

1                   MR. KEEVIL: Yeah, just very briefly. Very  
2 briefly, Judge.

3                                   CROSS-EXAMINATION

4 BY MR. KEEVIL:

5           Q. Ms. Hardesty, were you in the hearing room or  
6 watching on the internet for the opening statements?

7           A. I was in the room.

8           Q. You were in the room. So did you see page 1  
9 of Office of the Public Counsel's opening statement  
10 presentation on what they called True Cost  
11 Determination?

12          A. I did.

13          Q. Do you agree with that presentation?

14          A. There are many aspects of it which I did agree  
15 with. However, there appears to be several factors that  
16 are missing on the schedule. I did agree that the  
17 financing would not be considered a gain on the transfer  
18 of the asset to the special purpose entity. However, it  
19 appears to be missing the fact that when the revenues  
20 are collected in order to pay back that bond financing  
21 the utility will pick up that income and pay taxes on it  
22 at that time under the IRS revenue procedures. It  
23 states both portions of that in Revenue Procedure  
24 2005-62.

25          Q. Okay. Basically, can you summarize that for a

1     **dumb attorney? Does that mean -- Does the**  
2     **securitization charge revenue received by Evergy West**  
3     **will be taxed or will not be taxed?**

4           A.     So when the costs were incurred, it was able  
5     to take a tax deduction. So it got a tax deduction on  
6     the return. We did not take a deduction for book  
7     purposes. So it created a timing difference which  
8     created deferred taxes which are sitting on Missouri  
9     West's books. It's a deferred tax liability.

10           When the financing occurs and we transfer that  
11     deferral over to the special purpose entity, the IRS  
12     revenue procedure says that sale of that asset to the  
13     special purpose entity is not taxed. So we do not have  
14     to pay any taxes when it receives cash from the  
15     financing or the sale to the special purpose entity.

16           However, when the revenues are collected at  
17     the special purpose entity, the non-bypassable charge,  
18     those revenues, the Company has to pick up that revenue  
19     on Missouri West's taxable income and pay the deferred  
20     tax liability as it's collected back to the IRS. So  
21     deferred taxes reverse as those revenues are collected.

22           MR. KEEVIL: Okay. Thank you. That's all I  
23     have, Judge.

24           JUDGE CLARK: Any cross-examination from the  
25     Office of the Public Counsel?

1 MS. VanGERPEN: Yes, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. VanGERPEN:

4 Q. Ms. Hardesty, would you turn -- Do you have a  
5 copy of your surrebuttal testimony?

6 A. I do.

7 Q. Could you look at that. Okay. Would you  
8 please turn to page 3. Referring to lines 3 through 5,  
9 you would agree with me that Evergy Missouri West  
10 received a tax deduction when it incurred the fuel costs  
11 related to Storm Uri?

12 A. That's correct.

13 Q. If we assume that those costs are securitized,  
14 and no one here is arguing that they shouldn't be,  
15 Evergy Missouri West will recover the fuel costs related  
16 to Storm Uri through the proceeds from the securitized  
17 bonds?

18 A. That's correct.

19 Q. So now I'd like to turn your attention to line  
20 4 of your testimony there on page 3. You would agree  
21 with me that Evergy Missouri West will not pay taxes on  
22 those bond proceeds; is that correct?

23 A. When the bonds are issued, it will not pay  
24 taxes at that time.

25 Q. Ms. Hardesty, would you agree with me that

1     **Evergy Missouri West will not repay the tax deduction**  
2     **that it received for the Storm Uri fuel costs?**

3           A.     It does not have to repay the tax deduction.  
4     It will have to pay taxes when the non-bypassable  
5     charges are collected.

6           MS. VanGERPEN:   Could you give me just a  
7     moment, Judge.

8           JUDGE CLARK:   Take your time.

9     BY MS. VanGERPEN:

10           **Q.    Ms. Hardesty, I just want to clarify what you**  
11     **just said there.  Is it Evergy Missouri West or the SPE**  
12     **who will be paying those taxes?**

13           A.     When the financing occurs at Missouri West,  
14     the gain that would otherwise be taxable is deferred.  
15     So it's not taxed at that time.  The SPE will get  
16     revenue and will pay taxes, but Missouri West has to  
17     pick up the revenues and reverse -- basically pick up  
18     the gain on Missouri West at that time.  So the IRS  
19     revenue procedure is favorable to the taxpayer because  
20     it does not have to pick up the income upon the  
21     financing or upon the bond issues.  It does have to pick  
22     up the -- It doesn't pick up the revenues per se, but it  
23     has to reverse that deferred tax liability as the  
24     revenues are collected on its tax returns in accordance  
25     with Revenue Procedure 2005-62.

