

In the Matter of:

THE APPLICATION OF THE EMPIRE DISTRICT ELECTRIC COMPANY

AO-2018-0179 VOL. II

June 27, 2019



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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

June 27, 2019

Jefferson City, Missouri

Volume 2

In the Matter of the Application of)
the Empire District Electric Company,) File No. AO-2018-0179
the Empire District Gas Company,)
Liberty Utilities (Midstates Natural)
Gas) Corp., and Liberty Utilities)
(Missouri Water) LLC, for an)
Affiliate Transactions Rule Variance)

RONALD D. PRIDGIN, Presiding

DEPUTY CHIEF REGULATORY LAW JUDGE

DANIEL HALL

MAIDA COLEMAN

COMMISSIONERS

REPORTED BY: Stephanie Allen, CCR No. 746

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A P P E A R A N C E S

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1 (On the record at 9:15 a.m.)

2 JUDGE PRIDGIN: Good morning. We are on the
3 record. This is the evidentiary hearing in File Number
4 AO-2018-0179, In the Matter of the Application of the Empire
5 District Electric Company, the Empire District Gas Company,
6 Liberty Utilities (Midstates Natural Gas) Corp. and Liberty
7 Utilities (Missouri Water), LLC for an Affiliate Transactions
8 Rule Variance.

9 I'm Ron Pridgin. I'm the Regulatory Law Judge
10 assigned to preside over this hearing that's being held June
11 27, 2019, in the Governor Office Building in Jefferson City,
12 Missouri. The time is about 9:15 a.m.

13 I would like to get oral entries of appearance
14 from counsel, please, beginning with the Applicants.

15 MS. CARTER: Diana Carter for all four applicants.
16 My address is 428 East Capitol Avenue, Room 303, Jefferson
17 City, Missouri 65101.

18 JUDGE PRIDGIN: Ms. Carter, thank you. On behalf
19 of the Staff of the Commission, please.

20 MS. BRETZ: Karen Bretz for Staff of the
21 Commission.

22 JUDGE PRIDGIN: Ms. Bretz, thank you. On behalf
23 of the Office of Public Counsel, please.

24 MR. WILLIAMS: Nathan Williams and I've provided
25 my contact information to the court reporter.

1 JUDGE PRIDGIN: Mr. Williams, thank you.

2 I believe according to the opening -- excuse me.
3 Order of opening statements and list of witnesses, we would
4 have openings beginning with the applicants, then Staff, and
5 then Public Counsel.

6 Is there anything further from the bench or
7 counsel before we proceed to opening statements?

8 MS. BRETZ: Your Honor, as a housekeeping measure,
9 we would ask for a ruling on the applicants' motion to clarify
10 the issues.

11 JUDGE PRIDGIN: And I'll take that motion with the
12 case that will be ruled on in the report and order.

13 Anything further before opening statements?

14 All right. Ms. Carter, when you're ready, ma'am.

15 MS. CARTER: Thank you. I'm here today on behalf
16 of all of the applicants, which is the Empire District
17 Electric Company, which includes Empire Water -- Empire Water
18 is not a separate legal entity, but it is a separate utility
19 -- and then also Empire Gas, which is a subsidiary of Empire
20 Electric; Liberty Utilities Midstates Natural Gas Corp; and
21 then the fourth entity is Liberty Utilities Missouri Water,
22 LLC.

23 The applicants in this case are all of the
24 Missouri utilities that have Liberty Utilities as -- excuse
25 me. All of the Missouri regulated utilities that have Liberty

1 Utilities as their parent company. All these entities are
2 regulated by the Commission as utilities, investor-run
3 utilities.

4 All of the applicants are affiliates of each other
5 and then are also affiliates and subsidiaries of Liberty
6 Utilities Co, which you might hear us refer to as LUCo, or I
7 believe Mr. Timpe says L-U-Co. We're referring to the same
8 thing, which is the parent company. The ultimate parent is
9 Algonquin Power and Utilities Corp., which you might hear
10 referred to as APUC. Mr. Timpe is here on behalf of all four
11 applicants. He joined Empire in 2014 and serves now as the
12 director of treasury.

13 The applicants seek to join a money pool. They're
14 not requesting approval of the money pool as a whole. They
15 are asking for an affiliate transactions rule variance to make
16 it possible for them to be in the money pool. A money pool,
17 I'm not sure where the name came from other than you are
18 pooling money. It's not like we're swimming around in money.
19 It's just a term that is used by utilities and nonutilities
20 alike, subsidiaries and affiliates.

21 It's a cash management arrangement where you can
22 make short-term loans, a year or less, and do short-term
23 borrowings without going out to the market for each and every
24 transaction. It's done internally. It's a management
25 decision for the applicants to participate in the money pool.

1 So, again, we're not seeking approval. We're not
2 asking for any rate making or any prudence determination. The
3 -- excuse me -- nonunanimous stipulation that was entered into
4 between the four applicants and Staff sets out the current
5 request, which is just for one variance from the affiliate
6 transactions rule. There were two requests originally, but in
7 talking through matters with Staff and OPC, it was determined
8 that only the one would be needed, and that's regarding
9 competitive bidding.

10 The Commission's rule on competitive bidding is
11 interesting. It says for transactions with affiliates, you
12 either obtain competitive bids or demonstrate why competitive
13 bids were neither necessary nor appropriate. Arguably, the
14 money pool doesn't need a variance from the affiliate
15 transactions rule because of the either/or language, that you
16 either do competitive bidding or you demonstrate why
17 competitive bidding is neither necessary nor appropriate.

18 The rule, however, doesn't spell out exactly how
19 you would do that "or" portion, doesn't say how often or in
20 what setting, so out of an abundance of caution, the
21 applicants came in to seek the rule variance. Also, there's a
22 large number of entities. There will be a very large number
23 of transactions daily, likely by multiple entities, and then
24 also Empire Electric and Empire Gas were part of a stipulation
25 when they became subsidiaries of LUCo and we wanted to make

1 sure there was no violation there. So it's a bit of an
2 abundance of caution filing, but also it's arguably needed.
3 So we figure better safe than sorry, get the variance from
4 that one provision, instead of just taking that risk and
5 finding out after the fact that we should have come in.

6 The case should really be fairly simple. It's
7 just the one provision of the affiliates transaction rule that
8 we're asking a variance from. Unfortunately, the Office of
9 the Public Counsel here is attempting to turn this into a
10 complaint proceeding without any of the due process being
11 satisfied that would be satisfied in a complaint proceeding
12 where there's actual evidence regarding their allegations of
13 what they say are violations of this merger stipulation and
14 other violations of the affiliate transaction rules.

15 OPC's attempting to ask the Commission to
16 speculate on what may happen in the future, what costs may or
17 may not be included in a rate case, all things we don't know
18 now. It's not ripe for a decision, and it would be wholly
19 inappropriate to try to make those decisions here when that's
20 not the evidence you have before you.

21 Also, based on Office of Public Counsel's proposed
22 issues list, it appears they'd be attempting to force the
23 Commission to make a determination on the money pool agreement
24 as a whole, something rules don't contemplate you doing, I
25 don't believe precedent contemplates you doing, and it's

1 certainly not what the applicants are requesting. Again,
2 we're only here requesting a variance regarding competitive
3 bidding for the applicants to participate in the money pool
4 agreement.

5 And that's all I have, if you have questions, and
6 I would say Mr. Timpe will be on the stand and will be able to
7 answer all technical questions, but I will do my best if you
8 have questions for me.

9 JUDGE PRIDGIN: Commissioner?

10 COMMISSIONER HALL: Good morning. My first
11 question is why is Liberty Utilities known as Missouri Water,
12 why is that an applicant when there's no waiver of -- when
13 there's no affiliate transaction rule for water? I understand
14 why you might want to explain that they would be involved, but
15 why are they an applicant?

16 MS. CARTER: That would be legal advice, again
17 along the lines of better safe than sorry at the time. The
18 Staff of the Commission and I believe the Commission was
19 considering adding into the affiliate transaction rules water
20 and sewer, and if we're going through this proceeding, which
21 has turned out to be almost two years' worth of a proceeding,
22 we didn't want to have to start it over again immediately for
23 the two water companies which would be the Liberty Water and
24 Empire Water.

25 Also, just because there's not a rule requiring

1 competitive bidding, all of these companies will be
2 participating in the same manner in the same agreement. It
3 made sense just to come in with one application.

4 COMMISSIONER HALL: Okay. Thank you.

5 JUDGE PRIDGIN: All right. Thank you. Opening
6 statement from Staff. Ms. Bretz, when you're ready, ma'am.

7 MS. BRETZ: Sure. Good morning. May it please
8 the Commission? My name is Karen Bretz, representing Staff.
9 This is my first appearance before the Commission, and it's a
10 pleasure to be here. Sitting with me is Kevin Thompson, Chief
11 Staff Counsel, and Annabella Attias, staff summer law clerk.
12 Ms. Attias has a Rule 13 license.

13 Staff recommends that the Commission grant the
14 applicants' request for a variance from the competitive
15 bidding requirements of the affiliate transactions rules and
16 order the terms of applicants' and Staff's nonunanimous
17 stipulation which was filed with the Commission on January 24
18 this year.

19 First, a little background. Applicants have
20 frequent short-term cash needs. It is burdensome for them to
21 continuously go to the market and receive bids for cash. For
22 this reason, applicants intend to enter into a money pool.
23 The money pool is a cash management arrangement that gives
24 participants access to short-term cash. Participants can also
25 contribute cash to the money pool and earn interest.

1 Coming before you today, applicants simply request
2 the Commission order the terms of the nonunanimous stipulation
3 and grant a variance from the competitive bidding rules. This
4 variance will allow them to borrow money from the money pool
5 without competitively bidding every time they need cash.

6 The money pool will be administered by Liberty
7 Utilities, shorthand is LUCo. LUCo is applicants' parent
8 company and is not regulated. Applicants are regulated, and
9 applicants and LUCo are affiliates as defined in the
10 Commission's affiliate transactions rules. If an applicant
11 needs cash and there's not enough cash in the money pool,
12 applicants would turn to LUCo's commercial paper program,
13 which is close to being finalized. This will be backed by
14 LUCo's \$500 million line of credit.

15 Staff did not always recommend that the variance
16 be granted. In its petition, applicants requested variances
17 from both the competitive bidding requirements and the
18 asymmetrical pricing requirements, and initially Staff
19 recommended that the Commission not grant any variance.

20 The reason for this was that Staff found that
21 Empire Gas and Empire Electric had access to their own
22 short-term commercial paper through a separate money pool
23 which we will hear today about. It's called the Empire money
24 pool. Staff found that it would be detrimental to the Empire
25 rate payers if they paid higher borrowing costs in the LUCo

1 money pool than what they were currently paying in the Empire
2 money pool.

3 However, applicants and Staff continued to talk
4 and agreed to the terms of the nonunanimous stipulation. This
5 agreement addresses the asymmetrical pricing requirements to
6 ensure that the applicants are not paying for borrowing above
7 fair market value or an applicant's fully distributed cost to
8 self-provide, and this protects the rate payers by ensuring
9 that applicants receive the best interest rates.

10 The basic protections of the LUCo money pool
11 nonunanimous stipulation include, one, the entire agreement is
12 conditioned on LUCo having an A2/F2 rated commercial paper
13 program. This is considered investment grade and ensures
14 applicants receive optimal rates. Mr. Timpe will testify that
15 LUCo is very close to having commercial paper capability at a
16 rate on par with the Empire money pool. This means that all
17 the applicants, not just Empire Gas and Empire Electric, will
18 be able to share in commercial paper rates.

19 Two, the second basic protection is that LUCo's
20 commercial paper rate will be available to applicants without
21 any markup.

22 Three, an applicant may borrow from the LUCo money
23 pool only if it -- only if it determines that it cannot borrow
24 at a better rate elsewhere from a third party institution.

25 Four, an applicant can lend to the LUCo money pool

1 only if it determines it cannot earn a better rate elsewhere.

2 And, five, applicants must maintain the
3 competitiveness -- must maintain evidence of the
4 competitiveness of LUCo money pool rates and provide this
5 evidence to Staff upon request.

6 We're asking you for two things: One, enforce the
7 terms of the nonunanimous stipulation; and, two, grant the
8 applicants a variance from the competitive bidding
9 requirements.

10 Applicants have one witness, Mr. Timpe. Mr. Timpe
11 will discuss the value of having a LUCo money pool and that
12 LUCo is very close to having commercial paper capability. He
13 will describe the mechanics of how the money pool will
14 function.

15 Staff has two witnesses, Kim Bolin and Dave
16 Murray. Ms. Bolin discusses the Commission's affiliate
17 transaction rules, how the applicants and staff came to the
18 nonunanimous stipulation, the terms of this agreement, and why
19 applicants' request satisfies the good cause requirement.
20 Mr. Murray will discuss the type of ratings that rating
21 agencies give to commercial paper, how an A2/F2 rating
22 compares to other utilities, and why the stipulation was
23 structured with the condition of LUCo obtaining A2/F2
24 commercial paper.

25 I will add that this is Mr. Murray's final

1 appearance on behalf of Staff. Mr. Murray has accepted a
2 position with the Office of Public Counsel.

3 OPC has one witness, Bob Schallenberg. OPC puts
4 the money pool on trial. It comes up with potential scenarios
5 that could happen and uses these as a basis for arguing the
6 Commission should deny the variance. He ascribes bad motives
7 to LUCo, saying that the LUCo money pool is a back door
8 approach to LUCo taking over applicants' cash management
9 capability. In reality, LUCo as a parent company simply wants
10 to bring its subsidiaries within its own money pool. This is
11 a business decision it's entitled to make.

12 Nowhere in applicants' application is there a
13 request for the Commission to approve the terms of the money
14 pool. Applicants do not need Commission approval to enter
15 into a money pool. This is a parent company simply entering
16 into a business agreement with its subsidiaries. Just as a
17 parent company can enter into agreements with subsidiaries to
18 pool labor or materials or other resources, the money pool
19 agreement pools funds.

20 I'll touch on a few of OPC's arguments to show how
21 out of lock step they are. OPC doesn't believe there's enough
22 language in the money pool agreement about recordkeeping
23 requirements. OPC overlooks that applicants must abide by the
24 Commission's recordkeeping rules regardless of what's in the
25 money pool agreement.

1 OPC also asks whether applicants have complied
2 with orders on other separate dockets. This is not relevant
3 to the matter at hand, and it requests advisory opinions. OPC
4 has had ample opportunity to bring complaints or motions to
5 show cause in other dockets if it believes a party is not
6 abiding by the Commission's rules. Why does it wait until now
7 to raise those issues?

8 In summary, Staff believes that with the
9 protections of the nonunanimous stipulation, good cause exists
10 to grant applicants a variance from the competitive bidding
11 requirements so applicants won't need to frequently obtain
12 price quotes for the cash they need to run their businesses.
13 Thank you.

14 JUDGE PRIDGIN: Thank you. Bench questions?

15 COMMISSIONER HALL: Yes. Good morning.

16 MS. BRETZ: Good morning.

17 COMMISSIONER HALL: Does Staff believe under the
18 language in the affiliate transactions rule that a variance is
19 required?

20 MS. BRETZ: For -- a variance is required for the
21 competitive bidding.

22 COMMISSIONER HALL: So even though the rule says a
23 competitive bid shall be obtained or it must be demonstrated
24 why competitive bids are neither necessary nor appropriate,
25 couldn't the utility show that the bids, that the competitive

1 bidding is not necessary or appropriate, and therefore, not
2 need a variance?

3 MS. BRETZ: Well, we're following what -- we're
4 following the application that applicants provided, and I -- I
5 understand what they're asking for. They're asking in an
6 abundance of caution for this variance to make sure that
7 they're operating properly.

8 COMMISSIONER HALL: So it is Staff's position that
9 a variance is required?

10 MR. THOMPSON: It hasn't really been before us
11 whether -- applicants requested a variance, and that's what's
12 before us now.

13 COMMISSIONER HALL: So Staff's not taking a
14 position on whether a variance is required?

15 MR. THOMPSON: We're not taking a position at this
16 point.

17 COMMISSIONER HALL: Okay. Thank you.

18 JUDGE PRIDGIN: Ms. Bretz, thank you.

19 MS. BRETZ: Thank you.

20 JUDGE PRIDGIN: Opening on behalf of Public
21 Counsel. Mr. Williams, when you're ready, sir.

22 MR. WILLIAMS: Thank you. May it please the
23 Commission? Despite what the applicants and the Staff have
24 told you, the purpose for which the applicants are seeking a
25 variance in this case is relevant, and that is a particular

1 money pool. They provided a copy of the agreement, and the
2 terms of that bear on the appropriateness of granting any
3 relief in this case. Apparently, they would prefer that it
4 just be done as an academic proposition.

5 The Office of the Public Counsel opposes the
6 applicants' request on a number of grounds. I'll highlight
7 two in my opening statement. First, the evidence in this case
8 will show that before Algonquin Power and Utilities Corp.
9 acquired the Empire District Electric Company and its
10 affiliates in January of 2017, Empire had a commercial paper
11 program through which it could issue up to \$150 million of
12 commercial paper. It still has that program. Empire also
13 administered a money pool in which it and some of its
14 affiliates, including the Empire District Gas Company,
15 participated. It still has that money pool.

16 Issuing commercial paper requires having financial
17 backing such as cash or a credit facility. While Empire had a
18 \$200 million credit facility before Algonquin acquired it,
19 Empire terminated that credit facility and now relies on --
20 we've heard it described as LUCo -- LUCo's \$500 million credit
21 facility to back Empire's commercial paper issuances. Empire
22 presently is incurring no cost for doing that. A consequence
23 of Empire terminating its \$200 million credit facility is that
24 it has relinquished to LUCo control of its access to
25 short-term financing. Empire no longer has direct access to a

1 credit facility. Its commercial program -- paper program is
2 dependent on LUCo's credit facility, and LUCo decides when to
3 make cash advances to its subsidiaries.

4 By the terms of LUCo's utility money pool
5 agreement, if Empire and the Empire District Gas Company
6 participate in that money pool, they would become obligated to
7 reimburse LUCo for an allocated share of the cost that LUCo
8 incurs to have the undrawn portion of its \$500 million credit
9 facility available. That allocated share would be based on
10 four factors: net utility plant, customer account, nonlabor
11 expenses, and labor expenses. Neither Empire nor the Empire
12 District Gas Company are paying any of those costs now, and
13 the factors have no apparent relationship to any other benefit
14 to the applicants from LUCo's money pool.

15 As the Office of the Public Counsel explained in
16 its position statement to Question Number 2 of its Issue
17 Number 4, a utility such as Midstates Natural Gas, which
18 contributes funds to the utility money pool would pay more for
19 the unused credit available on the \$500 million credit
20 facility that, since it is a contributor of its excess cash to
21 fund the money pool, it clearly does not need.

22 Further, although LUCo decides what and when to
23 borrow from its \$500 million credit facility and is a
24 participant in its nonutility money pool, LUCo has not
25 allocated any of the costs it incurs to have the undrawn

1 portion of its \$500 million credit facility available.

