

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

December 2, 2008

Jefferson City, Missouri

Volume 20

In the Matter of Union Electric )  
Company d/b/a AmerenUE's Tariffs)  
To Increase Its Annual Revenues )Case No. ER-2008-0318  
For Electric Service )

MORRIS L. WOODRUFF, Presiding,  
DEPUTY CHIEF REGULATORY LAW JUDGE.

JEFF DAVIS, Chairman,  
CONNIE MURRAY,  
ROBERT M. CLAYTON III,  
TERRY JARRETT,  
KEVIN GUNN,  
COMMISSIONERS.

REPORTED BY:

PAMELA FICK, RMR, RPR, CCR #447, CSR  
MIDWEST LITIGATION SERVICES

1 APPEARANCES:

2

3 THOMAS BYRNE, Attorney at Law  
4 WENDY K. TATRO, Attorney at Law  
5 P.O. Box 66149  
6 1901 Chouteau Avenue  
7 St. Louis, MO 63103  
8 (314)554-2237

9

10 JAMES B. LOWERY, Attorney at Law  
11 Smith Lewis, LLP  
12 111 South 9th Street, Suite 200  
13 P.O. Box 918  
14 Columbia, MO 65205-0918  
15 (573)443-3141  
16 lowery@smithlewis.com

17

18 JAMES M. FISCHER, Attorney at Law  
19 Fischer & Dority  
20 101 Madison, Suite 400  
21 Jefferson City, MO 65101  
22 (573)636-6758  
23 jfischerpc@aol.com

24

25 FOR: Union Electric Company,  
d/b/a AmerenUE.

26

27

28 STUART CONRAD, Attorney at Law  
29 Finnegan, Conrad & Peterson  
30 3100 Broadway  
31 1209 Penntower Office Center  
32 Kansas City, MO 64111  
33 (816)753-1122  
34 stucon@fcplaw.com

35

36 DAVID WOODSMALL, Attorney at Law  
37 Finnegan, Conrad & Peterson  
38 428 East Capitol, Suite 300  
39 Jefferson City, MO 65101  
40 (573) 635-2700

41

42 FOR: Noranda Aluminum, Inc.

43

1 H. TODD IVESON, Assistant Attorney General  
2 P.O. Box 899  
3 Supreme Court Building  
4 Jefferson City, MO 65102  
5 (573)751-3321

6 FOR: State of Missouri.

7 HENRY B. ROBERTSON, Attorney at Law  
8 Great Rivers Environmental Law Center  
9 705 Olive Street, Suite 614  
10 St. Louis, MO 63101  
11 (314)231-4181  
12 hrobertson@greatriverslaw.org

13 FOR: Missouri Coalition for the  
14 Environment. Missourians for Safe  
15 Energy.

16 DIANA VUYLSTEKE, Attorney at Law  
17 Bryan Cave, LLP  
18 211 North Broadway, Suite 3600  
19 St. Louis, MO 63102  
20 (314)259-2543  
21 dmvyulsteke@bryancave.com

22 FOR: Missouri Industrial Energy  
23 Consumers.

24 LISA C. LANGENECKERT, Attorney at Law  
25 Sandberg, Phoenix & von Gontard, P.C.  
One City Centre, 15th Floor  
St. Louis, MO 63101-1880  
(314)231-3332  
llangeneckert@spvg.com

FOR: Missouri Energy Group.

JOHN COFFMAN, Attorney at Law  
871 Tuxedo Boulevard  
St. Louis, MO 63119  
(573)424-6779

FOR: AARP. Consumers Council of  
Missouri.

1 MICHAEL A. EVANS, Attorney at Law  
2 Hammond, Shinnars, Turcotte, Larrew and Young  
3 7730 Carondelet Avenue, Suite 200  
4 St. Louis, Missouri 63105  
5 (314) 727-1015  
6 mevens@hstlv.com

7 FOR: Unions.

8 LEWIS R. MILLS, JR., Public Counsel  
9 P.O. Box 2230  
10 200 Madison Street, Suite 650  
11 Jefferson City, MO 65102-2230  
12 (573)751-4857  
13 FOR: Office of the Public Counsel  
14 and the Public.

15 KEVIN THOMPSON, General Counsel  
16 STEVEN DOTTHEIM, Chief Deputy General Counsel  
17 STEVE REED, Chief Litigation Attorney  
18 NATHAN WILLIAMS, Deputy General Counsel  
19 SARAH KLIETHERMES, Assistant General Counsel  
20 ERIC DEARMONT, Assistant General Counsel  
21 P.O. Box 360  
22 200 Madison Street  
23 Jefferson City, MO 65102  
24 (573)751-3234

25 FOR: Staff of the Missouri Public  
Service Commission.

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

2 JUDGE WOODRUFF: Good morning. Welcome  
3 back to the Ameren rate case. Anything we want to  
4 take up before we start on the next issue?

5 MR. CARLSON: Judge, if I could enter my  
6 appearance?

7 JUDGE WOODRUFF: Go right ahead.

8 MR. CARLSON: Bob Carlson for the State  
9 of Missouri.

10 JUDGE WOODRUFF: Thank you.

11 MR. BYRNE: Judge, a couple things. One  
12 is, you know, I was wondering, we've fallen a little  
13 bit behind, and for purposes of planning our  
14 witnesses and -- and -- do you expect we're going to  
15 try to catch up to Tuesday today or will we just stop  
16 at five o'clock?

17 JUDGE WOODRUFF: I think we'll probably  
18 stop at five o'clock assuming we've made reasonable  
19 progress today.

20 MR. BYRNE: Okay.

21 JUDGE WOODRUFF: I don't want to start  
22 going till 9:00 again.

23 MR. BYRNE: No, I -- I -- having sat  
24 through that last time, I'm right with you.

25 JUDGE WOODRUFF: I know we've got -- we

1     need to finish -- we'll get started on the union  
2     issue this afternoon, right, with one witness?

3                 MR. BYRNE:  Yeah, and that was the other  
4     thing I was going to ask.  Exactly where in the  
5     schedule does that union witness fall?

6                 JUDGE WOODRUFF:  Well, I believe the  
7     requirement was to get that one witness on at the end  
8     of the day today.  So wherever we're at, we'll get  
9     that witness on today.  I'm assuming that was the  
10    situation.

11                MR. BYRNE:  Yeah, I mean, it might make  
12    more -- I mean, it might make sense to have it in  
13    between, you know, if there's a gap toward the end of  
14    the day when the witness is here.

15                JUDGE WOODRUFF:  Is it Mr. Datillo that  
16    has to be done today?

17                MR. BYRNE:  Maybe if -- if he's here  
18    when we reach a break point, we ought to consider  
19    putting him on so that it doesn't, you know, break  
20    the -- break the rhythm of the issue.

21                JUDGE WOODRUFF:  Yeah.  And then  
22    off-system sales, I guess, is basically the rest of  
23    the week, isn't it?

24                MR. BYRNE:  No, not off-system sales.  
25    Rate design -- class cost of service and rate design

1 ends up being Wednesday, Thursday and Friday.

2 JUDGE WOODRUFF: That's right.

3 MR. BYRNE: Off-system sales is just  
4 today with a little overlap tomorrow. And then we  
5 have settled that Entergy issue --

6 JUDGE WOODRUFF: Right.

7 MR. BYRNE: -- so that's not going to  
8 take up any hearing time. So I guess we have a  
9 chance to make up some time.

10 JUDGE WOODRUFF: Yes. Well, we'll --  
11 we'll see how it goes.

12 MR. LOWERY: Your Honor, I wanted to  
13 correct one thing on the record, if I could.  
14 Mr. Mills noted a typo in the offers of admissions  
15 from the deposition of Ryan Kind that were filed last  
16 week. And it's the -- one, two, three -- ninth  
17 designation down in the first column which previously  
18 read "Page 86, line 1 to 4." It should have read  
19 "Page 91, line 1 to 4."

20 And I also was just going to clarify, is  
21 it your intention to take up the motion regarding the  
22 supplemental testimony just at the beginning of the  
23 off-system sales issue, when we're done with the ice  
24 storm AAO, that we would take that -- any argument up  
25 on that issue at that time?

1 JUDGE WOODRUFF: That sounds reasonable  
2 unless someone wants to take it up sooner.

3 MR. MILLS: Not sooner.

4 JUDGE WOODRUFF: Didn't think so.

5 MR. LOWERY: Thank you.

6 JUDGE WOODRUFF: Mr. Conrad?

7 MR. CONRAD: Judge, we have, in  
8 coordination with your Honor, who I believe has  
9 checked with the Commissioners, no one has indicated  
10 any -- any desire to cross-examine four of the  
11 Noranda witnesses, that being Mark Baker, Harvey  
12 Cooper, Steve Hodges and Robert Mayer. I think we  
13 had also included in that list Steve McPheeters.

14 We do, however, have a correction on  
15 McPheeters' testimony before that would go in, so I  
16 would propose, by your leave, to handle that just in  
17 the usual course when that witness would come up.

18 But I did have the copies for the  
19 reporter of Baker, which is Exhibit 750; Cooper,  
20 Exhibit 751; Steve Hodges, 752 and Mayer, 757, and  
21 would again propose, by your leave, to just give  
22 those to the reporter and move their admission.

23 JUDGE WOODRUFF: That would be fine. Do  
24 you want to do that right now?

25 MR. CONRAD: I will -- I will if that



1 is --

2 JUDGE WOODRUFF: Might as well do it  
3 now.

4 MR. CONRAD: -- acceptable with you --

5 JUDGE WOODRUFF: Sure.

6 MR. CONRAD: -- and if no one has a  
7 problem, we'll just do that now. I would move,  
8 then -- or I do move the admission of Exhibit 750,  
9 751, 752 and 757 into the record.

10 JUDGE WOODRUFF: 750, 751, 752 and 757  
11 have been offered. Any objection to their receipt?

12 (NO RESPONSE.)

13 JUDGE WOODRUFF: Hearing none, they will  
14 be received.

15 (EXHIBIT NOS. 750, 751, 752 AND 757 WERE  
16 MARKED FOR IDENTIFICATION BY THE COURT REPORTER.)

17 (EXHIBIT NOS. 750, 751, 752 AND 757 WERE  
18 RECEIVED INTO EVIDENCE AND MADE A PART OF THE  
19 RECORD.)

20 JUDGE WOODRUFF: Anything else before we  
21 get started? Mr. Dottheim.

22 MR. DOTTHEIM: Judge, on off-system  
23 sales, Michael Rahrer is here, and the Chairman  
24 yesterday indicated that he might have some  
25 questions. I don't know if later in the day -- you

1     were indicating that none of the Commissioners  
2     including the Chairman have no questions for  
3     Mr. Rahrer.

4                     JUDGE WOODRUFF: I don't know what the  
5     Chairman had planned for Mr. Rahrer, so I'll wait and  
6     see when he gets here. We'll make sure he -- he's  
7     only here today, right?

8                     MR. DOTTHEIM: Correct.

9                     JUDGE WOODRUFF: We'll make sure he gets  
10    on today.

11                    MR. DOTTHEIM: Okay. Fine. Thank you.

12                    JUDGE WOODRUFF: Okay. Thank you.  
13    Anything else?

14                    (NO RESPONSE.)

15                    JUDGE WOODRUFF: I believe we're ready  
16    to go on to the next issue, then, which is incentive  
17    compensation. And for mini openings, beginning with  
18    Ameren.

19                    MR. BYRNE: Yes, your Honor, I do.

20                    JUDGE WOODRUFF: You may proceed.

21                    MR. BYRNE: Thank you, your Honor. May  
22    it please the Commission. We are here this morning  
23    to discuss AmerenUE's incentive compensation plans  
24    and Staff's proposal to exclude almost the entire  
25    cost of those plans from rates.

1           The company's incentive compensation  
2 plans constitute about 7 percent of its total payroll  
3 expense that it paid during the test year, or about  
4 \$22 million. From a dollars-and-cents standpoint,  
5 this is the second biggest issue in this case after  
6 return on equity. Incentive compensation differs  
7 from base pay in that it rewards employees not just  
8 for showing up for work and doing work, but for  
9 achieving measurable operational, safety, customer  
10 service, reliability and cost control goals that make  
11 AmerenUE a better company and improve service to our  
12 customers in the short and long run.

13           And just as importantly, incentive  
14 compensation -- the incentive compensation program  
15 penalizes employees by withholding a portion of their  
16 market-based pay when they fail to meet those goals.  
17 Like other companies in the electric utility industry  
18 and in other industries, we have found that placing a  
19 portion of each employee's market-based pay at risk  
20 in this way motivates employees to do the very best  
21 they can to improve operations, to keep our costs low  
22 and to improve customer service. These costs are  
23 legitimate costs of doing business, and they clearly  
24 should be included in AmerenUE's rates.

25           Krista Bauer, Ameren's manager of

1 compensation and performance, provides testimony in  
2 support of the inclusion of these costs. Ms. Bauer  
3 has testified that incentive compensation plans are  
4 in widespread, in fact, almost universal use and have  
5 become necessary components of a competitive  
6 compensation package in our industry. Incentive  
7 compensation is required if AmerenUE is to attract  
8 and retain skilled workers that it needs in all areas  
9 of its business.

10 Providing a competitive compensation  
11 package to workers is particularly important today  
12 due to the impact of the aging workforce on our  
13 business. Like other utilities, AmerenUE expects to  
14 lose 50 percent of its employees due to retirement  
15 and job shifts over the next ten years.

16 The company is competing and will  
17 continue to compete with other utilities for a  
18 limited pool of engineers, accountants and skilled  
19 tradesmen such as linemen, generation technicians and  
20 welders. And payment of incentive compensation is  
21 necessary for AmerenUE to be able to attract and  
22 retain those workers in this competitive environment.

23 In fact, Ms. Bauer points out that a  
24 recent survey of AmerenUE's peer utilities shows that  
25 93 percent of them offer short-term incentive

1 compensation, and 100 percent of them offer long-term  
2 incentive compensation. The Staff, who is the only  
3 party that filed testimony in this issue, doesn't  
4 really dispute and can't really dispute Ms. Bauer's  
5 testimony that incentive compensation is required to  
6 attract and retain skilled workers. Rather, the  
7 Staff criticizes some aspect -- aspects of the design  
8 of AmerenUE's incentive compensation plans, and after  
9 a tortured analysis, agrees to include only 2 percent  
10 of the incentive compensation plan costs and rates  
11 and excludes the other 98 percent.

12           The truth is, AmerenUE's incentive  
13 compensation plans have been carefully designed with  
14 the assistance of outside compensation experts to  
15 focus workers' attention on issues that provide  
16 direct benefits to customers, such as operational  
17 efficiency, cost control, safety, reliability and  
18 customer satisfaction metrics. Key performance  
19 indicators, or KPIs, provide objective, quantifiable  
20 measures of employees' achievements of results in  
21 those areas.

22           In addition, in direct response to Staff  
23 and Commission input, AmerenUE has redesigned its  
24 short-term incentive plan to decouple payments from  
25 company earnings. Where payments under the

1 short-term incentive plans used to depend on company  
2 earnings, now they are based almost exclusively on  
3 the achievement of key performance indicators. There  
4 is simply no design flaw in the company's incentive  
5 compensation plans that would justify the Staff's  
6 proposal to disallow 98 percent of these legitimate  
7 costs from our rates.

8 I'd like to show you this overhead that  
9 I don't know if you can read it or not, probably not,  
10 but it has -- it comes out of Ms. Bauer's testimony,  
11 and it shows the different types of incentive  
12 compensation plans we have.

13 The top group, the top four are all  
14 short-term incentive compensation plans. The top  
15 line is officers which we are not requesting be  
16 included in our rates. We've excluded that. But the  
17 other -- the other three or four top boxes are all  
18 short-term incentive plans which are based basically  
19 on key performance indicators and very little on the  
20 company's financial performance.

21 The second box is long-term incentive --  
22 and -- oh, the short-term incentive plans are about  
23 \$13.3 million of the \$22 million that's at issue, so  
24 more than half of the dollars are involved in the  
25 short-term incentive plans that have key performance

1 indicators.

2                   The second set of boxes are long-term  
3 incentive plans, and the dollar impact of those is  
4 about \$7 million. Similar to the long-term incentive  
5 programs of other utilities, these programs are based  
6 on financial metrics. I believe it's total  
7 shareholder return over a period of time.

8                   We believe that over the long term,  
9 achieving earnings metrics benefits both shareholders  
10 and customers by focusing employees on cost control  
11 and creating a financially healthy utility that can  
12 borrow money that it needs at a reasonable cost.

13                  And finally, the last box is what we  
14 call our exceptional performance bonus plan. It's  
15 only \$850,000 which is a small part of the pie. And  
16 this program provides a one-time bonus for employees  
17 who perform exceptionally.

18                  An example of an exceptional performance  
19 bonus would be a supervisor who is not eligible for  
20 overtime who performs exceptionally during a 16-hour  
21 shift in the course of a storm restoration. We think  
22 that such exceptional performances merit reward, and  
23 again, we believe these are legitimate costs of doing  
24 business which should not be disallowed.

25                  With their adjustment, the Staff is

1 proposing to exclude from the company's cost of  
2 service about 7 percent of the payroll costs that  
3 were actually paid to our union and nonunion  
4 employees during the test year. These payments, as a  
5 component of the total compensation package, keep our  
6 employees' compensation at market levels, and again,  
7 they're necessary for us to attract and retain  
8 employees we need in a difficult market.

9 Our programs are well designed to focus  
10 employees' efforts in areas that they can control and  
11 that will benefit customers. Under these  
12 circumstances, the Staff's proposed disallowance  
13 should be rejected. Thank you.

14 JUDGE WOODRUFF: Thank you. And for  
15 Staff?

16 MS. KLIETHERMES: Good morning. As the  
17 Commission is aware, the Commission is not in the  
18 business of managing utilities. The Commission does,  
19 however, have the responsibility to regulate  
20 investor-owned utilities and to establish cost-based  
21 rates for the tariff service of those utilities.

22 Staff is not forbidding AmerenUE's offer  
23 of incentives to its employees. Staff is not  
24 prohibiting AmerenUE from incenting its employees to  
25 inure benefits to the Ameren Corporation. However,



1 Staff cannot recommend for inclusion in Missouri  
2 ratepayers' rates that compensation that does not  
3 benefit Missouri ratepayers.

4               In its calculation of AmerenUE's cost of  
5 providing service to its ratepayers, Staff disallowed  
6 incentive compensation payments tied to earnings per  
7 share, financial performance measures and for  
8 performance measures that do not require improvement.  
9 Staff has disallowed payments related to performance  
10 below established targets. Staff has disallowed  
11 payments under the exceptional performance benefit  
12 plan because that plan lacks specific requirements or  
13 targets -- or targets that mandate improved  
14 performance.

15               Staff also disallowed payouts under the  
16 restricted stock compensation and performance share  
17 unit plans from cost of service. Those plans are  
18 related to the total financial performance of all of  
19 the Ameren companies, not just AmerenUE, and do not  
20 focus on Missouri-specific results or  
21 service-oriented goals.

22               Staff has included \$526,802 in rates  
23 related to the incentive compensation and  
24 restricted -- and restricted stock compensation  
25 performance sharing unit plans issue.

1                   Staff does not -- pardon. Staff makes  
2 these disallowances not because AmerenUE shouldn't be  
3 able to manage its company, but, rather, because  
4 ratepayers should not be required to finance  
5 incentive programs that do not benefit ratepayers.  
6 This is not the Staff or the Commission managing the  
7 utility. This is the Staff proposing an adjustment  
8 that the Staff routinely makes and that the  
9 Commission routinely adopts. Jerry -- pardon.  
10 Jeremy Hagemeyer, Staff's witness on these matters,  
11 is available to answer any questions. Thank you.

12                   JUDGE WOODRUFF: Any other party wish to  
13 make an opening?

14                   (NO RESPONSE.)

15                   JUDGE WOODRUFF: Okay. We'll move on to  
16 the first witness, then, which I believe is  
17 Ms. Bauer.

18                   (EXHIBIT NO. 25 WAS MARKED FOR  
19 IDENTIFICATION BY THE COURT REPORTER.)

20                   (The witness was sworn.)

21 DIRECT EXAMINATION BY MR. BYRNE:

22           Q.       Ms. Bauer, could you please state your  
23 name and business address for the record.

24           A.       Yes. My name is Krista Bauer, and my  
25 address is 1901 Chouteau Avenue, St. Louis, Missouri.

1 Q. And by whom are you employed?

2 A. I'm employed by Ameren Services Company.

3 Q. And are you the same Krista Bauer who  
4 caused to be filed in this case rebuttal testimony  
5 that's been marked as Exhibit 25?

6 A. Yes, I am.

7 Q. And do you have any corrections to that  
8 prefiled testimony?

9 A. I do not.

10 Q. Okay. And is the information contained  
11 in that prefiled testimony true and correct to the  
12 best of your knowledge and belief?

13 A. Yes, it is.

14 Q. And if I was to ask you the questions  
15 contained in that prefiled testimony here today when  
16 you're under oath, would your answers be the same?

17 A. Yes.

18 MR. BYRNE: I would offer Exhibit 25 and  
19 I would tender Ms. Bauer for cross-examination.

20 JUDGE WOODRUFF: Exhibit 25 has been  
21 offered. Any objections to its receipt?

22 (NO RESPONSE.)

23 JUDGE WOODRUFF: Hearing none, it will  
24 be received.

25 (EXHIBIT NO. 25 WAS RECEIVED INTO

1 EVIDENCE AND MADE A PART OF THE RECORD.)

2 JUDGE WOODRUFF: Cross-examination, we  
3 begin with Noranda.

4 CROSS-EXAMINATION BY MR. CONRAD:

5 Q. Good morning, Ms. Bauer.

6 A. Good morning.

7 Q. Just a couple of quick things. If you  
8 would look, please, at your rebuttal testimony. I  
9 believe it's been marked and admitted now as 25. And  
10 I wanted to focus just briefly on page 3. Let me  
11 know when you're there.

12 A. I'm there.

13 Q. Okay. Great. You've identified there  
14 four reasons characterized as specific reasons why  
15 Staff's recommendation should be rejected; am I  
16 correct?

17 A. Correct.

18 Q. The second one is kind of the one I  
19 wanted to focus on, lines 10 through 14. If I'm  
20 reading it correctly, it's the idea that you feel  
21 that you have to have a competitive package in order  
22 to attract and replace -- I don't like the term  
23 "aging workforce," but -- you know, like Johnny  
24 Carson used to say, "Don't say aging to an old  
25 person" -- but it's -- it's a replacement issue; am I

1 correct?

2 A. That's correct.

3 Q. Now, the way that that is packaged when  
4 you offer someone a position, do you package it to  
5 them as a total package or do you package it to them  
6 as such and such a percentage of the number, a  
7 portion of which is dependent on performance?

8 A. When we're making an offer of employment  
9 to someone, we try to create a very comprehensive  
10 package, so we talk about their base pay, their  
11 incentive opportunity, and usually we represent a  
12 percentage of base. And then we talk about benefits  
13 as well so that they understand the full package  
14 they've received if they join our organization.

15 Q. Okay. So it's the -- it's the full  
16 package that you're -- that you're really using to  
17 attract them; am I correct?

18 A. Absolutely, yes.

19 Q. Now, let's -- let's take that thought  
20 and work with it just for a moment. Why, then --  
21 well, let me strike that. You could achieve that  
22 same total package, could you not, by just saying to  
23 them, here's the number that represents 100 percent  
24 of what we're going to pay you, correct?

25 A. Can you clarify your question?

1           Q.       Well, sure. Let's just take an example.  
2 I don't know what they're -- they're being paid, but  
3 let's just say that somebody is -- is interested in a  
4 position and the total package is, let's say,  
5 \$75,000. That's what they're looking at is the  
6 75,000, right?

7           A.       Correct, though I think our candidates  
8 would have many questions about how that's broken  
9 out. They do today.

10          Q.       Okay. Well, but let's just say that  
11 it's broken out in 12 monthly checks --

12          A.       Okay.

13          Q.       -- complete with deductions and all of  
14 that and that you've talked to them about health and  
15 welfare and any of the opportunities they might have  
16 to deal with 401(k)s -- 401(k)s today, right?

17          A.       So you're saying you'd give them a  
18 number that's basically a base pay number?

19          Q.       Uh-huh.

20          A.       And that you're telling them how it  
21 would be broken out on a monthly basis?

22          Q.       Right. That you just -- you just pay  
23 them that -- one-twelfth of that every month for a  
24 year.

25          A.       Certainly, you could do that. I think

1     that it would cause many concerns.

2           Q.       And that would address, were you to do  
3     that, they would -- I take it from your earlier  
4     testimony, that would be the number that they would  
5     then use to look at their total package because that  
6     would be their total package, right?

7           A.       Yes.  Again, I expect that they'd have  
8     many questions about how that is broken out.  Our  
9     candidates have become much more interested in  
10    understanding all of the aspects of that package.  
11    High-performing employees are very interested in  
12    understanding their incentive opportunity and what  
13    they need to do to achieve that opportunity.

14                    So it's very different than it used to  
15    be where people were looking for one number.  Now  
16    they want to understand what's the number associated  
17    with benefits, what's the number associated with  
18    incentive compensation.

19           Q.       Well, but let's just -- again, my  
20    example is, at least for this purpose, ruling off the  
21    table what you're characterizing as incentive  
22    compensation.

23           A.       Okay.

24           Q.       And we're just -- we're not putting that  
25    on some kind of a condition.  We're just saying, here

1 it is --

2 A. Uh-huh.

3 Q. -- this is your total package. And  
4 would you agree with me that that's what they would  
5 look at, then, because that's what you're -- that's  
6 what you're offering?

7 A. I would agree with you that that is one  
8 approach that a company could use, yes.

9 Q. And that would, if that was set at the  
10 right number -- I don't know if 75,000 would be right  
11 for everybody -- but that would be a way to address  
12 meeting a competitive employment market, right?

13 A. I don't know. Again, I feel like our  
14 candidates want incentive compensation.

15 Q. Just work with me a little bit. If that  
16 would -- if they're looking at the total package  
17 which was what you told me they were looking at  
18 before, if you just put that total package in a  
19 package and said, we're going to pay you this amount,  
20 one-twelfth every month or one-twenty-fourth every  
21 two -- every couple weeks or whatever, that would be  
22 their total package that they'd look at, right?

23 A. If that was your approach, yes.

24 Q. Yeah. And they -- they would compare  
25 that with other jobs in the region or other utilities



1 or whatever they were comparing it with and make  
2 their decision based on that?

3 A. Correct.

4 Q. All right. Now, how much -- I got a  
5 little bit confused from counsel's opening, so help  
6 me out here a little bit and correct me if we need to  
7 be. He indicated that Staff's proposed disallowance  
8 would address 7 percent of the total compensation  
9 package for the company?

10 A. Correct.

11 Q. So would I -- but then there was a  
12 number that I -- and I may have misheard him, but  
13 there was something like 97 percent that was also  
14 thrown out and 2 percent total or something. So I  
15 got confused with all those numbers.

16 Are we talking here about 7 percent  
17 incentive? In other words, the pay packages that  
18 you're offering -- and I'm sure everyone's different,  
19 but on -- but on the average, they're -- they're  
20 7 percent of what the compensation would be?

21 A. Yeah, incentive compensation is  
22 7 percent of the total payroll.

23 Q. As -- as defined?

24 A. And the -- and the targets for  
25 individuals and individual jobs vary based on market.

1           Q.       Sure. I think I understand that. Well,  
2 now, what was this -- did you -- did you hear him  
3 make reference to a 97 percent number?

4           A.       I'd have to look at the exact number,  
5 but -- but basically, only about 2 percent of our  
6 costs are being allowed currently, so the majority of  
7 our costs are being disallowed.

8           Q.       Okay. Maybe that's what's got me  
9 confused because Staff disallowance -- and I'm really  
10 trying to understand it -- you're saying is  
11 7 percent?

12          A.       Of total payroll.

13          Q.       But only 2 percent is being allowed?

14          A.       Of the portion that is incentive  
15 compensation.

16          Q.       Oh, okay. Of the -- 2 percent of the  
17 7 percent?

18          A.       Correct.

19          Q.       Gotcha. That -- that helps at least  
20 clarify a little bit in my mind. So can you tell me  
21 in -- I know we've got the -- the deal here, but can  
22 you tell me ball park numbers how much -- how much  
23 we're talking about?

24          A.       Yes. Incentive compensation is about a  
25 \$22 million issue, short-term incentive compensation

1 is about a \$13.3 million issue.

2 Q. And that's the number that they're  
3 focused on; is that correct?

4 A. They're focused on the 22, correct.

5 Q. The 22?

6 A. Yes.

7 Q. Okay. Because there's a different  
8 number on what we call the reconciliation.

9 A. Okay.

10 Q. I don't know if you -- it's -- it looks  
11 something in the range of 13.7. Does that ring a  
12 bell?

13 A. That is the short-term piece, though we  
14 have a number of 13.3, so I'd have to see the 13.7.

15 Q. Now, going back to my example, just tell  
16 me briefly in your own words why offering an employee  
17 a total package that says here's your total package --  
18 in other words, we're talking about dividing by 12 or  
19 24 or something and not having any incentive. Why  
20 would that not work from the company's perspective?

21 A. From my perspective, I'd have concerns  
22 about our ability to motivate employees to achieve  
23 the goals that we want them to achieve.

24 So just as an illustration, if you bring  
25 two employees into the company and then one of them

1    you say, you're going to make \$60,000 a year and then  
2    here's some goals we'd like you to achieve, you know,  
3    please work towards those; you bring another employee  
4    into the company and you say, okay, here's your base  
5    compensation and there's an opportunity to earn some  
6    additional dollars, but to do that, you have to  
7    achieve these very specific goals, we're going to  
8    tell you about them, we're going to track your  
9    progress towards them, and if you achieve them,  
10   you're going to reach them, I think that there is one  
11   employee who clearly has a stronger incentive to  
12   pursue those goals.

13                   And so we think it is a better, more  
14   prudent compensation philosophy and approach.  
15   Certainly you could guarantee the pay, but that isn't  
16   maybe the most prudent way to manage compensation.

17           Q.       So if I'm understanding your thought  
18   process, in your view, it would not be a situation  
19   where an employee that was -- that was compensated  
20   the way I had hypothesized to you, they wouldn't  
21   consider it, in your view, enough of an incentive  
22   just to get that paycheck to do -- to do a good job  
23   for the shareholders, the ratepayers, their managers,  
24   whoever?

25           A.       I think good goal-setting theory tells

1 us that when you set very clear, specific,  
2 measurable -- measurable goals for employees, that  
3 they're more likely to pursue those goals. So it's  
4 not that people don't want to come in and do a good  
5 job, it's just that they have a very clear incentive  
6 and reason to do so. It creates a strong focus for  
7 the employees.

8 Q. So if I'm understanding your testimony  
9 today, it -- it focuses their attention on the  
10 objective that you want?

11 A. Yes.

12 Q. And that's, I take it, the idea behind  
13 what you've shorthanded as KPIs, or key performance  
14 indicators, right?

15 A. Yes.

16 Q. Because you can tailor those and  
17 custom -- customize those to the very specific things  
18 that you want people to be attentive to and focused  
19 on, right?

20 A. Absolutely.

21 Q. Now, one -- one last area that I wanted  
22 to pursue with you. Let's go back to the real world  
23 for a moment and we'll kind of forget about my hypo  
24 for just a second.

25 If an employee is -- is presented with a

1 package that included some incentive compensation, if  
2 he or she is presented with a compensation package  
3 that has some of that incentive in it and you move --  
4 and they accept the position and you move on through  
5 the pay period, the year, whatever that may be, and  
6 they don't receive that compensation, that incentive  
7 compensation for whatever reason, let's say that, do  
8 they get a chance to get that back?

9 A. When the year begins over, they have the  
10 chance to re-earn it. And so again, they -- I mean,  
11 in a good compensation structure, there's going to be  
12 a lot of communication about that. There are --  
13 there are many metrics. So hopefully, you achieved  
14 some if you didn't achieve them all, and so there is  
15 the motivation there. And again, there's good  
16 communication around what do we need to do next year  
17 to kind of pursue that.

18 Q. Now, let me -- let me get this -- help  
19 me again get this clear. We're talking about two  
20 years, and that's -- we'll assume that's the  
21 evaluation period. Year one, employee falls short of  
22 whatever those KPI things are, so they do not get  
23 whatever incentive is associated with the unmet KPIs?  
24 Are you with me so far?

25 A. That's correct.

1           Q.       Okay. Now we're -- we're past the 12/31  
2 marker and we're into year two and they do really  
3 good. They -- they got the message.

4           A.       Yep.

5           Q.       Right? Okay. Do they get a chance to  
6 go back and get any of that that was -- that was lost  
7 in year one?

8           A.       No, not that was lost in year one, but  
9 they do have the chance to earn higher rewards in  
10 year two.

11          Q.       By doing -- by doing better?

12          A.       Correct.

13          Q.       Or meeting the -- over-meeting or --

14          A.       Right. So our goals, our threshold  
15 targets and maximum levels, if they did really great  
16 one year, they could achieve more than target.

17          Q.       Okay.

18          A.       And if they did poor in another year,  
19 there may be some goals for which they don't achieve  
20 any payout.

21          Q.       So that -- so that amount that they  
22 didn't qualify for back in my hypothetical year one,  
23 that's -- that's gone? They might overdo something  
24 in year two or year three and at least in their mind  
25 make up the difference?

1           A.       Correct.

2           Q.       But the specific dollars that were  
3 associated and weren't awarded back in year one were  
4 gone?

5           A.       Correct. It wouldn't be an incentive if  
6 they just wound up receiving it anyways.

7           Q.       So your testimony, to kind of sum things  
8 up, is incentives do work?

9           A.       Yes.

10                   MR. CONRAD: Okay. Thank you, ma'am.

11                   JUDGE WOODRUFF: Cross from the State?

12 CROSS-EXAMINATION BY MR. IVESON:

13           Q.       Just for clarification of the numbers,  
14 because I got -- some of them were clarified by  
15 Mr. Conrad's questions, but there was one that I'm a  
16 little more confused about. The 7 percent, that's --  
17 that's 7 percent of total compensation, correct?

18           A.       Correct. Base pay, incentive pay.

19           Q.       The 2 percent that you referred to, is  
20 that 2 percent of total compensation or is it  
21 2 percent of all deferred -- or all incentive  
22 compensation?

23           A.       Two percent of all incentive  
24 compensation.

25           Q.       So somewhere in the neighborhood of six,



1     \$800,000, roughly?

2             A.       I think it was four -- four-plus  
3     thousand that was being recommended to be allowed at  
4     this point. I don't have the exact number in front  
5     of me, but...

6             MR. IVESON: Okay. That's all. Thank  
7     you.

8             THE WITNESS: 400,000. Sorry.

9             JUDGE WOODRUFF: Public Counsel?

10            MR. MILLS: No questions.

11            JUDGE WOODRUFF: Staff?

12     CROSS-EXAMINATION BY MS. KLIETHERMES:

13            Q.       Good morning.

14            A.       Good morning.

15            Q.       Has -- has AmerenUE done a study to  
16     determine the level of cost savings derived from its  
17     incentive plans?

18            A.       We have not done a formal study, no.

19            Q.       Has the company ever calculated if the  
20     benefits of the incentive plans that AmerenUE offers  
21     exceed the cost of offering those plans?

22            A.       Doing a rigorous study that would show  
23     cause and effect is actually very costly in and of  
24     itself, but there is a entire body of literature  
25     regarding incentive compensation and its

1 effectiveness.

2 Q. But the company's never done any -- any  
3 specific studies on its own?

4 A. We have not done any specific study.

5 Q. Okay. Has the company ever calculated  
6 if the benefits of offering incentive payouts for  
7 performance less than the stretch goal targets create  
8 any benefits?

9 A. Again, we haven't done any specific  
10 study, but our plans are designed based on -- on --  
11 on the literature that does exist. And our targets  
12 are really stretch goals, but our thresholds  
13 represent continuous improvement towards a goal.  
14 So -- so they are representing improvement, I think,  
15 that there might be an assumption that a threshold  
16 means that performance wasn't achieved but, in fact,  
17 it's progress, it's -- it's improvement.

18 Q. Is it your belief that workers have a  
19 responsibility as part of their base compensation to  
20 continue to strive to improve their performance?

21 A. Certainly.

22 Q. And does AmerenUE hire incompetent  
23 people?

24 A. No, we do not.

25 Q. Are you familiar with AmerenUE's

1 responses to Staff data request 50.4?

2 A. Yes.

3 Q. And was there a response that was  
4 received after the initial response that was  
5 denominated, I believe, response 50.4 supplemental?

6 A. Yes.

7 Q. Or something along those lines?

8 A. Yes.

9 Q. Which of those responses -- oh, do  
10 those -- which -- which of those responses contains  
11 the most current information regarding the plan  
12 AmerenUE currently offers?

13 A. The plan we currently offer or the plan  
14 in effect during the test year?

15 Q. Currently offered.

16 A. The 2008 plans were changed, so the  
17 initial response was based on the 2008 plans  
18 year-to-date but doesn't reflect final numbers or  
19 payouts. And the supplemental response was based on  
20 the 2007 plans that were in effect during the test  
21 year and does reflect actual data that was paid out.

22 Q. If we could take a moment to talk  
23 about -- I believe it's the 2008 plan. If you could  
24 tell me if I properly understand this. There's what  
25 AmerenUE defines as target and that's equivalent to

1 100 percent achievement of KPI performance and is  
2 also termed a stretch goal. Is that a correct  
3 description?

4 A. Yes.

5 Q. And is there also a level referred to as  
6 maximum, and that's equal to 150 percent of  
7 performance of the KPIs?

8 A. Correct.

9 Q. And there's also a level called  
10 threshold, correct?

11 A. Yes.

12 Q. And what level of performance of KPIs is  
13 that term equivalent to?

14 A. Threshold represents improvement, so  
15 continuous improvement. But, of course, there are  
16 levels beyond that that we'd like to achieve. And so  
17 we do interpret like between all their levels as  
18 well. And our goal is, you know, if somebody would,  
19 for example, miss target early in the year --

20 Q. Well, if we could go back to my  
21 question.

22 A. Okay.

23 Q. I believe you may have misunderstood me.

24 A. Okay.

25 Q. Or I may have inadequately conveyed my

1 question. If -- if target equals 100 percent and  
2 maximum equals 150 percent, what does threshold  
3 equal?

4 A. 50 percent.

5 Q. All right. Do employees who don't meet  
6 threshold get fired?

7 A. They're group goals, so, no, we wouldn't  
8 fire a whole group of employees who miss a goal.

9 Q. Could you explain to me what you mean by  
10 "group goals"?

11 A. KPIs generally apply to a group of  
12 employees, not to one employee individual. So our  
13 plan takes into account both team-oriented goals as  
14 well as individual performance, and both play a part  
15 in our plan design. But the KPIs tend to focus on an  
16 entire department or function of people who are  
17 working together to achieve some results.

18 Q. So then AmerenUE bases those payouts on  
19 the performance of the total group and not of a  
20 specific individual in the group?

21 A. Both are combined into the plan, so the  
22 plans are now funded based on the key performance  
23 indicator, so what -- what did the team achieve. And  
24 then there is a component where the leader determines  
25 how did that individual contribute to the overall

1 performance, because in some cases, you could have  
2 somebody who was amazing and really leading that  
3 whole process or you could have somebody who wasn't,  
4 and they could adjust for that performance.

5 Q. So if one individual didn't perform up  
6 to the threshold level, but everyone else in the  
7 group performed spectacularly, would that individual  
8 who didn't meet threshold receive compensation based  
9 on the group's performance?

