Q. And why wouldn't that extend the life span beyond the 45 years?

A. Well, at the present time, based on a 45-year life span, the projected retirement date would be 2015, which is some 12 years down -- down the way.

Over 12 years, $10 million is a relatively modest investment compared to, say, the -- I believe it's 18 million -- the $18 million investment in 1990 for pollution control, when the plant had a total investment of only 27 million.

And there was also -- in connection with the addition of Unit 2, a fairly substantial capital addition in 19-- that would be something else. That would be another environmental project.

Q. So are you saying your criteria is a percentage of the capital investment in the plant?

A. The criteria is the economics of the plant and how -- whether or not the existing life span can accommodate a major capital addition.

Had the plant been 40 years, with a ten-year -- or $10 million capital required for cyclone, then we would probably consider whether or not that, plus other anticipated capital improvements, would necessitate the increase of the life span in order to accommodate those conditions economically.

MR. WILLIAMS: No further questions at this time.

JUDGE RUTH: Thank you.

Chair Lumpe, do you have questions?

CHAIR LUMPE: Yes.

QUESTIONS BY CHAIR LUMPE:

Q. Mr. Loos, in listening to the statements, the opening statements -- and I think I gathered this -- that this item, this depreciation item is a $10 million item. Is that correct?

A. I believe I calculated it at 9, but it's 9 to 10.

Q. Okay. All right.

Well, I was looking at -- the net salvage appeared to be about 1.5 million, and then somewhere I got the 9, I guess, in listening to -- maybe I just deducted that or something.

But you're saying -- is that all together, this depreciation item, net salvage, et cetera, comes to a 9-million item?

A. Yes.

Q. Okay.

A. I believe in my rebuttal testimony I attempt to --

Q. Come up with --

A. -- put together a reconciliation of the components, yes.

Q. Okay. I think that may be where I got the 9, and then I was trying to figure out how you got -- okay.

Let me ask you -- and this is an issue that we've been struggling with now in the last several cases.

Why would we not want to use actual and current versus estimates?

A. There is several reasons, but I think perhaps the most compelling is that cost removal and salvage represents a cost element attributable to an existing plant.

For example, the cost of the Asbury plant includes a salvage -- that might be realized, plus any cost of removal or retirement cost that might be incurred.

If we look at only the actual amount and expense the actual amount, then the existing ratepayers, the ratepayers that are using and benefit from the Asbury plant, do not pay those costs that will be incurred.

Now, I certainly recognize that there is some difficulty in projecting what kind of costs those might be, but I believe we put together reasonable estimates.

So that the ratepayers that benefit from the plant pay all of the costs to the plant. We don't shift those costs to future generations of ratepayers.

Q. How do the current customers not pay it when it's expensed?

A. Well, the -- the demolition, retirement of the Asbury plant, will amount to a considerable amount of money from the standpoint of tearing down the boiler, removing the pumps, tearing down the pipes, removing the structure and putting the site back to greenfield condition.

Those costs are, in my opinion, every bit as related to the original cost, when the plant was originally installed, as that original cost.

And if we expense it, none of those costs -- if we look at only actual, none of those costs that will come about when the plant is finally retired are reflected or recovered from existing ratepayers.

Q. So the expense issue is that only those things that are actually being used up, as it were, that would only be the expense that the current ratepayers would be paying for, and then somewhere down the line the additional amount that is there would be paid for in the future. Is that what you're saying?

A. Yes. That's my understanding of Staff's proposal.

Q. Okay. Is there a way of -- let's see. Traditionally -- and we hear a lot of this; traditionally, this is the way it's been done and times have changed.

Traditionally, was it thought that there would be negative net salvage, or was there the assumption that it would be positive?

A. Well, since I have been familiar with depreciation for the past 30 years, I've always considered it was going to be negative, that the cost of removal would exceed any salvage.

Perhaps back in the earlier days when equipment was smaller, then that relationship would have been reversed. But from personal experience, I've not been exposed to it.

Q. Would the '70s and '80s take it back to the 30 years, then, that you're talking about?

If traditionally it was thought to be positive in the, say, '70s, that would put it before your addressing it as positive. Is that correct?

A. I predate -- predate the '80s. I've been doing this throughout most of the '70s.

Q. Okay. Let me see.

The question -- or what we're also sometimes told is that those estimates tend to create a pool of money that can be used, then, by the Company to do whatever it wishes to with.

Should -- should there be an updating on those estimates every so often and a refund given?

A. Well, I think there are several aspects to your to your question.

And if I might, first of all, we -- through depreciation we generate dollars, and certainly the dollars that are generated -- the cash is that is generated is used by the Company for other -- for other purposes.

But once it's expensed, in my view, it tends to lose its identity. The Company is using those funds, and every five years at least, based on Commission's requirements, we look at what actually happened with salvage, make some kind of determination of what we anticipate its going to be into the future, and adjust those estimates.

We look at the reserve deficiency or reserve surplus to take those into consideration.

I think the other thing that you should be aware of is that with regard to a refund, is that once it's booked into depreciation, the customers, in effect, earn a return on that, because it increases the depreciation reserve, which based on Missouri regulations, we deduct did from original plant.

And if I am -- have a higher rate as a result of including a salvage allowance, then that builds my reserve faster, in which case my rate base goes down, and the customers are, in fact, compensated, until the Company spends that money for the retirement as a result of the treatment through the rate base.

Q. Okay. Did I hear you correctly, that -- let me just give an assumption here.

If you said a plant had a 35-year life span -- okay -- and it goes beyond that; in other words, 45 years later they're still using it, does the depreciation stop or should it stop at that 35-year assumption, or should they continue to depreciate and add net salvage, et cetera?

Doesn't that just create another pool?

A. It potentially could create a problem where that -- the reserve exceeds the plant. But as we -- we go through time -- and assume that we didn't, weren't required to put any money into these -- into these plants, I start off with a 35-year life span.

20th, 25th year at the latest I would be reviewing that to see if, perhaps, that should be extended based on the performance of the plant and what the outlooks of the plants are to 40 to 45 years.

We would adjust the rate. We'd take into consideration what would happen on the reserve to go forward.

Q. Okay. So that looking at it every five years gives the opportunity to adjust what you said or what one said the life span originally might be, and if it's continuing, then you could adjust the depreciation downward, I guess, or make it less or -- and adjust net salvage also?

A. Yes.

And the hypothetical we put together is less, but as a result of -- and speaking of life span property generation, as a result of historical additions, the actual dollars that are installed in the plant on relatively major capital additions, such as this $10 million, typically find that the rates go up as opposed to down, because of the influence of those additions.

Q. All right. Now, let me ask you this: I think you made some comment that a gas company plant might be different from an electricity company plant, I think it was in your testimony, because an electricity company plant is mostly aboveground, poles and wires and plant, as opposed to underground, much of the distribution of gas company is underground.

A. Yes, I did.

Q. So that one might treat one differently, the electric different than gas, potentially?

A. Yes. I believe that there is very definite differences and considerations there. Because the current practice of most gas utilities is to ultimately abandon those underground facilities in place.

Q. One last question.

On page 2 it is, of your surrebuttal, on line 16 I think you're commenting on definitions there of what -- depreciation, et cetera.

What do you mean by the phrase you use there on line 16 in quotes?

A. Mr. Adam has characterized my testimony that I've attempted to modify the definition. And I believe that Mr. Adam's treatment constitutes a modification of at least the traditional treatment of depreciation.

CHAIR LUMPE: Okay. Thank you. That's all I have.

JUDGE RUTH: Thank you.

Commissioner Murray.

COMMISSIONER MURRAY: Thank you.

QUESTIONS BY COMMISSIONER MURRAY:

Q. Good morning, Mr. Loos.

A. Good morning.

Q. In your rebuttal testimony on page 35, beginning at line 7, you indicate that your overriding concern with Mr. Adam's proposals is that -- well, basically I'm paraphrasing -- that it's a radical departure from past precedence and leaves the Commission with little leeway to choose something in between the Staff and the Company.

Is that a correct characterization?

A. Yes, it is.

Q. In the past Empire has -- the depreciation for Empire has been treated under the traditional method. Is that correct?

A. Yes, it is.

Q. So that plant that has been in service for a number of years has been treated with net salvage being included in the depreciation?

A. That is correct, yes.

Q. So that ratepayers who were using the plant were also paying -- helping to pay for the retirement of that plant that was being used to serve those?

A. That was our intent, yes, it was.

Q. So if the Staff's proposal were adopted here and we changed this treatment to omit net salvage and expensed depreciation -- or expensed retirement as they occurred, then the plant that is currently being used, the ratepayers that are serviced by that plant would no longer be paying anything to retire that particular plant. Is that correct?

A. Yes. The allowance that they would pay, the amount that they expensed, would relate to plant that they no longer use.

Q. And that would relate to plant that has been used in the past; whereas, the plant that is currently being used will be retired at some time in the future?

A. Yes.

Q. And in the future when the plant that is currently being used is retired, logic would indicate that it will be more expensive to retire that plant in the future than it is today to retire plant currently. Is that correct?

A. If we continue the way that we have in the past, yes.

Q. So your concern, primarily, is matching the cost causer to the ratepayer that pays for the costs. Is that correct?

A. Yes.

Q. And you indicate that because we require utilities to submit depreciation rate studies at least every five years, that any adjustments that need to be made are recognized and those adjustments are made in a timely fashion. Is that correct?

A. I'd say that more accurately provides a forum or a window where it would be addressed, much like the reports that we've prepared, that would then be available to be issues in rate cases.

Q. And I believe your testimony referenced Mr. Adam's quoting from NARUC principles, but I think you indicated that while he quoted from them, he didn't properly apply the NARUC treatment of depreciation.

Is that a -- I'm actually referring to your testimony in your rebuttal, pages 15 and 16.

A. Could I have your question again? I see --

Q. Okay. Mr. Adam's references to NARUC, do you take issue with how he applies those references?

A. Well, at this point my concern is -- is that he focuses on these quotes and then he points out -- or makes a statement that when the property is sold, the responsibility for removal or retirement becomes the purchaser's responsibility.

And my point here is that in connection with valuation work, when we value, for example, a power plant for sale, one of the considerations is -- and a discount in the price that we offer is based on our anticipated cost of removing that plant when the time comes.

So while NARUC identifies these various elements, my concern is with respect to property sold, any amount that is included that has been recovered from the standpoint of depreciation rates is also a factor that is considered by the purchaser and, to some degree, the seller in connection with the purchase price that is offered.

Q. Okay. So it's not something that has been collected and is never used?

A. Right.

And, again, if you sell a piece of property, then ultimately the Commission makes a determination as to whether -- on various factors with respect to the sale.

So the Commission does have an opportunity to review at that time the various factors surrounding a particular transaction, which could include consideration of historical allowances for cost of removal.