2 The applicants reimbursing LUCo for an allocated
3 share of the cost that LUCo incurs to have the undrawn portion
4 of its \$500 million would be a preference and a subsidy to
5 LUCo. If Empire and the Empire District Gas Company
6 participate in LUCo's utility money pool, they will incur
7 costs that they are not now incurring in Empire's money pool
8 to LUCo's advantage. For this reason alone, the Commission
9 should deny the applicants' request for a variance from the
10 competitive bidding requirements of the Commission's affiliate
11 transactions rules.

12 Second, Empire's and LUCo's conduct in prior
13 affiliate transactions raise concerns that granting them
14 relief from the competitive bidding requirements of the
15 Commission's affiliate transaction rules exacerbates. When
16 Empire's \$900 million first mortgage bonds became due and
17 payable in 2018, rather than refinancing them with either
18 cheaper long-term debt first mortgage bonds or with cheaper
19 short-term debt commercial paper, Empire executed a 15-year
20 promissory note with LUCo which LUCo financed by drawing on
21 its \$500 million credit facility.

22 Commercial paper has a lower interest rate than
23 credit facilities for short-term debt, and first mortgage
24 bonds, which are secured, have lower interest rates than
25 unsecured promissory notes. Had Empire obtained competitive

1 bids for this debt, the propriety of this transaction between
2 Empire and LUCo would be transparent.

3 OPC's witness in this case is Robert Schallenberg,
4 and I encourage you to ask him your questions about OPC's
5 opposition to granting the applicants a variance from the
6 competitive bidding requirements of the Commission's affiliate
7 transaction rules.

8 JUDGE PRIDGIN: Mr. Williams, thank you. Any
9 bench questions?

10 COMMISSIONER HALL: Yes. This may be more
11 appropriately directed to your witness, but if you look at the
12 nonunanimous stipulation and agreement on page 3, provision
13 6(b) --

14 MR. WILLIAMS: I don't have that in front of me.

15 COMMISSIONER HALL: Well, why don't you get that
16 in front of you then, please.

17 MR. WILLIAMS: Do you have a copy of it handy?

18 MS. CARTER: Yeah. Here.

19 MR. WILLIAMS: Okay.

20 COMMISSIONER HALL: Why doesn't that provision
21 protect rate payers from every potential harm that you just
22 mentioned?

23 MR. WILLIAMS: It doesn't -- there's no obligation
24 for them making that determination and there's nothing --

25 COMMISSIONER HALL: If they were to take action

1 that cost rate payer's money -- i.e., they spent more to
2 borrow money through the money pool than they could through
3 other means -- wouldn't that come out in a rate case or
4 couldn't it come out in a rate case?

5 MR. WILLIAMS: Potentially. I mean, anything can
6 come out in a rate case.

7 COMMISSIONER HALL: Well, if OPC is doing its job,
8 wouldn't it determine that and make that issue a rate case
9 issue?

10 MR. WILLIAMS: Potentially.

11 COMMISSIONER HALL: Why potentially? Isn't that
12 OPC's job?

13 MR. WILLIAMS: Yes, but there are -- OPC does have
14 resource limitations, too.

15 COMMISSIONER HALL: I mean, what I was expecting
16 you to say is there could be some evidentiary difficulty in
17 proving that. Is that --

18 MR. WILLIAMS: That's where I was going, because
19 if they have to comply with the rule, then the obligation's on
20 them. If you turn around and they're not required to comply
21 with the rule, then it really puts the burden on the other
22 parties to show there's a problem.

23 COMMISSIONER HALL: And isn't that the crux of
24 this case, that OPC is concerned that what the waiver of this
25 provision would result in is essentially a shifting of burdens

1 in a rate case?

2 MR. WILLIAMS: That's not the entirety of it. I
3 mean, there is a way that activities are supposed to occur,
4 and the concern is that, well, we think there's an indication
5 that perhaps they aren't already and that this will just
6 encourage them to continue and perhaps get worse. We're not
7 bringing a complaint in this case obviously, but they've asked
8 for special treatment under the Commission's rules, an
9 exception to it, and our concern is granting that exception
10 will make things more difficult.

11 COMMISSIONER HALL: Is it OPC's position that the
12 applicants must show good cause for this variance and as a
13 result, the Commission must determine that the money pool
14 itself is in the best interest of rate payers, because if the
15 money pool is not in the best interest of rate payers, then
16 they cannot show good cause? Because if that's not your
17 position, I don't understand what you're asking us to do.

18 MR. WILLIAMS: What we're saying is the purpose
19 for which they're asking for the relief is to participate in a
20 particular money pool. It's not money pools per se that's
21 problematic.

22 COMMISSIONER HALL: I agree. I understand that.

23 MR. WILLIAMS: I think I agree with your statement
24 that they need to show at least that there's some benefit or
25 at least no harm by participating in the particular money pool

1 in order to get any relief.

2 COMMISSIONER HALL: Okay. I understand that.
3 Thank you.

4 JUDGE PRIDGIN: Commissioner Coleman?

5 COMMISSIONER COLEMAN: No questions.

6 JUDGE PRIDGIN: Mr. Williams, thank you.

7 MR. WILLIAMS: Thank you.

8 JUDGE PRIDGIN: I believe we're ready to proceed
9 to our first witness. Anything else from counsel before we go
10 to Mr. Timpe taking the stand?

11 All right. Mr. Timpe, if you'll come forward to
12 be sworn, please, sir.

13 If you'll raise your right hand to be sworn,
14 please. Do you swear the evidence you're about to give will
15 be the truth, the whole truth, and nothing but the truth, so
16 help you God?

17 THE WITNESS: I do.

18 JUDGE PRIDGIN: Thank you, sir. You may have a
19 seat.

20 Ms. Carter, when you're ready.

21 MARK TIMPE,
22 having been duly sworn and called to testify on behalf of the
23 Applicants, testified as follows:

24 DIRECT EXAMINATION BY MS. CARTER:

25 Q. Okay. Mr. Timpe, do you have your testimony with

1 you?

2 A. I do not.

3 Q. Let me get that.

4 A. Thank you.

5 Q. If you will, please state your full name for the
6 record.

7 A. Mark T. Timpe, T-i-m-p-e.

8 Q. And, Mr. Timpe, did you prepare in this case
9 direct testimony on behalf of the applicants?

10 A. I did.

11 Q. And that's been marked Exhibit 1?

12 A. Yes.

13 Q. Do you have any changes or corrections for that?

14 A. I do.

15 Q. And what is that?

16 A. On page 3 of the direct testimony dated December
17 21, 2018, Lines 3 through 16, there's a reference to a
18 question with an understanding about money pools being
19 proposed or not proposed by other Missouri utilities, and I
20 would like to strike that from the direct testimony.

21 Q. And I believe you said starting at Line 3, but is
22 that starting at Line 13?

23 A. 13 through 16. I'm sorry.

24 Q. So you would like to strike Lines 13, 14, 15, and
25 16 on page 3?

1 A. Correct.

2 Q. And then did you also prepare surrebuttal
3 testimony that's been filed in this case and has been marked
4 as Exhibit 2?

5 A. I did.

6 Q. Do you have any changes for that?

7 A. Not that I'm aware of.

8 Q. If I asked you the questions in Exhibits 1 and 2
9 today, would your answers be substantially the same?

10 A. Yes, they would.

11 Q. You have with you also a copy of the nonunanimous
12 stipulation and agreement that's been marked Exhibit 3. Does
13 that represent the applicants' current positions in this case?

14 A. Yes, it does.

15 MS. CARTER: I would move for the admission of
16 Exhibits 1, 2, and 3 and then tender Mr. Timpe for
17 cross-examination.

18 JUDGE PRIDGIN: Ms. Carter, Exhibits 1, 2, and 3
19 have been offered. Any objections?

20 MR. THOMPSON: None from Staff. Thank you, Judge.

21 JUDGE PRIDGIN: Hearing no objections, Exhibits 1,
22 2, and 3 are admitted. And any questions from Staff?

23 MR. THOMPSON: No questions. Thank you.

24 JUDGE PRIDGIN: Thank you. Mr. Williams?

25 MR. WILLIAMS: Thank you.

1 CROSS-EXAMINATION BY MR. WILLIAMS:

2 Q. Good morning, Mr. Timpe.

3 A. Good morning.

4 Q. Is it okay with you for me to refer to the Empire
5 District Electric Company as EDE and the Empire District Gas
6 Company as EDG in my questions to you?

7 A. Yes, sir.

8 Q. Would you look at pages 6 to 7 of your direct
9 testimony? And starting on Line 21, going over to -- page 6
10 and going over to page 7, you testify that the applicants only
11 have one source of short-term borrowing, do you not?

12 A. That is correct.

13 Q. And those are intercompany advances from LUCo or
14 L-U-Co, however you --

15 A. LUCo provides the backing for Empire's existing
16 commercial paper program, so that is the support it requires.

17 Q. Well, don't you literally say the applicants have
18 one source of short-term borrowing to meet their liquidity
19 needs, intercompany advances provided from time to time by
20 LUCo?

21 A. It's true. It facilitates the commercial paper
22 program, so there's a single facility.

23 Q. Well, don't EDE and EDG have access to commercial
24 paper that EDE issues?

25 A. Yes.

1 Q. And that is short-term borrowing, is it not?

2 A. It is.

3 Q. And does that commercial paper program allow EDE
4 to issue up to 150 million in commercial paper?

5 A. It does.

6 Q. So doesn't that give EDE at least two sources of
7 short-term funding aside from LUCo intercompany advances --
8 oh, doesn't EDE also have a money pool?

9 A. It does. It's -- for EDE, it's really more of --
10 because it owns EDG, it's more funding EDG, but it does pool
11 funds within EDG and EDE.

12 Q. So then EDE actually has two sources of short-term
13 funding aside from LUCo's intercompany advances, does it not:
14 Cash from EDG and also commercial paper issuances?

15 A. I guess if you look at it that way.

16 Q. Well, is that an inappropriate way to look at it?

17 A. No. I mean, they have -- they have their own
18 internal cash, EDE, and then to the extent there would be
19 available cash in EDG, then that is another source of funding.

20 Q. And what is the rating for EDE's commercial paper
21 program?

22 A. It is a A2/P2 rated commercial paper program.

23 Q. And what does the A2/P2 mean?

24 A. Those are designations from the rating agencies
25 Standard & Poor's and Moody's.

1 Q. Which?

2 A. Sorry.

3 Q. Which is which?

4 A. The A2 comes from Standard & Poor's and the P2, I
5 believe, comes from Moody's.

6 Q. And what does that rating reflect, in terms of is
7 it investment grade rating or something else?

8 A. It is an investment grade rating.

9 Q. Do any of the applicants compensate LUCo for
10 intercompany advances?

11 A. I don't believe so at the present time.

12 Q. Has LUCo made any intercompany advances to any of
13 the applicants?

14 A. Empire has not -- and I say Empire meaning EDE,
15 EDG -- has not drawn any short-term borrowings from LUCo.
16 Midstates Natural Gas received some funding at its time of
17 acquisition in the form of medium-term notes, and it does
18 receive periodic advances from and does repay those periodic
19 advances from time to time from LUCo, and I believe the same
20 for Missouri Water.

21 Q. Is LUCo obligated to make an intercompany advance
22 if one of the applicants request it?

23 A. Well, it's the appropriate thing for a parent
24 company to do. There's no continental binding agreement to do
25 so, but its sole purpose is to, I mean, own and operate those

1 companies, and so it's natural that they would provide funding
2 to meet their needs.

3 Q. When you say it, you're referring to LUCo?

4 A. Yes.

5 Q. Let's say, for example, LUCo only had certain
6 funds available to it to provide to one of its affiliates --
7 let's limit it to one of its subsidiaries -- and the demand
8 for funds exceeds what LUCo has. Is it up to LUCo's
9 discretion to decide how much and to whom to provide funds?

10 A. Are you assuming that it has exhausted both its
11 own cash and the entire amount of its credit facility?

12 Q. For the purposes of this example, that would be
13 yes.

14 A. Well, I don't believe that situation would exist.

15 Q. Well, let's assume it does exist.

16 A. It would -- it would then ration, have to ration
17 credit based on the most important of needs.

18 Q. But it would be LUCo who would be determining what
19 those most important of needs are, would it not?

20 A. Correct.

21 Q. So ultimately it's LUCo's decision as to who gets
22 what funds; correct?

23 A. That would be correct.

24 Q. Would you please turn your attention to page 6 of
25 your surrebuttal testimony? There you talk about EDE's

1 commercial paper program being backed by LUCo's \$500 million
2 credit facility, but that EDE's commercial paper issuances are
3 not counted as usage against the LUCo credit facility, and
4 then you say internally LUCo counts EDE's commercial paper
5 issuances against LUCo's \$500 million credit facility;
6 correct?

7 A. That is correct.

8 Q. When is it then EDE started to rely on LUCo's \$500
9 million credit facility to back EDE's commercial paper
10 issuances?

11 A. Because it would --

12 Q. No, when.

13 A. I'm sorry? When?

14 Q. When?

15 A. February 23, 2018.

16 Q. When did Algonquin acquire the Empire -- acquire
17 Empire and its affiliates?

18 A. January 1 of 2017.

19 Q. How did EDE back its commercial paper before EDE
20 started relying on LUCo's \$500 million credit facility?

21 A. With Empire's \$200 million credit facility.

22 Q. Did EDE terminate its \$200 million credit
23 facility?

24 A. Yes.

25 Q. Why?

1 A. Because it would then have the opportunity to have
2 that commercial paper program backed by the LUCo program.

3 Q. And when is it that EDE terminated its \$200
4 million credit facility?

5 A. February 23rd of 2018.

6 Q. And presently what does it cost EDE for relying on
7 LUCo's \$500 million credit facility to back EDE's commercial
8 paper issuances?

9 A. At the present time, EDE is not being charged any
10 cost to support that \$150 million credit facility, and by
11 terminating the Empire credit facility on February 23rd of
12 2018, Empire since that time has accrued savings of \$469,000
13 and change. It amounts to about a thousand dollars a day from
14 having that terminated.

15 Q. And for Empire, that's a good thing; right?

16 A. It is a good thing.

17 Q. Are there any restrictions on LUCo or L-U-Co as to
18 how and when LUCo borrows against its \$500 million credit
19 facility?

20 A. There are -- there are proscribed uses of the
21 funds in the credit agreement itself, but not other than that.

22 Q. What kind of limitations are there in the credit
23 agreement itself?

24 A. It says it's for working capital purposes, I
25 believe, and other corporate purposes.

1 Q. LUCo has created a nonutility money pool, has it
2 not?

3 A. It has.

4 Q. Is that money pool backed by LUCo's \$500 million
5 credit facility?

6 A. It is.

7 Q. Is it a requirement for a commercial paper program
8 that the issuer of the commercial paper must have available to
9 it an unused balance on a credit facility sufficient to pay
10 off the amount of the outstanding commercial paper issued at
11 any point in time, or I suppose it could be cash instead?

12 A. Yes.

13 Q. Would you look at page 11 of your surrebuttal
14 testimony? And there you testify regarding to the allocation
15 of LUCo's \$500 million credit facility fees to money pool
16 participants. Do you see that?

17 A. Yes.

18 Q. And there in your answer and your testimony, you
19 refer to a four-factor methodology?

20 A. Correct.

21 Q. What are the four factors in that methodology?

22 A. I believe they were read earlier. Net plant,
23 customer account, and two others. I don't have the
24 spreadsheet in front of me.

25 Q. Would they be utility net plant, customer account,

1 nonlabor expenses, and labor expenses?

2 A. Sounds familiar.

3 Q. Is that yes?

4 A. That would be a yes.

5 Q. And what is the source for that four-factor
6 methodology?

7 A. Well, that's determined from the books and records
8 as determined by the accounting department.

9 Q. I think you're talking about the information
10 that's used to create or apply the methodology. I'm asking
11 for the source of the methodology itself. Where did that
12 four-factor methodology come from?

13 A. That similar concept is used in a CAM, I believe.

14 Q. Whose CAM and what do you mean by CAM?

15 A. Cost allocation manual.

16 Q. And whose cost allocation manual are you referring
17 to?

18 A. I know Empire's -- I believe Empire's existing
19 cost allocation manual has cost allocation factors. Again,
20 that's not my particular area of expertise.

21 Q. Has this Commission approved that cost allocation
22 manual you're referring to?

23 A. I do not know the answer.

24 Q. Will any of LUCo's \$500 million credit facility
25 fees be allocated to the participants in LUCo's nonutility

1 money pool?

2 A. Yes, they will.

3 Q. And how will they be allocated in that money pool?

4 A. In the exact same way that the two agreements are
5 basically mirror images of themselves, except for the fact
6 that LUCo can borrow from the nonregulated money pool.

7 Q. So they'll be allocated -- the nonutility money --
8 in the nonutility money pool, the credit facility fees will be
9 allocated based on utility net plant, customer account,
10 nonlabor expenses, and labor expenses?

11 A. Well, they have other -- I guess they have factors
12 similar to the utilities and, you know, the factors, looking
13 at both nonregulated and regulated businesses are determined
14 to get to a 100 percent total, and some of the -- some of the
15 companies within that hundred percent total are regulated, the
16 lion's share of them are, and then there's a smaller subset of
17 that group that are the nonregulated, so those factors will be
18 applied to the costs in total, and it just so happens that
19 some of them will go -- be allocated according to Section 107
20 of the nonregulated money pool and others will be allocated
21 according to Section 107 of the regulated money pool.

22 Q. I'm just trying to find out if the allocation --
23 the four-factor methodology is the same for the and the
24 factors in it are the same for the nonregulated money pool as
25 they are for the regulated money pool?

1 A. I believe they're calculated the same.

2 Q. And do any of the participants in LUCo's
3 nonutility money pool have a utility net plant?

4 A. I do not know the -- well, yes, they do. There
5 are some of the nonregulated entities that are actually
6 utilities, but they are -- based on the jurisdiction in which
7 they operate, they are too small to be regulated. I'm
8 referring to some of the water companies, I believe, so they
9 do have -- they do have a plant.

10 Q. Do all of them?

11 A. I don't know if each and every one of them does.

12 Q. And what I'm hearing -- and this is for
13 clarification really -- when your participants in a nonutility
14 money pool are actually -- might be a utility, but it would
15 not be a regulated utility; is that correct?

16 A. In the nonregulated pool you're referring?

17 Q. Yes.

18 A. Yes.

19 Q. Did -- I'm going to turn to another topic. Did
20 EDE have \$90 million in first mortgage bonds that matured on
21 June 1 of 2018?

22 A. It did.

23 MS. CARTER: I'm going to object to the relevance
24 of questions regarding this issue.

25 JUDGE PRIDGIN: Well, I mean, the witness already

1 answered, so I'll overrule, but if you want to object to
2 further questioning, you can do that.

3 BY MR. WILLIAMS:

4 Q. Did EDE seek competitive bids to refinance those
5 bonds?

6 MS. CARTER: I'm going to object to all questions
7 on this topic in that it's not relevant to the requested
8 variance in this case.

9 JUDGE PRIDGIN: Mr. Williams?

10 MR. WILLIAMS: It is relevant because they're
11 requesting relief from engaging in the competitive bidding
12 requirement, and this relates to the course of conduct that
13 Empire has engaged in in the past with regard to doing
14 competitive bidding and acting in the least cost or
15 potentially the least cost means for -- with regard to
16 financing for EDE.

