plus or minus,
19 is called a gain or a loss, which is amortized, which under
20 the Staff's method was a five-year amortization under our
21 treatments of FAS B 87.

22 Q. Okay. Is this the first time -- the agreement
23 that you have in paragraph 16, is this the first time this
24 type of treatment of pension expense has been used by the
25 Commission, to the best of your knowledge?

1 A. The ERISA minimum contribution was actually
2 approved by the Commission prior to the adoption of FAS B 87
3 for all the companies in the state. You know, we're talking
4 back in the early 1990's. Everybody was on an original
5 ERISA and then we went to FAS B 87.

6 After the legislation required the adoption of
7 FAS B 106, which is an identical accrual accounting method,
8 if you will, in most respects to the pension side of FAS B
9 87, is when the Staff -- was the primary reason why the
10 Staff went to a FAS B 87 approach to be consistent.

11 But with regards to this specific approach,
12 it's also been, as I understand, agreed to with regard to
13 the current American Water Company case. In addition, the
14 Laclede Gas and Empire Electric are also on an ERISA minimum
15 contribution as a result of recent cases.

16 Q. Did you work in -- or did you participate in
17 those cases? Let's take the American Water case, for
18 example.

19 A. No, I was not --

20 Q. You were not involved in that?

21 A. -- a participant, no.

22 Q. How about the Laclede case you just
23 referenced?

24 A. No. No, sir, I was not.

25 Q. Is the language that is in paragraph 16, is

1 that basically a recitation of Staff's position from the
2 beginning of this case?

3 A. It is with the exception of the tracking
4 mechanism, which was not included in part of our Direct
5 Testimony.

6 Q. Okay.

7 A. The other items --

8 Q. Now, that correcting mechanism that you
9 referred to, was that in the American Water case as well?

10 A. Let's see.

11 Q. And I'll go ahead and ask while you're
12 pondering that if the other examples that you gave, the
13 Laclede and the Empire case, is that correcting mechanism --
14 that's really what I'm asking about is the correcting
15 mechanism.

16 A. Yes. There's a tracking mechanism certainly
17 with regard to Laclede. I don't think there is one in
18 effect right now for Empire. And I'm not absolutely sure
19 about Missouri American Water. I know the Staff was
20 considering one, but whether or not that ended up in the
21 final settlement agreement or not, I'm not sure.

22 Q. Do you recall the difference in expense
23 between using this method on an annual basis and FAS B 87?

24 A. With regard to the current case?

25 Q. Yes. And if it's difficult to find, I'm

1 looking more of an estimation.

2 A. I've got the reconciliation of the final
3 positions, so I can tell you what it's worth.

4 Q. If it's easy, if it doesn't take too long.

5 A. Yeah. I'm assuming you want this for all
6 three cases or for all three --

7 Q. I'd just like a general idea of the
8 differences in the amount. So if you have all three, I can
9 match them up.

10 A. Approximately \$5.2 million.

11 Q. Is the difference -- overall difference
12 between the two figures?

13 A. Between the two positions, yes.

14 Q. Okay. Last question, there has been
15 legislation either working its way through or has worked its
16 way through the US Congress. Does that in any way affect
17 any of the assumptions in this case relating to pension --
18 mandatory pension contributions?

19 A. No, it does not affect anything in this case.

20 COMMISSIONER CLAYTON: Okay. Thank you.

21 JUDGE JONES: Commissioner Gaw, just to be
22 sure, did you have questions concerning pensions?

23 CHAIR GAW: Not now. I think Commissioner
24 Clayton asked some of them.

25 JUDGE JONES: Thank you, Mr. Traxler. You may

1 step down.

2 Did you want to ask questions of Mr. Elliott?

3 CHAIR GAW: If he knows the answers to my
4 questions, I'd like to, that I was posing earlier.

5 JUDGE JONES: Mr. Elliott, could you please
6 step forward?

7 (Witness sworn.)

8 JUDGE JONES: Thank you. You may be seated
9 and please state and spell your name for the court reporter.

10 THE WITNESS: My name is David Elliott,
11 E-l-l-i-o-t-t.

12 JUDGE JONES: Thank you. Commissioner Gaw?

13 DAVID ELLIOTT testified as follows:

14 QUESTIONS BY CHAIR GAW:

15 Q. Mr. Elliott, you might just tell us what you
16 do. I should have done that earlier.

17 A. In this case, I run the fuel model. We built
18 a fuel model that simulates all the operations of all the
19 plants and figures out the fuel cost for the generation plus
20 the purchased power for the net load and native load.

21 Q. Okay. What assumptions did you have that are
22 in the Stipulation in regard to fuel use and generation mix?

23 A. What we -- what we did was we took the Staff's
24 model, which is built upon a lot of assumptions. But for
25 the IEC what we did was we -- we went and changed the gas

1 price and the purchased power pricing. As was mentioned
2 earlier, I think Staff filed originally was \$4 gas. We put
3 3.50 -- 3.50 gas in the model and the 5.14 gas in the model
4 along with two sets of purchased power pricing and ran those
5 two simulations. And that should be the base in the -- and
6 the ceiling for the IEC.

7 Q. What were your -- you did not vary from the
8 model that you had used in your position in the case?

9 A. That's correct.

10 Q. Okay. So the percentages that you utilized in
11 regard to what percentage would be purchased power, what
12 percentage would be utilizing their gas -- a gas turbine as
13 opposed to a coal plant, all of those things were included
14 in the model that you utilized originally or not? I mean, I
15 don't know.

16 A. Those -- yeah. I think you're trying -- the
17 basic assumption did not change, yes. We -- we -- just to
18 clarify, we don't put in percentage of how much it should
19 run. We put in the fuel prices and the load and the heat
20 rates which tell how efficient it is and then let the model
21 run to decide how much it should run. But, yes, the
22 assumptions remained the same in the base rate except for --

23 Q. In other words, your model determines what
24 the -- your model determines what the percentages should be,
25 not some historical use pattern?

1 A. That's correct.

2 Q. Okay. And who develops the model?

3 A. I do.

4 Q. Okay. And what do you develop that model on?

5 How do you come up with the model?

6 A. I'm sorry. We use a model called Real Time
7 that's -- we purchased. I'm sorry. I developed the inputs
8 to the model.

9 Q. There you go.

10 A. Sorry.

11 Q. Okay. That's giving me what I'm looking for.

12 Okay. So the Real Time software is something
13 you purchase?

14 A. Yes.

15 Q. And is that an industry standard or are there
16 several different kinds of software packages out there to do
17 something similar?

18 A. There are several different types of software
19 out there. Aquila also uses Real Time software.

20 Q. Okay. Just to get a basic understanding
21 about -- without going into too much detail about choices on
22 when to run what generator, does the software -- when you
23 utilize the Real Time software if you were a utility, do you
24 rely on that to tell you when to turn on a gas turbine as
25 opposed to buying on the market, or is that something you've

1 just got marketers that -- or someone that's making that
2 decision on an hourly basis?

3 A. In real life, there's a dispatcher that would
4 make those decisions on what to turn on, what to turn off,
5 whether to buy or not. And that's his job for the utility.

6 Q. All right.

7 A. This model is sort of a simulation to try
8 to -- try to do a test year run on different variables to
9 see what a normalized or annualized cost would be.

10 Q. Okay. And when you come up with a final --
11 with these numbers using Real Time, do you generate some
12 sort of a megawatt hour price that converts all of the --
13 all of the different fuel mixes and purchased power into one
14 unit that's readable --

15 A. Yes.

16 Q. -- and compares apples to apples?

17 A. Yes.

18 Q. Okay. Tell me what it does, in general.

19 A. The output of the model provides us the
20 cost -- the amount of megawatts each unit ran and the cost
21 of that. We sum up all the costs and all the megawatts and
22 divide the two and come up with a dollar per megawatt hour.

23 Q. And what were those assumptions that were
24 in -- that are in the base rates and that are in the interim
25 charge?