COMMISSIONER MURRAY: Thank you. I believe that's all I have.

JUDGE RUTH: Commissioner Simmons.

COMMISSIONER SIMMONS: Thank you, Judge.

QUESTIONS BY COMMISSIONER SIMMONS:

Q. Good morning, sir.

A. Good morning.

Q. Could you give me the pronunciation of your last name?

A. Loos.

Q. Mr. Loos. Thank you.

Mr. Loos, I have some questions, and some of the questions about depreciation will stem from some of the questions you received from the commissioners earlier, particularly Chair Lumpe and also Commissioner Murray, and I'll just kind of start with that.

To piggyback off of what Commissioner Murray was just saying, when you look at the NARUC definition of depreciation, in your testimony you talk about the FERC Uniform System of Accounts as a definition of a depreciation.

Are there two different definitions of depreciation, and if so, how different are they?

A. To my knowledge there are not -- I've looked at both the Uniform System of Accounts and the NARUC chart of accounts, and I really haven't identified -- or I don't recall any differences.

Q. Okay.

A. If they're not different, they're very similar at least. And I believe the definition that NARUC has got is, if not identical, is very close to the same as the Uniform System of Accounts.

Q. Very close.

When the statement is made that in depreciation accounting, as far as NARUC is concerned, that the goal is recognizing costs, not providing funds for replacement of the asset, how do you characterize that statement?

Is that off centered, is that right on or is that --

A. Um, I believe -- I believe that that statement can be at least gotten from page 15. And that's from a publication other than the chart of accounts that I referred to in the prior question.

Perhaps I was off in my response to the prior question.

But from my view they're on target. We're not looking for depreciation in order to specifically generate cash. We are looking for depreciation as an allocation of an investment over its life among different generations of ratepayers.

Q. Okay. Now I'm going to go into another line of questioning, and I'd like to get your comments on these questions.

In your opinion what should be done with the cost of removal funds that are collected in excess of the actual removal?

A. Those funds will be -- if we were able to identify the dollars, those funds would be returned to customers in the future as a result of future studies, where we relook the collections depreciation and adjust the reserve to accommodate what has been collected.

Q. I guess I'm -- from our perspective and from the perspective of the customers, can we be certain that when you have pre-collection of costs of removal, that it will offer any type of assurance that the Company will have those funds available to proceed with removal if the plant is retired?

A. Other than the continued obligation of the Company to meet its obligations, no.

Q. And probably lastly, how will there be any certainty that a Company that pre-collects cost of removal will be there if there is a new owner -- yeah, if there is a new owner?

A. Well, perhaps I can interject two points here.

First of all, if a property is sold before its useful life is extended, generally, the liability for removal is extended to the new owner.

I think that the example that perhaps you're most familiar with is these foreign manufactured gas sites, where there has been extensive costs required in the cleanup.

In that particular instance, rightly or wrongly, EPA, or whatever organization it is, has come back to the existing gas utility and required that to be cleaned up, even though title to that property passed from a gas utility some time ago.

And there would be a potential there with respect to, perhaps, some of the material that's stored or placed in the ashbeds and the other -- the facilities at coal-fired plants.

COMMISSIONER SIMMONS: Thank you, sir.

That's all of the questions I have at this moment.

JUDGE RUTH: Commissioner Gaw.

COMMISSIONER GAW: Thank you.

QUESTIONS BY COMMISSIONER GAW:

Q. Mr. Loos, I wanted to first of all ask about the issues concerning retirement dates that are referred to in your testimony.

There seems to -- I'm a little confused about your testimony earlier on cross, about the way you arrived at the dates that you have arrived at in your direct and in your rebuttal.

You used a phrase regarding the Riverton plant, that that was based upon actual information from the Company for purposes of depreciation, if I understood you correctly.

My question, first of all, is when you use that phrase for purposes of depreciation, was that a qualified answer in regard to your information from the Company?

A. Yes and no.

When we went with the 2008 date several years ago, there was some kind of plan that indicated that that was the appropriate date.

In my discussions in firming that, while the Company has not specifically said on June 1st, 2008 we're going to take the plant out of service based on current anticipated environmental legislation, anticipated what may happen in the plant, our best estimate at the present time is that most likely that will be taken out of service on perhaps the 2006 to 2010 time frame.

And it may be that single units will be taken out of service and not all three units at the same time.

It's -- it's not -- it's not an exact science.

As I indicated in my -- I believe it's surrebuttal testimony, the Riverton units are a major outage away from retirement.

Now, if there is something that significant happens there, most likely it would not be economical to replace that component, and, hence, the plant would be retired, that unit would be retired.

Q. So in regard to the units -- I guess that would be 7 and 8 and 9 at the Riverton plant, your information from the Company is that they intend to retire all three in the range of between 2006 to 2010?

A. They anticipate that they will have to retire. It falls a little bit short of intending, but they anticipate that they will require --

Q. Is that based upon current law or anticipated legislation?

A. A little bit of both.

Q. All right.

So at the present time those are estimates based upon their anticipation of passage of additional legislation regarding clean air, in addition to the current status of the plant and the current status of the law.

Anything else?

A. Well, it would be -- it would be more regulations than law. It depends on how the existing regulations are implemented.

Q. If the regulations stayed the same as they -- as they are today, does that change the estimates in regard to the retirement of those three units?

A. The -- a lot of it depends on what happens to the new source requirements.

If the conclusion is a result of actions with EPA on new source, come to play based on EPA's position, then there is no way that they could economically justify the new source requirements on those plants.

Under existing regulations I understand that there are potential NOX limitations that would have to be addressed, putting SCRs, selective catalytic reduction, devices on that, costs probably in order of $20 million.

It would be very difficult to justify in light of the age and condition of the other components of the plant.

It's a very dynamic situation with respect to regulations on the one hand, court rulings, perhaps, and the condition and what you may have to do with the equipment over the next eight years.

Q. If we base this upon current law and current condition of those units, is that 2000 -- would your 2008 projected retirement date remain the same?

A. Yes.

Q. Exclusive of anything that might change on regulation?

A. Yes. And it may -- I doubt the regulations is going to relax, but as I said, one major outage away from retirement.

Q. And two of those units are coal fueled?

A. I believe all -- I believe all three of them are. One is -- serves in kind of a co-generation arrangement with one of the turbines.

Q. All right. The information I have in front of me on Schedule LWL-1, 4 through -- 4-4 shows nine as being gas oil. Is that incorrect?

A. No. That is correct. I'm sorry. It is correct. It is a CT and it's dual fuel.

Q. Okay. In regard to the other units that are -- that are in front of us, those estimates of retirement are based upon your models rather than information from the Company.

Did I understand that correctly?

A. It's based on my experience with respect to reasonable life span and the additions that are required to maintain plants and to keep them in service.

As I indicated, 45 years for Asbury. We will relook that, especially in light of the $10 million that is going in out there on the next -- in the next case.

And perhaps --

Q. I'm sorry.

A. Perhaps, then, we'll extend it to 50 years.

Q. All right. But the information in regard in your estimates on the remainder of the plants are not based upon information from the Company that they intend to retire them on those dates. Would that be correct?

A. Yes, it is.

Q. Turning to the net salvage issue, it's my understanding that the question of net salvage as it applies to units being retired may vary from entity to entity, from type of utility to type of utility.

When we're talking about electric, the plants, in your experience, upon retirement, generally what becomes of them as far as the Company is concerned?

A. Let me -- let me answer your question; then I want to back up just a minute.

Typically with respect to generating units, upon retirement they stay in place -- the equipment stays in place for some time. It's been retired on the books, but it still stays in place, recognize that some time it's going to be torn down.

For example, at the Riverton plant I understand that Unit 6 is still in place in there. It's not operational, but it has been retired. But it -- it's too expensive to go in and try to extract Unit 6 out of the balance of the plant.

It's better to leave it there, so that when the other units are retired, then it can be taken down en masse.

With respect -- the other aspect is -- in your question you identified plants, and then you compared it with gas, for example, utilities.

The type of gas plant, the type of gas facilities that I'm referring to with respect to the difference between gas and electric is equivalent to the poles and conductor of electric, not to power plants.

Q. All right. That's helpful.
Let's stick with the power plant for now.
Does that vary according to the type of plant that we're discussing as to what becomes of them, whether or not they are torn down or sold without -- without being torn down and salvage said?
A. When we speak of retiring, we speak of a plant that is not sellable for operation. It can be sold for salvage.
An operating plant, of course, could be sold. And it does vary depending on what the type is. And certainly the salvage is a function of the type of equipment, and its size.
So it's -- and we've attempted to recognize that in our salvage allowances between different types of technologies and to some degree to the specific plants.
Q. Be more specific for me. Tell me what normally becomes of a coal plant as opposed to a different type of fuel plant, if there is a difference, as far as the normal procedure is concerned on what would become of that asset?
A. Typically, at least in the long run, it's going to be torn down and it's going to be converted into a greenfield site, or it's going to be sold for the purpose of building another power plant.
It may be sold, still dirty -- I say dirty from

the standpoint that perhaps some of the equipment is still there, but it may very well be that the owner would have to pay somebody to take it off of his hands. The new owner would then clean it up and use it for something else.

Q. Now, when we're talking about what we're selling here, what are we talking about selling?

Are we talking about selling the equipment itself? Are we talking about selling the real estate with the equipment on the real estate? Can you explain that to me, please?

A. It can be done different ways. Generally speaking, what I'm speaking of is disposal of all of the assets, which would include the land and the equipment.

Q. All right. So would you say that that would be more typical than not in regard to the dispensing of a power plant after retirement?

A. I can't -- I can't really conclude one way or the other what would be the most typical.

Q. But it is -- but that is a typical way?

A. Right.

Q. So let's assume that one of these -- one of these plants -- I assume we could talk about Riverton, were retired, all of the units retired, and the real estate sold to some third party.

A. Yes.

Q. Upon that sale what kind of -- how would you adjust the calculation to take into account what had been done on the books on net salvage to what had actually occurred upon that sale?

A. Well, the recording of the sale, based on my understanding of regulatory accounting, is if we sell an asset, we reduce the plant and service by its original cost.

We reverse the depreciation that is accrued to it, and the difference between that net value and what is actually the purchase price is then included in a separate account. I'm at a blank as to what -- what that account is.

At which my understanding is that if Empire sells an asset, that that sale then comes to the Commission for the determination of precisely what the gain on that sale might -- might be, whether it's shared with ratepayers or whether it stays with the stockholders.

Q. All right. So if we started out with -- at some point in time the Company acquired this real estate --

A. Right.

Q. -- without any improvements on it, I would assume, that relate to power plant?

A. I'll accept that -- that as an assumption.

Q. Take that as an assumption in this scenario --

A. Asbury certainly.

Q. All right. Then they added power plant facilities and incurred a cost for doing so?

A. Yes, as well as extensive earth work.

Q. So with that -- with a value and actual expense for incurring the dirt work and building the plant, the facilities, and that was added to the books -- and that is the first amount we're talking about is starting out with an appreciation -- excuse me -- with a value to depreciate.