17 JUDGE PRIDGIN: The objection's overruled.

18 MR. WILLIAMS: If I need to repeat the question.

19 THE WITNESS: Please.

20 BY MR. WILLIAMS:

21 Q. Did EDE seek competitive bids to refinance those
22 bonds?

23 A. It basically effected a competitive bid by proxy.

24 Q. Did --

25 A. So no would be the first.

1 Q. Yeah, I'm looking for a yes or a no.

2 A. Okay.

3 Q. So let me just repeat the question and make sure
4 it's clear on the record. Did EDE seek competitive bids to
5 refinance those bonds?

6 A. No.

7 Q. Did EDE refinance those bonds by executing a \$90
8 million promissory note with LUCo?

9 A. Yes, it did.

10 Q. Is the term of that note 15 years?

11 A. It is.

12 Q. What is the interest rate on that note?

13 A. I believe 4.53%.

14 Q. Assuming that they closed at the same time as when
15 EDE executed that 15-year promissory note, what would the
16 interest rate of 15-year first mortgage bonds issued to
17 refinance the \$90 million be?

18 A. I don't know the answer to that.

19 Q. Do you know if it would be lower than the interest
20 rate on the promissory note?

21 A. I do not.

22 Q. Are first mortgage bonds secured?

23 A. They are.

24 Q. Is the 15-year promissory note secured?

25 A. It is not.

1 Q. Is secured debt generally cheaper than unsecured
2 debt?

3 A. I don't think you can make that generalized
4 statement.

5 Q. Then let me ask this. For borrowings by
6 investment grade entities such as EDE and LUCo, is the
7 interest rate on secured debt lower than the interest rate on
8 unsecured debt?

9 A. I don't know the answer, and again, you can't make
10 a generalized statement like that.

11 Q. Well, let's limit it a little bit more. For
12 borrowings by investment grade entities such as EDE and LUCo
13 made at the same time, would the interest rate on secured debt
14 be lower than the interest rate on unsecured debt?

15 A. I don't know the answer to that.

16 Q. Is the interest rate on long-term debt higher than
17 the interest rate on short-term debt?

18 A. It is.

19 Q. Is the interest rate on commercial paper lower
20 than the interest rate on a credit facility?

21 A. Yes.

22 Q. Did EDE pay LUCo a \$450,000 debt issuance fee when
23 it executed the 15-year promissory note?

24 A. Yes. It's a 50 basis point fee.

25 Q. Where did LUCo get the \$90 million it loaned to

1 EDE on the promissory note?

2 A. On the date that the Empire bonds were retired,
3 actually the prior day it borrowed under its credit facility
4 so it could fund Empire with the promissory note proceeds,
5 which then created the source of funding to pay off the bonds.

6 Q. And has it moved that debt to a different source
7 of funding?

8 A. Meaning LUCo?

9 Q. Yes.

10 A. LUCo has carried that debt as short-term
11 borrowings ever since June 1 of 2018. Recently --

12 Q. Thank you. I think you've answered the question.

13 A. Okay.

14 Q. And what is the interest rate on the funds that
15 LUCo used to loan the \$90 million to EDE?

16 A. It's a variable rate based on LIBOR, so it's not a
17 fixed rate.

18 Q. Has it ever exceeded 4.53%?

19 A. It has not.

20 Q. Would you turn to page 4 of your surrebuttal
21 testimony? There as part of your testimony at the top of the
22 page, you indicate that LUCo is providing EDE and the Empire
23 District Gas Company unlimited and ready access to its credit
24 facility, do you not?

25 A. Correct.

1 Q. And then have you -- would you look at Section
2 1.04 of the money pool agreement attached to your direct
3 testimony as Schedule LU-MIT-1?

4 A. I don't have that in front of me. Oh, is it?

5 MS. CARTER: It's attached to your direct
6 testimony.

7 THE WITNESS: Oh, sorry. Section 104?

8 MR. WILLIAMS: Yes. It's on page 2.

9 THE WITNESS: Page 2. I have it.

10 BY MR. WILLIAMS:

11 Q. And doesn't that section indicate that LUCo will
12 have sole discretion as to providing funding?

13 A. Yes.

14 Q. So if LUCo has sole discretion about providing
15 funding, does -- can you reconcile that with your testimony
16 that EDE and the Empire District Gas Company have unlimited
17 and ready access to LUCo's credit facility?

18 A. Well, again it speaks to my earlier comments about
19 what's the role of a parent in this situation, and the parent
20 exists to fund the operations of its subsidiaries, so why
21 would it leave it high and dry?

22 Q. Is there some --

23 A. There's no contractual document that says it will
24 do that.

25 Q. Is there some requirement in the creation of LUCo

1 or in its -- or otherwise within that entity that requires it
2 to take those actions with regard to its subsidiaries?

3 A. I'm not aware of any of those documents, if they
4 exist.

5 Q. Then turning to page 5 of your surrebuttal
6 testimony, you talk about the two-step formula for allocating
7 LUCo's \$500 million credit facility phase. You indicate the
8 first step is actual credit facility usage, and then the
9 second step is using a four-factor methodology?

10 A. Could you point me to the right lines you're
11 referencing?

12 Actually, I found it. It's Lines 5 through 7.

13 Q. Thank you. Because I didn't have a copy of your
14 surrebuttal handy. And then on page 4, as we already talked
15 about, you state that EDE's commercial paper issuances do not
16 count as usage under that credit facility. So my question is
17 do -- how -- well, first, do EDE's commercial paper issuances
18 affect the allocation of LUCo's \$500 million credit facility
19 fees?

20 A. LUCo's -- or I'm sorry. EDE's issuance of
21 commercial paper does not count as usage as defined by the
22 bank credit agreement, I think the answer would be.

23 Q. Well, my question is pertaining to the allocating
24 LUCo's \$500 million credit facilities to the money pool
25 participants. You indicated there's a two-step form -- or I

1 don't know that it's limited to the money pool participants
2 necessarily, but there's a two-step process. First, there's
3 direct allocations and then there's an allocation based on
4 four factors.

5 A. Correct.

6 Q. My question is how -- first of all, do EDE's
7 commercial paper issuances affect the allocation of the \$500
8 million credit facility fees?

9 A. I don't believe so.

10 Q. And then I'm going to turn back to the \$90 million
11 promissory note and ask you were the credit facility fees that
12 LUCo -- well, for LUCo's \$90 million -- \$90 million borrowing
13 to fund EDE's \$90 million promissory note allocated using the
14 two-step formula?

15 A. I'm sorry. Could you repeat the question?

16 Q. Okay. L -- I think we've established that LUCo
17 drew on its credit facility to get the \$90 million that it
18 loaned to EDE to repay or refinance its \$90 million first
19 mortgage bonds?

20 A. Correct.

21 Q. How were the credit facility fees associated with
22 that \$90 million draw, were those allocated using the two-step
23 formula?

24 A. Well, there is not a money pool at the LUCo level
25 yet. The \$90 million advance that LUCo drew does, however,

1 reduce the fees that are charged under that line of credit
2 facility because the fees are based on the unused balance of
3 the credit facility, so it lowered -- the 90 million usage
4 lowers the fees that would be charged, but I don't believe
5 there have been any allocations as a result of that borrowing
6 because there is no money pool yet in existence.

7 Q. In your direct testimony you talk about who your
8 employer is and mention some of the affiliates of Algonquin
9 Power and Utilities Corp. About how many entities are there
10 in the holding company structure of Algonquin Power and
11 Utilities Corp.?

12 A. I believe that number would be over a hundred.

13 Q. And is LUCo an indirect subsidiary of Algonquin
14 Power and Utilities Corp.?

15 A. It is.

16 Q. And do you know how distant it is from its parent?
17 In other words, how many entities lie between it and its
18 ultimate parent?

19 A. I don't recall the exact number of --

20 Q. Do you know --

21 A. -- intermediaries.

22 Q. Do you know approximately?

23 A. Maybe three.

24 Q. And what is the relationship in the corporate
25 hierarchy between LUCo and Liberty Utility Services Corp.?

1 A. They are, I believe, affiliates.

2 Q. Are they under the same parent or --

3 A. Ultimately. I don't have the org chart in front
4 of me, so I couldn't --

5 Q. It would be shown on the organization chart?

6 A. Yes.

7 Q. And that was an exhibit during one of your --

8 A. -- depositions, I believe, yes.

9 Q. In the holding company structure of Algonquin
10 Power and Utilities Corporation, how many entities have
11 employees?

12 A. Under Algonquin, I believe there's two entities,
13 one for Canada and one for U.S. employees.

14 Q. And who's the entity for U.S. employees?

15 A. Liberty Utilities Service Corp. LUSC is how we
16 designate it.

17 Q. And what's the entity for Canadian employees?

18 A. I believe that's LU and then in parentheses Canada
19 Corp. or Liberty Utilities Canada Corp.

20 Q. And in the hierarchy, where is Liberty Utility
21 Service Corp. relative to LUCo?

22 MR. THOMPSON: I'm going to object, Judge. I
23 think this is entirely irrelevant to the question in front of
24 the Commission.

25 JUDGE PRIDGIN: Mr. Williams?

1 MR. WILLIAMS: I'll move on.

2 BY MR. WILLIAMS:

3 Q. Mr. Timpe, how long have you worked in state
4 regulation of electric and gas utilities?

5 A. I joined -- became an employee of the Empire
6 District Electric Company on August the 17th, I believe, of
7 2014. 17th or 18th.

8 Q. Are you familiar with the term transfer pricing?

9 A. I've heard the term.

10 Q. And what does it mean to you?

11 A. It basically means that costs will be or prices
12 for goods, for instance, would be charged based on a
13 methodology.

14 Q. Have you dealt with a transfer pricing
15 circumstance in your work experience?

16 A. Not really.

17 MR. WILLIAMS: May I approach?

18 JUDGE PRIDGIN: You may.

19 BY MR. WILLIAMS:

20 Q. I'm going to hand you a copy of a data request
21 response that shows you as being the respondent, and it's
22 Public Counsel's Request Number 1085. And for purposes of
23 this hearing, it's been marked as Exhibit Number 12. Can you
24 take a look at that exhibit?

25 MS. CARTER: Nathan, do you have copies for us?

1 MR. WILLIAMS: Yes, I'm working. Actually, I'll
2 let you put the numbers on them.

3 MS. CARTER: Thank you.

4 MR. THOMPSON: Thank you.

5 BY MR. WILLIAMS:

6 Q. Have you had an opportunity to review Exhibit
7 Number 12?

8 A. I have.

9 Q. And is it, in fact, a response that you prepared
10 and provided in response to the request that was made?

11 A. It was and --

12 Q. Is it still true and accurate today?

13 A. Well, I think there's -- you know, having read it
14 here, there's a word in Part B on Line 3, it says been
15 responsible for preparing. Probably the more accurate term
16 might be filing.

17 Q. So you weren't involved in the preparation of
18 those filings?

19 A. Yeah, I don't prepare affiliate transaction
20 reports. That's done by the accounting department.

21 Q. Is that the only change you would make to that
22 exhibit for it to be true and accurate?

23 A. I believe so.

24 MR. WILLIAMS: I move for the admission of 12.

25 JUDGE PRIDGIN: 12 has been offered. Any

1 objections?

2 MR. THOMPSON: Relevance.

3 JUDGE PRIDGIN: Objection is overruled.

4 MS. CARTER: And Judge, if I may, I don't have an
5 objection to its admission subject to the fact that this
6 response is subject to objections that were previously served
7 on OPC. I would like the record to clearly reflect that this
8 answer is not a full and complete answer to the question due
9 to the objection that was served.

10 JUDGE PRIDGIN: All right. Thank you. The
11 objection's overruled. Exhibit Number 12 is admitted.

12 BY MR. WILLIAMS:

13 Q. Has Empire provided you with any training or
14 advice regarding the requirements and provisions of this
15 Commission's affiliate transaction rules, 4 CSR 240-20.015(9)
16 and 4 CSR 240-40.015(9)?

17 A. I have reviewed those, yes, primarily as a result
18 of this docket and variance request.

19 Q. And in the data request response you modified, you
20 said you're responsible for filing the affiliate transaction
21 reports with the Arkansas and Kansas. It's actually the
22 Kansas Corporation Commission, but did you have any
23 involvement in preparing those or did you gain any familiarity
24 regarding the Kansas and Arkansas affiliate transaction rules
25 in the course of making those filings?

1 A. We have annual Arkansas affiliate rules training,
2 so I get my familiarity with -- derived from that. Not
3 anything particular to Kansas.

4 Q. And are there any material differences between the
5 requirements of the Arkansas affiliate transaction rules and
6 those in Missouri?

7 A. I mean, I think whether it's Missouri, Arkansas,
8 California, they all seem to be, you know, pointing to the
9 same types of things to be avoided. In other words, giving an
10 advantage to an affiliate either in procurement or sale of
11 goods or services or information.

12 Q. In your direct testimony, you talk about
13 previously testifying in utility regulatory proceedings. Do
14 you recall that?

15 A. Yes.

16 Q. Have you ever filed testimony in an electric or
17 gas utility rate case?

18 A. I don't -- I don't believe so.

19 Q. Have you ever participated in any fashion in an
20 electric or gas utility rate case?

21 A. I've had the responsibility to provide data
22 requests in several different jurisdictions over my period of
23 employment.

24 Q. When you say provide data requests, are you saying
25 that you prepared requests or that you provided responses?

1 A. I prepared.

2 Q. Are you familiar with the concept of cash working
3 capital?

4 A. Yes.

5 Q. Do you know how it's treated in a rate case
6 context?

7 A. I do not.

8 MR. THOMPSON: Objection, Judge. Relevance.

9 JUDGE PRIDGIN: Overruled.

10 BY MR. WILLIAMS:

11 Q. In your direct testimony, you also testify that
12 the Commission has previously approved money pools for other
13 public utilities, do you not?

14 A. In that, I would go back to the direct testimony
15 that we removed earlier at the beginning of my testimony.

16 Q. Is that part of what was stricken?

17 A. Yes. Page 3, Lines 13 through 16.

18 Q. Are you aware of whether or not this Commission
19 has approved money pools for other public utilities operating
20 in Missouri?

21 A. I am not.

22 Q. And is it your understanding that the only
23 variance that is at issue in this case is the requirement of
24 seeking competitive bidding?

25 A. That is the request for variance, yes.

1 MR. WILLIAMS: May I approach again?

2 JUDGE PRIDGIN: You may.

3 MS. CARTER: Thank you.

4 MR. WILLIAMS: This is 10.

5 MR. THOMPSON: Thank you.

6 JUDGE PRIDGIN: Thank you.

7 BY MR. WILLIAMS:

8 Q. Mr. Timpe, I am handing you what's been marked for
9 purposes of identification as Exhibit Number 10. Would you
10 take a look at that exhibit?

11 A. (The witness complied.)

12 Q. Have you taken a look at it?

13 A. I have.

14 Q. And you're the one that prepared the response, are
15 you not?

16 A. I did.

17 Q. And would you have any changes to that response
18 for it to be correct today?

19 A. No changes.

20 MR. WILLIAMS: Judge, I offer Exhibit 10.

21 JUDGE PRIDGIN: Exhibit 10 has been offered. Any
22 objections? Hearing none, Exhibit 10 is admitted.

23 MR. THOMPSON: Pardon me, Nathan. You just handed
24 me another copy of Exhibit 10.

25 MR. WILLIAMS: I did?

1 MS. CARTER: Yes. Me, too.

2 MR. THOMPSON: This is 1078.

3 MR. WILLIAMS: I'm sorry.

4 MR. THOMPSON: Just ignore the 1078 I wrote on it.

5 THE WITNESS: Judge, would you be opposed to a
6 quick recess? Five minutes?

7 JUDGE PRIDGIN: Let's make it ten. We'll just go
8 off the record. We've been going for a while. We'll just go
9 on recess and resume at 10:45.

10 THE WITNESS: Thank you.

11 JUDGE PRIDGIN: We're off the record.

12 (A recess was taken.)

13 JUDGE PRIDGIN: All right. Good morning. We are
14 back on the record, and I believe Mr. Williams is still asking
15 questions of Mr. Timpe. Mr. Williams, when you're ready, sir.

16 MR. WILLIAMS: Let's try this again. May I
17 approach the witness?

18 JUDGE PRIDGIN: You may.

19 BY MR. WILLIAMS:

20 Q. Mr. Timpe, I'm handing you what's been marked for
21 identification as Exhibit Number 11, which is a response to
22 Public Counsel Data Request 1079. Would you please take a
23 look at it?

24 A. I've looked at it.

25 Q. And you're the one who prepared that response,

1 were you not?

2 A. With some assistance from the accounting
3 department to obtain the USOA numbers.

4 Q. And is that response still correct today or would
5 you have changes to it?

6 A. I believe it's correct.

7 MR. WILLIAMS: I offer Exhibit Number 11.

8 JUDGE PRIDGIN: 11's been offered. Any
9 objections? Hearing none, 11 is admitted.

10 MR. WILLIAMS: Judge, may I approach the witness?

11 JUDGE PRIDGIN: You may.

12 BY MR. WILLIAMS:

13 Q. I'm handing you what's marked for purposes of
14 identification as Exhibit Number 13 and is a response that
15 shows it was prepared by you to Public Counsel Data Request
16 1103. Would you please take a look at this exhibit?

17 A. Okay. Okay.

18 Q. Have you had an opportunity to look at that
19 exhibit?

20 A. I have.

21 Q. And is the response there true and correct to the
22 -- currently or would you have any changes?

23 A. I believe it's correct, yes.

24 Q. And as of what date would these four factors be
25 accurate?

1 A. The four factors are calculated annually by
2 accounting department personnel, and these are the, I believe,
3 factors for 2019's allocations based on 2018 actual statistics
4 up at the top.

5 Q. So use the same allocator throughout for a
6 calendar year?

7 A. I believe so.

8 MR. WILLIAMS: I offer Exhibit Number 13.

9 JUDGE PRIDGIN: 13 has been offered. Any
10 objections? Hearing none, 13 is admitted.

11 BY MR. WILLIAMS:

12 Q. And those four factors, those are the ones you
13 referenced in your testimony, are they not?

14 A. Yes.

15 Q. This is an example of a calculation of those four
16 factors to show what the current factors are?

17 A. Yes.

18 Q. I'm handing you what's been marked as Exhibit
19 Number 14, and that's a copy of an application that the Empire
20 District Electric Company made before the Kansas Corporation
21 Commission in Docket Number 18-EPDE-42-SEC, is it not?

22 A. Yes.

23 Q. Is there any information -- well, is the
24 information contained in Exhibit 14 still accurate as of today
25 or -- I mean, it was filed on March 30 of 2018, so --

1 A. I've not had a chance to review word for word. I
2 don't --

3 Q. Well, would you take a look at it?

4 A. I believe it is still accurate.

5 Q. And is this the form of the ultimate promissory
6 note that Empire District Electric Company executed with LUCo?

7 A. I know we've provided that as a sample to another
8 data request, but it does appear to be on face value the same.

9 Q. Well, it predates the actual note, so there's some
10 things that are not filled in.

11 A. Right.

12 Q. But is that the form of the promissory note --

13 A. I believe so.

14 Q. -- that was actually executed?

15 A. I believe -- yes, I believe it's the form.

16 Q. And then following Exhibit B, which was designated
17 as confidential, there's a copy of a unanimous written consent
18 to take action in lieu of a special meeting of the board of
19 directors of the Empire District Electric Company -- are you
20 familiar with that? -- dated March 28, 2018.