1 A. I have the base, but I don't have the ceiling
2 with me. I have that information upstairs. Sorry.

3 Q. What's in the base?

4 A. Fuel model output base is 14.43.

5 Q. 14.43. Is that --

6 A. Dollars per megawatt hour.

7 Q. Thank you. Dollars per megawatt hour.

8 A. Now, that is the output of the fuel model. As
9 mentioned before, there are other variable costs that could
10 be added to this by the auditors. This is just the fuel
11 model output.

12 Q. Okay. What do you mean there are others that
13 could be added? Such as?

14 A. I think we've talked about there's some
15 variable transportation costs of some sort. It's not my
16 area of expertise. I'm -- I run the fuel model and I -- and
17 I present that.

18 Q. And then you hand the baton?

19 A. Yes. Yes, sir, I do. Sorry.

20 Q. This baton is an elusive thing sometimes.

21 Okay. You don't remember what the amount was
22 on the interim energy charge?

23 A. No, I don't have that information with me,
24 sir.

25 Q. But there was an amount that was calculated --

1 A. It --

2 Q. -- by the model?

3 A. Yeah. I would need the sheet for that, which
4 I don't have in front of me, but yeah. It all boils down to
5 you add up all the costs and all the megawatts that were
6 generated and you divide the two and you come up with one
7 number that's dollars per megawatt hour.

8 Q. Okay. Now, you may not know this,
9 Mr. Elliott, because it may be somebody else I need to ask,
10 but if we're doing a true-up on this at some later point in
11 time, what will be the process of the true-up in making the
12 calculation as to what amount should be refunded, if any?
13 Will it be based upon these base dollars per megawatt hour
14 prices as the bottom line or will it be something else more
15 complicated than that?

16 A. I'm not sure I can answer that question.

17 Q. Yeah. I understand. Somebody else may be
18 able to do that though. And I'm not sure who that is, but
19 Staff will have to provide somebody. I see at least one
20 nodding head in the back of the room.

21 Mr. Elliott, if you have a moment and you get
22 a break and you have time to run up and get that, would you
23 do that for me?

24 A. As soon as I get off here, I'll run up and do
25 that, sir.

1 Q. So all of the assumptions in Real Time then,
2 do they look -- do you put in inputs that look at some
3 history on things from a utility or how --

4 A. Yes.

5 Q. -- how are the inputs derived?

6 A. One of the inputs is maintenance hours on the
7 turbines. For that, we look at historical --

8 Q. Okay.

9 A. -- actual outages and develop a -- a
10 normalized or average number of hours for each unit out. We
11 look at force-- the maintenance outages and forced outages.
12 We also look at historical information to determine how
13 often it's forced off.

14 Q. You put in peak information, base load history
15 or what do you -- are all -- what numbers -- what other
16 kinds of things go in the model?

17 A. Well, we usually -- the model is usually -- we
18 look at each individual unit. For instance, a unit may
19 have -- it may be a coal-fired unit and it may have a heat
20 rate associated with it, how much --

21 Q. All right.

22 A. -- how much -- and also the forced outage of
23 that unit, the maintenance outages for that unit, things
24 like ramp rate, how fast it can go up and down to meet load.

25 Q. But when you're making -- does a model make

1 any -- does it just assume, based upon the load that a
2 particular utility has out there, how often a generator
3 should run?

4 A. It -- it tries to --

5 Q. Or is that based -- is that information
6 provided in the inputs?

7 A. It -- the model is designed to run to generate
8 at lowest cost -- lowest cost. So it has --

9 Q. It makes the calculation itself?

10 A. Right. We put -- we put the load that -- the
11 hourly load that it needs to meet and then it decides what
12 to do to meet that load at the lowest cost, least cost.

13 Q. Based upon available resources?

14 A. Yes. And fuel cost and so forth.

15 CHAIR GAW: Okay. I'm going to see if anybody
16 else has a question for Mr. Elliott, Judge.

17 JUDGE JONES: Commissioner Murray, do you have
18 questions?

19 COMMISSIONER MURRAY: What are your issues?

20 THE WITNESS: Fuel.

21 COMMISSIONER MURRAY: No questions.

22 JUDGE JONES: Commissioner Clayton?

23 COMMISSIONER CLAYTON: No questions.

24 CHAIR GAW: If Mr. Elliott has a moment to run
25 upstairs --

1 THE WITNESS: Yes, I'll go get that.

2 JUDGE JONES: You may step down, Mr. Elliott.

3 Does someone else have the answer to that
4 question?

5 THE WITNESS: Do you have the 5.14?

6 JUDGE JONES: Just so you all know where we're
7 headed, we will stop at noon and reconvene at a quarter
8 after 1:00.

9 I'll also note for the record that Mr. Comley
10 is here representing the City of Kansas City.

11 MR. COMLEY: I want to thank you and the
12 Commission and the parties for allowing me to delay getting
13 here today. Fortunately, the conflict was shorter than
14 anticipated.

15 CHAIR GAW: I think, Judge, the Staff has
16 somebody else to provide me some more information.

17 MR. WILLIAMS: I think Mr. Watkins maybe will
18 help you out.

19 CHAIR GAW: Mr. Watkins.

20 JUDGE JONES: And Mr. Watkins, you'll remain
21 under oath.

22 JAMES WATKINS testified as follows:

23 QUESTIONS BY CHAIR GAW:

24 Q. Goes ahead, Mr. Watkins.

25 A. What goes around comes around so I'm back.

1 As I understand your question, I think I can
2 give you the answer, which is basically we lumped all the
3 fuel costs together, the results of the production costs run
4 from Real Time.

5 Q. Right.

6 A. And we got a dollars per megawatt hour, cents
7 per kilowatt number out of there. And we got two numbers.
8 One loosely based on what we called the 3.50 gas and the
9 other one what we called the 5.14 gas. The difference being
10 what we included in the interim energy charge.

11 Q. All right.

12 A. And then for the purposes of the rates, those
13 dollars per megawatt hour, you know, got converted to cents
14 per kilowatt hour. And I believe your question is now how
15 do we true this up.

16 Q. Correct.

17 A. And I can't give you the auditing answer
18 exactly, which is we're going to pour it over the books and
19 records and look at their invoices and compare how -- how it
20 ran -- how they actually ran things to how they have in the
21 past and what we had in our fuel run to make sure that
22 there's -- that the costs were all prudently incurred and
23 there haven't been any trade-offs between buy--

24 Q. That's your normal prudence review?

25 A. Well, it's normal prudence review in addition

1 to the normal audit.

2 Q. Okay.

3 A. Okay.

4 Q. All right.

5 A. Once that's done --

6 Q. Let me have you make an assumption. Let's
7 assume that you don't find anything there.

8 A. Okay.

9 Q. Okay. And I guess -- I guess then what
10 occurs?

11 A. Okay. If we don't find anything there, then
12 we basically have a lump of dollars and we also know what
13 the sales were. The sales are going to be reported to us
14 monthly. So over the entire two-year period --

15 Q. When you say "sales," you're talking about
16 off-system sales? What are you talking about?

17 A. I'm sorry. Sales to native load. Customers.
18 Retail customers.

19 Q. Okay.

20 A. Though that includes some on-system post sale
21 to cities and things, but --

22 Q. Okay.

23 A. -- that's what I mean by sales. It's what --
24 what would be the equivalent of what was inputted into the
25 fuel run in the beginning called the net system load, be the

1 hourly loads for every hour of the year for everybody that's
2 native load.

3 We would have that equivalent number
4 accumulated from the books and records over the two-year
5 period, plus we'd have the two-year period of the fuel costs
6 accumulated and we would divide to get a cents per kilowatt
7 hour.

8 Basically then, we could see where that cents
9 per kilowatt hour that we've calculated based on the actual
10 prudently incurred costs over the two-year period falls
11 relative to what we have in permanent rates that David
12 Elliott gave you before and what he calculated for the
13 ceiling amount or the amount based on the 5.14 gas.