10 A. If the team met their KPI and are going  
11 to receive payout, there was a funding mechanism  
12 there. The supervisor would have the ability if the  
13 person was not performing to reduce the payout for  
14 that one particular individual to zero or any  
15 deviation between zero and what level was achieved.  
16 So it can be adjusted for their individual  
17 performance.

18 Q. But if the -- the group component of  
19 that, if an individual didn't meet threshold, the  
20 individual would still receive the group component of  
21 the payout assuming the group received a payout?

22 A. Under the new plans, no. So that  
23 wouldn't have to be the case. So for example, how we  
24 calculate it is we take the person's base salary  
25 times their incentive target, gives us a number. We

1 multiply that by the KPI performance, gives us what  
2 we call a core award which is the -- the amount of  
3 money that person would receive prior to adjusting  
4 for performance.

5 But if we look at that number and we  
6 say, gosh, you know, that person did not contribute  
7 and, in fact, maybe took away from this, we could  
8 reduce that payout to zero.

9 And on the other hand, if somebody just  
10 did a stellar job and really made a big difference,  
11 theirs could be increased. So there's what we call a  
12 performance multiplier on the end of that where we  
13 can increase or decrease pay by 50 percent. And of  
14 course, all of that has to balance to a -- to a  
15 budget.

16 Q. So let's go the other direction, then,  
17 and let's say we have an amazing employee, above and  
18 beyond any possible expectation and everyone else in  
19 the group is downright terrible.

20 A. I would hope that wouldn't be the case,  
21 but okay.

22 Q. I think we all would. But in that  
23 situation, is there any way that that stellar  
24 employee would receive their KPI payout?

25 A. If -- if the -- if the KPI isn't

1     achieved at threshold, then none of them are and  
2     there's no award to be made, then -- then no. But  
3     if -- if at least threshold performance or better is  
4     achieved on some of those goals, then there's a core  
5     award and then that amount could be -- could be  
6     increased for the contributions of that particular  
7     employee.

8             Q.       But absent everyone else meeting  
9     threshold, that stellar employee is having a bad  
10    Christmas, huh?

11            A.       That's correct. But every -- every,  
12    what we call a scorecard includes probably four or  
13    five, six KPIs, so it's unlikely that all of them  
14    would be achieved at a zero level. So it's pretty  
15    unlikely that anybody's going to receive zero percent  
16    payout, though, you know, it's in the realm of  
17    possibility.

18            Q.       So if there's -- what you're saying is  
19    that there's several KPIs for each group and that  
20    more likely than not will get some payouts basically  
21    no matter what as long as they're doing their job in  
22    a workmanlike manner as they like to say?

23            A.       We would hope if we've established five  
24    or six KPIs and they're really focused on them and  
25    they're all striving towards them, that -- yeah, that



1 they don't miss them all. So I would suspect that if  
2 people are focusing their efforts and attention  
3 there, they're going to achieve some of them. And  
4 it's not just because they're showing up, it's  
5 because they care about their goals and they know  
6 what they are and they're focused on them.

7 Q. And you'll have to help me out here.  
8 I'm kind of looking at some alphabet soup, but does  
9 "AIP" mean something to you?

10 A. It's the Ameren incentive plan. It's  
11 the plan that applies to our bargaining unit  
12 employees.

13 Q. And does EIP-management, I believe it  
14 says --

15 A. There are two executive incentive plans  
16 which are the EIP plans. One is for officers, which  
17 we're not asking for recovery, and the other is for  
18 managers and directors, so EIP-M.

19 Q. Okay. And the AMIP. Can you tell me  
20 what that means?

21 A. That's the Ameren management incentive  
22 plan that applies to all professionals and  
23 supervisors, so it is nonexecutives and nonunion  
24 employees.

25 Q. Now, let's -- let's throw out the

1 officers' plan because you're not seeking recovery  
2 for that one. Now, under the rest of those plans,  
3 did I -- did I hear you say earlier that Ameren --  
4 AmerenUE pays out incentive compensation under those  
5 plans for performance less than target?

6 A. Less than target?

7 Q. Yes.

8 A. No. Oh, less than target, yes, yes,  
9 above threshold.

10 Q. Okay. And I believe you said this  
11 earlier, that Ameren measures that KPI performance at  
12 the group level, correct?

13 A. Correct.

14 Q. So that group level, less than target,  
15 above threshold, that's what we're fighting about  
16 here today, correct, to your knowledge?

17 A. I believe that's one of the primary  
18 issues of contention, yes.

19 Q. Okay. So -- so AmerenUE, then, is  
20 seeking recovery of payments made at a group level  
21 where it is less than target performance but meeting  
22 the threshold?

23 A. Absolutely, because performance could be  
24 at any level between threshold and target. So for  
25 example, someone could achieve 98 percent of target

1    which means they did a really great job, and you want  
2    to reward every increment of performance.  So you  
3    know, just to illustrate that, if a group of people  
4    maybe missed a target early in the year, you wouldn't  
5    want them to just start striving -- stop striving for  
6    every bit of performance that they could achieve.  
7    You want them to keep working as hard as they can and  
8    make as much progress as they can.

9                   And again, threshold represents  
10   continuous improvement, so it isn't that they didn't  
11   do something good, it's just we're not going to  
12   reward it at quite the same level as if they hit  
13   target or if they hit maximum.  So it's still good.  
14   And -- and we want to, again, reward every increment  
15   of performance between threshold and target as well.

16           Q.       But not necessarily discipline those  
17   below threshold?

18           A.       There are many reasons the group might  
19   not achieve threshold, and it may not be an issue  
20   associated with discipline, no.

21                   MS. KLIETHERMES:  Thank you.  You've  
22   been very patient today.

23                   JUDGE WOODRUFF:  All right.  We'll come  
24   up for questions from the Bench, then.  Commissioner  
25   Murray, do you have any questions?

1 COMMISSIONER MURRAY: No questions.

2 Thank you.

3 JUDGE WOODRUFF: Commissioner Jarrett?

4 COMMISSIONER JARRETT: I have no

5 questions. Thank you.

6 JUDGE WOODRUFF: Commission Gunn?

7 QUESTIONS BY COMMISSIONER GUNN:

8 Q. Well, I'd love to talk to you about the  
9 Shrewsbury substation, but I won't.

10 I have two quick questions. When you  
11 talk about your packages being competitive, do you --  
12 are you looking at comparable utilities or are you  
13 looking at comparable corporations?

14 A. We are generally looking at comparable  
15 utilities, though we certainly looked at other  
16 organizations as well.

17 Q. All right. And is that -- is that the  
18 same with the employee pool that you're pulling out  
19 of, you feel you have to be competitive with -- or  
20 mostly competitive with other utilities rather than  
21 corporations as a -- as a general, say?

22 A. Correct.

23 COMMISSIONER GUNN: Okay. Thank you.

24 That's all I have in questions.

25 JUDGE WOODRUFF: Chairman Davis?

1 QUESTIONS BY CHAIRMAN DAVIS:

2 Q. Good morning. Going back to  
3 Mr. Conrad's line of questioning, back during the  
4 last rate case, there was some talk about incentive  
5 compensation after the ice storms, and I guess at  
6 that time everything was tied to the company's  
7 financial performance.

8 And then because financial -- you know,  
9 because basically, there was -- it was an  
10 impossibility to meet those metrics, everybody got  
11 their bonus anyway. Is that a fair statement or was  
12 it just management that got their bonus?

13 A. They -- at the time, they were funded  
14 based on their earnings per share --

15 Q. Uh-huh.

16 A. -- and based on the way the plans were  
17 structured, the bargaining unit employees did not  
18 reach the level of performance necessary to fund  
19 their plans. So in 2006 there wasn't a payout under  
20 the bargaining unit plan, but the AMIP and the EIP  
21 both had payouts associated with them.

22 Q. Right. But didn't Ameren have to change  
23 some things in order to make that payout?

24 A. No. I mean, nothing -- nothing out of  
25 the ordinary. Every year we would look at if there

1    were any unusual events that required adjustments to  
2    earnings per share, so, for example, uncontrollable  
3    storms. And the board of directors would have the  
4    ability to make those adjustments. But they do that  
5    every single year. It's -- it's not something that  
6    was unique to that particular calendar year.

7           Q.       Okay. And so explain to me -- and I  
8    think Mr. Conrad asked this question, but I want to  
9    go ahead and ask it again. Explain to me why you  
10   just don't offer people a salary and put it in rates  
11   and say, you know, these are your expectations, and  
12   if you don't meet these expectations, you're going to  
13   be fired.

14          A.       There's a couple of reasons we don't do  
15   that. One, I think it's a very -- it's more prudent  
16   and efficient to manage compensation with a component  
17   based on base and a component based on incentives  
18   because we're not automatically guaranteeing our  
19   employees the pay if they don't achieve certain  
20   goals.

21                 So this -- so this allows us to focus  
22   our employees on goals. And you'll find that our  
23   KPIs are focused on our customers, so it allows us to  
24   focus on customer-oriented goals and they have to  
25   achieve that to earn it.

1                   So -- so if they -- if they aren't  
2 performing, then we're not spending those extra  
3 dollars. It's a great way to manage labor costs,  
4 it's very important for being competitive in our  
5 industry. When we have employees come to our  
6 company, they are asking about incentive  
7 compensation, they're asking about benefits, they're  
8 asking about base pay.

9                   And if you just roll it in, you know,  
10 certainly you might attract some folks to the  
11 company, I'm not saying we couldn't attract anyone.  
12 What I'm saying is, they're looking for each  
13 component of the package. They really do want to  
14 see. Especially high-performing employees want to  
15 see the opportunity to earn through incentives.

16           Q.       Now, you said "managing labor costs." I  
17 mean, when -- when is the last year that management  
18 employees didn't get a bonus?

19           A.       Payout levels have varied over the  
20 years.

21           Q.       All right.

22           A.       But in general, we have paid them in  
23 most of the previous years. I'd have to go back and  
24 look to confirm, but...

25           Q.       Okay.

1           A.       But payout levels vary, again, based on  
2 performance.

3           Q.       Okay. Well, what's -- what's the --  
4 what's the lowest payout level that you can remember  
5 for management?

6           A.       There was a 60 percent funding of the  
7 plan in 2006. And again, I'd have to confirm that,  
8 but that is -- that's my recollection.

9           Q.       Okay. So 60 percent funding of the plan  
10 is the lowest that you can remember?

11          A.       Correct.

12          Q.       And can you refresh for my recollection  
13 how many years you've worked for Ameren again?

14          A.       11.

15          Q.       11. Okay. And I believe you -- you  
16 heard Mr. Byrne's opening statement, did you not?

17          A.       Yes.

18          Q.       Okay. And I believe Mr. Byrne said that  
19 you were going to lose 50 percent of your employees  
20 in the next ten years due to either retirement or  
21 people moving on; is that a fair statement?

22          A.       That's what our forecasts show, yes.

23          Q.       That's -- that's what your forecasts  
24 show. How many of those employees are actually  
25 retiring, what percentage of that 50 percent?



1           A.       I would say the large majority of them  
2 we would be losing due to retirement.

3           Q.       When management employees go to work for  
4 a utility, they don't normally leave, do they?

5           A.       I -- I think what was normal and what is  
6 today are -- is kind of beginning to evolve, but that  
7 said, we do have a long-tenured workforce, if  
8 that's -- if that's responsive to your question.

9           Q.       So you haven't lost your -- have any key  
10 Ameren personnel left in the last year?

11          A.       Absolutely, yeah.

12          Q.       Okay. Name them.

13          A.       We are more challenged than ever.

14          Q.       Name them.

15          A.       Oh, my gosh. Well, I -- we're dealing  
16 with this issue all the time, so there are numerous  
17 employees who have left the organization.

18          Q.       Okay. But -- okay. And Gary Rainwater  
19 is still there, Warner Baxter is still there, Richard  
20 Mark's already been in here, Steve Sullivan's still  
21 there, like --

22          A.       I guess it just --

23          Q.       Who is the -- like who is the senior  
24 most titled employee that has left in the last year?

25          A.       We've lost several managers.

1 Q. Okay. Now, what is a manager?

2 A. A manager is our first-level executive  
3 position in our organization.

4 Q. Okay.

5 A. So it would -- is a person responsible  
6 for leading generally a department or function.

7 Q. Okay. So -- and those first-level  
8 managers, do they retire or do they go to work for  
9 other utilities?

10 A. They either go to work for other  
11 energy-related businesses or other companies.

12 Q. Okay.

13 A. And I'm sure -- I mean, obviously, I'm  
14 thinking of the people who didn't retire. I mean,  
15 retire -- retire is kind of a natural progression,  
16 but -- but I'm, you know, concerned that we're also  
17 seeing retention issues associated with people who  
18 are not retiring.

19 Q. Okay. And so what percentage of this  
20 incentive compensation goes to the managers?

21 A. It varies by position, but the majority  
22 of them have an incentive target of 20 percent which,  
23 again, that's industry practice that's based on the  
24 rule.

25 Q. Okay. Industry practice. And industry

1 practice of 20 -- I mean, what does that equate --  
2 how many managers are there?

3 A. There are -- there are about 225 what I  
4 would call ALT, Ameren -- Ameren leadership team  
5 managers which include managers, directors and  
6 officers.

7 Q. Okay.

8 A. And about 45 of those folks are  
9 officers, so...

10 Q. Okay. So roughly 180 managers?

11 A. Yes, correct.

12 Q. And so how many -- how many managers  
13 would you estimate that you've lost in the last year?

14 A. I'm going to get my numbers confused  
15 here. And I can certainly follow with this data, but  
16 I was thinking just this year we had lost four or  
17 five by midyear. I had done some analysis on  
18 turnover, and I believe we had lost four or five by  
19 midyear which doesn't sound like a ton, but if you --  
20 if you look at our history, we never used to lose  
21 any -- any manager-level employees.

22 Q. Okay. And so you've gone from zero to  
23 roughly four or five?

24 A. It's a handful, and -- yeah, and we're  
25 having -- we're having more retention challenges and

1 conversations with employees that we're trying to  
2 show they -- they have a future at our company.

3 Q. And this is just AmerenUE, right?

4 A. This is AmerenUE, Ameren Services, but  
5 it also supports UE.

6 Q. Okay. Ameren Services. Now, does that  
7 include like Ameren Energy, marketing and...

8 A. No. That would be human resources,  
9 information technology, legal, the support  
10 organizations.

11 Q. Do you understand the -- the public  
12 policy implications that paying out large bonuses in  
13 times of economic distress has on ratepayers,  
14 consumers and constituents?

15 A. I understand the concerns, yes.

16 Q. Okay. And what, if anything, is Ameren  
17 doing to address those concerns?

18 A. I mean, I think one thing that is good  
19 to keep in mind is when we're paying out incentives,  
20 we're paying out a portion of the competitive total  
21 rewards package that the employee had to earn. It's  
22 not just a gimme, it's not something that -- that  
23 they just get for showing up. It's -- they had to  
24 earn it. So if we look at their total compensation  
25 number, they're not achieving that if they don't

1 receive their incentive awards.

2 Q. But if your management -- I mean, the  
3 least you've made in the last 11 years is 60 percent  
4 of that?

5 A. And -- yes, that I can -- that I can  
6 recall.

7 CHAIRMAN DAVIS: No further questions,  
8 Judge.

9 JUDGE WOODRUFF: All right. Recross  
10 based on questions from the Bench, then, starting  
11 with Noranda?

12 MR. CONRAD: Yes, just briefly.

13 RE-CROSS-EXAMINATION BY MR. CONRAD:

14 Q. Ms. Bauer, thank you so much for your  
15 answers before. I just want to follow up --

16 CHAIRMAN DAVIS: Mr. Conrad, could you  
17 indulge me? Could I go back and ask --

18 MR. CONRAD: Sure, absolutely.

19 You're -- you're up there, I'm down here.

20 QUESTIONS BY CHAIRMAN DAVIS:

21 Q. Has -- has Ameren laid anybody off?

22 A. I don't know if there are any specific  
23 or small work groups that have -- you know, that  
24 there's been any action taken on or with, but we have  
25 not had any major layoffs, no. We can't really

1     afford to, given, you know, the trends that are  
2     occurring in our industry and how difficult it is to  
3     attract talent.

4           Q.       So it's not likely that anyone is going  
5     to get laid off, is there?

6           A.       Not unless there is no need for that  
7     particular skill, yeah. And you know, obviously, I  
8     can't speculate on what we might do because I don't  
9     have enough knowledge to suggest that, but...

10          Q.       How many people has Ameren terminated  
11     for cause in the last year?

12          A.       I don't have that number on the top of  
13     my head, but --

14          Q.       Guess, estimate?

15          A.       Probably a handful.

16          Q.       Okay. Any management employees?

17          A.       I -- I don't -- I can't -- can't tell  
18     you for sure.

19          Q.       Can't tell me for sure either way? You  
20     don't recall any management employee being terminated  
21     for cause, do you?

22          A.       Over the years or, you know, in recent  
23     years?

24          Q.       In recent years, in the last five years.

25          A.       I would say yes. Without having a

1 chance to look at data and confirm that, I would say  
2 yes.

3 Q. Okay. Less than five?

4 A. I can't venture a number, but we are  
5 very focused on the performance of our employees, and  
6 our leaders are consistently working with those who  
7 aren't performing. And, you know, as a final step in  
8 that process, that can be the action if there's a  
9 performance issue.

10 Q. Okay. So Ameren does -- as also as a  
11 way of motivating its employees, Ameren does tell  
12 people that their jobs are on the line here if they  
13 don't perform?

14 A. Certainly.

15 CHAIRMAN DAVIS: Okay. Thank you.

16 Thank you, Mr. Conrad.

17 MR. CONRAD: My pleasure, Mr. Chairman.

18 RECROSS-EXAMINATION BY MR. CONRAD:

19 Q. I think actually both the Chair and I  
20 were kind of heading the same direction, so -- but he  
21 has -- he has helped to focus this hopefully short  
22 series of questions. And I'd like for you to look at  
23 your list, actually it's five points, on page 4 of  
24 your rebuttal, Exhibit 25. Let me know when you're  
25 there.

1           A.       I am there.

2           Q.       Now, the very first one was -- that you  
3 have listed there as far as your definitions as an  
4 officer, "Senior level leader in the organization,"  
5 right?

6           A.       Correct.

7           Q.       So we're -- we're looking in the same  
8 place?

9           A.       Yep.

10          Q.       Now, I guess this goes back to my  
11 earlier confusion, but what -- and maybe there's no  
12 way to do this without dissecting down to individual  
13 people, but if there is a way to do it generically,  
14 let's try to work with that. How much of an  
15 officer's pay is on this incentive program?

16          A.       It -- it varies by role, but probably  
17 begins about 35 percent. And again, it's  
18 market-based and we are not seeking recovery of the  
19 officer plan.

20          Q.       Okay. I understand, but it's still  
21 indicative. So it goes from 35 -- what would be the  
22 high end?

23          A.       The highest is Gary Rainwater,  
24 90 percent.

25          Q.       So 90 percent of his -- okay. So if



1 Mr. Rainwater was to be paid \$100,000 --

2 A. Yes.

3 Q. -- \$90,000 of that would be in  
4 theoretical jeopardy every year. And do you make the  
5 determination on that or somebody else does?

6 A. The board of directors would make the  
7 decision.

8 Q. Okay. Now, is it a safe bet that his  
9 package is probably more than 100,000?

10 A. Certainly. Disclosed in the proxy so I  
11 have to say yeah.

12 Q. Okay. We'll -- we'll -- I'm not trying  
13 to go there, but okay. So the officers -- and that  
14 would include vice president, senior vice president,  
15 president or president/CEO. We talked about the  
16 ladder company. What about vice president, senior  
17 vice president, what's -- what's the range there?

18 A. 35 percent, and I believe up to  
19 60 percent.

20 Q. Now, drop down a rung on your ladder  
21 here to what you're characterizing as the ALT, the  
22 Ameren leadership team. "Leader responsible for  
23 strategy direction" and so on, and that includes all  
24 the officers as well as leaders, and that's where  
25 you're identifying the manager, right?

1           A.       Correct. Managers and directors are the  
2 two titles we use below officer.

3           Q.       Okay. And director is above manager  
4 or --

5           A.       Correct.

6           Q.       Okay. Well, let's start, then, at the  
7 bottom rung of that -- of that sub-ladder, if you  
8 will. The -- the manager would -- what would their  
9 range be?

10          A.       20 to -- well, manager/director would  
11 have a range between 20 and 30 percent based on their  
12 role.

13          Q.       Okay. So they're grouped together --

14          A.       Correct.

15          Q.       -- for this purpose? Okay. Let's go  
16 one level further down to your management employees.  
17 And those are -- well, I'm not -- I'm not really sure  
18 other than your definition here. What would be the  
19 range there?

20          A.       Most employees in -- that are classified  
21 as management would have a target of 6 percent,  
22 8 percent or 10 percent depending on their role. We  
23 do have a few exceptions to that based on market  
24 practice. So for example, if we see in the market  
25 that a position clearly pays 15 percent for that

1     role, then we would use 15 percent.

2             Q.       As the -- and again, I'm -- I'm talking  
3     about the component of their compensation -- and I  
4     don't mean anything pejorative about that -- but is  
5     in jeopardy?

6             A.       Right.

7             Q.       Okay. Okay. All right. Let's -- and  
8     then just to complete it, union employees, they're --  
9     they're part of this?

10            A.       Yes.

11            Q.       Their -- their slice would be what?

12            A.       Opportunity is up to 3 percent.

13            Q.       From zero to 3?

14            A.       Correct.

15            Q.       Okay.

16            A.       Again, all of those targets are  
17     consistent with market practice. We determine them  
18     based on survey data.

19            Q.       Yeah. And if they're represented, of  
20     course, by a bargaining unit, then they would -- that  
21     would be a matter of a contract?

22            A.       It's not. It's a plan we offer. It is  
23     not bargained.

24            Q.       I see. You haven't, as far as you know,  
25     refused to bargain about it, have you?

1           A.       Not that I'm aware of. We just have  
2 chosen not to and we want all of our employees to be  
3 aligned around the same goals.

4           Q.       All right. But work with me. Now, back  
5 up to one of the other questions that the Chairman  
6 had. On your first level, line 3 and 4, last year,  
7 last 12 months, a vice president's retired?

8           A.       I'd have to check. The years all merge  
9 together for me, but -- but we -- we may have had a  
10 vice president retire in the last 12 months, yes.

11          Q.       Any laid off within the last 12 months?

12          A.       No.

13          Q.       How about the last 24 months, couple  
14 years?

15          A.       Gosh, I'd need to have data in front of  
16 me, but not that I recall, no.

17          Q.       Push that back to four or five years.  
18 Anybody jump out at you?

19          A.       Nothing off the top of my head. I mean,  
20 the most likely scenario with an officer or ALT level  
21 employee is that their job is eliminated because  
22 they're of a restructuring --

23          Q.       Stay with me now. I wanted -- I wanted  
24 to focus on lines 3 and 4, the officer level, if you  
25 could. Could you drop down to officer?

1           A.       Okay. Stay with the officer level.

2           Q.       Stay with the --

3           A.       Yeah.

4           Q.       -- yeah, with the vice prez.

5           A.       I can't think of anyone off the top of

6 my head who's been laid off.

7           Q.       Okay. Let's -- and maybe we can work

8 from the larger to the -- to the narrower. Senior

9 VPs, last five years, any retire?

10          A.       I believe so, yes.

11          Q.       Okay. More than one?

12          A.       I can think of one.

13          Q.       And so --

14          A.       I can't think of more than one off the

15 top of my head.

16          Q.       Okay. So it's just one that comes to

17 mind?

18          A.       That's what comes to mind.

19          Q.       Okay. Any laid off, dismissed, departed

20 for reasons -- reasons other than retirement?

21          A.       I think any time there's a major

22 reorganization, certainly all of the staff is looked

23 at to determine if all the roles need to exist as

24 they do. I can't think of anything off the top of my

25 head.

1           Q.       So that -- that part of the team is  
2 pretty -- pretty stable the last five years?

3           A.       Fairly stable, yes.

4           Q.       Okay. And there's been -- last four or  
5 five years, I think the Chairman mentioned that  
6 Mr. Rainwater's still there and Mr. Voss is still  
7 there, Mr. Baxter, Steve Sullivan and those folks are  
8 all still there?

9           A.       Yes. Mr. Alan Kelly retired.

10          Q.       I think at one point, and I believe it  
11 was in response to the Chairman's question, you  
12 characterized the number as "a handful." Now, can  
13 you be a little bit -- I'm trying to remember the  
14 context of that --

15          A.       That left the organization, has more  
16 people left the organization.

17          Q.       Can you be more specific than -- there's  
18 big handfuls and small handfuls.

19          A.       Yeah. Certainly, if I had reviewed the  
20 data prior to coming in, I'd have better responses to  
21 you, so I wasn't anticipating this line of  
22 questioning, so I apologize for not having more  
23 specific data.

24          Q.       That's fine. Don't apologize. You --  
25 all you're asked to do is tell the truth, yes, no or

1 I don't know.

2 A. Yeah, yeah, yeah. I -- kind of "no" on  
3 some of these right now. So you're asking at the ALT  
4 level, then, what were the hand --

5 Q. I think he was mentioning --

6 A. -- some of the handful?

7 Q. -- you know, when you responded that  
8 there were a handful, and I'm just wondering, is a  
9 handful a dozen, three or four fingers on one hand  
10 for most of us with some left over?

11 A. I would -- I would guess I'd have to  
12 estimate somewhere between a half dozen to a dozen --

13 Q. Okay. That's fair.

14 A. -- would be a fair amount.

15 MR. CONRAD: I don't -- I'm not going to  
16 make the request, but perhaps somebody on the Bench  
17 might, you know, follow up and ask you for that.

18 Ms. Bauer, I want to thank you very much for your --  
19 your candor and cooperation this morning. Appreciate  
20 it.

21 THE WITNESS: Thank you.

22 MR. CONRAD: Thank you, Judge.

23 JUDGE WOODRUFF: For the State?

24 RECROSS-EXAMINATION BY MR. IVESON:

25 Q. Just a couple, Ms. Bauer.

1           A.       Yes.

2           Q.       Thank you.  Following up on the  
3  Chairman's questions regarding the managers, I  
4  believe you said there were four or five managers in  
5  the first half of the year; is that correct?

6           A.       I believe so, yes.

7           Q.       And then you undertook a special study  
8  because that caused some special concern; is that  
9  right?

10          A.       We just did a broad turnover study for  
11  our board of directors earlier this year.

12          Q.       In the prior year, how many managers  
13  left, to the best of your recollection?

14          A.       I believe there were almost none in some  
15  of our prior years.

16          Q.       This was a very unusual circumstance,  
17  correct?

18          A.       I believe prior to 2006 there was very  
19  little turnover at a manager level, and then we  
20  started to see some in recent years.

21          Q.       Four to five.  Have any left since then?  
22  You said that was the early part of the year.  Have  
23  any left since then?

24          A.       I'm trying to think of some of the last  
25  people who left our organization.  Chuck Manix left



1 from tax, Melanie Curtis left from organizational  
2 effectiveness.

3 Q. Are both those individuals managers?

4 A. Yes.

5 Q. Okay. And they were not part of the  
6 four -- four to five, correct?

7 A. They may be, yeah. I'm trying to start  
8 recalling names. Again, I had not reviewed this  
9 prior to coming here.

10 Q. I understand. Let me ask you this: Do  
11 you know -- there were 180 managers, you said?

12 A. Approximately.

13 Q. So four to five is about two and a half  
14 percent of the 180?

15 A. Yeah.

16 Q. And that was a highly unusual year,  
17 correct?

18 A. Yeah. It's not that common to have  
19 turnover at that level, yeah, in our industry.

20 Q. You used the term a couple of times in  
21 answer -- in response to the Chair's question of  
22 "high-performing individual"?

23 A. Uh-huh.

24 Q. Some of the characteristics of a  
25 high-performing individual, they're intelligent; is

1     that correct?

2             A.       Correct.

3             Q.       Make good decisions?

4             A.       We'd hope so, yes.

5             Q.       Work hard?

6             A.       Yes.

7             Q.       Let me ask you a hypothetical question,  
8     if I can.

9             A.       Okay.

10            Q.       Let's assume that a high-performing  
11   individual goes to company A and they offer them  
12   \$75,000 in base compensation with an opportunity to  
13   earn \$25,000. And that same individual goes to  
14   company B and they offer \$100,000 base with no  
15   incentive. What's the right decision for that  
16   employee?

17            A.       Depends on what their motivations are.  
18   I mean, certainly, the initial cash of the \$100,000  
19   company sounds and looks good, but when they look  
20   around and don't see everybody maybe performing the  
21   same way they are, they don't see their rewards  
22   differentiated for how they perform compared to  
23   someone else, I would argue that that high-performing  
24   employee is going to look for a place where they can  
25   be rewarded for their performance.

1           Q.       So it's your testimony that an  
2   intelligent, hard-working individual who makes good  
3   decisions is going to volunteer to risk \$25,000 of  
4   their compensation, is that your testimony?

5           A.       A good incentive plan is going to  
6   provide a --

7           Q.       Is that -- is that your testimony?

8           A.       Qualified, yes.

9                   MR. IVESON: Thank you.

10                  JUDGE WOODRUFF: Public Counsel?

11                  MR. MILLS: Just briefly.

12   RE CROSS-EXAMINATION BY MR. MILLS:

13           Q.       Ms. Bauer, first of all, you mentioned a  
14   turnover study "for our board." Which board was that  
15   done for?

16           A.       The Ameren board of directors.

17           Q.       Not the AmerenUE board?

18           A.       Correct.

19           Q.       Okay. And when you were asking --  
20   answering some questions from Chairman Davis, you --  
21   and -- and you've gone over this again a little  
22   bit -- about the four or five management employees  
23   who left, were those employees of AmerenUE or Ameren  
24   Services or do you know?

25           A.       I would say probably a mixture of both,

1 and they were referring at the time to ALT level  
2 employees, not management. I would suggest the  
3 number is larger for -- if we include the entire  
4 management --

5 Q. But for that level, some of those at  
6 least, some of those four or five were not at  
7 AmerenUE?

8 A. Ameren Services, yes. The company that  
9 supports them.

10 Q. Okay. Do you know how many were at  
11 AmerenUE and how many were at Ameren Services?

12 A. I do not. I don't even know the full  
13 list of people right now, so...

14 MR. MILLS: Okay. Thank you. No  
15 further questions.

16 JUDGE WOODRUFF: Staff?

17 (NO RESPONSE.)

18 JUDGE WOODRUFF: Redirect?

19 MR. BYRNE: Yes, your Honor.

20 REDIRECT EXAMINATION BY MR. BYRNE:

21 Q. Ms. Bauer, you've been asked a lot about  
22 people who've left the organization, and I understand  
23 you testified you weren't prepared to address this  
24 issue. So let me ask you about some people who were  
25 officers at Ameren --

1           A.       Yes.

2           Q.       -- and whether they -- whether they left

3 or not. Do you know a guy named Dave Whitely?

4           A.       Yes.

5           Q.       Did he leave the organization recently?

6           A.       Yes, he did.

7           Q.       Was he a senior vice president?

8           A.       He was.

9           Q.       Do you remember Baxter Gillette?

10          A.       Yes.

11          Q.       Was he a vice president?

12          A.       Yes.

13          Q.       Did he leave the organization within the

14 last six or seven years?

15          A.       Yes.

16          Q.       Don Brandt?

17                   MR. MILLS: Judge, I object.

18                   THE WITNESS: Yes.

19                   MR. MILLS: These are leading questions.

20 I mean, he provide -- she's testified she doesn't

21 know these people, and he's giving her names to lead

22 her to --

23                   THE WITNESS: It's not that I don't know

24 them. It's that I don't know the list off the top of

25 my head.

1 MR. MILLS: He's --

2 JUDGE WOODRUFF: If I -- one at a time.  
3 Mr. Mills is speaking right now, please.

4 MR. MILLS: He's giving her names and  
5 suggesting are these people who left the company. I  
6 think that's -- by definition, that's a leading  
7 question.

8 MR. BYRNE: Is this -- is this a person  
9 who left the company is not a leading question, your  
10 Honor.

11 JUDGE WOODRUFF: I'll allow the  
12 questions.

13 BY MR. BYRNE:

14 Q. Did Mr. Alan Kelly -- I mean, is -- did  
15 Mr. Alan Kelly leave the company?

16 A. Yes, he did.

17 Q. What was Mr. Alan Kelly's position?

18 A. He was CEO of Ameren Energy Resources.

19 MR. MILLS: And Judge, I'm going to have  
20 to object to the form of the question there because  
21 it's not clear what "the company" is. The company  
22 that we're mostly concerned about is AmerenUE, and I  
23 have a feeling when he's asking about the people who  
24 left the company, it's not going to be clear in the  
25 record what company he's talking about.

1 JUDGE WOODRUFF: If you could clarify  
2 your question.

3 MR. BYRNE: Certainly.

4 MR. CONRAD: Yes, and one other thing.  
5 I think --

6 MR. BYRNE: I mean, aren't I entitled to  
7 ask my own questions or do I have to ask the  
8 questions that Mr. Mills would like to ask?

9 MR. CONRAD: Could I make an objection,  
10 Counsel?

11 JUDGE WOODRUFF: We do want to hear the  
12 objection first.

13 MR. BYRNE: Okay.

14 MR. CONRAD: Maybe I didn't phrase it  
15 quite the way you'd like. The -- the articulation  
16 that I tried to make, and I think the Chairman too,  
17 was to try to distinguish between employees who  
18 retired -- I think the witness indicated that that  
19 was kind of the normal progression -- and those that  
20 were either laid off or separated for cause.

21 And when we say, as counsel is doing,  
22 did someone leave the company, it leaves that  
23 somewhat fuzzy. And given that this is redirect and  
24 we won't have an opportunity to come back and try to  
25 clarify that, I would object unless counsel makes his

1 question very specific as to which of those  
2 categories he's talking about.

3 JUDGE WOODRUFF: All right. Mr. Byrne,  
4 you can ask the questions you'd like. As the parties  
5 have indicated, however, it would be helpful to the  
6 Commission if the answers are as clear as possible,  
7 so keep that in mind.

8 MR. BYRNE: I'll try to do that.

9 JUDGE WOODRUFF: Thank you.

10 BY MR. BYRNE:

11 Q. Did Mr. Paul Aggathon (phonetic  
12 spelling) leave the organization?

13 A. Yes.

14 Q. And what was Mr. Aggathon's title?

15 A. I believe he was -- I don't know if he  
16 was senior or vice president of administration at the  
17 time.

18 Q. Okay. And did he retire or was he let  
19 go or did he quit?

20 A. He retired.

21 Q. Okay. Mr. Gary Randolph, did he leave  
22 the organization?

23 A. He did.

24 Q. What was Mr. Randolph's title?

25 A. I can check. It was senior or vice



1 president, but he was an officer in our nuclear  
2 organization.

3 Q. Okay. And did he retire or quit or --

4 A. I believe he retired.

5 Q. Okay. Mr. Dave Whitely, do you know  
6 Dave Whitely?

7 A. Yes.

8 Q. Did he leave the organization?

9 A. He did.

10 Q. What was his title?

11 A. He was -- I don't remember the exact  
12 title, but he was senior vice president, I believe,  
13 energy delivery.

14 Q. Okay.

15 A. And --

16 Q. And why did he leave? Did he retire or  
17 get another job or what?

18 A. He did not retire. I think he pursued  
19 another opportunity.

20 Q. Do you know Mr. Bill Shores?

21 A. Yes.

22 Q. Did Mr. Shores leave the organization?

23 A. He retired. He was also an officer.

24 Q. Was he -- was he a vice president?

25 A. He was.

1 Q. Do you know Mr. Bill Carr?

2 A. Yes.

3 Q. Did he leave the organization?

4 A. He did.

5 Q. What was his title?

6 A. He was a vice president. I believe he

7 retired.

8 Q. Okay. Do you know Mr. Jim Whitesides?

9 A. Yes.

10 Q. And what was Mr. Whiteside's title?

11 A. He was in our Ameren Energy organization,

12 and he left the organization, and I'm not sure of the

13 terms.

14 Q. Okay. Do you know who Mr. Joe Hoff is?

15 What -- what was -- was Mr. Whitesides an officer?

16 A. He was.

17 Q. Do you know who Mr. Joe Hoff is?

18 A. I do. I believe he was also with the

19 Ameren Energy organization, and I don't know the

20 terms of his leaving either, but he didn't -- to my

21 knowledge, he did not retire.

22 Q. Was he a vice president?

23 A. You know, I'm not sure on that one.

24 Q. Okay. Fair enough. Are we even asking

25 for any incentive compensation for officers?

1           A.       We are not.

2           Q.       Okay. Let me ask you about some other

3 groups. How about people in the coal section of our

4 business? Has there been any issue with people in

5 the coal section of our business?

6           A.       Absolutely.

7           Q.       What's the issue been?

8           A.       Attraction and retention.

9           Q.       And have people left the coal section of

10 our business?

11          A.       Yes.

12          Q.       Who have they gone to work for?

13          A.       Competitors, energy competitors, some

14 regional. And in some cases, we've had people go to

15 Houston and other places as well.

16          Q.       How about power traders? Has there been

17 a problem retaining power traders?

18          A.       Absolutely.

19          Q.       And what has happened to those power

20 traders?

21          A.       They've been -- we've had quite a few of

22 them leave the organization to go to competitors.

23          Q.       How about attorneys --

24          A.       Yes.

25          Q.       -- a position close to my heart. Have

1 we had any problem retaining attorneys?

2 A. Absolutely. Lost a number of them  
3 recently.

4 Q. Okay. How about -- let's go lower in  
5 the organization. How about linemen? Do we have a  
6 problem retaining linemen?

7 A. We have a consistent, long-term problem  
8 attracting and retaining linemen at this point.

9 Q. Are we -- what are we doing to try to  
10 address the issue of the difficulty in getting  
11 linemen?

12 A. We are recruiting very, very heavily.  
13 We have recruiters dedicated to contacting potential  
14 linemen candidates. We are offering in UE a \$15,000  
15 signing bonus for journeymen linemen and trying to  
16 attract them and retain them in our organization.

17 Q. Did we have layoffs in 1997? People  
18 asked you about layoffs.

19 A. That's the year I joined with the  
20 company, and I believe so. There were a couple of  
21 events that were voluntary retirement programs around  
22 the time I joined.

23 Q. Okay. Let me ask you this: In your  
24 opinion, would there be more turnover than the --  
25 than the turnover you've reported if we did not pay

1 incentive compensation to employees?

2 A. Yes, I believe so. And in particular,  
3 more trouble attracting candidates who are looking  
4 for it today.

5 Q. Well, why do we even care about that?  
6 Let's just let them leave. What would be the problem  
7 if people turned over?

8 A. The problem with the amount of turnover  
9 we're already expecting, it's kind of an  
10 unprecedented time for the utility industry. There's  
11 entire organizations focused on trying to fill the  
12 gap, trying to interest people in our industry at  
13 all. And the real shortage is going to be those  
14 experienced workers. That's where we're really  
15 concerned about.

16 We can groom people, that's one thing,  
17 but to really fill the gap of the experienced people  
18 leaving our organization is a whole other challenge.  
19 So attraction and particular retention of employees  
20 is critical.

21 Q. How about engineers? Is there -- is  
22 there any problem with attracting engineers?

23 A. Absolutely. It's becoming more  
24 competitive by the day. Not enough folks are going  
25 to school for engineering disciplines that we need.

