

Exhibit No:  
Issue: Overall policy and procedure  
Witness: Dan A. Watkins  
Type of Exhibit: Surrebuttal Testimony  
Sponsoring Party: City of Rolla  
Case No.: EA-2000-308  
Date Testimony Prepared: October 17, 2000

PREPARED SURREBUTTAL TESTIMONY

OF

DAN A. WATKINS

on behalf of

CITY OF ROLLA / ROLLA MUNICIPAL UTILITIES

Exhibit No. 7  
Date 12-4-00 Case No. EA-2000-308  
Reporter KE

## Table of Contents

	Page
Summary .....	3
Response to Rebuttal Testimony of Don Priest .....	6
Response to Rebuttal Testimony of James L. Ketter .....	17
Response to Rebuttal Testimony of James E. Ledbetter .....	23
Response to Rebuttal Testimony of Brian Nelson .....	30
Response to Rebuttal Testimony of Vernon W. Strickland .....	34
Summary .....	52

1  
2  
3  
4  
5 **Prepared Surrebuttal Testimony of Dan A. Watkins**  
6

7 Q. Please state your name for the record.

8 A. Dan A. Watkins.

9 Q. Are you the same Dan A. Watkins that caused to be filed prepared direct testimony in this  
10 proceeding on June 1, 2000?

11 A. Yes.

12 Q. What is the purpose of your surrebuttal testimony?

13 A. I will be responding to certain aspects of the rebuttal testimony filed by other parties in this  
14 case.

15 Q. How is your surrebuttal testimony organized?

16 A. I have organized it by witness. There is no particular significance to the order in which I  
17 address the witnesses or issues.  
18

19 **Summary**

20 Q. Can you summarize the major points you make in your surrebuttal testimony and the City's  
21 position in this case?

22 A. Yes. Basically the Commission needs to decide if it is in the public interest for the City of  
23 Rolla to acquire the customers and facilities used by Intercounty Electric Cooperative  
24 Association in an area recently annexed into the City of Rolla. I think the evidence is clear  
25 that the transfer is in the public interest. First, this sort of transfer is recognized by Missouri

1 law. Second, the failure of the Commission to order the transfer will lead to the construction  
2 of duplicate electrical distribution facilities within the area because Intercounty cannot  
3 legally serve new customers inside the City of Rolla.

4 Having decided that the transfer is in the public interest, the Commission next has to  
5 decide how much Rolla should be required to pay Intercounty for its facilities. The statute  
6 sets out the major topics. I will summarize where I think the major differences are at this  
7 stage in the case. Rolla stands ready to negotiate with Intercounty on these issues. If some  
8 or all of them can be negotiated to a settlement, then the Commission would not have to  
9 decide them. I have included a column for the Staff position based on the rebuttal testimony  
10 of Mr. Ketter. I do not know whether he has changed his position on any of these items.

11 Basically, RMU believes the Commission should grant RMU the Southside  
12 Annexation Area as RMU's exclusive service territory, order the sale of the Intercounty  
13 facilities for a total price of <sup>1,285,210</sup>~~\$1,299,473~~, order Intercounty to commence construction of lines  
14 to re-integrate its facilities to replace those in the annexed area which will be isolated from  
15 its system, and provide for the orderly transition of these 286 customers to RMU's system.  
16

<u>Major Issue:</u>	<u>RMU Position</u>	<u>Intercounty Position</u>	<u>Staff Position</u>
Replacement cost new of Intercounty facilities	\$742,131	\$1,046,115	\$547,131
Less straight line depreciation	(\$675,339)		
Less systemwide depreciation		(\$296,115)	
Less Staff's calculated depreciation			(\$302,399)
Net facility price	\$ 66,792	\$749,960	\$244,732
Reintegration of Co-op system	\$383,077	\$593,120	
400% of annual revenue	\$ 1,166,814	\$1,548,295	\$1,534,146
Cost to re-integrate stranded Co-op customers	\$ <del>58,790</del> <sup>44,527.50</sup>	150,000	
Transfer of service	\$ 24,000	24,000	80,000
RMU paymt. for patronage obligation	-0-	\$402,649	?
RMU paymt. for Co-op office bldg.	-0-	1,000,229	?
RMU paymt. to reintegrate office bldg.	-0-	53,000	?
Set-off for easement problems	(\$400,000)	-0-	?
PCB testing of Co-op equipment			
Cost to RMU	-0-	all	
Cost to Intercounty	all	-0-	

In addition to the issues I have listed above, for which there is some quantification in dollars, there are other issues raised by the rebuttal testimony which are difficult to quantify in dollars but are discussed in RMU's surrebuttal testimony. I will list them as follows:

- quality of electric service for both suppliers
- joint use of facilities

- 1           ●     election of Co-op board members
- 2           ●     electrical capacity of Intercounty's system
- 3           ●     impact on Intercounty of the loss of 286 customers
- 4           ●     alleged "redundant" facilities
- 5           ●     alleged potential RMU rate increases
- 6           ●     alleged depletion of RMU financial resources
- 7           ●     use of funds for economic development
- 8           ●     the Plan of Intent filed in the annexation case

9     Q.     Does that conclude your summary?

10    A.     At this time, yes.

11

12    **RESPONSE TO REBUTTAL TESTIMONY OF DON PRIEST**

13    Q.     Have you reviewed the prepared rebuttal testimony filed by Don Priest on July 18, 2000?

14    A.     Yes.

15    Q.     Do you have any comments on it?

16    A.     Yes. There are several areas of Mr. Priest's comments that require a response. Generally,  
17           these include his authority to speak on behalf of others, his assessment of the reliability of  
18           RMU's electric distribution system, his comparisons between RMU and Intercounty, his  
19           criticism of RMU's support of economic development, his predictions regarding RMU's  
20           financial reserves, and his predictions of future rate increases.

21    Q.     What are your comments regarding his authority to speak for others?

22    A.     Mr. Priest was the only person from the "Southside Neighbors" to file prepared rebuttal  
23           testimony in this proceeding, even though there are approximately ten people who are now

1 interveners in the case and have named themselves the "Southside Neighbors." It was  
2 unclear from Mr. Priest's rebuttal testimony whether he was speaking for himself or for  
3 others. He simply said on page 3 at line 5 of his rebuttal testimony that he was speaking "as  
4 an intervener for the Southside Neighbors." We didn't know what that phrase meant,  
5 especially since no one else from the Southside Neighbors filed rebuttal testimony. We  
6 decided we needed clarification of his authority to speak for other people, so we sent data  
7 requests to Mr. Priest and the other people comprising the Southside Neighbors seeking  
8 clarification on that and related matters.

9 Q. What was the result of that on the issue of his authority to speak for others?

10 A. Mr. Priest responded by saying "I have not been designated spokesperson for the Southside  
11 Neighbors in this proceeding. I do believe my testimony does reflect the position of the  
12 interveners." He also said that none of the other Southside Neighbors were given a copy of  
13 his prepared testimony prior to it being filed.

14 In response to our data requests, Mr. Tom Green of the Southside Neighbors said that  
15 he did authorize Mr. Priest to be his spokesman. Mr. Green indicated that he did not review  
16 the testimony of Mr. Priest prior to it being filed. John E. Happel said that he authorized Mr.  
17 Priest to be his spokesman in this proceeding. So did Harry Harmes. So did Mr. Priest's  
18 wife, Ginger Priest.

19 However, Marvin Konynenbelt, when asked if he authorized Mr. Priest to be his  
20 spokesman in this proceeding, said: "No!" Similarly, when asked if he authorized Mr. Priest  
21 to be his spokesman in this proceeding, Alva Branson said: "No." So did Barbara Crowley.

22 Diana Henry said "not directly, but I am not opposed to Mr. Priest acting as  
23 spokesman."

We have not yet received a response to our questions from Mr. and Mrs. Volz, although we sent the requests on August 7.

Q. What do you conclude as to Mr. Priest's authority to speak on behalf of the "Southside Neighbors?"

A. I can only conclude from what he and others have told us that he did not provide a copy of his testimony to the other people in the group before he filed it, and therefore I don't know if the other people in that group share some or all of his opinions. Some of the group, at least, said they did not authorize him to speak for them.

## System Reliability

Q. What are your comments about Mr. Priest's assessment of the reliability of RMU's electric distribution system?

A. He makes several comments in his rebuttal about the reliability of RMU's service (page 4, lines 39-41; pages 7-8, lines 101-115; page 9, lines 132-133; page 9, lines 147-148). He repeats the allegation several times that there have been "many outages" in the City of Rolla "over the past several years." And he says that he thinks that if there are outages within the annexed area, that RMU will not provide the same prompt response to an outage that it would to one occurring someplace else in the City.

Q. Do you have a response to his claim that RMU will respond slower to an outage in the Southside Annexation area than to an outage in some other part of town?

A. I have no idea where he got the notion that RMU prioritizes response to electric outages by the year in which an area is annexed into the City. I'd like to be charitable, but that's just about the craziest thing I've heard lately. In the event of a power outage, RMU's prioritization for restoring services -- generally speaking -- goes like this: first, eliminate



1 danger to the general public, then restore emergency public services and communications,  
2 then restore the system generally. The process in the last element I mentioned has nothing  
3 to do with who you are or when or how you became a customer of RMU. We pay close  
4 attention to addresses where we've been informed that people are on respirators and the like,  
5 but then the process is one that restores service to the greatest number of our substations the  
6 quickest. The substations supplying the Southside Annexation Area could just as likely be  
7 restored to service before the rest of the city in some situations. It would depend on what  
8 and where the damage to RMU's system was. Beyond life threatening needs, no one is given  
9 preference in that process.

10 Q. Have there been "many outages" in Rolla over the past several years?

11 A. It depends on what you mean by "many" and "several years." As with any electric  
12 distribution system in the United States, there are periodic interruptions of service. An  
13 animal climbing on equipment can cause a short-circuit. A tree limb can fall through a line  
14 during a windstorm. A car can strike a utility pole. There can be equipment failures. There  
15 are numerous reasons why service can be interrupted. It happens to us just as it happens to  
16 Intercounty, and AmerenUE, and all the other electric utilities. We respond in a timely  
17 fashion to any calls of outages on our system and restore service as quickly as we can, giving  
18 due regard to safety. These are all situations that are largely un-preventable by any utility.

