

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Hearing

February 4, 2008
Jefferson City, Missouri
Volume 2

In the Matter of Proposed Rule)
4 CSR 240.23-030, Establishing)
Vegetation Management Standards) Case No. EX-2008-0232
for Investor-Owned Electrical)
Corporations)

COLLEEN M. DALE, Presiding,
CHIEF REGULATORY LAW JUDGE.

JEFF DAVIS, Chairman,
ROBERT M. CLAYTON III,
COMMISSIONERS.

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

2 JUDGE DALE: Let's go back on the record.

3 And we are here on February 4th, 2008, in the matter of
4 Proposed Rule 4 CSR 240-23.030, establishing vegetation
5 management standards for investor-owned electrical
6 corporations. Let's begin with oral entries of
7 appearance. Staff?

8 MR. WILLIAMS: Nathan Williams, Deputy
9 General Counsel, P.O. Box 360, Jefferson City, Missouri
10 65102.

11 MR. MILLS: Lewis Mills appearing on behalf
12 of the Public Counsel and the public. My address is P.O.
13 Box 2230, Jefferson City, Missouri 65102.

14 MS. TATRO: Wendy Tatro, 1901 Chateau
15 Avenue, St. Louis, Missouri, appearing on behalf of
16 AmerenUE.

17 MR. BLANC: Curtis Blanc here on behalf of
18 Kansas City Power & Light Company. Address is
19 1201 Walnut, Kansas City, Missouri 64106.

20 MR. BOUDREAU: Let the record reflect the
21 appearance of Paul Boudreau of the law firm of Brydon,
22 Swearngen & England, P.C., Post Office Box 456, Jefferson
23 City, Missouri, appearing on behalf of Missouri Energy
24 Development Association and also Aquila Inc. Thank you.

25 JUDGE DALE: I would like to follow the

1 same format we did last time. Mr. Beck will come up and
2 take the stand, please.

3 (Witness sworn.)

4 JUDGE DALE: Thank you. Please be seated.

5 DANIEL I. BECK testified as follows:

6 DIRECT EXAMINATION BY MR. WILLIAMS:

7 Q. Please state your name.

8 A. Daniel I. Beck.

9 Q. And who's your employer?

10 A. Missouri Public Service Commission.

11 Q. What position do you hold with the Missouri
12 Public Service Commission?

13 A. I am the engineering analysis supervisor in
14 the energy department, which is the operations division.

15 Q. Does Staff have any comments on the
16 Commission's proposed electrical corporation vegetation
17 management standards and reporting requirements rule?

18 A. I have a couple of small changes regarding
19 the phrase electric corporation versus electrical
20 corporation, so there's actually a total of six that I'll
21 point out. In 1C, the second sentence, I believe the word
22 electric should be changed to electrical, with the "al"
23 added. That should also take place in 4F2, and in 4F2 it
24 actually occurs four different times that the word
25 electric should be -- the "al" should be added.

1 And basically, that's just all the way
2 throughout that approximately four sentences there. So I
3 think it's fairly self evident that those four cases
4 there. And I think kind of in the same spirit of things,
5 in 8A, there is a reference to electric public utilities,
6 and I think electrical corporations would be the -- be
7 consistent with how those are referenced in the rest of
8 the rule, but those changes are the only comments that the
9 Staff has.

10 JUDGE DALE: Can you tell me if the -- if
11 you know, either you or Mr. Williams, is the statutory
12 language electric or electrical corporation?

13 MR. WILLIAMS: This particular rule
14 includes a definition for electrical corporation, I
15 believe which references back to the statute. It's either
16 this one or the other one. I believe it's this one.

17 JUDGE DALE: So we're making everything
18 consistent with the statutory language?

19 MR. WILLIAMS: Yes.

20 MR. MILLS: Judge, just so the record is
21 clear, 386.020 sub 15 is the definition of electrical
22 corporation with the "al".

23 MR. WILLIAMS: And it's referenced in 1E of
24 the rule -- proposed rule.

25 JUDGE DALE: Thank you. As there are no

1 Commissioners here yet, we will go off the record.

2 (DISCUSSION OFF THE RECORD.)

3 JUDGE DALE: Let's go back on the record.

4 We're ready for Commissioner questions.

5 MR. COOPER: Your Honor, while we have a
6 moment, may I go ahead and do an entry of appearance?

7 JUDGE DALE: Yes. I'm sorry.

8 MR. COOPER: Dean L. Cooper, P.O. Box 456,
9 Jefferson City 65102, appearing on behalf of the Empire
10 District Electric Company.

11 JUDGE DALE: Thank you.

12 QUESTIONS BY COMMISSIONER CLAYTON:

13 Q. Good afternoon, Mr. Beck. Welcome back.
14 I'm sure you're delighted to be back. We're talking about
15 tree trimming this afternoon, and I want to ask you, prior
16 to the implementation of any tree trimming rule, can you
17 identify for me what the general practice is or was for
18 utilities in terms of tree trimming practices, I guess
19 going back prior to the storm outages of 2006?

20 A. There wasn't -- there isn't really a
21 consistent general policy. For example, Ameren has an
22 operational policy that they trim their urban lines every
23 four years and their rural lines every six years, but they
24 were behind schedule on that at the time. Other utilities
25 try to maintain -- maintain similar schedules, but there

1 isn't -- there wasn't any process that really enforced
2 those, and they were their own operational plans. And I
3 think -- I believe KCPL generally is trying to, in
4 essence, have maybe that as a kind of a general underlying
5 plan, but they want to highlight areas where they feel
6 that moving that up or back is in the best interest of
7 their customers, so I think --

8 Q. Moving what up or back?

9 A. The time, time frame in which they -- they
10 do a tree trimming cycle. So my understanding is, is that
11 in specific areas they may do trimming every three years,
12 while in another area they make a decision to delay that
13 to five years, and so it's -- while they have a general
14 plan, they make specific decisions on specific areas.