21 A. Exhibit B or Exhibit D?

22 Q. I said immediately following the page that says
23 it's Exhibit B, which has been designated confidential in its
24 entirety.

25 A. Okay. Exhibit B. Okay.

1 Q. On the back side of that.

2 A. Yes.

3 Q. There's a consent in lieu of special meeting of
4 the board of directors of Empire District Electric Company, a
5 copy of it?

6 A. Okay.

7 Q. In the second whereas clause, it says, LUCo
8 maintains an unsecured bond platform under which all new
9 long-term subsidiary indebtedness shall be issued. Is that
10 statement correct?

11 A. Yes.

12 Q. Is it still correct?

13 A. Yes.

14 Q. And you were involved in this, the proceedings in
15 this Docket Number 18-EPDE-422-SEC before the Kansas
16 Corporation Commission, were you not?

17 A. I assisted in the preparation of the filing.

18 MR. WILLIAMS: I offer Exhibit 14.

19 JUDGE PRIDGIN: 14 has been offered. Any
20 objections?

21 MS. CARTER: No objection, but it does need to be
22 marked confidential or that portion of it is confidential.

23 MR. WILLIAMS: There is no portion of it that's
24 confidential. This was obtained from the KCC's website. The
25 confidential portion is not included because it wasn't out

1 there. It's publicly available is what I'm saying. That's
2 where I obtained it. You can see it's stamped by the Kansas
3 Corporation Commission.

4 MS. CARTER: The copy that I was provided has
5 attached the Exhibit B which is confidential.

6 MR. WILLIAMS: My understanding is Exhibit B is
7 not those minutes.

8 JUDGE PRIDGIN: I'm going to show Exhibit 14 as
9 admitted, and I'll hold a designation for 14 and 14HC and
10 expect that if anything is confidential, it will be filed as
11 confidential, and if not, it can be filed as public.

12 MR. WILLIAMS: Judge, I also have some board
13 minutes that are -- that the company's indicated are
14 confidential. I don't have enough copies at this point to
15 provide everyone with a copy. I don't know if you want me to
16 proceed or get the copies first, and there are some other
17 things I want to address with this witness as well.

18 JUDGE PRIDGIN: Well, I mean, I guess I'll ask you
19 to inquire of counsel if they want or need a copy before you
20 ask questions. I hate to take another break since we just
21 took a break.

22 MR. WILLIAMS: Sure.

23 MS. CARTER: I do not need a copy before the
24 discussion starts.

25 MR. THOMPSON: Neither do we.

1 JUDGE PRIDGIN: We can proceed, and please let me
2 know if and when we need to go in camera.

3 MR. WILLIAMS: I'll assume it will be -- I just
4 anticipate a question or two.

5 JUDGE PRIDGIN: Okay. We're still in public
6 forum. Please let me know when and if we need to go in
7 camera.

8 MR. WILLIAMS: May I approach?

9 JUDGE PRIDGIN: You may.

10 BY MR. WILLIAMS:

11 Q. Mr. Timpe, I'm going to provide you with what's
12 been marked as Exhibit 15C, which are a number of
13 Certification of Resolutions adopted by the boards of
14 directors and managers of Liberty Utilities Central Region
15 Entities, Liberty Utilities East Region Entities, Liberty
16 Utilities West Region Entities, Board of Directors of Liberty
17 Utilities Co, and including a copy of the money pool agreement
18 and the joinder agreement.

19 These have been designated by the applicants as
20 being confidential, so I don't want you to disclose any
21 information that might be confidential. But I want to turn
22 your attention in particular to the first whereas clause that
23 appears on the first page as -- I think I'll just limit my
24 question to that. Would you take a look at that whereas
25 clause?

1 MS. CARTER: And I'm sorry, Nathan. I'm having
2 trouble hearing you.

3 MR. WILLIAMS: The first whereas clause of the
4 first page.

5 MS. CARTER: Thank you.

6 MR. WILLIAMS: Which is the Liberty Utilities
7 Central.

8 JUDGE PRIDGIN: And, counsel, if you know, will
9 any further questions and answers on this Exhibit 15 need to
10 be done in camera?

11 MR. WILLIAMS: I think there will be one or two,
12 and I will let you know.

13 JUDGE PRIDGIN: Thank you.

14 MR. WILLIAMS: So far we aren't disclosing
15 anything in the document.

16 THE WITNESS: Okay.

17 BY MR. WILLIAMS:

18 Q. There's a similar whereas clause for Liberty
19 Utilities East, the first whereas clause.

20 A. Uh-huh.

21 Q. I believe it reads the same --

22 A. They should mirror.

23 Q. -- or substantially the same. The same for west?

24 A. Correct. Looks to be so. LUCo.

25 Q. And under the Liberty Utilities Company Board of

1 Directors, the second whereas clause.

2 A. Okay.

3 MR. WILLIAMS: I think we probably need to go in
4 camera at this point.

5 JUDGE PRIDGIN: All right. Just a moment. We'll
6 go in camera.

7 We are now in camera.

8 BY MR. WILLIAMS:

9 Q. Now, for the board of directors and managers of
10 the Liberty Utilities region entities Central, West, and East,
11 who are they representing at this board in terms of the
12 entities?

13 A. Well, they -- these resolutions refer to an
14 Appendix A, which is the list of operating entities within
15 each region.

16 Q. Are they all utilities?

17 MS. CARTER: And I'm sorry to interrupt. I don't
18 believe this needs to be in camera if this is the line of
19 questioning --

20 MR. WILLIAMS: I'm going to get to something --

21 MS. CARTER: -- if it's easier for us to have
22 everything public.

23 MR. WILLIAMS: I think my next question or
24 soon-to-be will be. I wanted to, if I was erring, err on the
25 side of caution.

1 BY MR. WILLIAMS:

2 Q. Anyway, are those all public utilities?

3 A. No, they are not.

4 Q. And who are not?

5 A. For the Central Region on its Appendix A, the
6 Empire District Industries Inc. is a nonregulated entity.
7 Also, Liberty Utilities (White Hall Water) Corp., Liberty
8 Utilities (White Hall Sewer) Corp., Liberty Utilities (Fox
9 River Water), LLC, they are -- well, they are unregulated
10 entities.

11 Q. They are public utilities but unregulated?

12 A. Empire District Industries is not a utility. The
13 others are. White Hall Water, White Hall Sewer, and Fox River
14 are public utilities, but they are too small to require
15 regulation in their jurisdiction.

16 I believe in the West Region, but I'm not for
17 certain about, Liberty Utilities (Seaside Water), LLC, I don't
18 recall the status of that entity. But the rest are water or
19 wastewater companies, I believe.

20 Q. Okay. And then the whereas clause, it's -- it
21 puts a condition on entering into the money pool agreement, do
22 they not?

23 MS. CARTER: I'm sorry, Mr. Williams. Could you
24 tell us what you're asking him about?

25 THE WITNESS: I don't believe it's a condition. I

1 think it's a statement.

2 BY MR. WILLIAMS:

3 Q. Well, doesn't the whereas clause say the Boards of
4 Directors of the Liberty Utilities -- and then it says east
5 west or central region entities as set forth, and it describes
6 who the entities are and the referenced Appendix A attached
7 hereto -- deem it desirable and in the best interest of the
8 companies -- if -- I'm sorry. Deem if desirable in the best
9 interest of the companies to enter into a particular money
10 pool agreement? Is that not what it says?

11 A. That is what it says.

12 Q. So you don't view that to be conditioning on it
13 having to be desirable and in the best interests of the
14 company?

15 A. You can read it that way then.

16 MS. CARTER: I'm going to -- well, I think
17 Mr. Timpe answered. I am going to object on a question about
18 the legal effect of a whereas clause in a contract being
19 directed to Mr. Timpe.

20 MR. WILLIAMS: I don't have any further questions
21 for Mr. Timpe on this exhibit.

22 JUDGE PRIDGIN: Can we go back into public forum?

23 MR. WILLIAMS: Yes.

24 JUDGE PRIDGIN: Just a moment, please.

25 And we're back in public forum.

1 MR. WILLIAMS: I'm -- at this point, I'll offer
2 Exhibit -- I offer Exhibit 15C.

3 JUDGE PRIDGIN: 15C has been offered. Any
4 objections?

5 MR. THOMPSON: Is that the one you just read?

6 MR. WILLIAMS: Yeah.

7 MR. THOMPSON: Well, since it's been read into the
8 record, I think it's cumulative.

9 MR. WILLIAMS: A portion of it was read into the
10 record.

11 MR. THOMPSON: Is there any more of it that's
12 relevant?

13 JUDGE PRIDGIN: I'll overrule the objection, and
14 15 is admitted.

15 MR. WILLIAMS: Certainly, the appendix is --
16 appendices are to identify who the companies are that the
17 Board's representing.

18 COMMISSIONER HALL: Excuse me. What is Exhibit
19 15?

20 MR. WILLIAMS: Let me just provide it to you.

21 JUDGE PRIDGIN: Mr. Williams, when you're ready.

22 MR. WILLIAMS: Thank you.

23 BY MR. WILLIAMS:

24 Q. Mr. Timpe, did you participate in preparing the
25 money pool agreement that's the subject or that's a part of

1 this case?

2 A. I did.

3 Q. And what was your participation in preparation of
4 that document?

5 A. Working with attorneys and regulatory personnel to
6 craft the document.

7 Q. Did you review other money pool agreements?

8 A. The team that participated in the drafting of the
9 money pool agreement of which I was a part did.

10 Q. Did any of those money pool agreements have a
11 provision like the one in dealing with the allocation of
12 unused excess credit facility fees?

13 A. I believe -- I believe we've provided a data
14 request that speaks to that, and I believe in that response
15 the one that most closely approximated the language in the
16 Liberty Utilities money pool agreement I believe was from
17 Black Hills Corp., which was one of the six agreements we
18 provided.

19 Q. You reference Black Hills in particular. Do you
20 recall any of the other agreements that were provided as
21 exemplars?

22 A. There was one from Ameren -- A-e -- A-m-e-r-e-n --
23 Ameren, National Grid -- I'm trying to think of the others.
24 Black Hills. Berkshire, I believe, maybe was another one.
25 There were six total, so I know we provided all six copies.

1 MR. WILLIAMS: May I approach?

2 JUDGE PRIDGIN: You may.

3 BY MR. WILLIAMS:

4 Q. Is this a copy of the Ameren agreement that was
5 provided?

6 MR. THOMPSON: Thank you.

7 THE WITNESS: I'll take your word for it. I don't
8 have it memorized.

9 BY MR. WILLIAMS:

10 Q. Well, would you turn to the provision Section 1.6
11 in that document?

12 MS. CARTER: I'm going to object to the relevance
13 of questions regarding another entity's money pool agreement.

14 JUDGE PRIDGIN: Mr. Williams?

15 MR. WILLIAMS: Well, he's testified that they
16 canvassed other money pool agreements to arrive at the terms
17 of the money pool agreement that's been put into this case as
18 the agreement that they're requesting variances be given so
19 that they can enter into it.

20 JUDGE PRIDGIN: I mean, I'm going to overrule the
21 objection.

22 THE WITNESS: I'm sorry. The question again?

23 BY MR. WILLIAMS:

24 Q. Would you take a look at 1.6?

25 A. I have.

1 Q. And is that provision comparable to the Section
2 1.07 in the money pool agreement that Liberty Utility -- LUCo
3 has put together?

4 A. It -- the LUCo provision which is 1.7 [sic] is
5 comparable, but it -- the LUCo provision has additional
6 language.

7 Q. And what's the difference?

8 A. I believe the difference is in the LUCo form, we
9 have a Part B which then allocates based on the four factors.

10 Q. Do you know if any of the sample documents or
11 agreements that you used -- that LUCo used for preparing the
12 money pool agreement that is in evidence in this case was --
13 had a Part B, similar Part B?

14 A. That's why I was referring to Black Hills, because
15 I thought that document did. I thought it was the form
16 closest.

17 Q. You think it had a four-factor allocation?

18 A. I seem to recall that from the response that I
19 provided to the data request.

20 Q. But you're not sure?

21 A. I don't have it in front of me, so I'm sorry. I
22 can't be.

23 Q. But that would have been the only one of the six
24 documents that were reviewed that would have had that kind of
25 a provision?

1 A. I'd have to look at them again, but I do recall,
2 if my memory serves me, that that one specifically did.

3 MR. WILLIAMS: I have another exhibit marked.

4 JUDGE PRIDGIN: This will be 16.

5 THE WITNESS: Is this marked as an exhibit?

6 MR. WILLIAMS: No.

7 BY MR. WILLIAMS:

8 Q. I'm handing you what's been marked for purposes of
9 identification as Exhibit Number 16, which is a response that
10 shows you -- a data request response that shows you as being
11 the respondent to Public Counsel Data Request Number 1098.

12 I would like for you to take a look at it and tell
13 me whether or not it's still accurate today, and if not, in
14 what regards it is not, and then take a look in particular at
15 the response to Item Number -- numbered Number 6 on the last
16 -- the second page.

17 MR. WILLIAMS: I do have more copies.

18 JUDGE PRIDGIN: Thank you. This is 16.

19 THE WITNESS: I have read the response.

20 BY MR. WILLIAMS:

21 Q. Is it still true and accurate today?

22 A. I believe so.

23 Q. Well, first of all, you recognize what -- the
24 Exhibit Number 16?

25 A. I do.

1 Q. And it is a response you prepared to a request
2 made by Public Counsel?

3 A. I did.

4 Q. In Number 6 in the response, you reference your
5 surrebuttal testimony for saying why LUCo will not receive an
6 allocation of Section 1.07 costs.

7 A. That's what it says.

8 Q. Would you identify specifically in your
9 surrebuttal testimony, which I think has been marked for
10 identification as Exhibit Number 2, those reasons?

11 MS. CARTER: Nathan, do you mind if I suggest a
12 section to him?

13 MR. WILLIAMS: No, not at all.

14 MS. CARTER: Mr. Timpe, if I may suggest that you
15 look at Number 5 on page 5 of your surrebuttal.

16 THE WITNESS: Okay. I'm not sure I found that
17 there.

18 Sorry. The difficulty is that I don't have the
19 rebuttal testimony that this is in response to, so I'm trying
20 to find the right spots.

21 MS. CARTER: I'm sorry, Mr. Timpe. Are you
22 needing a copy of your surrebuttal?

23 THE WITNESS: No, I have the surrebuttal. I
24 believe with respect to Question Number 6, regarding whether
25 or not LUCo will receive an allocation of the Section 107

1 [sic] costs what I was referring to in the surrebuttal
2 testimony is that the allocation of those fees is based on
3 direct borrowing and then the four factors, and LUCo as a
4 parent company is not an operating entity and therefore does
5 not have -- wouldn't have four factors. It doesn't have a
6 plant of its own, so it wouldn't have a fourth factor on which
7 to make that calculation.

8 BY MR. WILLIAMS:

9 Q. And where is that in your surrebuttal testimony?
10 What page and line?

11 A. I'm on page 5 and the four factor formula begins
12 on -- at the end of Line 3 and then beginning of Line 4.

13 Q. I'm not trying put words in your mouth, but were
14 you saying in your opinion LUCo would not have any of the four
15 factors?

16 A. I didn't say not any, but it does not have a plant
17 of its own since it's a holding company.

18 MR. WILLIAMS: I offer Exhibit 16.

19 JUDGE PRIDGIN: 16 has been offered. Any
20 objections? Hearing none, 16 is admitted.

21 MR. WILLIAMS: I have another exhibit. This would
22 be the response to OPC Data Request Number 1095.

23 MR. THOMPSON: Thank you.

24 MR. WILLIAMS: What exhibit number are we on?

25 JUDGE PRIDGIN: This will be Number 17.

1 MR. WILLIAMS: May I approach?

2 JUDGE PRIDGIN: You may.

3 BY MR. WILLIAMS:

4 Q. Mr. Timpe, I'm handing you what's been marked for
5 purposes of identification as Exhibit Number 17. Do you
6 recognize that exhibit?

7 A. I do.

8 Q. And what is it?

9 A. It's a request to update a Staff Data Request
10 Number 6 through the most recent period.

11 Q. And what does that response provide? I understand
12 it's an update, but what is the substance of it?

13 A. So it is showing first the average cost of debt
14 for Empire from January 2017 through the end of May 2019 based
15 on its commercial paper borrowings. It's a schedule by month
16 showing the average balance, the interest expense incurred,
17 and the average rate by month.

18 Q. And are these --

19 A. And then --

20 Q. I'm sorry.

21 A. And then the second part of that shows the history
22 of line of credit usage for LUCo dating back to February 24,
23 2018, also through the end of May 2019.

24 Q. Now the information relating -- okay -- for the
25 Empire District Electric Company, that's short-term debt;

1 correct?

2 A. That's its short-term debt sourced by its
3 commercial paper program.

4 Q. So did it have -- did Empire have any short-term
5 debt other than through its commercial paper program?

6 A. No.

7 Q. And when was Empire acquired by Algonquin?

8 A. January 1 of 2017.

9 Q. And this shows the outstanding balances by month?

10 A. For --

11 Q. Or it says average balance?

12 A. Average balance, uh-huh.

13 Q. So the average balance would be the average amount
14 of commercial paper issued in terms of dollars during that
15 month?

16 A. Average daily outstandings for the month. It can
17 be issued in one month and carry over, like a maturity date
18 might that carry over into another month, but it's every day's
19 balance and then averaged for the month.

20 Q. And then the interest expense is the?

21 A. Actual cost of the commercial paper.

22 Q. So does that include any issuing fees or is that
23 only the interest rate on the commercial paper?

24 A. The issuance fee is part of the interest rate.

25 Q. And is that -- is the information in Exhibit 17

1 still true and correct today?

2 A. Yes.

3 MR. WILLIAMS: I offer Exhibit 17.

4 JUDGE PRIDGIN: 17's been offered. Any
5 objections? Hearing none, 17 is admitted.

6 MR. WILLIAMS: I have another exhibit.

7 JUDGE PRIDGIN: Correct.

8 MR. WILLIAMS: It will be the response to OPC Data
9 Request 1096, and I believe it's confidential. May I approach
10 the witness?

11 JUDGE PRIDGIN: You may.

12 BY MR. WILLIAMS:

13 Q. Mr. Timpe, I am handing you what's been marked for
14 purposes of identification Exhibit Number 18. Do you
15 recognize it?

16 A. I do.

17 Q. And as I understand it, part of the response, if
18 not all of it, is confidential; correct?

19 A. Yes.

20 Q. And that would be what? The rates or something
21 else?

22 A. Well, yes, I mean, we don't disclose this level of
23 detail in public financial filing -- or public filings.
24 There's also a statement in here about future financial
25 planning where we talk about issuing debt in the future, and

1 that would be confidential.

2 Q. Okay. I'm going to try to avoid getting into
3 anything confidential on the record, and if you think we are,
4 then let me know and we can go in camera if we need to.

5 Is Exhibit 18 the information that's provided --
6 well, first of all, you prepared the response to this Data
7 Request Number 1096 that's Exhibit Number 18; correct?

8 A. I did.

9 Q. And has anything changed from whenever you
10 provided that response till now?

11 A. No.

12 Q. And is that information still true and correct?

13 A. Yes.

14 Q. In turning to the table, looks like the first one
15 -- I mean, it looks like it consists of 8 pages?

16 A. Uh-huh.

17 Q. What is shown on that table? And it looks like
18 there may have been some information that's -- was part of a
19 hole punch.