19 Q. Do you think there have been more interruptions on the RMU system than what would  
20 normally be expected?

21 A. No. I would term the outages we have experienced as minor, temporary, and no different  
22 than what is experienced by similarly situated utilities. We have only experienced two major  
23 outages (i.e., city-wide outages) in the last thirty years. Both of these were due to tornadoes

1 which damaged major transmission lines serving not only RMU but other utilities. There  
2 is no way that Mr. Priest can claim that a tornado damaging a transmission line is something  
3 that RMU could have prevented. As a matter of fact, IECA had facilities that were damaged  
4 by the later of the two tornados and some of their customers were without power for days.  
5 System damage can happen to any utility.

6 Q. Is RMU's electric distribution system unreliable?

7 A. No. Not at all.

8 Q. Did Mr. Priest define what he meant by "many outages" or "past years?"

9 A. We asked him to do that in a data request. He said "My idea of many outages means many  
10 more outages of RMU as compared with Intercounty. Past years means within the past 2-3  
11 years."

12 Q. Did Mr. Priest provide any specifics concerning the outages he referred to?

13 A. We asked him to be specific about that in a data request. What he said was: "Outages were  
14 reported in the local newspaper and experienced at my places of employment. These outages  
15 were in good weather. I did not document the dates of these outages. I didn't record the  
16 causes (even if I knew them). I assume this specific information is officially recorded  
17 somewhere."

18 Q. Mr. Priest says in his rebuttal on page 4 that he and others are "very concerned that RMU  
19 cannot provide the same quality of service as Intercounty does." Is there any basis for his  
20 concerns?

21 A. Not at all. RMU's system is as reliable as Intercounty's and perhaps more so.

22 Q. Why?

23 A. RMU's system is constructed to a similar industry standard. The materials Rolla purchases

1 are supplied by at least some of the same distributors that Intercounty purchases from and  
2 are of similar quality. In addition, Rolla's linemen are trained through a four year training  
3 program that is well respected around the state, which certifies their qualifications. As far  
4 as response times to outages, I believe Rolla has more equipment and manpower per mile of  
5 line than Intercounty does. Intercounty has a large geographic territory. By comparison,  
6 RMU's distribution system is small geographically. RMU is based right here in the city. We  
7 can be anywhere in the City of Rolla in ten minutes or less to start the restoration process.  
8 The foregoing, coupled with a state of the art Supervisory Control and Data Acquisition  
9 (SCADA) automated distribution system makes Rolla's system uniquely reliable.

#### 10 **Management**

11 Q. What are your comments about his comparisons between RMU and Intercounty?

12 A. He makes several comments. The topics include the quality of management and access to  
13 it and the fact that he gets to vote on members of the Intercounty Board.

14 Q. What is your response to his assertions about management quality and access?

15 A. I don't think he has any factual basis for his opinions. He indicates on page 3 at line 10 that  
16 he is pleased with the management of Intercounty but indicates he will get a "bureaucratic  
17 run around" if he deals with RMU (page 5, line 48). There is absolutely no factual basis for  
18 his assertion. The management of RMU is easily accessible. Our offices are located in the  
19 same building as the city's offices in downtown Rolla. The building is handicapped-  
20 accessible under the Americans With Disabilities Act. We maintain normal business hours  
21 at those offices. In addition, RMU has a 24-hour emergency number staffed 24 hours a day.  
22 There are just no facts to support his assertion.

23 Q. What about his ability to vote for Intercounty board members?

1 A. I would agree that he gets to vote for board members at Intercounty. As I understand it, that  
2 is provided in the state statutes for all rural electric cooperatives. The Intercounty board then  
3 employs professional management to oversee the day-to-day operations. In similar fashion,  
4 customers of RMU get to vote for city council members and the mayor. As provided under  
5 state statute, section 91.450 RSMo, the mayor appoints the members of the Rolla Board of  
6 Public Works, subject to confirmation by the City Council. That board then employs  
7 professional management to oversee day-to-day operations. So there really is no functional  
8 difference between the two. People get to vote for representatives who hire professional  
9 management. In both cases, if the people are dissatisfied with the management of the utility,  
10 they can make their dissatisfaction known either directly by contacting their elected officials  
11 or the management, or indirectly by replacing the elected officials. So Mr. Priest is drawing  
12 a distinction without a real difference. I am not aware of any general dissatisfaction with the  
13 Board of Public Works in Rolla. If the General Assembly had any indication that the method  
14 of having a municipal board of public works appointed by the mayor and confirmed by the  
15 city council was not responsive to the needs of the people, or not a valid way of managing  
16 the municipal utilities in this state, I am sure they would change it. However, I have seen no  
17 indication that needs to happen.

18 Q. Do you have any objective evidence regarding the management quality and service at RMU?

19 A. Yes. In 1994, the City conducted a citizens attitude survey with comparisons from 1975,  
20 1981, and 1988 surveys. In essence the results are as follows for the electric department:

	Approved	Disapproved	Other
1975	68%	20%	20%
1981	81%	6%	13%

1	1988	85%	5%	10%
2	1994	93%	3%	5%

3 As you can see from these numbers the citizens approval rate for RMU has grown over time.  
4 I believe a similar survey today would yield an even greater percent of approval than this  
5 one.

### 6 **Economic Development**

7 Q. What are your comments about Mr. Priest's criticism of RMU's support of economic  
8 development?

9 A. I don't think his criticism is valid on any level. He says on page 5 at lines 55 through 58 that  
10 RMU often spends money on non-utility items such as economic development. First of all,  
11 I have always considered economic development as a good thing. One of the reasons our  
12 rates are lower than Intercounty's is that an improvement in the economic health of the city  
13 translates into greater sales of electricity. Greater sales allows us to spread fixed costs over  
14 more units of service, thus lowering the cost per unit. It also allows us to improve our load  
15 factor and gives us a greater ability to get more favorable pricing for the electricity we buy.  
16 Apparently Mr. Priest also supports economic development, since we asked a data request  
17 about that and he said "I am not opposed to economic development." (Response to Question  
18 33b)

19 Q. Does RMU spend funds on "economic development?"

20 A. I have to answer that question as yes; and qualify that yes by adding the phrase 'in  
21 cooperation with the City.' I think what Mr. Priest is talking about is money that was  
22 transferred from RMU to the general fund of the City. He cites a State Auditor's report  
23 regarding that. After the funds were transferred from RMU to the City, the City then spent

1 the money on economic development. Therefore, technically, RMU did not spend that  
2 money on economic development. That was an expenditure made by the City Council. As  
3 a related side note, at the time of the State Audit, RMU's payments to the City's general fund  
4 averaged 5.8 percent of its gross revenues. I believe that many cities in Missouri receive a  
5 greater percentage than that from regulated utilities operating within their boundaries.

6 Q. To your knowledge, is there anything inappropriate about the City of Rolla expending funds  
7 on economic development?

8 A. Not that I've been made aware of. However, we asked our independent auditors to submit  
9 testimony in this proceeding on that issue. Mr. Andrew Marmouget has filed testimony on  
10 that specific point and you should refer to it. I believe he says there is nothing illegal or  
11 inappropriate in what was done.

12 Q. Does Intercounty spend funds on economic development?

13 A. I believe it does.

14 Q. What is the basis for your belief?

15 A. I am a customer of Intercounty at my home, so I receive the material from Intercounty that  
16 it sends to its customers. I remember seeing numerous instances where Intercounty was  
17 claiming credit for its economic development efforts. Intercounty even sent us a copy of a  
18 clipping from its December 1997 newsletter in response to one of our data requests (No.  
19 183). On the front page is a story with the headline "Development coordinator receives  
20 marketing award." The story talks about Tom Kelso, who is identified as "Intercounty  
21 Electric Cooperative Development Coordinator" and how he won an award from the  
22 Missouri Economic Development Council for his economic development efforts on behalf  
23 of Intercounty. I have to assume from that story that Intercounty has a full time employee

1 on salary whose job it is to promote economic development in Intercounty's service area.  
2 Therefore, I think Mr. Priest's criticisms are a situation where the pot is calling the kettle  
3 black.

#### 4 **Annexation Plan of Intent**

5 Q. What is your response to his allegations about the content of the Plan of Intent and the  
6 implication that Intercounty would continue to serve customers after annexation?

7 A. There are two things that should be noted with regard to the the City's Plan of Intent filed  
8 as a part of the annexation case. The first is the purpose for which it was developed. I'm not  
9 talking about the fact that it is part of a procedure required by law, I'm referring to the reason  
10 the law requires it. The purpose, as I understand, it is for the City to show the court a plan  
11 whereby the citizens in a proposed annexation area will receive services. The second thing  
12 I would note is, the City had already met with Intercounty to discuss issues like franchise  
13 agreements, services supplied without charge, and payments in lieu of taxes at the time the  
14 Plan of Intent was written. There was an understanding reached with the City that  
15 Intercounty would voluntarily provide services and make contributions to the City similar  
16 to what RMU does. It was only after the annexation when the City discovered the  
17 "understanding" it had was not to be honored, which left the City no recourse but to utilize  
18 the provisions of section 386.800 RSMo.

#### 19 **RMU's Financial Resources**

20 Q. What are your comments about his predictions regarding RMU's financial reserves?

21 A. On page 8 at lines 116-123 he expresses concern about payment by RMU for the transfer  
22 of the customers in this case causing RMU to "deplete" its reserves and that it will lead to  
23 a rate increase. My understanding of the meaning of the word "deplete" is "to completely

1 use up.” He is totally mistaken in his opinion. No reasonable payment for the facilities in  
2 this case ordered by the Commission will deplete RMU’s reserves. You don’t have to take  
3 my word alone on that point. We asked our independent auditors to submit testimony in this  
4 proceeding on that issue. Mr. Marmouget has filed testimony on that specific point and you  
5 should refer to it.

6 **Future RMU’s Rate Increases**

7 Q. What are your comments about his predictions of future rate increases by RMU?

8 A. On page 7, at lines 94-100, he purports to speak on behalf of “many of the Southside  
9 Neighbors” by raising a concern that there will be a rate increase because of the transfer of  
10 the customers in this case and the fact that “RMU never provides a refund.” Again, he is  
11 mistaken and he has no facts to support the opinions he expresses. Given RMU’s financial  
12 status, there is no rate increase for RMU’s customers planned and none even visible on the  
13 horizon. Again, you don’t have to take my word alone on that point. We asked our  
14 independent auditors to submit testimony in this proceeding on that issue. Mr. Marmouget  
15 has filed testimony on that specific point and you should refer to it.