15 Q. Well, KCP&L, don't they focus on
16 reliability metrics in determining what trees are going to
17 be trimmed or where? Don't they identify problems
18 differently than other utilities?

19 A. I think that process is what ultimately
20 leads to shorter or longer cycles.

21 Q. And they really don't use tree trimming
22 cycles per se, they identify problems, is that an accurate
23 statement, that they identify areas of problem reliability
24 and address tree trimming in that manner, or do you
25 disagree with that?

1 A. My understanding is that they actually -- I
2 guess I disagree, because my understanding is that they
3 still maintain some sort of cycle, not just leaving
4 certain lines unattended for years and years and years,
5 but -- but -- but I think ultimately they're making
6 decisions about various lines and assigning cycles for
7 each area or line.

8 Q. Well, then how would you differentiate
9 KCP&L's program versus Ameren's program pre 2006? How
10 would you -- how would they be different, or would they be
11 different?

12 A. I think Ameren's program, you know, had a
13 specific schedule that they were hoping to meet, and they
14 were behind that. I think that in Ameren's case, in
15 addition to that specific schedule, they also had what
16 they call hot spot trimming, which would be the trouble
17 areas they would just go in and do work to deal with that
18 area. That wouldn't necessarily mean that that hot spot
19 trimming would be equivalent to going through and doing a
20 real total trim on that area, but it would just be taking
21 care of any immediate problem limbs.

22 Q. Okay. So let's just focus on Ameren for --
23 I know you're excited about that, but just for right now,
24 talking about what Ameren had done, they had tree trimming
25 cycles of every four years for any particular spot on

1 their distribution system in urban areas, correct?

2 A. Correct.

3 Q. And then every six years in the rural
4 areas?

5 A. Correct.

6 Q. And we'll just focus on distribution rather
7 than getting into transmission or any issues like that.
8 So is every four years and every six years, and then you
9 suggest that there is -- there's this hot spot trimming --

10 A. Yes.

11 Q. -- that they do?

12 And what is defined as a hot spot?

13 A. It really is -- whether it's a complaint or
14 whether it's a problem area identified by their people,
15 their employees, it's just somehow they determine that a
16 specific area needs attention outside of the normal cycle.

17 Q. Okay. Now, in the proposed rule, what is
18 the cycling for urban trimming at any given spot on the
19 distribution system?

20 A. It is four years.

21 Q. Okay. And what is it in the rural areas?

22 A. Six years.

23 Q. Okay. So with regard to tree trimming
24 cycles, this rule will not affect or change in any way
25 what Ameren is doing, other than reporting to you, they'll

1 be telling you what they're doing, but this rule will not
2 change their tree trimming cycles, correct?

3 A. It's consistent with their cycles. When
4 you say what they're doing, since they were behind
5 schedule, they really didn't meet those four and six-year
6 guidelines, but yes, on a going-forward basis it should.

7 Q. Staff was aware -- when did Staff become
8 aware that they weren't meeting those four and six-year
9 guidelines?

10 A. I believe it was during the discussions in
11 the 2004 storm report.

12 Q. Okay. And Staff found that they were not
13 meeting those four and six-year guidelines. Did Staff
14 file a complaint?

15 A. No.

16 Q. Okay. In the storm outage of '05, did
17 Staff do an analysis of whether they were following the
18 four and six-year trimming program?

19 A. It's my recollection, but by that time we
20 had an agreement with them on a schedule to catch up. So
21 we were already getting information on where they were.
22 On one hand they were making progress toward that goal.
23 On the other hand they were still behind.

24 Q. They were still behind. And then how about
25 '06, where were they on --

1 A. Same situation. They were making progress,
2 but they were still behind.

3 Q. Were they behind on the agreed amount,
4 agreed schedule of catching up? They were behind on the
5 four and six-year plan, but were they also behind on the
6 plan to catch up for being on target for the four and
7 six-year plan?

8 A. My recollection is that prior to both of
9 those storms, they actually were right at the -- meeting
10 that schedule, but then because of the impact of each
11 storm, they actually got behind and caught back up within
12 six months or so because of the storm process.

13 Q. Okay. So -- but you would agree with me
14 that what we are codifying in this proposed rule doesn't
15 change -- I suppose doesn't change what past practice has
16 been?

17 A. At least in terms of the specific schedule,
18 no.

19 Q. Okay. Did Staff in years past ever do --
20 outside of a storm-related investigation, has Staff ever
21 conducted an investigation or study into tree trimming
22 practices of any utility?

23 A. Yes. Ameren also had a -- there was an EW
24 docket that was opened in 2004. I believe it was 583, but
25 I could be wrong about that.

1 Q. That wasn't related to a storm outage?

2 A. It was not. It actually started with a
3 customer complaint about a guy wire, and that wire was hit
4 by the customer with a brushhog, and there was an issue
5 about whether vegetation was hiding that, and that
6 ultimately, it is my understanding, led to that EW docket.

7 Q. And what was the resolution of that docket?
8 Did it recommend or order anything?

9 A. Since it was an EW docket, I don't think
10 it, you know, ultimately did that, but I think with the EW
11 docket and with the storm report, I think it had an
12 influence on that process, and ultimately Staff and the
13 company came to this catchup schedule.