1 Q. So I'd like to shift gears just a little bit.

2 Ms. Hardesty, you talked about the SPE. Moving on.

3 MS. VanGERPEN: Your Honor, I plan to discuss  
4 393.1700, the statute. I don't intend to offer that as  
5 an exhibit, but it's just a printout of the statute  
6 itself, but I have brought a paper copy for everyone, so  
7 I'm going to pass that out now.

8 JUDGE CLARK: Go ahead.

9 MS. VanGERPEN: Judge, I did want to clarify  
10 as well that it is just the first part of the statute  
11 through the definition of Special Contract. So it's not  
12 the full printout of the statute.

13 JUDGE CLARK: Okay. Thank you.

14 BY MS. VanGERPEN:

15 Q. So Ms. Hardesty, getting back to that, I want  
16 to direct you to the definition of Financing Costs which  
17 is in subsection (8) of the definitions section, and I  
18 believe that is page 2 of the handout that I just handed  
19 out.

20 I'd like to direct your attention specifically  
21 to subsection (d) of the definition and it says any  
22 taxes and license fees or other fees imposed on the  
23 revenues generated from the collection of the  
24 securitized utility tariff charge or otherwise resulting  
25 from the collection of securitized utility tariff

1 charges, in any such case whether paid, payable, or  
2 accrued. You agree that I read that correctly, right?

3 A. I believe so.

4 Q. Now I want to shift to the definition of  
5 Securitized Utility Tariff Charge which is at subsection  
6 (16) and that's on page 3 of the printout. You would  
7 agree that the first part of this definition reads the  
8 amounts authorized by the commission to repay, finance,  
9 or refinance securitized utility tariff costs and  
10 financing costs and that are, except as otherwise  
11 provided for in this section, non-bypassable charges  
12 imposed on and part of all retail customer bills; is  
13 that correct?

14 A. I believe that's what's there.

15 Q. So you would agree with me that the taxes owed  
16 by the SPE on the revenue collected from customers to  
17 repay the bonds will itself be collected from customers  
18 through a charge on the customers' bills; is that  
19 correct?

20 A. I believe the amount that we will put on the  
21 bill will include the taxes for the SPE, correct.

22 MS. VanGERPEN: No further questions, Your  
23 Honor.

24 JUDGE CLARK: Any questions from the  
25 Commissioners?

1 CHAIRMAN SILVEY: No questions, Judge.

2 JUDGE CLARK: Thank you, Chairman. I have  
3 just really one question.

4 QUESTIONS

5 BY JUDGE CLARK:

6 Q. Do you have a copy of Ms. Bolin's surrebuttal?

7 A. I actually do not have that with me.

8 Q. I think we can do it without it. In response  
9 to Data Request 96 regarding special purpose entity  
10 income taxes, Ms. Bolin states that Staff's  
11 understanding is that these taxes will not be charged to  
12 Evergy Missouri West retail customers in future rate  
13 cases or other regulatory proceedings. Do you agree  
14 with that statement?

15 A. I do agree in future rate proceedings the  
16 taxes will not be included in the revenue requirement,  
17 but the reason we've included them here is because the  
18 costs will be repaid by the Company and those deferred  
19 taxes will remain in rate base as a reduction to rate  
20 base until they're ultimately paid back to the  
21 government.

22 JUDGE CLARK: Okay. Thank you. That's my  
23 only question. Any recross based upon Commission  
24 questions? Velvet.

25 MS. BELL: No, Your Honor.

1 JUDGE CLARK: Nucor.

2 MR. ELLINGER: No questions. Thank you,  
3 Judge.

4 JUDGE CLARK: MEEG.

5 MR. OPITZ: No, thank you, Judge.

6 JUDGE CLARK: Staff of the Commission.

7 RECROSS-EXAMINATION

8 BY MR. KEEVIL:

9 Q. Ms. Hardesty, in response to a question from  
10 Ms. VanGerpen, you said that the Company, I believe  
11 Evergy Missouri West, maybe the special purpose entity,  
12 but would be putting something on the bills of the  
13 customers that reflected the taxes?