14 So if it's -- if that calculated amount is
15 above the amount for 5.14 gas, there's no refunds. If it's
16 below the -- the rate for 3.50 gas, they give it all back.
17 The items with the little i's that you talked about before,
18 are what to do if it's in the middle. And that's basically
19 the calculation. It's because --

20 Q. Is the calculation then all about what the
21 bottom line is in regard to what the megawatt hour -- dollar
22 per megawatt hour or cents per kilowatt hour costs or that
23 were -- that are assumed in this Stipulation and comparing
24 those two things together, assuming no imprudence in the
25 usage of generation and purchased power?

1 A. We're comparing on a dollar per megawatt hour
2 basis. And that's because the sales vary. What we've done
3 for the updated test year is we've taken the actual sales,
4 weather normalized them, adjusted them for customer growth,
5 you know, etc.

6 And those are the -- those are the sales that
7 precisely go with the dollars and fuel costs that we've
8 calculated. So we divide those. And when we true it up,
9 the weather could be anything over that two-year period.
10 You know, they could have big growth in customers, they
11 could lose a significant customer. Anything can happen.

12 So it's -- it's not reasonable to compare the
13 totals. What you have to compare is basically the rate,
14 which is the dollars of actual cost divided by the actual
15 megawatt hours of sales and the true-up will be done on that
16 basis. There is no assumption about what those sales will
17 be. They will be what -- what they are.

18 Q. Right. But the rate -- what I'm after is
19 whether or not when you do the true-up, if the only thing
20 you look at is the rate or if you're looking at more than
21 the rate, ignoring the prudence question -- so I'm just
22 trying to see what the important figure is here to see
23 whether they're under or over.

24 A. The rate, only the rate. It's the only thing
25 we look at.

1 Q. Is that the rate that's -- and, again, I did
2 hear a while ago it was \$14.43 per megawatt hour on the
3 base?

4 A. Yes. Although the number David's given you is
5 the -- is the -- I don't want to make this more complicated
6 than it has to be.

7 Q. Well, he said there were adjustments.

8 A. That's the number for the joint dispatch to
9 serve all of Aquila's electric load, whether it will be the
10 Missouri Public Service division or the Light and Power
11 division.

12 Q. All right.

13 A. That's what that number is.

14 Q. All right. And then --

15 A. Actually, we --

16 Q. -- that's split?

17 A. Actually, it's split between Missouri Public
18 Service and Light and Power.

19 Q. All right.

20 A. And we have a separate number, a separate rate
21 as --

22 Q. Do you know what those numbers are?

23 A. I -- David's probably up figuring those out,
24 but I believe that the -- I can tell you for the base. I
25 believe that that's \$15.32 for the MPS and \$11.745 for the

1 Light and Power.

2 Q. Okay. Eleven dollars and what?

3 A. It's 11.745 -- 11.74 and a half.

4 Q. Okay. That's the base?

5 A. That's the base.

6 Q. For L and P?

7 A. Yes.

8 Q. Is that figure comparable to what other
9 utilities in the state would be -- where does that relate to
10 what other utilities in the state might expect in
11 electricity costs?

12 A. I'm going to have to pawn you off on somebody
13 else.

14 Q. Somebody else would know that?

15 MR. WILLIAMS: May I talk to Mr. Watkins for a
16 minute?

17 CHAIR GAW: Sure.

18 MR. COFFMAN: During this pause --

19 CHAIR GAW: Mr. Coffman?

20 MR. COFFMAN: Judge, I just wanted to inform
21 the Commission that I've been requested to be present at a
22 Senate Budget Committee hearing this afternoon and it may be
23 likely that someone else will be here in the afternoon when
24 we come back.

25 And I was wondering if there was any

1 particular area of questions that the Commission or yourself
2 might have for my office or for me. If so, maybe I can
3 answer them now or have somebody be prepared to answer them
4 this afternoon.

5 JUDGE JONES: I can tell you this afternoon we
6 will take up issues concerning the Aries plant and
7 depreciation.

8 MR. COFFMAN: Okay.

9 JUDGE JONES: Beyond that, I don't know.

10 MR. COFFMAN: That's helpful. Thank you.

11 BY CHAIR GAW:

12 Q. Mr. Watkins?

13 A. My attorney has pointed out that we have
14 cleverly provided in Appendix A --

15 Q. Yes.

16 A. -- in paragraph 1 of A and B what the dollar
17 amounts and the corresponding cents per kilowatt hour
18 amounts that we've obtained.

19 Q. It's on page 3?

20 A. On page 1.

21 Q. Page 1.

22 A. So, for example, in 1A when we're looking at
23 Missouri Public Service, we're talking a fuel run that
24 showed the variable costs for \$87,700,206 and establishing
25 the base, which was -- this is in cents per kilowatt hour.

1 Q. Yes. Right.

2 A. The -- and the -- then there was a -- the
3 total is found down toward the end, the \$103,800,206 and the
4 corresponding cents per kilowatt hour.

5 And the difference between those two is the
6 other number, the amount to be included in the IEC, which is
7 \$16,100,000, which is the .3 cents. And B has the
8 corresponding values for the Light and Power division.

9 Q. Unfortunately, I don't know that I have
10 Appendix B with me.

11 CHAIR GAW: Do you have Appendix B, Judge?

12 MR. SWEARENGEN: Those are the tariffs, Judge.

13 CHAIR GAW: Oh, that's what I've got here.

14 BY CHAIR GAW:

15 Q. Okay. So, Mr. Watkins, when you do the
16 true-up, these will be the figures that you use on
17 Appendix A -- in what you've cited in Appendix A in order to
18 determine whether or not they have -- there's any refunds
19 that are due in addition to whatever prudence review you do?

20 A. That's correct.

21 Q. So if you assume -- if I make the assumption
22 that their utilization of their purchases and generation
23 burns were appropriate, then all you have to do is compare
24 the bottom line on how much the company actually paid on a
25 cents per kilowatt hour basis?

1 A. That's correct.

2 CHAIR GAW: Okay. Okay. The company want to
3 help me out with this a little bit? You got any light to
4 shed on that differently than what I've hearing from this
5 witness?

6 MR. SWEARENGEN: I don't have any light, but I
7 have a couple of gentlemen here that probably can help out
8 on it.

9 CHAIR GAW: I just want to make sure
10 everybody's on the same page. So we might put them on
11 briefly just to say that here in just a second.

12 MR. SWEARENGEN: That would be fine.

13 CHAIR GAW: I think that's all I have,
14 Mr. Watkins.

15 JUDGE JONES: Thank you, Mr. Watkins. You may
16 step down.

17 I know Mr. Elliott stepped out for a moment to
18 retrieve some information. Has he returned? It doesn't
19 look like it.

20 CHAIR GAW: I guess the question is whether
21 there's more information than what's already in here or not.
22 But go ahead, if you want to, Mr. Swearngen.

23 MR. SWEARENGEN: Call Mr. Clemens at this
24 time.

25 (Witness sworn.)

1 JUDGE JONES: Thank you. Please be stated and
2 state your full name for the court reporter, please.

3 THE WITNESS: Gary L. Clemens, C-l-e-m-e-n-s.

4 GARY CLEMENS testified as follows:

5 QUESTIONS BY CHAIR GAW:

6 Q. Mr. Clemens, what do you?

7 A. I'm the regulatory manager for electric for
8 Missouri.

9 Q. Okay. Have you been in the hearing room since
10 we started this morning?

11 A. Yes. For the duration.

12 Q. Do you agree with what Staff's witnesses have
13 said in regard to the calculation of the interim energy
14 charge?

15 A. Yes. It is on a cents per kilowatt hour basis
16 on Appendix A.

17 Q. All right. What is your understanding of the
18 true-up process that will occur afterwards and how that will
19 be handled?

20 A. We will measure the actual costs for fuel over
21 the two-year period and divide that by the sales to get a
22 cents per kilowatt hour basis. For example, for MPS, if the
23 costs per kilowatt hour basis is above the 19 -- or one
24 dollars and -- excuse me, 1.9712 cents per kilowatt hour
25 basis, if it's above that, then we would just eat that

1 amount.