14 Q. Okay. Are you aware of whether Ameren's
15 caught up on its tree trimming schedule that you-all have
16 established?

17 A. The last time I checked the listing, they
18 are meeting that schedule and actually are a little ahead
19 of it.

20 Q. Is it your testimony -- and I'm not sure if
21 it is or not. Is it your testimony that all of the
22 utilities use that four to six-year tree trimming cycle?

23 A. I think -- I don't think it's fair to
24 characterize it as they use it. They generally -- it
25 seems like a consistent general goal that they have, but I

1 don't -- I don't think several of the utilities have
2 adopted it in that kind of formal sense. At least that's
3 my understanding of where they're at.

4 Q. Does a -- under the four and six-year tree
5 trimming cycle regime, under that type of plan, if a tree
6 is trimmed in year one, and let's say in year two that a
7 limb or some sort of -- some amount of vegetation is -- is
8 nearing the line or over the line or maybe even touching
9 the line, under the proposed rule does the utility have
10 any obligation to trim prior to the next cycle three years
11 down the road?

12 A. Other than to generally meet the safe and
13 adequate requirements, no, they do not.

14 Q. How do you determine whether safe and
15 adequate service is being affected to determine whether
16 they have that obligation? I mean, do you have to be
17 having outages? Do you have to have --

18 A. Most likely the outage, you know, the
19 outages, you know, there are instances where customers
20 call in and complain beforehand, before the outages really
21 happen, but often it's -- the outages are what alert you
22 to it. So you're correct that people are experiencing
23 outages before you move toward correcting that most of the
24 time.

25 Q. So you have to have -- do you have to have

1 some evidence of poor reliability before the utility has
2 any obligation to trim trees outside of that four-year
3 cycle?

4 A. I'm not sure when the utilities -- I guess
5 it seems to be more almost a legal question of when the
6 obligation of utility is, I guess, for --

7 Q. Well, let's get away from the legal
8 question. Let's talk about from an engineering
9 standpoint. A tree or piece of vegetation is growing
10 towards the line, maybe touching it. Maybe it's right
11 above it, right below it. Maybe it's going in between. I
12 don't know of any --

13 A. Yeah.

14 Q. I don't know well enough to know what
15 example that -- I mean, I can look at something and say,
16 man, that looks like it needs to be trimmed, but that's
17 not a legal standard. But from an engineering standpoint,
18 if you're outside of that four-year tree trimming
19 schedule, is there any way that -- how -- from an
20 engineering standpoint, do you advise the utility that
21 they need to take some action on a limb when it's outside
22 of that cycle?

23 A. Yes.

24 Q. Shouldn't there be something in there, in
25 the rule that authorizes you to say this limb needs to be

1 cut?

2 A. And I guess what we've always done in the
3 past is we have advised them, and normally get quick
4 response on that.

5 Q. How about if you don't know about it but
6 the utility knows about it, do they have an obligation to
7 act prior to the four-year period, prior to the next cycle
8 that comes up?

9 A. I'm generally -- again, I give the hot spot
10 trimming example. I'm generally aware there are
11 definitely instances where the company personnel notify
12 the company that -- the tree trimming personnel that the
13 work needs to be done, but --

14 Q. But the hot spot, doesn't that happen after
15 evidence of bad reliability? Is that when that kicks in?

16 A. Not always. I mean, that's -- that's the
17 ones we're most aware of because that's when we're
18 involved. But there are also instances where their own
19 people notify and ask for these. Again, I'm generally
20 aware of several examples of that.

21 Q. If -- I'm trying to figure out how to ask
22 this question. Does Staff audit utilities to evaluate the
23 type of calls or complaints that they may get from
24 customers where they get a call from a customer that says,
25 this tree is growing into the lines and it looks like it's

1 a real problem, you need to trim it, do you-all audit
2 those types of calls and the company's response to
3 evaluate whether they are making good judgments on those
4 types of inquiries?

5 A. I guess for my specific section,
6 department, the energy department, we don't. The only way
7 we would do that would really take place when we receive
8 complaints and the customer says, I talked to the company
9 and they didn't respond. That would be the only audit,
10 and I don't think that, in my mind at least, qualifies to
11 the level of an audit. Management services, for example,
12 does an awful lot of work regarding customer service, and
13 so I'm not for sure what they do or don't do. I don't
14 want to speak for them.

15 Q. Should we be conducting audits of the
16 company's response to those inquiries to make sure that
17 they're responding in an appropriate manner?

18 A. I feel like the -- just my opinion, but my
19 opinion is that the complaint process gives us that
20 insight to audit that process, but again, I don't think
21 I'd call it an audit. But it does give us very specific
22 examples to sit down and discuss with the company, and it
23 does happen. It's not that uncommon to have a customer
24 call in and say that they've already talked to the company
25 and we follow up on that then.

1 Q. Does Staff believe that we should have a
2 certain amount of distance that vegetation should be kept
3 from lines at all times? Should we have minimum
4 clearances?

5 A. I think that -- that the number one
6 emphasis that Staff has is the minimum clearances at the
7 time you do the trimming.

8 Q. Well, that's what the proposed rule does?

9 A. Yeah.

10 Q. That's not my question. I'm talking about
11 minimum clearances at all times.

12 A. I think the hard part with minimum
13 clearances is that it doesn't take into account the fact
14 that the wind can blow, the ice loads the limbs down, that
15 type of thing, and so it can give you some indication
16 of -- of problems, but I don't think it's the perfect
17 measure of that. So that's why I'm kind of hesitant to
18 just say if we put this one number in it, that would be --
19 that would be the perfect fix.