1           Q.       How about nuclear engineers?  What's the  
2 market for nuclear engineers like these days?

3           A.       Becoming more challenging, again, every  
4 day as many organizations plan to build nuclear power  
5 plants and then preparing to do so need to attract  
6 nuclear engineers now to begin that process.  We're  
7 really -- anecdotally, and I haven't confirmed this  
8 data, but we used to be able to attract -- we'd  
9 probably only made a salary offer to a nuclear  
10 engineer -- we'd probably have about a 80  
11 percent-plus chance of having that salary offer  
12 accepted.

13                   I received some data just recently,  
14 suggested that number has dropped to about  
15 40-something percent.  I haven't confirmed that, as I  
16 said, but that's a -- something I'm having  
17 conversations about and am very concerned --  
18 concerned about.

19           Q.       How about other workers at nuclear  
20 plants, are they in demand?

21           A.       Absolutely, from the craft to  
22 leadership.

23           Q.       How about skilled craft in nonnuclear  
24 plants, are they in demand?

25           A.       Tremendous demand.

1           Q.       Mr. Conrad asked you why don't you just  
2     offer people a flat dollar amount, and I think you  
3     talked a little bit about that.  If you offer people  
4     a flat dollar amount, can they compare it with other  
5     offers from other utilities?

6           A.       I think it becomes difficult to do so.  
7     I think that they could try, but they're looking for  
8     all the piece components.  They -- they want to know  
9     where their incentive is.

10          Q.       Well, how common is it to have an  
11     incentive as a piece -- component of pay?

12          A.       It's tremendously common.  In my  
13     testimony, I noted that we contacted Towers Parrin  
14     who does a broad utility industry survey.  It's one  
15     of the best surveys that we use.  And what we found  
16     was that what they reported to us -- and all of this  
17     data is aggregated and we don't have a lot of the  
18     detail because of the fact that they're antitrust  
19     issues.

20                    But what they reported to us is that, I  
21     believe, 90 -- right around 93 percent of the  
22     companies, all but eight of the companies who  
23     participated in their survey reported having  
24     incentive compensation plans.  And then we find at  
25     the executive level it's even more common with all

1 but one of the peer group companies that we looked at  
2 having short-term incentive plans.

3 Q. Chairman Davis asked you about  
4 adjustments. I don't know if you remember that.  
5 Adjustments for the 2006 storm?

6 A. Yes.

7 Q. And I think you said -- you testified  
8 that they look -- each year they look and see if any  
9 adjustments should be made to the incentive payouts?

10 A. Yes.

11 Q. Do adjustments go both ways or do they  
12 only go one way?

13 A. I believe they've gone both ways in the  
14 past.

15 Q. Where -- can you think of any examples  
16 where it went the other way?

17 A. I can think of a year, but I can't  
18 think -- but I --

19 Q. Okay. What year?

20 A. Well, not the exact year. I remember it  
21 happening, so it's within probably the last four or  
22 five years.

23 Q. Okay. Chairman Davis described our  
24 incentive compensation payments as bonuses. Do  
25 you -- do you think that's a fair way to describe the



1 incentive compensation payments?

2           A.       I don't view -- when I think about a  
3 bonus, I tend to think of something that's more of a  
4 extra or a give-me, and -- and I don't view our plans  
5 like that at all. They are incentives where we have  
6 set up clear, measurable goals and our employees are  
7 required to pursue and to achieve those goals to  
8 receive payout. And I think there's a pretty clear  
9 difference between an extra, a bonus and an incentive  
10 which has to be earned.

11                   MR. BYRNE: Thank you. One second.

12 Give me just one second. Okay. Thank you.

13                   JUDGE WOODRUFF: Okay. You can step  
14 down. Next witness for Staff, Mr. Hagemeyer. Have  
15 you testified earlier?

16                   THE WITNESS: Yes.

17                   JUDGE WOODRUFF: We don't have to swear  
18 you in, then.

19                   THE WITNESS: Okay.

20                   JUDGE WOODRUFF: You may inquire.

21 DIRECT EXAMINATION BY MS. KLIETHERMES:

22           Q.       Good morning, Mr. Hagemeyer. Could you  
23 please state and spell your name for the record.

24           A.       Sure. It's Jeremy Hagemeyer, and that's  
25 J-e-r-e-m-y, and Hagemeyer is spelled

1 H-a-g-e-m-e-y-e-r.

2 Q. And your business address, please?

3 A. 9900 Page Avenue, Suite 103, Overland,  
4 Missouri.

5 Q. And are you the same Jeremy Hagemeyer  
6 who has submitted surrebuttal testimony in this  
7 matter?

8 A. Yes.

9 Q. And are you the same Jeremy Hagemeyer  
10 that offered the section of the Staff cost of service  
11 report which dealt with incentive compensation and  
12 restricted stock compensation?

13 A. Yes.

14 Q. Do you have any corrections to make to  
15 that testimony today?

16 A. Yes. Okay. First one, the cost of  
17 service report, pages 46 through 48 in Section 5  
18 dealing with incentive compensation. I failed to  
19 specify that I was referring only to the 2007 plans  
20 which were in effect for a portion of the test year.

21 Second, in my surrebuttal testimony,  
22 pages 2 to 6, I failed to specify that I was  
23 referring to only the 2008 plans.

24 And then thirdly, page 2, line 4, the  
25 word "generally" should be inserted before the words

1 "the financial."

2 Q. And in that last correction, were you  
3 referring to your surrebuttal testimony?

4 A. Oh, yes, sorry.

5 Q. And were I to ask you the same questions  
6 or were you to draft your report section again today,  
7 would your responses or drafting be the same?

8 A. With those exceptions noted, yes.

9 MS. KLIETHERMES: Judge, I offer  
10 Mr. Hagemeyer's surrebuttal testimony and the section  
11 of the Staff's cost of service report which dealt  
12 with incentive compensation and restricted stock  
13 compensation. And I tender the witness for cross.

14 JUDGE WOODRUFF: All right. Portions of  
15 200 and 222 have been offered into evidence. Are  
16 there any objection to their receipt?

17 (NO RESPONSE.)

18 JUDGE WOODRUFF: Hearing none, they will  
19 be received.

20 (PORTIONS OF EXHIBIT NOS. 200 and 222  
21 WERE RECEIVED INTO EVIDENCE AND MADE A PART OF THE  
22 RECORD.)

23 JUDGE WOODRUFF: And cross-examination,  
24 beginning with Public Counsel.

25 MR. MILLS: No questions.

1 JUDGE WOODRUFF: For the State?

2 MR. IVESON: No questions, your Honor.

3 JUDGE WOODRUFF: For Noranda?

4 MR. CONRAD: No questions.

5 JUDGE WOODRUFF: Then we're down to  
6 AmerenUE.

7 MR. BYRNE: Thank you.

8 CROSS-EXAMINATION BY MR. BYRNE:

9 Q. Good morning, Mr. Hagemeyer.

10 A. Good morning.

11 Q. I'd like to start by asking you some  
12 questions about your background. My understanding is  
13 that you graduated in 2001 from Southwest Missouri  
14 State University; is that correct?

15 A. Yes.

16 Q. And you got degrees in German and  
17 accounting; is that correct?

18 A. Yes.

19 Q. And then did you start working for the  
20 Commission right after you graduated?

21 A. Within a few months.

22 Q. Okay. And what -- what year did you  
23 start working for the Commission?

24 A. I started with the Commission  
25 January 16th, 2002.

1           Q.       Okay. And have you -- well, what --  
2 what position are you at now with the Commission?

3           A.       Utility regulatory auditor.

4           Q.       Okay. And do you have any employees  
5 that report to you?

6           A.       No.

7           Q.       And have you -- since you've been at the  
8 Commission, have you participated in making any  
9 hiring or compensation-related decisions?

10          A.       No.

11          Q.       Okay. And looking at Exhibit A attached  
12 to the Staff report, it looks like you filed  
13 testimony in five Commission cases, is that true, or  
14 maybe it's six?

15          A.       Do you have a page reference? I'm  
16 sorry.

17          Q.       I think it is on Exhibit 8, page 19. It  
18 looks like five cases, I think; is that correct?

19          A.       Yes.

20          Q.       And did any of those -- do you know if  
21 any of those cases went to hearing?

22          A.       I believe the Missouri American case  
23 went to hearing. I believe at points we were in  
24 hearings on more than one of these, but...

25          Q.       Did your issues go to hearing in any of

1 the cases?

2 A. In the Missouri American.

3 Q. Okay. And it looks like this is maybe  
4 the first time that you've testified in an electric  
5 case on -- on compensation issues; is that correct?

6 A. Yes.

7 Q. Do you think there are differences in  
8 compensation -- compensation issues facing the  
9 electric utility industry from other utilities?

10 A. Potentially, but I -- in this case, I  
11 didn't necessarily note major differences.

12 Q. Would it be fair to say that you didn't  
13 really look at that in this case?

14 A. Meaning did I compare various...

15 Q. Yes.

16 A. I did not compare in this case the  
17 compensation practices of other utility types.

18 Q. Have you taken any college classes on  
19 the topic of how compensation plans should be  
20 designed?

21 A. It's been addressed in -- I believe in a  
22 couple of classes that I took.

23 Q. Okay. What classes were those?

24 A. Managerial accounting and the human  
25 resources and organizational behavior classes.

1           Q.       Okay. And what did they -- what did  
2 they say about incentive -- or incentive  
3 compensation, if you know?

4           A.       I don't remember. I'm sorry.

5           Q.       Okay. Do you remember anything that  
6 those classes said about compensation plans?

7           A.       Yes. Just that, you know, what gets  
8 measured gets done, and whatever you get -- whatever  
9 you measure is what is performed.

10          Q.       So measurement's important?

11          A.       Yes.

12          Q.       Anything else you remember from those  
13 classes?

14          A.       Nothing springs to mind at the moment.

15          Q.       Okay. Have you ever attended any  
16 seminars that cover topics like -- you know, since  
17 you've been employed at the Commission, have you ever  
18 attended any seminars that cover topics like how to  
19 design an incentive plan?

20          A.       No.

21          Q.       Or payroll issues even?

22          A.       I believe they were discussed in  
23 relation to ratemaking treatment.

24          Q.       Okay. How about have you ever read any  
25 books about designing compensation plans?

1 A. No.

2 Q. How about any magazine articles? Have  
3 you ever read any magazine articles about designing  
4 compensation plans?

5 A. Yes.

6 Q. Okay. Have you ever met with or talked  
7 to any consultant that specializes in designing  
8 compensation plans?

9 A. Have I ever met with?

10 Q. Yeah.

11 A. I had meetings with Ameren staff that  
12 was involved in their compensation.

13 Q. Okay. Other than Ameren staff, anybody  
14 else?

15 A. No.

16 Q. Okay. Have you ever reviewed any  
17 surveys of the electric utility industry that  
18 addresses compensation issues?

19 A. Not in depth, no.

20 Q. Okay. Had you ever reviewed any  
21 incentive compensation plan prior to reviewing  
22 AmerenUE's incentive compensation plan for this case?

23 A. Yes.

24 Q. And which -- which incentive  
25 compensation plans have you reviewed?



1           A.       If you'll turn to schedule A attached to  
2 the cost of service report, page 19 again.

3           Q.       Okay.

4           A.       I reviewed the compensation plan for  
5 Missouri American Water in the 2003-0500 case.

6           Q.       Okay.

7           A.       I reviewed incentive compensation as  
8 part of the Atmos Energy GR-2006-037 case.

9           Q.       0387; is that right?

10          A.       No -- oh, yes, 0387.

11          Q.       Okay.

12          A.       And I believe that's all.

13          Q.       I'd like to talk to you now a little bit  
14 about where you might agree or disagree with  
15 Ms. Bauer's testimony. Have you read Ms. Bauer's  
16 rebuttal testimony in this case?

17          A.       Yes.

18          Q.       And you know, Ms. Bauer has testified  
19 that AmerenUE is facing a number of challenges with  
20 regard to its workforce; would you agree with that?

21          A.       Yes.

22          Q.       And for example, Ms. Bauer says that  
23 AmerenUE and other electric utilities are facing the  
24 problem of having an aging workforce. Do you  
25 remember that testimony?

1           A.       I do, but could you point me to a page  
2 reference?

3           Q.       Sure. Look -- I think it's -- I think  
4 one reference to it is on page 3, line 11. It might  
5 appear a couple times, but that's at least one place  
6 where she mentioned it.

7           A.       Yes, I see it there.

8           Q.       Do you have any reason to believe that  
9 that's not true?

10          A.       That the utility industry at large is  
11 facing a shortage of skilled workers?

12          Q.       Yes.

13          A.       I have no reason to disbelieve that.

14          Q.       Okay. And in particular -- she  
15 testified to this, but in particular in her  
16 testimony -- and I'll give you a reference. I think  
17 it's page 7, line 9 -- yeah. She says, "Similar to  
18 the rest of the industry, AmerenUE projects that  
19 50 percent of its workforce will retire or leave the  
20 organization due to attrition over the next ten  
21 years." Do you have any reason to doubt those  
22 projections that Ms. Bauer testified about?

23          A.       No.

24          Q.       Okay.

25          A.       However, she does point out in response

1 to Staff's DR 351 that --

2 Q. Well, I think you've answered my  
3 question.

4 A. Okay.

5 Q. You -- you can -- on redirect.

6 A. Okay.

7 Q. On page 7, line 4 -- I think that's  
8 right. Well, it's -- it's -- I -- it's not exactly  
9 there, but she's -- she's -- in that vicinity, she's  
10 talking about her experience that hiring skilled  
11 workers has -- has become more difficult -- and I  
12 think she testified to that here earlier -- because  
13 there's less interest among people in getting into  
14 critical skilled craft and engineering-related  
15 positions. Do you have any reason to doubt  
16 Ms. Bauer's testimony on that subject?

17 A. No.

18 Q. Okay. Still on page 7, starting at  
19 line 11, Ms. Bauer says, "Despite actively recruiting  
20 candidates for these positions, including offering a  
21 \$15,000 hiring bonus for line workers, a co-op  
22 program to attract engineers -- engineers,  
23 partnerships with local schools and other proactive  
24 outreach measures, skilled and experienced workers  
25 remain very hard to recruit."

1                   Again, do you have -- well, first of  
2 all, do you have any reason to doubt that Ameren's  
3 paying -- AmerenUE is paying \$15,000 to attract  
4 linemen?

5           A.       Do I have any reason to doubt that?

6           Q.       Yeah.

7           A.       No, I don't.

8           Q.       Okay. And do you have any reason to  
9 doubt that we've developed a co-op program to attract  
10 engineers?

11          A.       No, I don't.

12          Q.       And we've developed partnerships with  
13 local schools to attract employees. Do you have any  
14 reason to doubt that?

15          A.       No.

16          Q.       And do you have any reason to doubt her  
17 statement that we're still having trouble attracting  
18 workers?

19          A.       That you're still having problems? Is  
20 that -- is that what you're asking? I'm sorry.

21          Q.       Yeah. Basically, she says, "Skilled and  
22 experienced workers remain very hard to recruit." Do  
23 you doubt that that's true?

24          A.       No.

25          Q.       Ms. Bauer also testified that surveys

1 have shown that AmerenUE's peer utilities -- that  
2 almost all pay incentive compensation -- I think  
3 she -- the exact numbers she quoted were from a  
4 survey by Hewitt & Associates that indicated over  
5 93 percent of the electric utility peers paid  
6 short-term incentive compensation. Is that -- do you  
7 remember that?

8 A. Yes.

9 Q. And do you have any reason to doubt that  
10 that's true? It's on page 6 --

11 A. Thank you.

12 Q. -- line 18. I'm sorry. I should have  
13 given you the reference. Do you have any reason to  
14 doubt that that's true?

15 A. No.

16 Q. And she also says that, "100 percent of  
17 our utility peers pay long-term incentives." Again,  
18 do you have any reason to doubt that that testimony  
19 is true?

20 A. No.

21 Q. Had -- had you -- had you ever heard of  
22 Hewitt & Associates before reading Ms. Bauer's  
23 testimony?

24 A. Yes.

25 Q. Okay. Did you read their survey?

1           A.       Which survey are you referring to, sir?

2           Q.       The one Ms. Bauer's referencing.

3           A.       Not this particular one, no.

4           Q.       Okay. Does it make any difference to

5   you if virtually all of AmerenUE's peer utilities are

6   offering incentive compensation? Is that a fact that

7   makes a difference to you?

8           A.       It may for management, but for

9   ratemaking treatment, it shouldn't. I mean, the

10   benefits of the plan should be felt by consumers

11   and -- I mean, there should be some benefit to

12   ratepayers from an incentive plan by markedly

13   increased improvement.

14          Q.       So that's a no, it does not matter to

15   you that all of our peers are paying incentive

16   compensation?

17          A.       For ratemaking treatment?

18          Q.       Yes --

19          A.       No --

20          Q.       -- does it matter to you for ratemaking

21   treatment? No. Okay. Let me ask you this: All

22   other -- all other things being equal, wouldn't an

23   employee rather work for a utility that's paying

24   incentive compensation than one that is not?

25          A.       I don't know.

1           Q.       Okay. I mean, Ms. Bauer's overall  
2 conclusion is that in the current environment, paying  
3 incentive compensation is necessary for an electric  
4 utility to attract and retain skilled employees. Do  
5 you have any reason to doubt that?

6           A.       From management's perspective, no, I  
7 don't.

8           Q.       Okay. I'd like to -- do you have your  
9 deposition that Mr. Fischer took with you?

10          A.       Yes, I do.

11          Q.       Just like to touch -- touch on it a  
12 little bit. And in particular, I'm looking at  
13 page -- let's see. Again, this is on the topic of  
14 what -- what do you and Ms. Bauer agree on.

15                   And on page 50, line 19, Mr. Fischer  
16 asked you, "Mr. Hagemeyer, would you agree with me  
17 that AmerenUE needs to be able to compete in the  
18 employment marketplace to attract employees to Ameren  
19 to serve its customers over the long term?" You  
20 said, "Over the long term, yes." Do you still agree  
21 with that?

22          A.       From management's perspective, yes.

23          Q.       Okay. And I think on page 51, line 5 --  
24 well, really, it's just the next question starting at  
25 the bottom of page 50. Mr. Fischer said, "And

1 compensation is a factor that perspective employees  
2 and current employees will take into account when  
3 they decide whether to accept a job at Ameren or stay  
4 at their current job; wouldn't you agree?" And you  
5 said, "I would say so." Do you still agree with  
6 that?

7 A. Yes.

8 Q. Okay. Didn't you also agree -- and here  
9 I'm on page 51, line 18, that "If AmerenUE fails to  
10 pay a competitive package, that over the long term,  
11 it will not be able to attract or retain a  
12 high-quality workforce"?

13 A. I'm sorry. I didn't hear a question.

14 Q. Didn't you also agree with  
15 Mr. Fischer -- and I guess I'm looking at line 18 on  
16 page 51 of the deposition -- that "If AmerenUE fails  
17 to pay a competitive package, that over the  
18 long term, it will not be able to attract or retain a  
19 high-quality workforce"?

20 A. And I said I would agree.

21 Q. And you still agree now?

22 A. Yes.

23 Q. And what's the problem with not being  
24 able to attract or retain a high-quality workforce?  
25 What -- what problems does that cause?



1           A.       We're speaking in hypotheticals?

2           Q.       Well, I guess so.  What -- what problems  
3 would that cause in your opinion?

4           A.       Again, this is a hypothetical.  I'm not  
5 saying that Ameren's not attracting currently a  
6 high-quality workforce.

7           Q.       Sure, sure.  If there weren't, what  
8 problems would it cause?  It's a hypothetical.

9           A.       It -- it might cause diffi -- I mean,  
10 service might go down -- and again, might.

11          Q.       Sure.  Sure.  And service might go down,  
12 service to customers might decline; is that true?

13          A.       It might, yes.

14          Q.       I mean, the operations of the system  
15 might decline; isn't that true?

16          A.       It might, yes.

17          Q.       Okay.  They might not -- maybe they  
18 wouldn't operate in the most efficient way if they  
19 didn't have a high-quality workforce; is that true?

20          A.       Potentially, yes.

21          Q.       Okay.  Does Staff prefer fixed base  
22 salaries over incentive compensation?

23          A.       I don't think we've expressed a  
24 preference either way.

25          Q.       Well, wouldn't it be fair to say that

1 the Staff usually challenges any kind of incentive  
2 compensation program a utility has in terms of  
3 including it in rates?

4 A. I don't know that we would challenge it  
5 so much as we -- we would examine it based on  
6 Commission guidelines that have been established for  
7 a reasonably long period of time.

8 Q. Well, can you name any case where the  
9 Staff has accepted a utility's incentive compensation  
10 program without challenging it?

11 A. Off the top of my head, no.

12 Q. Okay. On the other hand, Staff rarely  
13 challenges compensation based on fixed salaries; is  
14 that true?

15 A. Off the top of my head, I really don't  
16 know. I'm sorry.

17 Q. Can you name a case where Staff has  
18 challenged fixed base salaries of a utility's  
19 employees?

20 A. Not off the top of my head, no.

21 Q. Okay. Ms. Bauer has also testified that  
22 AmerenUE's incentive compensation is necessary to  
23 bring AmerenUE's salaries to market level. Do you  
24 disagree with that?

25 A. Could you repeat that, please?

1           Q.       Ms. Bauer has also testified that  
2   AmerenUE's incentive compensation is necessary to  
3   bring AmerenUE's compensation to market levels. Do  
4   you disagree with that?

5           A.       That she said that?

6           Q.       Well, okay.

7           A.       I'm sorry.

8           Q.       Do you disagree she said that?

9           A.       No, I don't disagree that she said that.

10          Q.       Okay. Now, do you disagree with it  
11   substantively?

12          A.       Again, I didn't look at the market-wide  
13   salaries --

14          Q.       Okay.

15          A.       -- of the compensation packages.

16          Q.       Okay.

17          A.       I just examined the UE package.

18          Q.       Okay. So would it be fair to say you  
19   have no reason to disagree with that statement of  
20   hers?

21          A.       Yes.

22          Q.       Okay. Okay. And my understanding -- I  
23   don't want to put words in your mouth, but my  
24   understanding of your testimony is that you're not,  
25   per se, opposed to incentive compensation, but you

1 just think our plan is designed improperly. Is that  
2 a fair summary of what you're saying?

3 A. Well, I wouldn't say it like that. I'd  
4 say that it has its flaws.

5 Q. Okay. But -- but it's not that you are  
6 always opposed to incentive compensation, you're just  
7 saying our particular incentive compensation program  
8 is flawed, right?

9 A. Yes.

10 Q. Okay. Let's talk about the design of  
11 our plan for a moment. Ms. Bauer has testified that  
12 AmerenUE's incentive compensation program -- and  
13 I'm -- I think I'm looking at page 8, line 20 of  
14 Ms. Bauer's testimony -- and she testified that  
15 "AmerenUE's incentive compensation program is  
16 designed based on reliable third-party market data to  
17 determine base and incentive levels for each position  
18 based on a dozen or more salary surveys each year."  
19 Do you see that?

20 A. 20 through 22 --

21 Q. Yeah.

22 A. -- or 3.

23 Q. And -- well, it goes onto the next  
24 page --

25 A. Okay.

1           Q.       -- where she talks about a dozen or more  
2 salary surveys each year.

3           A.       Yes.

4           Q.       And do you have any reason to disagree  
5 with that?

6           A.       No.

7           Q.       Ms. Bauer also testified that, "In  
8 response to Commission and Staff feedback, we  
9 redesigned our short-term incentive program so that  
10 the short-term incentives were not tied to earning --  
11 not tied to earnings as they had been in the past."  
12 Do you recall that testimony?

13          A.       Yes.

14          Q.       And do you agree that AmerenUE did that?

15          A.       I don't -- I can't testify as to the  
16 motivation, but there was a shift away from, I guess,  
17 a decoupling, as it was put earlier --

18          Q.       Okay.

19          A.       -- where the earnings per share trigger  
20 was no longer a factor.

21          Q.       And I mean -- I'm sorry. I didn't want  
22 to ask you to speculate about the motivation, but at  
23 least it happened, right?

24          A.       A change in plans did happen, yes.

25          Q.       And would you agree with me that that's

1 a fairly significant change in the plan?

2 A. I would say it's different, yes.

3 Q. Well, I mean -- and let's just talk for  
4 a minute about how it's different, if you know.

5 Isn't it true that the way that it used to operate  
6 before -- the way the short-term incentive plan used  
7 to operate before was the company would look at its  
8 earnings and if it met earnings targets, there would  
9 be a pool of money available for the short-term  
10 incentives; isn't that how it used to work?

11 A. If it met its earnings per share  
12 targets, then a pool of money would be set aside for  
13 compensation -- incentive compensation, yes.

14 Q. Okay. And then it would be divided, I  
15 guess, still based on key performance indicators,  
16 right?

17 A. Among other things, yes.

18 Q. Among other things. Okay. And now,  
19 that's not how it works anymore, right?

20 A. Under the 2008 plans, there is no  
21 earnings per share trigger.

22 Q. And what is the trigger under the 2008  
23 plans? Well, let me try to help. Isn't it the  
24 achievement of the key performance indicators that's  
25 the trigger under the 2008 plan?

1           A.       Well, it would depend on the plan, sir.

2           Q.       Okay. For the short-term incentive  
3 plan?

4           A.       Well, under the managers and directors  
5 and executive incentive plan, 25 percent is dependent  
6 upon earnings per share -- I'm sorry, sir. Some of  
7 this is highly confidential. Is that -- I just  
8 noticed that.

9           Q.       Yeah, that's all public, Mr. Hagemeyer.

10          A.       Okay.

11          Q.       Thanks --

12          A.       All right.

13          Q.       -- thanks for asking, though.

14          A.       Okay. And I apologize. Earnings per  
15 share is about 25 percent, and performance makes up  
16 the rest of it.

17          Q.       And for the other groups of employees,  
18 is the key performance indicators under the  
19 short-term incentive plan?

20          A.       Yes.

21          Q.       And I think you recognized that in your  
22 deposition as a step in the right direction, and I  
23 think it's on page 34, line 4, if you want to look at  
24 it. Would you agree it's a step in the right  
25 direction?

1           A.       I believe I qualified that later.

2           Q.       Okay. Okay. Well, how would you like  
3 to describe it, then?

4           A.       I said moving away -- hold on just a  
5 moment. What I said was on page 34, lines 13 through  
6 19. "You said a step in the right direction?

7                    "It would depend. I mean, I don't want  
8 to say blanket that just earnings per share is not  
9 acceptable. It's when you get into financial  
10 performance measures similar to earnings per share.  
11 We also degree -- disagree with those as well."

12          Q.       Okay. So -- well, let me just ask you  
13 if you -- is what AmerenUE did a step in the right  
14 direction in your opinion or not?

15          A.       For the short-term incentive plans, yes.

16          Q.       Okay. But just not enough of a step in  
17 the right direction, I guess, to be allowed in rates?

18          A.       Yes.

19          Q.       Okay. I think Staff opposes incentive  
20 plans based on earnings because Staff believes that  
21 earnings benefit shareholders and not customers; is  
22 that correct?

23          A.       I don't necessarily think I would limit  
24 it like that. I believe that Staff is generally  
25 opposed to earnings per share measures being used as



1 well as other financial measures like total  
2 shareholder return because they don't focus on the  
3 operational or reliability service-oriented goals.  
4 And they could be impacted by any number of things  
5 that -- that is not within the control of an  
6 individual employee.

7 Q. Would you agree with me that customers  
8 do benefit in some ways if a utility is earning  
9 money?

10 A. You mean -- I'm sorry. That's pretty  
11 broad.

12 Q. Okay. Well, let me be more specific.  
13 For example, if the utility keeps its costs low and  
14 thereby earns money, doesn't that benefit ratepayers  
15 in the long run?

16 A. So long as safe and adequate service  
17 is -- is provided.

18 Q. Okay. And don't customers benefit from  
19 having a financially healthy utility that can borrow  
20 money and borrow money at reasonable rates?

21 A. Just so I'm clear, would you mind  
22 repeating that, please?

23 MR. BYRNE: I'm not sure I can. Maybe  
24 the reporter could read it back.

25 (THE COURT REPORTER READ BACK THE

1 PREVIOUS QUESTION.)

2 THE WITNESS: I would assume there would  
3 be some benefit there.

4 BY MR. BYRNE:

5 Q. I mean, isn't a financially healthy  
6 utility more able to improve its system and maintain  
7 its system than one that's not financially healthy?

8 A. I believe we're beyond the scope of what  
9 I actually looked at in this case, but...

10 Q. Still, I can ask you things beyond the  
11 scope of what you filed in the case.

12 A. Okay. Well, I understand. I'm just  
13 saying I didn't necessarily look at that.

14 Q. Sure.

15 A. I apologize, but could you repeat that?

16 Q. Yeah. Isn't a financially healthy  
17 utility more able to maintain and improve its system  
18 than one that's not financially healthy? If you  
19 don't know, that's fine.

20 A. Not having looked at it, I really don't  
21 know. I'm sorry. I mean --

22 Q. The financial health issue you didn't  
23 even consider in your testimony?

24 A. I did not, no.

25 Q. Okay. Do you know what key performance

1 indicators are?

2 A. Yes.

3 Q. Is it true that key performance  
4 indicators are metrics on which AmerenUE's short-term  
5 incentive compensation payments are based?

6 A. In the case of the Ameren management  
7 incentive plan, it's 100 percent KPIs -- I'm sorry --  
8 key performance indicators. In the case of the  
9 executive incentive plan for management and  
10 directors, only 75 percent is based off of KPIs.

11 Q. Okay.

12 A. And again, we're not delving into highly  
13 confidential material here?

14 Q. No, no, you're fine.

15 A. Okay. All right.

16 Q. But thanks for being conscious of that.  
17 Would it be fair to say that KPIs -- and I'll use  
18 KPIs for key performance indicators -- are generally  
19 quantitated measurements of performance?

20 A. Generally, yes.

21 Q. Would you agree that properly designed  
22 KPIs could form a legitimate basis for an incentive  
23 compensation program that Staff would include in  
24 rates?

25 A. I would agree with that, yes.

1           Q.       Okay. But in your view, AmerenUE's KPIs  
2 are not properly designed?

3           A.       That's not what I said.

4           Q.       Okay. Then why aren't you -- if they're  
5 properly designed, why aren't you including them in  
6 rates?

7           A.       We said that the targets for, I believe  
8 it's 76.12 percent of them were what we would  
9 consider the basis for a good incentive plan, but we  
10 disagreed with the payouts for performance below the  
11 targets.

12          Q.       I'll get to that in a little bit --

13          A.       Okay.

14          Q.       -- but let me ask you the --

15                   JUDGE WOODRUFF: Mr. Byrne, I'm sorry to  
16 interrupt, but we've been going for a couple of hours  
17 now, so we're going to need to take a break.

18                   MR. BYRNE: Okay.

19                   JUDGE WOODRUFF: We'll take a break and  
20 we'll come back at 10:45.

21                   (A RECESS WAS TAKEN.)

22                   JUDGE WOODRUFF: All right. Let's get  
23 started. Mr. Byrne, you can continue with your cross  
24 when you're ready.

25                   MR. BYRNE: Thank you, your Honor.

1 BY MR. BYRNE:

2 Q. Mr. Hagemeyer, would you agree with me  
3 that financial -- well, let me ask. Do you agree or  
4 disagree that financial incentives work?

5 A. I really -- I don't know.

6 Q. Well, let me ask it a different way. Do  
7 you believe that financial incentives motivate people  
8 to act in a way that allows them to qualify for their  
9 financial incentive or do you not know?

10 A. I'm sorry. Could you be a little bit  
11 more clear?

12 Q. Well, I'll try.

13 A. Thank you.

14 Q. When people have a financial incentive  
15 to do something, do you believe it motivates them to  
16 do it?

17 A. In most cases, yes.

18 Q. I mean, that's -- that's really sort of  
19 the -- one of the underlying principles of  
20 capitalism, isn't it, that people do what's  
21 financially in their interest?

22 A. Yes.

23 Q. Okay. Let me ask you this: Would you  
24 agree with me that it is appropriate for AmerenUE to  
25 provide financial incentives to its employees to

1 encourage the provision of reliable service to  
2 customers?

3 A. I apologize, but could you restate your  
4 question?

5 Q. Sure. Would you agree with me that it's  
6 appropriate for AmerenUE to provide financial  
7 incentives to its employees to encourage the  
8 provision of reliable service?

9 A. I don't know that I would say  
10 necessarily that it's appropriate. I'm saying that  
11 we don't oppose the use of incentives.

12 Q. Yeah. And I mean, I'm not talking about  
13 any particular incentive right now. I'm just saying  
14 as a general principle, would you agree that it's  
15 appropriate to provide financial incentives to  
16 employees to encourage the provision of reliable  
17 service?

18 A. Well, I would say that in general, we're  
19 not opposed to it necessarily, but the  
20 appropriateness, I believe, would depend on the  
21 situation.

22 Q. Okay. It could be appropriate?

23 A. It could be, it could not be.

24 Q. Depending on how the incentive was  
25 designed?

1           A.       Yes.

2           Q.       Okay. But properly designed, would it  
3 be appropriate to have a financial incentive to  
4 encourage the provision of reliable service?

5           A.       I don't know. I mean, it would depend  
6 on the situation.

7           Q.       Okay. So even a properly designed  
8 incentive might not be appropriate in your view?

9           A.       Might not.

10          Q.       Okay. Why might it not?

11          A.       Well, if the situation doesn't demand  
12 it, if the provision of safe and adequate service is  
13 already being achieved through normal course of  
14 business and -- I'm sorry. May I have a moment?

15          Q.       Sure.

16          A.       And just to be sure, the question was in  
17 what situation would a properly designed incentive  
18 plan not be appropriate?

19          Q.       No. It was -- well, at one point the  
20 question was -- I think this was the question: Would  
21 it be appropriate for a properly designed incentive  
22 program to encourage employees to provide reliable  
23 service to customers?

24          A.       It could be appropriate, yes.

25          Q.       Okay. And how about the same question,

1 would you agree that it would be appropriate for the  
2 company to provide a properly designed financial  
3 incentive to encourage employees to meet safety  
4 goals? Would that be appropriate?

5 A. It would depend on the situation.

6 Q. I mean, is your answer the same, it  
7 could be?

8 A. Yes.

9 Q. Okay. And I mean, at least those  
10 categories of things -- what I'm trying to get at is  
11 are those categories of things, the provision of  
12 reliable service and meeting safety goals where it  
13 might be acceptable to have a financial incentive as  
14 long as it was properly designed?

15 A. It might be, so long as you're looking  
16 for improvement and that it would meet the  
17 Commission's criteria.

18 Q. Okay. How about the same question,  
19 would it be appropriate to have a financial -- a  
20 properly designed financial incentive to encourage  
21 employees to control costs?

22 A. Well, I don't believe that we've allowed  
23 the financial incentives -- or the financial pieces  
24 of the KPIs because they could impede operational  
25 issues either -- I mean, if efficiencies can be



1     gained such that your budget would be way lower than  
2     a key performance indicator would -- would incent an  
3     employee to have, or in a situation where a repair --  
4     a major repair exceeds the -- would exceed below the  
5     budget by a massive amount, we'd want to make the  
6     repair rather than worrying about budget compliance  
7     for a key performance indicator.

8           Q.     Okay. So that one's different than the  
9     other two? You're basically saying no, it's --  
10    it's -- it's not really possible to have a properly  
11    designed incentive that would be acceptable to the  
12    Staff with regard to cost control; is that correct?

13          A.     I don't know that I would put it as you  
14    did, but we -- we are hesitant, I -- I would say, to  
15    accept financial -- financial-related incentives.

16          Q.     Has the Staff ever allowed a  
17    financial-related incentive?

18          A.     Off the top of my head, I don't really  
19    know.

20          Q.     How about properly designed financial  
21    incentives to encourage employees to meet customer  
22    satisfaction goals? Is that -- would that be  
23    appropriate?

24          A.     It would depend on the metrics used, if  
25    it called for improvement, if it met the Commission

1 criteria and if the situation demanded it.

2 Q. But at least unlike cost control,  
3 customer satisfaction goals are the kind of goals  
4 that you might -- you might be able to have an  
5 acceptable financial incentive around?

6 A. We might.

7 Q. Okay. How about operational efficiency?

8 A. Could you define that a little bit more?

9 Q. Sure. Well, I'll give you an example.  
10 Maybe, you know, plant output, for example, megawatt  
11 hours of output from a generating plant. Would that  
12 be the kind of thing that it would be appropriate to  
13 have a properly designed financial incentive around?

14 A. Like the customer-centered indicators,  
15 it would depend on -- on the metrics being used, if  
16 it met the criteria and if the situation demanded it.

17 Q. So it might be?

18 A. Might be.

19 Q. Okay. Fair enough. Whereas -- I don't  
20 want to put words in your mouth, but whereas, the  
21 cost control -- all of them were "it might be" except  
22 the cost control one was "it probably isn't." Is  
23 that a fair summary of what you're saying?

24 A. I believe so, but again, I wouldn't put  
25 it necessarily the way you did.

1 Q. How would you put it?

2 A. I would say that in this circumstance,  
3 given the key performance indicators that I reviewed,  
4 I -- I did not believe that the financial incentives  
5 were an appropriate basis -- basis for incentive  
6 payment.

7 Q. Okay. Well, let's take a look at the  
8 Staff's cost of service report. And my  
9 understanding, were you responsible for the portion  
10 of the cost of service report dealing with incentive  
11 compensation?

12 A. Yes.

13 Q. And it looks to me like that starts on  
14 page 46, I think.

15 A. I believe you're right.

16 Q. And ends on page 49 --

17 A. Page -- yes.

18 Q. -- is that right? And so it's only just  
19 about three and a half pages of discussion; is that  
20 correct?

21 A. Thereabouts, yeah, yes.

22 Q. And my understanding is in the Staff's  
23 report, the Staff went ahead and disallowed 100  
24 percent of the incentive compensation cost; is that  
25 correct?

1           A.       Yes.

2           Q.       And my understanding was at that time,  
3   the reason you were disallowing 100 percent was that  
4   you felt you didn't have enough information about the  
5   plans; is that correct?

6           A.       No.

7           Q.       Okay.

8           A.       The portion related to key performance  
9   indicators, the metrics for the individual goals,  
10   the -- any sort of documentation on the exceptional  
11   performance bonus plan, we did not have that --  
12   that -- that was because we lacked information. The  
13   portion tied to earnings per share we thought we had  
14   enough information on.

15          Q.       Okay. And how long did you audit  
16   AmerenUE after it filed its case before you filed the  
17   Staff report?

18          A.       I don't remember. I'm sorry.

19          Q.       I mean, it was four or five months,  
20   wasn't it?

21          A.       I believe so.

22          Q.       Okay. But you still -- in that period  
23   of time you still weren't able to get enough  
24   information to evaluate those -- I guess the  
25   short-term program and the employee performance

1 benefit -- exceptional performance benefit plan?

2 A. Yes.

3 Q. What did you do to try to get enough  
4 information on those plans?

5 A. I asked -- well, the Staff asked a  
6 series of DRs. We had meetings with company  
7 personnel, discussions with company personnel via  
8 e-mail.

9 Q. And did you physically meet before you  
10 filed your cost of service report with company  
11 personnel?

12 A. Yes.

13 Q. Who did you meet?

14 A. You, Krista Bauer, and that was, I  
15 believe, on the 6th of August.

16 Q. Okay. And you -- how long was -- how  
17 long did that meeting last? I really don't remember.

18 A. I don't either.

19 Q. Okay. But for whatever reason, you  
20 didn't get enough information in that meeting?

21 A. Correct.

22 Q. Okay. And then -- and who made the  
23 decision to disallow 100 percent of the incentive  
24 compensation costs in the Staff report?