2 If that calculation came up to, say,
3 1.8 cents, then that differential would be refunded to the
4 customer. So it's purely on a cents per kilowatt hour
5 basis.

6 Q. All right. And so there will be -- you'll
7 look at the historical usage?

8 A. Yeah. Each month we will provide the usage
9 and the fuel cost to the Staff. So we'll be able to track
10 that each month.

11 Q. Okay. So you all will have an idea about how
12 you're tracking then as you're going along, but there won't
13 be any true-up that occurs until after -- the end of the --

14 A. That's correct.

15 Q. -- term here that we're talking about under
16 this agreement?

17 A. That's correct.

18 Q. Are you in agreement in regard to how these
19 numbers were derived originally or does that -- is that even
20 really relevant as far as Aquila is concerned, the numbers
21 that -- other than this is what you're agreeing to, Staff's
22 calculation and how they arrive at those numbers?

23 A. Right. We were in agreement --

24 Q. Do you see those as fair and --

25 A. We were on agreement on the base cost and then

1 we were also in agreement, of course, on the variable costs
2 the 3.50 and the 5.14 differential. The same -- there was
3 no dispute for that.

4 Q. Okay. I had a little bit of a conflicting --
5 I thought conflicting information earlier, maybe it wasn't,
6 about what was in the variable cost calculation and whether
7 or not any coal transportation costs are in there or not.
8 Do you know the answer to that?

9 A. There's no coal -- coal cost in the variable.
10 It's just --

11 Q. All of that's in base?

12 A. Yes, it is.

13 Q. Same with oil?

14 A. Yes.

15 Q. The only thing we're dealing with then is the
16 gas costs that exceed those that are in the base?

17 A. And the purchased power energy associated with
18 that -- those gas costs.

19 Q. Tell me what you mean by that. The --

20 A. The 3.50 gas price assumed a certain level of
21 purchased power energy cost.

22 Q. Yes.

23 A. And that's in the base. The difference -- and
24 at 5.14, a higher level of purchased power energy. And that
25 portion is really built into that \$16 million difference.

1 The difference between the 87 million and 103 is made up of
2 the difference between the 3.50 gas and the 5.15 gas price.

3 And then a certain level of purchased power
4 energy and I'm not sure the exact amount. I was thinking it
5 was around 5 or 6 million dollars that that created on
6 the -- on the energy. But Dave -- Dave Elliott, I hate to
7 shift it back to him, but it's inside that model.

8 Q. All right. The purchased power amount though
9 is -- while it has -- it's impacted by the cost of gas, it
10 really is about just certain assumptions that are made about
11 what the cost of power on the market -- in the marketplace
12 will be or that you can get it in the bilateral agreements,
13 isn't it?

14 I mean, it's not -- it is impacted by the cost
15 of gas, but you're not talking about that when you go buy
16 it, that it's -- that there's any selectivity in regard to
17 what -- what generators you're buying it from?

18 A. That's correct.

19 Q. Yeah. Did you hear anything this morning that
20 you disagreed with from the Staff's witnesses that you
21 recall?

22 A. No. I think it's all been corrected now.

23 Q. Okay.

24 A. I think the rates on this Appendix A is the
25 base cost --

1 Q. Yes.

2 A. -- and the high price. If you go with these,
3 then everything's square.

4 Q. Everything back to where you think it's
5 supposed to be?

6 A. Yes.

7 Q. All right.

8 CHAIR GAW: That's all I have of this witness.
9 Thank you very much.

10 JUDGE JONES: Thank you, sir. You may step
11 down.

12 I noticed Mr. Elliott has returned.

13 CHAIR GAW: Mr. Elliott, you haven't been here
14 while we were talking about some of these things. I don't
15 know whether what we have in front of us in Appendix A
16 answers my questions already or whether --

17 JUDGE JONES: Will you step forward?

18 CHAIR GAW: -- we need that information now.

19 DAVID ELLIOTT testified as follows:

20 QUESTIONS BY CHAIR GAW:

21 Q. Mr. Elliott, while you were out, I was
22 referred to the first page of Appendix A in regard to
23 certain numbers on assumptions that were being made on cents
24 per kilowatt hour costs. And I guess what I need to know is
25 whether or not there is more information or different

1 information that you have other than what I have been
2 referred to. And so -- go ahead.

3 A. I believe these numbers come -- are allocated
4 from my numbers.

5 Q. All right. Your numbers would not necessarily
6 be the same as these numbers; is that correct?

7 A. That's correct.

8 Q. And that's because there may be some other
9 additions or subtractions, things that happen after they
10 leave you?

11 A. Possibly, yes.

12 Q. Okay. Well, what numbers do you have in
13 general there and do they vary from these numbers that are
14 on page 1?

15 A. They vary for reasons that they've been
16 allocated, to my understanding, to Missouri retail sales.
17 My model runs whatever the native -- whatever the native
18 load is, but it's not necessarily only Missouri.

19 Q. I see. So someone else would have broken
20 those figures down into Missouri figures after they left
21 you?

22 A. I believe so, yes.

23 CHAIR GAW: Okay. Is that true from Staff's
24 counsel? Is that accurate?

25 MR. WILLIAMS: Yes.

1 CHAIR GAW: Okay. All right. I don't -- I
2 don't know that I need your numbers now after you did all
3 that work.

4 THE WITNESS: No problem.

5 CHAIR GAW: Thank you very much, Mr. Elliott.
6 Could we, Judge, if you don't mind, I want --
7 we can do this after lunch if you want. I don't think I
8 have anything else other than something that would require
9 us to be in-camera.

10 JUDGE JONES: Okay. We will do that -- in
11 that case, we will adjourn and reconvene at --

12 MS. WOODS: Judge, if I might.

13 JUDGE JONES: Yes.

14 MS. WOODS: I have to go to Franklin County
15 Circuit Court this afternoon, but Mr. Comley has graciously
16 offered to do what I was going to do for him this morning.

17 JUDGE JONES: You are excused to go to
18 Franklin County.

19 MS. WOODS: Thank you.

20 JUDGE JONES: And we will reconvene at 1:15.
21 With that, we'll go off.

22 (A recess was taken.)

23 JUDGE JONES: Okay. We're back on the record
24 with Case No. ER-2004-0034 and this is the on-the-record
25 presentation of Stipulation and Agreement.

1 Chairman Gaw, I believe we left off with you
2 before lunch.

3 CHAIR GAW: Judge, and I have some questions
4 that would have to be in closed session --

5 JUDGE JONES: Okay. With that, then we
6 will --

7 CHAIR GAW: -- I think.

8 JUDGE JONES: -- we'll go in closed session.

9 (REPORTER'S NOTE: At this time, an in-camera
10 session was held, which is contained in Volume No. 21, pages
11 1923 through 1938 of the transcript.)

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1 JUDGE JONES: Just so you all know, we are
2 broadcasting again. So if more highly confidential
3 information is elicited, please let me know so we can go
4 in-camera.

5 CHAIR GAW: Were the last group of comments --

6 JUDGE JONES: Just the last portion.

7 CHAIR GAW: Judge, if you would, have the
8 parties let us know how much of that that's been in HC can
9 be declassified. I mean, not now, but just --

10 ROBERT SCHALLENBERG testified as follows:

11 QUESTIONS BY CHAIR GAW:

12 Q. So, Mr. Schallenberg, from the standpoint of
13 moving forward then, Staff will be working in the IRP
14 process then to try to -- to try to deal with what you
15 believe are the needs that Aquila has in generation
16 construction with these new -- with these agreements that
17 are contained in the Stip to provide -- for Aquila to
18 provide additional information?

19 A. Yes.

20 Q. All right.

21 CHAIR GAW: I think that's all I have, Judge.

22 JUDGE JONES: Okay. Commissioner Murray? Oh,
23 I'm sorry.

24 Mr. Schallenberg, I believe you may step down.

25 CHAIR GAW: I mean, that's all I have. I

1 think I have one more question or two not for
2 Mr. Schallenberg, unless he knows the answers. I thought
3 Commissioner Murray might have some questions for him.