16 Q. Have you ever met Mr. Priest or observed him in public meetings?

17 A. Yes.

18 Q. Does his testimony supporting Intercounty in this case come as a surprise to you?

19 A. No.

20 Q. Why not?

21 A. I attended many of the meetings related to the annexation as well as meetings associated with  
22 the failed ballot issue of the formation of Public Water Supply District # 3. I believe anyone  
23 who observed Mr. Priest at those meetings would conclude as I have, that he did not want



1 his property to be annexed by the City and is upset that the City was successful in the  
2 annexation and views this issue, if the City is successful, perhaps as further unwelcome  
3 encroachment into his life by the City.

4 Q. Can you summarize your responses to Mr. Priest's criticisms?

5 A. Yes.

6 • Mr. Priest is dead wrong when he says RMU will react slower to outages in the Southside  
7 Area than the rest of town.

8 • Mr. Priest is dead wrong when he says RMU's electric service is less reliable than  
9 Intercounty's.

10 • Mr. Priest is dead wrong when he says RMU will raise electric rates as a result of the  
11 acquisition of 286 customers and the facilities in Southside Annexation area.

12 • Mr. Priest is dead wrong when he argues that RMU's management is less responsive or  
13 accessible than Intercounty's.

14  
15 **RESPONSE TO REBUTTAL TESTIMONY OF JAMES L. KETTER**

16 Q. Have you reviewed the prepared rebuttal testimony filed by James L. Ketter on behalf of the  
17 Staff of the Commission on July 18, 2000?

18 A. Yes.

19 Q. Do you have any comments on it?

20 A. Yes. I have comments on Mr. Ketter's approach to depreciation, calculation of normalized  
21 revenue, stranded customers, the issue regarding Intercounty's lack of easements, and a few  
22 other areas.

23 **Depreciation**

1 Q. What is your comment on Mr. Ketter's approach to depreciation?

2 A. Starting on page 9, he criticizes our approach in trying to determine how long the facilities  
3 have been in the annexed area. As Mr. Bourne indicated in his direct testimony, we felt we  
4 had to try some method of determining the actual age of the facilities since Intercounty  
5 apparently doesn't have that information. We knew when the subdivisions were platted, so  
6 that was a logical starting point. We have since revised and refined our approach by going  
7 to the public records to determine when houses were built in those subdivisions. Mr. Bourne  
8 presents those refined calculations in his surrebuttal testimony. This refined method should  
9 satisfy Mr. Ketter's concerns about when the houses were built, since it stands to reason that  
10 electric service would be installed at the same time the houses were occupied. Overall, our  
11 approach is much more specific to the assets under consideration here than the very broad  
12 brush approach of Intercounty on depreciation. Mr. Marmouget, our outside auditor, also  
13 discusses the depreciation issue in his surrebuttal testimony.

14 **Normalized Revenue**

15 Q. What is your comment on calculation of normalized revenue?

16 I don't agree with a part of Mr. Ketter's discussion and calculation of the amount of  
17 "normalized" revenue, and particularly his discussion on page 12 at lines 1-9. Mr. Ketter  
18 apparently included in his calculation two former Intercounty customers whose premises no  
19 longer exist. Mr. Bourne of RMU discussed the facts pertaining to this situation in his direct  
20 testimony starting on page 7 on line 14. Basically, this is a situation where two structures  
21 that were previously served by Intercounty in the annexed area are not there anymore. One  
22 was torn down and the other burned down. Under my understanding of state law,  
23 Intercounty cannot serve a new structure built at that location because it is no longer in a

1 rural area.

2 My understanding of the intent of section 386.800 is that RMU is supposed to  
3 compensate Intercounty for the loss of its customers as a result of being transferred to RMU.  
4 I don't see anything in the statute that says RMU has to compensate Intercounty for  
5 customers they lost *prior to the transfer*. The loss of these two customers has nothing to do  
6 with the transfer of the remaining customers to RMU. They (the CT Farm and Country Store  
7 and property formerly owned by Charles Moreland) are no longer customers of Intercounty,  
8 and haven't been for some time now. Intercounty has no stream of revenue coming from  
9 these vacant lots which it will lose as a result of a Commission-ordered transfer of facilities  
10 to RMU. While RMU has no problem paying 400 percent of annual revenues to Intercounty  
11 for *actual* customers that will be transferred to RMU, I do not think RMU is required to pay  
12 for "phantom customers." RMU or any utility thereby assumes the risk that some of the  
13 homes of those customers might burn down in the future, and RMU might lose future  
14 revenue. But I don't see anything in the statute that says RMU has to compensate  
15 Intercounty for customers it has lost for reasons other than a transfer to RMU.

16 Q. The statute also says that the 400 percent calculation is supposed to be "normalized to  
17 produce a representative usage from customers at the subject structures in the annexed area."  
18 Do you think that has any bearing here?

19 A. Absolutely. I think that means first of all that the Commission is supposed to come up with  
20 a *normal* level of usage from the customers. My understanding is that the Commission  
21 typically normalizes expenses and revenues in utility rate cases, so this really shouldn't be  
22 a new concept. We asked Intercounty if the numbers they gave us should be normalized and  
23 we have seen no indication from them that the numbers should be adjusted to take into

1 account hotter or colder than normal weather or anything else that might have unreasonably  
2 skewed the actual numbers. We don't know of anything of that nature either, so we are  
3 comfortable paying 400 percent of the actual revenue amounts. I will discuss in greater detail  
4 what the actual revenue amount is later in response to Mr. Ledbetter's testimony and Mr.  
5 Strickland's testimony.

6 Secondly, though, the statute says RMU is the make the payment based on  
7 "customers at the subject structures in the annexed area." Well, neither of these two  
8 situations are "customers" and there are no "subject structures" because the structures don't  
9 exist any more. Mr. Ketter said on page 10 at line 19 of his rebuttal that he thinks the  
10 concept in the statute is that Intercounty will receive four years of up-front cash but RMU,  
11 in turn, "will receive revenue from existing customers plus growth in the future, from the  
12 transfer date forward." I agree that it should be "existing customers." The two former  
13 customers I am talking about here are not "existing customers" and, as I said, there are no  
14 "subject structures" associated with them. Therefore, I think it is totally wrong to make  
15 RMU pay for phantom customers.

#### 16 **Stranded Customers**

17 Q. What about the stranded customers Mr. Ketter mentions on page 14?

18 A. Considering our surrebuttal testimony, which comes after Mr. Ketter's testimony and a  
19 change in our approach, there aren't any. Mr. Bourne's surrebuttal testimony incorporates  
20 a plan whereby all customers in the Southside Annexation will be served by RMU (with the  
21 exception of the Intercounty Office Building), and all others previously served by  
22 Intercounty but not in the Southside Annexation Area will continue to be served by  
23 Intercounty.

## Easements

Q. What are your comments on the easement issue Mr. Ketter discusses on pages 14 and 15?

A. I disagree with Mr. Ketter on this point. I certainly agree with his statement that if some of Intercounty's poles are in bad shape, we take that risk in acquiring the pole. I can easily evaluate and deal with that by choosing to replace the pole to eliminate a potential hazard. I can do that with a minimal amount of time and expense and there is no need to involve other parties. Further, I am sure that Intercounty does not intentionally install bad poles or conductors, so the risk that RMU is assuming in that area is minimal, if any.

As to the easement problem, though, I don't think that same approach should be extended to force the City of Rolla to accept unknown and potentially very costly liabilities for Intercounty's intentionally bad business practices where they either did not obtain easements for some of their facilities, or they failed to record the easements.

Based on information provided to me and my own knowledge, I have to disagree with Mr. Ketter's statement on page 15 that "the acquisition or valuation of easements is not a matter subject to the jurisdiction of the Commission." It is my understanding that Mr. Ketter is an engineer rather than a lawyer, so I assume he is making that statement based on his own beliefs. I understand from people more familiar with PSC matters than I am that the Commission looks at the total investment of public utilities every time one of them files a rate case with the PSC. I know myself that regulated utilities obtain easements for their power lines, and that they have to pay for them. Therefore, I have to assume that the investments of public utilities in easements and rights of way are subject to examination by the Commission in any rate case. So those facts tell me that Mr. Ketter is mistaken and the Commission *does* have the authority to look at questions regarding the value of utility

1 easements – if it wants to – in determining fair and reasonable rates for regulated utilities.  
2 I also note that the Commission’s role in this proceeding is to determine “the fair and  
3 reasonable compensation amount to be paid to the affected electric supplier.” That appears  
4 in subsection 6 of section 386.800 RSMo. I think that the Commission should take into  
5 consideration, in determining the fair and reasonable compensation that RMU should have  
6 to pay to Intercounty, the bad business practice of Intercounty regarding the easements, by  
7 reducing the amount to be paid to Intercounty by the estimate we have made of potential  
8 costs to us. Whether the Commission has jurisdiction to do that is something the lawyers can  
9 also argue about in briefs, but I think the fair and reasonable thing for the Commission to do  
10 is not make the citizens of Rolla responsible for Intercounty’s bad business practices.

#### 11 **Rate Differential**

12 Q. Do you have any comment regarding Mr. Ketter’s statement on page 15 that a rate  
13 differential due to a change in supplier is not an issue in this case?

14 A. I don’t understand why he is commenting on that topic. Aren’t rate differentials a  
15 consideration the Commission looks at in change of supplier cases under a different set of  
16 statutes? This case is not an application for change of supplier for a reason other than a rate  
17 differential under what are called the flip flop statutes. This case is under a different statute  
18 with different provisions. The statute we are operating under here does talk about “rate  
19 disparities” in subdivision 1 of subsection 7. I discussed that point at some length in my  
20 direct testimony (pages 24-26) and concluded it did not apply in this situation. I don’t read  
21 Mr. Ketter’s testimony as disputing the conclusions I reached in my direct testimony.  
22 Therefore, I would agree that “rate differentials” are not an issue. I would just observe  
23 hypothetically that if the situation were reversed, and RMU’s residential rates were 25

1 percent or more higher than Intercounty's rates, I feel certain that somebody would say it was  
2 an issue.

3 **Impact on Intercounty**

4 Q. Do you have any comments on Mr. Ketter's assessment on page 16 that the transfer in this  
5 case will have "little effect" on Intercounty?

6 A. I agree with him.  
7

8 **RESPONSE TO REBUTTAL TESTIMONY OF JAMES E. LEDBETTER**

9 Q. Have you reviewed the prepared rebuttal testimony filed by James E. Ledbetter on behalf of  
10 Intercounty Electric Cooperative on July 18, 2000?