25 A. That would be me.

1           Q.       Okay. Did you have to get approval from  
2 anybody?

3           A.       Yes.

4           Q.       Who did you get approval from?

5           A.       I discussed my decision with Steve  
6 Rack -- Steve Rackers who is the -- I believe the  
7 lead auditor on the case.

8           Q.       Okay. Anybody else involved in that  
9 discussion?

10          A.       Not that I'm remembering, no.

11          Q.       Okay. And then Staff didn't file any  
12 rebuttal testimony on incentive compensation; is that  
13 correct?

14          A.       No, we did not.

15          Q.       Okay. And then you filed surrebuttal  
16 testimony in which you changed your position; is that  
17 right?

18          A.       Yes, as we had more information.

19          Q.       Okay. And looking at your surrebuttal  
20 testimony, it covers a couple of topics, but it looks  
21 like incentive compensation runs from page 2 to  
22 page 6, maybe; is that right?

23          A.       Give me just a moment. It runs onto the  
24 top of page 6, yes.

25          Q.       Okay. And my understanding is that

1 your -- the position from your surrebuttal testimony  
2 is that you're allowing about 2 percent of our  
3 incentive compensation costs; is that right?

4 A. I believe so, yes.

5 Q. Okay. And disallowing the other  
6 98 percent?

7 A. Yes.

8 Q. Do you know how much in dollars you're  
9 proposing to allow?

10 A. Yes. \$526,802.

11 Q. Okay. And again, you know, same sort of  
12 questions, who made the decision to allow that amount  
13 and disallow the rest?

14 A. That would be me.

15 Q. Okay. And did any -- did you discuss it  
16 with any other Staff people?

17 A. Yes.

18 Q. Who?

19 A. Steve Rackers.

20 Q. Now, my understanding is you had  
21 additional meetings with company personnel before you  
22 filed your surrebuttal testimony; is that correct?

23 A. Yes, I did.

24 Q. And who did you meet with?

25 A. I don't have all of the names. I didn't

1 catch a couple of them, but I did meet again with  
2 Ms. Bauer, with Ken Virrell (phonetic spelling). And  
3 I'm sorry, I don't have his title handy. There were  
4 other gentlemen in the room as well.

5 Q. Maybe four people or so?

6 A. It could be more than that.

7 Q. Okay. How long did you meet with them?

8 A. Several hours.

9 Q. And when did that meeting occur, if you  
10 know?

11 A. I don't know offhand.

12 Q. Okay. And what did you -- what did you  
13 go over with them in the time you met with them?

14 A. We went over each scorecard that the  
15 company used, we discussed the KPIs that were used, I  
16 asked for definitions of the KPIs, which were  
17 provided subsequent to that, and they were also  
18 available at the meeting. I asked for copies of  
19 those.

20 Q. Were the Ameren employees that you met  
21 with helpful to you at the meeting?

22 A. Yes, and I believe I indicated that in  
23 my surrebuttal testimony.

24 Q. And did they answer all your questions?

25 A. I believe they answered most, if -- if



1 not all.

2 Q. Okay. So -- and you looked at  
3 individual scorecards and individual key performance  
4 indicators?

5 A. Yes, I did.

6 Q. Do you believe you gained a thorough  
7 understanding of the company's incentive compensation  
8 plans to the extent that you were missing information  
9 before that meeting?

10 A. I believe so.

11 Q. Okay. Okay. Let me ask you this: What  
12 is the standard that you are using to determine  
13 whether incentive compensation should be allowed or  
14 disallowed in this case?

15 A. We're looking at the -- the order from  
16 ER -- or I'm sorry -- EC-87-114 which was a UE  
17 complaint case. Also, there were orders -- let me  
18 see. Southwestern Bell case, I believe it's  
19 TC-93-224. There was also a -- I'm not sure of the  
20 company on this -- Kansas City Power & Light,  
21 ER-2006-0314. Those are the standards that I used.

22 Q. Okay. And some of those cases were from  
23 pretty long ago, aren't -- aren't they? I mean, in  
24 particular, looking at the AmerenUE case, looks like  
25 it's from 1987; would that be right?

1           A.       Yes, these are fairly longstanding for  
2 the most part.

3           Q.       Okay. And do you think it's possible  
4 that labor markets may have changed since 1987?

5           A.       Having not analyzed that, I really don't  
6 know.

7           Q.       Okay. Do you think it's possible that  
8 incentive compensation plans have become more wide --  
9 in more widespread use since 1987?

10          A.       Again, I didn't focus on that aspect, so  
11 I really don't know.

12          Q.       Okay. And can you -- you told me the  
13 case numbers where you got the standard from, but can  
14 you articulate what the standard is?

15          A.       Sure.

16          Q.       How do you know whether a piece of the  
17 incentive compensation program qualifies for recovery  
18 in rates or not?

19          A.       Okay. You want me to just basically  
20 read what -- I mean, I outlined that in the  
21 testimony, but --

22          Q.       Sure.

23          A.       The -- from EC-87-114, the standard was  
24 that, "At a minimum, an acceptable management  
25 performance plan should contain goals that improve

1 existing performance, and the benefits of the plan  
2 should be ascertainable and reasonably" -- I'm  
3 sorry -- "reasonably related to the incentive plan."

4 Okay. And the Southwestern Bell case --  
5 give me just a moment, please.

6 Q. Sure.

7 A. The section on the Southwestern Bell  
8 plan -- or order was, "Because the plan does not  
9 focus on Missouri-specific results and does not  
10 include service-oriented goals, the Commission  
11 concludes that it is not appropriate to include the  
12 cost of the plan in the cost of service."

13 And from the Kansas City Power & Light  
14 order, ER-2006-0314, there's two parts, I believe.  
15 "However, because maximizing EPS" -- which is  
16 earnings per share -- "could compromise service to  
17 ratepayers such as reducing customer service or tree  
18 trimming costs, the ratepayer should not have to bear  
19 that expense.

20 "What more -- what is more, because  
21 Kansas -- KCP&L is owned by Great Plains Energy, Inc.  
22 and because GPE has an unregulated asset, Strategic  
23 Energy, LLC, it follows that KCP&L could achieve a  
24 high EPS by ignoring its Missouri ratepayers in favor  
25 of devoting its resources to Strategic Energy."

1                   And then later Kansas City -- I'm  
2   sorry -- "KCP&L management is free to offer whatever  
3   compensation package it wants. Nevertheless, if the  
4   method" -- I'm sorry -- "method KCP&L chooses to  
5   compensate employees shows no tangible benefit to  
6   Missouri ratepayers, then those costs should be borne  
7   by the shareholders and not included in the cost of  
8   service."

9           Q.       Okay. So working backwards, Kansas City  
10   Power & Light order, it looks like to me that --  
11   three standards that you just articulated. One  
12   was -- the last one was benefit to the customers,  
13   right?

14          A.       Yes.

15          Q.       And then the second-to-the-last one was  
16   it can't benefit their unregulated affiliate and --  
17   or their affiliate in another state. Is that No. 2?

18          A.       I think that's -- I think in this one  
19   it's mainly two, that earnings per share shouldn't --

20          Q.       And then earnings per share was --

21          A.       Right. That's part of the unregulated.

22          Q.       Okay. And earnings per share I know  
23   had an impact on your recommendation in this case,  
24   right?

25          A.       Yes.

1           Q.       What about the other two? Was there  
2   ever -- was there any concern on your part that there  
3   was -- that some of these were designed for the --  
4   for an unregulated affiliate? Did that form any part  
5   of your logic in disallowing our costs in the same  
6   way it did Kansas City Power & Light's cost?

7           A.       Yes. In the long-term incentive plans,  
8   it was total shareholder return of the Ameren  
9   Corporation as opposed to AmerenUE.

10          Q.       Okay. Any -- any other places where the  
11   unregulated affiliate issue arose in your mind for  
12   AmerenUE?

13          A.       I don't believe so, no.

14          Q.       Okay. Let me ask you this: Is it  
15   possible that, you know, these are three different  
16   standards being applied in three different cases by  
17   the Commission and -- or would you agree with that or  
18   not?

19          A.       I don't necessarily agree with that. If  
20   you look at the Southwestern Bell order, it's stating  
21   a preference for Missouri-specific goals, which I  
22   believe is reiterated in the 2006 Kansas City Power &  
23   Light. And also, the Southwestern Bell talks about  
24   service-oriented goals which the -- I believe the  
25   EC-87-114 is somewhat preferring as well.

1           Q.       So there's some consistencies among the  
2 orders?

3           A.       I believe so, yes.

4           Q.       But you're providing -- you're applying  
5 all -- all three orders' standards to potentially  
6 disallow costs, right? You would disallow them if  
7 they didn't meet the standards of EC-87-114, right?

8           A.       Yes.

9           Q.       And you would also disallow them if they  
10 didn't meet the standards of TC-93-224?

11          A.       Yes.

12          Q.       And you would also disallow them if they  
13 didn't meet the standards of ER-2006-0314, right --

14          A.       Yes.

15          Q.       -- the KCPL case. Okay. I read your  
16 testimony and I thought the standard that you were  
17 applying here dealt with -- and maybe it's the same  
18 thing you've been -- maybe in your mind it does  
19 relate back to the cases, but I thought you were  
20 excluding financial metrics. If there are KPIs based  
21 on financial metrics, you would exclude them; is that  
22 correct?

23          A.       Yes.

24          Q.       And if there are KPIs based on projects,  
25 project metrics, you would exclude them; is that

1 correct?

2 A. Yes, and then -- and you're right, those  
3 do relate back to the standards.

4 Q. Okay. But I didn't -- I didn't see like  
5 the words "project metrics" in any of those cases.  
6 Are they there?

7 A. No. But if you go back and read the  
8 section where I discussed the project-related -- and  
9 if you'll give me just a moment.

10 Q. Okay.

11 A. Okay. I'm on page 2 of my surrebuttal  
12 testimony, line 19.

13 Q. Yep.

14 A. Okay. "Staff proposes the project-based  
15 KPIs because they do not promote improvement or  
16 performance beyond what should be reasonably expected  
17 of an employee." And the improvement section there  
18 deals with the 87-114 case.

19 Q. But it didn't -- would it be fair to say  
20 the 87-114 case didn't mention project-based  
21 incentives?

22 A. It didn't use those terms, but what I'm  
23 saying by project-based is that it doesn't call for  
24 specific improvements over past years' performance.  
25 That was -- that was the entire point behind that

1 definition.

2 Q. And the third -- not to go -- to go back  
3 to where I was before, no -- no financial metrics is  
4 one thing we're looking at, right, in this case?

5 A. Well, they're not service-oriented  
6 goals.

7 Q. Right. But that's one reason that you  
8 disallowed incentives, right -- or KPIs because if  
9 they were financial metrics, right?

10 A. Because they weren't service-related,  
11 yes.

12 Q. And another reason was if they were  
13 project-related metrics, right?

14 A. Because they didn't call for  
15 improvement, yes.

16 Q. And the third thing, the third reason  
17 you disallowed costs was if they -- if target  
18 performance was not met; is that correct?

19 A. Yes.

20 Q. Okay. Where did you get that standard?  
21 I mean, did you derive it from those decisions that  
22 you talked about?

23 A. Yes. In the 87-114 case, it does  
24 call -- it says it improves performance above  
25 existing -- I'm sorry -- calls for improvement above



1 existing performance. But I can give you the exact  
2 language here. Just a second.

3 Q. Well, no, I -- I -- you don't need to.  
4 I think you read it into the record before. But you  
5 know, to my mind, the issue I'm having is those --  
6 the standards that I read that you're applying in  
7 this case don't appear to exactly track the language  
8 in the orders.

9 And so, for example, is there -- has the  
10 Staff ever taken the position that project-based  
11 metrics should not be used and use that -- those  
12 terms, project-based metrics, or did you just come up  
13 with that yourself?

14 A. Well, the term is my own.

15 Q. Okay.

16 A. But the point is that it refers back to  
17 the EC-87-114 case which calls for improvement over  
18 existing performance.

19 Q. How about the issue of -- you know,  
20 performance below target? Has the Staff ever taken  
21 that position before, performance below target should  
22 be disallowed?

23 A. I don't know.

24 Q. And that was just your idea, right?

25 A. Well, it was my idea that it -- that

1 performance -- that target was the goal that would  
2 improve performance beyond what can be reasonably  
3 expected of an -- of an employee.

4 Q. And what do you base that on?

5 A. I'm sorry?

6 Q. What do you base your idea that target  
7 would be an improvement beyond what could be expected  
8 of the employee?

9 A. Well, the setting of target as a goal to  
10 which employees should strive, in my mind, is borne  
11 from improvement over existing performance.

12 Q. So did you study each key performance  
13 indicator to determine if, in fact, it was targeted  
14 as opposed to threshold level that would -- that  
15 would indicate a performance above what was existing  
16 with that -- with that key performance indicator?

17 A. I'm sorry. Could you clarify that,  
18 please?

19 Q. Yeah. Did you do any analysis of each  
20 specific key performance indicator to determine what  
21 the -- what the cutoff point is, whether the --  
22 whether the target was, in fact, the cutoff point  
23 where improved performance over existing performance  
24 was measured?

25 A. No.

1           Q.       Okay.  So -- and Ms. Bauer previously  
2 testified that the threshold level represents an  
3 improvement of performance.  Do you remember hearing  
4 her testimony on that?

5           A.       I do remember her saying that, yes.

6           Q.       Do you have any reason to doubt that's  
7 true?

8           A.       Well, I mean, existing performance of an  
9 employee in my mind -- an employee should look for  
10 opportunities to improve performance, and --

11          Q.       Well, did you -- did you do any studies  
12 of the threshold level for each key performance  
13 indicator to determine whether or not that was an  
14 improvement over existing performance for that  
15 particular key performance indicator?

16          A.       No.

17          Q.       Okay.  So I guess you don't have any  
18 reason based on the study of the key performance  
19 indicators to doubt Ms. Bauer's testimony on that  
20 subject?

21          A.       No.

22          Q.       If we called it threshold target, would  
23 that -- would that make it better for you?

24          A.       I don't believe so.

25          Q.       Okay.  Let's discuss your exclusion of

1 the financial KPIs for a minute. One typical -- I  
2 think we already talked about that. Hang on.

3 We were talking about the financial KPIs  
4 and we were talking about staying within budgets. Do  
5 you remember when we were discussing that a few  
6 minutes ago?

7 A. Yes.

8 Q. And I think your concern with that was  
9 that an employee might do something that's  
10 detrimental to the system in order to stay within  
11 budget and make his KPI. Is that -- is that your  
12 problem with a budget-based KPI?

13 A. Among other things. There -- I mean, it  
14 also does not relate to a service-oriented goal.

15 Q. Well, don't you think staying within  
16 budget is beneficial to customers because it keeps  
17 rates down in the long run?

18 A. It would depend on why you're -- how  
19 you're staying within budget. If you're deferring  
20 maintenance or sacrificing efficiencies that could be  
21 gained, yes.

22 Q. Sure. That makes perfect sense. But  
23 what if there were exclusions for things like that?  
24 What if -- what if a program was designed so you were  
25 not incented to cut corners on important operational

1 things and defer maintenance and things like that?

2 Then wouldn't it be a good goal?

3 A. Potentially.

4 Q. Okay. Isn't staying within a budget a  
5 little bit different than having an earnings metrics  
6 for the company? Isn't it -- isn't it a little more  
7 customer-oriented to stay within the budget than it  
8 is to measure incentive based on overall corporate  
9 earnings?

10 A. Not necessarily.

11 Q. Okay. Let's talk about these  
12 project-based KPIs for a second. Tell me exactly  
13 what is your definition of a project-based KPI.

14 A. The definition is that it does not  
15 improve existing performance and essentially is  
16 asking an employee to do a certain project that could  
17 be handled within the normal course of business.

18 Q. What if the project did improve  
19 performance? What -- what if a project improved  
20 safety? Shouldn't that qualify?

21 A. I don't know that I found any of the  
22 project-based goals to be related to safety, but...

23 Q. Well, what if it -- what if it did,  
24 would that qualify?

25 A. Potentially. I would have to look at

1 the specific KPI.

2 Q. Well, what if a project-based goal  
3 improved reliability? Would that potentially  
4 qualify?

5 A. It could, but I would have to look at  
6 the specific KPI.

7 Q. What if it improved customer service?  
8 Would that potentially qualify even though it was  
9 project-based?

10 A. If it improved -- I mean, again, those  
11 measures would be subject to looking at the actual  
12 KPI.

13 Q. Shouldn't you have evaluated each KPI  
14 rather than just throw out all the project-based  
15 KPIs?

16 A. I looked at each KPI, sir.

17 Q. Okay. Now, the third -- at least a  
18 third reason you disallowed incentive compensation is  
19 where employees didn't reach the target level, right?  
20 We talked a little bit about that before?

21 A. I believe so, yes.

22 Q. And -- but my understanding is when you  
23 looked at the target level, you looked at aggregated  
24 data; is that correct?

25 A. Yes.

1 Q. And tell me how the data was aggregated.

2 A. If you'll allow me a moment?

3 Q. Sure.

4 A. The aggregate data -- I'm sorry. This  
5 is highly confidential. Is that --

6 MR. BYRNE: Okay. I think we probably  
7 need to go in-camera, if that's okay.

8 JUDGE WOODRUFF: We'll go in-camera at  
9 this time. If you'd look around and see anybody who  
10 needs to leave, please leave.

11 MR. BYRNE: Thank you very much for --

12 THE WITNESS: Oh, no problem.

13 MR. BYRNE: -- alerting me to that.

14 JUDGE WOODRUFF: Hold on just a second.  
15 We're waiting for people to leave.

16 (Reporter's Note: At this point, an  
17 in-camera session was held, which is contained in  
18 Volume 21, pages 1518 through 1541 of the transcript.)

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1 MR. BYRNE: Could I have just a second?

2 JUDGE WOODRUFF: Sure.

3 CROSS-EXAMINATION (CONTINUED) BY MR. BYRNE:

4 Q. Let me ask you this question: What  
5 analysis have you done of the effectiveness of  
6 AmerenUE's incentive compensation program?

7 A. Well, in the meeting with Mr. Virrell --  
8 and I -- I -- I asked him a question as to how  
9 effective -- I believe I asked him a question of how  
10 effective it was, and -- and certain circumstances he  
11 indicated that it was very effective. He mentioned  
12 the lost workdays away, how they had reduced -- been  
13 reduced over the years.

14 Q. Okay. So other than talking to  
15 Mr. Virrell, did you do any kind of analysis of the  
16 effectiveness of our incentive compensation program?

17 A. No.

18 Q. Okay. And --

19 A. Well, sir, may I?

20 Q. Go ahead.

21 A. Okay. I did ask in meetings, and I  
22 believe this was the meeting on August the 6th,  
23 that -- whether any study had been done, and I  
24 believe some of the efficiency -- or not -- I'm  
25 sorry. Some of the questions regarding cost



1 justification were asked and -- by Staff in the 50.4  
2 and whether that was cost-justified. So, I mean,  
3 there were questions asked that breached that topic.

4 Q. Okay. Let me ask you this. We've tried  
5 to decouple our incentive compensation from earnings,  
6 at least the short-term, right?

7 A. Yes.

8 Q. What do we need to do to get an  
9 incentive compensation that the Staff would find  
10 acceptable?

11 A. Well, I believe so long as you're  
12 meeting the criteria laid out in EC-87-114, the  
13 Southwestern Bell case, and basically what the  
14 Commission has -- has said in its past rulings, I  
15 believe you would have an acceptable plan.

16 MR. BYRNE: I have no further questions,  
17 Mr. Hagemeyer, and thank you for your patience and  
18 thank you for being conscientious about the highly  
19 confidential material.

20 JUDGE WOODRUFF: All right. We'll come  
21 up for questions from the Bench, and Commissioner  
22 Murray left some questions for me to ask so I'll ask  
23 those first.

24 QUESTIONS BY JUDGE WOODRUFF FOR COMMISSIONER MURRAY:

25 Q. On page 6, lines 3 to 4, I believe that

1 would be in your surrebuttal testimony, you say, "I  
2 see no evidence that AmerenUE's base level of  
3 compensation is artificially low in an effort to  
4 incent adequate performance." Do you have any  
5 evidence that UE's base level of compensation is  
6 adequate by itself without any incentive?

7 By "base level," I assume she's meaning  
8 base level of compensation aside from the incentive  
9 plan.

10 A. I'm not sure if this gets into highly  
11 confidential material. If I could ask Mr. Byrne?

12 JUDGE WOODRUFF: Okay. If you want to  
13 come forward, Mr. Byrne, please? Discuss it without  
14 shouting across the room.

15 MR. BYRNE: That might be helpful.

16 THE WITNESS: At another meeting with  
17 Ameren personnel, I did discuss base salaries and  
18 looked at the salary surveys that were used, and when  
19 I asked this individual, I was told that Ameren puts  
20 its salary solidly within the middle of that range.  
21 And so, I mean, my understanding is that they are --  
22 are adequate.

23 BY JUDGE WOODRUFF:

24 Q. The base salary without incentive would  
25 be adequate?

1           A.       Well, I --

2           Q.       Is that what you're --

3           A.       -- I don't know that.

4           Q.       Well, what -- what did you just tell me,

5 then?

6           A.       What I was saying was that the base

7 salaries by themselves, I mean, just compared to

8 other base salaries are adequate.

9           Q.       Okay. But it's my understanding

10 other -- most other utilities do have incentive

11 plans.

12          A.       I don't know that.

13          Q.       Okay. But you're comparing base

14 salaries to base salaries from other utilities?

15          A.       Yes.

16          Q.       Okay. How do you evaluate whether

17 compensation is artificially higher or lower

18 adequately without doing any comparative studies of

19 what other utilities are paying? And I guess that's

20 kind of the same question.

21          A.       Could you repeat that, please? I'm

22 sorry.

23          Q.       Well, this is what she wrote: "How do

24 you evaluate whether compensation is artificially

25 high or low or adequate without doing any comparative

1 studies of what other utilities are paying?"

2 A. Well, we did look at the salary surveys,  
3 and just looking at their position within those  
4 salary surveys, it seemed adequate. As far as the  
5 incentive plans, I think we have to look at each  
6 incentive plan on its own.

7 Q. Okay. And did you look at incentive  
8 plans for other utilities?

9 A. No, I did not. Not in this case. I'm  
10 sorry.

11 Q. If the entire incentive compensation  
12 were instead rolled into a base level of  
13 compensation, would Staff be recommending a  
14 disallowance?

15 A. I don't believe so.

16 Q. Okay. Is your objection to a long-term  
17 plan --

18 A. I'm sorry. Sir, may I clarify?

19 Q. Sure.

20 A. Not having looked at the -- the base  
21 compensation myself, I believe there was another  
22 Staff member who looked at that, I really don't know  
23 on that question. I apologize for wanting to make  
24 sure --

25 Q. Who was the other Staff member?

1           A.       Roberta Grissum.

2           Q.       But she didn't file testimony today or  
3 she won't be testifying?

4           A.       No.

5           Q.       Is your objection to the long-term plan  
6 greater than your objection to the short-term plan?

7           A.       I'm sorry. I need you to clarify. Are  
8 you talking in terms of value like the dollar amount?

9           Q.       I think she's not necessarily talking  
10 about dollar amounts, but the concept of the  
11 long-term plan as opposed to the short-term plan.  
12 We're talking about -- there are two different  
13 incentive plans; is that correct?

14          A.       There are four or five different  
15 incentive plans, but, I mean, each one was evaluated  
16 on its own merits, so I don't know that I would  
17 necessarily put it in those terms.

18          Q.       Okay. And she asked, "Please explain  
19 your objection to the exceptional performance  
20 incentive plan."

21          A.       My -- my objection to the exceptional  
22 performance is that I have no -- no information on it  
23 other than what's in Ms. Bauer's testimony.

24          Q.       Okay.

25          A.       We've never been given criteria to make

1 sure that it meets the Commission criteria.

2 Q. And there was a total disallowance of  
3 that program, then?

4 A. Yes.

5 JUDGE WOODRUFF: That's all the  
6 questions I had from Commissioner Murray.  
7 Commissioner Gunn?

8 COMMISSIONER GUNN: I don't have any  
9 questions. Thank you, Judge.

10 JUDGE WOODRUFF: Chairman Davis?

11 QUESTIONS BY CHAIRMAN DAVIS:

12 Q. With regard to the exceptional  
13 performance incentive program, did you send data  
14 requests?

15 A. That was part of, in my mind, the data  
16 request No. 50 which asked for all incentive plans.

17 Q. That asked for all incentive plans?

18 A. If you'll --

19 Q. Okay.

20 A. -- give me just a moment, I can pull up  
21 that data request. Okay. May I?

22 Q. So what they provided in response for  
23 the exceptional incentive plan was insufficient?

24 A. There was nothing, sir.

25 Q. Okay. There was nothing. Okay.

1           A.       I mean, there was discussions with  
2 personnel, but --

3           Q.       Okay.

4           A.       -- no documentation that I recall.

5           Q.       Okay. So you basically don't know if --  
6 I mean, if this is just, you know, a management tool  
7 where they pick the winners and losers, hey, I like  
8 this person, I don't like that person?

9           A.       Correct.

10          Q.       Okay. In response to Mr. Byrne's  
11 questioning, can you design an incentive compensation  
12 program for Ameren that meets the criteria that sets  
13 forth -- what was set forth in the Southwestern Bell  
14 case that -- that passes muster?

15          A.       I've never attempted it, but I mean,  
16 what we did find in the Ameren plan that we liked  
17 were the KPIs that performed the service-oriented  
18 goals.

19          Q.       Okay. Well, do you think -- do you  
20 think it's possible for you to go back and modify  
21 that and put together a proposal?

22          A.       Potentially, but I don't know. I mean,  
23 I would --

24          Q.       You can -- you can get lifelines, you  
25 can get assistance.

1           A.       If I could get assistance, I still don't  
2 know that it would be entirely appropriate for me to  
3 design their plan, but, I mean...

4           Q.       Well, I'm not asking you if it's  
5 appropriate.

6           A.       Okay.

7           Q.       I'm just asking you if you can, and you  
8 said possibly?

9           A.       I really -- I really don't know. I'm  
10 sorry.

11          Q.       Well, who would know the answer to that  
12 question?

13          A.       I -- I don't know. I mean...

14          Q.       Okay. Well, who's your supervisor?

15          A.       That would be Steve Rackers and John  
16 Cassidy.

17          Q.       Okay. So should I ask that question of  
18 Mr. Rackers?

19          A.       I don't know. I mean --

20          Q.       You don't know. Can't be any clearer  
21 about it than that, can you?

22          A.       Well, I mean, I'm sorry. It's -- it's a  
23 request that I haven't thought a lot about.

24                   CHAIRMAN DAVIS: Judge, I have no  
25 further questions.



1 JUDGE WOODRUFF: All right. Before we  
2 go on to recross, I want to ask Mr. Byrne, your  
3 Exhibit 75 HC, do you wish to offer that?

4 MR. BYRNE: I would like to offer it,  
5 your Honor.

6 JUDGE WOODRUFF: 75 HC has been offered.  
7 Is there any objection to its receipt?

8 (NO RESPONSE.)

9 JUDGE WOODRUFF: Hearing no objection,  
10 it will be received.

11 (EXHIBIT NO. 75 HC WAS RECEIVED INTO  
12 EVIDENCE AND MADE A PART OF THE RECORD.)

13 JUDGE WOODRUFF: For recross beginning  
14 with Noranda?

15 MR. CONRAD: Nothing further, your  
16 Honor. Thank you.

17 JUDGE WOODRUFF: For the State?

18 MR. IVESON: Nothing, your Honor.

19 JUDGE WOODRUFF: Public Counsel?

20 MR. MILLS: No questions.

21 JUDGE WOODRUFF: Ameren?

22 MR. BYRNE: Thank you.

23 RE-CROSS-EXAMINATION BY MR. BYRNE:

24 Q. Mr. Hagemeyer, Commissioner Murray asked  
25 you about have you looked at any salary surveys, and

1 I think you said you looked at base salary surveys;  
2 is that correct?

3 A. No. The salary surveys that I looked at  
4 had both base and incentive payment as a percentage  
5 of base included.

6 Q. Okay. But when you compared AmerenUE's  
7 base salaries, were you comparing that against base  
8 salaries of other utilities?

9 A. Yes.

10 Q. And -- and you did not -- for purposes  
11 of your analysis, you did not look at their incentive  
12 compensation, is that correct, and compare it to  
13 AmerenUE's incentive compensation?

14 A. Well, I did see that -- and the  
15 gentleman that you had talk to me, we did look at  
16 that portion of it, yes, as --

17 Q. So when you say that we fell into the --  
18 you know, into the realm of the other -- other  
19 utilities, you're talking about our base salary is  
20 comparable to their base salaries, right?

21 A. And their incentive percentages are --  
22 or I'm sorry -- and Ameren's percentages are within  
23 the same range for incentive payouts of other  
24 utilities.

25 Q. Okay. But -- okay. Got it. All right.

1    Yeah.  So -- so if you -- if the incentive represents  
2    20 percent and you throw out the incentive, we would  
3    be 20 percent below where the other utilities are,  
4    our rates would reflect overall total compensation  
5    that's 20 percent below where the other utilities  
6    are; is that right?  That's right, isn't it?

7            A.        Potentially, yeah.  Yes, it is.

8            Q.        Okay.  In response to Commissioner -- or  
9    Chairman Davis' questions, you said we didn't give  
10   you anything on the exceptional performance plan.  
11   And is it your understanding that there's -- well,  
12   first of all, is it your understanding that that's a  
13   fairly subjective plan?

14           A.        My understanding is, is that -- well, I  
15   mean, without documentation --

16           Q.        I mean, if they're trying to reward  
17   exceptional performance, reaction to a natural  
18   disaster, for example, or saving a baby out of a  
19   burning building, I mean, isn't it pretty hard to  
20   write standards ahead of time for that kind of  
21   extraordinary behavior occasioned by extraordinary  
22   circumstances?

23           A.        I believe you could write some protocols  
24   that would -- would indicate what performance would  
25   qualify for that sort of bonus.

1 Q. Well, how would you write those  
2 protocols? What would -- what would...

3 A. I don't know, sir.

4 Q. Isn't it true that in -- Chairman Davis  
5 asked you to write, if you would be willing to write  
6 it, an incentive compensation plan for AmerenUE.  
7 Isn't it true that in your deposition you admitted  
8 you're not qualified to do that?

9 A. Can you turn -- provide me with a page  
10 reference, please?

11 Q. Well, look on -- at least at one place  
12 you were asked. Look at 78, line 4. That's one  
13 place where it comes up.

14 A. Oh, is this where I was told -- or asked  
15 about structuring a study like what Merrick does  
16 or --

17 Q. Yes.

18 A. -- or the payroll --

19 Q. Yeah.

20 A. -- or Hewitt & Associates that I had not  
21 personally -- my response was that I did not go about  
22 collecting data from multitudes of utility companies.

23 Q. Well, let me -- let me ask the question,  
24 then. Do you believe you're qualified to put  
25 together an incentive compensation plan?

1           A.       I don't know that I've ever tried and --  
2   I don't know, sir.

3                   MR. BYRNE:   Okay.   Thank you.   That's  
4   all I have.

5                   JUDGE WOODRUFF:   All right.   Redirect?

6                   MS. KLIETHERMES:   Yeah, just a moment.

7                   JUDGE WOODRUFF:   Commission Gunn, did  
8   you want to ask a question?

9                   COMMISSIONER GUNN:   Yeah, I just have a  
10   clarifying question for Mr. Mills.   Don't mean to put  
11   you on the spot.   Is OPC simply not taking a position  
12   on this or do they not object to the -- to the plan  
13   that's being offered?

14                   MR. MILLS:   We're simply not taking a  
15   position at this time.   I want to read through the  
16   transcript of this issue.   I'm -- from what I hear,  
17   I'm tending toward supporting the Staff's position.

18                   COMMISSIONER GUNN:   Okay.   Thanks.   I  
19   appreciate it.

20                   JUDGE WOODRUFF:   Okay.   Redirect?

21   REDIRECT EXAMINATION BY MS. KLIETHERMES:

22           Q.       Mr. Hagemeyer, you were referred, I  
23   believe, by Mr. Byrne to the DR response to 54 or  
24   50.4, the supplement?

25           A.       Uh-huh.

1           Q.       And I think I can avoid getting into HC  
2 if I confer very briefly with Mr. Byrne.

3 BY MS. KLIETHERMES:

4           Q.       Now, is it your understanding and does  
5 the response, I believe, state that the -- the  
6 supplemental response dealt with the 2007 plan?

7           A.       That's my understanding, but if you'll  
8 allow me just a moment.

9           Q.       Certainly.

10          A.       And the question was, does -- does the  
11 supplement deal with 2007 data?

12          Q.       Yes.

13          A.       Yes, it does.

14          Q.       And have the targets changed from the  
15 2007 plan to the 2008 plan?

16          A.       That's my understanding, yes.

17          Q.       And have the KPIs changed from the 2007  
18 plan to the 2008 plan?

19          A.       That's -- yes.

20          Q.       And I believe Mr. Byrne discussed with  
21 you specific Ameren Energy KPIs, and you testified  
22 you couldn't recall whether or not you'd included or  
23 excluded those specific metrics; is that correct?

24          A.       That's correct.

25          Q.       Was it your understanding per that

1 discussion with Mr. Byrne this morning that Ameren  
2 Energy has been folded into AmerenUE?

3 A. That's my understanding per that  
4 discussion, yes.

5 Q. So then would there no longer be any  
6 Ameren Energy-specific KPIs to your knowledge?

7 A. I believe --

8 Q. If you don't know, you don't know.

9 A. I don't know.

10 Q. And again, that -- that discussion was  
11 regarding the 2007 plan, correct?

12 A. Yes.

13 Q. And that 2000 -- and the top part --  
14 excuse me -- is the 2007 plan still in effect, to  
15 your knowledge?

16 A. No.

17 Q. I believe you responded at one point to  
18 Mr. Byrne that financial incentives can change  
19 behavior. Do you recall that?

20 A. Yes.

21 Q. Would that answer depend on what the  
22 incentive is?

23 A. Most definitely.

24 Q. And would it depend on the individual's  
25 perception of achievability of a given metric?

1           A.       Yes.

2           Q.       If the worker perceives that their  
3   incentive pay is contingent of performance of other  
4   individuals who may or -- who may be more or less  
5   motivated, do you believe that that perception could  
6   act as a disincentive for that employee?

7           A.       Yes.   In the instance where you have one  
8   employee that is a great employee and they're  
9   surrounded by a multitude of, for lack of a better  
10   word, slackers, and they did not -- did not meet the  
11   targets and their payouts would be reduced, I think  
12   that would serve as a disincentive, yes.

13          Q.       Mr. -- Mr. Hagemeyer, Mr. Byrne was  
14   discussing with you I believe something along the  
15   lines of whether or not an employee should be  
16   incented to meet budget and that sort of goal.  Do  
17   you recall that?

18          A.       Yes.

19          Q.       Are you aware that AmerenUE is currently  
20   examining the possibility of reducing its  
21   construction and operation budgets in response to the  
22   current financial situation?

23          A.       I believe I read an article in the  
24   Post-Dispatch to that effect, yes.

25          Q.       And is the link to the U -- or is a



1 reference to the UE web site on the customer's bill?

2 A. I believe so.

3 Q. And if you go to the web site, can you  
4 review news releases about the potential cutback?

5 A. I don't know.

6 Q. Have you received any indication that  
7 AmerenUE intends to cut back on its incentive  
8 programs in response to the financial crisis?

9 A. No.

10 Q. You had stated at one point with  
11 Mr. Byrne that the company's plan is flawed. What  
12 criteria are you using in making that statement?

13 A. Well, it would be the Commission  
14 decisions in prior cases, the idea that if an  
15 individual's payouts were tied to performance of  
16 other members of their team and in certain instances  
17 a reliance upon financial measures that don't reflect  
18 service-oriented goals.

19 Q. On several of the questions Mr. Byrne  
20 asked, he used the phrase along the lines of do you  
21 have any reason to doubt the statements of Ms. Bauer.  
22 Do you recall that line of questioning?

23 A. Yes, I do.

24 Q. Did you have any reason to support those  
25 statements?

1           A.       No, I do not.

2           Q.       Mr. Byrne had a discussion with you  
3 about the Hewitt survey. Do you recall that?

4           A.       Yes.

5           Q.       He had asked you whether any facts  
6 pertinent to that made a difference in your analysis,  
7 and I believe you referred to a DR?

8           A.       I don't recall.

9           Q.       Well, what -- what is relevant in your  
10 analysis of the fact that 83 percent pay short-term  
11 compensation according to the Hewitt survey and that  
12 100 percent pay long-term incentive compensation  
13 according to the Hewitt survey?

14          A.       I'm sorry. Could you repeat that,  
15 please?

16          Q.       What is -- strike that. Does Staff  
17 maintain that AmerenUE shouldn't pay incentive  
18 compensation ever under any circumstance?

19          A.       No.

20          Q.       Does Staff maintain that it has  
21 appropriately disallowed some payouts from cost of  
22 service because they relate to financial performance  
23 or reward performance that does not display  
24 improvement?

25          A.       I'm sorry. Could you repeat that,

1 please?

2 Q. Does Staff maintain that it has  
3 appropriately disallowed some payouts from cost of  
4 service --

5 MR. BYRNE: I'm going to object to it's  
6 leading.

7 JUDGE WOODRUFF: It is leading. I'll  
8 sustain the objection.

9 MS. KLIETHERMES: Certainly.

10 BY MS. KLIETHERMES:

11 Q. Mr. Byrne discussed with you a  
12 decoupling from the 2007 plan along the lines of a  
13 trigger. Could you explain that?

14 A. The trigger was -- you mean you want me  
15 to explain the trigger?

16 Q. Whether or not the current plan that's  
17 going to be in effect going forward will -- whether  
18 that decoupling has occurred there.

19 A. The current plan going forward has no  
20 trigger.

21 Q. And does the current plan going forward  
22 have KPIs that are related to financial performance?

23 A. Yes.

24 Q. Mr. Byrne asked you several questions  
25 several times about incenting reliable service and

1 safety goals and customer satisfaction and  
2 operational efficiency. Do you recall?

3 A. Yes.

4 Q. Do utilities have an obligation to  
5 provide reliable service?

6 A. I believe it's safe and adequate, yes.

7 Q. Do you believe that individual employees  
8 should be expected as part of their job performance  
9 to attempt to be safe?

10 A. Yes.

11 Q. Should they attempt to satisfy customers  
12 as appropriate?

13 A. I believe so, yes.

14 Q. And should they continually strive for  
15 operational efficiency?

16 A. Yes.

17 Q. You were asked a couple of times today  
18 if you could create an incentive compensation plan.

19 A. Yes.

20 Q. Can you design and build a car?

21 A. No.

22 Q. Could you determine whether or not your  
23 car has an engine under the hood?

24 A. Yes.

25 Q. You were asked if the standard that you

1 used came from cases at -- pardon me. You were asked  
2 about the standard that you used in evaluating the  
3 incentive payouts; is that correct?

4           A.     I believe so, yeah.

5 Q. Absent the non -- the nonbinding  
6 Commission precedent that you cited, do you believe  
7 Staff would have examined this area as part of its  
8 audit?

9           A.       I believe so, yes.

10 Q. And do you believe that based on that  
11 examination, it would have likely made the same  
12 disallowances?

13           A.       Most likely, yes.

14 Q. Mr. Byrne discussed the various  
15 meetings, e-mail and data requests that were used to  
16 get information from the company regarding its  
17 incentive plans. Would you characterize your ability  
18 to get information on this topic from UE as  
19 difficult?