20 A. I don't know who added the hole punch, but what
21 the -- this shows the borrowings outstanding under the LUCo
22 credit facility dating back to May 31 of 2018 to on page 8 it
23 ends at the end of May 2019.

24 Q. And when was that line of credit first
25 established?

1 A. February 23 of 2018. The data request, I believe,
2 asked for information starting with the May 31 funding of that
3 Empire note.

4 Q. Is the \$90 million that LUCo drew on its credit
5 facility to provide funds to the 90 -- for the \$90 million
6 promissory note that it executed with EDE to refinance the
7 first mortgage -- \$90 million of first mortgage bonds that
8 came due reflected in this?

9 A. Yes. It's not a separate stand-alone borrowing.
10 It's just a borrowing under the line of credit. There's
11 activities to add to that borrowing throughout time and on a
12 few occasions, some reductions.

13 Q. And then there's a second table, I guess is what
14 I'll call it, pages 1 through 9 of 9.

15 A. Correct.

16 Q. Is the information on that table different than
17 the first?

18 A. It was provided -- the first part -- well, let me
19 explain that under Liberty's line of credit, it can borrow
20 what would be sort of on an overnight rate called the Adjusted
21 Base Rate or it can borrow for a term period -- 30, 60, 90, et
22 cetera -- under a LIBOR rate base, and so what you see in the
23 first table are the ABR rates and the LIBOR rates effective on
24 those days, which in that data is fed by this detail because
25 on certain days -- let me get you to an example.

1 On page 2 of 9, you'll see that there's columns,
2 you know, Loan 1, Loan 2, Loan 3, Loan 4, all the way out to
3 Loan 6, and then the individual rates for each one of those
4 borrowings, so some of those borrowings are LIBOR and some of
5 those loans, for instance, will be under the ABR rate, so I'm
6 trying get the full rate history of each draw, if you will,
7 under that credit facility.

8 Q. Thank you.

9 MR. WILLIAMS: I think I'm down to one more
10 exhibit.

11 JUDGE PRIDGIN: This will be Exhibit 19.

12 MS. CARTER: Mr. Williams, were you moving to have
13 18C admitted?

14 MR. WILLIAMS: If I haven't, yes. I offer Exhibit
15 18C.

16 JUDGE PRIDGIN: 18C has been offered. Any
17 objections?

18 MS. CARTER: I would just ask if Mr. Williams
19 would rather use a copy of what was produced or what was
20 provided with the DR response since you had said there's some
21 info covered up with your hole punching.

22 MR. WILLIAMS: It's not our hole punching or maybe
23 it is.

24 MS. CARTER: I'm certain because I just looked at
25 the e-mail, and they were Excel spreadsheet documents, if you

1 want to use them without the hole punching.

2 MR. WILLIAMS: That's fine.

3 JUDGE PRIDGIN: I'll show 18C admitted into
4 evidence.

5 MR. WILLIAMS: Oh, and 19 is confidential.

6 MR. THOMPSON: Thank you.

7 MR. WILLIAMS: May I approach?

8 JUDGE PRIDGIN: You may.

9 BY MR. WILLIAMS:

10 Q. Mr. Timpe, I'm handing you what's been marked as
11 Exhibit Number 19C, which is confidential. Do you recognize
12 that exhibit?

13 A. I do. I prepared it.

14 Q. And what is it?

15 A. It's a summary of advances to Liberty subsidiaries
16 from LUCo, and then in the last column it shows on what dates
17 LUCo had to draw on its line of credit facility, dating back
18 to February 23rd of 2018 through the end of May 2019.

19 Q. And is this information you provided in response
20 to a data request from Public Counsel, Number 1002?

21 A. It is.

22 Q. And there's a note on here that says a positive
23 value for a subsidiary denotes a receipt of funding from
24 L-U-C-o, LUCo. Will you explain how that's shown on the table
25 and what that means?

1 A. Sure. So you'll see in the columns there are
2 numbers with brackets around them and numbers without
3 brackets. Numbers with bracket -- with brackets mean it
4 repaid money to LUCo, and a positive number, a number without
5 brackets, means that entity received money from LUCo on that
6 day. And so going across that line, then you net. In the
7 second to last column, it says LU Net Funding Provided, and
8 that's basically the total of the activity, positive or
9 negative, for the day.

10 Q. So you would look at a particular row which
11 represents a particular day and look at whether an entity was,
12 I guess, providing -- I guess you could look at it as
13 providing money to LUCo or getting money from LUCo, and then
14 the net funding provided would show up in that column you just
15 referenced, that last one?

16 A. The net result for the day.

17 Q. And then in -- a positive number in that column
18 means money that LUCo provided to the entities that are listed
19 to the left, the Net Funding Provided column?

20 A. It should be, and --

21 Q. So if there's a positive number there, it means
22 that LUCo had to provide funding to those entities on that
23 date?

24 A. Yeah, I believe. I believe that's right.

25 Q. And then the rightmost column, what does that

1 represent?

2 A. The rightmost column, which has a title of LUCo
3 Line of Credit Draw/Repayment, is activity for LUCo on its
4 line of credit, so it's either paying back draws on its line
5 of credit, which would be a number in brackets, or a positive
6 number would indicate that it needed funds from its line of
7 credit that day.

8 Q. So a positive number in that column means it
9 borrowed against its line of credit?

10 A. Correct.

11 Q. Now, you've identified a number of entities for --
12 well, there are a number of entities identified with different
13 columns on this exhibit. Are they all public utilities?

14 A. They are not.

15 Q. If it's not confidential, which ones are not?

16 A. The one that's listed as New Hampshire. That's a
17 holding company. I think it also has very little activity. I
18 don't recall the status of LU Pipeline and Transmission or LU
19 Energy Solution. The next column, LU Service Corp. and -- the
20 ampersand -- Elabs, E-l-a-b-s, that is not a utility.

21 Q. Are all of the others regulated utilities or some
22 of them not?

23 A. All of the others would be regulated utilities,
24 although I might point out again that White Hall Water and, I
25 believe, Woodson-Hensley are too small to be regulated in

1 their jurisdiction. They're public utilities, but they're --

2 Q. Not being regulated?

3 A. Yes, I believe that's correct. I would like to
4 correct one thing. On the -- let me find it here. I did --
5 do recall before leaving Joplin yesterday, we did discover
6 that there were some repayments made by LU Service Corp. to
7 LUCo that were not reflected in here, so the balance -- the
8 cumulative total at the bottom of page 11 for LU Service Corp.
9 & Elabs, which is 10.9 million, I believe is closer to 4.6
10 million.

11 Q. Are you aware of any other errors on this?

12 A. I'm not.

13 Q. I'm not sure errors is the right word, but
14 inaccuracies as to this information as of the present?

15 A. I believe other than that, it should be accurate.

16 Q. And what is the date of the information that's on
17 here?

18 A. I don't have a time stamp on here. I would
19 probably -- could look at the data request to which this was
20 responsive. It's an update requested in a data request in
21 this last grouping.

22 Q. It provides -- I mean, the last date I see is May
23 31st of 2019.

24 A. Right. So it was prepared in the first few days
25 of June, I think. I just thought it useful to end it with a

1 full month.

2 Q. Okay. Going to that last page or staying on it,
3 in the Midstates column, there's a number shown as net. What
4 does that represent?

5 A. So that's a cumulative number beginning with the
6 first page and date of February 23, 2018, so it's a sum --
7 it's a sum of each column, that net line on the last page.

8 Q. So --

9 A. And it means over the course of time in the case
10 of Midstates, it repaid advances from LUCo to the tune of
11 \$17,975,000.

12 Q. Okay. I wasn't sure if that number was
13 confidential or not.

14 A. It probably is. I'm sorry.

15 Q. I was trying to avoid --

16 MR. WILLIAMS: I don't know if you want to have
17 that --

18 (Ms. Carter shook head.)

19 MR. WILLIAMS: Okay.

20 BY MR. WILLIAMS:

21 Q. And is your employer shown on this spreadsheet?

22 A. The U.S. employees are employed by LU Service
23 Corp., Liberty Utilities Service Corp. and that is a column.
24 That was the one I identified had the corrections that needed
25 to be made.

1 Q. Is that the column that's headed LU Service Corp.
2 & Elabs?

3 A. It is.

4 Q. Is the -- is EDE's \$90 million promissory note
5 with LUCo shown anywhere on this spreadsheet in Exhibit 19C?

6 A. It is reflected on page 3 on the date June 1,
7 2018, in the column second from the left.

8 Q. And LUCo's source of funding for that promissory
9 note, is it also shown on the spreadsheet?

10 A. On May 31, 2018, in the last column it shows 90
11 million and the reason there's a day difference is because the
12 bonds had to be paid by a certain time and it was necessary to
13 obtain the funds the day before in order to effect the wire
14 transfer to pay off the bonds timely on June 1.

15 MR. WILLIAMS: I offer Exhibit 19C.

16 JUDGE PRIDGIN: 19C has been offered. Any
17 objections?

18 MS. CARTER: I object to it being admitted as-is.
19 I have no objection to it being admitted with the data request
20 response to which it was attached. My objection --

21 MR. WILLIAMS: You want the complete data request
22 response?

23 MS. CARTER: Yes. It's just the page that says
24 what we're looking at in terms of doctrine of necessity.

25 MR. WILLIAMS: I have no problem in providing the

1 rest of the document she's talking about.

2 JUDGE PRIDGIN: Okay. 19C will be admitted.

3 MR. WILLIAMS: I don't have any more questions of
4 this witness at this time.

5 JUDGE PRIDGIN: Mr. Williams, thank you. Let me
6 ask if the bench has a preference on questions before or after
7 lunch.

8 COMMISSIONER HALL: I'd like to go before, if
9 possible.

10 JUDGE PRIDGIN: When you're ready, Commissioner.
11 EXAMINATION BY COMMISSIONER HALL:

12 Q. Good afternoon. Well, I guess it's still --

13 A. It is.

14 Q. Let me start with do you have a copy of the
15 nonunanimous stip and agreement?

16 A. I do. Let me find it here.

17 COMMISSIONER HALL: Was that admitted as an
18 exhibit?

19 MR. THOMPSON: Exhibit 3.

20 BY COMMISSIONER HALL:

21 Q. Could you turn to page 4, Paragraph G. Paragraph
22 6G.

23 THE REPORTER: Pardon?

24 COMMISSIONER HALL: Paragraph 6G on page 4.

25 BY COMMISSIONER HALL:

1 Q. In the second line there which refers to any
2 administrative costs, what does administrative costs mean?
3 Actually, let me backtrack. Are you familiar with this
4 document?

5 A. I am, sir.

6 Q. Okay. So if you could answer that question, I'd
7 appreciate it.

8 A. So administrative costs would be, I believe, a
9 reference to the costs that are identified in Section 1.07 of
10 the money pool agreement, which would be things like the line
11 of credit fees.

12 Q. Okay. That's exactly where I was -- so Section
13 107(b) concerns -- costs that relate to a specific borrowing
14 and is Section A and then Section B is costs that do not
15 relate to a specific borrowing. Is that correct?

16 A. That is correct.

17 Q. So when you say -- when the stipulation refers to
18 administrative costs, is that the costs that do not -- is that
19 all of the costs that do not relate to a specific borrowing?

20 A. It would be all of the costs.

21 Q. Okay. So then why are we talking about the
22 four-factor test at all to the extent that per the
23 stipulation, the company, the applicants were agreeing that
24 the applicants would not pay any of these costs?

25 A. Well, this is for somebody that's not utilizing

1 the money pool, so this is talking about somebody now who is
2 not in the money pool and they're using from outside --

3 Q. When you say this, are you talking about the
4 stipulation or are you talking about Section 107?

5 A. Question 6G or Paragraph 6G, again in the
6 nonunanimous stip --

7 Q. Okay.

8 A. -- it's talking about during the period that
9 outside borrowing or lending is being utilized, meaning not
10 participating in the pool, but they are out on their own,
11 they've got their own bank line of credit or they've arranged
12 some other financing.

13 Q. Okay. Thank you. I understand that now. All
14 right.

15 A. Okay.

16 Q. Staying with the nonunanimous stipulation, if you
17 can turn to page 3, Paragraph 6B, that provision reads that
18 applicant utilities may not borrow from the money pool if the
19 applicant utility determines that it can borrow at a lower
20 cost. Do you see that provision in the stipulation?

21 A. In 6B, yes.

22 Q. Would -- from your perspective, would the
23 applicants be okay if the Commission were to grant the
24 variance but rewrite that provision such that it would read
25 applicant utilities may not borrow from the money pool if the

1 applicant utility could have borrowed at a lower cost as
2 opposed to simply basing it upon the determination of the
3 utility, but changing that so it would be a factual
4 determination that could be determined by the Commission if
5 need be?

6 A. Could you read that one more time if you had that
7 handy?

8 Q. What I'm wondering is your position on this
9 provision: Applicant utilities may not borrow from the money
10 pool if the applicant utility could have borrowed at a lower
11 cost directly from outside banks or other third party
12 financial institutions or through the sale of its own
13 commercial paper.

14 A. I'd probably have to refer to counsel to make sure
15 that their understanding would be that those are substantially
16 the same because it sounds to me like they are substantially
17 the same requirement.

18 Q. So you were involved in the drafting of this
19 document, I assume?

20 A. Yes.

21 Q. And you would be comfortable with a condition that
22 would make it clear that applicant utilities couldn't access
23 the money pool if there was a cheaper way to get funds?

24 A. Correct, because I believe that's what this says.

25 Q. Maybe I'm getting overly lawyerly with you, but it

1 seems to me the way this is drafted, it's giving the applicant
2 utility the discretion to make that determination as opposed
3 to it being a factual issue as to whether there was cheaper --
4 a cheaper way to access those funds. But I think I understand
5 your answer.

6 A. Okay.

7 Q. The money pool is not designed as a revenue source
8 for LUCo, is it?

9 A. It is not.

10 Q. And, in fact, it's designed to benefit all of the
11 rate payers at the subsidiaries of LUCo; is that correct?

12 A. I would agree with that.

13 Q. And the way that I read the provisions of the
14 stipulation, it's designed to make that clear, isn't it, that
15 if there is a -- if there is an avenue through which a
16 subsidiary could either receive a higher return on its funds
17 or pay lower borrowing costs than going through the fund, it
18 should do so?

19 A. Yes, sir.

20 Q. Is there a way that we could make that clearer
21 such that it being a condition of the variance that LUCo
22 doesn't benefit financially from the applicants' participation
23 in the fund?

24 A. Again, I'm not an attorney, so I would probably
25 have to leave it up to Staff and the other parties to.

1 Q. But you would not be opposed to that?

2 A. It was not designed to be a revenue generator,
3 so --

4 Q. So if we were to -- if the Commission were to ask
5 for language from your counsel that would provide that
6 specific protection, you don't have a concern about that?

7 A. I personally do not.

8 Q. Okay. Do you read the affiliate transaction rule
9 to require applicants to competitively bid each and every time
10 one of those companies needed to borrow -- borrow funds
11 through a -- engage in short-term borrowing?

12 A. Well, I think it's sufficiently unclear as to how
13 often and, if you conduct a competitive bid, how long that
14 would be good for, so I didn't see anything when I read it
15 that said okay you can do competitive bidding today and it's
16 good for a year or six months, so I thought -- I think we
17 thought it was vague enough that it required -- and, again,
18 because we have so many entities, as you can see from the
19 exhibits, we couldn't -- I mean, it would be impossible to
20 competitively bid each one of those daily transactions, and so
21 again for the sake of confirming that we would not be in
22 conflict with the rules, that's why we felt that the variance
23 was necessary.

24 Q. So it would be possible, though, to put out a bid
25 for any type of entity that could facilitate a commercial

1 paper program for the next five years below some certain
2 amount of money? That would be possible, wouldn't it, or just
3 -- just unorthodox or both?

4 A. Well, to -- in order to have a commercial paper
5 program, you have to have a line of credit facility to support
6 it.

7 Q. But there are a lot of banks out there that could
8 do that; right?

9 A. Well, banks don't actually -- well, the other
10 problem is those entities have to be publicly rated by two
11 entities. Two rating agencies have to rate that entity.

12 Q. Well, I mean, you can include that in the bid -- I
13 mean, in the RFP. What I'm getting at is it doesn't seem to
14 me that what you are trying to accomplish through this program
15 could not work in conjunction with a bidding requirement. I
16 understand how if you had to do it on a daily basis, you
17 couldn't do it, but if you were to say we're interested in a
18 five-year program and the applicants will need this amount of
19 money or access to this amount of money and put out an RFP and
20 see who comes back with a response -- and maybe no one will or
21 maybe someone would -- but then you would compare that to how
22 this program would work and then choose this bid.

23 A. Well, I would differentiate that banks can provide
24 lines of credit, but the banks actually don't provide the
25 commercial paper program. We have -- they have subsidiaries

1 of the bank that are dealers of commercial paper, and so they
 2 actually are not funding that paper themselves. They are
 3 selling that paper into the marketplace, and so that
 4 commercial paper, those rates are determined every day based
 5 on what the market is. I mean, the market forces are
 6 determining what those rates are, so it's different from a
 7 line of credit with a bank.

8 Q. Maybe I'm not asking the question well. Actually,
 9 I think it's pretty clear I'm not asking the question well.

10 A. I'm sorry.

11 Q. My point is I understand that it would be
 12 incredibly cumbersome to try to do -- to competitively bid for
 13 one day's access to funds. My question is wouldn't it be
 14 possible to structure a bid for a longer duration of time and
 15 then see if there is any entity out there that could provide
 16 short-term cash as needed in a way that is cheaper than what
 17 -- than accessing the cash through this money pool?

18 A. So the alternative -- so today LUCo has a
 19 five-year \$500 million line of credit facility, which is kind
 20 of, I think, what you're really referencing, a long-term
 21 credit facility, and so the comparison that we've already made
 22 and I believe the good cause that we've been able to show as
 23 part of all the discovery is that commercial paper -- and I
 24 believe there's no objection from OPC on this.

25 Commercial paper rates will beat bank line of

1 credit rates. There's about a hundred basis point difference
2 between a borrowing rate on a line of credit from a bank, and
3 that's investment grade credit that LUCo could provide versus
4 the CP rates it will receive and that's borne out in some of
5 these exhibits where I've shown the rates that LUCo has paid
6 on its line of credit facility versus the rate that Empire was
7 paying for its short-term funds which were provided by
8 commercial paper.

9 So the comparison, I believe -- the real
10 comparison -- is between a commercial paper program that's
11 investment grade rated versus bank credit facilities that may
12 be one of those subsidiaries or maybe just the banks, a bank
13 in general, could provide to many of the entities. But
14 really, we already have that.

15 The rates on the bank credit facility that LUCo
16 has are determined in a very dynamic bank loan market, and
17 it's based on not only the public debt ratings of LUCo and the
18 industry and the belief in management and all those things
19 that go into credit pricing, and we check with those banks
20 that are involved with that credit facility on a very routine
21 basis to make sure that that credit facility is priced
22 appropriately to our credit rating and our industry, so that
23 is basically a routine effort that confirms the
24 competitiveness of the rates in the bank credit facility.