20 And then the other thing you get into, and
21 this is kind of a -- the ability of the limb to carry load
22 also is a factor. So a very small limb can touch a line
23 without grounding, while other -- and depending on its
24 moisture content, while others that are larger would be an
25 obvious problem. So there's a judgment process in there,

1 and that's why I'm hesitant about just a single number.

2 Q. How many calls does Staff get a year that
3 relate to tree trimming issues with all utilities,
4 approximately?

5 A. When you say calls, I want to make sure I'm
6 going to expand the definition to include public comments
7 and -- and informal complaints and that type of thing.
8 I'm guessing, because the last years have been a lot of
9 storms and a lot of issues, I'm guessing in the last
10 years, last few years we've averaged at least a call a
11 day.

12 Q. For a couple of years?

13 A. Yes.

14 Q. At least?

15 A. That would be my guess off the top of my
16 head.

17 Q. And does Staff follow up with each one of
18 those?

19 A. Yes.

20 Q. And what is the typical resolution of that?
21 Do you -- do you go out and look at the -- at the
22 vegetation? Do you call the utility, have them look at
23 it? Do you get a response whether they're going to trim
24 or not? What normally happens?

25 A. Our first response is to call the company

1 and -- and then work -- and then communicate with the
2 customer to see if that took care of the problem, although
3 in certain circumstances, you know, we have gone out in
4 person, depending on what the customer said and how -- how
5 critical the problem seems to be, gone out before we even
6 talked to the company. So -- but normally the standard
7 procedure is to talk to the company first.

8 Q. But how often does Staff actually go out in
9 the field on these types of complaints?

10 A. Probably 10 percent of the time.

11 Q. 10 percent may go out. Would you say that
12 those are going to be relatively close to home, they're
13 going to be in Mid-Missouri, or do you disagree with that,
14 they're all over?

15 A. We've actually -- again, just because of
16 the way the last couple years have been, we've spent an
17 awful lot of time in the St. Louis area looking at issues
18 like this. So --

19 Q. When you say you've spent an awful lot of
20 time, I mean, how many visits have you actually -- not
21 you, but how many visits has the Staff actually made to
22 the St. Louis area outside of local public hearings?

23 A. In the last -- I'd say in the last couple
24 of years, probably, maybe 20 visits a year. And the
25 intent is that, is when you're visiting, try to deal with

1 several customer complaints to make this as cost effective
2 as possible.

3 Q. Of those -- of those calls that you get,
4 the 365 calls a year that you receive relating to tree
5 trimming, what percentage of those have merit, where the
6 customer's right, the trees need to be trimmed?

7 A. Well, I'd probably say maybe half of those,
8 but one of the things that -- that some customers are more
9 speaking generically about tree trimming than having a
10 specific line or limb that they think that they want
11 trimmed. So I'm not sure that -- that informal complaint
12 doesn't have merit. It just doesn't require a specific
13 corrective action. So that's why the number is probably
14 what I would consider fairly low of 50 percent.

15 Usually when a customer makes an inquiry
16 about trees and tree limbs, there are some real issues.
17 The other thing that happens is that sometimes the issue
18 is on their service line, which is their responsibility,
19 and customers don't always understand that.

20 Q. Okay. So what percentage have merit where
21 you've got a utility side of the line, I don't want to
22 talk about the service line to the house, but utility side
23 of the line, where you've got a specific complaint, how
24 many of those have merit where in your opinion it requires
25 utility action?

1 A. My estimate was 50 percent.

2 Q. 50 percent of those. Okay. If a company
3 is operating on a four and six-year cycle basis, would you
4 expect that -- that those calls would go away completely
5 or almost entirely or not at all?

6 A. I think that they would be reduced
7 significantly, the amount of calls would be reduced. I
8 don't think they'll ever go away.

9 Q. Do you know, aside from Ameren, we've
10 talked about them and their schedule, are all other
11 investor-owned utilities on schedule with their tree
12 trimming cycles, or do you know?

13 A. I don't have nearly the in-depth statistics
14 that we have for Ameren, so I --

15 Q. You don't know?

16 A. I guess I'd say I don't know.

17 Q. Has Staff been asking for more tree
18 trimming information while this case has been pending, or
19 is Staff waiting on the implementation of the rule before
20 it demands tree trimming information?

21 A. We are waiting for the rule in general,
22 although obviously the latest storm investigations are
23 another opportunity to sit down and talk to the company,
24 and we are taking that -- taking advantage of that
25 opportunity.

1 Q. Okay. As part of your storm-related
2 investigations, are you able to -- you and your staff,
3 when I say you, I mean the entire staff, are you-all
4 looking at the specific type of vegetation problems that
5 are coming up in each of the outages? For example, is it
6 a limb falling vertically down in an ice storm versus a
7 tree that's falling over that's well out of the right of
8 way? Are you-all doing that additional analysis?

9 A. Yes.

10 Q. You are. And do you think those storm
11 reports will have level of detail that could have an
12 impact on the drafting of a vegetation management rule?
13 Is there information that would be -- that you think
14 you-all have come up with that will be helpful in drafting
15 this rule?

16 A. I don't know that -- I mean, I think that
17 there are things in this rule that -- that deal with
18 specific distances on clearance, deal with overhead lines
19 for -- and discuss the -- there's been lots of discussions
20 about the line, the limbs that hang over a line and that
21 the certain areas it seems to make sense, like feeder
22 lines, but I'm not sure how the specifics that we have
23 would be any different than what that discussion has
24 already been.

25 Q. So the answer is no, the findings of your

1 investigation you don't think will have any impact on
2 vegetation management policy?