20           A.       At some points, yes.

21 Q. Would you characterize the information  
22 as timely?

23 MR. BYRNE: I'm going to object. These  
24 are leading questions.

25 MS. KLIETHERMES: I'll -- I'll rephrase.

1 JUDGE WOODRUFF: All right.

2 BY MS. KLIETHERMES:

3 Q. Mr. Hagemeyer, on what date did you  
4 receive the supplement to DR 50.4?

5 A. The day before Thanksgiving around three  
6 o'clock-ish.

7 Q. Mr. Hagemeyer, do you recall ever having  
8 this much problem obtaining information from a  
9 company to calculate your position in another case?

10 A. Yes.

11 Q. What was that company?

12 A. Missouri American Water.

13 MS. KLIETHERMES: That's all I have,  
14 Judge.

15 JUDGE WOODRUFF: All right. Then  
16 Mr. Hagemeyer, you can step down. I believe that  
17 concludes the incentive compensation issue.  
18 Obviously, we're due for lunch. We'll come back with  
19 vegetation management and infrastructure at 1:30.  
20 Mr. Dottheim?

21 MR. DOTTHEIM: Yes. Is there any desire  
22 for Mr. Rahrer to take the stand?

23 JUDGE WOODRUFF: Mr. Chairman?

24 CHAIRMAN DAVIS: Is that the --

25 MR. DOTTHEIM: That is the Staff's

1 witness on production cost model on off-system sales.

2 CHAIRMAN DAVIS: Yes, can we do that?

3 We can do that at 1:30 and -- is that okay if we do  
4 it at 1:30?

5 MR. DOTTHEIM: Yes. We also -- we'll  
6 also have the union witness, Mr. Datillo, this  
7 afternoon. Maybe if we take them also before we go  
8 into the vegetation management and infrastructure  
9 issue?

10 JUDGE WOODRUFF: That will be fine.  
11 Then we can get it out of the way.

12 MR. DOTTHEIM: Okay. Very good.

13 JUDGE WOODRUFF: Then we'll begin at  
14 1:30 with Mr. Rahrer.

15 MR. LOWERY: Judge, there's also a  
16 motion to strike relating to those union witnesses.  
17 Do you want to take that up before we go to cross?

18 JUDGE WOODRUFF: Yes, before we cross.

19 MR. LOWERY: Okay.

20 MR. MILLS: And Judge, I also have the  
21 properly formatted Exhibit 428 and 429 from  
22 yesterday. Do you want to take that up now or after  
23 lunch?

24 JUDGE WOODRUFF: Let's do it after  
25 lunch.

1 MR. MILLS: Okay.

2 JUDGE WOODRUFF: We're adjourned for  
3 lunch.

4 (THE LUNCH RECESS WAS TAKEN.)

5 JUDGE WOODRUFF: Let's come to order,  
6 please. It's 1:30 and we're back from lunch. Before  
7 we went to lunch, we agreed that we would take a  
8 witness out of order, Mr. Rahrer from the off-system  
9 sales issue. So if Mr. Rahrer would take the stand?

10 (The witness was sworn.)

11 JUDGE WOODRUFF: Thank you very much.

12 You may inquire.

13 DIRECT EXAMINATION BY MR. DOTTHEIM:

14 Q. Would you please state your name for the  
15 record.

16 A. Michael Rahrer.

17 Q. Would you please state your business  
18 address?

19 A. 4415 Sherwood Forest Drive, Delray  
20 Beach, Florida.

21 Q. Would you please state the nature of  
22 your employment?

23 A. Yes. I work for my own company and I  
24 generally do software development issues pertaining  
25 to the electric utility industry, clean air issues,



1 things of that nature.

2 Q. Mr. Rahrer, are you responsible for  
3 pages 35 to page 40 of what has been marked as  
4 Exhibit No. 200, the Staff cost of service report in  
5 this proceeding?

6 A. Yes.

7 Q. Okay. And at the top of page 35 is the  
8 title "Production Cost Modeling," is there not?

9 A. (No response.)

10 Q. Of page 35 --

11 A. Yes.

12 Q. -- of the production cost -- is the  
13 title "Production Cost Modeling"?

14 A. Yes.

15 Q. Okay. And also, in addition to pages 35  
16 to 40 in the Staff's cost of service report, there's  
17 also an affidavit that you've signed which indicates  
18 that you are responsible for preparing pages 35 to  
19 40?

20 A. Yes.

21 Q. And finally, there is a page, it's  
22 page 31 in the section of the report that gives the  
23 background and credentials of the individuals who  
24 contributed to the Staff's cost of service report; is  
25 that --

1 A. Yes.

2 Q. -- correct?

3 A. It is.

4 Q. Do you have any corrections or changes  
5 to make at this time to pages 35 to 40?

6 A. No.

7 Q. Okay. Is the information that is  
8 contained in pages 35 to 40 correct to the best of  
9 your knowledge and belief?

10 A. Yes.

11 MR. DOTTHEIM: At this time I would  
12 tender Mr. Rahrer for cross-examination.

13 JUDGE WOODRUFF: And I assume you're  
14 also offering his --

15 MR. DOTTHEIM: Yes, and I'm offering  
16 these 35 to 40, the affidavit and the one-page 31  
17 which lists his background and education and other  
18 credentials.

19 JUDGE WOODRUFF: All right. Portions of  
20 Exhibit 200 has been offered into evidence. Are  
21 there any objections to its receipt?

22 (NO RESPONSE.)

23 JUDGE WOODRUFF: Hearing none, it will  
24 be received into evidence.

25 (A PORTION OF EXHIBIT NO. 200 WAS RECEIVED

1 INTO EVIDENCE AND MADE A PART OF THE RECORD.)

2 JUDGE WOODRUFF: Does any party wish to  
3 cross-examine Mr. Rahrer?

4 (NO RESPONSE.)

5 JUDGE WOODRUFF: We'll come up for  
6 questions from the Bench. Commissioner Jarrett?

7 COMMISSIONER JARRETT: No questions.

8 JUDGE WOODRUFF: Commissioner Gunn?

9 COMMISSIONER GUNN: I don't have any  
10 questions.

11 JUDGE WOODRUFF: Chairman Davis?

12 QUESTIONS BY CHAIRMAN DAVIS:

13 Q. Mr. Rahrer, thank you for being here  
14 today. It's my understanding that -- that the Public  
15 Service Commission Staff and AmerenUE have come to an  
16 agreement with regard to the modeling issues in this  
17 case; is that correct?

18 A. Yes.

19 Q. And I guess the only reason why I wanted  
20 you to come up here today is so -- just so -- just,  
21 we may never see you again, so I felt like we should  
22 at least try to get a little bit better grasp on what  
23 exactly production cost modeling and real time and  
24 everything. So I mean, you're the -- you're a  
25 software developer; is that correct?

1           A.       Yes.

2           Q.       And you are the current owner?

3           A.       Yes.

4           Q.       And just, you know, briefly, in your,  
5   you know -- so basically, you analyze all the -- all  
6   the production costs and -- and all the -- the  
7   off-system sales and that's -- and that's how you  
8   come up with these estimates; is that --

9           A.       Well, that's what -- that's what the  
10   model does, yes.

11          Q.       I guess what is the most important thing  
12   we should know about what you do?

13          A.       About what I do or what the model does?

14          Q.       About what -- well, about what the model  
15   does.

16          A.       Well, in general, a production cost  
17   model takes the -- takes a -- the generating assets  
18   of a company and it runs them in a -- in a low cost  
19   or least cost manner to meet domestic demand, and so  
20   that's -- that's essentially what it does. It  
21   defines your generating units, it has fuel costs  
22   associated with those units and it has an hourly  
23   demand which is your -- your domestic demand. And so  
24   it meets -- it runs the units using those fuels to  
25   meet that demand.

1 Q. Okay.

2 A. And that's essentially what it does.

3 Q. So based on what you do, you know, is  
4 there -- is there any way that Ameren could sell, you  
5 know, their low cost hydro, their low cost nuclear  
6 and their low cost coal into the market at, you  
7 know -- and reap, you know, greater profits, and  
8 Missouri ratepayers would be paying, you know, for  
9 purchased power or natural gas-fired power that would  
10 cost more? Is there -- I mean, that's -- basically  
11 it's your job to tell us that -- that they're not  
12 doing that, correct?

13 A. Correct, yeah.

14 Q. In other words, telling us what the  
15 lowest cost should be?

16 A. I -- yes.

17 Q. Okay. And you're confident that that's  
18 not happening?

19 A. Yes.

20 Q. Okay. How has Ameren's participation in  
21 MISO, you know, affected the runs, the -- the  
22 modeling?

23 A. Is that -- I'm not -- they told me what  
24 that term was. That's their -- that was their joint  
25 dispatch, the agreement, is that what MISO is?

1           Q.       No. The MISO is the Midwest Independent  
2       Systems Operator where, in essence, you know, Ameren  
3       has to place all of their transmission assets under  
4       the control of this -- this regional nonprofit entity  
5       that's benevolent -- benevolently managing the  
6       interstate transportation highway system for all  
7       those that are in the regional trans -- regional  
8       transmission footprint.

9           A.       Are they the ones that set the market  
10      price? Is that --

11          Q.       Yes. Or that -- they're the mark -- I  
12      guess they're the market. I mean -- and they're the  
13      clearinghouse, so yes.

14          A.       Yeah. So back to your original  
15      question, how has their participation in that done  
16      what?

17          Q.       How -- I mean, how is that -- I mean,  
18      obviously, I'm assuming that you've done -- you've  
19      been doing this for a while. I mean, did you detect  
20      any -- any difference in the -- in the outputs, you  
21      know, from -- from pre-MISO membership to post-MISO  
22      membership or anything else in the last couple of  
23      years that's noteworthy?

24          A.       I've only run the Ameren studies for  
25      2006 and now.

1 Q. Okay.

2 A. And I think they were in it both times,  
3 weren't they?

4 Q. Yes, I believe so. Or at least part of  
5 the time. I don't know that they were in -- assuming  
6 that they were, let's go ahead.

7 A. The -- we use those market prices for  
8 both purchases and sales, the exact same prices, and  
9 so I think -- I think they are good prices. They  
10 tend to match their load -- the demand. And  
11 generally, those prices go up and down with demand.  
12 So in my opinion those are -- those market prices are  
13 good prices.

14 Q. Okay.

15 A. They look -- they look reasonable.

16 Q. Okay.

17 A. And so they both purchase and sell based  
18 on those prices, so I think it makes -- it levels the  
19 playing field and makes it fair.

20 Q. All right. So you have confidence that  
21 the -- the market is working?

22 A. Yes.

23 Q. Okay. Is there anything else that we  
24 need to know -- is there anything else that we need  
25 to know about your software in relation to -- to

1 Ameren's software that they use?

2 A. We -- in both times that I've done rate  
3 cases with Ameren, we've done a benchmark run, and  
4 both times they've been within, I think this time it  
5 was .1 percent. And that's where we take their data  
6 and put it into our model and we essentially come up  
7 with almost the same results as they do. So yes, I'd  
8 say the -- the models are very close in -- in the way  
9 they're run, in the way they operate.

10 Q. Okay. Is there anything else that you'd  
11 like to say or is there anything else that you're  
12 wishing that I would ask you just about what you do  
13 or about the software?

14 A. No.

15 CHAIRMAN DAVIS: Well, Mr. Rahrer, thank  
16 you for being here and for being available today, and  
17 like I say, we may never -- I may never see you again  
18 here, so --

19 THE WITNESS: I'm about to get on the  
20 airplane. That's kind of ominous to say you'll never  
21 see me again. Let's say you might see me again.

22 CHAIRMAN DAVIS: I think the old adage  
23 is that Commissioners come and go, but --

24 THE WITNESS: Oh.

25 CHAIRMAN DAVIS: -- you know, Staff and



1 consultants tend to stay the same.

2 THE WITNESS: Well, I might -- I might  
3 never see you again.

4 CHAIRMAN DAVIS: That may be a more  
5 accurate statement. Thank you, Mr. Rahrer.

6 THE WITNESS: You're welcome.

7 JUDGE WOODRUFF: Anyone wish to recross  
8 based on those questions from the Bench?

9 (NO RESPONSE.)

10 JUDGE WOODRUFF: Any redirect?

11 MR. DOTTHEIM: Yes, just a few  
12 questions.

13 REDIRECT EXAMINATION BY MR. DOTTHEIM:

14 Q. Mr. Rahrer, you used the term "domestic  
15 demand." Could you explain what you meant by  
16 domestic demand?

17 A. Domestic demand is the demand that the  
18 company's got to serve for their own client base,  
19 their own -- their own ratepayers. So it's -- it's  
20 their customers that they're serving.

21 Q. In performing your work with the  
22 production cost model real time, do you work with  
23 other members of the Staff?

24 A. Yes.

25 Q. Okay. Could you identify what other

1 members of the Staff you worked with in this AmerenUE  
2 rate case?

3 A. John Cassidy was my primary contact. I  
4 was on some conference calls with some other people  
5 and they provided fuel information and some load, but  
6 I can't recall their names right now.

7 Q. And --

8 A. Karen was one of them. Sorry.

9 Q. In working with Mr. Cassidy, did  
10 Mr. Cassidy supply you with information or what was  
11 the nature of your work in working in interfaces with  
12 Mr. Cassidy?

13 A. He supplied me with -- with really all  
14 of the data that I -- that I put into the model. I  
15 guess some of it came from the company which -- which  
16 I think generally it passed through John.

17 Q. And principally, would it be accurate to  
18 say that your work is running real time production  
19 cost model?

20 A. Yes.

21 MR. DOTTHEIM: Thank you. I have no  
22 further questions on redirect.

23 JUDGE WOODRUFF: All right. Thank you.  
24 Then Mr. Rahrer, you may step down and go catch your  
25 plane.

1 THE WITNESS: Thank you. Okay.

2 MR. DOTTHEIM: And again, Judge, we've  
3 used the opportunity which is provided for in our  
4 contract with Mr. Rahrer in having him here to do  
5 some training and other work with the Staff which is  
6 provided for, so we figured if the parties and the  
7 Commission did not have questions for him, we'd use  
8 this opportunity to accomplish other purposes.

9 JUDGE WOODRUFF: And the point being  
10 that he was not here just to testify?

11 MR. DOTTHEIM: Yes, that is correct.

12 JUDGE WOODRUFF: Okay. Thank you very  
13 much.

14 Also before lunch, we indicated, I  
15 believe, that we would take Mr. Datillo now at this  
16 point. Is that still the plan? He's here? Okay.

17 While he's coming up, there was also a  
18 motion pending?

19 MR. FISCHER: Yes, Judge. On behalf of  
20 Ameren, we filed a few days ago a motion to strike  
21 portions of four union witness testimonies including  
22 a portion of Mr. Datillo's testimony. And depending  
23 on how the Bench rules, it may -- it may shorten my  
24 cross.

25 JUDGE WOODRUFF: Okay. Did the unions

1 wish to respond to that? I know you filed a  
2 response.

3 MR. EVANS: Yes, we have.

4 JUDGE WOODRUFF: Anything else you want  
5 to add?

6 MR. EVANS: The gist of our response is  
7 that Ameren's motion to strike is untimely. Pursuant  
8 to the procedural regulations, parties have ten days  
9 to respond to file responsive testimony. Here,  
10 Ameren's motion was filed about three months after  
11 the union's testimony and about a week before the  
12 union witnesses were set to testify in this case.

13 And contrary to Ameren's position, the  
14 Public Service Commission does have the ability to  
15 consider issues such as safety and efficiency of  
16 service when deciding whether to grant a rate  
17 increase. Because unions' testimony relates to both  
18 safety and efficiency of service, we would ask that  
19 unions' testimony be admitted in full.

20 JUDGE WOODRUFF: Thank you.

21 THE COURT REPORTER: Sir, what's your  
22 name?

23 MR. EVANS: My name is Michael Evans for  
24 the unions.

25 JUDGE WOODRUFF: Mr. Fischer?

1                   MR. FISCHER: Yes, Judge. First of all,  
2 they cite the -- as a -- as a procedural matter,  
3 the -- the Commission's rule regarding pleadings  
4 being responded to within ten days. That does not  
5 address the -- the motion to strike testimony which  
6 is very common for everyone to -- to make right  
7 before a witness takes the stand or before an issue  
8 is heard, and that's very common practice here.

9                   But more to the substance, the various  
10 testimonies that the -- the union had filed make  
11 recommendations that are irrelevant to the rate case  
12 hearing that is here today and goes beyond the  
13 statutory authority and jurisdiction of the  
14 Commission.

15                   The portions of the union witnesses'  
16 testimony that we've asked to be stricken go to those  
17 areas that are just irrelevant to this case. We  
18 specifically identified the testimony of -- in  
19 recommendations of the four union witnesses that  
20 cross into the areas that are irrelevant and beyond  
21 the statutory authority of the Commission, and they  
22 include the witnesses' request that the Commission  
23 order Ameren to first expend a substantial portion of  
24 the rate increase for hiring, recruiting and training  
25 in-house employees. That recommendation is contained

1 in the testimony of Mr. David Desmond, and also it's  
2 in Michael Datillo and Michael Walter's testimony.

3 And secondly, the union witnesses  
4 have -- have requested that the PSC require that  
5 Ameren require its subcontractors to meet specific  
6 standards obtaining certification. That's contained  
7 in the testimony of David Desmond at page 3, lines 12  
8 through 19.

9 And then third, the union witnesses have  
10 requested that the Commissioners require the company  
11 to use a permanent workforce rather than  
12 supplementing its employees with outside contractors.  
13 That -- that recommendation is contained in the  
14 testimony of Donald Giljum, the first full question  
15 and answer on page 3.

16 While Ameren certainly appreciates the  
17 unions recognizing that there is a need for a rate  
18 increase in this case, these witnesses are trying to  
19 have the Commission inject itself into an area that  
20 involves labor management issues and issues related  
21 to how Ameren's management will -- will manage the  
22 company. These are just not issues that the  
23 Commission should hear in this rate case since they  
24 are not relevant to what are just and reasonable  
25 rates, and they are clearly issues that relate

1 directly to how the company would manage its own  
2 resources.

3                   And I'd -- I'd point to Section 386.315,  
4 subsection 1 as a statute -- statute that has  
5 established the public policy of the State to not  
6 have the Commission get involved in labor management  
7 issues.

8                   The courts have clearly stated the  
9 Commission's authority to regulate doesn't include  
10 the right to dictate the manner in which the company  
11 manages its company. And Staff counsel reaffirmed  
12 that in her opening statement, I think, this morning  
13 in the incentive comp issue.

14                   With that, I would just ask the  
15 Commission to strike those portions of the testimony  
16 that we've identified in the -- in our motion. I can  
17 go through those if you -- if you like.

18                   JUDGE WOODRUFF: You don't need to. I'm  
19 familiar with the motion. Any other party want to  
20 respond before I rule?

21                   (NO RESPONSE.)

22                   JUDGE WOODRUFF: All right. I'm going  
23 to deny the motion, and my reason for that is that  
24 essentially, this motion to strike portions of the  
25 testimony is a motion to strike the ultimate --

1 strike the ultimate issue from this case.

2 As such, it's -- it's more like a motion  
3 for summary -- summary determination. And the  
4 Commission ruled -- CSR -- 4 CSR 242.117 actually  
5 precludes summary determination motions in a -- in a  
6 rate case.

7 Therefore, it's not appropriate to try  
8 and strike the issue in this case in this manner, and  
9 the motion is denied.

10 So Mr. Datillo can take the stand. And  
11 if you'd please raise your right hand.

12 (The witness was sworn.)

13 JUDGE WOODRUFF: You may be seated. And  
14 you may inquire.

15 MR. EVANS: Thank you.

16 DIRECT EXAMINATION BY MR. EVANS:

17 Q. Are you the same Mike Datillo who caused  
18 testimony to be filed in this matter?

19 A. Yes, I am.

20 Q. Do you have any corrections to the  
21 testimony?

22 A. No, I do not.

23 Q. If I asked you the same questions today  
24 as were asked in your testimony, would your answers  
25 be the same?



1           A.       Yes.

2           Q.       Are these answers true and correct to  
3 the best of your information, knowledge and belief?

4           A.       Yes, they are.

5                   MR. EVANS: That's all I have. And with  
6 that, I would tender the witness for cross-examination  
7 and move to have his testimony admitted.

8                   JUDGE WOODRUFF: Yeah, I -- I believe  
9 we -- you never got back to me with the numbers for  
10 his testimony, so we'll need to go ahead and mark  
11 that.

12                  MR. EVANS: Okay.

13                  JUDGE WOODRUFF: I believe it would  
14 be --

15                  MR. EVANS: I apologize. I'm not a  
16 regular practitioner.

17                  JUDGE WOODRUFF: And I understand.

18                  MR. EVANS: Could you tell me what  
19 the -- the --

20                  JUDGE WOODRUFF: We'll make it No. 900.

21                  MR. EVANS: 900. Then I would move to  
22 have Mr. Datillo's testimony admitted as Exhibit 900.

23                  JUDGE WOODRUFF: Okay. And that was  
24 just direct testimony, wasn't it?

25                  MR. EVANS: Yes.

1 JUDGE WOODRUFF: Do you have a copy of  
2 it for the court reporter?

3 MR. EVANS: I certainly do.

4 JUDGE WOODRUFF: Come forward and give  
5 that to her.

6 (EXHIBIT NO. 900 WAS MARKED FOR  
7 IDENTIFICATION BY THE COURT REPORTER.)

8 JUDGE WOODRUFF: Exhibit 900 has been  
9 offered. Any objections to its receipt?

10 MR. FISCHER: Yes, your Honor. Based  
11 upon our motion to strike, we would -- we would have  
12 an objection. While this does address the ultimate  
13 issues wanting to be raised by the union, it does not  
14 address the ultimate issue in this case which are  
15 what are just and reasonable rates. Therefore, we  
16 would object to the introduction of this testimony.

17 JUDGE WOODRUFF: All right. Your  
18 objection is noted and it's overruled. Exhibit 900  
19 is received.

20 (EXHIBIT NO. 900 WAS RECEIVED INTO  
21 EVIDENCE AND MADE A PART OF THE RECORD.)

22 JUDGE WOODRUFF: For cross-examination?  
23 Actually, I don't have a plan for cross-examination.  
24 That was not included in what was filed in this case  
25 for -- for union witnesses. So I'll just ask, does

1 anyone other than Ameren wish to -- AmerenUE wish to  
2 cross?

3 MR. REED: I just have a few, and I  
4 should probably go before UE, Judge.

5 JUDGE WOODRUFF: All right. For Staff,  
6 then.

7 CROSS-EXAMINATION BY MR. REED:

8 Q. Mr. Datillo, my name is Steve Reed. I  
9 represent the Staff here. Good afternoon.

10 A. Good afternoon.

11 Q. You are the business manager for the  
12 International Brotherhood of Electrical Workers,  
13 Local 1455, correct?

14 A. Yes, sir.

15 Q. All right. As I understand it,  
16 IBEW 1455 represents clerical, technical, payroll and  
17 administrative employees at Ameren; is that right?

18 A. That -- that's correct.

19 Q. Okay. In your testimony you discuss  
20 Ameren subcontracting call center work for the CSI  
21 Companies where the work is performed in North  
22 Carolina, right?

23 A. Yes, sir.

24 Q. And you also discuss Ameren's  
25 subcontracting union information technology work to

1 Accenture and other companies, correct?

2 A. Yes, sir.

3 Q. You also claim there's been -- Ameren  
4 has been subcontracting -- subcontracting  
5 stenographic accounts payable and mailroom work to  
6 Manpower, correct?

7 A. That's correct.

8 Q. Are you alleging that because of the  
9 subcontracting of this kind of work, that Ameren is  
10 failing to provide safe and adequate service to its  
11 customers?

12 A. I'm not addressing the issue of safety.  
13 I'm addressing the issue of good service. Ameren  
14 contracts work out to North Carolina, to Texas,  
15 through Accenture to India. Our members are trained.  
16 99 percent of our membership has to have education  
17 before they apply for these jobs. In most cases, the  
18 people that Ameren are hiring do not even meet the  
19 full qualifications that our members are required to  
20 meet.

21 Q. So you're claiming that the work that is  
22 subcontracted is -- is -- results in Ameren not  
23 providing adequate service; is that your allegation?

24 A. Yes, sir.

25 MR. REED: Okay. Thank you.

1 JUDGE WOODRUFF: Any other cross other  
2 than Ameren?

3 (NO RESPONSE.)

4 JUDGE WOODRUFF: We'll go to Ameren.

5 MR. FISCHER: Thank you, Judge. Just  
6 briefly.

7 CROSS-EXAMINATION BY MR. FISCHER:

8 Q. Mr. Datillo, you were not in the hearing  
9 room, were you, when Mr. Richard Mark testified  
10 regarding the use of CSI Companies or the Accenture  
11 company?

12 A. No, sir.

13 Q. So you wouldn't have any basis for  
14 challenging what he said at that time?

15 A. No, sir.

16 Q. And when you stated in -- on page 3 of  
17 your testimony on information and belief that  
18 page 5 -- or excuse me -- on line 5. Do you see that  
19 reference on --

20 A. Yes, uh-huh.

21 Q. -- information and belief on statements  
22 of members who have been told this directly?

23 A. Yes.

24 Q. Does that indicate that you don't have  
25 any personal knowledge about the situation with

1 Accenture, that you're basing that only on what  
2 you've heard from other folks?

3 A. That's correct.

4 MR. FISCHER: That's all I have. Thank  
5 you very much.

6 JUDGE WOODRUFF: Thank you. We'll come  
7 up for questions from the Bench. Commissioner  
8 Murray?

9 COMMISSIONER MURRAY: No questions.  
10 Thank you.

11 JUDGE WOODRUFF: Commissioner Jarrett?

12 COMMISSIONER JARRETT: I have no  
13 questions. Thank you.

14 JUDGE WOODRUFF: Commissioner Gunn?

15 COMMISSIONER GUNN: I don't have any  
16 questions.

17 JUDGE WOODRUFF: Chairman Davis?

18 CHAIRMAN DAVIS: No questions, but thank  
19 you for coming all the way up here today,  
20 Mr. Datillo. Is there -- is there anything else that  
21 you didn't put in your testimony that you think is  
22 important that this Commission should know?

23 THE WITNESS: I would like to just say  
24 that with the economy in the state of Missouri and  
25 with the ratepayers who pay our wages, my members'

1 wages, it would be nice to see that people who need  
2 jobs in the state of Missouri, that Ameren make every  
3 effort to make those jobs available to people in our  
4 state.

5 CHAIRMAN DAVIS: Okay.

6 JUDGE WOODRUFF: Anyone wish to recross  
7 based on those questions from the Bench?

8 (NO RESPONSE.)

9 JUDGE WOODRUFF: Any redirect?

10 MR. EVANS: No, sir.

11 JUDGE WOODRUFF: All right. Then,  
12 Mr. Datillo, you can step down.

13 THE WITNESS: Thank you.

14 JUDGE WOODRUFF: All right. Then we can  
15 go back to vegetation management.

16 MR. MILLS: And Judge, before we do, can  
17 I -- can I offer Exhibits 428 and 429 from yesterday?

18 JUDGE WOODRUFF: Yes, let's deal with  
19 that. And you have revised versions of them?

20 MR. MILLS: I do, your Honor. As you  
21 may recall, yesterday afternoon I had -- the copies  
22 that I had marked had some of the pages mixed up --

23 JUDGE WOODRUFF: Yes.

24 MR. MILLS: -- and so -- some of  
25 Exhibit 429 and 428. So what I did was I simply

1 reproduced the entire document that was excerpted for  
2 Exhibit 428 and the entire document that was  
3 excerpted for Exhibit 429 so there's no confusion and  
4 so there will be no argument about the documents not  
5 being -- not being complete.

6 JUDGE WOODRUFF: Okay. And the earlier  
7 versions were never offered, but I assume you gave a  
8 copy to the court reporter?

9 MR. MILLS: I did, and I'd like to  
10 substitute this copy instead.

11 JUDGE WOODRUFF: Okay.

12 (EXHIBIT NO. 428 HC WAS RE-MARKED FOR  
13 IDENTIFICATION BY THE COURT REPORTER.)

14 MR. MILLS: And then 429 is the  
15 August 7th presentation.

16 JUDGE WOODRUFF: And these are both HC?

17 MR. MILLS: They are.

18 (EXHIBIT NO. 429 HC WAS RE-MARKED FOR  
19 IDENTIFICATION BY THE COURT REPORTER.)

20 MR. MILLS: And now at this time I'd  
21 like to offer the corrected versions of 428 HC and  
22 429 HC.

23 JUDGE WOODRUFF: All right. 428 HC and  
24 429 HC have been offered. Are there any objections  
25 to their receipt?



1                   MR. CONRAD: This, sir, is not an  
2     objection, but these are in total substitution of the  
3     earlier packets?

4                   MR. MILLS: That's correct.

5                   MR. CONRAD: Okay. Thank you.

6                   JUDGE WOODRUFF: Hearing no objections,  
7     428 and 429 will be received.

8                   (EXHIBIT NOS. 428 HC AND 429 HC,  
9     RE-MARKED, WERE RECEIVED INTO EVIDENCE AND MADE A  
10    PART OF THE RECORD.)

11                  JUDGE WOODRUFF: Okay. And now we can  
12    move on to vegetation management and infrastructure  
13    repair. And I don't believe we -- we crossed  
14    Mr. Mark on this, but I don't believe we did openings  
15    on it; is that correct?

16                  MS. TATRO: We have not.

17                  JUDGE WOODRUFF: All right. Let's start  
18    with Ameren for opening.

19                  MS. TATRO: Good afternoon,  
20    Commissioners, Judge. When I stood before you last  
21    week and presented the company's opening on the issue  
22    of advertising, I told you that a different approach  
23    was being used by AmerenUE in comparison to the way  
24    things were handled by the company in the last rate  
25    case. And I don't think that is any more evident

1     than in the areas of vegetation management,  
2     infrastructure and inspection.

3                     I think this Commission knows that, I  
4     think our customers know that and I think the parties  
5     in this room know that. We certainly hope that all  
6     parties have seen AmerenUE's renewed commitment to  
7     improving the reliability of its distribution system  
8     and the reliability of service to our customers.

9                     The company recognizes that the  
10    reliability of electric service must be adequate to  
11    meet the 21st century needs of our customers. The  
12    company also recognizes there have been increased  
13    frequency and intensity of storms over the past few  
14    years, and that requires us to adjust our practices.

15                    In fact, this Commission led a  
16    rulemaking to implement vegetation management and  
17    infrastructure inspection standards. AmerenUE  
18    actively participated in that rulemaking process and  
19    supports the resulting rules. And in fact, we at UE  
20    have not only endorsed these new rules, but have  
21    established a corrective reliability improvement  
22    target for our entire organization as part of our  
23    strategic plan going forward.

24                    AmerenUE believes these efforts have  
25    been well targeted and reasonable. We believe the

1 record will show that Staff agrees. In this case,  
2 the company is asking this Commission to provide the  
3 financial resources required to meet the Commission's  
4 vegetation management and infrastructure rules.

5               There will not be an argument in this  
6 case that AmerenUE's expenditures in these areas were  
7 imprudent. There's no argument that this work was  
8 required, and there isn't an argument that AmerenUE  
9 was required to spend beyond the \$45 million which  
10 were anticipated to be spent as of the last rate  
11 case.

12              Specifically, AmerenUE is asking for  
13 three recovery mechanisms. First, the company asked  
14 to be able to amortize the increased O&M expenditures  
15 incurred between January 1st of 2008 through  
16 September 30th of 2008. Second, the company requests  
17 an accounting authority mechanism to capture the  
18 incremental O&M incurred from October 1st through the  
19 end of this rate case, approximately February 28th of  
20 2009. Those costs would be held and dealt with in  
21 our next rate case.

22              Finally, the company requests a  
23 two-way tracker based on the average of its budgeted  
24 expenditures for vegetation management and  
25 infrastructure inspection and repairs for 2009 and

1 2010. We believe a two-way tracker is appropriate  
2 for this -- for Commission-imposed costs but is  
3 somewhat unknown at this time.

4           If the budget's too low, the tracker  
5 will capture the difference. If the budget's too  
6 high, the tracker will capture the difference. In  
7 total, these three mechanisms will provide the  
8 transparency and a proper recognition of the  
9 expenditures made in this critical area of our  
10 business.

11           AmerenUE is undertaking other efforts to  
12 improve reliability, and we're not seeking treatment,  
13 special treatment for those incentives. However,  
14 it's absolutely critical that our efforts to comply  
15 with this Commission's new rules not become a  
16 financial risk for the company. We've embraced the  
17 commitment to provide reliable service in a manner  
18 that meets the expectations of this Commission and of  
19 our customers. We're here today seeking fair  
20 recovery of those prudently incurred costs. Thank  
21 you.

22           JUDGE WOODRUFF: Thank you. Opening for  
23 Staff?

24           MR. WILLIAMS: Thank you. May it please  
25 the Commission. In this case, the -- the

1 Commission's Staff is taking the position that  
2 AmerenUE should recover in rate base for vegetation  
3 management the actual costs to be expended during the  
4 test year as trued up, which the current figure,  
5 which is not final, about \$49.7 million.

6               That, in turn, should then form a base  
7 for a two-way tracker that should be in place for one  
8 year for purposes of tracking differences between  
9 that base level and the actual level of vegetation  
10 management expenditures that AmerenUE has over that  
11 year so that it may have the opportunity to recoup  
12 any costs that it incurs in excess of those amounts.

13              With regard to infrastructure  
14 replacement, it's the Staff's position that  
15 AmerenUE's 2009 budget level should be included in --  
16 for purposes of setting rates in this case which is  
17 \$10.2 million, and that should form a base for a  
18 two-way tracker that lasts for one year so that  
19 AmerenUE will have the opportunity to recoup any  
20 costs that it incurs in excess of that budgeted  
21 level.

22              The Staff believes that that's  
23 consistent with the Commission's vegetation  
24 management and infrastructure replacement rule, and  
25 that the cost that AmerenUE has expended up through

1   when rates become effective in this case will already  
2   be being recovered through its existing rates, and  
3   that those costs are being incurred not because of  
4   the Commission's rules, but because of commitments  
5   that AmerenUE made in the past such as AmerenUE's  
6   commitment in 2004 to get back onto a schedule of  
7   cutting its urban vegetation on a four-year cycle and  
8   its rural vegetation on a six-year cycle which has  
9   caused -- Staff's belief has caused an increase in  
10   the expenditures that AmerenUE has had for vegetation  
11   management over the past four years. Thank you.

12                   JUDGE WOODRUFF: Okay. Public Counsel?

13                   MR. MILLS: Thank you. The issue in  
14   this case is actually fairly similar to the issue  
15   that the Commission just saw in the Empire rate case  
16   with one compelling difference, that being that  
17   Empire was starting from a much lower level than UE  
18   is. As Mr. Williams just pointed out, UE has over  
19   the last several years been ramping up its vegetation  
20   management practices in order to catch up to it from  
21   a -- from a shortfall. They were behind in the  
22   vegetation management.

23                   They have been working to catch up for  
24   the last several years including during the test  
25   year. They are as of now either caught up or very,

1 very close to caught up. As a result, the resources  
2 that have been devoted to catching up can be devoted  
3 to any increased requirements of the Commission's new  
4 vegetation management rules.

5               So as a result, Public Counsel believes  
6 that the test year amount is the appropriate result  
7 to use for setting going-forward rates. Public  
8 Counsel also does not believe that a tracker is  
9 appropriate for these costs. There's no indication  
10 that things are going to be so out of whack, so  
11 volatile, so out of the company's control that a  
12 tracker is necessary.

13              If a tracker is to be implemented, there  
14 should be a corresponding reduction in the return on  
15 equity authorized to compensate the -- to compensate  
16 the ratepayers for bearing the risk of fluctuations  
17 in the cost of vegetation management that have  
18 heretofore been borne by the company. Thank you.

19              JUDGE WOODRUFF: Any other party wish to  
20 make an opening on this issue?

21              (NO RESPONSE.)

22              JUDGE WOODRUFF: All right. Let's go  
23 with the first witness which I believe would be  
24 Mr. Zdellar.

25              (The witness was sworn.)

1 JUDGE WOODRUFF: You may inquire.

2 DIRECT EXAMINATION BY MS. TATRO:

3 Q. Good afternoon. Could you state your  
4 name and your business title for the Commission.

5 A. My name is Ronald C. Zdellar. I'm vice  
6 president of energy delivery for AmerenUE.

7 Q. And can you provide your work address,  
8 please?

9 A. Work address is 1901 Chouteau Avenue,  
10 St. Louis, Missouri.

11 Q. And are you the same Ronald Zdellar who  
12 filed prefiled rebuttal and surrebuttal testimony in  
13 this case?

14 A. Yes, I am.

15 Q. And do you have any additions or  
16 corrections to make to your testimony?

17 A. Yes, I do. In particular, on my  
18 surrebuttal testimony, based on cross-exam of  
19 Mr. Richard Mark yesterday, it came to light to me,  
20 and it was a wakeup call, I must admit, that --  
21 something I should have caught in the past. I have  
22 to admit my shortcoming here.

23 We had been doing some inspections on  
24 our subtransmission system in the past, and in the  
25 numbers that we presented in my surrebuttal



1 testimony, those numbers were in that as well. So  
2 I've gone back and looked at what we actually had  
3 budgeted for inspections prior to the rules. And  
4 again, based on the opening statement, we're just  
5 seeking the incremental cost between what we've been  
6 doing and what has been imposed on us by the new  
7 rules.

8                   And when I looked at that adjustment, it  
9 looked to me like this year for the first nine months  
10 I needed to take about \$700,000 out of the numbers  
11 that are on page 12. Roughly speaking, that's the  
12 order of magnitude of change.

13                   When I applied those numbers on line 5,  
14 the number of 12.05 becomes 11.305. The number on  
15 page 6 becomes 7.9 instead of 8.6. I might add,  
16 though, however, at this point in time, again, I must  
17 admit I am not comfortable with these numbers and I  
18 would ask that you allow us a few days to go back,  
19 review what we've been doing in this whole area of  
20 inspection and maintenance and come back with a good  
21 number on Monday that I will be more comfortable  
22 with.

23                   Again, this is -- this is my issue. I  
24 didn't review these numbers as properly as I should  
25 have, and I take full responsibility for it. I ask

1 your -- I ask your indulgence to try to work out some  
2 way to refresh these numbers for Monday. I don't  
3 think the order of magnitude is going to change very  
4 much, but I want it to be right.

5 Q. Do you have any additional changes or  
6 corrections?

7 A. No, I don't.

8 Q. And if I were to ask you the questions  
9 contained in your prefiled testimony, would your  
10 answers be the same?

11 A. Yes, they would.

12 MS. TATRO: Okay. I would move  
13 Mr. Zdellar's rebuttal and surrebuttal into the  
14 record and tender him for cross-examination.

15 JUDGE WOODRUFF: What numbers was --  
16 what --

17 MS. TATRO: Oh, I'm sorry. I think it  
18 was one -- 17 -- 16 and 17.

19 JUDGE WOODRUFF: Okay. 16 and 17 have  
20 been offered. Any objections to their receipt?

21 (NO RESPONSE.)

22 MR. WILLIAMS: My only question is what  
23 were the revisions again?

24 THE WITNESS: Referring to surrebuttal  
25 testimony on page 12, line 5, there's a number, and

1     it's 12.05 million. That change is to 11.0 -- I'm  
2     sorry -- .305. And on line 6, the 8.6 million  
3     becomes 7.9.

4                   And again, these are not numbers that  
5   will stand the light at the end of the day. We will  
6   find more precise numbers and clear this up by  
7   Monday. But I just wanted to reference the order of  
8   magnitude. And this went back and looked at our  
9   budgets for '08 for the first nine months and it's  
10   about \$78,000 a month. And from that, we came to  
11   that rough number.