25 So then what we would be asking is for a

1 particular entity -- let's say Missouri Water -- to go out and
2 find a bank willing to provide a credit facility that is for a
3 noninvestment grade rated entity that could beat commercial
4 paper rates, and I'm highly confident that's unobtainable.

5 Q. Same for Empire District Gas and Empire District
6 Electric?

7 A. We've shown also based on indicative rates that
8 have now been coming in as we get closer to LUCo getting
9 closer to having its commercial paper facility. We've started
10 getting indicative rates since June the 10th, I believe it
11 was, so we have 13 days of history that show on a net basis
12 the LUCo commercial paper program will deliver a rate that is
13 slightly under the rate that Empire is receiving on its
14 commercial paper program.

15 Q. So what you're saying is if you competitively bid
16 it, you're fairly confident that the money pool would be the
17 cheaper, more effective program for applicant rate bearers?

18 A. Hands down.

19 Q. Why not -- why not engage in that bidding process?
20 I mean, it would be easier not to, but it wouldn't be that
21 hard to do it; right?

22 A. We could do it and then the question is so how
23 often do you do it, and we had discussions about coming up
24 with some schedule and those conversations did not advance.

25 Q. Okay. I believe you indicated at some point that

1 -- that Empire -- I believe Empire Electric and Empire Gas are
2 both receiving short-term funds from LUCo currently at --
3 essentially at no cost. Maybe I'm not phrasing that
4 correctly.

5 A. They are not being charged for the line of credit,
6 LUCo's line of credit that supports the Empire commercial
7 paper program.

8 Q. And that's costing LUCo, I believe you said, about
9 a thousand dollars a day?

10 A. Well, the savings from terminating the Empire line
11 of credit facility back in February of 2018, that was a \$200
12 million line of credit, so the cumulative savings are about
13 469,000 or a thousand dollars a day. If we were to charge
14 Empire for the -- to support the 150,000 or \$150 million
15 Empire commercial paper program, the cumulative cost since
16 that February 23, 2018 date would be a little over \$302,000 or
17 about \$616 a day.

18 Q. So it would be in the best interest of Empire rate
19 payers if LUCo continued doing that?

20 A. Well, so that's a free lunch.

21 Q. Right. I understand that and I'm not saying that
22 that is long-term necessary or appropriate, but I just want to
23 make sure I understand that currently Empire customers are
24 getting a bargain?

25 A. They're getting a super bargain, and that's

1 something we're trying to correct in this process as well
2 because the customers of the utilities should pay for the
3 availability of credit because if they were on their own, they
4 were a stand-alone business and they went out to the bank
5 market to get a credit facility, they would be paying
6 substantially more because they would not be investment --
7 except for Empire, they would not be investment grade credits.
8 They would not get pricing anywhere near the pricing that's
9 provided by LUCo.

10 Q. And then looking, turning back to the nonunanimous
11 stipulation, if you could look at page 3, Paragraph 6A, can
12 you explain the difference to me, if there is one -- I'm
13 fairly certain there is -- between interest rate on borrowing
14 and actual interest cost for the fund?

15 A. I'm not sure if that's just a stylistic drafting
16 thing or not. To me what it's trying to say is that if the
17 applicants can borrow at a cheaper rate outside the pool, they
18 need to do that instead of borrowing in the pool. I might
19 defer to the --

20 Q. Well, it's the same language that's in the
21 Illinois rider to the money pool agreement, so I assume that
22 there was some significance to that, like perhaps there was a
23 difference between interest rate and --

24 A. Yeah, I'm not sure I'm appreciating the difference
25 at this time either.

1 Q. Interest rate on the note versus annual percentage
2 rate? You're not -- you don't believe that that distinction
3 in this language is somehow reflective of that distinction?

4 A. I don't.

5 Q. So if the Commission were to approve the variance
6 request and put conditions in place, from your perspective you
7 would be fine if the same term, whether it's interest rate or
8 actual interest cost, was the same in both places? Both of
9 them were used in that provision as opposed to the two
10 different provisions?

11 A. Me, personally, I believe so.

12 Q. Okay. And then attached to your direct testimony
13 as Schedule 1 is a version of the money pool agreement and it
14 is November 27, 2017, and then Exhibit 15C had a later
15 version, and I believe maybe your counsel referred to that in
16 her opening. I'm not positive. Is there -- are there any
17 differences between these two documents?

18 A. What's the heading for the other one, for the
19 later?

20 Q. 15C just says money pool agreement. It's attached
21 to 15C, and it says entered into January 1, 2018.

22 A. We have two versions of the money pool agreement.
23 We have this one dated from November 27 of 2017, and then in
24 2018 we entered into the -- we created the nonregulated money
25 pool --

1 Q. Oh.

2 A. -- as a result of conversations that we had both
3 here in Missouri and in New York with regulators.

4 Q. So is the January 1, 2018, is that with
5 nonregulated entities?

6 A. I don't -- I didn't receive a copy of 15C.

7 MS. CARTER: I can give you mine.

8 THE WITNESS: Okay. This was -- this was a draft,
9 a draft version identified as Exhibit A. So I think that --
10 yeah. So on October 31, 2017, the Liberty Utilities board and
11 the boards of the central region -- well, let me back up. The
12 -- I believe the regional boards approved money pool
13 participation on various dates -- October 25, October 24,
14 October 26 -- all of 2017, and when they did so, they approved
15 a form of the agreement which I believe is what you're looking
16 at that has blanks in it in that opening paragraph. It does
17 say January 1, but that's a form document and then actually
18 after those board approvals were obtained, we actually went
19 ahead on November 27 of 2017 and actually signed everybody up.

20 So it was after the boards approved it. We just
21 took that form that is attached and actually made it a live
22 document.

23 Q. So if the applicants ultimately want to
24 participate and are able to participate in the money pool,
25 they will sign on to the document that is your Schedule 1 in

1 your direct testimony that was entered into November 27, 2017?

2 A. Yes, sir, and they would sign the joinder
3 agreement because they were not original signers to it.

4 Q. Okay. And then if -- if the Commission were --
5 and this is perhaps a question for your counsel. If that's
6 the case, I will have no problem with you deferring to her,
7 but if the Commission were to approve a variance, but with
8 conditions, would those conditions appear in this document
9 similar to the Illinois rider?

10 A. The Illinois rider is a little bit -- a little bit
11 different animal just because of some very specific
12 requirements under the ICC. What might be more similar would
13 be -- well, in the Illinois order and in the order that we
14 received from the State of Massachusetts, some of the
15 requirements of participation mirror a lot of the terms that
16 are in the nonunanimous stipulation, things like if we are
17 going to amend the document, we have to have the amendment
18 approved in all the jurisdictions.

19 So I think we would -- it depends on, I guess, the
20 requirements that might be set out, but what I've seen to date
21 in some of the other jurisdictions that if there are special
22 requirements, they're handled in the order, but they don't
23 necessarily force a change to the underlying document.

24 Q. But the -- but they might be contained in a rider
25 similar to the Illinois rider or you don't know?

1 A. I don't think so because that's kind of a unique
2 situation in the State of Illinois that they had to have a
3 rider.

4 COMMISSIONER HALL: Okay. I believe that's all I
5 have. Thank you.

6 THE WITNESS: Thank you.

7 JUDGE PRIDGIN: Thank you. I don't have any
8 questions. This looks to be a good time to break for lunch.
9 I'm showing the clock here in the hearing room to show about
10 12:36. Let's resume at 1:45. Mr. Timpe will be back on the
11 stand for recross and then redirect. Anything further before
12 we take a lunch break?

13 All right. We will stand in recess until 1:45.
14 Thank you. We're off the record.

15 (A recess was taken.)

16 JUDGE PRIDGIN: Good afternoon. We are back on
17 the record. Mr. Timpe is still on the witness stand, and you
18 may have a seat when you're ready, sir, and I'll remind you
19 you're still under oath.

20 But before we re-begin, I just want to remind
21 counsel to make sure to get your exhibits to the court
22 reporter. Make sure she gets those marked so we can get those
23 into the record for you.

24 And I believe we are now on to recross examination
25 of Mr. Timpe. Anything further before we proceed?

1 MR. WILLIAMS: Judge, if you don't mind, I'd like
2 to go ahead and offer Exhibit 9C at this point. Make sure I
3 get it distributed.

4 JUDGE PRIDGIN: Okay. Exhibit 9C has been
5 offered. You need a minute to hand that out, Mr. Williams?

6 MR. WILLIAMS: Yes, please.

7 JUDGE PRIDGIN: Just a moment then. All right.
8 9C has been offered. Any objections? Hearing none, 9C is
9 admitted.

10 Anything further before recross of Mr. Timpe?

11 All right. See if we have any recross
12 examination. Staff, any questions?

13 MR. THOMPSON: Thank you, Judge.

14 RECROSS EXAMINATION BY MR. THOMPSON:

15 Q. Mr. Timpe, what's the status of the LUCo
16 commercial paper program at this time?

17 A. We, I believe, have documents finalized and we
18 have one small issue that we have to resolve at the rating
19 agency. One of the rating agencies has a correction to make
20 in the rating they published on their website. Not the rating
21 itself, but an indicator in the rating. And then there's some
22 additional setup work to get the program functional with DTC,
23 which is the agency that processes all the transactions, so I
24 would think within the next, call it, two weeks or so, we
25 should be functional.

1 Q. Okay. And you will recall you were asked several
2 questions by Public Counsel having to do with what they
3 characterized as violative or noncompliant conduct?

4 MR. WILLIAMS: I object to the question if it's
5 based on questioning by Public Counsel. This is redirect --
6 or recross after Commissioner questions.

7 MR. THOMPSON: I think the Commissioner touched on
8 it as well.

9 JUDGE PRIDGIN: If it's based on anything the
10 Commissioner asked about, then I'll overrule.

11 MR. THOMPSON: I believe that is, Judge.

12 BY MR. THOMPSON:

13 Q. With respect to that questioning by the
14 Commissioner and by Mr. Williams, are there any complaints
15 pending that you know of against any of the Liberty entities
16 or Algonquin entities filed by the Office of the Public
17 Counsel?

18 A. Not to my knowledge.

19 Q. Okay. Then if you would take a look at the
20 stipulation and agreement.

21 A. Can I jump up? I forgot to bring my stuff up
22 here. Sorry.

23 Q. I'm going to direct your attention to Paragraph
24 6F, and this relates to questions that Commissioner Hall was
25 asking you. Do you see 6F? I'll give you a moment to find

1 it. I apologize.

2 A. That's okay. 6F on page 4?

3 Q. Yes, sir.

4 A. Okay.

5 Q. Do you agree that that states an applicant utility
6 shall maintain evidence of the competitiveness of the rates
7 associated with the funds borrowed from or lent into the money
8 pool on an ongoing basis and provide such evidence to Staff
9 upon request?

10 A. Yes.

11 Q. And do you agree with me that the purpose of that
12 is to create an evidence trail that would permit the
13 Commission to determine whether or not the LUCo entities were
14 complying with this agreement?

15 A. Yes.

16 MR. THOMPSON: Thank you. I have no further
17 questions.

18 JUDGE PRIDGIN: Mr. Thompson, thank you.
19 Mr. Williams?

20 MR. WILLIAMS: Thank you, Judge.

21 RECROSS EXAMINATION BY MR. WILLIAMS:

22 Q. Mr. Timpe, do you remember the question you got
23 from Commissioner Hall regarding the Illinois rider?

24 A. There were a few.

25 Q. What has LUCo done because of the Illinois rider,

1 in response to it?

2 A. Well, the money pool is not functional yet, so the
3 requirements -- we are filing a quarterly report with the
4 Illinois Commission that basically says there has been no
5 activity because the money pool is not functional and we've
6 been waiting to get the Missouri entities approved for the
7 money pool before we initiate it.

8 Q. And do you recall when the Commissioner asked you
9 about making modifications to the agreements you've made in
10 the nonunanimous stip -- the agreements you made with Staff in
11 the nonunanimous stipulation and agreement?

12 A. I remember the question.

13 Q. Have -- would you consider a change in the money
14 pool agreement to limit the distribution of the excess
15 capacity fees for the line of credit only to borrowers?

16 MS. CARTER: I'm going to object that the question
17 appears to be asking Mr. Timpe if he would modify the
18 corporate entity's contract. Am I hearing that, Mr. Williams?
19 Was that your question?

20 MR. WILLIAMS: Well, there were changes that the
21 Commissioner asked about. I'm just asking if that's a change
22 that LUCo would consider.

23 THE WITNESS: And what was the change again?

24 MR. WILLIAMS: The four-factor allocation not
25 being part of it so that all of the fees, whatever fees were

1 put upon the participants in the money pool, would be based
2 upon borrowings.

3 THE WITNESS: I am not remembering there being a
4 question about removing the four-factor test.

5 MR. WILLIAMS: Well, there were questions about
6 modifying what would be done. I'm just asking if that's one
7 that you would even consider.

8 MS. CARTER: I'm going to object to Mr. Timpe
9 needing to answer on the stand questions that the utilities
10 may or may not agree to changes to their money pool agreement.

11 MR. WILLIAMS: I'm not asking for a commitment,
12 just whether it would be something they'd consider.

13 JUDGE PRIDGIN: I'll overrule the objection.

14 THE WITNESS: I don't really have an opinion on
15 that.

16 MR. WILLIAMS: No further questions.

17 JUDGE PRIDGIN: Thank you. Ms. Carter, redirect?

18 MS. CARTER: Yes. Thank you.

19 REDIRECT EXAMINATION BY MS. CARTER:

20 Q. Mr. Timpe, Mr. Williams had asked you questions
21 about six documents from other utilities that you had reviewed
22 in conjunction with drafting the money pool agreement. Do you
23 recall those questions?

24 A. Yes.

25 Q. Those other six entities, how many of those are

1 Missouri regulated utilities?

2 A. I believe there was one.

3 Q. And that was Ameren?

4 A. Yes.

5 Q. Does Ameren have the exact same corporate
6 structure as the Liberty utilities?

7 A. I'm sure they don't.

8 Q. Are the same number of entities involved with
9 Ameren's money pool as are projected to be involved with
10 Liberty Utilities' money pool?

11 A. I'd be very surprised if they had anywhere near
12 that number.

13 Q. Ameren does currently participate in a money pool;
14 is that correct?

15 A. To my knowledge.

16 Q. And to your knowledge, does Ameren have approval
17 to participate in that money pool?

18 A. I don't believe they have obtained approval.

19 Q. Do you know if they've needed to obtain a variance
20 from the competitive bidding requirements in order to
21 participate in the money pool?

22 MR. WILLIAMS: I'll object as calling for a legal
23 conclusion.

24 JUDGE PRIDGIN: Ms. Carter?

25 MS. CARTER: I don't believe I asked that. I can

1 rephrase it if it somehow sounded like it was asking for a
2 legal conclusion. I was asking if he knew if they had
3 obtained a variance.

4 JUDGE PRIDGIN: I'll overrule the objection.

5 THE WITNESS: I'm not aware that they've requested
6 one or received one.

7 BY MS. CARTER:

8 Q. You were asked quite a few questions about the
9 refinancing of 90 million in bonds held by Empire. Do you
10 recall those questions?

11 A. I do.

12 Q. Why were the bonds refinanced?

13 A. The bond issue itself had a maturity date of June
14 1, 2018 and had to be repaid.

15 Q. There was no competitive bidding done; correct?

16 A. That is correct.

17 Q. And why was there no competitive bidding done?

18 A. So in the recent -- recent to that transaction,
19 Liberty had completed a private placement of debt for \$750
20 million, and during that process, they received bids from 33
21 different institutional investors totaling over \$2.4 billion,
22 so it was nearly three times oversubscribed, and so that
23 obviously, a very successful offering when you've got that
24 many bidders bidding that aggressively for your debt.

25 And so that formed the basis of the -- the basis

1 point spread for the tenor of the borrowing that Empire was
2 seeking, and then added to that as you would in any private
3 debt placement, you add the credit spread to the then current
4 treasury rate for the same tenor, and so that was the exact
5 same process that we went through. We applied this aggressive
6 set and competitively bid credit spread for a like tenor from
7 that oversubscribed debt placement and then added to it the
8 current treasury rate as of June 1 of 2018 to arrive at that
9 rate of 4.53 or whatever that is.

10 Q. What are the consequences of repeatedly putting
11 something out for competitive bids?

12 A. Well, as we've, I believe, responded to in some
13 other documents throughout this docket, there's a difference
14 between going out to bid for things like parts or things that
15 you would use in the ordinary course of the operation of the
16 business. When it comes to financing and talking about
17 repetitive bidding for a credit facility, you know, the
18 banking world, which I used to be in for 11 years before
19 becoming a treasurer 27 years ago, over that time, I've seen a
20 lot of changes in the banking industry, somewhat to do with
21 recessions, depressions, problems with the banks not having
22 enough capital and whatnot, and so, you know, the regulators
23 have imposed tighter and different rules about capital
24 adequacy and whatnot, which has caused then the banking market
25 to be much more efficient in how it prices and makes credit

1 available, and the pricing not only in terms of fees, but in
2 credit spreads.

3 That information is then also very -- there are
4 companies that specialize in making that information publicly
5 available, so then now you've got a very efficient market that
6 looks at things like credit ratings or financial ratios in
7 determining how they're going to price a particular loan. As
8 we've seen in this situation when it comes to competitive
9 bidding, you know, what we will be comparing --

10 MR. WILLIAMS: Judge, I'm going to object at this
11 point. We seem to be getting a rambling narrative as opposed
12 to a response to the question asked.

13 JUDGE PRIDGIN: I'm going to overrule. I think
14 he's answering the question.

15 THE WITNESS: So what we would now be asking the
16 banks to do for any of the Missouri applicants is to bid
17 against a credit facility, if you will, that's commercial
18 paper, and so we've already, I think, given proof that those
19 commercial paper rates are more attractive to the applicants
20 than what they would find in a bank credit facility, and I
21 believe we've seen from the other parties here today that that
22 -- they agree with that.

23 So what would happen then, we would go out to
24 these banks and we would ask them to bid at whatever
25 frequency: a year, two years, whatever it might be. And

1 they're not going to get a full suite of business. That's the
2 other problem is, you know, they don't just give credit away.
3 They want other services. They want other business. They
4 want to sell you other things, and so if you don't have those
5 things that are going to come with it, then they don't have
6 another way to make up additional revenue that adds to the
7 loan revenue that they would be receiving, so again, their
8 interest in providing what I -- used to maybe call back in the
9 day stupid money, you know, cheap money, they just don't do
10 that anymore.

11 And if you continually go to them and you provide
12 bids, but they never win because they can't beat commercial
13 paper for an investment grade credit, they're just going to
14 stop bidding. So now we're going to have to go further and
15 further out to find banks to bid against a commercial paper
16 program, and for those applicants, they're not investment
17 grade except for Empire. But I think we've already shown that
18 the commercial paper program that LUCo is going to provide is
19 the equal of the Empire program, so again, I don't think
20 there's anything to be gained from that exercise.