3 A. Not for this rulemaking, I don't believe.

4 Q. Well, how about just in general for
5 vegetation management policy?

6 A. I think on the going forward basis, there
7 may well be some information gathered from this rule
8 that -- that results in change in policy, additional
9 changes in policy.

10 Q. Like what type? Give me some examples of
11 what that could be.

12 A. The subject of when do you cut, quote,
13 clear to sky, where you have no overhanging limbs, that's
14 a very difficult issue. It's a very expensive issue to
15 have to deal with, but I think on a going forward basis,
16 the information gathered in this rulemaking's going to aid
17 that discussion, and I think that there's likely going to
18 be in the future more and more decisions made in that area
19 to mandate clear to sky trimming.

20 Q. So you think we're going to have more
21 discussion about clear to sky vegetation management? I
22 want to make sure I understand what you're saying.

23 A. Yes. I think -- I don't think this -- I
24 don't think a single rulemaking stops the discussion on
25 the topic, and I think vegetation management is an area

1 that the -- the discussions will always be ongoing.

2 Q. All right. Well, let me ask the question
3 this way: Is Staff making any recommendations or
4 improvements to the rule considering we've had, you know,
5 a year since this process began, considering we have new
6 ice storm data analysis that goes into that? Do you-all
7 have any -- is there any evolution to the rulemaking from
8 Staff's perspective up to this point?

9 A. I think the evolution has actually taken
10 place between the version that was in the 2006 storm
11 report versus what we're seeing now. I think there's been
12 a significant evolution and improvement and more
13 prescriptive --

14 Q. But I mean in the rule. The rule is --

15 A. Yeah.

16 Q. The rule hasn't changed; you-all aren't
17 recommending any changes to the proposed rule from the
18 last rulemaking, correct?

19 A. From the last rulemaking, no. But my point
20 is from the storm report, and you know, that was
21 November 17th, 2006, to what is now in this rule is a
22 significant change and much more prescriptive rule.

23 Q. So Staff likes the movement towards a more
24 prescriptive rule?

25 A. Yes.

1 Q. Setting out mandates and reporting, is
2 that -- you agree with that?

3 A. That's right.

4 Q. Staff started out with a completely
5 different version of vegetation management; is that
6 correct?

7 A. That's correct.

8 Q. And what was the nature of that rulemaking
9 as it related to vegetation management?

10 A. You are referring to the one in the storm
11 report, correct?

12 Q. Yes. Yes. The 2006 proposal.

13 A. It was -- well, first thing is -- is on
14 regular typewritten pages, I think it was four pages, so
15 that gives you some indication that it was much less
16 detailed. But it basically simply had a requirement to --
17 for annual reporting, and had specifics on what should be
18 reported, and then had requirements for annual submission
19 of plans. And the only other thing it had was that the
20 utilities were required to participate with field
21 inspections by Staff to verify those -- those reports, and
22 that was -- that was what was required. So there was no
23 cycles specified, no distances specified during -- when
24 you did the trim cycle, no follow-up inspections required.
25 This is it.

1 Q. What led to the change of heart in Staff's
2 perspective?

3 A. I think that there's always a balance
4 between cost and -- and, you know, a more prescriptive
5 rule, and I think in Staff's viewpoint, you know,
6 within -- and you know, we talked about in this report the
7 risk of having limbs over lines, and that was November
8 17th. Ameren was hit with a storm, I believe it was
9 November 30th of that same month. There was another major
10 storm that hit in January that hit several utilities.
11 Empire was probably impacted the most on that one.

12 And I think those couple of events, because
13 those were -- those few events there were the two most
14 serious ice storms we've had. Really haven't had a
15 serious ice storm since you mentioned earlier the 2002 ice
16 storm. And I think it -- I think it caused us to take the
17 risk with ice storms into account more instead of just
18 summer storms that we had been experiencing.

19 Q. So did that lead to a proposed change in
20 the rule by Staff? Did you-all make different
21 recommendations based on those subsequent storms?

22 A. What Staff -- what Staff did was simply
23 when it came our opportunity to comment, because the way
24 the rulemaking process took place, we proposed this in the
25 storm report, but it wasn't -- we didn't actually propose

1 it in a rulemaking, but once the rulemaking process came
2 to the point where our Staff could submit comments, we
3 did, and we certainly --

4 Q. But that was following -- following that
5 draft that was the original draft that was filed, the
6 Staff didn't communicate to the Commission any proposed
7 changes following those ice storms?

8 A. Other than just discussions that --

9 Q. You-all didn't -- you didn't call upstairs
10 and say, hey, these two or three new ice storms have led
11 us to say that we think we need to move in a different
12 direction?

13 A. Not to my knowledge, we didn't make a call
14 like that.

15 Q. Would you agree that if we set prescriptive
16 minimum clearance standards that had to be met at all
17 times, that that reliability would be even more improved
18 than perhaps under the current rule, that if you eliminate
19 vegetation from being close to the lines altogether, that
20 it would improve reliability? Would you agree with that
21 statement? I know you're going to get to the cost, but
22 we'll get to that in a second.

23 A. Okay.

24 Q. If you were to establish minimum clearances
25 and no overhang, clear cut all the way to the sky, remove

1 trees all the way back to the right of way and all
2 diseased trees beyond that, would you agree that would
3 improve your reliability? That's about the best you could
4 do.

5 A. All things being equal, that everything
6 else going on in the system stays the exact same, yes.

7 Q. And the real -- the real problem here is
8 identifying, going from one extreme to another, you have
9 to evaluate cost associated with each step that you may
10 go?