14 A. So the amount that's securitized needs to  
15 include -- So if the revenue comes in and you have a tax  
16 amount, the taxes in that revenue requirement is  
17 included in the amount that's securitized to ensure we  
18 can pay back the bond.

19 Q. But that is included or is that included in  
20 the amount that is the 306.1 under the settlement?

21 A. It's a little bit confusing. Under general  
22 rate making principles you have revenue that would be  
23 taxed. And then in order to ensure that you can -- to  
24 get a tax deduction for that amount from the customer  
25 perspective but then you gross it up to get the revenue



1 requirement to be able to pay it all. It ends up being  
2 the same number. So we just exclude that tax component  
3 from the number. I believe I have a couple of data  
4 requests that kind of show how that works in some of the  
5 data requests that were requested.

6 **Q. In your responses you mean?**

7 A. Yes. The Company will be able to -- if it  
8 gets the full securitized costs without a reduction for  
9 taxes, it will be able to pay all the taxes of the SPE.

10 **Q. And that when you say gets all the full amount**  
11 **or whatever, going off the settlement --**

12 A. Correct.

13 **Q. -- that would be roughly 306.1 million?**

14 A. Correct.

15 **Q. And so it's in there?**

16 A. It's in there, yes.

17 **Q. Okay. Thank you.**

18 A. We don't need additional amounts for that. We  
19 can't reduce the amount, otherwise we will not be able  
20 to. We'll have a large write-off on the financial  
21 statements if we don't collect the full amount.

22 MR. KEEVIL: Nothing further, Judge.

23 JUDGE CLARK: Any recross from Public Counsel?

24 MS. VanGERPEN: Could you give me just one  
25 moment, Judge.

1 JUDGE CLARK: Of course.

2 MS. VanGERPEN: No questions, Your Honor.

3 JUDGE CLARK: Any redirect from Everygy?

4 MS. WHIPPLE: Briefly. And permission to  
5 approach with what we are marking as Exhibit 19.

6 JUDGE CLARK: Go ahead.

7 REDIRECT EXAMINATION

8 BY MS. WHIPPLE:

9 Q. Ms. Hardesty, do you recognize Exhibit 19?

10 A. I do.

11 Q. Can you please tell us what it is?

12 A. Yes. This document is the IRS Revenue  
13 Procedure 2005-62, which talks about how the taxability  
14 of securitized funds are done from an IRS perspective.

15 Q. And is this the revenue procedure that you  
16 referred to in your testimony I believe in response to  
17 Staff's and OPC's questions?

18 A. It is.

19 MS. WHIPPLE: At this time we would move to  
20 admit Exhibit 19, Your Honor.

21 JUDGE CLARK: Any objection to admitting  
22 Exhibit 19 onto the hearing record? Exhibit 19 is  
23 admitted onto the hearing record.

24 (COMPANY EXHIBIT 19 WAS RECEIVED INTO EVIDENCE  
25 AND MADE A PART OF THIS RECORD.)

1 BY MS. WHIPPLE:

2 Q. Ms. Hardesty, could you please direct us to  
3 the portion of this Revenue Procedure 2005-62, which you  
4 were referring to in your testimony where you indicate  
5 that the taxes are ultimately paid to the government?

6 A. So in Section 6 where it says Application .01  
7 is where it states that the utility will be treated as  
8 not recognizing gross income upon the receipt of a  
9 financing order in part (1) and part (2) won't recognize  
10 based on the receipt of cash or other valuable  
11 consideration. Section 6 part .03 talks about where the  
12 non-bypassable charges are gross income to the utility  
13 recognized under the utility's usual method of  
14 accounting. Basically it states we don't have to pick  
15 up the income upon the issuance of the bonds or the  
16 receipt of the cash but we do have to pick up the income  
17 as the non-bypassable charges are incurred or put on the  
18 customers' bills.

19 Q. So do you agree that through securitization  
20 the Company is experiencing a permanent tax benefit?

21 A. No.

22 Q. And that's because of this revenue procedure;  
23 is that right?

24 A. Correct.

25 MS. WHIPPLE: Thank you. No further