4 COMMISSIONER MURRAY: Refresh my memory. What
5 issues are you representing?

6 THE WITNESS: Well, the ones I was up -- I
7 first brought up was the general questions that Commissioner
8 Gaw had. I think I am representing your answers on
9 depreciation from what at least the Staff got was the
10 questions that came from the on-the-record presentation for
11 the gas Stip.

12 COMMISSIONER MURRAY: Okay. And any others?

13 THE WITNESS: None that I know of right now,
14 but they may come up depending on your questions.

15 COMMISSIONER MURRAY: So let me see if I
16 understand Chairman Gaw. Are you wanting me to go ahead and
17 ask Mr. Schallenberg questions I have on other issues?

18 CHAIR GAW: If you had some. I thought since
19 he was up here.

20 COMMISSIONER MURRAY: Okay. Thank you.

21 QUESTIONS BY COMMISSIONER MURRAY:

22 Q. Well, let's go to depreciation then if you are
23 the Staff witness supporting that issue. The late-filed
24 Exhibit 180, do you have that with the depreciation
25 illustrations?

1 A. Yes, I do.

2 Q. And if you can just help me understand
3 something. For Case No. 2 in that exhibit, which is an
4 expense treatment with a rate case every year --

5 A. Right.

6 Q. -- are you there?

7 As I look at this, it looks as if the company
8 gets an additional return on of about 225 with Staff's
9 method and 225 more total revenue requirement with Staff's
10 method; is that correct?

11 A. If you look at what you pay in rates, that's
12 true.

13 Q. If you look at what you pay in rates. Okay.
14 What else would you look at?

15 A. The differential in that 225 is the advanced
16 payment or pre-payment of the \$500 in year 11. And if the
17 customer pays more in rates up front, that's less money that
18 they have available to pay other expenses which a customer
19 would put a value too.

20 But if you look at just their rates, their
21 rates would be less over that period of time, but you'd have
22 to look at the \$500 that the customer loses up until
23 year 11, what was their cost to them. And that would be a
24 separate item that would be looked at.

25 Q. That the customer loses up until year 11. Is

1 that what you said?

2 A. Right. The customer wouldn't pay in case --
3 in the expense method in Case 2, the customer doesn't make
4 the \$500 payment until year 11. If you look at Case 1, the
5 customers making the \$500 payment in increments all through
6 years 1 through 10 and then there's the time value of money
7 consideration. So that's -- that's the thing that's not in
8 these analyses.

9 When we used to do these back when -- with
10 flow through versus normalization and construction in rate
11 base, what you normally used to demonstrate the value of
12 these revenue requirements to put them down to the current
13 dollar level. And that -- that key thing is depending on
14 what you discount it at.

15 If you discount it at about the same rate of
16 return, you're usually indifferent. If you discount it at a
17 rate lower than the rate of return, then usually you want
18 pre-payment. And if you discount at a rate higher than the
19 rate of return, then you're using against pre-payment.

20 Q. And when you say "pre-payment," you're
21 speaking of --

22 A. I would --

23 Q. -- are you speaking of the traditional method?

24 A. When I use pre-payment, what I mean is paying
25 the money in advance of the expenditure actually being paid

1 to a third party.

2 Q. And the way it has been treated up until -- or
3 the way most states treat it. Is that what you're referring
4 to as pre-payment?

5 A. Pre-payment -- if you're talking about cost
6 removal and salvage --

7 Q. Yes.

8 A. -- most states to our studies show that they
9 include it in their depreciation rate. And I -- we've seen
10 no evidence to see that it isn't the old traditional method
11 that we saw here, which would be payment in advance for
12 future retirements.

13 Q. And that's what you're referring to as
14 pre-payment? I'm trying to clarify. Is that what you just
15 called --

16 A. Well, I called it pre-payment because in these
17 studies there's a pre-payment feature in these studies,
18 but --

19 Q. But we're referring to the same thing? That's
20 what I'm trying to get at.

21 A. Yes. You could apply that pre-payment answer
22 to both cases.

23 Q. In Case No. 4, which is the expense treatment
24 assuming a rate case in the first year and then every third
25 year --

1 A. Yes.

2 Q. -- it looks like there the company gets an
3 additional 270 return on the asset through the Staff's
4 method, but the total revenue requirement is 30 less, which
5 results in about 98.63 percent of the revenue requirement if
6 you use the company's method. But, there again, you're
7 talking about the difference being in the time value of
8 money and when the customer actually pays; is that right?

9 A. That would be two -- two -- this doesn't
10 present value and recognize the time value of money and
11 putting them in a common -- a common dollar value. This one
12 recognizes --

13 Q. Go ahead.

14 A. This one -- this study here recognizes that
15 there can be changes in a cost item in between rate cases
16 and what the customer pays is not -- doesn't reflect that
17 cost change.

18 That's how I took Case 3 and 4 is recognition
19 of the fact that rates don't change uniformly with every
20 cost change. And that's what caused the difference between
21 the 21.90 revenue requirement in Case 3 in nominal dollars
22 and the 21.60 in Case 4 in nominal dollars.

23 Q. Okay. Because the rates are not changing
24 yearly in this example?

25 A. Yes. The customers don't see the -- a change

1 in the revenue requirement in the rates. There's not -- if
2 this was an automatic adjustment clause, it wouldn't --
3 these cases wouldn't be relevant.

4 Q. Okay. The bottom line here with the -- and
5 this is kind of a hybrid approach, I believe, between
6 Staff's original recommendation and the company's original
7 recommendation; is that right? This is the hybrid situation
8 that's being adopted here?

9 A. That's reflected in the settlement?

10 Q. Yes.

11 A. Yes. The settlement uses a tracker
12 methodology. There was discussion earlier this morning, the
13 tracker was used in pensions and the tracker was used in
14 this case for cost of -- or net -- or I call it net cost of
15 removal.

16 Q. And this treatment during the pendency of the
17 time that these rates will be in effect allows for full
18 recovery; is that right?

19 A. I would answer your question conceptually.
20 The reason I hesitated in full recovery is the money -- the
21 differential will be in the depreciation reserve. And we do
22 not have an accepted method that's traditionally used to
23 relieve reserve excesses and deficiencies, but the return
24 will be adjusted.

25 Q. Just one second.

1 The Stip and Agreement itself on page 6 says,
2 The parties agree that this methodology will represent full
3 recovery of all of the company's annual net cost of removal
4 expenditures. This methodology will be reviewed in Aquila's
5 next general rate case in which its retail electric rates
6 are under review to determine whether the methodology will
7 be continued.

8 And I'm just trying to understand what you
9 just said about the pendency -- the years during which these
10 rates are in effect --

11 A. Yes.

12 Q. -- will allow full recovery of the annual net
13 cost of removal expenditures; is that right?

14 A. Right. As I understand what this sentence is
15 meant to represent is that there will not be a claim during
16 this period. That if you take one of the numbers like the
17 1,471,339 for the MoPub Electric, if that -- if there has to
18 be actual cost of removal of \$2 million, there will not be a
19 claim in the next case for the 530 mill-- excuse me,
20 \$530,000 excess of that.

21 There won't be a claim in the next case that
22 we didn't recover that, but the \$530,000 will be reducing
23 the depreciation reserve in the next case. We do not have a
24 mechanism in place to move that \$530,000 reduction to the
25 depreciation reserve to amortize that or get that out into

1 cost of service right now.

2 That's why I answered your first question
3 about full recovery. We do not have a way set -- the 530
4 will sit as an addition to rate base, but we do not have a
5 recognized mechanism to, in essence, add it to cost of
6 service right now.

7 Q. Okay. And you agree I'm sure, because it's in
8 the Stip and Agreement, that the parties are not indicating
9 any preference for any kind of methodology by adopting this
10 treatment; is that right?