12                   So it's an order of magnitude of change,  
13   but I'd tend to have more precise numbers by Monday.  
14   And again, I apologize. And this is an oversight on  
15   my part that in reviewing these numbers, you know, I,  
16   quite frankly, should have picked this up and didn't  
17   do it.

18 (EXHIBIT NOS. 16 AND 17 WERE MARKED FOR  
19 IDENTIFICATION BY THE COURT REPORTER.)

20 JUDGE WOODRUFF: Presumably, we can sort  
21 this out in cross-examination. All right. For the  
22 moment, 16 and 17 have been offered. Are there any  
23 objections to their receipt?

24 (NO RESPONSE.)

25 JUDGE WOODRUFF: Hearing none, they will

1 be received.

2 (EXHIBIT NOS. 16 AND 17 WERE RECEIVED  
3 INTO EVIDENCE AND MADE A PART OF THE RECORD.)

4 JUDGE WOODRUFF: Now, for  
5 cross-examination, I note that this issue is divided  
6 into part A and part B. A is vegetation management  
7 and B is infrastructure inspection and repair. I  
8 assume there will be -- witnesses will be crossed on  
9 both subissues at one time?

10 MS. TATRO: I don't see any reason to  
11 cross them separately.

12 JUDGE WOODRUFF: Okay. For cross, then,  
13 do the unions wish to cross?

14 MR. EVANS: No, sir.

15 JUDGE WOODRUFF: Looks like we're down  
16 to Noranda.

17 MR. CONRAD: Very briefly.

18 CROSS-EXAMINATION BY MR. CONRAD:

19 Q. Good afternoon.

20 A. Good afternoon.

21 Q. Do you have before you, Mr. Zdellar, a  
22 copy of the Commission's rule on vegetation  
23 management?

24 A. I will have one shortly.

25 Q. Well, it's not a short rule.

1           A.       Pardon me? I've got one here, it's just  
2 a matter of digging through some of the reference  
3 material that I have here. I do have it in front of  
4 me. It's a -- the set of three rules I'm assuming  
5 you're referring to?

6           Q.       I think it's 23 -- two -- 4 CSR  
7 240-23.030.

8           A.       I do have it.

9           Q.       Are you with me?

10          A.       I am.

11          Q.       Okay. I want to look at "Definitions"  
12 for a moment.

13          A.       What page are you on, please?

14          Q.       Well, mine may be different because I'm  
15 looking at it live from the Secretary of State's  
16 Office.

17          A.       I think I probably have it. If you'll  
18 reference maybe what the first definition is.

19          Q.       Okay. Sure. It's -- well, the  
20 "Definitions" are under Section 1 which I think  
21 right -- is immediately following the publisher's  
22 note, the italicized part.

23          A.       I think we're on the same page.

24          Q.       Okay. And moving on down through that,  
25 at least on my version, it's a separate column, but

1     you'll find there a definition for "transmission."

2             A.       Is there a paragraph reference?

3             Q.       H.

4             A.       I see that.

5             Q.       And that refers to an electrical line  
6     wire cable, including supporting structures, that  
7     transmits electricity from a generating plant to  
8     electric distribution lines operated at or above  
9     200,000 volts, right?

10            A.       That is correct.

11            Q.       Okay. How many miles of transmission  
12   line does -- does AmerenUE operate?

13            A.       Off the top of my head, I don't recall  
14   that number.

15            Q.       Can you give me a ball park?

16            A.       In Missouri -- I probably have it in my  
17   files here, but it's probably on the order of about  
18   8,000 miles, something like that.

19            Q.       Okay. How many -- now, up above that  
20   in, I believe it's C, definition 1-C, distribution  
21   line, and not surprisingly, it defines it as  
22   something that's operated at less than 200,000 volts,  
23   right?

24            A.       Right.

25            Q.       How many miles, roughly, of distribution

1 line would you have?

2 A. Distribution line, we'd have 32,000  
3 miles. I did find my reference on transmission, by  
4 the way. It's 2,900 miles on transmission.

5 Q. And --

6 A. And 32,000 miles on distribution.

7 Q. And both of those are -- I mean, they're  
8 not down to the tenth of a mile and so on?

9 A. No, that's right, correct, sir.

10 Q. So those are order-of-magnitude-type  
11 numbers?

12 A. That is correct.

13 Q. Now, on your budget, would I expect to  
14 see the same proportion or would I have a different  
15 proportion?

16 A. On transmission I believe our budgeted  
17 numbers are about \$4 million per year, and our  
18 overall budget for -- right now looking forward for  
19 distribution and transmission is about 52. So about  
20 48 for distribution and four for transmission.  
21 Again, those are rough numbers.

22 MR. CONRAD: Understood. Okay. I  
23 believe that's all. Thank you.

24 JUDGE WOODRUFF: Okay.

25 MR. CONRAD: Oh, I'm sorry. Judge, I

1 apologize. There's one -- one question that was held  
2 over for Mr. Mark that I think he referred to  
3 Mr. Zdellar, and I just wanted to -- forgive me, I'm  
4 not finding my reference quickly on this.

5 BY MR. CONRAD:

6 Q. But I believe Mr. Mark had mentioned,  
7 Mr. Zdellar, that the company had changed to a  
8 four-year and a six-year plan as far as a cycle. Do  
9 you -- are you familiar with what I'm talking about?

10 A. Right. We are on a plan of four-year --  
11 at minimum of four years and six years on tree  
12 trimming on -- on distribution for rural and urban  
13 areas being the difference.

14 Q. And the difference, there's four years  
15 in the urban and six in the rural?

16 A. That's correct. And the definition is a  
17 35-customers-per-mile density.

18 Q. Okay. And my question that he had  
19 kicked to you was what was it before this change,  
20 what was the cycling before the change?

21 A. Well, we didn't have a precise cycle.  
22 Probably in the early -- turn of the -- basically,  
23 turn of the century, I guess, we were somewhere over  
24 five years probably in the urban areas and something  
25 greater than that in the rural areas, but there was



1 not a defined time at that time.

2 The whole -- the whole thing of four and  
3 six really came into our last rate case where we had  
4 an agreement with the Staff and parties to get on a  
5 four- and six-year cycle, and of course, that became  
6 part of the rule as a minimum requirement in terms of  
7 the new vegetation rule, which was subsequent to the  
8 last rate case.

9 MR. CONRAD: Okay. Mr. Zdellar, thank  
10 you. That's all I have. Judge, appreciate the  
11 indulgence.

12 JUDGE WOODRUFF: All right. For the  
13 State?

14 MR. CARLSON: Nothing, your Honor.

15 JUDGE WOODRUFF: Public Counsel?

16 MR. MILLS: I do have a few questions.

17 CROSS-EXAMINATION BY MR. MILLS:

18 Q. And the first couple are just going to  
19 be sort of -- sort of clearing up a couple of things.  
20 And if I can get you to turn to page 12 of your  
21 surrebuttal testimony, line 5. And I don't know how  
22 I've somehow become the role of the math proctor  
23 here, but was the intent of that correction to  
24 subtract 700,000 from 12.05 million?

25 A. Yes, sir.

1 Q. Okay. Do you have a calculator there?

2 A. No, I do not.

3 Q. Okay. Would you affect -- accept that  
4 if you subtract 700,000 from 12.05, you get 11.35,  
5 not 11.305?

6 A. I'm sorry. I would definitely do that.

7 Q. Okay. Now, in response to a question  
8 from Mr. Conrad, I think you said that you're  
9 currently on a -- on a cycle that's a minimum of four  
10 and six?

11 A. That is correct.

12 Q. Is that -- do you mean a maximum of four  
13 and six? No less frequently than four and six?

14 A. Right. It says, "No less frequently  
15 than four and six." And a comment was made earlier  
16 that we -- we would be on cycle and that cycle would  
17 be at the end of this year with a prior case. And as  
18 of November 14th of this year, we, in fact, were on  
19 four-year and six-year cycles in the state of  
20 Missouri.

21 Q. Now, in your rebuttal testimony, you  
22 talk about the tracker that the Empire District  
23 Electric Company had got; is that correct?

24 A. That is correct.

25 Q. Do you believe that AmerenUE is at least

1 as far behind on tree trimming as Empire is?

2 A. Well, I really can't speak for Empire  
3 other than anecdotally what I've seen in their rate  
4 case and other conversations we've had on  
5 reliability. But I would agree that I think we are  
6 probably closer to what I'll call a seagoing program  
7 than -- than Empire at this point in time.

8 Q. Even if the Commission decides to allow  
9 Union Electric to use a tracker in this case, is it  
10 important to set the base level correctly?

11 A. I think it's important to set it as  
12 close to expectation as possible, so I think you -- I  
13 would agree with you.

14 Q. Do you know how it was set in the Empire  
15 case?

16 A. I think it was based on their average  
17 budgeted for the following two years.

18 Q. Now, your proposed tracker is designed  
19 to allow UE to recover costs dollar for dollar, is it  
20 not?

21 A. That is correct.

22 Q. Would that eliminate the risk of  
23 under-recovering or over-recovering vegetation  
24 management expenses built into rates?

25 A. I think that's the intent of a two-way

1 tracker. That would become a liability if we  
2 underspent and an obligation if we -- if we -- if we  
3 didn't do what we should have done.

4 Q. And the base level that you're  
5 proposing -- and I'm at -- I'm at the top of page 9  
6 of your rebuttal testimony -- is based on budgeted  
7 amounts for 2009 and 2010; is that correct?

8 A. Let me find my number again. On page...

9 Q. Rebuttal testimony is at the top of  
10 page 9.

11 A. I think the rebuttal testimony -- I need  
12 to find that piece. Just one second. I think -- on  
13 page 9 of the rebuttal testimony, those numbers have  
14 been updated for the current budget, and if you'd  
15 like the updated numbers, I can give you those.

16 Q. Well, I'm -- I'm really going to talk  
17 about the concept of budget rather than the actual  
18 numbers.

19 A. That's -- that's fine, then.

20 Q. But it is still your current proposal to  
21 use the budgeted numbers for 2009?

22 A. That's correct. We believe that's the  
23 closest estimate we have today of what our  
24 expenditures will be.

25 Q. Why is it okay to use budgeted numbers

1 for this purpose but not for off-system sales  
2 margins?

3 A. I have no input on off-system sales.  
4 That's not an area that I have dealt with at all.

5 Q. Okay. You can't -- you can't explain  
6 any reason why they should be treated differently in  
7 this case?

8 A. I would have no rational input into that  
9 decision or even be able to answer that question for  
10 you.

11 Q. Okay. Now, still on page 9 of your  
12 rebuttal testimony beginning at line 13, you're  
13 asking that the Commission allow amortization of the  
14 actual incremental amount spent by the company in  
15 order to comply with the vegetation management and  
16 infrastructure rules between January 1, 2008 and  
17 September 30th, 2008; is that correct?

18 A. That is correct.

19 Q. Would you agree to a ratemaking  
20 treatment that captured growth in revenues from  
21 customer growth during that same period?

22 A. Again, the whole issue of revenue and  
23 the rate structure and ratemaking is really beyond  
24 the scope of what I'm here to talk about, so I really  
25 don't -- I really wouldn't be able to answer that

1 question for you.

2 Q. Well, let me see if I can take it up to  
3 a higher level. Would it -- if it's -- if it's -- if  
4 it's fair to track the increase in vegetation  
5 management expense during that period, would it be  
6 fair to also track the increase in revenues from  
7 customer growth during that same period?

8 A. I think what you're asking is a much  
9 broader question, and I guess that's if you have one  
10 of the -- you know, a forward-looking test year for  
11 all expenses and revenues, and my guess is that's  
12 something the company would probably be interested  
13 in. But, you know, to try to, you know, just pick  
14 out a piece here and there without some rational  
15 reason to do that would seem to be unwarranted or a  
16 change.

17 Q. Do you know of any instances in this  
18 case in which the company is proposing to track  
19 increases in revenues in a similar fashion that  
20 you're proposing --

21 A. I have no knowledge of that.

22 Q. Okay. Now, on page 6 of your rebuttal  
23 testimony, specifically the paragraph that begins on  
24 line 12, you're talking about some elements that lead  
25 to uncertainty in the -- in the future cost for

1     vegetation management; is that correct?

2             A.       Yeah, that's correct.

3             Q.       And one of the items you mention is  
4     whether or not the company's crews are called to  
5     other locations within the United States to help  
6     after a natural disaster; is that correct?

7             A.       That is correct.

8             Q.       Is that within the company's control to  
9     say that your crews can be released or not released?

10            A.       No. Typically, it is not. And let me  
11    explain that just a little bit. Certainly, the  
12    contractors that work for us, and all of our tree  
13    trimming, all our vegetation management is done by  
14    contractors. They're not employees that actually do  
15    the vegetation management.

16                    If there is a hurricane in Louisiana or  
17    a place like that and those companies get a request  
18    from those utilities for a support from tree  
19    trimmers, they ask us about releasing those crews to  
20    go to Louisiana. We could, in fact, say no, you  
21    can't release them, whereupon those workers would  
22    pack their bags and go to Louisiana and trim trees.

23                    These folks are not necessarily  
24    obligated to stay with whoever their current employer  
25    is in a given situation. They're -- they're -- we

1 call them boomers. They, in fact, will move to the  
2 place of highest wages at the drop of a hat. And you  
3 know, so when I say to a limited extent, sure, we  
4 could say, yeah, don't release them, but it's really  
5 not within our control, practically.

6 Q. If that were -- if that were to happen,  
7 if, for example, you didn't release them and all of  
8 the -- the -- the employees left, would you have some  
9 action, have some recourse against the contractor?

10 A. Not at all. Contractor -- you know, he  
11 can't force his employees to work for him. The  
12 other -- the other side of that too, to all extent  
13 possible, you know, we -- we want to release these  
14 workers to go to work for other utilities because  
15 quite often the shoe is on the other foot.

16 And you know, for instance, our storms  
17 in '06, we had an awful lot of contractor employees  
18 from tree trimmers to linemen that came from all over  
19 the country to help us. And you know, if there was  
20 some way that we could kind of constrain our in-house  
21 folks going other places, I'm afraid that would  
22 impact the citizens of Missouri rather drastically on  
23 the other end.

24 Q. And -- and I appreciate that, but it  
25 certainly wasn't within the scope of my question --



1           A.       Okay.

2           Q.       -- and I'd ask you to try and focus your  
3 answers on what I'm asking you. And let me go back  
4 to that point, though. Is it your testimony that  
5 if -- that your -- that your contracts with your tree  
6 trimmers are unenforceable?

7           A.       I guess I --

8                   MS. TATRO: I'm going to object. He's  
9 asking for a legal conclusion.

10                  MR. MILLS: I'm not asking for a legal  
11 conclusion. He's talked about financial consequences  
12 for what happens when crews show up or don't show up,  
13 and I'm asking whether or not, in fact, the company  
14 has control or doesn't have control over this issue.

15                  JUDGE WOODRUFF: I'm going to overrule  
16 the objection. You can go ahead and answer.

17                  THE WITNESS: I think specifically, I'm  
18 not aware of -- not that there may not be clauses in  
19 the contract that would address that issue, but I'm  
20 not aware of those clauses personally.

21 BY MR. MILLS:

22           Q.       Now, you testified that AmerenUE  
23 essentially began complying with the Commission's new  
24 vegetation management rules before they were  
25 effective; is that correct?

1           A.       That is correct.

2           Q.       What factors led to the company deciding  
3 to comply with the rules before they were in effect?

4           A.       Well, probably there were a number of  
5 factors that came into play. I think one was the  
6 severe weather changes that we had going back into  
7 '05, '06 and '07. And then the subsequent hearings  
8 we had here in the Commission offices, the  
9 introduction of the vegetation rules, our  
10 participation in working with those rules.

11                   And the rules were pretty much in place  
12 as they currently existed in December of '06. And we  
13 saw that coming and began to gear up and staff up our  
14 organization with our contractors to, in fact, get on  
15 board with the rules. And we fully expected that  
16 rule to be in place shortly after the first of the  
17 year. But due to administrative error, it didn't get  
18 to the Secretary of State, didn't get -- had to have  
19 rehearings, didn't get republished until much later  
20 in the year.

21                   So we were on track to try to comply  
22 with the rules when we thought they were going to go  
23 into effect, and actually, only a month or so ahead  
24 of the game, but it turned out to be much more than  
25 that.

1           Q.       Will compliance with these rules lead to  
2 lower costs and better service?

3           A.       I think better service to our customers  
4 in the short term, perhaps some lower costs in terms  
5 of storm restoration costs in the future. Keep in  
6 mind that, you know, the reliability, day-to-day  
7 reliability improvement is one of the major things  
8 that's taking place with both these rules. It's not  
9 just the major storm things.

10                   But you know, one of the things we heard  
11 time and time again at this Commission, the public  
12 hearings, we saw it in the media that the level of  
13 reliability that was adequate in the past really  
14 wasn't adequate for the future, for the 21st century.  
15 The electronic age required something different in  
16 terms of reliability.

17                   And of course, the added weight of the  
18 storms that we've had in recent years really, really  
19 said you had to step up to the plate and do something  
20 dramatically different with vegetation, and we never  
21 did disagree with that.

22           Q.       So would you agree that aggressive tree  
23 trimming should result in fewer service calls for  
24 downed lines, branches over lines and things like  
25 that?

1           A.       I think that definitely will play out  
2 over time.

3           Q.       How does your proposed tracker account  
4 for that?

5           A.       Well, the tracker itself just looks at  
6 the cost of the vegetation itself and does not give  
7 any consideration for any changes that may take place  
8 due to the vegetation changes. Any costs that go up  
9 or down will simply fold into the normal ratemaking  
10 process, the normal -- the O&M and capital budgets  
11 that take place as a normal course of business.

12                   The tracker, though, of course, will be,  
13 if you will, at the bottom of the next rate case  
14 whenever that may be. The tracker will be the net of  
15 the two. In other words, if other expenses go down  
16 and vegetation expenses go up, the tracker will pick  
17 that up along with the other net -- you know, the  
18 beans have to be in one bucket or the other.

19                   And, you know, at the end of the day,  
20 the -- the rates that the customers pay will be the  
21 net. That's the -- that's a benefit of the tracker.  
22 And the tracker -- the other thing the tracker gives  
23 you is they -- on our --

24                   MR. MILLS: Judge, can I -- can I ask  
25 you to instruct the witness to try to answer the

1 question I've asked and not launch into lengthy  
2 tirades on related topics?

3 THE WITNESS: I apologize. I thought I  
4 was.

5 JUDGE WOODRUFF: All right. Yes, you  
6 will get out of here a lot faster if you just  
7 restrict yourself to answering the questions and not  
8 offering other helpful hints.

9 THE WITNESS: Thank you.

10 BY MR. MILLS:

11 Q. Mr. Zdellar, on page 3 of your  
12 surrebuttal testimony at line 2, you use the word  
13 "penalize." Surrebuttal, page 3, line 2.

14 A. Hang on here. I have found it.

15 Q. Can you define that word as you use it  
16 there?

17 A. Well, what I'm -- what I'm referring to  
18 there is a -- basically a recommendation by Staff  
19 that we not be able to recover the incremental costs  
20 that we had spent to comply with these rules from the  
21 first of the year through the true-up period.

22 Q. So is it your testimony that at any time  
23 a utility is not allowed to track and recover  
24 dollar-for-dollar all of its expenses, it's been  
25 penalized?

1           A.       Not at all.

2           Q.       Are you asserting in your testimony that  
3   it takes the same amount of resources to catch up and  
4   eliminate -- and eliminate a backlog as it does to  
5   maintain with respect to tree trimming?

6           A.       Could you repeat that question?

7           Q.       Yes.  Is it your assertion that it takes  
8   the same amount of resources to catch up and  
9   eliminate a backlog as it does to maintain currency  
10  with respect to vegetation management?

11          A.       I don't think I've ever made that  
12  assertion.

13          Q.       Okay.  So that's not your testimony?

14          A.       I don't believe so.

15          Q.       Okay.  Now, at the bottom of page 5 of  
16  your surrebuttal testimony, you note that it's likely  
17  that AmerenUE will -- will further enhance its  
18  vegetation management program; is that correct?

19          A.       That is correct.

20          Q.       Does UE do similar things with respect  
21  to power plant reliability?

22          A.       I am not in the generating side of the  
23  business, and I really don't know what might be going  
24  on in the generation side of the business.

25          Q.       Isn't continuous improvement something

1     that's drilled throughout the company?

2             A.       Well, I think that's absolutely correct,  
3     but I couldn't speak to the specifics.

4             Q.       But as far as you know, most aspects of  
5     the business are striving for continuous --

6             A.       That's absolutely correct.

7             Q.       Okay. Should there be trackers for  
8     every aspect of the business?

9             A.       Not necessarily.

10            Q.       Now, on page 6 of your surrebuttal  
11     testimony beginning at line 11, you start to talk  
12     about vertical clearance. Do you believe that  
13     vertical clearance -- trimming for vertical clearance  
14     is a good idea?

15            A.       Yes, I do.

16            Q.       And when did UE begin trimming in that  
17     fashion?

18            A.       That actually became part of the rule  
19     implementation sometime shortly before the first of  
20     the year.

21            Q.       First of what year?

22            A.       First of '08.

23            Q.       Okay. And when did -- when did you come  
24     to the conclusion that vertical clearance would be a  
25     good idea?

1           A.       I don't know if you're asking for a  
2 specific date or...

3           Q.       If you have one.

4           A.       No, I think that really came to light in  
5 terms of the discussions around the vegetation  
6 management rule which was sometime during the year of  
7 '07.

8           Q.       So until that came up as a topic with  
9 the Public Service Commission and proposed rules,  
10 it's not something that UE had considered?

11          A.       Not in a -- not in a way that is looked  
12 at in the rule today. I mean, it was something we  
13 looked at on certain circuits and certain -- certain  
14 circumstances, but was not a general practice.

15          Q.       Would UE have had fewer outages during  
16 the test year if it had been doing vertical clearance  
17 for the last decade?

18          A.       That's probably correct.

19          Q.       Will there be fewer outages in the  
20 future because you've started to do vertical  
21 clearance?

22          A.       I think that's a valid assumption.

23          Q.       Now, on page 7 of your surrebuttal  
24 testimony, you indicate that Mr. Beck does not  
25 believe that any of UE's current vegetation



1 management practices are improved; is that correct?

2 A. I believe that's correct.

3 Q. And I may -- I hope I didn't mangle the  
4 double negatives in my question --

5 A. Yes, I understand.

6 Q. -- but your testimony will speak for  
7 itself. Do you know what kind of an audit Mr. Beck  
8 did of UE's current vegetation management practices  
9 and expenses?

10 A. No, I do not.

11 Q. Do you believe that such an audit was  
12 the focus of his work?

13 A. Oh, I believe it is, and Mr. Beck has  
14 been involved -- if I may expand -- has been involved  
15 in the past as part of the \$45 million commitment.  
16 The last case, Mr. Beck has had an opportunity to  
17 review what we were doing and have been doing with  
18 vegetation for some time. So I think he has a fairly  
19 good understanding of what our practices have been  
20 and how they've now changed.

21 Q. Okay. On page -- I'm sorry -- on  
22 line 10 of page 7, you talked about the goal of  
23 allowing a utility to recover its prudently incurred  
24 costs.

25 A. That's correct.

1           Q.       And is it your understanding that --  
2 well, whose -- whose goal is that?

3           A.       My understanding is if you look at the  
4 rules themselves, that the provision in the rules --  
5 and understanding that there would be an increased  
6 cost associated with implementation of these rules,  
7 and there was an expectation on the part of the  
8 Commission that there would be an avenue for recovery.

9           Q.       Okay. So when you talk about the goal  
10 there, you're talking about a goal within the  
11 vegetation management rules?

12          A.       That's correct.

13          Q.       Okay. And towards the bottom of that  
14 page, you talk about a cap and you offer the opinion  
15 that a cap could actually constrain work that would  
16 improve reliability. Do you see that?

17          A.       Yes, I do.

18          Q.       Is it your testimony that UE would not  
19 do appropriate vegetation management if it didn't  
20 have guaranteed recovery of every single dollar?

21          A.       And help me with that in terms of are we  
22 talking about this period between January 1st and the  
23 true-up period, or is this some future cost recovery  
24 would be -- not be allowed?

25          Q.       We're necessarily talking about future.

1           A.       I think that at any time that if the  
2 Commission went on the record that said -- in fact,  
3 it would seem to me, and I'm not being the lawyer,  
4 that if the Commission determined that some costs are  
5 not prudent in -- in -- in recovery, that we would  
6 not then incur those costs.

7           Q.       And is it your testimony that if  
8 you -- if you don't get a tracker, that the  
9 Commission will have ruled that some costs are  
10 imprudent?

11          A.       No, not at all.

12          Q.       Okay. So if you don't get a tracker and  
13 the Commission builds a certain level of vegetation  
14 management expense into rates, it's not your  
15 testimony that amounts above that would be considered  
16 imprudent by the Commission, is it?

17          A.       Not at all.

18          Q.       Okay. Similarly, if -- if the  
19 Commission decides to implement a tracker but puts a  
20 cap on it, would it be your testimony that the  
21 Commission would have determined that amounts above  
22 the cap were imprudent?

23          A.       That would seem to me to place that  
24 constraint on our expenditure.

25          Q.       Okay. So if the Commission implemented

1 a tracker with a cap and you believe that it was  
2 appropriate to spend above the cap, would you or  
3 would you not spend above the cap on vegetation  
4 management?

5 A. At this point in time I would suggest we  
6 would probably not spend above the cap.

7 MR. MILLS: That's all the questions I  
8 have. Thank you.

9 JUDGE WOODRUFF: All right. For Staff?

10 MR. WILLIAMS: Thank you.

11 CROSS-EXAMINATION BY MR. WILLIAMS:

12 Q. If the Commission did set a cap and you  
13 thought it was prudent to exceed that cap, couldn't  
14 you come into the Commission and ask for relief?

15 A. Well, that would probably be a first  
16 step. And -- but that was not the option I was  
17 given.

18 Q. Now, the 45 million that's in current  
19 rate, how was that arrived at?

20 A. That was arrived at through an agreement  
21 with parties in the last case, and it was based on this  
22 commitment to get to the period of cycle trim that we  
23 were talking about earlier to be on a four-year and a  
24 six-year cycle in -- all over the state of Missouri.

25 And the way it came about was, it was

1 kind of interesting, because while the 45 million was  
2 the number we felt to get there in terms of cycle, I  
3 think there were people who felt that -- or had  
4 concerns that perhaps somehow this future number  
5 would be put into rates and we wouldn't spend that  
6 money and somehow that the work wouldn't get done.

7                   That's why it was, in fact, put in place  
8 as a one-way tracker. And if you recall, there was  
9 an obligation if we didn't spend the 45 million in a  
10 given year, we would then have to add that to the  
11 subsequent year to make up for that loss. So it was  
12 kind of a one-way tracker, it was a total commitment  
13 on our part to spend at least \$45 million a year.

14           Q.       And over what period of time?

15           A.       Until the next rate case.

16           Q.       I'm going to give you an easy one now.

17 On your rebuttal testimony at page 6, you refer to  
18 two rules and you refer to CSR 240-22.020.

19           A.       One second, please.

20           Q.       It's on line 4 on page 6.

21           A.       On line 4? Okay.

22           Q.       Three and 4.

23           A.       There is an error in that.

24           Q.       It's supposed to be "Chapter 23 rule"?

25           A.       That's correct.

1           Q.       Didn't AmerenUE experience some severe  
2 storms in 2002?

3           A.       No, not -- nothing serious to speak of.  
4 I probably have some records if you want me to...

5           Q.       There wasn't any Staff investigation as  
6 a result of storms in 2002?

7           A.       Give me one second. For some reason I'm  
8 having some -- whoops, one second. Actually, data  
9 that I have I just have going back to 2003. But I do  
10 not recall any serious storms of the magnitude we  
11 had, for instance, in '06 and '07 back in '02.

12                   As a point of reference, I have  
13 previously testified before this Commission in terms  
14 of repair costs in storms, and for the years 2000,  
15 2001, 2002, we averaged about \$4 million a year in  
16 repair costs. In the years '03, '4 and '5, that  
17 average jumped to \$12 million dollars. In '06 it was  
18 over \$100 million, '07 it was over \$70 million. And  
19 this year it's been over \$20 million. So --

20           Q.       How about -- how about in 2000?

21           A.       Well, that was -- like I just mentioned,  
22 it was less than 4 million.

23           Q.       Didn't AmerenUE experience some severe  
24 weather in 2004 that the Staff conducted an  
25 investigation?

1           A.       That is correct.

2           Q.       And didn't the Staff make some  
3 recommendations?

4           A.       Staff -- Staff did make recommendations.

5           Q.       And did AmerenUE provide a response to  
6 those recommendations?

7           A.       I am fairly confident we did. I don't  
8 have that response in front of me, though.

9           Q.       Do you have a copy of Mr. Beck's  
10 surrebuttal testimony?

11          A.       Yes, let me find that a second. I have  
12 it.

13          Q.       Would you turn to the schedules that are  
14 attached to the back of that testimony and in  
15 particular, schedule 1 which is a letter that  
16 indicates it's dated November 2nd, 2004, addressed to  
17 Mr. Warren Wood and appears to be over your  
18 signature?

19          A.       Oh, yes, I have it.

20          Q.       Did you, in fact, write that letter?

21          A.       Yes.

22          Q.       And are the statements that are made in  
23 that letter -- were they true at the time they were  
24 made?

25          A.       Yes, they were.

1 Q. Are they still true?

2 A. You'll have to let me read through them  
3 again now at this point to refresh my memory. I hope  
4 they are. Is there a particular area that you wanted  
5 to reference?

6 Q. No. I'm just wanting to make sure that  
7 the letter in your mind is still accurate or at least  
8 it was accurate at the time it was written.

9 A. There's a number of things that -- that  
10 are in here that -- in terms of our response, that  
11 have gone beyond what our response was at the time.  
12 So when you say "accurate," I'm not sure...

13 Q. Well, have you -- let's go to the first  
14 Staff recommendation.

15 A. Okay.

16 Q. Is that, having four -- four-year gross  
17 cycle, trim cycle for urban areas and six-year growth  
18 trim cycle for rural areas still something that  
19 AmerenUE is doing?

20 A. We are there now.

21 Q. And that was done because of this  
22 letter -- or AmerenUE's commitment in 2004?

23 A. We were moving in that direction in 2004  
24 and -- and did commit to that.

25 Q. And didn't you commit beyond that cycle



1 to get rid of your backlog by December 31 of 2008?

2 A. We did, and we -- I mean, as I mentioned  
3 earlier, we were done by the 21st of November of this  
4 year.

5 Q. So you've eliminated that backlog?

6 A. Yes, sir, we have.

7 Q. Do you know what trim cycle AmerenUE was  
8 on, urban and rural in 2002?

9 A. As I mentioned earlier, it was something  
10 over five years in the urban areas and something  
11 longer than that in rural areas.

12 Q. So if Mr. Voss testified earlier that in  
13 2002 the policy was three years for 12K-V circuits  
14 and five years for 4K-V circuits, then something  
15 longer in the rural areas -- areas, that would be an  
16 error?

17 A. I think that's probably an error. He  
18 wasn't as close to it.

19 Q. What was AmerenUE's -- I'll use the word  
20 policy -- but desired urban trim cycle and rural trim  
21 cycle, let's say, in 2000?

22 A. I think it was pretty close to what we  
23 were on. Keep in mind, the trim -- trimming of trees  
24 that we do is to determine what we call an acceptable  
25 level of reliability to our customers. It makes

1 little sense to trim to some higher level of service  
2 than customers are willing to pay for.

3 And that's pretty much how we approached  
4 tree trimming for years and years. It was really the  
5 impact of the significant change in weather and also  
6 the additional requirement of customers, as I  
7 mentioned earlier, in the electronic age that really  
8 drove us to take a much harder look. Now, some could  
9 question whether we should have done that sooner. I  
10 think that's probably a fair question.

11 But at the end of the day, I think tree  
12 trimming for service to our customers has always been  
13 a balance between the cost of trimming the trees, the  
14 aesthetics from a customer's point of view, what's  
15 acceptable for tree removal, tree trimming.

16 In fact, before the big storm, the big  
17 issue for us was fighting with customers to let us  
18 trim their trees. The refusals were a much bigger  
19 problem than we have today which is customers now  
20 saying come out and trim my trees, remove my tree.  
21 The world has changed.

22 Q. What was your policy in 2004 regarding  
23 urban and rural trim cycles?

24 A. Well, again, it was the same. We  
25 were -- we were moving toward doing more trimming but

1 really hadn't got on specific cycles. We were  
2 targeting to try to get to a four- and six-year. We  
3 thought those were places we wanted to go to.

4 Q. When did you target getting on four- and  
5 six-year cycles --

6 A. It was probably in '04.

7 Q. And your trim cycles before that, what  
8 was your target?

9 A. It really wasn't a target. It was  
10 acceptable levels of reliability.

11 Q. Didn't AmerenUE decrease its  
12 expenditures for vegetation management after the year  
13 2000 until the year 2003 or 2004?

14 A. I don't think I have the numbers of  
15 expenditures. There was a slight reduction I believe  
16 in 2003.

17 Q. And then after that, the expenditures  
18 increased?

19 A. They've been on an up -- upswing since  
20 then.

21 MR. WILLIAMS: May I approach and have  
22 an exhibit marked?

23 JUDGE WOODRUFF: Certainly. Staff's  
24 next number is 240.

25 (EXHIBIT NO. 240 WAS MARKED FOR

1 IDENTIFICATION BY THE COURT REPORTER.)

2 BY MR. WILLIAMS:

3 Q. Mr. Zdellar, I've handed you what's been  
4 marked for identification as Exhibit No. 240,  
5 although the copy I've provided you is not marked.

6 A. I see this.

7 Q. Do you recognize it?

8 A. I sure do.

9 Q. And what is it?

10 A. This is surrebuttal -- surrebuttal  
11 testimony regarding some costs around vegetation  
12 inspections, repairs, and then also attached is a  
13 sheet that shows the budgeted figures for 2009/2010  
14 in addition to 12-month ending in the true-up for the  
15 test year.

16 Q. Does it provide more detail than what's  
17 provided in your schedule RCZ-SE-3?

18 A. I don't have that in front of me right  
19 now. Is there some other reference I can get with  
20 that?

21 Q. It should be an attachment to your  
22 surrebuttal testimony.

23 A. It looks like it's an addition --  
24 addition to it. The first sheet is -- or the second  
25 sheet, I guess, is the same pretty much with more

1 detail in terms of the breakout. It's the same data  
2 but more breakout, I guess is the right word.

3 Q. And what type of breakout does it  
4 provide?

5 A. The sheet that you -- you just handed --  
6 handed me provides a little bit more detail in terms  
7 of labor and nonlabor and other kinds of costs  
8 associated with both the inspections and the -- and  
9 the repairs.

10 Q. So it describes the nature of the costs  
11 that were included in those numbers that are part of  
12 that schedule?

13 A. Right, it's a little more detail.

14 MR. WILLIAMS: I offer Exhibit 240.

15 JUDGE WOODRUFF: 240 has been offered.

16 Any objection to its receipt?

17 (NO RESPONSE.)

18 JUDGE WOODRUFF: Hearing none, it will  
19 be received.

20 (EXHIBIT NO. 240 WAS RECEIVED INTO  
21 EVIDENCE AND MADE A PART OF THE RECORD.)

22 MR. WILLIAMS: Judge, I'd like to get  
23 another exhibit marked.

24 JUDGE WOODRUFF: All right. Be 241.

25 (EXHIBIT NO. 241 WAS MARKED FOR

1 IDENTIFICATION BY THE COURT REPORTER.)

2 BY MR. WILLIAMS:

3 Q. Mr. Zdellar, have you had an opportunity  
4 to review Exhibit 241?

5 A. Yes, I have.

6 Q. And do you recognize that exhibit?

7 A. It's probably something I saw but don't  
8 recall specifically. But it's associated with --  
9 with our commitment back in '04.

10 Q. Well, I'll represent to you that it's a  
11 portion of what was provided to the Staff. I  
12 provided the cover letter and then one file which is  
13 the last two pages of that exhibit.

14 A. Okay.

15 Q. And do you recognize the last two pages  
16 of that exhibit?

17 A. The third page -- the last page, I'm not  
18 sure I've seen that one before, but certainly the  
19 third page.

20 Q. Well, let's turn to the third page.

21 A. Okay.

22 Q. Does the third page show on it --  
23 include internal labor as you included it in your  
24 surrebuttal testimony in this case regarding tree  
25 trimming expenditures?

1           A.       I am not sure of that. I cannot answer  
2   that question.

3           Q.       Why is it that you're unsure?

4           A.       We recently looked at some of the  
5   numbers that we had on tree trimming and recognized  
6   that there was a -- there was a difference in whether  
7   we were including what I'll call internal labor, and  
8   it's supervision.

9                    It's somewhere around 1 million,  
10   \$1.2 million of internal labor. And there's some  
11   difference in terms of the earlier numbers, whether  
12   they were in there or not. I do believe they're in  
13   these numbers, but I cannot testify to that with  
14   certainty.

15          Q.       And what does that page show -- show on  
16   it?

17          A.       This -- this shows the expenditures  
18   for -- for '07 and the budgeted figures for '08 by  
19   the operating centers that we have in the vegetation  
20   program.

21                   MR. WILLIAMS: I'd like to offer -- or I  
22   offer Exhibit 241 at this time.

23                   JUDGE WOODRUFF: 241 has been offered.  
24   Any objection to its receipt?

25                   (NO RESPONSE.)

1 JUDGE WOODRUFF: Hearing none, it will  
2 be received.

3 (EXHIBIT NO. 241 WAS RECEIVED INTO  
4 EVIDENCE AND MADE A PART OF THE RECORD.)  
5 BY MR. WILLIAMS:

6 Q. Mr. Zdellar, when was it that you first  
7 in this case raised the issue of the supervisory  
8 labor costs with regard to the -- I believe it may be  
9 just the vegetation management, but it may also  
10 include infrastructure replacement?

11 A. It's really in the vegetation management  
12 piece. And we offered it -- oh, it was somewhere  
13 between the original testimony and the surrebuttal.  
14 I don't remember exactly what exhibit it was on.

15 But there were -- there were two things.  
16 As we looked through our expenses to make sure we  
17 were -- again, the whole purpose of this whole  
18 process, this tracking mechanism is to really  
19 identify and capture all the expenses associated with  
20 vegetation management, infrastructure inspection and  
21 repair, to have it all in one bucket.

22 And one part of the vegetation rule, for  
23 instance, has us required to notify customers, notify  
24 local counties, notify local communication --  
25 communities when we're going to do vegetation



1 management. There's mailings and there's also a  
2 requirement for an annual education program.

3 Those numbers were not in our original  
4 number, and we wanted to try to capture everything in  
5 one place, and that's what we've done in our -- in  
6 our final budgeted numbers.

7 Q. Well, turning back to page 241, the page  
8 that shows the AmerenUE Missouri expenditures and  
9 budgets for 2007 and 2008, does that include those  
10 notification expenses you just referenced?

11 A. I'm sure it doesn't.

12 Q. And did AmerenUE with its direct  
13 testimony propose any amortization or accounting  
14 authority for vegetation management?

15 A. I did not prepare direct testimony on  
16 vegetation. And I don't recall if that was  
17 specifically in Richard Mark's testimony or Tom  
18 Voss's. I do have that with me if I can look through  
19 it. I can probably do that.