A. Yes.

Q. Would that be acknowledge?

And then we're adding to that based upon the company's position, and to some extent past treatment, a net salvage value, which we are in all of these cases assuming will be negative because the cost of removal will be assuming -- will assume to exceed the value of the salvaged assets?

A. We did -- we assumed a positive salvage on State Line to be conservative. But with the -- with that exception they're all negative.

Q. Thank you for clarifying that. That's helpful, actually.

So with a negative salvage value we are developing a model that anticipates the Company actually removing that facility and the cost of the actual removal, and that becoming a negative number because of the fact that the value of those items salvaged if you just took them out and sold them would be less than what it cost to take them out?

A. Yes.

Q. But, in fact, in some cases those things are never removed from the Company. Is that correct?

A. I don't believe -- I don't believe that's the case with respect to the aboveground equipment.

Q. But I thought we just talked about the fact that in some cases that real estate with those assets are sold without the Company ever removing them?

A. Oh, yes.

Q. And I know that can also be the case, that those assets may never be removed, but that's not what I'm asking you.

Never removed by the Company?

A. Right.

Q. Now, the depreciation net was done, was done based upon the value of the physical plant that was added to the real estate. Correct?

A. Yes.

Q. That's an actual amount that was expended upfront; maybe it was through money borrowed but it was expended upfront?
A. Yes.
Q. And so when we're depreciating it out, that's money that was expended on behalf of the ratepayers to put that plant in service. Correct?
A. Yes.
Q. All right. When we get to the issue, then, of the real estate that this physical plant sits on, the real estate is never depreciated because the real estate by definition is not property that you're adding -- that you added value to, I assume, by purchasing the equipment and things to do that. The real estate does not get depreciated --
A. The improvements --
Q. -- on your books?
A. The improvements to the real estate wouldn't.
Q. But not the real estate itself?
A. For example, the earth work.
Q. Yes. That could be depreciated?
A. Right.
Q. It's not expensed; it's depreciated generally?
A. I believe it's always depreciated. I can't remember an example where it's not.

Q. I'm just for my own purposes trying to make sure I'm following you.

Now, the real estate itself, many cases -- would you say over the last 30 years real estate has gone down or up in value?

A. The farm real estate, for example, what is Asbury, it's very difficult to say in a 30-year horizon. It goes up; it goes down.

Generally I think that the conventional thought was it's gone up.

Q. I would think generally the conventional thought would be that too.

Does that appreciation show up in the rate base calculation in the -- in this information that's in front of us?

A. No, it does not.

Q. So the ratepayer who may be dealing with the total value of assets that may later be sold never gets the benefit of any appreciation on the actual real estate appreciation. Is that correct?

A. That's correct. Until -- until -- if there is a gain on the transaction or a loss on a transaction. That should come to the Commission.

Q. And if the end result is that that asset with this depreciated plant, and, additionally, depreciated net negative salvage is sold with the appreciated real estate, then that ratepayer never got the benefit of that appreciation even though -- and based upon this intergenerational problem that you cited before, they're caught without any -- without ever having gotten the benefit of the good that came along with the bad of having to pay for that removal of the asset that never was removed by the Company. Is that correct?

A. Under your example that's true, yes.

Q. So is it really possible to say that we know today or can even estimate today the cost that the Company will incur for removing an asset if, in reality, many times these -- these items, these pieces of real estate, with the physical plant there are sold to a third party even though the ratepayers have paid for their removal?

A. The -- it is an estimate -- cost removal is an estimate, and the balance of what has not been depreciated or what has been depreciated comes across in gain on the sale.

Q. And that gain on sale is really treated more like the opposite of a deposit of an expense, isn't it?

A. It's -- I -- I believe it's -- I believe it's treated as a revenue.

Q. At the time it's received?

A. Right.

COMMISSIONER GAW: Thank you.

JUDGE RUTH: Okay.

CHAIR LUMPE: I have two quick questions, Mr. Loos.

FURTHER QUESTIONS BY CHAIR LUMPE:

Q. One -- and they're both follow-ups.

One, you talked about a unit in a plant that is not being used, so it's left there until the full plant might be salvaged or whatever.

If it's left there and if it's already been depreciated, we would not be continuing to collect depreciation on that particular unit, would we?

A. No, you would not. It has been retired. It's been removed from the books. It just has not physically been removed.

Q. Okay. The other one is on your -- in your rebuttal, on page 35, where you talked about the traditional versus what you'd call radical departure from past precedence.

And I think Commissioner Murray talked about that, not giving leeway to choose something in between.

Could I ask you, what -- is your final paragraph what you would be suggesting as the in between, or do you -- could you tell me what part of Staff's we should -- could, should, take, what part of Company's we could, should take?

A. That's my dilemma. That's a dilemma that I'm trying to present to the Commission on line 7.

Mr. Adam's proposal is all or nothing. We either expense it or we continue to accrue it in depreciation.

Typically, the issue is -- or has been that we include an allowance in the depreciation rate. The issue is, Mr. Adam may be proposing a plus 10 percent net salvage. I may be proposing a minus 10 percent.

So, you know, there is a difference there that the Commission can say, well, you know, Loos is right here, Adam's is right here. We'll say that it's 5 percent, positive 5 percent.

There's really -- there is some room. But when we go to the expensing it, it's an all or nothing type of transaction.

Q. So the in-between choice is really whether the depreciation is -- I mean, whether the net salvage or depreciation -- which is it -- is this amount or that amount?

A. Right.

And the Commission, it would seem to me, could make a decision at whatever level you could -- it would seem to me that the Commission could make a finding with regard to the total rate, depreciation rate, or the salvage allowance to include.

Q. Okay. And your final paragraph, are those some of the other items that you're suggesting as a, quote, in-between solution?

A. No. The last paragraph -- the last question and answer on page 35 goes toward that -- with the five-year rule, the Commission's practice, you can review these issues and bring them -- bring factors that are considered up to date as things do change.

Q. So in your suggestion of finding something in between, you did not expand on that other than what you've just told me now?

A. I was unable to come -- to present something in between with respect to the salvage.

Q. Do you think you might be able to come up with something?

A. I could -- you know, the in-between would be to, for example, you know, reduce the negative salvage levels that I have would be an in-between-type transaction.

On the other hand, I have already reduced the negative net salvage levels. I have a hard time visualizing that.

The component and depreciation rates for salvage, net salvage, has been reduced under my proposal relative to the existing depreciation rates.

Q. Okay.

But you're suggesting that we might find something in between -- how do I find it between your proposal and his proposal?

A. That's my dilemma, because he's proposing what I call a radical departure. You can't select anything between, because --

Q. But that I could select something lesser than what you've suggested in terms of net salvage?

A. Yes.

CHAIR LUMPE: Thank you.

JUDGE RUTH: Commissioner Simmons.

COMMISSIONER SIMMONS: Judge Ruth, just real quick.

FURTHER QUESTIONS BY COMMISSIONER SIMMONS:

Q. Mr. Loos, I stated a question earlier, and I didn't state the whole question. I'm just going to restate this question again for your response.

Again, how will there be a certainty that a Company that pre-collects the cost of removal will either be the owner of and responsible for the removal of the plant when it's retired?

A. There is no absolute guarantee.

Q. There is no guarantee?

A. Right.

COMMISSIONER SIMMONS: Thank you. That's the question I had.

Thank you.

JUDGE RUTH: Commissioner Gaw.

COMMISSIONER GAW: Thank you.

FURTHER QUESTIONS BY COMMISSIONER GAW:

Q. Regarding the issue of -- for instance, in Riverton, when you have multiple units, if there is no removal of a unit until all of the units are retired, does that change how you reflect on your books the depreciation scheduled for the net negative salvage, or is it -- does it anticipate removal on the books at the time that it's actually retired, rather than when it actually occurs?

A. Any -- any allowance for negative salvage -- or positive salvage, for that matter -- remains on the books until it's expended.

When -- when I retire -- when the Company retired Unit 6 at Riverton --

Q. Yes.

A. -- it credited original cost -- or original cost -- by its original cost, and they debit it, they reduced depreciation reserve by the same amount.

So that to the extent there was negative salvage that had been collected, that remains in the reserve account.

And under the traditional Uniform System of Accounts, when money is expended to remove that, then that's charged against the reserve, and that pot of money, then, or book money, is reduced to the extent that it's expended.

Q. For instance, on Unit 7, if it is retired in 2008, would the books reflect all of the depreciation for Unit 7 having been completed by 2008, including negative net salvage?

A. It would -- it would include everything that has been collected, whether -- if it's retired in 2008 --

Q. It's actually retired in 2008.

A. -- and we assume for depreciation purposes it's going to be retired in 2012, then the reserve will be short by some amount in covering the original cost.

Q. Now you're complicating things for me.

If it's actually retired in 2008 and your projected retirement date is 2008, will there be anything in 2009 to further depreciate, assuming no additional expenses incur between now and then?

A. It will not be depreciated after it's retired.

Q. Including negative net salvage. It will all have gone -- you will have depreciated fully --

A. Yes.
Q. -- at that point?
That's what I'm asking you.
Even though it may not be actually -- even though the removal, first of all, may never occur, second of all, if it is -- if it does occur, it will not occur until all of the units are retired?
A. Not always, but at the present time, my information is that it doesn't make economic sense to remove 6 and try to keep the others standing.
Q. I understand.
But the expense for removal would not occur until -- if we use these dates, until 2017, even though you've got all of the same written back off of the books in 2008?
A. The expenditure would not include that. They could very well take the plant down in 2008 because the CTs are outside.
Q. They could, but you don't believe they're anticipating doing that?
A. Well, I would presume -- I assume that some time after they retire those last coal units, that they'll bring the plant down.
Q. Oh. I'm following you now. Okay. On the coal itself?

A. Yeah.
Q. But the principles remain the same?
A. Uh-huh.
COMMISSIONER GAW: Thank you.
JUDGE RUTH: Okay. It is almost 20 after 12. We will break for one hour and come back at 1:20 and continue where we left off.
Thank you.
(THE LUNCH RECESS WAS TAKEN.)
JUDGE RUTH: We are back on the record. It's almost 1:30.
Before our break we had questions from the bench, and I believe that is all of our questions from the bench at this point.
Then we will move on to recross based on those questions from the bench.
Praxair was scheduled to ask questions first. They are not in the room. We will move on.
And, Public Counsel, do you have recross?
MR. COFFMAN: No recross.
JUDGE RUTH: Staff.
MR. WILLIAMS: Yes, Judge.
JUDGE RUTH: Okay. Thank you.
RECROSS-EXAMINATION BY MR. WILLIAMS:
Q. Mr. Loos, you used the term "greenfielding."