11 A. Yes. In fact, I think it specifically says
12 that methodology will be reviewed in the next general rate
13 case.

14 COMMISSIONER MURRAY: I think that's all I
15 have for you, Mr. Schallenberg. Thank you.

16 THE WITNESS: Thank you.

17 JUDGE JONES: Commissioner Clayton?

18 QUESTIONS BY COMMISSIONER CLAYTON:

19 Q. Mr. Schallenberg, I apologize for coming in
20 late so I'm not entirely sure -- are you just here for
21 depreciation or all issues or what's your --

22 A. I started out on capacity expansion and we
23 just did depreciation, so I -- I don't -- I knew I was
24 supposed to take the stand on questions on depreciation. I
25 did not have any set issues in the rate case.

1 Q. Are you personally knowledgeable of all the
2 settlement points in this case?

3 A. I would -- I would say I was aware of almost
4 all of the settlement negotiations.

5 Q. Did you participate in the development of the
6 Staff position on each of the issues in this settlement?

7 A. Some more than others.

8 Q. Well, but you're knowledgeable and did
9 participate in all the issues?

10 A. Yes. In terms -- especially in terms of the
11 total settlement package, that part I would be very
12 knowledgeable about of when all the pieces were presented to
13 the Staff to form an opinion as to whether we would accept
14 or support that.

15 Q. Okay. Can you identify for me in this type of
16 settlement where Staff and Staff's position -- where you did
17 not get the most favorable treatment or where you lost or
18 where you gave up the most? Do you know?

19 A. The answer is I would know where the Staff
20 would have been the farthest away from what was reflected in
21 the settlement versus the elements of the Staff's position
22 that's adopted in the settlement.

23 Q. Well, what items would that have included?
24 What issues?

25 A. The biggest difference would have been

1 probably in the settlement regarding the rate increase.

2 Q. What was Staff's position in terms of the
3 increase or the revenue requirement? I assume you're
4 talking about the revenue requirement.

5 A. Right. The Staff's rate increase at the time
6 of the settlement I believe was close to about an \$8 million
7 rate increase.

8 Q. In total?

9 A. In total for all three pieces at the high rate
10 of return. And, as I recall, the settlement -- we settled
11 that about 18.5 or about \$10 million more than that.

12 Q. Okay.

13 A. And I answered in aggregate. We treated all
14 three pieces separately in the settlement.

15 Q. Okay. Are there any other issues where Staff
16 gave up its position in exchange for getting -- forgive the
17 term, getting its way on the pension issue on depreciation?
18 What other areas of concern did Staff have that it was not
19 able to achieve its position in the settlement?

20 A. Well, I would say we -- we entered into an
21 earlier settlement on rate design that preceded our
22 agreement on the interim energy charge. So the Staff did
23 not -- I would say the Staff did not use what it would have
24 preferred to have been the rate design of the interim energy
25 charge. And that's one of the differences between this case

1 and the Empire case.

2 You would have seen -- the thing that
3 Commissioner Murray asked me about earlier, the tracker,
4 that was an item that came up at the end that the Staff's
5 position would have been just expensing, no tracker for
6 that.

7 Q. On the pension issue?

8 A. This was on depreciation.

9 Q. Depreciation. I apologize. I'm not sure -- I
10 didn't get the term "tracker" --

11 A. I'm sorry.

12 Q. -- I didn't get down here in time to --

13 A. We would not have used the tracker for the
14 amount of money that was in cost of removal, but that was a
15 concession. Those were the ones that -- that come to mind
16 as being the -- the more hotly contested or discussed items
17 as the Staff approached the settlement.

18 Q. I'm not sure whether you can answer this
19 question or not. When Staff approaches a possible
20 settlement in a case with its various employees, with
21 various areas of expertise, how does the Staff as an entity
22 approach settlement? Who has authority to negotiate and how
23 is the overall position of Staff formulated?

24 A. Generally speaking -- and there's a unique
25 feature in this case, but I'll answer it generically and

1 tell you about the unique feature.

2 In the -- prior to the hearing, the Staff will
3 pull the -- the Staff members that worked on the case and it
4 will fashion from that meeting a settlement offer to settle
5 the entire case. Now, sometimes that is in response to an
6 offer we received from the company, sometimes it's not. We
7 will then convey that to the company.

8 We attempt and we -- we're not quite there
9 yet, we try to make that as close to where our bottom line
10 is, but sometimes Staff members get new information and
11 change, but we make at least that one offer.

12 If that doesn't work, then we go into a mode
13 to try to settle issues to try to get the case down to the
14 core issues that we really -- really do need to litigate and
15 remove the issues that their outcome were not that
16 significant to the total decision before the Commission.

17 Sometimes the company isn't interested in
18 doing that and so we don't get any of those settled. We
19 will then go through and then if that doesn't work, then we
20 prepare for litigation and try the case.

21 In this case, because of the litigation from
22 the St. Joe merger and its fall-outs in this case and the
23 stops and the starts and the stays, there were -- that
24 caused a lot of discussions between the parties that were
25 not necessarily the Staff because we weren't involved in any

1 of that litigation at the circuit court level.

2 And in all the settlements that then came, one
3 of the key features was how do we resolve that litigation
4 and get a Stipulation and Agreement to the Commission, which
5 the Staff played a secondary role in.

6 And in this case, the rate increase that was
7 negotiated was negotiated by the parties with only bringing
8 us in on the sideline. And then when they got to the IEC
9 piece, the interim increase, the Staff played probably a
10 bigger role in help-- facilitating the parties, but not a
11 dominant role as to the dollar amount.

12 Q. Okay. As simple as possible, the positions
13 that Staff fought for on issues that would be generic in the
14 sense that they would come up in any utility's case, whether
15 it be pension expense or depreciation, are these consistent
16 with the positions -- are the positions that Staff has taken
17 in the various rate cases that have come about recently, are
18 the positions consistent being -- the position on pension
19 and depreciation are the first two that come to mind.
20 Obviously it would be different with specific issues that
21 come up in a rate case.

22 A. The pension issue is consistent with the
23 evolution of where we have been going with the use of a
24 tracker and minimum ERISA and --

25 Q. This would be a track-- the controlled

1 mechanism or something that was mentioned earlier?

2 A. Right. What a tracker is is that you specify
3 a certain dollar amount that's built into the cost of
4 service. And the pluses and minuses from that amount are
5 then captured for future rate-making consideration. So the
6 company isn't necessarily at risk for any increases, but to
7 the extent the amount is less, that's returned to customers.
8 So that's what I meant by a tracker.

9 Q. Okay.

10 A. And we used that in this case for pensions and
11 a minimum ERISA as well as the transition adjustment to move
12 from the prepaid pension assets that have been built up
13 under the prior years of using FAS 87. So that's a --
14 that's a -- I mean, that's a general procedure that we will
15 use, I anticipate, for a long time.

16 Obviously as we transition FAS 87, that
17 amortization will remove and we'll use a tracker with
18 minimum ERISA until I guess conditions show that the minimum
19 ERISA is stable enough it won't need the tracker.
20 Depreciation, the introduction of the tracker was a
21 concession made in order to accomplish the settlement in
22 this case.

23 Q. Okay. Did Staff take a position one way or
24 another on the AGP special contract which is a part of this
25 agreement?

1 A. No. Other -- none towards the contract or the
2 negotiation of the terms and conditions of the contract.
3 The Staff did play a role with the Office of Public Counsel
4 in the provision that would -- I call it a hold harmless for
5 the other customers so that in future rate cases, that
6 contract will be treated as if they paid the tariff rate so
7 there wouldn't be a make whole on the remaining customers to
8 pay for whatever discounts AGP received.

9 Q. Is it an accurate statement the way I read
10 this that the increase -- the increase in steam revenues of
11 \$1.3 million that was agreed to by the parties should
12 actually be reduced by the \$35,000 per month concession that
13 will be given to AGP, which would make the increase
14 somewhere around \$900,000? Is that an accurate statement?