11 A. Yes.

12 Q. Do you have any comments on it?

13 A. Yes. The major areas of my disagreement are with his method of calculating depreciation  
14 since it is not straight line depreciation as called for by the statute; we disagree with his  
15 notion that Intercounty will be required to construct lines in a "more congested area" for  
16 purposes of re-integration; we disagree with his calculation of normalized revenues; and we  
17 disagree with the notion that we should be forced to buy Intercounty's office building and  
18 associated equipment.

19 **Depreciation**

20 Q. Please explain the disagreement regarding his calculation of depreciation.

21 A. It does not appear to us that he has followed the statutory requirement of "present-day  
22 reproduction cost, new, ... less depreciation calculated on a straight line basis" when he  
23 discusses his approach at pages 4 through 6 of his rebuttal testimony. Mr. Marmouget, our

1 outside auditor and a certified public accountant, will discuss in his surrebuttal testimony  
2 why Mr. Ledbetter's approach is incorrect.

### 3 **Congested Area Construction**

4 Q. Please explain the disagreement that Intercounty will be required to construct lines in a more  
5 congested area.

6 A. We think that his premise is wrong. Mr. Bourne will address that in his surrebuttal  
7 testimony.

### 8 **Normalized Revenues**

9 Q. Please explain the disagreement regarding his calculation of normalized revenues.

10 A. Mr. Ledbetter says the normalized revenue times 400 percent is \$1,548,294.36. Mr.  
11 Bourne's direct testimony said that it was \$1,481,853.80. Mr. Ledbetter has adopted a  
12 normalization process that assumes 100 percent occupancy of the properties 100 percent of  
13 the time and does not reflect actual revenues received by Intercounty from the annexed area.  
14 Mr. Bourne will address this in more detail in his surrebuttal testimony. Another issue that  
15 has arisen due to Intercounty's rebuttal testimony, however, is whether the discounts and  
16 rebates that Mr. Ledbetter did not include, but Mr. Stickland discusses on page 14 of his  
17 rebuttal testimony, and in his "Exhibit VWS-7," should be considered for purposes of  
18 determining the amount RMU should be required to pay. If the revised Intercounty rates  
19 giving effect to these refunds and discounts are considered in the revenue normalization, this  
20 will mean that RMU should pay *less* than the \$1,481,853.80 it originally calculated because  
21 Intercounty received *less* revenue from these customers than it originally told us about.

22 Q. Please explain.

23 A. We took the data Intercounty originally provided us regarding the revenue from the



1 customers in the annexed area. The data was poorly organized and confusing, because it  
2 included customers who were not even in the area, but with effort we finally got an amount  
3 that we thought was the actual revenue from the 286 customers. That amount times 400  
4 percent was the \$1,481,853.80 we proposed to pay originally. Now it turns out, according  
5 to Mr. Strickland (see his Exhibit. VWS-7), that these customers will not actually pay what  
6 Intercounty told us they paid due to "discounts and patronage" he says they received or will  
7 receive from Intercounty.

8 Therefore, the base amount that RMU should be required to pay before it is  
9 multiplied by 400 percent under the statute should be less than we originally calculated. It  
10 should be reduced by these discount and patronage amounts. Our original computation of the  
11 base amount was \$370,463.45. This number is what should be reduced by the value of the  
12 "discounts and patronage" and the remainder, times 400 percent, should be paid by RMU to  
13 Intercounty. The point Mr. Strickland is trying to make in his exhibit VWS-7 is that when  
14 all things are considered, Intercounty's residential rates are comparable to RMU's residential  
15 rates. If you accept that as a fact, and then further consider a statistical presentation prepared  
16 in November, 1999 by the American Public Power Association, Department of Statistical  
17 Analysis based on 1998 data submitted to the U.S. Department of Energy, Energy  
18 Information Administration on Form EIA-861 by all utilities, you would have to conclude  
19 that the disparity between RMU's residential rate of 5.4 cents/Kwh and Intercounty's  
20 residential rate of 6.9 cents/Kwh must be the "discounts and patronage" which Mr Strickland  
21 claims has been returned to the customers. That disparity expressed as a percentage is a  
22 strong 27 percent.

23 Our original number of \$370,463.45 reduced by 27 percent becomes \$291,703.51

1 which more directly reflects the true amount the customers in the Southside Annexation Area  
2 apparently paid to Intercounty. That number times 400 percent equals \$1,166,814.04. That  
3 amount is the more appropriate amount that RMU should pay Intercounty to meet the  
4 requirement in the statute.

5 Q. Why should that number be used?

6 A. Because Intercounty is actually receiving less revenue from these customers than they  
7 originally indicated to us. Intercounty's original revenue numbers should be reduced by the  
8 "discounts and patronage amounts" it claims, thereby reflecting the net amount the  
9 customers actually paid.

10 Q. The statute says the four hundred percent is supposed to be calculated on "gross revenues  
11 less gross receipts taxes ... ." Isn't that what Intercounty has done?

12 A. The statute uses the phrase "gross revenues less gross receipt taxes." That means to me that  
13 the General Assembly intended for the buying entity to pay 400 percent of a *net* amount of  
14 revenue coming to the selling entity. There is no gross receipt taxes applicable to the  
15 customers here. However, Intercounty apparently rebated revenues to its customers in the  
16 amount of \$78,759.94 for 1998. This reduced the net revenue Intercounty received from  
17 these customers. To be fair then, RMU should only have to pay 400 percent of the net  
18 revenue that Intercounty received from these customers. This means that RMU should only  
19 have to pay \$1,166,814.04 for this portion of the fair and reasonable compensation.

#### 20 **Intercounty's Office Building**

21 Q. Please explain your disagreement with the notion that RMU should be forced by the  
22 Commission to buy Intercounty's office building and associated equipment and build them  
23 a new one to replace it.

1 A. The basis is very simple. We don't want it. We don't need it. Unlike poles and wires and  
2 transformers actually serving the customers in the annexed area, the office building is not  
3 essential to the actual provision of service to those 286 customers.

4 Mr. Ledbetter discusses this topic starting on page 9 of his rebuttal testimony. He  
5 estimates the reproduction cost new less depreciation price of the Intercounty office building  
6 and related equipment at \$1,000,229.16. We have chosen to not take issue with his estimated  
7 price at this time because we think it is not something that we should be forced to purchase  
8 in the first place. In the event the RMU is forced to purchase it we would want to have an  
9 independent third party inspect the facilities and make a projection as to what the present day  
10 reproduction cost would be including consideration for reintegration of the onsite facilities.

11 Q. Why do you think the Commission should not force RMU to purchase the Intercounty office  
12 building?

13 A. It doesn't make any sense for RMU to buy the building. Intercounty did not build that office  
14 building just to serve customers inside the city limits of Rolla. I can't imagine that Mr.  
15 Strickland will claim that this office building and warehouse will become obsolete if 286  
16 customers in the annexed area, along with the wires and poles actually being used to serve  
17 them, are transferred to RMU as a result of this case. I've been in the office building several  
18 times. It is a regional office and dispatching center serving their customers in Phelps County  
19 and nearby areas. Intercounty located it in a spot which was heavily developed – right on  
20 Highway 63 – and which has been annexed into the City. Intercounty could just as easily  
21 have located the building several miles farther south down Highway 63. If so, it would not  
22 have been an issue in this case.

23 The only concern Intercounty has expressed in testimony regarding this issue was that

1 because of their business arrangement with Associated Electric Cooperative, their office  
2 building should be in their service territory so they can serve the electric power to it. (I am  
3 referring to their response to our data request number 213.) I'm not convinced that it would  
4 be an issue with Associated.

5 Q. Is it only the office building and warehouse itself that is involved in this issue?

6 A. No. Mr. Strickland also included additional amounts in his calculations (see his rebuttal, p.  
7 16) assuming that the office building would be purchased by RMU and a new, relocated  
8 office building erected somewhere else. He estimated \$53,000 in costs for re-integration of  
9 Intercounty's telephones, fiber optic lines, computers and communications. I think it is  
10 ridiculous to pursue the topic that RMU should have to buy Intercounty's office building and  
11 pay all the costs of relocating their communications facilities now inside the office building,  
12 just because it happens to be located in the annexed area, so RMU can provide electric  
13 service to 286 customers inside the city limits.

14 Q. What about the notion that RMU wants the annexed area as its "exclusive" service territory?  
15 Doesn't that mean that RMU has to buy all of Intercounty's facilities in the area?

16 A. I don't see anything in the statute that says the buying entity has to buy all the facilities of  
17 the selling entity simply because they are located in the annexed area. I don't think the  
18 General Assembly intended to force a municipality into ridiculous situations. As far as I can  
19 tell, Intercounty can enter into lots of different types of businesses such as satellite tv,  
20 internet services, and propane dealerships. Lots of other rural electric cooperatives are  
21 branching out into those types of different businesses. They could probably build and own  
22 a Dairy Queen or a slaughterhouse if they wanted to. If Intercounty had built a Dairy Queen  
23 or a slaughterhouse in the annexed area, I don't think the Commission would force us to buy

1 it under this statute. Well, that office building of Intercounty's has just about as much use  
2 to RMU as a Dairy Queen or a slaughterhouse. As I said before, we don't need it, we don't  
3 want it, and it has nothing to do with us providing electric service to the 286 customers in  
4 the annexed area, so RMU should not be forced by the Commission to purchase it. That  
5 service center and office facility is just as valuable to Intercounty in the maintenance of their  
6 facilities and service to their customers after the proposed transfer of the 286 customers in  
7 the Southside Area as it was preceding the proposed transfer. I don't believe the feasibility  
8 of those office facilities was based on the presence of just the customers in the Southside  
9 Area. Whatever the financial justification was for its construction by Intercounty should be  
10 just as valid today as it was the day the decision was made to construct and occupy it.

11 Q. Intercounty is providing electric service to itself at the office building now and the office  
12 building is now located within the city limits. Is RMU going to force Intercounty to take  
13 electric service from RMU at Intercounty's office building if the Commission does not  
14 require RMU to buy it?