20 Q. If you wouldn't mind, go ahead.

21 A. I don't see this in any of our direct  
22 testimony.

23 Q. So the first time you raised the  
24 possibility of an amortization or an accounting  
25 authority order was in rebuttal testimony --

1           A.       That's correct.

2           Q.       -- in this case? And did you modify  
3 that request in surrebuttal testimony?

4           A.       Yes, we did.

5           Q.       When did the vegetation management rule  
6 become effective?

7           A.       I believe it was the 30th of June.

8           Q.       And what about the infrastructure  
9 inspection rule?

10          A.       Well, the rules became effective at the  
11 same time, but that rule just simply required a  
12 filing in terms of compliance with the rule. So in  
13 other words, it didn't say action had to begin  
14 right -- right at that time, but asked the utilities  
15 to submit their plan for compliance.

16          Q.       Let me ask you to turn to your  
17 surrebuttal testimony on page 4.

18          A.       Got it.

19          Q.       In particular, lines 19 through 22.

20          A.       Yes.

21          Q.       And do you say there, "Additionally, the  
22 new rules do more than require a four- to six-year  
23 cycle for vegetation management. They also set a  
24 minimum clearance distance, a requirement which did  
25 not exist previously. Furthermore, they require

1 midcycle inspections, customer education efforts and  
2 notice to be given prior to trimming"?

3 A. That's correct.

4 Q. Did you also file testimony in Case  
5 No. ER-2007-0002 which was AmerenUE's last rate case?

6 A. Yes.

7 Q. Did AmerenUE have clearance requirements  
8 prior to implementation of the Commission's rule?

9 A. Yes, we did.

10 Q. Did it have clearance requirements  
11 before AmerenUE's last rate case?

12 A. Yes, we did. Those are self-imposed  
13 clearance requirements that we had as part of our  
14 tree trimming policy.

15 Q. And did AmerenUE propose to broaden its  
16 clearing -- clearance requirements in its last rate  
17 case?

18 A. Yes.

19 Q. And was part of the 45 million it  
20 committed to expend on vegetation management in the  
21 last rate case for purposes of broadening those  
22 clearance requirements?

23 A. The -- the actual expenditures for  
24 vegetation management is part of the 45 including --  
25 included getting -- continuation of moving toward a

1 four- and six-year cycle, urban and rural. Also, to  
2 move into more tree removals and to improve  
3 clearances --

4 Q. All I'm asking is whether or not  
5 broadening --

6 A. Yes.

7 Q. -- the clearance was a component of it.

8 A. Yes.

9 Q. Did AmerenUE in its last rate case  
10 commit to inspecting subtransmission -- subtransmission  
11 circuits on a biyearly basis?

12 A. Yes.

13 Q. And would those biyearly inspections  
14 that you committed to in the last case comply with  
15 the Commission's midcycle inspection under the  
16 vegetation management rule?

17 A. The effort on subtransmission  
18 inspections was really related to looking at the  
19 facilities as opposed to vegetation. It was a --

20 Q. So is your answer yes or no?

21 A. Well, repeat the question, please.

22 Q. Were the inspections that you committed  
23 to in the last rate case on subtransmission circuits,  
24 to inspect those on a biyearly basis, would those  
25 meet the requirements of the midcycle inspections

1 under the vegetation management rule?

2 A. No.

3 Q. If a switch on AmerenUE's system was  
4 about to fail and would have failed on a particular  
5 date, wouldn't that be part of what would be included  
6 in the normal operation and maintenance costs?

7 A. Yes, it would.

8 Q. However, if that switch were found to be  
9 defective by an inspection before it did fail,  
10 wouldn't you include the cost of -- isn't it  
11 AmerenUE's proposal to include the cost of the  
12 replacement or repair of that switch as part of its  
13 infrastructure inspection program?

14 A. I -- the reason I'm hesitating to answer  
15 that question, typically, you could not inspect a  
16 switch and know it was going to fail. So this may be  
17 a -- not a good example.

18 Q. Well, provide me with a good example  
19 where it's going to fail and you do an inspection,  
20 you find that particular piece of equipment is about  
21 to fail so you go ahead and replace it earlier than  
22 it might have been replaced otherwise.

23 A. Maybe I can give you an example. It  
24 might be -- might be appropriate. Let's say that we  
25 had a pin come out of a crossarm that holds a wire on

1 it, and through the inspection process, you find that  
2 pin and you repair it.

3 The alternative would be that perhaps  
4 the wind would blow in the night and the wires would  
5 go together and somebody would then go out and have  
6 to repair it. And I think that's maybe closer to the  
7 analogy you're talking about.

8 So you might -- the whole thing is,  
9 you're preventing a subsequent expense because you're  
10 doing an inspection in some way. I -- is that the --

11 Q. I'm looking for a situation where all  
12 you're actually doing is finding the problem early  
13 and taking care of it and incurring the expense at a  
14 different time -- point in time than you would  
15 otherwise.

16 A. Uh-huh. Well, that -- that -- that is  
17 possible.

18 Q. In --

19 A. Most --

20 Q. -- another year's proposal, wouldn't  
21 that expense be included as part of the infrastructure  
22 inspection tracker?

23 A. I think it would be a rare occasion, but  
24 it could happen.

25 MR. WILLIAMS: No further questions.

1 JUDGE WOODRUFF: All right. We'll come  
2 up for questions from the Bench, then. Commissioner  
3 Murray?

4 COMMISSIONER MURRAY: No questions.  
5 Thank you.

6 JUDGE WOODRUFF: Commissioner Clayton?  
7 QUESTIONS BY COMMISSIONER CLAYTON:

8 Q. Mr. Zdellar, did I hear you say that you  
9 thought -- thought another rulemaking on tree  
10 trimming would be helpful? Did I hear you say that  
11 in your testimony?

12 A. Did I say that?

13 Q. That's what I'm asking, did you say  
14 that?

15 A. I don't think I did. However --

16 Q. I wasn't for sure if I heard you say  
17 that.

18 A. However, I would suggest to you that as  
19 part of going forward with both infrastructure and  
20 the -- and the vegetation programs, that once the  
21 utilities of Missouri have gone through this  
22 four-year cycle, I think it will be time for us to  
23 get back together and to see if there should be  
24 changes to the rulemakings on both vegetation and  
25 infrastructure.

1                   I think there's a lot to be learned from  
2 each other in terms of what's successful and perhaps  
3 when we could spend money and do some things  
4 differently, collectively. And I think it would be a  
5 great time to sit back down and go through these  
6 rules to see if we are on target.

7           Q.       How would you measure whether or not the  
8 existing rules have been successful after that  
9 four-year period?

10          A.       I think from a vegetation standpoint, we  
11 track tree-caused outages on our system, so we would  
12 be able to do some things in terms of specific  
13 tree-caused outages.

14          Q.       Is that a new tracking system that you  
15 have in place or have you always tracked --

16          A.       We have --

17          Q.       -- relating to tree-caused outages --

18          A.       For the last few years we have done  
19 that, that's correct.

20          Q.       So this is something that is since the  
21 outages of 2006, 2007, the really big ones?

22          A.       Yes, yes. And on the -- on the  
23 infrastructure side, again, a lot of the  
24 infrastructure inspections we wouldn't even start  
25 until the first of the year in terms of our plan, and



1 I'm sure the other utilities are the same way.

2                   And there's some fairly detailed things  
3 we're looking at in terms of underground equipment,  
4 things like that, streetlights. You know, at the end  
5 of the day, we may say that we spent more money going  
6 out and looking at streetlights than we should that's  
7 warranted.

8                   And maybe we should spend that money on  
9 something else to benefit the ratepayers of Missouri  
10 better than just, you know, polishing hubcaps or  
11 something.

12           Q.       So can you tell me how many tree-related  
13 outages in a given month Ameren faced on the first  
14 month of doing that sort of tracking and compare that  
15 number with what it is for the given -- this given  
16 month? Is that possible to -- to share with us?

17           A.       I don't have those numbers with me.  
18 We -- we could probably dig those numbers out, but  
19 again, we'd have to look at what circuits had been  
20 trimmed and which ones hadn't and break it down by  
21 where we have done some of the work to meet the new  
22 rules.

23           Q.       Have you done any analysis of those  
24 figures to determine whether or not there have been  
25 improvements on reliability, at least on that one --

1     that one metric?

2             A.       We have not done a detailed analysis. I  
3     can only tell you anecdotally from my linemen, my  
4     troubleshooters, our dispatchers, they tell me that  
5     what we are doing today in terms of vegetation  
6     management is making a significant difference.

7             Q.       But how do you tell that if you haven't  
8     done the analysis? Is it just some -- the guys out  
9     on the truck are saying, hey, we're doing a better  
10    job and that's the evidence?

11            A.       That's it right now. Keep in mind, you  
12    know, we're -- we're one year into --

13            Q.       And we've got a million dollar issue here  
14    and we're relying on the guys sitting in the truck  
15    that say, "Oh, I know this is better," but we have no  
16    way -- no way to measure, no way to calculate, no way  
17    to analyze whether or not we've had improvements?

18            A.       Well, keep in mind you've only got --  
19    for instance, for January, you've only got right now  
20    ten months of data for the circuits that were done in  
21    January. So you know, we're into a four-year cycle  
22    on this.

23            Q.       I understand, but you're the one who  
24    said that we've had improvements and things are a lot  
25    better than they used to be. I just want to know how

1     you reached that conclusion.

2           A.     Well, like I say, right now, what I --  
3     what I'm hearing anecdotally, and I said that,  
4     anecdotally, but if the Commission like, I certainly  
5     can go back and look at the circuits that were  
6     trimmed, for instance, in January and February and  
7     try to look at some past record in terms of what  
8     they've had on -- on outages from tree -- tree-caused  
9     outages.

10          Q.     Other than those -- the tree-related  
11     outages, those -- that statistic that you mentioned  
12     is now being tracked, are there any other concrete  
13     types of data that we could use to identify any  
14     trends in reliability performance?

15          A.     Well, the overall measures I think  
16     are -- in SAIFI, for instance, frequency of outages  
17     for our customers when we track the major storms  
18     which is an industry number that we compare --

19          Q.     So has -- has -- has Ameren's SAIFI  
20     numbers changed since the implementation of these  
21     rules?

22          A.     Yes, it has.

23          Q.     And what is -- where did it begin and  
24     where has it...

25          A.     I have that. I might add, though, that

1 one of the things that I am reminded that does jump  
2 out and grab you once in a while is a situation like  
3 we had this morning in St. Louis where we had a  
4 substation outage due to a fire in a substation.

5 Q. Where -- when was that?

6 A. That was this morning.

7 Q. Oh, some people were out of power this  
8 morning?

9 A. Well, after four o'clock --

10 COMMISSIONER GUNN: About 4:30 to 7:30.

11 THE WITNESS: Apparently there's a  
12 direct reference here. But yes, it was about three  
13 hours and it was about 53,000 customers out during  
14 that -- during that outage.

15 Up until then -- let me just give you  
16 year-to-date kind of numbers. When we look at SAIFI  
17 and -- which is that frequency, average number of  
18 times the customer's out in a year for our company,  
19 if I go back to 2004, I'll give you a number, it's  
20 1.28; 2005, 1.26; 2006, 1.24; 2007, 1.16 and 2008,  
21 with our projection through November, 1.09.

22 BY COMMISSIONER CLAYTON:

23 Q. Those are system-wide numbers?

24 A. Those are Missouri AmerenUE.

25 Q. Did you-all run SAIFI numbers at a -- at

1 a level lower than the system-wide?

2 A. We do have it for every operating  
3 division. I don't have that with me today.

4 Q. You don't have those figures today.  
5 Okay. So for the SAIFI -- the SAIFI figures suggest  
6 improvement, and the lower the number, the better,  
7 when it comes to safety?

8 A. That is absolutely correct.

9 Q. Okay. Now, do you -- what do you  
10 attribute to that reduction from 1.28 to 1.09,  
11 everything or just trees or just infrastructure?

12 A. I think it's both the -- mostly the  
13 vegetation management program, but certainly an  
14 aspect of the infrastructure inspections has come  
15 into play as well.

16 Q. Did you-all run any other figures, SAIDI  
17 or -- this one is frequency, so this is SAIFI. Did  
18 you do SAIDI or CAIDI?

19 A. Yeah, I also -- and I also have the  
20 numbers for CAIDI, and CAIDI is the duration of those  
21 customers who have outages. And that, quite frankly,  
22 hasn't changed very much which should not be totally  
23 unexpected on day-to-day. There will need to be some  
24 emphasis, and we do have some emphasis within the  
25 company to address that with some of the Smart Grid

1 technology and other things that are out there that  
2 would allow us to restore customers much quicker.

3 Q. Where does Ameren stand right now with  
4 smarter grid-type technologies?

5 A. I would say we -- we are certainly not  
6 at the leading edge of it, but we are certainly  
7 moving down the path. We had some --

8 Q. Well, you're probably further along than  
9 most any other utility in the state, don't you think?

10 A. Kansas City Power & Light's got quite a  
11 few automated switches out on their distribution  
12 system. I think --

13 Q. Are those two-way communicators or just  
14 one-way readers?

15 A. They're two --

16 Q. Two-way?

17 A. -- two-way communications, and we are  
18 installing that equipment today on our  
19 subtransmission and distribution facilities and  
20 seeing some success from that already. We are  
21 looking at some smart fusing technology  
22 that essentially -- fuses that operate on a momentary  
23 basis and then reclose as opposed to blowing which  
24 would subject customers to perhaps some momentary  
25 interruption as opposed to an extended interruption

1 if a -- you know, a squirrel got on a transformer or  
2 something like that.

3           We've always had considerable automation  
4 within our substations, but actually, that whole --  
5 that whole process as we look, the Smart Grid  
6 technology moves us away from the substation toward  
7 the customer.

8           Q.     Are there -- are there benefits that the  
9 customer would experience with -- with new Smart  
10 Grid-type technologies?

11          A.     Well, I think that this focus that we're  
12 looking at today is -- on the technology side is for  
13 reliability. I think the -- at the end of the day,  
14 there are some -- some things and some folks are  
15 moving much faster, particularly those higher cost  
16 states, to try to do some more in the way of load  
17 management, customer conservation, things like that,  
18 behind-the-meter sort of technology with Smart Grid.

19                We're staying abreast of what's going on  
20 with that technology and looking for perhaps ways to  
21 do pilots with customers who might be willing to step  
22 up to the plate and do some things behind the meter.

23          Q.     Well, that's -- that's talking about on  
24 the pricing side of it; is that correct?

25          A.     That's correct.

1           Q.       And you're talking about the pilot  
2 programs. But on reliability, do you -- do you see  
3 there being benefits that the customer would receive  
4 from added investments in Smart Grid technology --

5           A.       Oh --

6           Q.       -- and reliability?

7           A.       Oh, definitely, definitely. I just  
8 mentioned a couple of them.

9           Q.       Yeah. Has Ameren made a decision on its  
10 strategy for investment in Smart Grid technologies?

11          A.       I think that --

12          Q.       Is it still studying --

13          A.       -- for the things I mentioned, again,  
14 we're looking at it from a reliability perspective  
15 from a substation toward the customer. Others have  
16 looked at it customer first and back the other way  
17 which seems strange to me at this point.

18                   But we are definitely watching what's  
19 going on around the rest of the country. A number of  
20 utilities that are either on pilot programs -- when I  
21 say pilot, it's really broad pilot programs, are  
22 making substantial investments in the whole range of  
23 some of what is the technology that underlies this  
24 whole umbrella of Smart Grid.

25          Q.       When do you anticipate that -- that the



1 Commission or the Staff or Public Counsel or  
2 interested parties would be able to hear more of  
3 Ameren's plans outside of a rate case setting on  
4 modernization of the grid and investment in Smart  
5 Grid technology?

6 A. I believe any time we can arrange an  
7 appropriate schedule, we can --

8 Q. Are you all ready, I guess is what I'm  
9 saying?

10 A. Yeah, I think we could visit with you  
11 where we are and what our thoughts are.

12 MR. CLAYTON: I don't think I have any  
13 other questions. Thank you, Mr. Zdellar.

14 JUDGE WOODRUFF: Commissioner Jarrett?

15 COMMISSIONER JARRETT: I had one  
16 question, but I think you answered it with one of  
17 Commissioner's Clayton's questions, so I have no  
18 questions.

19 JUDGE WOODRUFF: Commissioner Gunn?

20 COMMISSIONER GUNN: I have about  
21 45 minutes on the Shrewsbury transformer. No, I have  
22 no questions. Thanks very much.

23 JUDGE WOODRUFF: Chairman Davis?

24 CHAIRMAN DAVIS: No questions. Thank  
25 you, Mr. Zdellar.

1 JUDGE WOODRUFF: All right. We'll go  
2 back, then, to recross based on questions from the  
3 Bench beginning with Noranda. He's not here. For  
4 the State?

5 MR. IVESON: Nothing, your Honor.

6 JUDGE WOODRUFF: For the Public Counsel?

7 MR. MILLS: Just briefly.

8 RECROSS-EXAMINATION BY MR. MILLS:

9 Q. Mr. Zdellar, in response to one of  
10 Commissioner Clayton's questions, you gave him a  
11 figure of 1.09 for 2008 SAIFI; is that correct?

12 A. That's a forecast based on 11 months'  
13 data.

14 Q. So you have 11 months' -- 11 months'  
15 actual?

16 A. And that -- we're at 1.05 through the  
17 end of November.

18 Q. Okay. So it's your -- it's your  
19 forecast that through December it's going to move up  
20 a little bit?

21 A. It will, particularly with the outage we  
22 had in St. Louis this morning. It's sort of  
23 guaranteed.

24 MR. MILLS: Okay. That's all I have.

25 Thank you.

1 JUDGE WOODRUFF: For Staff?

2 MR. WILLIAMS: Just a few questions.

3 RECROSS-EXAMINATION BY MR. WILLIAMS:

4 Q. In response to Commissioner Clayton's  
5 inquiry regarding CAIDI, you indicated that numbers  
6 hadn't changed over a period of time. Would you  
7 identify the period of time you were referring to?

8 A. We're going back -- I've had data going  
9 back to '03, and it's bounced around, oh, a hundred  
10 and -- about 120 minutes, plus or minus three  
11 minutes, I guess, since that time, and it has not  
12 changed dramatically.

13 MR. WILLIAMS: No further questions.

14 JUDGE WOODRUFF: Redirect?

15 MS. TATRO: Thank you.

16 REDIRECT EXAMINATION BY MS. TATRO:

17 Q. Mr. Zdellar, Staff asked you several  
18 questions dealing about the \$45 million commitment  
19 that came out of the last rate case. Do you recall  
20 those questions?

21 A. Yes, I do.

22 Q. And he asked you how long that  
23 commitment to spend \$45 million was made, correct?

24 A. That's correct.

25 Q. Do you know, was that commitment made

1 before or after the Commission -- the effective date  
2 of the Commission's new vegetation management and  
3 infrastructure rule?

4 A. Before.

5 Q. Staff's attorney also talked to you  
6 about -- well, again, on the \$45 million, he talked  
7 about things like the commitments that were made  
8 increasing the clearance requirements and inspecting  
9 on a biyearly basis. Do you remember those  
10 questions?

11 A. Yes, I do.

12 Q. Can you tell this Commission, is the  
13 commitment that was made in the last rate case to  
14 increase vegetation management efforts the same as  
15 the commitment that's required by the Commission's  
16 vegetation management rule?

17 A. No, I did not.

18 Q. Can you explain some of the differences?

19 A. Well, I think I mentioned earlier some  
20 of the notification things. There's -- I think Staff  
21 mentioned a midcycle trim. That's a requirement. I  
22 might add just from the Commissioner's standpoint or  
23 Chair -- Commissioner Clayton, in particular, you  
24 know, we -- one of the rural -- one of the rural  
25 changes was a midcycle inspection on vegetation.

1                   And the first year through that, we  
2   found 1,200 situations where we needed to go back and  
3   do work. And I think we spent somewhere around  
4   \$750,000 just on cleaning up this midcycle  
5   inspection, the dead trees, trees of excessive  
6   growth. 2007 was a record year of rainfall in the  
7   metropolitan area as well as all the state of  
8   Missouri, so we saw abnormal tree growth.

9                   So there were a number of things that  
10   weren't in the rule to begin with. In addition, the  
11   rule itself on -- on vegetation, we talk about a  
12   four- and six-year cycle, that's really the maximum  
13   requirement. It's really up to every utility to  
14   develop a vegetation plan to submit to the Staff in  
15   terms of how they're going to meet the rule.

16                  And in fact, what we're seeing going  
17   forward in some of our areas that when we've looked  
18   closely at the data, there's some heavily forested  
19   urban areas, particularly in North St. Louis County  
20   that we firmly believe we're going to have to go to a  
21   shorter cycle, and 40 years is not going to get the  
22   job done from a reliability standpoint.

23                  MR. WILLIAMS: Judge, I'm going to  
24   object at this point. I think he's getting well  
25   beyond the scope of the cross-examination, and

1 frankly, the question that was asked which was to  
2 compare the differences between what commitments the  
3 company had made and what the rule requires. He's  
4 getting into what they've been doing.

5 MS. TATRO: Well, I think he's exactly  
6 answering the question that I asked him. The  
7 \$45 million contained certain commitments, and the  
8 Commission's rules require that we do certain -- to  
9 undertake certain practices as well.

10 JUDGE WOODRUFF: I think he has gone  
11 beyond the question and gone into a narrative  
12 response. So on that basis, I'll ask you to --  
13 direct you to ask him another question.

14 BY MS. TATRO:

15 Q. Okay. Mr. Zdellar, would you please  
16 finish the answer you were attempting to give?

17 A. Again, I think --

18 MR. WILLIAMS: Judge, I don't know what  
19 question --

20 JUDGE WOODRUFF: Yeah --

21 MR. WILLIAMS: There's a request been  
22 made, but I haven't heard a query.

23 JUDGE WOODRUFF: We need a more definite  
24 question.

25 BY MS. TATRO:

1           Q.       Okay. Mr. Zdellar, can you tell this  
2 Commission what potential improvements you're -- and  
3 expansion to your vegetation management program you  
4 anticipate being made in the future because of the  
5 new vegetation management rule?

6                   MR. WILLIAMS: I'm going to object at  
7 this point. It goes beyond the scope of  
8 cross-examination.

9                   JUDGE WOODRUFF: I'll overrule that  
10 objection. You can answer the question.

11                  THE WITNESS: Could you repeat the  
12 question again, Counselor?

13                  MS. TATRO: Can you read it back?

14                   (THE COURT REPORTER READ BACK THE  
15 PREVIOUS QUESTION.)

16                  THE WITNESS: Well, I think I addressed  
17 some of the things already that the rule required  
18 specifically around notification of customers, of  
19 municipalities and counties, the -- the issue of  
20 educational programs, the right tree in the right  
21 place kind of a thing that's out there, the midcycle  
22 inspections, the increased clearance in terms of  
23 vertical, the ground-to-sky clearance.

24                  The other thing, though, that we have  
25 seen with what's happened out there, I mentioned it

1 earlier. The acceptance from customers for  
2 vegetation management is far more positive today than  
3 it was in the past. It's allowed us to do more in  
4 terms of tree removal, what we call prescriptive  
5 trimming, sweeping back on -- off our easements in  
6 terms of -- you know, if limbs do fall, they won't  
7 fall on our lines. These kinds of things are still  
8 in our future.

9 I mentioned clear possibility of a  
10 shortened trim cycle in some very heavily forested  
11 urban areas that we -- we just have to get in more  
12 often. So I think there's a number of things.

13 And -- and the -- again, the rules  
14 require us to meet these -- these requirements on  
15 cycle. They're -- they're not, you know, don't worry  
16 about it, do it next year if you catch up. They're  
17 an annual requirement. So we have to make sure that  
18 we're moving along on an annual basis so that if we  
19 get interrupted by bad weather or things like that,  
20 we still meet our requirements.

21 So there are a number of things that  
22 still are going to add some costs, I think, to our  
23 business that we've not fully identified.

24 BY MS. TATRO:

25 Q. Thank you. Mr. Mills asked you some



1 questions about Empire and how far along they are in  
2 implementing the vegetation management rules. Are  
3 you -- do you remember those questions?

4 A. I do.

5 Q. Do you think the fact that Empire is  
6 further behind in meeting these rules than AmerenUE  
7 is, justifies -- or should be contemplated by the  
8 Commission in deciding whether or not to grant UE a  
9 tracker?

10 A. I wouldn't know why that would be the  
11 case.

12 Q. Do you want to expand upon that answer?

13 A. Well, again, the whole point of the  
14 rule -- in the rule was that there was recognition,  
15 clearly, when the rules were developed that all the  
16 utilities were going to incur some increased costs  
17 due simply to these rules. There will be incremental  
18 costs. And there are provisions in the rules that  
19 allowed recovery of those costs. And I think it's  
20 appropriate, whether that cost is, you know,  
21 100 percent more or if it's, you know, 10 percent  
22 more.

23 Q. The Commission Staff counsel asked you  
24 about the potential for -- with the inspections for  
25 the -- the inspection to test something that would

1 have failed the next day, and you said that was rare.  
2 Can you please explain why that occurrence would be  
3 rare?

4 A. Yes, I'd be happy to. The -- most of  
5 the current work that we do in terms of repairs to  
6 our system is based upon a failure of some kind. And  
7 for instance, I'll talk about the underground system.  
8 You -- we can't inspect cables to determine when  
9 they're going to fail. We can't inspect a  
10 transformer to tell it's going to fail. So they're  
11 going to fail when they fail.

12 And the cost of repairing that equipment  
13 will be continued to be handled under the normal  
14 accounting and a ratemaking process that we've always  
15 had. But when we go out there and we see a -- a -- a  
16 transformer that needs to be -- to be leveled, needs  
17 to be perhaps painted, when we go out and do those  
18 kinds of things, they'll be tied to the inspection  
19 process.

20 You know, one of the things I think  
21 people think about the failure thing is that the  
22 things we're finding on our overhead plants are all  
23 failure-related. The biggest number of things we  
24 found in this first year since we've been doing this  
25 overhead inspection is missing ground wires.

1                   The price of copper got over four  
2 dollars a pound. People were getting ladders on our  
3 poles and cutting down ground wires. So we're out  
4 there replacing ground wires by far more than  
5 anything else we were doing on these overhead  
6 inspections.

7                   So you know, it's not -- it's not  
8 necessarily something that you're going to, you know,  
9 find from a failure mechanism. For instance, the  
10 substation transformer situation we had at Watson, it  
11 was probably the failure of a lightening arrester,  
12 our -- our breaker at the substation.

13                  Now, substations are not under this  
14 program, but we do have lightening arresters out on  
15 our system. You cannot walk by a lightning arrester  
16 and tell it's going to fail the next day. So that's  
17 not part of something that's going to be uncovered  
18 during the inspection process.

19                  That's why we've gone through such great  
20 lengths to try to link what we find on inspections  
21 with the repair action on those inspections only so  
22 that we can provide that transparency going forward  
23 as I mentioned earlier. So after a period of time,  
24 we know what we've spent, what we did, what we found,  
25 what we repaired and how it all kind of fits together

1 for fuel -- future rulemaking.

2 MS. TATRO: Thank you. I have no  
3 further questions.

4 JUDGE WOODRUFF: Mr. Zdellar, you can  
5 step down. And we're due for a break. Let's come  
6 back at 3:50.

7 (A RECESS WAS TAKEN.)

8 JUDGE WOODRUFF: All right. Let's go  
9 back on the record, then. And welcome back from our  
10 break. And our next witness is Mr. Beck for the  
11 Staff. And Mr. Beck is on the stand, so if you'd  
12 please raise your right hand.

13 (The witness was sworn.)

14 JUDGE WOODRUFF: Thank you. You may  
15 inquire.

16 (EXHIBIT NOS. 217 AND 218 WERE MARKED  
17 FOR IDENTIFICATION BY THE COURT REPORTER.)

18 DIRECT EXAMINATION BY MR. WILLIAMS:

19 Q. Please state your name.

20 A. Daniel I. Beck.

21 Q. Who is your employer?

22 A. I work for the Missouri Public Service  
23 Commission Staff.

24 Q. What position do you have at the  
25 Missouri Public Service Commission Staff?

1           A.       I am the engineering analysis supervisor  
2    in the energy department.

3 Q. Did you prepare rebuttal testimony of  
4 Daniel I. Beck that's been marked for purposes of  
5 identification in this case as Exhibit No. 217?

6                    A.        Yes.

7 Q. Did you also prepare a document,  
8 Surrebuttal Testimony of Daniel I. Beck, that's been  
9 marked for purposes of identification in this case as  
10 Exhibit No. 218?

11                   A.       Yes.

12 Q. Would you have any changes or revisions  
13 to either Exhibit two -- Exhibit No. 217 or 218?

14                      A.                      No.

15 Q. Is -- are Exhibit No. 217 and 218 your  
16 testimony in this case?

17                    A.            Yes.

18 MR. WILLIAMS: With that, I offer  
19 Exhibit Nos. 217 and 218.

20 JUDGE WOODRUFF: All right. 217 and 218  
21 have been offered. Any objection to their entry?

22 (NO RESPONSE.)

23 JUDGE WOODRUFF: Hearing no objections,  
24 they will be received.

25 (EXHIBIT NOS. 217 AND 218 WERE RECEIVED

1 INTO EVIDENCE AND MADE A PART OF THE RECORD.)

2 JUDGE WOODRUFF: All right. For  
3 cross-examination, then, we begin with Public  
4 Counsel.

5 CROSS-EXAMINATION BY MR. MILLS:

6 Q. Good afternoon, Mr. Beck.

7 A. Good afternoon.

8 Q. Happy birthday.

9 A. Thank you.

10 Q. Mr. Zdellar testified that a tracker  
11 would -- a dollar-for-dollar tracker would eliminate  
12 the risk that the company would under-recover cost  
13 for vegetation management. Do you agree with that?

14 A. I think it -- yeah, I think it certainly  
15 would help their risk, yes. It would help them have  
16 less risk.

17 Q. Would it eliminate the risk assuming it  
18 functions properly?

19 A. Assuming it functions properly, yes.

20 MR. MILLS: Okay. No further questions.

21 JUDGE WOODRUFF: All right. State's not  
22 here. For Noranda?

23 MR. CONRAD: No questions.

24 JUDGE WOODRUFF: And for AmerenUE?

25 MS. TATRO: Thank you.

1 CROSS-EXAMINATION BY MS. TATRO:

2 Q. Good afternoon, Mr. Beck.

3 A. Good afternoon.

4 Q. Let's start -- well, for simplicity's  
5 sake, I'm going to separate my questions into the  
6 infrastructure -- I mean vegetation management  
7 questions and infrastructure questions, and I'm going  
8 to start with vegetation management.

9 A. Okay.

10 Q. Okay. Can you explain to me what  
11 treatment AmerenUE's requesting from this Commission  
12 for the vegetation management expenditures?

13 A. I'll go by time periods within that.  
14 First, from January 1st, 2008, through June -- excuse  
15 me -- through September 30th, 2008, the company is  
16 looking for those costs -- and when I say "those  
17 costs," those would be the cost above the \$45 million  
18 number to be -- to be amortized in a three-year --  
19 over a three-year period. So they would be put into  
20 rates to be collected over a three-year period. In  
21 essence, one-third each -- would be collected each  
22 year.

23 Then the subsequent period, October 1st,  
24 2008, through February 28th, 2009, Ameren is looking  
25 for accounting authority. And those costs would be

1 tracked and the -- again, using the \$45 million as  
2 the base, and those costs would then be dealt with in  
3 the next rate case.

4           And then the third thing they're asking  
5 for is a tracker. It's a little unclear to me even  
6 at this point. I think what they're actually asking  
7 for is a tracker -- what I thought they were asking  
8 for and what I read in rebuttal was that they were  
9 asking for a one-year tracker starting March 1st,  
10 2009, and going one year to February 28th, 2010, but  
11 what I think they -- what I now think they are asking  
12 for is that that may go on for additional years.  
13 It's -- it's a little unclear.

14           Q.     Do you have your surrebuttal with you?

15           A.     Yes.

16           Q.     Can you turn to page 3, please? Now, in  
17 your surrebuttal testimony, you set forth Staff's  
18 position on each of those three issues, right?

19           A.     Yes.

20           Q.     Or requests?

21           A.     And again, the -- my understanding at  
22 that time was the idea of a one-year tracker, and so  
23 that's what my surrebuttal addresses.

24           Q.     Okay. On line 13 of page 3 --

25           A.     Okay.



1           Q.       -- you identify the -- kind of your  
2     first position on the recovery mechanism is that the  
3     Commission rules don't contemplate amortization of  
4     the tracker until after the rule's in effect.  Is  
5     that a fair summary?

6           A.       That would be a fair summary.

7           Q.       Okay.  And you quote the language of the  
8     rule there that talks --

9           A.       Yes.

10          Q.       All right.  Now, does the rule set forth  
11     the only mechanisms that are available for this  
12     Commission to allow cost recovery?

13          A.       No.  I don't -- I don't believe that  
14     it -- that it does.  I think it -- and my opinion was  
15     that after participating in that rulemaking, it was  
16     something that was, I think, something the Commission  
17     was interested in to kind of recognize that there  
18     could be this type of authorization, but I don't  
19     think it by any means limits the Commission.

20          Q.       So it's in there because the Commission  
21     wanted to recognize that there might be a need to --  
22     to identify those costs and allow for recovery in  
23     some manner?

24          A.       That's certainly what was my  
25     understanding at the time, yes.

1 Q. But you agree that's only one mechanism?

2 A. That -- that's correct.

3 Q. Okay. And if the Commission decides a  
4 certain -- some other mechanism which is not  
5 contemplated by the rule is good and they want to  
6 order AmerenUE to do so, they have that ability,  
7 right?

8 A. That -- that's -- as an engineer and not  
9 a lawyer, that's my understanding.

10 Q. Well, I just want to make sure that I  
11 understand your comment on page 3, starting on line 13.  
12 You're just saying the relief requested isn't  
13 specifically allowed by the rule, but you're not saying  
14 the Commission can't order something different; you're  
15 just saying the rule says X and that's different from  
16 what UE's requesting?

17 A. That's correct.

18 Q. Okay. Can you turn to page 4? On  
19 line 8 you -- you indicate that, "Staff believes the  
20 test year level of vegetation management expenses  
21 should be used for setting base rates." Is that the  
22 test year or is that the updated test year meaning  
23 updated through September 30th?

24 A. At the time this testimony was -- was  
25 filed, that was the test year. I will point out that

1 the following sentence is -- if you -- if I -- I'll  
2 just read it. "However, the Staff also plans to  
3 review the level of expenditures through the end of  
4 the true-up period to determine the level of  
5 expenditures which should be included in base rates."

6 Q. Okay. So ignoring the number for a  
7 moment, Staff's recommending that the Commission uses  
8 the trued-up test year number?

9 A. That -- that is what we stated in our  
10 position statement. True-up testimony, you know, is  
11 going to be filed subsequent, but that is exactly our  
12 recommendation.

13 Q. Okay. Do you know what that number is?

14 A. The -- the last number I knew -- and --  
15 and, quite frankly, the way numbers keep moving on  
16 this particular issue, I'm -- I'm getting a little  
17 uncomfortable with the numbers myself, but \$49.7  
18 million was the number that I recall off the top of  
19 my head.

20 Q. Okay. And on line 13 and 14 where you  
21 have -- it says, "The Staff's rebuttal testimony  
22 outlines several reasons." Are you referring to your  
23 own?

24 A. Yes.

25 Q. Okay. Let's look at your rebuttal

1 testimony on page 5, please. Do you have that with  
2 you?

3 A. Okay. Yes, I have that.

4 Q. Page 5, line 19, you indicate that the  
5 company's in the last year of its commitment to get  
6 on the four- and six-year trim cycle, right?

7 A. Yes.

8 Q. And you know when I -- when I use  
9 shorthand for "six-year trim cycle," you know what  
10 I'm referring to?

11 A. Yes.

12 Q. What would that be?

13 A. That would be a four-year urban,  
14 six-year rural trim cycle that it's my understanding  
15 has been the company's policy for years.

16 Q. Okay. Would you characterize the  
17 Commission's new vegetation management rules as  
18 merely requiring the four-, six-year trim cycle?

19 A. No, I would not.

20 Q. Okay. In fact, would you agree that  
21 you -- in the hearing on the final vegetation  
22 management rulemaking, you disagreed when a  
23 Commissioner characterized the rule as only a four-  
24 and six-year trim cycle requirement, didn't you?

25 A. I don't specifically recall, but I've

1 always -- always viewed the rule as being more than  
2 just a simple four- to six-year cycle.

3 Q. Okay. Can you tell me what other  
4 requirements are imposed by that rule besides the  
5 four- and six-year trim cycle?

6 A. Customer notification is something that  
7 just immediately pops into my mind. There is minimum  
8 clearance requirements in the rule. There is an  
9 education component also required in the rule. And  
10 then there's basic reporting requirements also  
11 required. Those are the primary items that I recall  
12 just --

13 Q. What about midcycle inspections?

14 A. Yes, there is midcycle inspection  
15 requirements.

16 Q. Is there vertical overhang removal  
17 requirements?

18 A. There are. I sort of in my mind grouped  
19 those together with the clearance issues, but I guess  
20 they would -- could be considered separate.

21 Q. Okay. Is the utility required to make  
22 an effort to remove danger trees that are located off  
23 its easement?

24 A. To make that effort, yes.

25 Q. And none of these were specifically

1 required before the Commission's new rules went into  
2 effect?

3 A. That's correct.

4 Q. Okay. I'm going to hand you a document.

5 MS. TATRO: May I approach?

6 JUDGE WOODRUFF: You may.

7 MS. TATRO: I don't have copies. It's  
8 just this. I'm not going to make it an exhibit.

9 BY MS. TATRO:

10 Q. Do you recognize this document?

11 A. In general, yes. I don't remember  
12 pages 16 through 37 being upside down, but other than  
13 that...

14 Q. Well, perhaps that's a copying error on  
15 my part. All right. Turn to page 45 of the report.  
16 Did you play a role in the recommendations Staff made  
17 in this docket?

18 A. Yes, I did.

19 Q. Okay. On page 45 under the section  
20 labeled "Vegetation Management" --

21 A. Yes.

22 Q. -- can you read the first two sentences,  
23 please?

24 A. "The Commission's electrical corporation  
25 vegetation management standards and reporting

1 requirements, 4 CSR 240-23.030, will become effective  
2 on June 30th, 2008. Staff maintains that the  
3 revisions to the current operating procedures will  
4 need to be made for the following sections of the  
5 Commission's rule." Would you like me to read those?

6 Q. I won't make you read all those  
7 sections.

8 A. Thank you.

9 Q. But it's -- so far it's two, three,  
10 four, five, six, seven, eight, nine; is that correct?

11 A. That's correct.

12 Q. Okay. And the reason you would make  
13 such a recommendation is that the standards UE  
14 currently had didn't include those, right?

15 A. I think the reason we would make such a  
16 recommendation is, is there were no minimum  
17 requirements in effect at all in the State of  
18 Missouri, and this was just restating our belief that  
19 these rules were good policy.

20 Q. And because there were no requirements  
21 prior to those rules, they weren't reflected in the  
22 operating procedures, right?

23 A. The company certainly still had before  
24 and has still, although they've revised the operating  
25 procedures, and I think the revision -- they made

1 revisions to the operating procedures that  
2 incorporated some of these things. So I think  
3 that's -- it's a true statement that the company's  
4 operating procedures were revised to reflect the  
5 rule.

6 Q. Okay. Did UE do midcycle inspections  
7 prior to 2008?

8 A. Well, I don't know if you meant to ask  
9 the question the way you did, but you asked if they  
10 did midcycle inspections. What -- what the company  
11 made a commitment as I understood it to be in the  
12 last rate case was to do two-year inspections. And  
13 so every two-year inspections would, by definition,  
14 put you at midcycle in the urban areas. And --

15 Q. Were -- but the commitment in the rate  
16 case was to do midcycle inspections or two-year  
17 inspections of substation management or of  
18 infrastructure?