15 A. That's -- that would be true. The 1.3 million
16 is in the tariff rate, but the tariff rate won't be
17 collected on all customers instantly.

18 COMMISSIONER CLAYTON: Okay. Thank you very
19 much.

20 Thank you, Judge.

21 JUDGE JONES: Commissioner Murray?

22 FURTHER QUESTIONS BY COMMISSIONER MURRAY:

23 Q. I'm sorry, Mr. Schallenberg. I have a couple
24 more questions?

25 A. Sure.

1 Q. And I'm back to that Exhibit 180, late-filed
2 exhibit. And if you'd just look at Cases 1 and 2.

3 A. Yes, I have them.

4 Q. At year 11, \$500 is actually spent on cost of
5 removal; is that right? In both of those cases?

6 A. \$500 is spent on cost removal or net cost
7 removal, I'm not sure from the example.

8 Q. Okay. And in Case No. 1, which is treated --
9 given rate base treatment, the ratepayers in that first
10 11 years pay for that cost of removal, do they not?

11 A. Yes. They make a contribution towards that
12 \$500. I believe it's in \$50 increments they make each year
13 1 through 10.

14 Q. And that was -- the cost of removal was being
15 paid while the asset was being used; is that right?

16 A. In this example, that would be true, yes.

17 Q. And then on Case No. 2 in year 11, \$500 was
18 spent for cost of removal again; is that right?

19 A. Yes.

20 Q. And the ratepayers for that first 11 years
21 while that asset was in place did not pay any of that cost
22 of removal; is that right?

23 A. In the 10 years. I think they just put the
24 11th at the beginning of the 11th year, but for 10 years
25 they paid no money toward the cost of removal of that asset.

1 Q. Even though that asset was used during those
2 10 years?

3 A. That would be correct.

4 Q. And so for years 11 through 15, the ratepayers
5 in those years are the ones who paid for that cost of
6 removal; is that right?

7 A. Yes. This would treat it similar to
8 maintenance.

9 COMMISSIONER MURRAY: Thank you.

10 JUDGE JONES: Commissioner Gaw, did you have
11 other questions of Mr. Schallenberg?

12 FURTHER QUESTIONS BY CHAIR GAW:

13 Q. You may have answered this question.
14 Mr. Schallenberg, when I'm looking at -- earlier you were
15 talking to Commissioner Clayton about the difference in the
16 position of Staff in the case and in this settlement. Did
17 the figures that we have somewhere in this document include
18 the interim energy charge when you were referring to the
19 difference in the positions? Did you include it or exclude
20 it from --

21 A. I didn't include that in my discussion with
22 Commissioner Clayton because the Staff from early on in the
23 case was supportive of using an Empire type approach to
24 address Aquila's gas volatility and its reliance on gas.

25 Q. Okay. And when I include the interim energy

1 charge, if I were to include it in the total amount of money
2 that we would be talking about, I mean -- well, let me ask
3 you this. You say you're supportive of it. Did you file
4 testimony in support of it --

5 A. We did in --

6 Q. -- in this case?

7 A. Not -- it wasn't in our direct case. After
8 seeing the rebuttal --

9 Q. Yes.

10 A. -- in the case, the Staff came to the
11 conclusion that a point estimate for natural gas was not
12 likely to result in a just and reasonable rate. There was
13 significant probability that the point estimate for natural
14 gas was either going to be exceeded or it would be below.

15 And so the Staff, in consultation with the
16 general counsel's office, took the opinion that an IEC type
17 approach was needed to set just and reasonable rates in this
18 case.

19 Now, there were some discussion as to what the
20 top parameter would be for gas. I think we had discussed
21 the price as high as 5.64. And the parties negotiated -- to
22 minimize the rate impact, they negotiated that down to I
23 think it's 5.14 or 5.16.

24 Q. I think 5.14 sounds familiar to me.

25 A. Yes.

1 Q. And the reason Staff is supportive of the
2 concept of interim energy charge in this case then is
3 because of what in this case?

4 A. The reason the Staff holds the view that it is
5 the best approach for this case is that to use a single
6 point estimate, and I think it was mentioned today, the
7 Staff was looking at supporting a \$4 per MCF price of gas,
8 there is a significant probability that gas would not be \$4.

9 Q. It would be higher than that or lower? Which?

10 A. If we get -- if we get warm winters again, it
11 will be lower.

12 Q. I see.

13 A. I mean -- and it only takes one and the price
14 will drop. So -- and I can tell you, as we talked earlier,
15 as these coal units start coming on or start being actually
16 built -- not discussed, but actually being built, you'll see
17 downward pressure on the price of gas to industrials and to
18 utilities for -- for their summer peaking.

19 But given the \$4, we -- we believe that there
20 was significant probability that it was going to be on
21 either side. And if we had to set a base rate with \$4 in
22 it, well, the company could come in -- if it was, in
23 essence, deficient again, it wasn't likely that it -- it
24 would take us a lot longer to get that reduced and get the
25 rates adjusted if it were treated down into the low \$3.

1 So in order to provide a reasonable rate out
2 of this case as well as reasonable protection and
3 incentives -- by reducing it to 3.50, the resultant fuel and
4 purchased power expense now gives the company the incentive
5 to try to manage its fuel and purchased power below that
6 level and it can make money as KCP&L and Ameren do today.
7 So those were features that caused the Staff to be
8 supportive of an IEC for Aquila.

9 Q. The only part that is not so transparent to
10 consumers initially is that they're going to be paying the
11 5.14 level subject to refund. Wouldn't that be accurate? I
12 mean, they're actually paying -- they're paying more than
13 the \$3.50. They're paying as though it were 5.14?

14 A. That's -- that's correct.

15 Q. With the concept that there will be a true-up
16 at some point. Right?

17 A. There will be a true-up at the end of the
18 two-year period.

19 Q. All right.

20 A. And they also have the rate stability of not
21 having it set and then have the rate increase hit them later
22 at a less opportune time. I mean, the money is -- they will
23 pay no more than the upper region -- the upper cap of the
24 IEC for the two-year period.

25 Q. I want to make sure I'm not missing something.

1 They will pay at 5.14, it will just be subject to refund;
2 isn't that correct?

3 A. That's correct. But they're not subject to
4 any additional charges if that -- that proves to be less --

5 Q. Yes.

6 A. -- then the premium amount.

7 Q. If it's not something where -- if the price
8 retrospectively after two years was \$6, where they have to
9 pay more on top of what they had been paying?

10 A. Right. Nor will they have another rate
11 increase for the next two years. With the moratorium
12 feature that's built into the Stipulation and Agreement, you
13 will have rate stability in these districts for two years.

14 Q. Mr. Schallenberg, if Aquila had been focusing
15 on long-term needs and building generation back several
16 years ago like other companies in the state, a couple of
17 other companies did, would I be talking to you about an
18 interim energy charge today for Aquila?

19 A. The answer would probably be no, but we would
20 have been discussing probably a rate increase when the --
21 when the base load units would have come on that we didn't
22 have.

23 Q. Yeah. In the long run, is one strategy
24 clearly better than the other for a company?

25 A. I believe that if -- when you look at utility

1 service, especially when you're talking about electric and
2 water where you have long-term perspectives of a needed
3 service that's not likely to get a competitive alternative
4 to it, I believe you need to look in the long run.

5 I mean, like I said, as someone who went
6 through the -- the mid-1980's, you know, those rate
7 increases were not -- were not pleasant and they weren't
8 good and they were very contested rate cases. But I think
9 you see today the benefits of -- of the -- of the decisions
10 that were made to have those units.

11 And even at the time, those units had issues
12 and they still have some issues that come up, but you can
13 see we've reached a rate level and a security in those
14 service territories that I think we have low cost and we
15 have a firm base of base load capacity in those areas, so
16 you have to look in the long term.

17 In fact, when you talked to me earlier about
18 the IRP process, the Staff always requires at least a
19 20-year study in terms of your decisions. The decision in
20 the Staff's mind are not good resource plans if they're only
21 based on a 5-year analyzer.