15 A. It would probably irritate Intercounty to have to take electric service from RMU at its office  
16 building. Just for purposes of this case, and without setting any kind of precedent, we are  
17 willing to make an exception for that building because it seems to us to be a reasonable thing  
18 to do, and we have been trying to do reasonable things all throughout this case. Therefore,  
19 if Intercounty wants to continue to provide electric service to its office building, that is fine  
20 with us. We think the Commission's Report and Order should state that the annexed area  
21 is RMU's exclusive service territory, but that as long as that specific building is owned and  
22 used by Intercounty as its office/warehouse for its rural electric cooperative duties, it can  
23 continue to be served by Intercounty even though it is within the annexed area. If

1 Intercounty should sell or lease that building in the future, however, and it becomes a retail  
2 store or office building or something else not connected with Intercounty, we think that the  
3 Commission order should say that RMU should thereafter be entitled to provide the electric  
4 service to the building.

5  
6 **RESPONSE TO REBUTTAL TESTIMONY OF BRIAN NELSON**

7 Q. Have you reviewed the prepared rebuttal testimony filed by Brian Nelson on behalf of  
8 Intercounty Electric Cooperative on July 18, 2000?

9 A. Yes.

10 Q. Do you have any comments on it?

11 A. A few. The majority of the issues relating to the rebuttal testimony of Mr. Nelson will be  
12 addressed by Mr. Bourne. I disagree, however, with his comments about facilities on page  
13 5, his assessment of the impact of this case on Intercounty as discussed on page 8, and his  
14 position on PCB's discussed on page 22.

15 **Facilities**

16 Q. What is your comment regarding his discussion of facilities?

17 A. There are a couple of instances. One is his statement on page 5 at line 6 where he says "I  
18 would strongly state that only Intercounty has the facilities in place at this time." I don't  
19 know why he feels the need to make a "strong" statement about an obvious situation. Of  
20 course Intercounty was the only utility with facilities in place in the annexed area. RMU  
21 could not serve customers at retail there because it was outside of the city limits until this  
22 most recent annexation.

23 *He follows that up on the same page with his opinion that*

1 "RMU's ratepayers will invest significantly to acquire existing Intercounty facilities and/or  
2 construct new redundant facilities within the area. The majority of this construction and/or  
3 conversion of existing facilities will be necessary to duplicate Intercounty's substation and  
4 distribution facilities which are already present."

5 Let me try to be perfectly clear about this. RMU will not be constructing "new redundant  
6 facilities" within the area. The whole concept of the statute, and our proposal, is that we will  
7 acquire Intercounty's existing facilities, connect them to our existing facilities, and then  
8 RMU will be in a position to do what Intercounty cannot do; namely serve existing  
9 customers and new customers within the annexed area. We will not be building any  
10 "redundant" facilities. Further, we will not be "duplicating" Intercounty's substation and  
11 distribution facilities which are already present. We will be acquiring the distribution  
12 facilities only. In acquiring those distribution facilities, we will integrate them into our  
13 system without duplication. There are no Intercounty substations located within the annexed  
14 area. Therefore, Mr. Nelson's comments in his rebuttal are incorrect.

#### 15 Impact

16 Q. What is your comment regarding his assessment of the impact of this case on Intercounty?

17 A. On page 8, he tries to argue that the transfer of 286 customers is significant. He argues that  
18 it represents 39.1 percent of Intercounty's recent annual growth. That's just the point.  
19 Intercounty is growing at the average rate of 732 customers per year, so the transfer of the  
20 286 customers in this case is just 39.1 percent, or approximately four and one half months,  
21 of one year's growth in Intercounty's customers. The concept is to determine if this transfer  
22 is going to have a significant effect on the cooperative itself. As Mr. Ketter pointed out in  
23 his rebuttal, page 16, Intercounty has over 27,000 members. He said "there will be little

1 impact on the revenue or electric load.” If you want to do percentages as Mr. Nelson has,  
2 these 286 customers represent a loss of about one (1) percent of Intercounty’s total  
3 customers, which will be made up twice over the next year if Intercounty’s annual growth  
4 continues at the recently experienced pace. And don’t forget, Intercounty is going to be fully  
5 compensated for all of its facilities under the reproduction cost new less depreciation  
6 calculation, and be paid *four times* the annual revenue those 286 customers provided. I  
7 would also point out that dollar amount is 100 percent profit to Intercounty and is roughly  
8 equal to the margin a regulated utility would receive over 35 to 40 years. Therefore,  
9 Intercounty is going to be fully and fairly compensated for the transfer of customers.

#### 10 **PCB-Contaminated Equipment**

11 Q. What are PCB’s?

12 A. Well, I am not a chemist, but I understand it is a type of chemical (poly chlorinated  
13 biphenals) that was placed in the oil commonly used inside of electrical transformers,  
14 regulators and capacitors. It has anti-flammable properties. The government has determined  
15 that it can cause cancer and has banned the production and use of PCB’s in utility equipment.  
16 The government has issued rules governing its handling. These rules change from time to  
17 time, but my latest memory of them as they apply to utility equipment is this. If you haven’t  
18 tested the oil-filled equipment then it must be assumed to be PCB contaminated, meaning  
19 50 to 500 ppm (parts per million) present (a regulated amount). If you have tested the oil and  
20 it’s less than 50 ppm, it is handled as though none is present (an unregulated amount). If you  
21 have tested the oil and it’s over 500 ppm, then a whole new set of action level rules apply.  
22 RMU has to, and does, abide by those rules in our electrical operations.

23 Q. What is your comment regarding PCB’s?



1 A Mr. Nelson says at page 22, lines 10 through 14 that Intercounty "has not tested every piece  
2 of equipment ... within the Area." According to a data request response (No. 155) we  
3 received from Intercounty, a more accurate statement would be that Intercounty has not  
4 tested any of its equipment within the area for PCB-contamination. He also says that the  
5 transfer of ownership would not eliminate Intercounty's responsibility should a PCB related  
6 issue arise after the transfer, and I agree with him about that. He then proposes that RMU  
7 be required to test all the Intercounty equipment in the Area prior to transfer. If the  
8 equipment were found to be contaminated under his proposal, Intercounty would retain  
9 ownership and responsibility for disposal. My position is that Mr. Nelson's proposal is not  
10 appropriate.

11 Q. Why?

12 A. First of all, we are paying for the Intercounty equipment up front. There is no provision that  
13 I am aware of for Intercounty to make a refund later to RMU for amounts for disposal of  
14 PCB-contaminated equipment. So there would be administrative problems with his proposal  
15 at the outset. Further, since we are presumably supposed to take facilities "as is and where  
16 is," and Intercounty already recognizes it has "cradle to grave" responsibility for any PCB  
17 contamination in the facilities it owns, the only reasonable approach is for Intercounty to test  
18 its facilities prior to the transfer so Intercounty knows for sure whether it has any liability or  
19 not.

20 This is another instance, like the easements, where Intercounty has not followed good  
21 business practices. Intercounty should have to pay for those tests because a reasonable utility  
22 would have already tested its facilities and be knowledgeable of their status regarding PCB  
23 contamination. For example, RMU has already tested all of its transformers and knows they

1 are PCB-free or contain unregulated amounts. According to a data request response we  
2 received (No. 154) Intercounty only tests for PCB-contamination upon removal.

3 It would be unreasonable to make RMU pay for Intercounty's failure to test their own  
4 transformers because that would be rewarding them for a negligent business practice. We  
5 understand that some poles or other facilities may be in less than perfect condition and we  
6 are not arguing about having to take them on an "as is where is" basis. You can visually  
7 inspect them. However, the PCB issue is a different issue since that is something that is not  
8 known until it is tested, it is a nationally-known and regulated problem, and it is understood  
9 by everyone that your environmental liability cannot be transferred by the sale of such  
10 equipment. It is therefore in Intercounty's own best interest to test the equipment prior to  
11 any sale. If the test shows the equipment is PCB-free, then Intercounty will have proof later  
12 that it was not contaminated when it was sold to RMU.

13 Q. Is this an Intercounty-specific issue?

14 A. No. As I said, I think this is another situation where Intercounty did not follow the practices  
15 that a well-managed electric utility should follow. There may be other cities in the state that  
16 wish to take advantage of this provision in the statutes as their cities grow and expand their  
17 area. The Commission should not let rural electric cooperatives or other utilities build in  
18 *disincentives* to transfer of facilities under this statute by encouraging and rewarding bad  
19 business practices, such as the failure to obtain or record easements, and the failure to test  
20 equipment for PCB contamination.

21  
22 **RESPONSE TO REBUTTAL TESTIMONY OF VERNON W. STRICKLAND**

23 Q. Have you reviewed the prepared rebuttal testimony filed by Vernon W. Strickland on behalf

1 of Intercounty Electric Cooperative on July 18, 2000?

2 A. Yes.

3 Q. Do you have any comments on it?

4 A. Yes, numerous comments.

5 Q. Please begin.

6 **Statutory Provisions**

7 A. Starting on page 6 of his rebuttal, Mr. Strickland mentions numerous statutory provisions.  
8 I disagree that all the statutes he references are relevant to this situation. Like Mr. Strickland,  
9 I am not an attorney and I am not trying to give a legal interpretation. But I don't see how  
10 several of the statutes he mentions have anything but an incidental bearing on this case.

11 Mr. Strickland apparently wants the Commission to delve into the City's Plan of  
12 Intent in the annexation process by mentioning a section in Chapter 71 of the Missouri  
13 statutes. This case is brought under the provisions of §386.800 Revised Statutes of Missouri.  
14 There is nothing in that section that I see that gives the Commission the authority to interpret  
15 or rule on the provisions of a municipality's plan of intent in an annexation. Similarly, he  
16 mentions §71.525 regarding limitations on a municipality's ability to condemn property of  
17 other utility providers. This is not a condemnation case and there is no mention of  
18 condemnation in §386.800. This is a case brought under the specific provisions of §386.800,  
19 which as far as I know, have nothing to do with condemnation. He mentions what I believe  
20 are called the "flip-flop" statutes, namely sections 91.025 and 394.315. He also lists section  
21 394.160 on page 7 at line 19. I am told this must be a typographical error because he must  
22 have wanted to refer to §393.106 which is the flip-flop law that applies to electric utilities  
23 regulated by the Commission. In any event, nothing in those sections tells the Commission

1           how to proceed under §386.800.

2           He also mentions statutes dealing with territorial agreements. I don't think territorial  
3           agreements have anything to do with a case under §386.800 except that a case like this can  
4           arise if territorial agreements do not satisfy the underlying situation. As I understand it, the  
5           Commission cannot force utilities into territorial agreements.