11 A. And I don't think it's just cost. I mean,
12 you have things like people's -- I was going to use the
13 word ownership, which seems to imply cost, but people's
14 love of trees and, you know, the public relations effect
15 of trimming trees. I think there's a balance there that
16 has to be struck, cost being one of the main components
17 but not the only one.

18 Q. How much communication outside of the
19 formal comment period and the comments filed in writing in
20 the cases, the reliability cases, have you had any
21 interaction, or Staff had any interaction with officials
22 of other political subdivisions, cities, counties,
23 townships, that sort of thing, relating to tree trimming?

24 A. We had a lot of calls that we -- that we
25 took and discussed with various officials. There was,

1 quite frankly, a lot of concern over -- I'd almost refer
2 to it as rumors about what the rules did or didn't do, and
3 so -- and quite frankly, appreciated the opportunity to
4 sit down and talk with those officials to set the record
5 straight, because there was a lot of fear from officials
6 that we talked to. They were concerned about the idea of
7 deforesting their communities.

8 And then the second thing that they were
9 very concerned about was the idea that somehow they would
10 have to pay for it, and -- and so we did receive a lot of
11 calls, but it was mostly during that comment period, so I
12 don't know --

13 Q. Let me ask you a follow-up on that. You
14 say they were rumors. Why do you characterize them as
15 rumors?

16 A. Well, I guess I'd characterize it as rumors
17 just because when you read -- when you read the draft
18 rules that were being discussed, there were no clauses
19 that said that, for example, that the money could be --
20 all the cost could be somehow shifted to the municipal.
21 What there was was a paragraph that discussed the fact
22 that if the municipal required something in addition, then
23 there would be a fee.

24 So, you know, and -- and so oftentimes just
25 having that conversation was helpful, I felt, for the

1 those municipalities to better understand what was going
2 on. That's why, you know, when -- what they were
3 discussing had nothing to do with the rule, it seems more
4 like rumor to me.

5 Q. Would you agree or disagree that the
6 original proposal that was drafted at least attempted to
7 establish mechanisms for dialog between utilities and
8 municipalities in addressing tree trimming issues?

9 A. I think it did.

10 Q. It did. Okay. And it never mandated that
11 any particular municipality would have to pay for
12 something?

13 A. No.

14 Q. In fact, I think the original proposal set
15 out a mechanism that if a city was unhappy with the
16 mandates of the tree trimming rule, that the city could
17 actually seek some sort of waiver from the rule to protect
18 trees or to not cut trees in certain neighborhoods. Do
19 you recall that?

20 A. That seems correct, yes.

21 Q. And that it would include the municipality
22 and the locality in decisions relating to reliability and
23 tree trimming?

24 A. And even just on the basic reporting of
25 what's going on in their area and notification that that

1 work was taking place.

2 Q. And I think -- I think most of the
3 notification and the community interaction, some of that
4 has been retained in the current draft?

5 A. That's --

6 Q. But not all -- not all of it has been
7 retained?

8 A. I believe that's true.

9 Q. Do you think it's important from a Staff's
10 perspective that there be ongoing dialog among local
11 leaders, utilities and the Public Service Commission as it
12 relates to reliability issues, including tree trimming?

13 A. I agree.

14 Q. There was a -- there was an article in a
15 recent newspaper in the area, a copy that I have here is
16 The Suburban Journal. Did you see that as it related to
17 Ameren on tree trimming and the locality?

18 A. I don't think I did.

19 Q. It got sent around. It was dated
20 January 30th of 2008. It was in The Suburban Journal, and
21 it was a notification to the locality. Says, AmerenUE to
22 begin trimming trees, and I think this is in the Warrenton
23 area. And the first half of the article concerned me
24 because it said that the -- it says that the board of
25 aldermen met and were requesting that certain tree

1 branches be cleared in certain areas or their rights of
2 way to avoid power outages in the future, and the initial
3 response was that, well, we don't have to trim those trees
4 until 2009. And it didn't seem like there was any
5 contemplation of whether or not the areas they identified
6 were problem areas or not.

7 Would you agree with me that if -- if that
8 were the response, which eventually changed in this
9 article, but if that were the response, do you think
10 that's appropriate, that if city officials identify
11 potential problem areas, that the utility can just be able
12 to say, we'll get to that, we'll get to that in three
13 years? Do you think that's appropriate?

14 A. No.

15 Q. Do you think there should be some inclusion
16 of municipal officials if problem spots or hot spots are
17 identified?

18 A. Yes.

19 Q. Well, in the conclusion of this article,
20 Ameren did turn around and say that they would trim those
21 trees, which I thought was certainly productive and
22 certainly established, I think, a relationship with that
23 community, which I think is important.

24 Is there any other way that we should
25 address issues associated with intergovernmental

1 interaction on tree trimming? Is there anything else we
2 can do to foster better relations and better
3 communications that is not in this current draft?

4 A. I'm not sure how much we can do, but, for
5 example, there are programs that have taken place where
6 the utility and the city work together, for example, where
7 the utility would bring the trees and tree limbs in a
8 given feeder down, and then the city would provide the
9 labor to remove those limbs. And there's even some
10 examples where programs have been implemented to plant
11 trees that are more utility friendly or line friendly, and
12 I think that process, you know, where everyone kind of
13 wins seems to be the -- an excellent process.

14 Q. I want to just get back to these tree
15 trimming cycles just for a second here. The four-year and
16 six-year cycles, that are supposedly being followed by all
17 utilities, or should be -- it's your understanding that
18 all utilities are following those cycles; is that correct?

19 A. That's their general goal.

20 Q. Okay. So you said that Ameren is -- is --
21 or was behind on those schedules, and that you think by
22 implementing these cycles, that -- and once they catch up,
23 that there should be improvement in reliability associated
24 with their systems. Is that a correct characterization of
25 your comments?