19 A. My -- my understanding was that they  
20 were going to do it of the infrastructure.

21 Q. Okay.

22 A. But you can't -- you can't inspect a  
23 line without -- without seeing what's happening with  
24 the vegetation as well.

25 Q. Okay. Did UE do customer notification



1 prior to 2008, the type of notification that's  
2 required by the Commission's new rules?

3 A. I -- I think the -- again, in the last  
4 rate case, you know, the company stated that they did  
5 have communication and notification of the customers,  
6 but I do not believe that they had a formal process  
7 that required each and every customer to be notified  
8 at a certain number of days prior -- excuse me -- to  
9 trimming. So they did not do notification in that  
10 fashion.

11 Q. Okay. Let's go back to your surrebuttal  
12 testimony, page 4, please.

13 A. Four?

14 Q. Yes.

15 A. Okay. I'm there.

16 Q. On line 16 you talk about UE's and when  
17 they began to comply with the Commission's new  
18 vegetation management rules and that it was prior to  
19 the effective date of the rules. You see that?

20 A. Yes.

21 Q. Okay. I want to talk a little bit about  
22 the history of the Commission's vegetation management  
23 rule. That rule was approved in Case  
24 No. EX-2008-0232; is that right?

25 A. Yes.

1           Q.       Okay. Was there a previous vegetation  
2 management rulemaking?

3           A.       Yes, there was.

4           Q.       Does EX-2007-0214 sound familiar?

5           A.       It -- it sounds like about the right  
6 time frame. I really don't recall the case number  
7 off the top of my head.

8           Q.       Did you participate in that rulemaking?

9           A.       Yes, I did.

10          Q.       Was there a rule approved out of that  
11 rulemaking?

12          A.       Approved by the Commission.

13          Q.       Okay. Did that rule go into effect?

14          A.       No, it did not.

15          Q.       Why not?

16          A.       I would -- Mr. Zdellar referred to it as  
17 administrative error. I think that would be a  
18 correct characterization.

19          Q.       And if that rule -- if that error hadn't  
20 happened, when would that rule have gone into effect,  
21 approximately?

22          A.       I believe November 2008, but it would --  
23 or 2000 -- excuse me -- '7. Late 2007 is probably as  
24 exact as I can be.

25          Q.       Okay. Now, is that rule that didn't

1 actually go into effect the same as the rule that did  
2 ultimately go into effect June 30th of this year?

3 A. I think there were very few minor  
4 changes, but I think substantively it was the same  
5 rule.

6 Q. Okay. Now, the vegetation management  
7 actions that AmerenUE undertook as of January 1 of  
8 '08, do you consider those actions prudent?

9 A. To -- after -- after hearing the  
10 previous cross-examination, I'm a little hesitant to  
11 say "prudent." I'm not an auditor and I didn't do an  
12 audit, but --

13 Q. Let me reask the question, then.

14 A. -- the knowledge that I have of them, I  
15 don't know of anything that was imprudent about them,  
16 about that effort.

17 Q. Let's presume for a moment that AmerenUE  
18 was following the rules that now currently govern  
19 vegetation management and they were doing -- they  
20 were following them appropriately.

21 A. Okay.

22 Q. Was that -- was that action prudent?

23 A. I believe, given that hypothetical --

24 MR. WILLIAMS: I'm going to object to  
25 that because I'm not sure what the question is. What

1 action are you referring to? You're giving an  
2 assumption but what's the question? Are you asking  
3 him to assume the assumption is correct -- prudent?

4 MS. TATRO: I am asking him to assume  
5 that AmerenUE undertook vegetation management efforts  
6 as of January 1 that are consistent with that which  
7 are now required under the rule, so they're doing  
8 what's required by the rule.

9 BY MS. TATRO:

10 Q. Is that prudent, being it occurred on  
11 January 1?

12 A. I can't think of a reason why it would  
13 be imprudent not to follow a rule, so I -- again, it  
14 almost would be like I'm asked -- being asked for a  
15 legal standard here, but generally, it would seem  
16 prudent to follow the rule of the Commission.

17 Q. All right. Let me ask it to you a  
18 different way, see if that makes more sense.

19 A. Okay.

20 Q. Do you believe that undertaking the  
21 vegetation management efforts before UE was required  
22 to do so was a good practice?

23 A. Yes.

24 Q. Okay. Because it's good to do midcycle  
25 inspections, isn't it?

1 A. Yes.

2 Q. And it's good to do customer  
3 notification and education and all the other things  
4 that the Commission rules now require, right?

5 A. I believe so.

6 Q. And it didn't just become a good thing  
7 to do on June 30th of 2008, but it was a good thing  
8 to do on June 29th of 2008, right?

9 A. Yes.

10 Q. And May 29th?

11 A. Yes.

12 Q. And February 28th?

13 A. And November 2006 when the Staff first  
14 proposed a draft rule.

15 Q. Okay. Great. Now, page 5 of your  
16 surrebuttal, please. Line 15, you talk about another  
17 milestone in the ramp-up process, and this paragraph  
18 is dealing with the 45 million. Do you see where I  
19 am?

20 A. Are you talking about the -- somewhere  
21 about line 19?

22 Q. I think the 45 is mentioned on line 19,  
23 yeah.

24 A. Okay.

25 Q. Now, is that \$45 million -- was that a

1 significant increase from AmerenUE's vegetation  
2 management expenditures in the previous year, in the  
3 test year for the last rate case?

4 A. I don't know the specifics, but in my --  
5 it's my recollection that it was close to a 50 percent  
6 increase from the previous year -- or years.

7 Q. Okay. Now, on page 6, line 9, you talk  
8 about a cap on the tracker. Are you still in support  
9 of a cap?

10 A. I still think a cap would be a good  
11 thing, yes.

12 Q. And what level would you set that at?  
13 Is it still the 9.5 percent above whatever the  
14 trued-up expenditure level is?

15 A. Somewhere in the 10 percent range seems  
16 reasonable. The type of cost that we're talking  
17 about and the fact that we're talking about when you  
18 would go over budget, you know, it would, quite  
19 frankly, be a surprise to me if Ameren went over by  
20 5 percent and, you know, it wasn't aware of why  
21 that -- that they were over their budget expenditure.  
22 I think it's tracked pretty closely by that group.

23 Q. Okay. So what -- what makes 10 percent  
24 the magic number?

25 A. I don't think that there is anything

1 magic about 10 percent, but I think some reasonable  
2 level so that the customers are assured that -- that,  
3 in essence, it isn't a blank check should happen.

4 Q. And on page 7, lines 17 through 19, you  
5 said -- you say, "It gives UE an economic incentive  
6 to limit vegetation management expenditures," right?  
7 Are you alleging that Union Electric is spending  
8 imprudently on vegetation management at this time?

9 A. No, I don't think that is alleging that  
10 at all.

11 Q. Okay. Do you believe --

12 A. But I will say that right now there's a  
13 one-way tracker in place, so it's hard to compare  
14 where we are at today. I mean, a one-way tracker  
15 is -- is -- is really a cap in the strictest sense.

16 Q. And did UE limit its spending to the 45?

17 A. No, it did not.

18 Q. It ended up spending quite a bit more,  
19 right?

20 A. In the...

21 Q. In the updated test year or trued-up  
22 test year. I --

23 A. I was going to say not the updated, but  
24 the -- but the true-up test year, yes.

25 Q. All right. Isn't it true that most

1     vegetation management expenditures are O&M?

2             A.       That would be my understanding, yes.

3             Q.       And does UE earn a return on O&M or just  
4     a return of?

5             A.       It's my understanding a return of.

6             Q.       Okay. Now, is it your belief that any  
7     expenditure above the cap would be automatically  
8     imprudent?

9             A.       No.

10            Q.       Okay. So a cap could function to  
11    prevent Union Electric from being able to recover a  
12    prudently expended expense?

13            A.       Please restate that question or  
14    repeat --

15            Q.       A prudent -- a prudent expenditure on  
16    vegetation management could go above the cap. That  
17    scenario is possible?

18            A.       Yes.

19            Q.       Okay. And you've been involved in the  
20    previous Commission cases where AmerenUE vegetation  
21    management practices have been examined, correct?

22            A.       Yes.

23            Q.       In fact, you've often been the principal  
24    Staff person in those cases, haven't you?

25            A.       I think I've been the principal person



1 in some of the rulemakings. I would not consider  
2 myself to be the principal person in some of the  
3 reviews. The 2004, 2005, 2006 storms, but I was  
4 significantly involved in all three of those reviews.

5 Q. Okay. Does the Commission find in any  
6 of those reviews that AmerenUE was overspending on  
7 vegetation management?

8 A. I don't believe it made any finding like  
9 that.

10 Q. Okay. So tell me what basis you have to  
11 believe that AmerenUE will overspend on vegetation  
12 management going forward.

13 A. I don't believe that I've made the claim  
14 that they will. I don't believe I've made a claim  
15 that they will overspend going forward.

16 Q. Okay. Do you believe AmerenUE is likely  
17 to overspend going forward?

18 A. Maybe I've been following along too  
19 closely, but the term "overspend," is that consistent  
20 with previous questions about prudent or -- or --  
21 because I was assuming the word -- by the phrase  
22 "overspent" was -- was spending over the budget.

23 Q. Well, let me -- let me try to define  
24 that for you, then.

25 A. Okay.

1           Q.       Do you believe there's a risk that  
2 AmerenUE will imprudently spend on vegetation  
3 management going forward?

4           A.       I believe there's always that risk.

5           Q.       Of any utility?

6           A.       Yes.

7           Q.       But certainly the Commission's never  
8 found that AmerenUE has done that in the past,  
9 correct?

10          A.       I couldn't say before -- approximately  
11 2000 was when I become more involved in the  
12 vegetation management area, so I guess given that  
13 caveat, from 2000 to 2008, I do not believe the  
14 Commission's made a finding as such.

15          Q.       Okay. As part of the Commission's new  
16 vegetation management rules, AmerenUE was required to  
17 file its vegetation management plans on July 1st of  
18 this year; isn't that right?

19          A.       That's correct.

20          Q.       Did UE make that filing?

21          A.       Yes.

22          Q.       Do you know, is there anything in that  
23 plan that appears to be an imprudent expenditure?

24          A.       I have not gotten a lot of time to  
25 review that. I've been busy with rate cases.

1           Q.       But it's been on file for five months,  
2 right?

3           A.       Yes.

4           Q.       Okay. Have you looked at it?

5           A.       I have briefly looked at it.

6           Q.       Did anything jump out at you as, this  
7 makes no sense?

8           A.       No, not in my brief review.

9           Q.       It appeared to be in line with the  
10 Commission's -- requirements of the Commission's  
11 rules based on your short review?

12          A.       Yes.

13          Q.       Okay. Let's go back to your surrebuttal  
14 on page 8, please. You're making the argument on  
15 page 8 that the one-way tracker approved in Union  
16 Electric's last rate case means they shouldn't be --  
17 shouldn't receive its accounting authorization relief  
18 that's requested. Is that a fair characterization?

19          A.       Yes.

20          Q.       Okay. Do you know what the exact  
21 language was of the agreement for the \$45 million in  
22 the last rate case?

23          A.       The -- the only document that I have is  
24 a draft, so I don't know that there was a final  
25 agreement.

1 MS. TATRO: Okay. May I approach?

2 JUDGE WOODRUFF: You may.

3 BY MS. TATRO:

4 Q. Can you read the title of that document,  
5 please?

6 A. "Second Stipulation and Agreement as to  
7 Certain Issues/Items."

8 Q. And is that from AmerenUE's last rate  
9 case?

10 A. Yes.

11 Q. Okay. Can you turn to page 2, please,  
12 2-A?

13 A. Yes.

14 Q. Could you read that, please?

15 A. "Staff will recognize the full  
16 45 million of vegetation management expense in the  
17 cost of service, and the company will amortize the  
18 remaining UE CIPS merger cost and Y2K costs over an  
19 additional four years, 7/1/07 through 6/30/11,  
20 consistent with the reschedule proposed by the State  
21 of Missouri's position."

22 Q. So that -- the stipulation didn't  
23 contain a lot of detail about the \$45 million, right?

24 A. No, it did not.

25 Q. Okay. Now, on line 21, same page of

1 your surrebuttal testimony, you say, "At the time  
2 AmerenUE agreed to the one-way tracker, AmerenUE was  
3 well aware of the possible requirements of the rule."  
4 And I think you're talking about the vegetation  
5 management rule. Do you see where I'm at?

6 A. Yes.

7 Q. Can you tell me what date AmerenUE  
8 agreed to the one-way -- to the one-way tracker?

9 A. The document is signed the 26th day of  
10 March, 2007.

11 Q. Okay. Do you know what the initial  
12 date -- what the date was of the initial vegetation  
13 management rulemaking? I'm talking about the first  
14 one.

15 A. No, I do not.

16 Q. On what date was this docket opened?  
17 Well, first of all, tell me what -- what's that  
18 document I handed you? Can you identify it?

19 A. It's the docket sheet for Case  
20 No. EX-2007-0214.

21 Q. Okay. And the docket sheet lists all  
22 the filings that are made in the case, right?

23 A. Yes.

24 Q. Okay. Can you tell me what date this  
25 docket was opened?

1           A.       12/12/2006.

2           Q.       And it was opened with a notice of a new  
3 proceeding; is that right?

4           A.       That's correct.

5           Q.       And do you know what was contained in  
6 that notice of new proceeding?

7           A.       It's -- it's been nearly two years since  
8 I've seen that document.

9           Q.       Okay.

10          A.       I don't believe there was a whole lot.  
11 And indeed, one sentence stating, "This notice serves  
12 to docket a new proceeding in the Missouri Public  
13 Service Commission's Electronic Filing and  
14 Information System."

15          Q.       So when this docket was opened, there  
16 wasn't a proposed rule in the docket?

17          A.       There was not a proposed rule in the  
18 docket.

19          Q.       Do you know when the first proposed rule  
20 showed up in the docket?

21          A.       Based on this docket sheet, it appears  
22 that there was a rulemaking transmittal on June 18th,  
23 2007.

24          Q.       Okay. And June of 2007 was  
25 approximately three months after AmerenUE made the

1 commitment to spend the \$45 million on vegetation  
2 management, right?

3 A. That's correct.

4 Q. Let's talk a little bit about  
5 infrastructure inspections. Are you aware of what  
6 treatment AmerenUE is requesting from this Commission  
7 for its infrastructure inspection and repairs?

8 A. Yes.

9 Q. Can you summarize those for me?

10 A. They're hauntingly familiar to the ones  
11 that you just heard for vegetation management.

12 Q. Good enough. I'll take that. Now, on  
13 page 11 -- oh, I think I'm on your surrebuttal. Hang  
14 on just a second. Surrebuttal page 11, line 5.

15 A. Yes.

16 Q. Speaking of hauntingly familiar, we have  
17 again the argument that the rule didn't contemplate  
18 the relief requested, right?

19 A. I think specifically before the  
20 effective date of the rule.

21 Q. Okay. Did the Commission anticipate it  
22 was going to cost Missouri utilities more to comply  
23 with this rule?

24 A. I think the Commission believed that  
25 that was a real possibility.

1           Q.       And similar to the questions we went  
2 through on the vegetation management portion, do you  
3 believe that the language that you have cited here on  
4 lines 8 through 19 prevent the Commission from  
5 granting the relief requested by AmerenUE if they so  
6 choose?

7           A.       No, I don't believe it does.

8           Q.       So they're not limited to whatever's  
9 included in this paragraph?

10          A.       No. I certainly don't think the  
11 Commission intended to limit themselves.

12          Q.       So again, your comment in this section  
13 is really just saying that the relief requested by  
14 AmerenUE isn't specifically set forth in the rule?

15          A.       That's correct.

16          Q.       Okay. Let's again discuss the history  
17 of the Commission's infrastructure rules. The  
18 infrastructure -- there was an infrastructure rule  
19 approved in EX-2008-0231, right?

20          A.       Yes, I had to think about the case  
21 number for a minute, but yes.

22          Q.       And you participated in that rulemaking?

23          A.       Yes, I did.

24          Q.       Was there a previous rulemaking on  
25 infrastructure of inspections and repairs?



1           A.       Yes, there was.

2           Q.       I won't make you look up the case  
3       number.

4           A.       Okay.

5           Q.       Was there a rule approved in that  
6       rulemaking?

7           A.       Approved by the Commission, yes.

8           Q.       Did that rule go into effect?

9           A.       No, it did not.

10          Q.       And why not?

11          A.       Administrative error also.

12          Q.       Okay. Was the rule that came out of the  
13       second rulemaking essentially the same as the rule  
14       that came out of the first rulemaking?

15          A.       Essentially, yes.

16          Q.       Okay. And if that clerical error hadn't  
17       occurred, would that rule have gone into effect?

18          A.       Again, I -- it's my recollection that  
19       would have been the last quarter of 2007.

20          Q.       Okay. Certainly earlier than June 30th  
21       of 2008?

22          A.       Yes.

23          Q.       Okay. Now, the infrastructure  
24       inspection activities and repair activities that  
25       AmerenUE undertook as of January 1, was that good

1 practice on behalf of UE? I'm trying to avoid the  
2 word --

3 A. Yes, yes.

4 Q. And you haven't found that UE did  
5 anything imprudent or that you would recommend it not  
6 do in this area?

7 A. That's correct.

8 Q. Page 11, line 23, you say "the Staff  
9 maintains." When you say "Staff," you're referring  
10 to yourself, right?

11 A. Again, I'm not a lawyer, but my -- I am  
12 a witness for the Staff. And so, you know, while I  
13 certainly defend this statement, at the same time I  
14 am stating what -- what the Staff maintains also.

15 Q. Because --

16 A. Because I --

17 Q. -- you're speaking for the Staff on this  
18 issue, right?

19 A. Yes, that's correct.

20 Q. You've made the decisions on what  
21 position to take on this issue, right?

22 A. And I'm the -- as the -- as the -- the  
23 record shows, I'm the only witness for Staff on this  
24 issue.

25 Q. So let's look at line 23 on that page.

1           A.       Okay.

2           Q.       And the argument you have here is that  
3 most of the repairs don't meet the rule's requirement  
4 that they were incurred in excess of the cost  
5 incurred -- included in the current rates, right?

6           A.       That's correct.

7           Q.       Okay. Now, let's examine that statement  
8 in light of, for example, the underground inspection  
9 requirement. You're familiar with that requirement?

10          A.       Yes.

11          Q.       Do you know if AmerenUE was doing the  
12 underground inspections prior to 2008?

13          A.       The -- the caveat, I guess -- sometimes  
14 the term "underground inspections" is used to refer  
15 to both what I would call standard underground  
16 systems like in residential areas and then their  
17 downtown system, and I -- certainly, the downtown  
18 system, Ameren has been doing inspections on that and  
19 that is underground.

20                    But I don't think -- the way I -- the  
21 way I would use the term "underground inspections," I  
22 would use it to be the more narrow just like  
23 residential areas and commercial areas that -- that  
24 are typical throughout the system.

25          Q.       Okay. So using that definition, do you

1 believe AmerenUE was doing underground inspections  
2 prior to 2008?

3 A. No.

4 Q. Is AmerenUE doing underground  
5 inspections using that definition currently?

6 A. I think currently to my knowledge, no.  
7 I think the last I knew, they were probably going to  
8 start approximately at the beginning of the year,  
9 "the year" being 2009. But I don't believe that they  
10 are actually performing an -- underground inspections  
11 at this time.

12 Q. Okay. And if there are no inspections,  
13 then there's no identification of needed repairs  
14 other than that what happened by failure of an  
15 underground system, right?

16 A. That's correct.

17 Q. And in fact, that's the way AmerenUE  
18 identified repairs previously, right, something  
19 failed?

20 A. Or there's always the possibility that  
21 customers called and noticed a problem and their  
22 workers were doing their other functions and noticed  
23 the problem, those type things, but the primary --

24 Q. On an underground system?

25 A. Yes. I mean, I think there are

1 things -- I mean, what you heard about earlier was,  
2 for example, painting a transformer.

3 Q. Okay.

4 A. You know, that's something you're going  
5 to observe just being in the area whether you're a  
6 customer or whether you're --

7 Q. But if we're talking about underground  
8 systems --

9 A. Uh-huh. And --

10 Q. -- do you paint those?

11 A. That amount of transformers are part of  
12 an underground system.

13 Q. Gotcha. Gotcha. Okay. Do you think  
14 that accounts for the majority of repairs that have  
15 to be made on underground systems?

16 A. I think the majority by far are the ones  
17 where a failure occurs and the repair has to be made.

18 Q. Okay. And then I think in your direct  
19 testimony on page 12, you identify that AmerenUE was  
20 starting to do treatment of distribution poles which  
21 was something it had not previously done?

22 MR. WILLIAMS: I'm going to object to  
23 that because Mr. Beck has no direct testimony.

24 MS. TATRO: All right. I perhaps meant  
25 rebuttal. Hang on, let me double-check. I obviously

1 wrote that down wrong.

2 BY MS. TATRO:

3 Q. Okay. It's not rebuttal because you  
4 don't have 12 pages of rebuttal. So by process of  
5 elimination, we must be on surrebuttal, line 19.

6 A. I'm sorry. What -- what is the page and  
7 line?

8 Q. Page 12.

9 A. Okay.

10 Q. And let's try line 9.

11 A. Okay.

12 Q. "AmerenUE historically did not inspect  
13 and treat distribution poles on an ongoing basis,"  
14 right?

15 A. The caveat there, as you've already  
16 heard Mr. Zdellar talk about earlier, was that there  
17 was a program for subtransmission. The trick is, is  
18 that the rule doesn't contemplate subtransmission,  
19 it's either transmission or it's distribution.

20 So when I use the term "distribution"  
21 here, that would actually include subtransmission.  
22 And therefore, that statement would actually -- now,  
23 based on the additional information, would be false.  
24 Instead, Ameren has historically inspected some  
25 distribution poles on an ongoing basis.

1           Q.       And that is something that recently  
2 started, right? Had it started after the last rate  
3 case?

4           A.       No, not -- not to my understanding. I  
5 think that's something at the subtransmission level  
6 that Ameren has -- has done for quite a long time,  
7 but I can't tell you when that process started.

8           Q.       Okay. Do you suppose that amount could  
9 be isolated?

10          A.       I believe it could. I think that was --  
11 at least it was isolated by Richard Mark in his  
12 direct testimony in the last rate case.

13                   MS. TATRO: Okay. Just a minute. I  
14 have no further questions, Mr. Beck.

15                   JUDGE WOODRUFF: All right. Up for  
16 questions from the Bench. Chairman?

17                   CHAIRMAN DAVIS: Have a good afternoon,  
18 Mr. Beck.

19                   THE WITNESS: Thank you, sir.

20                   JUDGE WOODRUFF: No questions from the  
21 Bench for --

22                   CHAIRMAN DAVIS: Oh, wait, wait. Wait.  
23 I'm sorry. Mr. Beck, what day is today?

24                   THE WITNESS: December 2nd.

25                   CHAIRMAN DAVIS: And what day is your

1 birthday?

2 THE WITNESS: I mean, officially, I  
3 think if -- you know, I've got another 20 minutes  
4 before it's actually my true birthday in seconds,  
5 so -- but yes, it is my birthday today.

6 CHAIRMAN DAVIS: Well, Mr. Beck, happy  
7 birthday.

8 THE WITNESS: Thank you, sir.

9 JUDGE WOODRUFF: Does anyone want to  
10 recross based on those questions? All right. Any  
11 redirect?

12 MR. CONRAD: Does he know anything about  
13 the Heisenberg principle?

14 MR. WILLIAMS: Thank you, Judge.

15 REDIRECT EXAMINATION BY MR. WILLIAMS:

16 Q. Mr. Beck, do you recall when Ms. Tatro  
17 was asking you about the cap and whether or not you  
18 still supported the cap --

19 A. Yes.

20 Q. -- with regard to vegetation management?  
21 And you indicated that a cap was a good thing?

22 A. Yes.

23 Q. Why?

24 A. Because it provides some level of  
25 assurance that -- that there's some control level,



1     that the company will not simply get a blank check  
2     for. Now, having said that, the company could always  
3     ask for a change in that cap if the situation so  
4     arose.

5                     And you know, as a Staff member, I would  
6     certainly be willing to entertain that at the time,  
7     but at that point you would be in -- the Commission  
8     and all the parties would be informed of why that cap  
9     needed to be changed.

10            Q.     Do you also recall Ms. Tatro asking you  
11     if AmerenUE incurred costs that exceeded the cap,  
12     that they might not be able to recover those costs?

13            A.     That's correct. I remember those words.

14            Q.     Is it also possible that they might not  
15     have to eat those costs?

16            A.     That's correct. They would still have  
17     that option of -- for example, of one of the -- one  
18     of the options would be that they ask for accounting  
19     authority at that time.

20            Q.     And even if they didn't obtain  
21     accounting authority, isn't it possible that they  
22     might not eat those costs?

23            A.     Yeah. In fact, they did, for example,  
24     ask for accounting authority after the fact like they  
25     did in this case.

1           Q.       Don't they other -- also have other  
2 expenses?

3           A.       Yes.

4           Q.       And don't those expenses sometimes  
5 change?

6           A.       Yes, they do.

7           Q.       And even if they didn't ask for some  
8 kind of accounting relief from the Commission, is it  
9 possible that they might not eat those costs so to  
10 speak?

11          A.       I believe that's correct.

12          Q.       And why would that be?

13          A.       Again, I think they have -- the  
14 Commission has the discretion to -- of which costs  
15 will or will not be allowed.

16          Q.       Ms. Tatro asked you some questions about  
17 rulemakings. What's the first time you're aware of  
18 any kind of a rule being -- within the recent past  
19 being proposed regarding vegetation management?

20          A.       Late November of 2006 was when Staff put  
21 in draft rules in the AmerenUE storm report for  
22 the -- it was summer -- the storms that happened in  
23 the summer of 2006.

24          Q.       When would Ameren -- when would AmerenUE  
25 have first seen those draft rules?

1           A.       I'm trying to recall specifically, but  
2 all I can say with specificity is that it was before  
3 November 2006 that they saw some draft, but the  
4 actual draft that we put together, they -- they --  
5 they saw when we filed it in 2006.

6           Q.       Were those draft rules limited to  
7 vegetation management?

8           A.       They had the three components that  
9 Chapter thirty -- 23, excuse me, has now; vegetation  
10 management, infrastructure inspection and reliability  
11 reporting.

12          Q.       And were those rules proposed by Staff  
13 anything like the final rules that came into effect?

14          A.       They were certainly similar.

15                   MR. WILLIAMS: No further questions.

16                   JUDGE WOODRUFF: All right. Mr. Beck,  
17 you can step down.

18                   And the next witness is Mr. Robertson  
19 for Public Counsel.

20                   (EXHIBIT NO. 408 WAS MARKED FOR  
21 IDENTIFICATION BY THE COURT REPORTER.)

22                   DIRECT EXAMINATION BY MR. MILLS:

23          Q.       Could you state your name for the  
24 record, please.

25          A.       Ted Robertson.

1 Q. For whom do you work?

2 A. Missouri Office of the Public Counsel.

3 Q. And what is your position?

4 A. Regulatory accountant III.

5 Q. And did you cause to be filed in this  
6 case surrebuttal testimony which has been marked as  
7 Exhibit 408?

8 A. Yes.

9 Q. Are your answers to that testimony --  
10 well, first of all, do you have any corrections to  
11 make to that testimony?

12 A. No.

13 Q. Are the answers contained therein true  
14 and correct?

15 A. Yes.

16 Q. And if I were to ask you the same  
17 questions here today under oath, would your answers  
18 be the same?

19 A. Yes.

20 MR. MILLS: Judge, with that, I'll offer  
21 Exhibit 408 and tender the witness for  
22 cross-examination.

23 JUDGE WOODRUFF: 408 has been offered.  
24 Any objections to its receipt?

25 (NO RESPONSE.)

1 JUDGE WOODRUFF: Hearing none, it will  
2 be received.

3 (EXHIBIT NO. 408 WAS RECEIVED INTO  
4 EVIDENCE AND MADE A PART OF THE RECORD.)

5 JUDGE WOODRUFF: And cross-examination  
6 beginning with Staff?

7 MR. WILLIAMS: No questions. Thank you.

8 JUDGE WOODRUFF: For the State?

9 MR. IVESON: No questions.

10 JUDGE WOODRUFF: Noranda?

11 MR. CONRAD: I just wondered, a  
12 regulatory accountant III, how many regulatory  
13 accountants do you have up there?

14 THE WITNESS: Fewer than what we used to  
15 have. We have -- we had one regulatory accountant  
16 III and one chief accountant.

17 MR. CONRAD: I see. Thank you. That's  
18 all.

19 THE WITNESS: You're welcome.

20 JUDGE WOODRUFF: For Ameren?

21 CROSS-EXAMINATION BY MS. TATRO:

22 Q. Good afternoon, Mr. Robertson. I don't  
23 think we've met. My name is Wendy Tatro.

24 A. It's nice to meet you.

25 Q. Nice to meet you. I'd like to start by

1 directing you to page 5 of your surrebuttal. Do you  
2 have your surrebuttal with you?

3 A. Yes, ma'am. Okay.

4 Q. Now, on line 25, there's a sentence  
5 where you indicate the KEMA report shows that the  
6 company's responsible for some of the expenses it now  
7 seeks to recover from ratepayers.

8 A. That's correct.

9 Q. And is that based on the quote from the  
10 KEMA report that you list on page -- well, let's see,  
11 that same page, lines 9 through 16?

12 A. Yes. That, and the fact that -- I can't  
13 point you to any specific reference, but from my  
14 knowledge of what has occurred with the company in  
15 the vegetation management practices since 2003  
16 forward, my personal knowledge.

17 Q. All right. Well, let's talk about the  
18 evidence that you've put into the record in this  
19 case.

20 A. Okay.

21 Q. And you're relying on the underlined  
22 portion of that quote; would that be correct?

23 A. That's correct.

24 Q. Can you read the -- you do have it  
25 included, but you don't have it underlined. Can you

1 read the sentence prior to that for me, please?

2 A. Oh, you're -- you're referring to

3 page --

4 Q. Line 10.

5 A. -- lines 9?

6 Q. Yes.

7 A. No -- no, that's not in here. It's in

8 the KEMA report itself.

9 Q. Right. You quoted there --

10 A. It's what I'm referencing to where they

11 talk about -- yeah -- okay. I understand what you're

12 saying now. Starting on line 10 with the word

13 "However" --

14 Q. No. I'm asking you to read the line

15 before that that's not underlined that's from the

16 KEMA report.

17 A. Oh, oh, okay. I understand.

18 "AmerenUE's practices in these areas are consistent

19 with industry standards and what is considered good

20 utility practice."

21 Q. Okay. So the KEMA report does not say

22 AmerenUE was -- that their practices were

23 inconsistent with industry standards, right?

24 A. That's what it says.

25 Q. And it doesn't say that they were

1 insufficient standards, right? It says it was  
2 "consistent and considered good utility practice"?

3 A. According to what they say there.

4 Q. Okay. Page 8, please.

5 A. Okay.

6 Q. The first question says, "It's your  
7 belief the company's management is managing the  
8 amounts expended so that actuals approximate the  
9 amount authorized in UE's last rate case?" And you  
10 say, "That would be an obvious conclusion."

11 A. I do.

12 Q. What does that mean?

13 A. It means I expressed an opinion whether  
14 or not they were spending the monies that are very  
15 close to what they've got included in the rates.

16 Q. Is that a bad thing?

17 A. Actually, from a budgeting standpoint, I  
18 don't think it's a bad thing, no.

19 Q. Okay. Are you alleging that any of the  
20 expenditures that were made were imprudent?

21 A. Actually, I didn't do a prudence review,  
22 so I can't answer the question whether that's a yes  
23 or a no.

24 Q. Okay. Now, AmerenUE had committed to  
25 spending \$45 million a year on vegetation management



1 as a result of the last rate case, right?

2 A. That is correct.

3 Q. So if it actually spent at least \$45  
4 million, it was meeting that commitment, right?

5 A. That's correct.

6 Q. And do you know what the September 30th  
7 update number is?

8 A. You know, actually, the -- there's been  
9 a bunch of numbers bantered about, and I heard  
10 Mr. Beck give a \$49 million number, but I've got a  
11 data request response that shows -- I believe as of  
12 September I've got a little over 50 million. So it's  
13 just a few hundred thousand more than what he's  
14 stated.

15 Q. Okay. So approximately five million  
16 more than the \$45 million commitment?

17 A. That is correct.

18 Q. Could you turn to page 11, please?

19 A. Okay.

20 Q. Would it be fair to say that you don't  
21 like the tracker mechanism proposal at all?

22 A. I think it would be fair to say that I  
23 think trackers should be used in very limited  
24 circumstances.

25 Q. Okay. Are you familiar with the

1 Commission's order in the last Empire rate case?

2 A. Actually, I believe I was the -- the  
3 Public Counsel witness in that case. Whether or not  
4 I'm familiar with the order, I'd probably have to  
5 look at it again.

6 MS. TATRO: Okay. May I approach?

7 JUDGE WOODRUFF: You may.

8 MS. TATRO: I'm just giving him the  
9 vegetation management portion of the Empire case.

10 BY MS. TATRO:

11 Q. Can you identify what I've handed you,  
12 please?

13 A. Sure. It's the -- it's the Report and  
14 Order -- Commission Report and Order for Empire case  
15 ER-2008-0093.

16 Q. And I've just handed you the portion of  
17 that order that dealt with this tracker issue,  
18 correct?

19 A. Pages 64 through 73.

20 Q. Okay. Could you look at -- well, first  
21 of all, in this case, the Commission ordered a  
22 tracker to be implemented for Empire, correct?

23 A. I believe that's correct.

24 Q. And what did they use as the base number  
25 to be set in rates to be tracked against?

1           A.       I'll have to look, but I believe it was  
2 a little over \$8 million.

3           Q.       And do you know where that number came  
4 from?

5           A.       If I recall correctly, it had something  
6 to do with the budgets of the company.

7           Q.       Okay. Turn to page 69.

8           A.       Okay.

9           Q.       Sorry. I wasn't on page 69. All right.  
10 This -- under the -- see the header there that says,  
11 "Decision"?

12          A.       I do.

13          Q.       Can you read that first sentence,  
14 please?

15          A.       "Empire's cost to manage vegetation and  
16 inspect infrastructure is a legitimate cost providing  
17 reliable service to its customers."

18          Q.       And you don't disagree with that  
19 statement, do you?

20          A.       The topic, no. The cost itself,  
21 that's -- that can be an item of -- of different  
22 opinions for different people.

23          Q.       Okay. Then on page 70 and the second  
24 full paragraph.

25          A.       I see it.

1           Q.       Okay. That second sentence, can you  
2 read that, please?

3           A.       Are you talking about where "If its  
4 estimated costs"?

5           Q.       Uh-huh.

6           A.       -- "are included in the rates  
7 established in this case, Empire will have a stronger  
8 incentive to spend money -- spend the money it needs  
9 to spend now to fully comply with the rules."

10          Q.       And the paragraph above that, can you  
11 read that, please?

12          A.       "As Public Counsel indicates, no one can  
13 know with any certainty how much Empire will spend to  
14 comply with the requirements of the Commission's new  
15 infrastructure inspection and vegetation management  
16 rules. However, rather than compelling rejection of  
17 the tracker proposed by Staff and Empire, the fact  
18 supports the need for a tracker."

19          Q.       Okay. And then further down on the  
20 page, the second-to-last sentence in  
21 the second-to-last paragraph that starts with,  
22 "Furthermore," can you read that, please?

23          A.       "Furthermore, by -- by including an  
24 estimate of Empire's likely cost of compliance in the  
25 rates established in this case, the customers who

1 will immediately benefit from the imprudent  
2 reliability will pay the costs required to bring  
3 about that improvement, thus improving the match  
4 between cost causation and payment for those costs."

5 MS. TATRO: Thank you. I have no  
6 further questions.

7 JUDGE WOODRUFF: All right. Any  
8 questions from the Bench, then? Commissioner Murray?

9 COMMISSIONER MURRAY: No questions.  
10 Thank you.

11 JUDGE WOODRUFF: Chairman Davis?

12 CHAIRMAN DAVIS: Have a good afternoon,  
13 Mr. Robertson. Thank you.

14 THE WITNESS: You're not going to wish  
15 me a happy birthday?

16 CHAIRMAN DAVIS: Is it your birthday?

17 THE WITNESS: No.

18 CHAIRMAN DAVIS: Mr. Robertson, did you  
19 have a chance to hear Mr. Conrad's opening statement?

20 THE WITNESS: I didn't, I'm sorry. I  
21 apologize.

22 CHAIRMAN DAVIS: If called on by this  
23 Commission, could you find Cooter on a map?

24 THE WITNESS: Yes, I could.

25 CHAIRMAN DAVIS: Okay. Thank you.

1 THE WITNESS: I can also find Hayti.

2 JUDGE WOODRUFF: Appreciate that. Thank  
3 you. No questions.

4 THE WITNESS: Thank you.

5 JUDGE WOODRUFF: Any recross?

6 (NO RESPONSE.)

7 JUDGE WOODRUFF: Redirect?

8 MR. MILLS: Just briefly.

9 REDIRECT EXAMINATION BY MR. MILLS:

10 Q. Ms. Tatro asked you whether or not you  
11 liked trackers or don't like trackers and your  
12 response was that you think they should be used in  
13 very limited circumstances. Can you explain why you  
14 believe a tracker is not appropriate for the cost at  
15 issue here?

16 A. Well, actually, the main reason that  
17 I -- that I would oppose a tracker is -- trackers in  
18 general is because of the effect they have on  
19 regulatory ratemaking of a company. I mean, the  
20 statutes and the laws and the rules, procedures for  
21 regulatory ratemaking have been developed over a  
22 number of years, number of decades, and they're there  
23 in place to cause -- help create a competitive  
24 process for the company.

25 If you -- if you put a tracker in and

1 allow the company to put those costs to the tracker  
2 and then recover those costs, you've taken away the  
3 incentive they have to be competitive. Just like  
4 if -- if -- in my own household, if you were to give  
5 me a blank check that I could spend whatever I want  
6 and then I'll recover it in the -- in the future, I'm  
7 probably going to buy a lot of new HD TVs.

8                   So -- and that's not to say they would  
9 be imprudent, but I think -- I think -- that would be  
10 imprudent for me, of course -- but that's not to say  
11 the company is going to be imprudent. But the fact  
12 that by taking away that incentive to -- to -- to  
13 manage the cost, to -- to negotiate better prices for  
14 the services they're going to receive, you've taken  
15 away the advantage they have and some of the risks  
16 that's associated with operating their business.

17                   MR. MILLS: Thank you. That's all the  
18 questions I have.

19                   JUDGE WOODRUFF: All right. And  
20 Mr. Robertson, you can step down. That takes care of  
21 the infrastructure and vegetation management issue.

22                   The next item on the list -- I don't  
23 propose we go to it unless we need to -- is the ice  
24 storm AAO. I suppose there's no reason that has to  
25 be done today.

1 (NO RESPONSE.)

2 JUDGE WOODRUFF: All right. We'll start  
3 tomorrow morning at 8:30 on the ice storm AAO. We're  
4 adjourned.

5 (WHEREUPON, the hearing of this case was  
6 recessed until December 3, 2008, at 8:30 a.m.)

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20	Direct testimony of Michael Datillo	1584	1584
21	* Marked for identification in a previous volume.		
22	** Only portions of this exhibit were received into evidence.		
23			
24			
25			