Would you define that term, please?

A. Greenfield is taking a site where construction has been built on, a building on it, some kind of facility, and returning it to a condition that would be essentially as it was before construction took place. For example, back to farmland.

Q. Might that include some environmental cleanup?

A. Yes.

MR. WILLIAMS: No further questions.

JUDGE RUTH: It's a bit unorthodox, but I'm going to move on to redirect. And when Mr. Conrad gets back in, we may have recross and then redirect again.

Mr. Cooper, do you want to go ahead?

MR. COOPER: Yes, Your Honor.

REDIRECT EXAMINATION BY MR. COOPER:

Q. Mr. Loos, during the course of questions I believe from Mr. Williams, as well as to some questions from the bench, you referred to -- well, you were asked about the use of your judgment in establishing retirement dates. Do you remember those questions?

A. Yes.

Q. In answer to that you referred to your experience. What experience were you referring to?

A. The 30 years that I've been engaged in engineering economics in the energy industry.

All of the way back into the early '70s we were looking at life characteristics of plants, and the various elements that go into assuring that the plants will last for a period of time.

More recently, about 18 months ago I did an extensive analysis of the factors that go into coal-fired/ steam generation life and the nature of expenditures that are required to attain lives that we assume.

Q. Now, I think, also, connected to some of the questions about retirement dates, and specifically Empire's potential plans for retirement of different units and their potential plans for replacing capacity, I think you were asked whether -- about your knowledge of such plans to replace capacity.

Let me back up.

In your experience what kind of lead time does a company like Empire need in order to work towards the replacement of capacity?

A. The lead time, the planning horizon for electric generation has shrunk by orders of magnitude over the past 10 to 15 years.

With the availability of merchant power, with the relatively short lead times and construction periods for combined cycle, perhaps you need to start thinking about it maybe four years in advance, but you really don't have to make a decision until, you know, perhaps 24 months, maybe even shorter, before the power is needed.

Q. In some questions about the estimates of costs of removal, I believe you answered that you recognized there are some difficulty in projecting such amounts.

Do you remember that?

A. Yes.

Q. Are there checks and balances to offset this difficulty?

A. Yes, there are. The -- what has been termed the traditional approach, first of all, compensates customers for the money that they have paid in as a result of the reduction in rate base.

And, ultimately, then, the depreciation reserve is trued-up through subsequent studies and reserve deficiencies and surplus adjustments in order that the customers initially pay only what costs were incurred.

Q. Well, along the same lines: Once you set an amount for, let's say, net salvage, will that amount stay the same forever or is that amount reexamined periodically?

A. Each time we do a study we reexamine it. I believe each time it's brought before the Commission the Commission reexamines it.

In this particular case, on our examination, we reduced fairly substantially some of the net salvage allowances that had been employed in the existing rates.

Q. And when you say this would be examined, what sorts of things would be looked at?

A. We look at the historical pattern of retirements, cost of removal, salvage. We also examine what forecast conditions may be into the future.

Perhaps the best example is gas property, where five years ago we always thought it was going to be removed but now we're finding that that's not the case, and so we have adjusted our allowances accordingly.

Q. Now, you were asked some questions as to -- I guess the hypothetical was, if regulations -- I believe it's environmental regulations -- stayed the same, would you change your estimate for Riverton.

As a part of that answer I believe you said no, and then you expressed that even without those regulations Riverton was still an outage away.

Can you expand upon that? What do you mean by still an outage away?

A. Well, the plant has been in operation -- Unit 7 has been in operation since 1950. It's already over 50 years old. By 2008 it will be about 58 years old.

It's getting old. The equipment has been subject to the high pressures and relatively high temperatures over that period, and thermal stresses, fatigue, corrosion, erosion, all of the various factors that go into the need to replace components that have been working away. And as a result, there is just not that much life left in them.

Q. Now, also, along, I guess, on the subject of Riverton, you were asked about the status of Unit 6 at Riverton.

Do you have any knowledge about the status of some of the prior units, Units 1, 2, 3 and 4, what has become of those units?

A. Based on the tour that I made of the plant, I recall that all of that equipment had been removed prior to my tour, which with have been in 1992, I believe.

Q. Okay. You were asked some questions about the impact of land values on a generation plant and the costs of that generation plant.

Generally, for a plant such as the State Line unit that's of primary interest in this rate case, what would generally be the total plant cost of such a plant?

A. Well, the total cost plant of State Line, Units 1 and 2, is on the order of perhaps 300 million dollars, $275 to 300 million.

The site itself is 77 acres. At $1,000 an acre it would be $77,000, relative to a total plant cost of

300 or so million.

So it's not very significant at all. It's a very small portion.

Q. Now, you were asked some questions about your assumptions of negative salvage and the possibility that perhaps in some cases salvage may indeed be positive.

Do you remember those questions?

A. Yes.

Q. Let's say that does come about. If salvage does not turn out to be negative on any individual piece of property here, do you view that to be a problem with the Whole Life method itself or a potential issue with the specific net salvage that would have been used?

A. No. To me it's a problem with the allowances that are used, not with the approach.

Q. And have you ever had the opportunity to change -- let's move beyond net salvage, but, for example, in this case, have you had the opportunity to change lives based upon information that you have gathered along the way?

A. Yes. We've -- we've changed lives. We've changed salvage allowances in the study relative to other studies, not significantly, but we have -- we have made those changes with respect to the lives, based on further study, more current information.

Q. And you may have hit on this a little bit earlier, but I want to come back to it.

We talked about the situation where a piece of property is retired and it is not removed for some period of time, so the actual cost of removal is not incurred for some period of time.

What happens to the cost of removal during that interim period between the retirement of the property and when the money is actually expended for the removal?

A. It goes toward reducing the rate base. And so the customers are compensated for the use -- or the use of those funds by the utility.

Q. And that's because this remains in the depreciation reserve during the interim time period?

A. Yes, until either it's spent or future studies have concluded it's no longer necessary to maintain it.

MR. COOPER: That's all of the questions I have at this time, Your Honor.

JUDGE RUTH: Thank you, Mr. Cooper.

I will note for the record that Praxair's counsel, Mr. Conrad, is back in the room, and I will even allow you the opportunity to make a few brief recross questions if you wish.

MR. CONRAD: Judge, I very much appreciate the courtesy, and I apologize for being late coming back from lunch, with trying to get copies made and everything else.

We will not need to ask the witness any questions. Thank you.

JUDGE RUTH: Thank you.

We will move on, then, to the next witness. I believe it would be Staff's witness, Mr. Adam, because Mr. Lyons is going to be taken out of order on Friday.

Is that correct?

MR. DUFFY: Partially, Your Honor. That brings up an issue.

I think that it was mentioned previously that we've been informed that the other parties do not have any cross-examination questions for Mr. Lyons.

Mr. Lyons is currently traveling. We would appreciate it if the Commissioners could consider whether they have any cross-examination or any questions for Mr. Lyons, and, if possible, inform us by sometime tomorrow, for if that's the case, we would be able to avoid Mr. Lyons' travel.

JUDGE RUTH: Okay. We will discuss that on a break and let you know.

Staff, would you like to call your witness.

MR. WILLIAMS: Yes.

Staff calls Paul Adam.

JUDGE RUTH: And I would like to point out --

let's go off the record for a moment.

(OFF THE RECORD.)

JUDGE RUTH: We'll go back on the record.

Would you raise your right hand, please.

(Witness sworn/affirmed.)

JUDGE RUTH: Thank you.

PAUL ADAM testified as follows:

DIRECT EXAMINATION BY MR. WILLIAMS:

Q. Please state your name.

A. Paul Adam.

Q. And who are you employed by?

A. Missouri Public Service Commission.

Q. In capacity are you employed?

A. Depreciation engineer.

Q. And what's your address, work address?

A. Post Office Box 360, Jefferson City, Missouri, 65102.

Q. And have you prepared some exhibits that have been marked as exhibits numbered 33, 34 and 35, the first being your direct testimony, the second being rebuttal testimony and the third being surrebuttal?

A. Yes.

Q. Do you have any revisions to make to your direct testimony, Exhibit 33?

A. Yes.

Q. What corrections are those?
A. On page 3, line 9, the amount 1.5 appears twice. That's an error. It should be 2.5. It's the same number.
And line 22, that same number comes up again. The 1.5 should be 2.5. And then that paragraph adds up, 2.5, 1.5 and 5 are 9 million, which are mentioned on page 4.
Q. You said there are two locations on line 9. Are there also two locations on line 22?
A. Just one location on line 22.
Q. And that's the first one?
A. The first one, yes. Thank you.
Q. Do you have any additional revisions?
JUDGE RUTH: I'm sorry. I want to make I followed that.
On line 9, then, both the numbers 1.5 should be changed to 2.5?
THE WITNESS: Correct.
JUDGE RUTH: And then the only other change is on line 22?
THE WITNESS: The first 1.5.
JUDGE RUTH: Okay. Thank you.
BY MR. WILLIAMS:
Q. Do you have any other revisions to that

exhibit?

A. Yes.

On page 24, line 9, the number 24 million should be changed. The correct number is 26,474, 878.

And line 11, that 19 million needs to be changed. The correct number is 19,638,073.

Those numbers will then tie to the table that is on page 26.

Q. Are those all of the revisions you have to Exhibit 33, your direct testimony?

A. Yes.

Q. If I were to ask you all of the questions that are set forth in that exhibit, would your answers be the same here today as you submitted them?

A. Yes.

MR. WILLIAMS: I offer Exhibit No. 33.

JUDGE RUTH: Okay. Do the parties have any objections to Exhibit 33 being admitted?

Seeing no objection, it will be admitted into the record.

(EXHIBIT NO. 33 WAS RECEIVED INTO EVIDENCE.)

BY MR. WILLIAMS:

Q. I'll turn your attention to Exhibit No. 34, which is your rebuttal testimony. Do you have any revisions to that?

A. Yes.

On line 15, page 3, the word "future" should be in front of the word "gross."

On line 16 the word "future" should be in front of the word "cost."

On line 19, future should be in front of the word "gross," and future should be in front of the word "cost."

On page 10, in the footnote, for clarification, there should have been a comma after the 16 megawatts -- 16 MW. Excuse me.

Q. Do you have any further revisions to that exhibit?

A. No.

Q. If I were to ask you the questions that are set forth in that exhibit as you've revised it, would your answers be the same as what's set forth therein?

A. Yes.

MR. WILLIAMS: I offer Exhibit No. 34.

JUDGE RUTH: Do the parties have any objections to Exhibit 34, the rebuttal testimony of Mr. Adam?

Okay. Seeing no objections, it is admitted into the record.

(EXHIBIT NO. 34 WAS RECEIVED INTO EVIDENCE.)