1 A. All things being equal, yes.

2 Q. Okay. Now, if all the utilities are
3 currently doing four and six-year cycles today, and we
4 don't have any evidence that the other three are behind,
5 does that mean because we're only reinstituting or
6 codifying four and six-year tree trimming cycles, that
7 we're not going to see any reliability improvements in the
8 systems of the other three investor-owned utilities
9 because that's what they're doing already?

10 A. I think there's a whole lot more in this
11 rule than just that four or six-year cycle, so no, I
12 couldn't agree with that statement.

13 Q. Well, tell me -- tell me what else is going
14 to lead to improved reliability.

15 A. I think there's, you know, more specifics
16 about some of the technical standards that are outlined
17 here. I think the effort with public notice, it may sound
18 like a small thing and it would seem to have nothing to do
19 with reliability, but the more that the utility
20 communicates with the customer and problem limbs, trees,
21 areas, are by having that communication. It's more of an
22 opportunity to clean these problems up. I think that's
23 going to help significantly.

24 I think the outreach programs where
25 utilities inform customers about trees, vegetation and

1 lines and the whole effect, I think that will have an
2 effect. Now, I think -- I don't think that can be an
3 immediate -- well, even for that, I think that, for
4 example, people's responsibility for their own service
5 drop I think could really be improved there.

6 And I guess the last thing then under
7 specific requirements, you know, there is the specific
8 15-foot requirement or to the edge of the right of way for
9 the under 50,000 or for the above 50,000 lines and the 10
10 foot or edge of right of way for the under 50,000. So I
11 think those specific distances may also help.

12 Q. Are those new mandates or is that current
13 policy on lines of that voltage?

14 A. My understanding, current policy basically
15 is that the goal is to trim the line back so it won't grow
16 back into the line within the four to six-year period.
17 But that, you know, that isn't -- that isn't a specific
18 distance requirement. It's just kind of trying to avoid
19 that growth back into the line.

20 Q. You think that's a good thing on the lines
21 of greater than 50,000 volts?

22 A. Yes.

23 Q. Okay. But you don't think a similar
24 mandate ought to be put in for under 50,000 volts?

25 A. Ten feet is the similar -- it's ten foot.

1 Q. At the time of -- at the time of the
2 trimming?

3 A. Yes. Well, right now there's a whole lot
4 of judgment used about the type of tree and how fast it
5 grows and that type of thing, but to me this sets a
6 minimum in addition to using that judgment.

7 Q. In the storm investigations that Staff has
8 conducted in '04, '05, several in '06, several in '07,
9 maybe even one in '08, can you think of specific examples
10 that you or your staff have witnessed that would have been
11 prevented if this rule had been in place and the utility
12 had been complying with the rule?

13 A. I think some of the -- some of the best
14 examples I guess that -- that I see maybe aren't as --
15 catching up on your cycle I think's important, but I
16 really see one of the major problems is the lines that are
17 outside of the ease -- or limbs and trees that are outside
18 of the easements.

19 And so to that extent, the areas of
20 customer communication and information I think are going
21 to be very important here to helping that, and there's
22 also requirements in here that will require the utility to
23 basically notify the customer that -- that they're aware
24 of a tree that's out of the right of way. In fact, I
25 believe it's notify them in writing so that that process

1 is documented.

2 It doesn't give the utility the right to go
3 in and take that tree without the owner's permission, but
4 at least it provides a more formal structure for that, and
5 hopefully that means the customers will allow that tree to
6 be trimmed so that everyone's reliability can be improved.

7 COMMISSIONER CLAYTON: I don't think I have
8 any other questions. Thanks.

9 JUDGE DALE: Okay.

10 COMMISSIONER CLAYTON: Let me talk to the
11 KCPL man again, Mr. Herdegen.

12 WILLIAM HERDEGEN testified as follows:

13 QUESTIONS BY COMMISSIONER CLAYTON:

14 Q. Good afternoon.

15 A. Good afternoon, Commissioner.

16 Q. Does KCPL trim on cycles?

17 A. As Mr. Beck said, there's a general
18 guideline for the cycle. We use four-year on our
19 backbones in the metro, five years on our metro lateral,
20 five years on our rural. We do have a two-year kind of a
21 spot patrol in the metro, just to ensure that the
22 backbones, which are going to have the biggest impact of
23 outages, are -- are kept clear.

24 Q. Okay. So how does KCP&L determine success,
25 if it does at all, in its program? How do you evaluate

1 whether your program is working well or not? Do you look
2 at dollars spent?

3 A. We look at -- we look at a lot of things,
4 you know. We really took a closer look at our trimming
5 cycle and our program after the ice storm of 2002. We
6 were spending a lot of money. We tried to do correlations
7 after the -- after that storm and show that places where
8 we recently trimmed were also heavily impacted by the ice
9 storm. So we said, well, there's got to be a better way
10 for us to do that. We did look at -- we did hire an
11 outside firm to come in and manage this for us, so that we
12 could cap into the expertise of the industry, if you will.

13 And one of the things that we found was, in
14 addition to cycle, you want to take a look at, you know,
15 the reliability impact. So we changed from trimming just
16 for the sake of trimming on cycle, because we had
17 contractors that if they were supposed to trim every four
18 years, they would trim -- they'd spend a lot of time on
19 those things, and in many cases they were cutting trees
20 that probably didn't need to be cut, but that's what they
21 were incented on so that's what they got paid for.