6       Q.   Mr. Strickland's next topic, on page 8 of his rebuttal, is the history of § 386.800. Do you  
7           have any comments on his discussion there?

8       A.   Yes. His first sentence says "the popular name of § 386.800 is the Flip Flop law." He  
9           apparently was supplied some bad information because he is wrong about that. I don't know  
10          of any "popular name" for § 386.800, but I know it isn't the flip flop law. The flip flop laws  
11          are the ones that prevent customers from switching back and forth between electric suppliers.  
12          They presently consist of sections 91.025 applying to municipal systems, section 393.106  
13          applying to PSC-regulated companies, and 394.315 applying to rural electric cooperatives.  
14          Those are the flip flop laws. I understand they originated back in 1982 when some  
15          customers were flip flopping back and forth between electrical suppliers down in the  
16          southern part of the state to take advantage of cheaper rates, or to avoid having to pay bills.  
17          For several years (until 1991), the flip flop statutes did not apply to municipally-owned  
18          systems. Municipal systems were brought under the flip flop provisions that applied to  
19          everyone else at that time, and § 386.800 was enacted at the same time.

20                           **Customers In Rolla Outside of the Annexation Area**

21       Q.   On page 10 of his rebuttal, Mr. Strickland discusses approximately 113 current customers  
22           of Intercounty that are located within the City of Rolla, but in a different area than the  
23           annexation under discussion in this case. Do they have anything to do with this case?

1 A. No.

2 Q. Mr. Strickland says on lines 7 and 8 that Rolla could have acquired those customers prior to  
3 the enactment of §386.800. Do you think he is right about that?

4 A. He might be, but it doesn't tend to prove or disprove any issue in this case. My  
5 understanding, as I said earlier, is that the flip flop statutes didn't apply to municipal utilities  
6 until 1991. I think there was a case involving Union Electric and the City of Jackson that  
7 said something like that. If those 113 customers had come to RMU and said they wanted  
8 service from us instead of Intercounty, it might have been possible for them to switch, or it  
9 might not have, depending on the timing. I understand the flip flop laws changed several  
10 times and I don't profess to be knowledgeable on what provisions applied when.

11 Q. Mr. Strickland says on line 11 on page 10 that RMU was "either unwilling or unable to  
12 serve" those 113 customers. Do you agree with that?

13 A. No. I think that to say "either unwilling or unable to serve" is a globally negative limiting  
14 view of the circumstances at the time. I don't think he or anyone can attribute the situation  
15 solely to RMU's discretion. I think he leaves out several other real possibilities. One is that  
16 those customers might not have known they could change suppliers. I doubt that Intercounty  
17 was advertising that option in its newsletters to its members, so my thought is that the subject  
18 probably never came up. Another is that they knew about it, but they didn't see any  
19 advantage in changing suppliers. To my knowledge, RMU has always been willing and able  
20 to serve customers in the city who want service. So I think Mr. Strickland's comments are  
21 uninformed, incorrect, and irrelevant.

22 **Annexation Process**

23 Q. Starting on page 10 at line 15, Mr. Strickland begins a discussion of the annexation process.

1 Do you have any comments on that?

2 A. Yes, several.

3 Q. What are they?

4 A. As a matter of information, when the City first began to talk about the southside annexation,  
5 Intercounty became very active in trying to organize and promote the formation of a water  
6 district that was much larger than the annexation area and included it. I believe the reason  
7 Intercounty did that was to impede the City's ability to annex the area, or failing that, slow  
8 or stop the City from serving the area with water and sewer service, thereby stopping the  
9 City' infrastructure growth. Intercounty provided tens of thousands of dollars in that  
10 endeavor. Mr Strickland is crying foul (see his page 11, line 8) saying Intercounty made  
11 decisions about building their office building and "did not participate further in the  
12 annexation process" because of the verbiage in the City's Plan of Intent. If what he said is  
13 true, I think it is poor management on Intercounty's part, that they made a \$1,000,000 plus  
14 decision based on the assumption they could continue to serve 286 customer inside the City.  
15 In addition, I assume they could have filed to intervene prior to the court's decision to allow  
16 the issue on the ballot; and I assume they could have intervened in the process after the  
17 election. I have witnessed Mr. Strickland making such threats on more than one occasion,  
18 which serves to confirm that Intercounty was aware of their options at the time and must  
19 ultimately hold themselves accountable for the decision they made.

20 Regardless of the foregoing, the real question Mr Strickland poses is whether the Plan  
21 of Intent can be interpreted as limiting the City from exercising its rights under the  
22 provisions of 386.800 RSMo. If Intercounty had a concern with the Plan of Intent they were  
23 certainly free to sponsor or directly challenge the annexation process in court. No such

1 action was taken. Again I will confess, I'm not a lawyer. But I don't see an issue related to  
2 the City's Plan of Intent for the Commission to decide with regard to this case. I would also  
3 question if the PSC has the jurisdiction to determine the legal effect of a plan of intent in an  
4 annexation proceeding.

5 Q. On page 12, at lines 2-3, Mr. Strickland talks about assurances that were made and says that  
6 based on those assurances, Intercounty built its office building in the annexed area. Do you  
7 have any comments on that?

8 A. Yes. Intercounty also led the City to believe that they intended to voluntarily comply with  
9 the same type of requirements the City expects from their own utility, RMU. These are  
10 requirements such as street lighting at no charge to the City, and a payment in lieu of taxes.  
11 *After the annexation, Intercounty made it clear their intentions were different.*

12 Q. On page 12, at about line 15, Mr. Strickland speaks of some "historic problems" between  
13 Intercounty and RMU. Are you familiar with any of those?

14 A. I am aware of one of the "problems." Before I became general manager, Intercounty  
15 attempted to unlawfully take our largest customer, the University of Missouri-Rolla, from  
16 us. Intercounty had built a line and was close to connecting it when we found out about it.  
17 The City went to court and got a judgment that prevented that from happening.

#### 18 **Negotiations**

19 Q. On page 12, at lines 17-18, Mr. Strickland says Rolla was not serious about negotiating  
20 anything of substance in the negotiations. What is your reaction to that?

21 A. I am really surprised at his remark and offended at the implications. We had the mayor of  
22 the city attend at least two of the sessions. If Intercounty really believed that, why did they  
23 continue to host meetings between us? Why didn't they just call the negotiations to a halt?

1 Why did they agree to a six month extension of the negotiations if they thought it was just  
2 a waste of time? We made several proposals and negotiated in good faith. I am surprised  
3 to learn that Intercounty thinks the City was not negotiating in good faith. We spent a  
4 considerable amount of time and money making proposals and responding to their proposals.  
5 Our perception is that the talks broke down because of Intercounty's unreasonable  
6 stubbornness on the size of their territory and the length of the proposed territorial  
7 agreement. Our impression is that they wanted an unreasonable amount of territory to be  
8 theirs exclusively for an unreasonably long period of time.

9 More importantly though, since they may have thought the same about our territorial  
10 requirements, they also refused to come up with any kind of a meaningful method for  
11 compensating the city for the use of right of way, such as a payment in lieu of tax. We  
12 looked, but we could not find any statute that clearly allowed Rolla to levy a tax on a rural  
13 electric cooperative. Rural electric cooperatives are not mentioned in the statutes that Rolla  
14 uses to obtain gross receipts taxes from other utilities.

15 In particular, Intercounty made the unreasonable demand that the City hold them  
16 harmless if one of their customers sued them over the collection of a tax or payment in lieu  
17 of tax on their service. I don't think the city could legally indemnify Intercounty over  
18 something like that. The City and RMU certainly had an intention to try to work something  
19 out even if Intercounty did not.

#### 20 **Joint Use Agreement**

21 Q. On page 12, at lines 19-20, Mr. Strickland talks about a joint use agreement. Do you have  
22 any comments on that?

23 A. I don't see much point in plowing old ground, since we couldn't reach an agreement on that



1 before. Our perception was that Intercounty was being less than forthright about its concerns  
2 for a pole attachment agreement. We didn't want to waste the time we had available for  
3 negotiations on small details like a pole attachment agreement. We decided it was better to  
4 use the available time to try to reach a resolution on a territorial agreement, since that was  
5 the "big picture." We made several different proposals, and so did Intercounty, but we  
6 couldn't reach a common ground. We met the statutory requirement to negotiate and it just  
7 didn't work out. That is why we are here in this case.

#### 8 Rates

9 Q. Do you have any comments on Mr. Strickland's discussion of rates on page 13 of his  
10 rebuttal?

11 A. Yes. As I indicated earlier in response to Mr. Ledbetter's testimony, I think we need to take  
12 these discounts and rebates into account in the calculation of the 4 times gross annual  
13 revenue calculation. The issue is clear to me that Mr. Strickland can't have it both ways. He  
14 can't say that Intercounty's residential rates are comparable to RMU's residential rates on  
15 one hand, and on the other hand say that Intercounty is entitled to payment of four times  
16 revenues they collect and then return to the customer as "discounts and patronage." I think  
17 the "normalization" process under the statute is only intended to reimburse a utility for their  
18 actual net loss of revenue times 400 percent.

#### 19 Retirement of Patronage Obligation

20 Q. What do you think Mr. Strickland is talking about on page 16 at lines 3 and 4?

21 A. I'm not completely sure. After reading Mr. Strickland's testimony we made a data request  
22 to try to clarify this issue. (See data request number 192, part C) Apparently he thinks that  
23 RMU should have to pay, separate and apart from everything else it is paying for in this case,

1 monies "due from the cooperative to the members in the annexed area" that is based on past  
2 energy purchases. Mr. Strickland says: "This amount is part of the mortgage obligation owed  
3 to the members by Intercounty and should not be the obligation of the remaining members  
4 to pay." If I understand this correctly, this could be the most foolish assertion introduced in  
5 this case to date. He's apparently saying that Intercounty has been collecting money from  
6 its customers, using it for apparently the past 10 years, and then he says that RMU should  
7 pay Intercounty's debt to their customers because they haven't. Apparently, Intercounty has  
8 acquired debt to their customers based on money they have collected from them over the past  
9 ten years. I don't recall any provision of the statute that says RMU should pay Intercounty's  
10 bills. I don't think that RMU acquiring these facilities and customers obligates Intercounty  
11 to pay out to their customers any more money than they would have done if the transaction  
12 doesn't happen. Mr. Strickland is saying that the remaining Intercounty members  
13 shouldn't have to pay this debt. That doesn't make any sense to me. Intercounty collected  
14 the money. Intercounty owes the money. I think I could make a case that Intercounty should  
15 have to pay a premium to the leaving members, because Intercounty continues to use their  
16 money and those members won't be receiving the same benefits and privileges for that  
17 investment as the rest of Intercounty's customers.