BY MR. WILLIAMS:

Q. I'm going to direct your attention now to

Exhibit 35, which is surrebuttal testimony of Paul W. Adam. Do you have any revisions to that document?

A. Yes.

Page 2, line 11, the sentence starts with therefore. Therefore should have a comma after it.

Q. Do you have any further revisions?

A. No.

Q. If I were to ask you the questions that are set forth in the exhibit as you have revised it, would your answers be the same?

A. Yes.

MR. WILLIAMS: I offer Exhibit No. 35 into evidence.

JUDGE RUTH: Do the parties have any objections to Exhibit 35, the surrebuttal testimony of Mr. Adam's, being admitted into the record?

Seeing no objections, it is admitted.

(EXHIBIT NO. 35 WAS RECEIVED INTO EVIDENCE.)

MR. WILLIAMS: I tender the witness.

JUDGE RUTH: Cross-examination will begin with Mr. Conrad.

MR. CONRAD: Do you want me to --

JUDGE RUTH: Yes. I need you to stand over at the podium, please.

CROSS-EXAMINATION BY MR. CONRAD:

Q. Mr. Adam, I just have a very, I guess, personally puzzling area about this whole topic, as I hear what you're -- what the controversy is.

My question to you is, is there ever a point which in your experience depreciation should stop?

A. Yes.

Q. And what is that point?

A. That's when the plant is retired.

Q. Here is -- here is my example. Let's say that you have -- and we'll take it out of the context of this company.

Let's say you have a nuclear plant such as Wolf Creek that is set up on a 30-year life. And we get to the end of that 30 years -- or we approach the end of it, and a license is renewed, and the company is successful in getting another 20 years tacked on, does the depreciation stop at the 30th year, or do you-all have to recalculate it now over whatever is left over the remaining 20 years?

A. Well, it would -- it would depend on things as far as additional dollars that might have been added over that 30 years. And if you had a Whole Life 30 year, some of those dollars would not be fully retired.

But the general answer to your question is that it would have to be recalculated if it wasn't fully recovered to determine what should be recovered over the determined future life.

There are instances where plant has become fully recovered and is still on the books. As a matter of fact, this Commission addressed one of those in a Laclede case about two years ago.

There were four gasholders in St. Louis which not only are fully recovered; they're over-recovered. And we had a position -- Staff took the position that that depreciation rate should be set to zero for those gasholders.

The company wanted to continue depreciation because they wanted to collect for this future cost of removal of those gasholders, but the company would not make a commitment as to when they would be removed or what the cost would be at the time.

So the decision that was made and the order that came out was that the depreciation rate would be set at zero for those gasholders.

Q. Now, I've been through St. Louis, and you're talking about those aboveground storage tanks that Laclede has?

A. Correct.

Q. Now, work with me just for a second on another real short hypothetical.

Let's assume a customer has been on the system as a gas customer, or in this case, an electric customer, for, let's say, 30 years.

And during that time there has not been any additions or any replacements to their service facilities. And those service facilities were originally set up a 30-year life.

Obviously, absent the Commission doing something, that depreciation would, in effect, continue to be recovered, but would that be a situation where the depreciation should stop?

A. Are you saying that for the whole company no service is added during that whole 30-year life?

Q. No. Just for this --

A. One customer.

Q. Let's say that you have a customer that has -- has a large installation at their place of business that's --

A. But there are other service activities going on in the company?

Q. Throughout the company, sure.

A. I believe the company should get recovery on their service activities.

Q. Okay. But with respect to this particular item that would be on the company's books that have been set up a 30-year life, it's your testimony that the company should continue to refer that even though it's run through its 30-year life?

A. That's where we look at depreciation rates, every three to five years. Hopefully, if the Company comes in for a rate case, we can adjust them.

Because you're looking at the recovery versus what the plant balance is.

Q. Okay. So at least in that case, you'd agree that that is something that should be looked at, and if that was shown, then that depreciation might want to go away?

A. What you may be looking for is the net effect is that that plant would be no longer depreciated, because when you analyzed it, you would find that you had recovery or an accrual that covered the cost of that particular plant.

But when we're looking at something like services, that's mass property, and we don't isolate them one by one.

Q. I understand the distinction.

And I was asking you to be a little bit more precise on a customer basis.

MR. CONRAD: Thank you.

JUDGE RUTH: Public Counsel.

MR. COFFMAN: No cross-examination. Thank you.
JUDGE RUTH: And Empire.
MR. COOPER: Yes, Your Honor.
CROSS-EXAMINATION BY MR. COOPER:
Q. Mr. Adam, do you have copies of your testimony with you?
A. Yes.
Q. Okay. If you'd look at your direct testimony, beginning on page 18, line 20.
Do you find the question that begins there?
A. Yes.
Q. If I wanted to find really a short summary of your proposal, would you agree with me that it would be the question that starts there on line 20 and the answer that continues to line 6 on the next page, on page 19?
A. That's probably a good summary.
Q. Now, there is nothing about your approach to net salvage that's designed to prohibit any recovery of dollars related to cost of removal. Correct?
A. I believe I agree with you.
The Company would always collect what they spend based on the way that Staff is proposing net salvage. Is that --
Q. And I think the way I've heard you say it before, or possibly, is that you believe you're just

shifting the time period of recovery but not eliminating recovery. Would you agree with that?

A. The Company would collect everything they spend for cost of removal, net salvage.

Q. Do you have an opinion as to whether or not it would be permissible to eliminate completely recovery of cost of removal?

A. Say that again, please.

Q. As I understand your proposal, you'll tell me -- and, in fact, just have -- that you proposed to merely shift the time period when the Company would recover cost removal.

Rather than recovering it over the life of the piece of property, you want the Company to recover it at the time or near the time it's expended. Correct?

A. I believe their cost of removal or net salvage, whichever term you want to use, should be determined on a current basis when you're looking at the revenue requirement, which is what we utilize these numbers to do.

Q. But let's say we went one step further.

What if someone proposed the cost removal be eliminated completely, that the Company received no recovery for costs for removal.

Do you believe that that would be permissible?

A. I wouldn't argue that position.

Q. What do you mean by you wouldn't argue that position?

A. I would not write testimony proposing that the Company would not get cost of removal.

Q. Would you agree with me that cost of removal is a normal anticipated expense related to the ownership and operation of utility property?

A. Not always. We had a discussion this morning where Commissioner Gaw was asking questions, that the cost of removal is not necessarily part of what a particular owner has to face.

Q. Let's step back from that for a moment.

Let's assume that there will be -- or there is cost of removal incurred. Okay. We're going to set aside the hypotheticals where it might not ever be expended.

So we're going to assume that cost of removal is expended. Do you view that to be an expense related to the ownership and operation of the specific piece of utility property?

A. When costs of removal is expended, is what we're proposing, is that it should be included in the calculation of revenue.

Q. Now, as I understand it, beyond merely delaying the recovery of costs for removal until after property has been retired and cost of removal incurred, the Staff is also proposed to calculate net salvage on a five-year average.

Is that consistent with your understanding?

A. The current calculation for net salvage is not done by depreciation engineers any longer on staff.

Q. So you have no understanding of what they may have done with it, what the auditors may have done with it?

A. In this particular case I'm not sure, whether they did it over five years or a longer period. There will be a witness that can testify to what he did.

Q. Well, let's back up a little bit. Let's go back to your testimony.

We just talked about, I think, your direct testimony, beginning on page 18, line 20, a question. And as a part of that answer, I believe over on line 1, on page 19, you say: This -- and I believe you're referring to the current level of net salvage costs -- will be normalized over several years. Do you see that?

A. Yes, I see that.

Q. Okay. So let's set aside whether you're going to normalize over five years or six years or three years or whatever period of time.

But in your testimony you do express that the number that would be utilized for ratemaking purposes would be some sort of normalized number or number derived over a period of years. Correct?

A. Yes. And that's my understanding of how the auditors are doing it.

Q. Okay. Now I want you to make an assumption for me.

Let's assume that cost of removal over time increases due to labor costs, environmental costs, whatever it might be.

Am I correct that the impact of using this normalized number, or this average number, in that scenario will mean that the Company will not be made whole as to its cost for removal?

A. That would be a shortcoming of using the technique that the Staff is proposing.

If the number was included as is, yet was in the depreciation accrual, and there was either an over-collection or an undercollection for cost of removal, then at the time that the next rate case came up, that could be determined, and then an adjustment could be made to make the Company whole, if there was a shortfall, or to reduce depreciation rates to compensate for an overcollection.

And with the case of doing it as an expense -- and I think what you're looking for -- doing it as an expense as the Staff has proposed it here, an undercollection is lost to the Company; an overcollection is simply their gain.

Q. Okay. Now, going back to your general theory of treatment of net salvage, you don't believe that there is any difference in applicability of your net salvage theory to either natural gas, water or electric utility industries, do you?

A. We're applying the same technique to all industries that we do cost regulation on.

Q. Now, is it your understanding that Empire is required by this Commission to maintain its books and records in accordance with the FERC Uniform System of Accounts?

A. I'm not -- I'm not an accountant or an auditor, but I would expect the answer to be yes.

Q. Well -- and let me -- if the judge will permit me, let me hand you a document.

JUDGE RUTH: Do you want to show a copy to counsel?

BY MR. COOPER:

Q. Mr. Adam, I'm handing you a copy of 4 CSR 240-20.030 entitled Uniform System of Accounts, Electrical Corporations.

And if you would, could you read for me the first sentence of Subsection 1?

A. Beginning January 1st, 1994 every electrical corporation subject to the Commission's jurisdiction shall keep all accounts in conformity with Uniform System of Accounts prescribed for the public utilities and licensees, subject to the provisions of the Federal Power Act as prescribed by the Federal Energy Regulatory commission, FERC, and published at 18 CFR Part 101, 1992, and 1 FERC stat, s-t-a-t, and regs, paragraph 15.001, and following 1992, except as otherwise provided in this rule.

Do you want me to stop?

Q. I think that will be good.

Now, having read that, would you agree with me that Empire is required to keep its books and records in accordance with FERC Uniform System of Accounts?

A. Based on that rule, yes.

Q. Okay. The FERC Uniform System of Accounts doesn't provide for expensing current costs to removal as you've proposed, does it?

A. Doesn't provide for expensing current costs of removal?

Q. In the method that you have proposed in this case, or that Staff has proposed in this case?

A. Again, I'm not the right person to answer that question.

Q. Okay. So the proposal you put together was put together without any knowledge of what might or might want be required by the FERC Uniform System of Accounts. Correct?

A. The proposal -- would you ask that one more time?

Q. Sure.

I think you've told me that you're not familiar with what the FERC Uniform System of Accounts that Empire is required by Commission rule to follow --

A. Uh-huh.

Q. -- that you're not familiar with what the FERC Uniform System of Accounts may require or not require in regard to costs of removal. Correct?