22 CHAIR GAW: Okay. That's all I have,
23 Mr. Schallenberg.

24 JUDGE JONES: Commissioner Murray?

25 FURTHER QUESTIONS BY COMMISSIONER MURRAY:

1 Q. Mr. Schallenberg, I have a couple more
2 questions. That's one of the advantages of being a
3 Commissioner. You don't have to think of all your questions
4 at one time.

5 A. That's fine.

6 Q. I just want to briefly ask you about the
7 concept of used and useful and intergenerational equity.
8 And when you're looking at the ratepayers paying for an
9 asset, they pay for what is used and useful; is that right?

10 A. They pay for what is in service. The reason
11 I -- we have in most of our utilities a certain surplus in
12 plant and service to be ready to provide service to
13 customers as they -- as they come on. We don't -- we don't
14 build all the infrastructure for new customers.

15 So when you say used and useful, there is a
16 part of the plant that's fully utilized to serve existing
17 customers and there's an element in that plant to be ready
18 to serve new customers within reasonable time frames as they
19 request service.

20 Q. All right. And that's because those customers
21 may need service -- may need that plant fairly quickly; is
22 that right?

23 A. Correct. I mean, if you were to move into a
24 home in a new house -- in a housing development, you're not
25 going to want to wait until we build the overhead lines or

1 underground lines to connect whatever the current
2 transmission, you know, and build a distribution substation.
3 That would take years for you to have service.

4 So we have in our plant in service a
5 reasonable amount of plant that is not fully used, but it's
6 there because we have a reasonable expectation that within
7 the upcoming years, customers will need service and can be
8 provisioned in acceptable time periods.

9 Q. And the concept of intergenerational equity,
10 is that the idea that one generational customer should not
11 pay for assets that were only used by another generation?

12 A. Generally speaking, I mean, it's usually the
13 customer should pay for the cost that it takes to provide
14 them service and not pay for the cost of service either
15 provided to another customer.

16 Q. And you mentioned that with the Staff's
17 methodology -- and I realize, you know, Staff's methodology
18 was not fully adopted here, but it was partially adopted to
19 the extent that cost of removal is expensed. And you made
20 the statement that by expensing it, you're treating it like
21 a maintenance expense; is that right?

22 A. That's correct.

23 Q. And maintenance is done on assets that are in
24 service, is it not?

25 A. That's correct.

1 Q. Whereas, cost of re-- or, whereas, removal is
2 removing an asset from service; is that right?

3 A. Usually -- usually cost of removal is usually
4 done in conjunction with construction of new assets as
5 well -- I mean, most of the time there's both activities
6 going on at the same time.

7 Q. But the cost of removal itself is for the
8 asset that's being removed, is it not?

9 A. I'd say yes. It depends on the accounting
10 policy as to -- to give you an example, when we have to dig
11 a hole to remove a pipe and put a new pipe in, there's an
12 assignment as to how much of any of that is cost removal
13 versus the cost of new construction. So with that
14 understanding, I would agree with you -- your question.

15 Q. And with the methodology that is used here in
16 this Stipulation and Agreement, although there is a tracking
17 mechanism, if you were to assume that Staff's methodology
18 creates an intergenerational inequity -- just assume that
19 for me, I know you don't agree with that, but assume that's
20 true -- does the methodology adopted here create that same
21 inequity?

22 A. If you accept your assumption, the answer will
23 be yes.

24 Q. And the compromised position results in the
25 company having less of a risk of non-recovery over time, but

1 it does not minimize the risk of customers having to pay for
2 the retirement of assets that those customers did not use;
3 is that correct?

4 A. Yes. I mean, if you're looking at what is
5 going to be in the depreciation reserve. And in those
6 assets, like in those cases you showed me, we very seldom
7 pick that 10 years and it ends up being 10 years. So all
8 that is co-mingled in that depreciation reserve. So we're
9 always making adjustments to adjust from what our estimate
10 was for how long the -- the life of the asset would actually
11 be and what it truly ends up being.

12 Q. Depreciation is based on estimates for the
13 most part, is it not?

14 A. Actually most of the rate-making is based on
15 estimates.

16 Q. Okay. Thank you.

17 A. Thank you.

18 Q. Mr. Schallenberg, are you able to answer
19 questions about the Aries issue?

20 A. I can answer some questions. I -- I mean, I
21 know I'm knowledgeable about the Aries issue, but I wasn't
22 the Staff's witness in the case on the Aries issue.

23 Q. Well, let me just try here. Is the issue of
24 whether MPS should have built the Aries plant rather than
25 entering into the purchased power agreement with Aquila's

1 affiliate settled?

2 A. I would say no in terms of a decision that --
3 there's been the question of prudence of that decision.
4 There is nothing in the Stipulation and Agreement that has
5 altered anyone's rights in a future rate case to argue for
6 an adjustment to Aquila's cost of service regarding the
7 prudence of that decision. There is no outstanding issue in
8 the setting of rates in this case though regarding Aries.

9 Q. So there was nothing settled as to that issue,
10 it was just postponed. Is that what you're saying?

11 A. Postponed to the extent that somebody wants to
12 raise it. There's no guarantee that in the next rate case a
13 person will raise it. But there's nothing in this
14 settlement that would preclude someone from raising that
15 issue.

16 Q. What was the dollar value of that issue?

17 A. I show that on the purchased power demand
18 cost, that we had an outstanding issue of 6.9 million,
19 roughly 7 million dollars.

20 Q. And was that based primarily on the prudence
21 issue?

22 A. Most of that calculation -- well, I guess the
23 answer would be yes, because most of that calculation is
24 based on the determination as to what assignment of costs
25 should be put in cost of service versus the amounts of

1 demand cost built into the purchase supply agreement.

2 Q. So for treatment of the payments to MMPPH
3 under the service agreement, was there nothing included in
4 here or how was that treated?

5 A. There is no specific treatment in the
6 Stipulation and Agreement regarding inclusion in cost of
7 service or in rates of these -- of the capacity costs that
8 are in the power supply agreement. The only thing in the
9 agreement regarding Aries is on page 8.

10 Q. Yes. I see it. It says very little.

11 A. And all that was was to address the retention
12 of information, which goes back to my earlier answer as to a
13 person's rights to bring up the prudence issue. The
14 information is still going to be retained in order for
15 someone to have -- have information available to facilitate
16 if they want to exercise that right.

17 Q. So the issue of disallowing the costs based on
18 the prudence of entering into that purchased power agreement
19 is still open to be raised in the future?

20 A. Well, I say it's -- it's still -- you could
21 still raise it in the future. The purchased power --
22 purchase supply agreement will expire in June of '05 and the
23 moratorium will take you past that. So it's not likely that
24 the capacity costs will be a relevant issue in the next rate
25 case.

1 Now, where you may see that issue is to --
2 that to the extent that something else is built or something
3 else is purchased that's in that case, one may argue that
4 those costs are excessive in relation to their decision not
5 to build the Aries unit.

6 Q. So you would still be using that decision not
7 to build the Aries unit against any future -- for the
8 purpose of disallowing future purchased power agreements; is
9 that --

10 A. Or -- I'm sorry.

11 Q. -- is that your position?

12 A. Well, what I'm saying is I don't know what the
13 Staff's position is going to be in the next case, but it
14 could be used either if they bought power to replace the
15 purchased supply agreement -- and as I mentioned earlier, it
16 is our understanding -- and I don't know if this is
17 confidential.

18 MR. SWEARENGEN: Let's assume that it is.

19 COMMISSIONER MURRAY: So I'm sorry. Have we
20 said anything we shouldn't have?

21 MR. SWEARENGEN: I don't think so.

22 JUDGE JONES: We'll go ahead and go off
23 camera.

24 (REPORTER'S NOTE: At this time, an in-camera
25 session was held, which is contained in Volume No. 21, pages

1 1970 through 2001 of the transcript.)

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