21 BY MS. CARTER:

22 Q. Mr. Williams asked you about OPC Exhibit 19C,
23 which --

24 A. Yes.

25 Q. -- these columns, and you talked with him about a

1 financing for Midstates. I believe that would be Midstates
2 Natural Gas --

3 A. Right.

4 Q. -- one of the applicants. And there was not
5 competitive bidding for that financing; correct?

6 A. Right, and that transaction is actually not listed
7 on here because it had a note with LUCo that was maturing and
8 it was just refinanced at the same dollar amount. There was
9 no change in the dollar, so there was no cash transaction that
10 happened that would have affected Midstates on that day. But
11 the same principle was used. The investment grade credit
12 spreads that were obtained by Liberty in its last private debt
13 placement were then applied to that financing for Midstates,
14 and given its size, Midstates, you know, got a tremendous
15 benefit by getting those investment grade based credit spreads
16 for their company.

17 MS. CARTER: I have no further questions. Thank
18 you.

19 JUDGE PRIDGIN: Ms. Carter, thank you. Mr. Timpe,
20 thank you very much. You may step down. I believe our next
21 witness is Ms. Bolin. If you'll come forward to be sworn,
22 please, ma'am.

23 Raise your right hand to be sworn. Do you swear
24 the evidence you're about to give will be the truth, the whole
25 truth, and nothing but the truth, so help you God?

1 THE WITNESS: I do.

2 JUDGE PRIDGIN: Thank you very much. You may have
3 a seat. Staff, whenever you're ready.

4 MS. BRETZ: Permission to stay seated?

5 JUDGE PRIDGIN: Granted.

6 KIMBERLY BOLIN,
7 having been duly sworn and called to testify on behalf of
8 Staff, testified as follows:

9 DIRECT EXAMINATION BY MS. BRETZ:

10 Q. Ms. Bolin, will you please state your name and
11 spell it for the record?

12 A. My name is Kimberly Bolin, and Bolin is spelled
13 B-o-l-i-n.

14 Q. By whom are you employed and in what capacity?

15 A. I am employed by the Missouri Public Service
16 Commission as a utility regulatory auditor.

17 Q. Are you the same Bolin who caused to be prepared
18 certain testimonies which have been marked as Staff Exhibits 4
19 and 5?

20 A. Yes, I am.

21 Q. Do you have any corrections or changes to your
22 testimony?

23 A. Yes, I have a correction to my direct testimony,
24 page 3, Line 1, the word approved the money pool should be
25 replaced with grant the waiver request.

1 Q. Do you have any other changes?

2 A. No, I do not.

3 Q. With those changes, is your testimony true and
4 correct to the best of your belief and knowledge?

5 A. Yes, it is.

6 Q. If I asked those same questions today, would you
7 give the same answers?

8 A. Yes, I would.

9 MR. BRETZ: Judge, we offer Exhibits 3 and -- or
10 excuse me. 4 and 5 as evidence.

11 JUDGE PRIDGIN: Exhibits 4 and 5 have been
12 offered. Any objections? Hearing none, Exhibits 4 and 5 are
13 admitted.

14 MS. BRETZ: We tender the witness for
15 cross-examination.

16 JUDGE PRIDGIN: Ms. Bretz, thank you. Ms. Carter,
17 any questions?

18 MS. CARTER: No questions. Thank you.

19 JUDGE PRIDGIN: Mr. Williams?

20 MR. WILLIAMS: Thank you.

21 CROSS-EXAMINATION BY MR. WILLIAMS:

22 Q. Have you seen Exhibit 18C?

23 A. No, I have not. I don't know which one 18C is.

24 Q. It is the response to Public Counsel Data Request
25 Number 1096, if that helps any.

1 A. I don't have a copy of it right now in front of
2 me.

3 MR. WILLIAMS: Judge, may I approach?

4 JUDGE PRIDGIN: Yes, you may.

5 BY MR. WILLIAMS:

6 Q. I'm handing you what's been marked for
7 identification a copy of Exhibit 18C. Have you seen that
8 information before?

9 A. I briefly looked at it, but I did not get into
10 details.

11 Q. Did you rely on any of that information in forming
12 your opinion in this case?

13 A. No, I did not.

14 MR. WILLIAMS: Judge, may I approach again?

15 JUDGE PRIDGIN: You may.

16 BY MR. WILLIAMS:

17 Q. I'm handing you a copy of what has been marked for
18 purposes of identification Exhibit 17. Would you take a look
19 at that exhibit?

20 A. (The witness complied.)

21 Q. Have you seen the information in that exhibit
22 before?

23 A. I briefly reviewed it. I did not get into any of
24 the details attached.

25 Q. Did you rely on any of the information in that

1 exhibit for forming your opinion in this case?

2 A. No, I did not.

3 MR. WILLIAMS: No further questions of this
4 witness at this time.

5 JUDGE PRIDGIN: Thank you. Bench questions,
6 Commissioner Hall?

7 EXAMINATION BY COMMISSIONER HALL:

8 Q. Good afternoon.

9 A. Good afternoon.

10 Q. Were you in the hearing room when I asked a couple
11 questions of applicants' witness, Mr. Timpe?

12 A. Yes, I was.

13 Q. And one of the things I asked him is whether or
14 not applicants would be comfortable with some type of
15 condition on the -- on granting the variance that would in
16 essence prevent LUCo from turning this money pool into a
17 profit center.

18 A. I remember the question.

19 Q. Do you -- does -- do you understand what I'm --
20 what I'm getting at with that question?

21 A. Yes, I do.

22 Q. Do you have a sense as you sit here on the stand
23 today what type of language might be appropriate to satisfy
24 that end?

25 A. I don't know the specific language, but we can --

1 I could craft something to make it sound -- you know, to get
2 the point across that you don't want them to have a profit. I
3 think some of this, though, they aren't supposed to -- the
4 interest rate on borrowing from the money pool does not exceed
5 the actual interest cost. I think that somewhat gets to the
6 point.

7 Q. I would agree, but you'd be comfortable with
8 further clarifying that goal into a condition on the variance?

9 A. We would be comfortable trying to attempt to it,
10 yes.

11 COMMISSIONER HALL: Okay. Thank you.

12 JUDGE PRIDGIN: Thank you. Any cross based on
13 bench questions? Ms. Carter?

14 MS. CARTER: No, thank you.

15 JUDGE PRIDGIN: Mr. Williams?

16 MR. WILLIAMS: No, thank you.

17 JUDGE PRIDGIN: Redirect?

18 MS. BRETZ: No, we don't have any.

19 JUDGE PRIDGIN: All right. Thank you. Ms. Bolin,
20 thank you very much. You may step down. I believe the next
21 witness will be David Murray.

22 Mr. Murray, if you'll raise your right hand to be
23 sworn, please. Do you swear the evidence you're about to give
24 will be the truth, the whole truth, and nothing but the truth,
25 so help you God?

1 THE WITNESS: I do.

2 JUDGE PRIDGIN: Thank you, sir. You may have a
3 seat. And, Staff, when you're ready.

4 DAVID MURRAY,
5 having been duly sworn and called to testify on behalf of
6 Staff, testified as follows:

7 DIRECT EXAMINATION BY MS. ATTIAS:

8 Q. Mr. Murray, will you please state and spell your
9 name for the record?

10 A. My name is David Murray. Last name is spelled
11 M-u-r-r-a -- excuse me a-y.

12 Q. By whom are you employed and in what capacity?

13 A. Employed by the Missouri Public Service Commission
14 as a utility and regulatory manager in the financial analysis
15 department.

16 Q. Are you the same David Murray who caused to be
17 prepared certain testimonies which have been marked as
18 Exhibits 6 and 7?

19 A. Yes.

20 Q. Do you have any changes or corrections to your
21 testimony?

22 A. I do. On direct testimony on page 4, Line 16, I
23 indicate Paragraph 19. That should be Paragraph 10.

24 MR. WILLIAMS: I'm sorry. Where was that again?

25 THE WITNESS: Page 4, Line 16. I indicated

1 Paragraph 19. That should be Paragraph 10.

2 MR. WILLIAMS: Thank you.

3 THE WITNESS: And then in my surrebuttal
4 testimony, this may get a little wordy, but on page 2, Line 6
5 to 7, that entire last sentence should be deleted and then
6 that should be replaced with, "As of July 20, 2018, Fitch
7 Ratings Incorporated assigned both long-term and short-term
8 ratings to LUCo. S&P has yet to assign a short-term rating to
9 LUCo."

10 And then the question that follows on Line 8 and
11 9, it should -- Fitch should be deleted from Line 9 and that
12 should be replaced with S&P.

13 BY MS. ATTIAS:

14 Q. Thank you for your correction, Mr. Murray. With
15 those changes, is your testimony true and correct to the best
16 of your belief and knowledge?

17 A. It is.

18 Q. If I asked those same questions today, would you
19 give me the same answers?

20 A. Yes.

21 MS. ATTIAS: I offer Exhibits 6 and 7 as evidence.

22 JUDGE PRIDGIN: Exhibits 6 and 7 have been
23 offered. Any objections? Hearing none, Exhibits 6 and 7 are
24 admitted.

25 MS. ATTIAS: I tender the witness for

1 cross-examination.

2 JUDGE PRIDGIN: Thank you. Any questions,
3 Ms. Carter?

4 MS. CARTER: Yes, just one.

5 CROSS-EXAMINATION BY MS. CARTER:

6 Q. Mr. Murray, are you frequently involved in rate
7 cases on the issue of cost of debt?

8 A. Yes.

9 Q. Is cost of debt something that is reviewed in rate
10 cases?

11 A. Yes.

12 Q. To your knowledge, is there anything about
13 approval by the Commission of the nonunanimous stipulation and
14 agreement that would prevent parties from reviewing the
15 company's costs of debt in future rate cases?

16 A. No.

17 MS. CARTER: That's all I have. Thank you.

18 JUDGE PRIDGIN: All right. Thank you.
19 Mr. Williams?

20 MR. WILLIAMS: Thank you.

21 CROSS-EXAMINATION BY MR. WILLIAMS:

22 Q. Good afternoon, Mr. Murray.

23 A. Good afternoon.

24 Q. Soon to be welcome aboard the Public Counsel.

25 A. Yes, I'm looking forward to starting on Monday.

1 Q. Whenever you reached your opinion in this case,
2 did you consider anything aside from interest rates?

3 A. Yes.

4 Q. And what else did you consider?

5 A. Well, obviously, just the fact that Empire had
6 access to Tier 2 commercial paper, and so I think that that's
7 beyond just thinking about interest rates and trying to assess
8 whether or not it would be reasonable to -- to accept the, you
9 know, proposed waiver of competitive bidding if the A2/F2
10 rating was used for all short-term financing through the money
11 pool as far as the rate that would be allowed. So, I mean, I
12 just -- I'm explaining why just saying interest rate is
13 simplifying it too much.

14 Q. Did you consider any of the 1.07 and 2.01 costs in
15 the money pool agreement --

16 A. No.

17 Q. -- in reaching your opinion?

18 A. No.

19 Q. And if it's issued at the same time for the same
20 entity, is long-term secured debt cheaper than unsecured
21 long-term debt for the same term?

22 A. Assuming the same term and it's the same entity,
23 the same risk profile -- and we just dealt with this with KCPL
24 -- a secured debt offering will typically allow for a savings.

25 Q. Relative to an unsecured debt?

1 A. Yes.

2 Q. And is that also true with regard to short-term
3 debt in terms of if it's secured, it would be a lower interest
4 rate than if it was unsecured?

5 A. I have a problem with that hypothetical because
6 usually you're only going to end up having secured short-term
7 debt if it's a financially distressed company, so --

8 Q. How about if it's backed by some other financial
9 instrument such as cash, or in this instance, I think we're
10 talking about for commercial paper issuances, a credit
11 facility?

12 A. I have a question of why they need access to
13 short-term credit if they have the cash, but that being said,
14 I mean, it's just not going to be secured in the same fashion
15 as long-term debt as far as using assets. It's just not
16 standard in the investment grade market for short-term
17 financing.

18 Q. Let me ask it this way. Is commercial paper going
19 to be -- for the same company at the same time going to give
20 you a better rate than if you were to enter into a draw on a
21 credit facility?

22 A. In healthy financial markets, yes.

23 MR. WILLIAMS: I have no further questions of this
24 witness at this time.

25 JUDGE PRIDGIN: Thank you. Any bench questions?

1 Commissioner Hall?

2 COMMISSIONER HALL: Yeah, thank you.

3 EXAMINATION BY COMMISSIONER HALL:

4 Q. Good afternoon.

5 A. Good afternoon.

6 Q. Do you have the nonunanimous stipulation in front
7 of you?

8 A. I do. I have it. I just need to pull it out.

9 Q. If you could look at provision 6(a) on page 3.

10 A. Yes.

11 Q. I want to understand your sense as to whether
12 there's a difference between interest rate and actual interest
13 cost as those two phrases are used in that provision.

14 A. No, I don't believe there's a difference.

15 Q. And so there's no reason for those to have
16 different words? It could be actual interest costs in both
17 places? It would have the same effect in your view?

18 A. I'm just trying to see if there was any
19 anticipation of an imbedded cost, but I think it could be the
20 same.

21 Q. And then moving on to 6(b) on that same page, what
22 would your position be if a condition was put in place on the
23 granting of the variance that modified this provision so that
24 it read applicant utilities may not borrow from the money pool
25 if the applicant utility could have borrowed at a lower cost

1 directly from outside banks or et cetera?

2 A. No. I think that keeps it more general and not
3 just the applicant utility making that determination, so no, I
4 think that would be stronger.

5 Q. Are money pools relatively common in -- for
6 regulated utilities that have somewhat complicated affiliate
7 corporate structure as far as you know? And complicated is
8 not a good word, but I think you know what I'm getting at.

9 A. I mean, I think they're common for Missouri
10 utilities. I don't know about other -- Liberty Utilities and
11 Algonquin's fairly complicated, so I don't have any company
12 that I can think of that I can compare it to that would have
13 the complexity of how many companies they have right now.

14 Q. So what Missouri regulated utilities participate
15 in a money pool that you're aware of?

16 A. Ameren and Ameren Missouri have a money pool.
17 KCPL and GMO, I believe, under the new ownership of Evergy
18 still have a money pool, and I think I indicated in my
19 deposition I believe that Spire had a money pool, but they've
20 restructured to the point where they're doing commercial
21 paper. Spire is directly doing commercial paper for all of
22 its companies, and I don't -- I did a search for money pool in
23 the recent 10K and I did not see anything about money pool.
24 So they may refer to it as cash management. Empire and Empire
25 District Gas have what they refer to as a money pool.

1 Q. Has the prudence of participating in a money pool
2 ever been an issue in a rate case that you've been involved
3 in?

4 A. You know, I can't think of anything specifically
5 with the money pool in a rate case.

6 Q. And if one of the applicants were to participate
7 in the money pool at issue in this case and in the course of a
8 rate case either staff or OPC or an intervenor were to ask
9 questions about the prudence of certain actions, the rate case
10 would be a -- an appropriate vehicle to determine if rate
11 payers were being harmed; correct?

12 A. I agree, yes.

13 COMMISSIONER HALL: I have no further questions.
14 Thank you.

15 JUDGE PRIDGIN: All right. Thank you. Any cross
16 based on bench questions? Ms. Carter?

17 MS. CARTER: No. Thank you.

18 JUDGE PRIDGIN: Mr. Williams?

19 MR. WILLIAMS: Thank you.

20 RE-CROSS EXAMINATION BY MR. WILLIAMS:

21 Q. In response to Commissioner Hall's questions
22 regarding interest rate versus actual interest cost in
23 reference to I guess it's 6(a) on page 3 of the stipulation
24 and agreement, you said those terms could be the same?

25 A. Yes.

1 Q. Could they also be something different?

2 A. Yes.

3 Q. What else do you think -- how -- what other
4 interpretation do you think might be placed on them?

5 A. If I were looking at money pool borrowing interest
6 rates and thinking about the possibility that LUCo is funding
7 the -- you know, the need for excess or additional liquidity,
8 that there may be some, you know, decision to almost look at
9 the -- you know, not just the interest rate paid on the
10 commercial paper, but also bundling in credit facility costs,
11 and so I -- but I don't recall specifically right now if that
12 was the intent, but that would be the most logical to me.

13 Q. So basically an effective interest rate versus an
14 actual interest rate based on what the cost of the money would
15 be?

16 A. It's an imbedded cost of the money. I mean, the
17 current cost of the money is the interest rate, but as far as
18 the ability to access the commercial paper, then you have the
19 cost of the credit facility which would have been incurred
20 before they even started issuing commercial paper.

21 Q. And couldn't you characterize that as an effective
22 interest rate?

23 A. Yes.

24 MR. WILLIAMS: No further questions. Thank you.

25 JUDGE PRIDGIN: Thank you. Redirect?

1 MS. ATTIAS: No. No questions.

2 JUDGE PRIDGIN: All right. Thank you.

3 Mr. Murray, thank you very much. You may step down. I think
4 our next and final witness, Mr. Schallenberg.

5 If you'll raise your right hand to be sworn,
6 please, sir. Do you swear the evidence you're about to give
7 will be the truth, the whole truth, and nothing but the truth,
8 so help you God?

9 THE WITNESS: I do.

10 JUDGE PRIDGIN: Thank you, sir. You may have a
11 seat. And, Mr. Williams, when you're ready, sir.

12 MR. WILLIAMS: Thank you.

13 ROBERT SCHALLENBERG,
14 having been duly sworn and called to testify on behalf of
15 Office of Public Counsel, testified as follows:

16 DIRECT EXAMINATION BY MR. WILLIAMS:

17 Q. What is your name?

18 A. Robert E. Schallenberg.

19 Q. And how do you spell your name?

20 A. R-o-b-e-r-t, E, and S-c-h-a-l-l-e-n-b-e-r-g.

21 Q. And did you prepare rebuttal testimony that was
22 prefiled in this case that has been marked as Exhibit Number
23 8C?

24 A. Yes.

25 Q. And that testimony was designated confidential in

1 its entirety, was it not?

2 A. At the time of filing, yes.

3 Q. Is it your understanding that most, if not all, of
4 that testimony should be public at this point in time?

5 A. I would expect so, but I don't have the specifics
6 about what's been declassified and what's still covered.

7 Q. Now, for -- would there be any changes to Exhibit
8 Number 8C for it to be your testimony here today?

9 A. Yes. I would need that on page 5, Line 7, I would
10 need to strike the "and EDE's commercial paper" so that Line 7
11 would read "outstanding loans and bank notes."

12 And then on Line 9 I would need to put a period
13 after EDG and strike "but EDE's commercial paper saves LUCo 15
14 basis points off each dollar of EDE's commercial paper that's
15 outstanding." I need to strike that sentence.

16 On page 13, I -- on Line 6, I would need to strike
17 EDE's on Line 6. I would need to strike EDE's on Line 7, put
18 a period after commercial paper, strike "and that" and then
19 insert where the "and that" is is Empire's money pool.

20 On page seven -- 17. Excuse me. It lists three
21 bases for OPC's opposition, and I believe OPC has another
22 element now, and I describe that as the transition will cost
23 the applicants more than they are currently paying for
24 borrowings.

25 MS. CARTER: And I'm sorry. I don't know if we

1 should be interrupting to do an objection here before the
2 testimony's being offered, but did I hear that correctly that
3 Mr. Schallenberg would be adding another point to his
4 testimony? Is that --

5 MR. WILLIAMS: As I understand it, he's adding a
6 summary of an additional issue he views, but I don't know that
7 he's expanding his testimony. He can express whether he views
8 it to be an expansion or not.