A. Uh-huh.

Q. Your answer to that would be yes?

A. Yes.

Q. So I take it that the proposal that you've put together, Staff has put together, that's been brought before the Commission in this case has been put together without any knowledge of what might or might not be required by the FERC Uniform System of Accounts. Is that correct?

A. Well, I believe that Bob Schallenberg and the auditors have that knowledge. I don't personally because I'm a depreciation engineer.

But I do know that certain companies, Ameren being one, expenses things that other companies don't when it comes to cost of removal. So I -- I don't know exactly where we're headed here.

Q. Well, let's make this assumption. Let's assume that the FERC Uniform System of Accounts requires the Company to keep its books such that cost of removal is deemed to be recovered over the life of a piece of property. I think that's contrary to what the Staff and what you have proposed in this case for Empire.

If that's the case, Empire is going to be required to keep two sets of depreciation books. Correct?

A. I guess if your theory holds they may. Again, I'm not an accountant. And if they're going to have to keep a separate sets of books for that, it would appear to me that they would only need to keep certain data as a record, not a whole separate set of books. But, again, I'm an engineer.

Q. And you're not familiar with that process?

A. I'm not an accountant.

Q. Okay.

JUDGE RUTH: Mr. Cooper, I'm going to have to call a brief recess and go off the record. It is a few minutes after 2, and we'll start back up at 20 after.

(A RECESS WAS TAKEN.)

JUDGE RUTH: We are back on the record.
When we broke, Mr. Cooper --
MR. COOPER: That's correct.
JUDGE RUTH: -- was -- we'll go ahead and let you continue your questions then.
MR. COOPER: Thank you, Your Honor.
BY MR. COOPER:
Q. Earlier, Mr. Adam, I think we mentioned that your net salvage theory, you intend to apply equally to natural gas, water, electric utility industries. Correct?
A. On a going-forward basis, that's what we're -- we're going to do all of them on the same basis, on a going-forward basis.
MR. COOPER: I want to hand a document to the witness, if I may.
JUDGE RUTH: Okay.
BY MR. COOPER:
Q. I'd like to ask you to take a look at 393.135. Can you read through that for us?
A. Charges based on nonoperational property of electrical corporation prohibited. Any charge made or demanded by an electrical corporation for service, or in connection there with, which is based on the cost of construction and progress upon any existing or new facility of the electrical corporation, or any other cost

associated with owning, operating, maintaining or financing any property it is fully operational and used for service is unjust and unreasonable and is prohibited.

Now, 393.135 states that it applies specifically to electric plant. Correct?

A. It says by an electrical corporation, yes.

Q. And there are no other utility industries mentioned. Correct?

A. Not in that paragraph.

MR. COOPER: I apologize, Your Honor, for not --

JUDGE RUTH: Thanks.

BY MR. COOPER:

Q. Have you ever read the statute before?

A. Not to my recollection, no.

Q. So to the extent it may or may not have any impact on your net salvage theory, you've not taken it into account in reaching the recommendations that are included in your testimony. Correct?

A. As far as determining rates for the new plant that is not in operation yet.

Q. Actually, I'm thinking more in terms of globally, your net salvage theory.

And let me get at it this way. And I want you to make an assumption -- and, indeed, that's what it is, it's an assumption.

I want you to assume with me that one possible interpretation of this statute is that recovery cannot be had for any costs related to electric plant that is not in service.

If that's the correct interpretation of the statute, would this statute have an impact upon your proposal to recover costs for removal after electric --

MR. WILLIAMS: I'm --

THE COURT REPORTER: I'm sorry. After electric?

MR. WILLIAMS: -- going to object to the question. If he wants to ask if the assumption has an impact, that's fine, but I don't think he should be putting gloss on the statutory language.

JUDGE RUTH: Can you read the question back?

THE COURT REPORTER: I don't have the end of the question. That is why I interrupted.

JUDGE RUTH: Okay. Can you restate your question?

MR. COOPER: Yes, Your Honor.

And what I want the witness to do, and I think what I asked before, was to assume with me that one possible interpretation of the statute is that recovery cannot be had for any costs related to electric plant that is not in service. Okay?

BY MR. COOPER:

Q. And my question from that would be: Making this assumption, would the statute or that principle, then have an impact upon your proposal that costs for removal be recovered after electric plant has been retired?

A. Well, I read this as addressing the electric plant, not the cost of removal, not those expenses that you'll have at a later date.

And certainly, you know, the way they're estimated is, I think, what concerns Staff more than anything.

Where you take a simple ratio of what it costs to remove property today and relate that to the original cost of that property that might have been 30 years ago, and calculate that ratio, which has inflation in it and the effects of environmentalism and everything, and use that to determine off of today's plant what you should collect from customers rather than what you're currently spending.

And the difference in those two numbers, what you're currently spending versus that calculation of that ratio is the basis of what Staff is objecting to as far as the costs of removal done the way Empire is proposing it and the way Staff is proposing it.

Q. Let's get at it a little differently here.
Have you ever heard of -- and I'm guessing you have.
You've heard of the used and useful theory in regulatory ratemaking. Correct?
A. Uh-huh.
Q. And I'm going to read to you a definition that's been used by the Court of Appeals to describe that theory.
Under the used and useful theory, the Company is allowed to charge customers only for the cost of plant and equipment actually in use to provide service for current customers.
And my question is similar to what I asked in relation to 393.135.
Have you considered the potential impact of, in this case, the used and useful theory on your proposal, that cost of removal not be recovered until after a piece of electric plant has been retired?
A. I think I understand it entirely different than you do.
You're putting the cost of removal, which is something that is unknown in the future, at best by done by an estimate, which is normally done with a simple ratio calculation based on what is happening today against the

purchase price of plant years ago, and you're including that in plant. And I don't see that as part of plant.

So I believe you and I are coming from different perspectives on the cost of removal.

Q. Well, I'm not so sure.

Earlier when I'd asked you a question in regard to cost for removal and recovery of cost for removal, I think you told me that where cost of removal was actually expended, that you would view that to be a normal expense related to the ownership and operation of utility property.

Now, both the statute that I've showed you talks in terms of costs associated with owning, operating, maintaining or financing property, and I believe this definition of used and useful talks about costs of plant and equipment.

Do either of those possible prohibitions to recovery of costs for removal bother you in terms of the recommendation you've made on treatment of net salvage?

A. I believe that the Company should recover the net salvage that they're currently spending.

When we did the Laclede case about two years ago, that calculation was in the depreciation determination. I have no problem with what we did in the Laclede case.

A subsequent change was made, and the cost of removal, or the net salvage -- more accurately, the net salvage determination, was handed off to the auditors, and it's been that way on a going-forward basis.

Q. But I think my point is, it appears to me that if either because of the statutory prohibition or a regulatory theory, the Company, in fact, cannot recover costs for removal after a particular piece of property has been retired, that that is contrary to what you propose.

Would you agree with that?

A. Well, we propose that there be an amortization plant as retired and not fully recovered.

Q. Let's turn to your direct testimony again, if you still have that in front of you.

A. Uh-huh.

Q. On page 2, line 23. Now, starting in the middle of line 23 and extending on to page 3, you're expressing, I think, some of your problems with the way net salvage is currently treated by the Commission, at least in terms of Empire's past depreciation rates.

You say even though this original dollar amount will not be needed for decades, the Company proposes to pre-collect it from its customers decades prior to the retirement and removal of the plant.

Do you see that?

A. Uh-huh.

Q. Now, in that statement you talk about the Company proposes.

Now, the Company's proposal in this case is not a new proposal, is it?

A. Not to my knowledge.

Q. The method that Mr. Loos proposes is, in fact, consistent with the Staff and Commission prior approaches that are reflected in Empire's existing depreciation rates. Would you agree with that?

A. I didn't work on those cases, but I'll accept your word for it.

Q. Well, but you did go back and you reviewed the ordered depreciation rates. Correct?

A. Yes.

Q. And your review of those depreciation rates would lead you to believe that that is the case. Correct?

A. That would be true.

Q. Now, the Commission has referred to this method that's proposed by the Company in this case as the whole-life method, hasn't it?

A. The formula that is used is the Whole Life formula.

Q. Now, also, as a part of the statement that I read out of your direct testimony, you state that the

Company proposes to pre-collect dollars from its customers decades prior to retirement.

Now, Empire is not proposing to collect all of its future costs of removal next year, is it?

A. No.

Q. The Whole Life method would rather seem to include the net salvage and the depreciation calculation and recover that cost removal gradually over the life of the subject property. Correct?

A. They would recover an estimated cost removal that would include inflation and other things that have applied to the history, and they don't do an analysis of what might apply to the future.

Q. But whatever recovery is had will be recovered over the life of the property. Correct?

A. It will be referred over the average service life that is assigned to that account.

Q. And the alternative, as Staff proposes it, is to recover those amounts actually expended, but the amounts actually expended immediately or soon after they're incurred. Correct?

A. Correct.

Q. Okay. And so, thus, under Staff's proposal, removal of costs would be paid in a lump sum by customers after that subject property had been retired. Correct?

A. No.

Only on mass property would you have it to that effect, where it's a churn year by year.

If there is a major removal -- and I talked about it in more detail in the preceding case.

But if there is a major removal, where there is a large dollar to, say, tear down a plant -- and I think that was discussed earlier, as a lot of times a plant is retired, it's left in place and maybe not torn down for years and years.

But at the time that it would be torn down, if -- at that time the cost that was incurred would be looked at, and if it was reasonable, then an amortization would be proposed.

And the period of that amortization would be designed principally to get it as quickly as possible for the Company without incurring rate shock.

Q. Yeah. And that does get to my next question.

I think if we went back to -- I think what we referred to as the summary of your proposal that is found -- well, in particular, on line 2 of page 19 of your direct testimony, you state that if there is a major retirement in removal, such as a power plant, Staff depreciate engineers will evaluate the Company's cost presentation and will propose an amortization that will allow the Company to recover the appropriate amount from customers.

That's what you're referring to. Correct?

A. Yes.

Q. Okay. How do you define what constitutes a major retirement or removal?

A. On life span plant, those are plants, such as a power plant, that normally -- that a whole plant or a large segment of it is shut down at one time, rather than having a continual churn, like poles, which is mass property.

And when that plant is shut down, a company can leave it stand or they can tear it down or tear it down in part.

If they tore down part of it and said, you know, we've incurred a million dollars and we want to recover that, then Staff would address it.

Q. And getting back to one of the things that you said previously, one of the reasons that you would propose an amortization in this situation is to avoid a large rate impact on customers. Correct?

A. We would schedule the amortization such that it wouldn't cause rate shock.

Q. Now -- and I assume that how long that amortization might be would depend upon the specific facts of the situation you were examining. Correct?