18 Q. Have you ever heard of a member of a rural electric cooperative being billed for his share of  
19 the patronage obligation because he ceased to be a member of the cooperative?

20 A. No.

21 Q. What is your position on whether RMU should have to pay \$402,649.39 for "the retirement  
22 of the annexed member's patronage obligation."

23 A. I don't think it is a specific component of the fair and reasonable compensation required

1 under § 386.800, and therefore I don't think RMU should have to pay for it directly as Mr.  
2 Strickland apparently wants. I think that by paying the reproduction cost new, less straight  
3 line depreciation, and 400 percent of gross revenues, we are effectively compensating  
4 Intercounty for all obligations that might be attributable to these customers. I think the  
5 General Assembly was completely aware of the notion that utilities have mortgages when  
6 they drafted the statute. If they had wanted us to pay specifically for mortgage obligations,  
7 in addition to all the other things they went to the trouble of specifically setting out, they  
8 could have done so. I would say that the General Assembly's omission of any mention of  
9 reimbursement of mortgage obligations means that it is covered in the other payments and  
10 would not be a separate item as Mr. Strickland is apparently advocating.

#### 11 **Franchise Agreements/Fees**

12 Q. Starting on page 16 of his rebuttal, Mr. Strickland talks about franchise agreements and fees.  
13 Do you have any comments on that?

14 A. Yes. On pages 16 and 17, he states that Intercounty is willing to negotiate a franchise  
15 agreement with Rolla, "so long as it is understood that the State has already given  
16 Intercounty a franchise which the city cannot alter." First, it is pointless to discuss a  
17 franchise in this proceeding. That was a subject of much negotiation in the period leading  
18 up to this proceeding, and an agreement was not reached because no reasonable method of  
19 compensating the city was reached. Second, his comment about the state already granting  
20 a franchise to Intercounty, which he says the City "cannot alter," doesn't sound much like  
21 negotiating to me. It is my understanding that rural electric cooperatives have a statewide  
22 "franchise" outside of cities less than 1500 in population. That doesn't apply in the annexed  
23 area here, though, because our population is substantially more than 1500. Further, I think

1 that the notion of a statewide franchise, which he notes comes from a 1971 Missouri  
2 Supreme Court case, has been modified by the enactment of §386.800 in 1991. The General  
3 Assembly has now provided for the complete buy-out of the cooperative's facilities in  
4 annexed areas.

5 Q. On pages 17-18, Mr. Strickland discusses a Payment in Lieu of Taxes (PILOT). Do you  
6 have any comments about his testimony?

7 A. Yes. I want to stress that a PILOT is a voluntary payment by an entity, as opposed to the  
8 imposition of a tax. The City of Rolla is a city of the third class under the Missouri statutes.  
9 Those statutes prescribe the authority that Rolla has. If we don't have the authority, we can't  
10 do it. RMU makes a PILOT to the City of Rolla. We cannot find any place in the statutes  
11 where a city of the third class is given the authority to impose a gross receipts tax on a rural  
12 electric cooperative. We have the authority to impose it on electric companies, but a rural  
13 electric cooperative is not an electric company. We are not aware of any Missouri case that  
14 says we can tax a rural electric cooperative. I am told that tax laws are interpreted very  
15 tightly against the taxing authority. In other words, you have to have real explicit authority  
16 to tax something. Because Rolla doesn't have the authority to impose a tax on Intercounty,  
17 we talked to them about them making a PILOT.

18 There is no reason why Intercounty could not have agreed to a PILOT and then  
19 passed it through to the customers in the annexed area if it had wanted to do that.  
20 Intercounty's representatives in the negotiations told us they would not agree to a PILOT  
21 under any circumstances. They told us it was our responsibility to impose a tax. Since we  
22 did not believe we had the statutory authority to impose a gross receipts tax on a rural  
23 electric cooperative, Rolla was left with the prospect of no ability to obtain any revenue from

1 Intercounty if they were allowed to stay in the annexed area. It would have been unfair for  
2 RMU customers in the City to be responsible for the PILOTs made by RMU, but Intercounty  
3 customers to not be responsible for any. That was a situation of Intercounty's own making  
4 that they forced us into. That is one of the factors that led to a breakdown in the  
5 negotiations.

6 It is Intercounty's responsibility to make wise business decisions. If they had a  
7 choice of paying a 5 percent or 6 percent PILOT to continue to do business in the city, that  
8 was entirely within their discretion. They made a decision not to do that. All of the other  
9 utilities I am aware of pass those type of costs through to customers on the bill. Basically,  
10 the City saw no benefit to buying into a situation that would only benefit Intercounty by  
11 allowing them to stay with no compensation to the city since Intercounty refused under any  
12 circumstances to pay a PILOT.

13 Q. On page 18 at line 3, Mr. Strickland says RMU was unwilling to indemnify Intercounty.  
14 What is that about?

15 A. They wanted us to indemnify them if they got sued by someone arguing that they couldn't  
16 charge their customers a PILOT or a gross receipts tax. Intercounty wanted the City to pay  
17 Intercounty's legal expenses in such a lawsuit and probably indemnify them against any  
18 losses. First, I think that is an unreasonable request by Intercounty. There are probably  
19 dozens of cities that impose gross receipts taxes or PILOTs. I am not aware of any  
20 indemnification provisions regarding that. Second, it is my understanding that the City does  
21 not have the statutory authority to indemnify rural electric cooperatives or anyone else. So  
22 our position was that indemnification was unreasonable and unlawful.

23 Q. What about Mr. Strickland's statement that there is a fee arrangement between Intercounty

1 and Mountain Grove?

2 A. I think it doesn't matter in this situation. This is the first I have heard of it, and he has not  
3 provided any details. If it was important to resolving the situation, he could have brought  
4 it up in the previous negotiations.

5 He says that Intercounty inherited it from Sho-Me Power, so that tells me Intercounty  
6 didn't agree to it up-front. That is consistent with the position they have taken with Rolla.  
7 Further, I understand that Sho-Me Power was not always a rural electric cooperative.  
8 Perhaps that agreement was entered into at a time when it was an electrical corporation. I  
9 don't know.

10 **New Generation Facilities / All Requirements Contract**

11 Q. On page 20 at line 16 Mr. Strickland talks about RMU acquiring additional generation  
12 facilities, "assuming an additional debt load of approximately \$6,000,000" and having "no  
13 firm wholesale power contract in place after the end of this year [2000]. Do you have any  
14 comments on that?

15 A. Yes. Generally I would observe that Mr. Strickland is making conclusions without benefit  
16 of facts. First of all, our acquisition of generating facilities has nothing to do with this case.  
17 Second, contrary to his belief, we have an all-requirements contract in place after the end of  
18 this year. That means, in simple terms, that whether RMU owns any new generation  
19 facilities or not, we have a contractual right to receive power sufficient to meet all of our  
20 customers' needs – and that includes the 286 customers in the annexed area. So there is no  
21 question that we have the means to provide service to these new customers. Third, Mr.  
22 Strickland is wrong when he says that RMU will assume an additional debt load of  
23 \$6,000,000. We are leasing the new generation equipment. With a lease, we can stop

1 making payments, return the equipment, and walk away without incurring long term debt.

2 Q. Mr. Strickland says he asked a lot of data requests about the generation. Is that true?

3 A. Yes. And we originally objected to them because not only are they irrelevant to any issues  
4 in this case, information about our generating plans is not subject to disclosure because of  
5 a state law that says they are closed business plans and not public records. We have since  
6 provided him some information about them that is public information. Basically, Mr.  
7 Strickland is going off on a wild goose chase about this generation when it doesn't have  
8 anything to do with whether we can serve the 286 customers or not. As I said, we have an  
9 all-requirements contract in place. What we do with this additional generation does not and  
10 can not adversely affect that contract. The only legitimate question is whether we will have  
11 sufficient power to supply these new customers. With the new all-requirements contract  
12 replacing the previous one that expires at the end of 2000, we clearly do.

13 **Alleged Rate Increase**

14 Q. On page 21 at line 4, Mr. Strickland predicts a rate increase in Rolla if the Commission  
15 makes RMU pay \$4.5 million for these 286 customers. Do you agree?

16 A. I think it would be unreasonable for the Commission to order RMU to pay \$4.5 million for  
17 the facilities serving 286 customers. As we are pointing out in our surrebuttal testimony, that  
18 is a grossly inflated number with components that are improper, including the Intercounty  
19 office building and improperly computed depreciation. So I don't think the Commission will  
20 make RMU pay that inflated amount. But even if we were ordered to pay that amount, and  
21 the RMU board authorized the purchase at that outrageous price, it still would not trigger a  
22 rate increase. See the surrebuttal testimony of Mr. Marmouget.

23 **Establishing a Boundary Without a Transfer**

1 Q. On page 21 at line 20, Mr. Strickland predicts that if a transfer of customers is not ordered, the  
2 Commission would be required to "establish a boundary between RMU and Intercounty to  
3 minimize" safety problems. Do you agree?

4 A. No, for two reasons. First, it's speculation on his part that there would be safety problems.  
5 If no transfer is ordered by the Commission in this case, RMU is still the only lawful supplier  
6 to new structures in the area and would have to build facilities to serve those new customers.  
7 We construct our facilities in accordance with the National Electrical Safety Code, and that  
8 addresses the proper clearances.

9 Second, it is my understanding that the Commission would not have authority to  
10 establish any sort of "boundary" to deal with Mr. Strickland's imagined problems. The  
11 Commission has authority, as I understand it, to approve voluntary territorial agreements.  
12 I understand that is section 394.312 in the statutes. I am not aware of any authority the  
13 Commission has to impose a territorial boundary on any municipality, and Mr. Strickland  
14 has not mentioned any. In fact, I understand that section 386.310 says the Commission does  
15 not have authority to allocate any service territory for alleged safety reasons.

#### 16 Training

17 Q. On page 22 at lines 15-18, Mr. Strickland remarks that Intercounty is a member of AMEC  
18 and receives benefits from training and other programs conducted by it. Do you have any  
19 comments on that?

20 A. Yes. RMU also sends people to these same type of meetings for the same purposes.

#### 21 Service Quality

22 Q. On page 23 at line 11, Mr. Strickland again comments on RMU's ability to provide service.  
23 Do you have any comments on that?