22

23 We found that by backing off and taking a
24 look at what's been the reliability performance and
25 incenting our contractor or our manager on the performance

1 of the circuits that were trimmed as far as how they
2 improved, we found that we could actually reduce the
3 number of total number of dollars, increase the number of
4 miles trimmed by 90 percent in the same period of time.

5 And I think we saw a reduction in customer
6 minutes out, which is how we were using reliability
7 metrics, to gauge whether or not we were having an impact.
8 So customer minutes out due to tree related problems.
9 That actually went down in the -- in the first four years
10 compared to the previous four years that we had been doing
11 --

12 Q. Weren't you measuring success by the pound
13 of wood that was collected or something like that?

14 A. Well, I think at -- when we first started
15 looking at this, the -- the tree trimming contractor was
16 basically incented or paid on number of trees trimmed. So
17 they went out and they found trees to trim.

18 Q. Funny how that works.

19 COMMISSIONER CLAYTON: Okay. I don't think
20 I have any more questions for you. I can't let
21 Mr. Zdellar get off. I assume he's the guy who's here.
22 You can sit back there or come up. Either way is fine.

23 RONALD C. ZDELLAR testified as follows:

24 QUESTIONS BY COMMISSIONER CLAYTON:

25 Q. Would you agree that this rule basically is

1 just codifying what is already current practice?

2 A. Not at all, and I think I would follow on
3 Mr. Beck's comments that the rule goes well beyond just
4 cycles. I think there's been a lot of talk about the
5 cycle issue, but it's really, as Mr. Herdegen just
6 mentioned, what do you do during those cycles, the kind of
7 trimming you do, how do you select, where are the circuits
8 that give you the most bang for the buck, what do you do
9 with overhang?

10 And I think in terms of reliability,
11 customer minutes out is a good measure, particularly in
12 major storms. I think that what we're doing now, what
13 we've seen in the most recent storms is that while you may
14 not even in an ice storm necessarily prevent all the
15 outages that may take place in an ice storm, in fact the
16 one in Jefferson City we had here, what you-all
17 experienced was pretty severe. As you do remove trees and
18 vegetation, your restoration process is better, more
19 effective. You don't have near as much clutter,
20 interference with your crews when they're trying to put
21 wires back up in the air, that sort of thing. So I think
22 it's beyond just the -- beyond cycles and it's included in
23 the rules.

24 The other thing I think this whole
25 communication piece that Mr. Beck talked about with our

1 customers and with the communities that we serve has
2 already reaped a number of benefits for us. We've
3 literally had hundreds of meetings with local community
4 leaders on various programs regarding vegetation
5 management from replacement to what we need to do, what
6 causes outages. Have great receptivity within
7 communities.

8 Q. Well, let me ask you this: Are you -- that
9 level of communications, has that led to more targeted
10 tree trimming; is that what you're saying?

11 A. It's more targeted tree trimming, the
12 more -- the greater awareness, I think, among the public
13 and community leaders about vegetation and its impact on
14 reliability. The storms we've had in Ameren's service
15 really last, about the last three or four years are just
16 totally off the chart. I've shared numbers with this
17 Commission in the past in terms of expenditures on
18 restoration. It's just a much greater awareness right now
19 of vegetation around major storms. Of course, that spins
20 into day-to-day issues as well.

21 Q. Would that increased -- with that increased
22 customer notification and communication, more areas
23 targeted or identified in need of tree trimming, would you
24 agree or disagree that the outages suffered by your
25 company would have been less severe or would have -- the

1 number of customers would have been reduced or the
2 duration would have been reduced had the company been
3 doing these things as you say they will be going forward?

4 A. There's no question about it. I think the
5 environment that we operate in has changed dramatically in
6 the last three years and we have to change with that.

7 Q. What do you mean, the environment?

8 A. The storms. The magnitude of the storms.
9 Literally I mentioned the years 2000, 2001, 2002. We
10 spent about \$4 million a year on restoration. That number
11 changed for '03, '04 and '05 up to \$12 million a year. In
12 '06 we spent over \$100 million a year in '06, and we spent
13 over 75 million a year last year in '07.

14 So the magnitude of the storm damage as
15 experienced in Ameren's system has just gone up
16 exponentially in the last five years.

17 COMMISSIONER CLAYTON: Okay. I don't think
18 I have any other questions of anyone.

19 JUDGE DALE: Thank you. Is there any party
20 that has anything they would like to add?

21 Hearing none, then we will be adjourned.
22 Thank you very much.

23 WHEREUPON, the hearing of this case was
24 concluded.

25

1 I N D E X

2 DANIEL I. BECK

Direct Examination by Mr. Williams 210

3 Questions by Commissioner Clayton 212

4 WILLIAM HERDEGEN

Questions by Commissioner Clayton 243

5 RONALD C. ZDELLAR

Questions by Commissioner Clayton 245

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1 C E R T I F I C A T E

2 STATE OF MISSOURI)
3) ss.
COUNTY OF COLE)

4 I, Kellene K. Feddersen, Certified
5 Shorthand Reporter with the firm of Midwest Litigation
6 Services, and Notary Public within and for the State of
7 Missouri, do hereby certify that I was personally present
8 at the proceedings had in the above-entitled cause at the
9 time and place set forth in the caption sheet thereof;
10 that I then and there took down in Stenotype the
11 proceedings had; and that the foregoing is a full, true
12 and correct transcript of such Stenotype notes so made at
13 such time and place.

14 Given at my office in the City of
15 Jefferson, County of Cole, State of Missouri.

16

17 Kellene K. Feddersen, RPR, CSR, CCR
18 Notary Public (County of Cole)
My commission expires March 28, 2009.

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