A. Correct.

Q. But, potentially, it could go on for several years. Would you agree with me?

A. Characteristic -- well, the thing we see most is a plant that is retired that has not been fully recovered, and amortizations are anywhere from one to five years characteristically.

Q. So in that situation, payment of the cost for removal could go on for one to five years beyond the retirement, or, actually, the removal of that piece of property. Correct?

A. It -- it would -- it would depend -- the payment, if you're wanting to talk about revenue requirement now, it would depend on how the amortization was set up.

If the amortization didn't have a cut-off -- say, if it was a five-year amortization and it wasn't ordered to be shut off, it would keep going beyond, and the Company would continue to collect from the -- from the ratepayers based on that being in the rates beyond the five years.

Q. And that's five years after that property would have actually been removed. Correct?

A. Probably.

Q. It could be more?

A. It could be, you know, that the property is being retired when you start -- or being removed when you start the amortization.

Q. Would Staff recommend that the Company be permitted to earn a return on the unamortized portion of any amount that was amortized?

A. I don't know.

Q. Now, in your direct testimony you spent some time and effort quoting from a 1953 textbook entitled Engineering Evaluation and Depreciation.

Now, from reading your testimony, it would be my belief that you would agree that costs for removal is a greater factor now than in 1953 when the textbook you cite was written?

A. I believe it, yeah, has a greater effect on the revenue requirement, increasing it.

Q. And if I were to quote some language from your testimony -- and this is on, just for reference purposes, page 17, line 16, you state that during the very late 1970 and early 1980s, two external conditions changed significantly, resulting in a change in the value calculated as net salvage in the traditional Whole Life formula.

These two external conditions were rapid increases in labor rates and environmentalism. In turn, those external conditions have caused net salvage to become a large cost instead of a positive value.

Do you recall that?

A. I'm looking at it, yes.

Q. So I take it that you truly believe that cost of removal has increased since 1953?

A. Yeah, that's the problem that I see with it, because you're using these ratios that include these large increases in inflation and environmentalism and saying these same events are going to occur in the future or something is going to occur that is going to have the same effect. And for all we know, costs for removal may go down.

When you get costs that are very large, entrepreneurs start figuring out ways to make them cheaper.

And so that's the problem that we see as Staff, with using these ratios of what has occurred over the last 30 years or 40 years or whatever the period may be, and applying them to current plants and saying, well, this same ratio applies for the next 30 or 40 years into the future. We simply don't know that that is going to happen.

Q. Let's back up for a second.

As you've testified, your experience is contrary to that up to this point in time.

You indeed have seen an increase from 1953, when the textbook was written, to today. Correct?

A. I haven't seen that, but I believe that's true.

Q. Now, in your direct testimony you also quote from a text, and indicating that there are practical difficulties with estimating, reporting and accounting for net salvage and cost of retirement as support for your proposed change to treatment of net salvage.

Do you recall that?

A. I recall words to that effect, yes.

Q. Doesn't the entire depreciation process have this sort of practical difficulty with estimating, reporting and accounting?

A. Are you talking about the life, or what are you talking about?

Q. Well, let's, yeah, set net salvage aside for a moment and just talk about the establishment of average service life, the other parts of the process.

A. Typically, the accounts are analyzed account by account. And, typically, the plant is similar in the accounts.

Occasionally some companies will mix plant when they go from an old type of plant which, might be a metallic pipe for services, to a plastic pipe for services, in natural gas, I'm talking about. And then you do get a mix.

But the software that we use to analyze the data, allows us to split it, and we can do band analysis on certain years of data, so that we can do analysis of life for the years that the metallic plant was in place, and we can do analysis for the years that the plastic pipe is in place.

And that type of work was done in the Laclede case just a few years ago, where they told us when basically they had 100 percent plastic pipe in place, and we were able to run an analysis on the data that occurred only for the plastic pipe.

Q. But in the end you're still making an estimate of that life. Correct?

A. Yes. It is definitely an estimate, because you have what is called a stub curve, and you fit to that stub curve, which is the actual events that are occurring on that account as far as life plant from the day it's placed until the day it's retired, age by age, and you plot that out, and then you use a curve to overlay, which is a time curve.

Characteristically, we use Iowa curves. And those Iowa curves are a set of curves that are used to determine what the average service life will be, because they go to zero percent surviving.

Q. And to get back to my point, as I say, you attack the net salvage calculation as relying upon estimating, reporting and accounting.

It seems to me that estimation is going to be a part of depreciation whether net salvage is there or not.

And, in fact, I believe in your direct testimony, you also assert that the -- you make a statement that the future is unknown and it cannot be determined what plant will retire, nor can it be determined at what time it will retire.

Those are two of the factors that would go into your estimation of service lives. Correct?

A. Well, my point is, is that the determination of that future retirement cost is nowhere near as easy to analyze as it is to analyze what you would expect the future life of plant to be.

Q. But you do tell me that you do not have a known date for when plant will retire, nor at what time it will retire. Correct?

A. I -- when we query the Company on their generating plant, they cannot give us retirement dates. They do not give us retirement dates.

Q. Well, and your point would be that those may

not be known. Correct?
A. Those retirement dates?
Q. Sure.
A. I certainly see them as unknown. I don't know when Riverton is going to retire if the Company doesn't know.
Q. And that's important to the service life of Riverton, as well as net salvage. Correct?
A. The average service life would be determined based off of a retirement date, if you knew when it was.
Of course, if you can set a very short retirement date in there and do a life-span calculation, you can get the depreciation rate up high.
Q. Now, let me ask you this: In your review of Empire specifically, did you find any property that would fit this description: A type of asset that is at or very near the end of its service life that is not likely to be replaced and for which the cost of removal is high and likely to move higher?
A. What do you mean by cost for removal is high?
Q. I'm leaving it open to your definition.
A. Well, let me answer the question, then, so that I cover both bases.
Mass property accounts will be retiring all of the time. I would not call that high individual costs,

but the costs for the full account could be considered relatively high in any given year.

For a life-span-type account, the only thing that we can see now is what is interim retirements, where part of the plant is retired and either replaced with new plants, such as, say, a boiler tube replacement in a power plant, or something like that, then you have an interim retirement and a new placement, and you have brand new dollars in that account.

And when you do that, I see that as life extending, and that is part of what keeps the active plant going to where we can't -- where the Company doesn't know what the retirement date is.

Q. Let me move on to average service life for the time being.

Now, in this case with regard to the Company's generating plant, you state that you're proposing to use the same lives and depreciation rates as determined by the Staff in Case No. ER-94-174. Correct?

A. Yes.

Q. Do you have a copy of your data request responses to the Company's data requests with you by chance?

A. No.

MR. COOPER: Your Honor, I'd like to hand a document to the witness, if I could.

JUDGE RUTH: Show it to counsel first, please.

BY MR. COOPER:

Q. If you'll flip back -- I don't know -- it's two or three pages, I think you'll see the cover sheet that you signed covering the data request responses.

Do you see that?

A. Uh-huh.

Q. And that's your signature at the bottom, isn't it?

A. Yes.

Q. Okay. And then, I think, there is a couple of pages there with the questions, and then behind that are your answers. Correct?

A. Yes.

Q. Okay. Now, if you'd look at Empire Data Request No. 18-K. I believe the Company requested a copy of all workpapers, interview notes, memoranda, analyses and other rationale used as a basis to conclude that no adjustments to lives and depreciation rates determined for mortality data were required.

And your response to this request in part was that there was no rationale to support changing generating plant lives from those determined in the 1994 study. Correct?

A. 18-K?

Q. Yes.

A. The answer here says line 13, page 20, relates to generation plant only.

Am I reading the wrong page?

Q. (Indicating.)

A. Oh. Okay.

Q. I believe it's the lines right below what you were taking a look at.

A. I'm sorry.

Okay.

Q. Would you agree me that that was your answer?

A. That's the response I gave.

Q. That there was no rationale to support change in generating plant lives from those determined in the 1994 study.

That would be correct?

A. Yes.

Q. Okay. Now, if you'd look at your answer to Data Request 18-O.

A. Uh-huh.

Q. I believe you stated that the ER-94-174 depreciation rates include a provision for future net salvage cost. Depreciation Staff addresses depreciation of original plant cost only. Staff auditors address net salvage costs.

Therefore, the currently proposed depreciation rates vary from the depreciation rates by the amount of future net salvage cost that was added into the ER-94-174 depreciation rates.

A. Uh-huh.

Q. Is that a correct statement of your answer?

A. That's my understanding of what we did.

Q. Now, I take it from your response that your proposed depreciation rates applicable to generating plant differ from the currently effective rates which were proposed by Staff in Case No. ER-94-174 solely by virtue of your proposal to exclude future salvage costs from depreciation rates. Correct?

A. I believe that's right.

Q. Okay. Now, I want to turn over to Schedule 1-1 of your direct testimony.

Have you had the opportunity to get there?

A. Yes.

Q. Now, as I look at Schedule 1-1, I believe the column labeled ordered refers to the rates as proposed by Staff in Case No. ER-94-174 and which were ordered by the Commission pursuant to a stipulation and agreement in that same case. Am I correct?

A. I believe that's correct.

Q. Could you look at -- let's see -- the existing depreciation rate, where the ordered depreciation rate, you show for Account 314, which is turbo generator units at the Asbury plant?
A. Yes.
Q. Okay. And what is that?
A. The ordered is 39, life --
Q. What is the depreciation rate?
A. Oh. Excuse me. 2.6.
Q. Okay. And as you pointed out, that's based on a life of 39 years?
A. Uh-huh.
Q. And a negative net salvage allowance of 1 percent. Correct?
A. Uh-huh.
Q. Now, look down to Riverton. What is the depreciation rate you show in your proposal for Account 314 at the Riverton plant?
A. Staff's proposed depreciation rate?
Q. Yes.
A. 1.59.
Q. Okay. And that rate is based on a life of 63 years?
A. That would be the interim retirements, I believe.

Q. Okay. Let's move down to the -- well, hold on just a second here. Let's back up.

We talked about Asbury plant, the ordered rate, Account 314, as being 2.6. Correct?

A. Yes.

Q. If we do the same thing, the ordered rate for Account 314 at Riverton, we get 1.79. Correct?

A. Yes.

Q. Okay. And the Asbury 314 account based on life of 39 years, negative net salvage of 1 percent. Correct?

A. That's the ordered -- that's what this shows as the order, and I believe it's correct.

Q. As the order existing, however we refer to it.

We go to Riverton Account 314, we show that the 1.79 existing is based upon 56.4 years and a negative 1 percent net salvage. Correct?

A. Yes.

Q. Okay. Now, just to reiterate, if we look at those Riverton numbers for Account 314, Asbury numbers for 314 and, in fact, if we look at Iatan numbers for 314, the ordered or existing depreciation rates, all three of those include a negative 1 percent net salvage. Correct?