1 A. We've addressed this before, and Mr. Strickland is repeating the same speculation here. We  
2 have a full requirements contract in place to start when the existing one expires. We did not  
3 borrow \$6 million. We are participating in a lease purchase. We have adequate power  
4 sources and adequate financial resources.

#### 5 **Alleged Options**

6 Q. On page 24, Mr. Strickland presents what he calls two "options" for the Commission. Can  
7 you summarize what he says the options are?

8 A. As I understand it, under "Option 1" he wants the Commission to reject RMU's  
9 application and let Intercounty keep all its existing customers in the annexed area. Then he  
10 wants the Commission to carve out the areas they serve and "approve a territorial boundary"  
11 within the annexed area which apparently would be "along the current contiguous corporate  
12 boundary of the City."

13 As I understand it, under "Option 2" he says that if the Commission determines RMU  
14 should get the annexed area as its exclusive service territory, then it should require RMU to  
15 pay the statutory amount, require Rolla to be responsible for "acquiring and paying for all"  
16 easements and rights of way needed to relocate Intercounty's facilities outside of the annexed  
17 area before any transfer of customers takes place, set a transfer schedule that allows two  
18 years after the order to allow for reintegration and transfer; require all money to be paid to  
19 Intercounty within 90 days after the Commission order, and establish a territorial boundary  
20 "along the current contiguous corporate boundary of the City."

21 Q. What is your reaction to Option 1?

22 A. I think it is practically impossible and he is trying to drag the Commission into a role it is not  
23 suited to perform. He wants the Commission to let Intercounty keep all of its customers in

1 the annexed area but at the same time he wants the Commission to approve a "territorial  
2 boundary" which apparently would follow the city limits. Intercounty's customers are  
3 scattered throughout the area. As I have explained before, Intercounty cannot legally serve  
4 any new customers in the annexed area. There are subdivisions with vacant lots where  
5 Intercounty might serve a couple of houses, but RMU will be required to serve the new  
6 houses. To create a territorial boundary in that situation would be a nightmare.

7 We've already been down that road in the negotiations we had with Intercounty. We  
8 tried to look at ways to divide the annexed area up in a rational fashion in the territorial  
9 agreement negotiations, even though Mr. Strickland claims we were not bargaining in good  
10 faith. We tried to see if certain subdivisions could logically be retained by Intercounty with  
11 minimal duplication of new facilities. In the end, we determined that it was not practical to  
12 do that, so we have asked for the entire area. In our direct testimony in this case, we tried  
13 to minimize duplication by proposing to share Intercounty's existing tie line through the  
14 area, but they have rejected that approach. In every instance where we have tried to look at  
15 this situation in a rational, engineering-based logical way, Intercounty has thrown up  
16 obstacles. Now Intercounty apparently wants the Commission to try to draw territorial lines  
17 in the annexed area. We see the Commission's role as either approving the plan we have  
18 submitted, perhaps with some modifications, or rejecting it.

19 So, to summarize, I would say that we don't think "Option 1" is really an option. We  
20 concede that the Commission can reject our application for an exclusive service territory, but  
21 we don't think the Commission can set out to draw its own boundaries. We don't see  
22 anything in § 386.800 that indicates the Commission is supposed to take that sort of role in  
23 this case.

1 Q. What is your reaction to Option 2?

2 A. It has a couple of potential problems, but generally I would agree with it.

3 Q. Please explain.

4 A. Well, it says that we should pay the fair compensation. I can't argue with that.

5 Then it says that we should be responsible to reimburse Intercounty for acquiring all  
6 required easements and rights of way for the relocation of Intercounty's facilities outside of  
7 the annexed area. We recognize that we have to be financially responsible for the  
8 reintegration of Intercounty's facilities once those serving the 286 customers are isolated  
9 from the rest of the Intercounty system. We don't think we should be involved in acquiring  
10 easements for them. We think the appropriate method is for the Commission to determine  
11 a reasonable cost for that activity based on the evidence in this case, and then order us to pay  
12 that amount, with Intercounty then being responsible for the acquisition of their own  
13 facilities. We apparently do things differently than Intercounty, such as obtaining easements  
14 in proper form and recording them.

15 Then Mr. Strickland talks about payment within 90 days after the Commission's  
16 findings. I believe the money should change hands proportionally at the time of the transfer  
17 of the individual pieces of the transaction. I will discuss that later when I outline what I  
18 think needs to be in the Commission's order.

19 Then he says that the Commission should establish a territorial boundary between  
20 Rolla and Intercounty along the current contiguous corporate boundary of the City. I am not  
21 certain what he means by that. I believe the Commission should simply declare the area we  
22 described in our application as an exclusive service area for RMU with the following  
23 exceptions:

1                   A.     Intercounty is permitted to continue to serve its own office and  
2     warehouse building located at 1310 South Bishop Ave. so long as it is owned and used by  
3     Intercounty for those purposes. However, should Intercounty cease to own the building, or  
4     it is used for purposes other than those of a rural electric cooperative, Intercounty is required  
5     to cease the provision of electric service to the building and RMU will become the exclusive  
6     supplier.

7                   B.     Intercounty is permitted to keep, operate, maintain, and rebuild  
8     selected lines within the annexed area, but Intercounty is not permitted to serve any  
9     customers within the annexed area, directly or indirectly, by means of those facilities except  
10    for the Buenger, Rolla Elks Lodge, Elliot, and Falkner properties.

11  
12    **SUMMARY**

13    Q.     Can you summarize what RMU wants the Commission to order in this proceeding?

14    A.     Yes. The Commission should find that:

- 15           • the Southside Annexation Area should be the exclusive service territory of RMU.
- 16           • the reproduction cost new of the Intercounty's facilities in the annexed area is
- 17           \$742,131.01.
- 18           • the straight line depreciation on Intercounty's facilities is \$675,339.22 resulting in a
- 19           reproduction cost new less depreciation of \$66,791.79.
- 20           • the value of four times normalized revenue for the 286 customers is \$1,166,814.04.
- 21           • the cost to reintegrate Intercounty's system is \$383,077.50. This amount includes
- 22           Intercounty's cost to procure appropriate easements and rights of way, engineering, right of
- 23           way clearing, and labor and material to construct the lines.

44,527.50

- 1       ●the cost to reintegrate Intercounty's stranded customers is ~~\$58,790.~~
- 2       ●the total cost to Intercounty to transfer annexed area customers to RMU is \$24,000.
- 3       ●the fair and reasonable compensation should be reduced by \$400,000 due to the various
- 4       problems with Intercounty's lack of easements in the area.
- 5       ● the transfer of customers and reintegration of Intercounty's facilities as described in Mr.
- 6       Bourne's revised feasibility study should be implemented.
- 7       ● RMU has no obligation to pay any debt owed by Intercounty related to past business
- 8       relationships with its customers in the annexation area. (Patronage obligation, capital credits,
- 9       or discounts)
- 10      ● RMU is not obligated to purchase the Intercounty office building located at 1310 S.
- 11      Bishop and pay to build Intercounty another office building somewhere else.
- 12      ● Intercounty may continue to serve its office building at 1310 S. Bishop subject to certain
- 13      conditions and there will be no expense to RMU for reintegration of that service.
- 14      ● RMU is not obligated to test Intercounty's transformers and/or equipment located in the
- 15      southside annexation area for the presence of PCB's.
- 16      ● Intercounty is required to test all of its transformers and/or equipment located in the
- 17      southside annexation area for the presence of PCB's and remove any equipment containing
- 18      regulated amounts prior to the transfer.

19  
20      The Commission should therefore order the following:

- 21      ● (on the assumption that the Commission issues its order in early March, 2001 in this case)
- 22      Intercounty is to complete its engineering and right of way acquisition for the reintegration
- 23      of its facilities by no later than June 30, 2001; Intercounty is to complete the right of way

1 clearing for those purposes no later than July 31, 2001; Intercounty is to complete the  
2 necessary line construction by no later than July 31, 2002; and the transfer of all 286  
3 customers and the associated facilities within the annexed area is to be completed no later  
4 than September 30, 2002.

5 • (on the assumption that the Commission issues its order in early March, 2001 in this case)

6 Rolla is required to pay <sup>33,495.00</sup>~~\$33,660.00~~ to Intercounty within 30 days of written notification by

7 Intercounty that it has completed its engineering and right of way acquisition for the  
8 reintegration of its facilities; Rolla is required to pay \$20,691.00 to Intercounty within 30

9 days of written notification by Intercounty that it has completed right of way clearing; Rolla

10 is required to pay <sup>373,419.00</sup>~~\$387,516.50~~ to Intercounty within 30 days of written notification by

11 Intercounty that it has completed the necessary line construction outlined in the rebuttal  
12 testimony of Mr. Ledbetter, as modified by the surrebuttal testimony of Mr. Bourne; Rolla  
13 is required to pay \$857,605.83 to Intercounty within 30 days of the transfer of all 286  
14 customers and the associated facilities within the annexed area.

15  
16 Q. Does this conclude your surrebuttal testimony?

17 A. Yes, at this time.  
18  
19

20 ROL386Dansur/gdmydocs/wp8

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

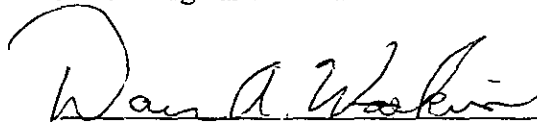
In the matter of the application of the City of )  
Rolla, Missouri, for an order assigning exclusive )  
service territories and for determination of )  
fair and reasonable compensation pursuant to )  
section 386.800 RSMo 1994. )

Case No. EA-2000-308

**AFFIDAVIT OF DAN A. WATKINS**

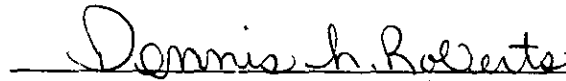
STATE OF MISSOURI     )  
                                  )     ss  
COUNTY OF PHELPS     )

Dan A. Watkins, being first duly sworn, states upon his oath that he has participated in the preparation of the foregoing surrebuttal testimony in question and answer form; that the answers to the same were given by him; that he has knowledge of the matters set forth therein, and that such answers are true and correct to the best of his knowledge and belief.

  
\_\_\_\_\_  
Dan A. Watkins

Subscribed and sworn to before me this 17th day of October, 2000.

(Notary seal/stamp)

  
\_\_\_\_\_  
Notary Public