9 MS. CARTER: Thank you. I'll wait and make my
10 objections when the testimony's offered.

11 JUDGE PRIDGIN: All right. Thank you.

12 THE WITNESS: On page 19, Line 23, at the end thus
13 should be stricken, and on Line 24, the improvement from their
14 status quo is significant. Those words should be stricken as
15 well.

16 On page 21, Line 22, the Q for question has been
17 omitted and should be added.

18 And I believe that's all the changes.

19 BY MR. WILLIAMS:

20 Q. Would you go back through those changes and
21 explain why they're being made, each one separately --

22 A. Okay.

23 Q. -- or why you're making them?

24 A. On page 5, the changes there were based on an
25 assertion that LUCo would save 15 basis points on the

1 commitment fee if Empire had issued commercial paper, and I
2 understand the assertion, and I found nothing to contradict
3 it, is that LUCo does not get to -- the commitment fee is not
4 reduced for Empire's commercial paper, and so the changes on
5 page 5 are based on that.

6 Page 6, are also -- did I mention page 6?

7 MR. THOMPSON: You did not.

8 THE WITNESS: Okay. Page 6 has a change where you
9 have to put a period after credit facility.

10 BY MR. WILLIAMS:

11 Q. Where?

12 A. Line 22. And then you put saving LUCo 15 basis
13 points on each dollar of the \$500 credit facility used by EDE,
14 that should be stricken, and that's for the same factor that I
15 mentioned earlier.

16 I have on page 7 -- I don't think I made this. I
17 struck on page 7, Line 7 telecommunications because my
18 understanding, as I recall, the Commission was using the FCC
19 affiliate roles and didn't have separate and distinct roles.

20 On page 8, I made a -- make an adjustment to Line
21 15 where it says the affiliate rules, you'd strike the M --
22 the MOPSC because, as I recall, the FCC rules were controlling
23 and that the Commission did not develop a tele -- its own
24 telecommunication rules.

25 On 13, the changes on Line 6 and 7 was that when I

1 was talking about the applicants, Empire and Empire Gas are
2 separate -- have separate characteristics than Midstates does
3 currently so that it wouldn't be three. It's two that are
4 supported currently by a money pool. So I made that
5 correction.

6 Page 17, adding Item 4, I put that in because I
7 thought that was a new position of the Office of Public
8 Counsel, but if it isn't, I'm fine with what it was there.
9 But if Public Counsel has another position similar to that, it
10 seemed to me it had to be added to the testimony before I
11 could adopt it.

12 Page 19, that change is again based on that 15
13 basis point differential that I believed at the time of the
14 testimony that LUCo would be saving 15 basis points by Empire
15 issuing commercial paper, and the assertion is that's not
16 true.

17 On page 21, Line 22, I just put the Q in because
18 it was missing.

19 And I think that's all the changes.

20 Q. With those changes, is Exhibit 8C your testimony
21 here today?

22 A. I'm sorry. Was it here today?

23 Q. With those changes, is Exhibit 8C your testimony
24 here today?

25 A. Yes.

1 MR. WILLIAMS: I offer Exhibit 8C.

2 JUDGE PRIDGIN: 8C has been offered. Any
3 objections?

4 MS. CARTER: Yes, Judge. I have two different
5 parts. I would object to a new alleged basis for opposing the
6 request in this case, what Mr. Schallenberg identified as a
7 new Subparagraph 4 on page 17. That is an inappropriate time
8 to add to testimony since there was no opportunity then for
9 the applicants and Staff to prepare and file surrebuttal
10 testimony in response to what would be new rebuttal testimony,
11 and the Commission's rule requires that all rebuttal to direct
12 testimony be set forth in the rebuttal testimony when there is
13 prefiled rebuttal.

14 And then separately from that, I would object to
15 the relevance of three sections of the testimony where OPC
16 addresses the other proposed issues that they've presented to
17 the Commission, matters that are not relevant to the money
18 pool variance request, and that would be these three sections:
19 Starting on page 4, Line 4, and continuing to page 6, Line 26;
20 and then the second block would be starting on page 12, Line
21 26, continuing to page 14, Line 11; and then the third section
22 will be starting on page 20, Line 17, and continuing through
23 page 25, Line 8.

24 JUDGE PRIDGIN: All right. Thank you.
25 Mr. Williams, any response?

1 MR. WILLIAMS: Well, Mr. Schallenberg, as he just
2 testified, is indicating that he's added an issue that he
3 believes that Public Counsel is taking as a position in this
4 case. He has not added any testimony to support or expound
5 upon that position.

6 Also, the portion -- the separate objection based
7 on identified portions of the testimony, we've laid that out
8 before. Public Counsel views that because the purpose of the
9 variance request is to participate in a particular money pool,
10 that how that money pool would operate and how the applicants
11 have conducted themselves with regard to affiliate
12 transactions in the past bears on whether or not the
13 Commission should grant the requested relief in this case.

14 JUDGE PRIDGIN: All right. Thank you. The
15 objections are overruled. Exhibit 8C is admitted into
16 evidence. Mr. Williams, anything further?

17 MR. WILLIAMS: I offer Mr. Schallenberg for
18 examination by the parties and Commission.

19 JUDGE PRIDGIN: Any cross, Staff?

20 MR. THOMPSON: No questions. Thank you.

21 JUDGE PRIDGIN: Ms. Carter, any questions?

22 MS. CARTER: I have no questions, and I would say
23 Exhibit 8 doesn't need to be marked confidential. Mr. Timpe
24 and I reviewed what was marked confidential when it was
25 originally filed, and it's the same situation as Staff's

1 testimony and the applicants' testimony, that those items are
2 no longer confidential.

3 JUDGE PRIDGIN: Okay. Very good. Thank you. So
4 we'll just -- I mean, I think it's been offered and marked as
5 8C. We may continue just to refer to it that way, but I
6 understand it's all public information now. Okay. Very good.
7 thank you.

8 Bench questions? Commissioner Hall?

9 EXAMINATION BY COMMISSIONER HALL:

10 Q. Good afternoon.

11 A. Good afternoon.

12 Q. Turning to your rebuttal testimony on page 3,
13 Lines 19, you explain why you think a utility would
14 participate in a money pool. Do you see that part of your
15 testimony?

16 A. Yes.

17 Q. Could you elaborate on that as to why in general
18 money pools make sense in the holding company corporate
19 structure situation?

20 A. The rationale is that when you have multiple
21 entities, some will be surplus in terms of having more cash
22 than they have expenditures and you have other entities that
23 could be short cash and have more expenditures than they have
24 cash, and the idea of the money pool is that the consolidated
25 entity can use that internal cash to finance that shortfall

1 versus having to go outside to an outside vendor.

2 Q. And so can you explain to me in a nutshell why you
3 are expressing concern about the money pool structure in this
4 case?

5 A. I think the core to the Office of Public Counsel's
6 opposition is that in that basic framework where you're just
7 balancing the cash needs of the excess cash against the
8 deficient cash entities, and in this case you have a facility,
9 a credit facility that is outside the money pool, and while it
10 has got representations that it can help the money pool, it's
11 not required to help the money pool and that that credit
12 facility has multiple usages and that it is, I argue,
13 inappropriate to charge the money pool participants for all
14 the uncommitted fees, the fees caused by you have 500 million,
15 you're only using 150 million, that 350 million you have to
16 pay a commitment fee, or the office and I argue and especially
17 since it's a nonregulated affiliate, those costs and none of
18 the applicants have access to the money. The only people are
19 owned by the nonregulated affiliate. That is an inappropriate
20 cost that will be incurred by the applicants if the money pool
21 goes forward.

22 Q. If there was a condition put in place with the
23 granting of the variance at issue in this case that prevented
24 LUCo from turning the money pool into a profit center, would
25 -- and I don't know exactly how that would be worded. You

1 could probably come up with language. Actually, I'll go right
2 there. What would that language look like if that was
3 something this Commission wanted to do?

4 A. If I was trying to look to address that item, I
5 would go to 1.07, that section, and I would require that all
6 of the costs of the credit facility be charged to the
7 borrowers and such that if you're borrowing and you have --

8 Q. Are you talking about 1.07(b)?

9 A. (b) is where you have the problem, but what I'm
10 saying is if you move (b) and move it into (a), that when you
11 borrow from the money pool, you have to cover not only the
12 direct cost of your borrowing, you have to cover the fixed
13 cost of the credit facility, or the other option would be is
14 that you just use (a) and that (b) is retained by the holding
15 company. Either way could accomplish it so that the people
16 who borrow or use the money pool will be assigned not only
17 their interest or interest income or interest expense, but
18 they'll be charged a amount also for the running of the money
19 pool.

20 And the reason for that is when you're trying to
21 compare the money pool to other options, if you have that
22 loaded cost, you can look and say if I borrow from a third
23 party vendor, it would be cheaper for me than if I borrow from
24 the money pool, and then the utilities can go their separate
25 ways.

1 Q. Does the provision on page 4 of the nonunanimous
2 stip, Paragraph 6G, does that in any way address your concern?

3 A. I don't have it. I think it's in here, but I
4 agreed to take the missed copy. Does somebody have the stip?

5 I'm sorry. And you said 4C.

6 Q. Page 4, Paragraph 6G.

7 A. 6G. That item is the second part of our
8 opposition, which would be the 2.01 costs can't be charged
9 outside the money pool, but that's the other piece of our
10 opposition. This doesn't cover the administrative cost for
11 running the money pool or is a separate section from the
12 commitment fees for the credit facility. That's in 1.07.

13 Q. So 6G addresses administrative costs when there is
14 -- when there's outside borrowing. You're talking about
15 administrative costs when there is borrowing through the pool?

16 A. The pool has costs, and it has a separate section
17 for attempted recovery.

18 Q. You're not arguing that there aren't some
19 administrative costs related to operating a money pool?

20 A. Oh, no, not at all.

21 Q. And you're not arguing that it's not fair for
22 those that take advantage of the money pool to pay some
23 portion of those costs, are you?

24 A. No. In fact, I would say that the borrowers need
25 to know what the full cost is. You know, if you're going to

1 get -- you're going to have to pay an interest rate, but
2 you're also going to have to pay some for a commitment fee or
3 an administrative cost. You need to have all that balled up
4 together so you can decide whether borrowing from this money
5 pool is truly a better situation than what it is you can get
6 from a third party vendor.

7 Q. So if there was a modification to the stipulation,
8 and I'm referring to 6(b) on page 3, and by modification, I
9 mean a condition put in place by the Commission with regards
10 to the variance request at issue here, if that was changed so
11 that it read applicant utilities may not borrow from the money
12 pool if the applicant utility could have borrowed at a lower
13 cost directly from outside banks or other third party
14 financial institutions, why does that not address your
15 concern?

16 A. I would say if you were to say that you can't
17 borrow at a lower overall cost, because I'm pretty sure that
18 (b) just means interest rate. But if you define that as being
19 that it can't borrow -- if it can borrow at a lower cost than
20 the interest rate, the commitment fees, and the administrative
21 or operational cost of the money pool, that would be fine.

22 COMMISSIONER HALL: I would suggest that -- that
23 perhaps the parties might be able to work on that language and
24 possibly submit that to the Commission, but -- I have no
25 further questions. Thank you.

1 JUDGE PRIDGIN: Mr. Hall, thank you. Any recross
2 based on bench questions from Staff?

3 MR. THOMPSON: No questions. Thank you, Judge.

4 JUDGE PRIDGIN: Ms. Carter?

5 MS. CARTER: Yes. Thank you.

6 RE CROSS EXAMINATION BY MS. CARTER:

7 Q. Mr. Schallenberg, Commissioner Hall was asking you
8 about the Section 1.07 costs and you stated that it's your
9 opinion that unless a utility borrows from the money pool,
10 they shouldn't have to pay any of those costs; is that
11 correct?

12 A. Yes.

13 Q. So over what time period would you look at for
14 that? What if they borrow one year but not the next year?

15 A. When you say they're not a borrower, are you
16 saying they're still going to be in the pool?

17 Q. Yes.

18 A. Okay. Because if you're not an eligible buyer,
19 you're not going to pay any of those costs. Eligible
20 borrower. So now the next question you asked me was?

21 Q. What time period are you looking at in order to
22 state that opinion? What if a utility borrows one year, is
23 still in the money pool, but doesn't borrow the next year? Do
24 they pay for having access for one year but then not the next
25 year?

1 A. Well, if you're going to say you want to pay for
2 access, that you want to take this cost and say we want to
3 charge you just for having the access to be able to call upon
4 the money pool, then you would hit them with a fee.

5 Q. You'd agree with me that there is value in having
6 access to a credit facility; correct?

7 A. I'd say it could. It depends on the terms. I
8 mean, I've seen good arrangements, and I've seen not so good
9 arrangements, but there's not a guarantee that if you have a
10 money pool, they're all good, if that's what you're asking.

11 Q. I just want to make sure I'm understanding. I'm
12 not sure I understood the answer then. You're saying that
13 only people who borrow from the money pool should pay a share
14 of the Section 1.07 costs; correct?

15 A. Yes. You recover -- the money pool recovers all
16 of its costs from the borrowings that it conducts.

17 Q. And for what time period is your opinion based on?
18 What are you saying should be the determination of when you're
19 a borrower? Should they look who borrows in a particular day?
20 Who borrows in a particular week? Who borrows in a particular
21 month? Who borrows in a particular year? Where do you
22 determine who pays costs based on being a borrower?

23 A. Well, I would say that if you're looking at these
24 costs, the money pool, whoever's running it or owns it would
25 be looking at how much borrowing do I have to have, because if

1 you look at this commitment fee, the biggest part of the
2 commitment fee is how much money you've put in the credit
3 facility. If I was finding that my borrowings --

4 Q. And I'm sorry Mr. Schallenberg. I must not be
5 asking the question the right way. You don't want a utility
6 to pay unless they borrow; correct?

7 A. I don't want them -- I wouldn't want them to pay
8 if they don't need it.

9 Q. You don't want them to pay any of the
10 administrative costs for the money pool unless they borrow
11 from the money pool; correct?

12 A. I'm defining borrowing needed -- as needed, yes.

13 Q. And what time period are you looking at then? How
14 often in your opinion should the company be making that
15 determination? Each day's borrowing? Each week's borrowing?
16 Each month's borrowing, et cetera? What if they borrow in
17 January but then don't borrow in June?

18 A. I would say it would be a -- it's a business that
19 they're running, and they would be looking at it on an ongoing
20 basis. If they're bringing in enough money through their
21 interest expense, then it's good. You don't need to change
22 it. Now if you're not, then you're looking at either changing
23 your interest expense or looking at lowering the credit
24 facility -- lowering the cost.

25 Q. I'm sorry. We're talking past each other or

1 you're answering something different, I think, than I'm
2 asking. How do you determine if they pay costs? What if they
3 borrow in January but don't borrow another time of the year?
4 It's okay for them to pay administrative costs for what period
5 of time then?

6 A. Assuming you're setting this up and you're looking
7 at it where you need to charge to the borrowers the full cost
8 to run the money pool, in January when you borrow, that rate
9 that you're going to be charged will be commensurate with what
10 it costs to recover all the costs at the time.

11 Now, when you talk about separate periods, there's
12 not a magic period that every year you have to do this. What
13 you do is you look at your actual results and how are you
14 doing. Are you collecting more money than you need? Then in
15 such case, you would consider reducing your borrowing rates.
16 But if you're not collecting all your costs, then you need to
17 raise the borrowing rate and that would affect, when you raise
18 the borrowing rate, anybody that borrows from that point until
19 you change it is the ones that pay it.

20 MS. CARTER: I have no further questions.

21 JUDGE PRIDGIN: Ms. Carter, thank you. Any
22 redirect?

23 MR. WILLIAMS: Hopefully, just a question or two.

24 REDIRECT EXAMINATION BY MR. WILLIAMS:

25 Q. In some of your responses to the Commissioner

1 questions, you refer to Section 1.07 and Section 2.01. What
2 document do those sections appear in?

3 A. They're in all the drafts of the -- LUCo's money
4 pool. They're sections. They can change at times, but those
5 are standard sections in the money pool agreements at LUCo.

6 Q. What's the basis for your position that the
7 borrower should be paying or LUCo should keep the cost for the
8 credit facility fees?

9 A. Well, first, my basis would be it's LUCo's credit
10 facility. It's not a credit -- nobody else has access to it,
11 and so obviously the owner and the one that can use it should
12 be paying all the costs.

13 Q. And then for the 2.01 costs, the administrative
14 costs?

15 A. I'm sorry. What do you want?

16 Q. Well, you've indicated that the borrowers -- I
17 believe, that the borrowers should pay those. I'm just asking
18 you what's the rationale for that?

19 A. Well, the rationale is if you were looking at a
20 financial institution or these third party vendors that are
21 out there that you're going to use as a benchmark to possibly
22 cheaper borrowing, they would not be charging you -- well,
23 first 2.01(c) is not necessarily charged to the borrowers.
24 It's not charged to the money pool. It's actually allocated
25 outside the money pool to subsidiaries, whether they're

1 participants or not. And what I'm saying -- in fact, I think
2 the affiliate rule requires this -- that the operational cost
3 of the money pool should be charged to the money pool, not
4 allocated separately to the different Ameren -- excuse me.
5 Algonquin affiliates.

6 MR. WILLIAMS: No further questions.

7 JUDGE PRIDGIN: All right. Thank you.

8 Mr. Schallenberg, thank you very much. You may step down.
9 And I believe that is our final witness.

10 I would ask, I suppose after we go off the record,
11 if counsel can get with the court reporter, make sure you've
12 got all your exhibits given to the court reporter and labeled
13 properly so we can get those entered into the record properly.

14 Is there anything further from counsel before we
15 go off the record?

16 MS. BRETZ: One quick thing, your Honor. If it
17 would be helpful, we could submit some proposed language
18 consistent with Judge Hall's comments and questions. He
19 alluded to that. If that would be helpful, we can put
20 something together.

21 JUDGE PRIDGIN: That's certainly fine. I believe
22 you have briefs due July 18 or thereabouts, so if you wanted
23 to include that with your briefs or file something different,
24 even if you file your briefs and say the parties are still
25 working on proposed language and perhaps you can decide to

1 negotiate, that's fine. You can just let the Commission know
2 in a pleading that -- whether or not you want this pushed to
3 resolution through a report and order, or whether you think
4 you can perhaps reach a resolution of the issues yourselves.

5 MS. BRETZ: Okay. Thank you.

6 JUDGE PRIDGIN: All right. Thank you.

7 MR. WILLIAMS: Judge?

8 JUDGE PRIDGIN. Yes, Mr. Williams.

9 MR. WILLIAMS: I see that Commissioner Hall has
10 left and I know he has or had Exhibit 15C. I don't know if he
11 absconded with it or if it's still here.

12 JUDGE PRIDGIN: He may have. I will figure out
13 how to proceed from here. He might. I'll look. All right.
14 Thank you. Anything further?

15 All right. Thank you very much. We are off the
16 record.

17 (The hearing was adjourned at 3:00 p.m.)
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CERTIFICATE OF REPORTER

I, Stephanie Allen, CCR No. 746, within the State of Missouri do hereby certify that I appeared and reported all testimony and statements made on the record at the Evidentiary Hearing in this matter held on June 27, 2019, at the Missouri Public Service Commission, 200 Madison Street, Room 310, Jefferson City, Missouri; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the hearing.


Stephanie Allen, CCR

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