A. Yes.

Q. And if we look at the lives, however, for those same accounts, the existing or ordered depreciation rates,

Account 314 at Riverton, Asbury and Iatan, each of those accounts is based on a different life. Correct?
A. I believe that was probably determined off of the interim retirements. I can't tell you for sure.
Q. But your schedule reflects 56.4 years for Riverton on Account 314 and 39 years for Asbury for Account 314 and 34 years for Iatan for Account 314. Correct?
A. As being the ordered lives, yes.
Q. Okay. Now, if we move over to your recommendation, which I believe is under the column Staff's proposal --
A. Yes.
Q. -- and we look at Account 314 at Riverton, what is the depreciation rate reflected there?
A. 1.59.
Q. Based upon a life of how long?
A. 63.
Q. And if I look at Account 314 at Asbury, what's the depreciation rate recommended?
A. 1.59.
Q. Based upon --
A. 63.
Q. If I do the same thing at Iatan, what is the rate?

A. 1.59.

Q. And the life is?

A. 63.

Q. Okay. So you would agree with me, wouldn't you, that not only is there a change in the use of net salvage, but there is a change in the life being used in Staff's proposal for Account 314 versus the ordered depreciation rates as reflected on your schedule for Account 314 for Riverton, Asbury and Iatan?

A. That's correct.

Q. Let's turn to Empire data request response -- or your response to Empire Data Request 18-F.

I believe the Company requested all support and documentation on which you rely for your statement on page 9, line 9 of your direct testimony, that the Company does not spend the money currently and sometimes never.

And I believe your response to that same data request was, for my experience in meetings, I have learned that sometimes plant is sold rather than retired, and at retirement some plant is not removed.

Is that correct?

A. That's the answer to 18-F, yes.

Q. With regard to the meetings you mentioned in response to 18-F, how many of those meetings were Empire specific?

A. We've -- we only met with Empire once relative to this rate case.

Q. And I take it you did not perform any sort of study -- any sort of written study or review of Empire's past practice in retirement and removal of property?

A. No.

Q. Did you have the opportunity to review Company Witness Mr. Loos's workpapers in preparing your testimony in this case?

A. I've reviewed them to some degree.

MR. COOPER: Your Honor, I'll show this document to opposing counsel; then I'd like permission to hand it to the witness, if that's all right.

JUDGE RUTH: Can you go ahead and describe it for the record?

MR. COOPER: Yes.

What I'm going to show to counsel and then hand to the witness will be Mr. Loos's workpapers.

JUDGE RUTH: Thank you.

MR. COOPER: And as pointed out by Staff, I'll clarify that they were a portion of Mr. Loos's workpapers.

BY MR. COOPER:

Q. Do you recognize that document as a portion of the workpapers that you would have reviewed during the course of preparing your testimony?

A. I'm going to say I presume it's the same ones we received, because -- I can't tell you right offhand. The ones we had were clipped together, xeroxed copies of stuff. I don't remember handwritten sheets on them.

But go ahead.

Q. Okay. In the upper right-hand corner there are sequential handwritten numbers. Do you see those?

A. Yes.

Q. If you could please turn to handwritten number, page 717, I'd appreciate it.

Does that purport to be the depreciation rate analysis for Riverton Station?

A. Yes.

Q. Can you look down at line 13, I believe it's entitled Future Interim Additions.

A. Yes.

Q. Is there a total for Riverton of 3.2 -- well, $3,288,436?

A. Yes.

Q. Now, if you would turn to your surrebuttal testimony, page 5, line 11, could you please read the question that starts on that line followed by the answer?

A. On page 26 and forward of Mr. Loos's rebuttal testimony, he discusses the need for his estimated future investments, also called capital maintenance, to the State

Line Combined Cycle, SLCC, unit to be -- to achieve his proposed average service life of that unit.

Is this consistent with other plant that he addresses in his depreciation work?

Q. Now, if you could read for us the answer that follows?

A. No. To be consistent, Mr. Loos would be making estimates of plant additions (his future interim Capital Maintenance) to all other plant. Although he does include State Line Unit 1, the simple combustion turbine used for peaking, in his future interim Maintenance Capital projections, he has no such projections for Iatan, Asbury Riverton, Ozark Beach and Power Center generating plants.

He fails to explain why he projects future interim Maintenance Capital for over $212 million at the State Line location and zero future interim Maintenance Capital at all other locations.

Q. Now, let's go back to those workpapers that you still have, I believe.

Can you turn to handwritten, Page No. 736.

A. Yes.

Q. And that purports to be the Depreciation Rate Analysis for Asbury Unit Train Line -- let me back up -- Depreciation Rate Analysis for Asbury Unit Train. Correct?

A. Yes.
Q. And at line 13 we have an item for Future Interim Additions. Correct?
A. Yes.
Q. And what is that total?
A. $440,000.
Q. Okay. Let's turn to handwritten page 754 in the same document.
That page purports to be Depreciation Rate Analysis for Asbury Station. Correct?
A. Yes.
Q. Okay. Line 13, again, is entitled Future Interim Additions. Correct?
A. Yes.
Q. And what's the total reflected?
A. 26.2 million.
Q. And if we turn to handwritten page 771, that purports to be Depreciation Rate Analysis for Iatan Station. Correct?
A. Yes.
Q. And line 13, again, is entitled Future Interim Additions. Correct?
A. Yes.
Q. And what total is reflected there?
A. 3.46 million.

Q. And let's turn to handwritten page 788. That purports to be the Depreciation Rate analysis for Ozark Beach Station. Correct?
A. Yes.
Q. Line 13, again, is entitled Future Interim Additions. Correct?
A. Yes.
Q. And what is the total reflected there?
A. 1 million.
Q. And if we turn to handwritten page 805, I believe we have a document that purports to be depreciation rate analysis for Combustion Turbine (Riverton, Energy Center.) Is that correct?
A. Riverton and Energy Center, yes.
Q. Line 13, again, entitled Future Interim Additions. Correct?
A. Yes.
Q. And you actually have two numbers on --
A. About 7 1/2 million.
Q. Okay. And if we turn to page 842, handwritten page 842, that purports to be Depreciation Rate Analysis for State Line Units. Correct?
A. Yes.
Q. And line 13, again, is entitled Future Interim Additions. Is that correct?

A. Yes.

Q. And there is a dollar amount there for State Line Unit 1 and State Line Unit 2. Correct?

A. Yes.

Q. And the total of those would be approximately 212 million. Correct?

A. Yeah. That's the part that I referred to.

I believe his testimony wrote that -- in his testimony wrote this $212 million was the only future interim additions that he was addressing.

I didn't pick these others up. I'm sorry.

MR. COOPER: Your Honor, at this time I'd like to do two things, I guess.

First, I'd like to ask the Commission to take official notice of Section 393.135, Revised Statutes of Missouri, which we discussed earlier during this cross-examination.

I can provide copies of those to the reporter if we want to mark -- if we want to mark that. I really don't have a preference. I'm asking for how you refer to do it.

JUDGE RUTH: I don't believe it's necessary to mark one of those for identification. We'll take official notice of Section 393.135.

Is that the correct cite?

MR. COOPER: That is correct, yes, Your Honor.

Similarly, a regulation that I referred to earlier, and Mr. Adam read from was, 4 CSR 240-20.030, and I'd like to ask that the Commission take official notice of that regulation as well.

JUDGE RUTH: Let me make sure I have that right.

4 CSR 240-20.030?

MR. COOPER: Correct.

JUDGE RUTH: The Commission will also take official notice of that CSR provision.

MR. CONRAD: Judge, maybe I'm confused. I don't have any objection to either thing, but I don't know that you need to take official notice of the statutes or your own rules. I mean, they're there.

JUDGE RUTH: I'll just note for the record, though, that they have been pointed out, and the Commission will be sure and review them.

MR. COOPER: And the last thing, I would like to mark an exhibit, if I could.

JUDGE RUTH: Okay. Would you please identify it?

MR. COOPER: This will be those pages of Mr. Loos's workpapers that Mr. Adam and I just went through while he was on the stand.

JUDGE RUTH: Thank you.
I believe we're up to Exhibit 98, for identification purposes.
So this would be workpapers from Mr. Loos marked as Exhibit 98 for identification purposes?
MR. COOPER: Correct.
Do you want to describe it as an excerpt from Mr. Loos's workpapers?
JUDGE RUTH: Yes. Thank you. Excerpts.
(EXHIBIT NO. 98 WAS MARKED FOR IDENTIFICATION BY THE COURT REPORTER.)
MR. COOPER: At this time, Your Honor, I would like to offer Exhibit 98.
JUDGE RUTH: Okay. Do the parties have any objections to Exhibit 98?
MR. CONRAD: These were excerpts from Mr. Loos?
JUDGE RUTH: Yes, excerpts from Mr. Loos.
And I count there are seven pages. At the top they're marked 717, 736, 754, 771, 788 and 805 and 842.
MR. CONRAD: Judge, did this witness prepare them, or has he identified them?
MR. COOPER: I believe, Your Honor, that this witness has stated that it was part of the material that he reviewed in putting together his recommendation.

JUDGE RUTH: Just a moment.

MR. CONRAD: No foundation.

JUDGE RUTH: You'll need to lay more of a foundation. And if you need to recall your witness, we can do that later.

So we'll wait on admitting this into the record.

BY MR. COOPER:

Q. Mr. Adam, let's go back to your surrebuttal testimony. I believe that on page 5 of your surrebuttal testimony, we talked about a statement that you made in relation to what interim plant additions Mr. Loos included in his documentation. Correct?

A. Correct.

Q. And the point of your answer was that you believed at the time you wrote that answer, that Mr. Loos had included 212 million of interim additions for the State Line unit but zero interim additions at Iatan, Asbury, Riverton, Osage Beach and Power Center. Correct?

A. Yes.

I believe there is part of -- either his testimony or somewhere else in his statements where he talks about capital maintenance only being at State Line.

Q. And I believe we also discussed that in putting together your testimony and arriving at your testimony to include the question and answer on page 5, beginning at line 11, that part of the information you took into account was Mr. Loos's workpapers. Correct?

A. I believe I had access to that. I'll have to -- I would double-check, if requested to.

Q. And prior to beginning our series of questions and answers and regarding Mr. Loos's workpapers, I believe you at least acknowledged that you believed the workpapers you had been handed were the workpapers or a copy of the workpapers that you reviewed in preparing your testimony. Correct?

A. I believe I had these at my disposal.

Q. Did you ever look at them?

A. Yes.

Q. Okay.

A. But I told you at the beginning that I didn't look at them in detail.

Q. And I believe as a result of our conversation, our questions and answers, you told me that you had overlooked the interim additions that Mr. Loos had indeed included for Asbury, Riverton, Osage Beach and the Power Center. Correct?

A. I have overlooked them in this statement, yes.

It wouldn't change my position in my rates.

Q. But it would change the statement, wouldn't it?